



City of Hutto

Agenda

City Council Meeting

Thursday, November 19, 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

Page

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. 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 November 19, 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. CITY ATTORNEY COMMENTS

- 8.1. RQ-0384-KP. Questions Relating to the Use of Public Improvement District Assessments to Pay Certain Costs and the Necessity of Attorney General Review of Promissory Notes issued by a Local Government Corporation. 8 - 23

[Hutto RQ0384KP Questions related to the use of Public Improvement Assessments.](#)

[Hutto RQ-0384-KP Attorney General response](#)

9. CONSENT AGENDA ITEMS

- 9.1. Consideration and possible action on approval of the September 8, 2020 Special Called City Council meeting minutes. 24 - 26

[September 8, 2020 - Minutes](#)

- 9.2. Consideration and possible action on approval of the September 17, 2020 City Council meeting minutes. 27 - 36

[September 17, 2020 -Minutes](#)

- 9.3. Consideration and possible action on approval of the October 1, 2020 City Council meeting minutes. 37 - 42

[October 1, 2020 -Minutes](#)

- 9.4. Consideration and possible action on the approval of the October 15, 2020 City Council meeting minutes. 43 - 51

[October 15, 2020- Minutes](#)

- 9.5. Consideration and possible action on a resolution declaring void the June 19, 2019 Development Agreement and the June 19, 2019 Prorata Share Agreement for the Covered Bridge Development Project and Related Alternative Action. 52 - 53

[Hutto Resolution Declaring June 19 2019 Covered Bridge Development Agreement Void 11.19.20](#)

- 9.6. Consideration and possible action to approve Resolution No. R- 2020-106 approving and authorizing the City Manager to execute contract documents with Bell Contractors, Inc. for the Lakeside Estates Lift Station decommissioning project. (Samuel Ray) 54 - 148

[Agenda Item Report - AIR-20-402 - Pdf](#)

[Hutto Resolution R-2020-106](#)

[00520 - Agreement](#)

[00610 - EJCDC Performance Bond](#)
[00615 - EJCDC Payment Bond](#)
[00700 11.16](#)
[00800 - Supplementary Conditions 11.13](#)

- 9.7. Consideration and possible action to approve Resolution No. R- 2020-107 149 - 159
 approving and authorizing the City Manager to execute a cost sharing
 agreement with Nexus Private Capital for the installation of an offsite
 wastewater line related to the Lakeside Estates Lift Station decommissioning
 project. (Samuel Ray).

[Hutto Resolution R-2020-107](#)
[Nexus Management LLC Hutto Offsite Sewer Agreement](#)

- 9.8. Consideration and possible action to approve Resolution No. R- 2020-108 160 - 171
 approving and authorizing the City Manager to execute a cost sharing
 agreement with Harris & Straub, LLC, for the installation of an offsite
 wastewater line related to the Lakeside Estates Lift Station decommissioning
 project. (Samuel Ray).

[Hutto Resolution R-2020-108](#)
[Cost Sharing Agreement Southgate Hutto Development Inc.](#)

- 9.9. Consideration and possible action to approve Resolution No. R- 2020-109 172
 approving and authorizing the City Manager to execute a cost sharing
 agreement with Developer for The Bridge Community Church for the
 installation of an offsite wastewater line related to the Lakeside Estates Lift
 Station decommissioning project. (Samuel Ray).

[Hutto Resolution R-2020-109](#)

10. ORDINANCES

- 10.1. Consideration and possible action on an "ordinance authorizing the 173 - 303
 issuance, sale and delivery of the "city of Hutto, Texas general obligation
 refunding bonds, series 2020a"; authorizing the levy of an ad valorem tax
 in support of said bonds; and approving and authorizing the execution of a
 paying agent/registrar agreement, an escrow agreement, an official
 statement and all other instruments and procedures related thereto"(City
 Attorney)

[Tax-Exempt Ordinance v1 cmp v2 REDLINE](#)
[Tax-Exempt Ordinance V1 cmp v2](#)
[Escrow Agrmnt Hutto \(Tax-Exempt 2020A Sufficiency\)](#)
[Sufficiency Certificate Series 2020A \(Hutto\)](#)
[PARA \(Hutto 2020 AB\)](#)

- 10.2. Consideration and possible action on an "ordinance authorizing the 304 - 442
 issuance, sale and delivery of the "city of Hutto, Texas general obligation
 refunding bonds, taxable series 2020b"; authorizing the levy of an ad
 valorem tax in support of said bonds; and approving and authorizing the
 execution of a paying agent/registrar agreement, an escrow agreement, an
 official statement and all other instruments and procedures related
 thereto"(City Attorney)

[Taxable Ordinance 2020B v2](#)

11. RESOLUTIONS

- 11.1. Consideration and possible action on Resolution R-2020-124 approving the amendments to the bylaws of the River Creek Development Corporation. 443 - 451
[River Creek Resolution Amending Bylaws R-2020-124](#)
- 11.2. Consideration and possible action on Resolution R-2020-125 approving the amendments to the bylaws of the Cottonwood Development Corporation. 452 - 460
[Cottonwood Resolution Amending Bylaws R-2020-125](#)
- 11.3. Consider and take action on a Resolution declaring the Office of the Mayor vacant. 461 - 462
[Hutto Resolution Declaring Office of Mayor Vacant](#)
- 11.4. Consideration and possible action on Resolution R-2020-111 approving the second amended and restated bylaws of the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation. 463 - 485
[2020-11-02 Bylaws Amendment\(signed\)](#)
[REDLINE 2nd Am Bylaws 111920](#)
- 11.5. Consideration and possible action to direct staff to prepare a Resolution calling a special election for the purpose of filling a vacancy for Mayor in accordance with Section 3.06 of the City Charter.

12. OTHER BUSINESS

- 12.1. Update on School Zone speed limits. (Byron Frankland) 486 - 494
[School Zones](#)
- 12.2. Presentation of Forensic Audit Report by Eide Bailly Auditor. 495
[Forensic Audit Engagement Timeline 11192020](#)
- 12.3. Presentation of Forensic Audit Report for the Transition, Severance and Separation Agreements, including any retention agreements, by Eide Bailly Auditor.
- 12.4. Consideration and possible action on approving the purchase of a wastewater easement from KMHR LP ET AL located on Chris Kelley Blvd., Hutto TX to support the Lakeside Estates Lift Station Abandonment project in the amount of \$56,644. 496 - 504
[Agenda Item Report - AIR-20-416 - Pdf](#)
[Hughhins Property Easement](#)
- 12.5. Presentation of land use assumptions and capital improvements plan for the 2021 update to the City of Hutto Water and Wastewater Impact Fee and request for a public hearing. 505 - 527
[Agenda Item Report - AIR-20-417 - Pdf](#)
[Council Packet Items Presentation 11-19](#)

- 12.6. Consideration of and possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, and Local Government Corporations.(City Secretary) 528 - 531

[Boards Commissions List 11-17-20](#)

- 12.7. Consideration and possible action on appointing a Mayor Pro Tem.

- 12.8. Consideration and possible action on appointing a Assistant City Manager. 532

[ACM Appointment 11-16-20](#)

13. 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].

- 13.1. Receive legal advice pursuant to Texas Local Government Code Section 551.071 relating to the Forensic Audit Report and Forensic Audit Report for the Transition, Severance and Separation Agreements; including any retention agreements.

- 13.2. Receive legal advice pursuant to Texas Local Government Code Section 551.071 relating to Development Agreement with RSI Communities-Texas LLC executed September 17, 2017.

- 13.3. Receive legal advice pursuant to Texas Local Government Code Section 551.071 relating to the Hutto CO-OP Pubic Improvement District 2020 Annual Service Plan Update.

- 13.4. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

14. ACTION RELATIVE TO EXECUTIVE SESSION

- 14.1. Consider and possible action on legal advice pursuant to Texas Local Government Code Section 551.071 relating to the Forensic Audit Report and Forensic Audit Report for the Transition, Severance and Separation Agreements, including any retention agreements.

- 14.2. Consider and possible action on legal advice pursuant to Texas Local Government Code Section 551.071 relating to Development Agreement with RSI Communities-Texas LLC executed September 17, 2017.

- 14.3. Consider and possible action on legal advice received pursuant to Texas Local Government Code Section 551.071 relating to the Hutto CO-OP Pubic Improvement District 2020 Annual Service Plan Update.

- 14.4. Possible action related to legal advice received pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

15. ADJOURNMENT
16. CERTIFICATION

I certify that this notice of the November 19, 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 November 16, 2020 at 5:33 P.M.



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.

RECEIVED

By Opinion Committee at 12:00 pm, Oct 15, 2020

General Counsel
Jason Nassour
First Assistant
Brandon Dakroub
Criminal Division Chief
Laura Gorman
Civil Division Chief
Shannon C. Francis
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Office Administrator
Stephanie Lloyd
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Evidence Director
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Victim Services Director
Sara Bill

Tel (512) 943-1111 • Fax (512) 943-1431

October 14, 2020

RQ-0384-KP

FILE# ML-48894-20

I.D.# 48894

Via Electronic Mail

(opinion.committee@oag.texas.gov)

The Honorable Ken Paxton
Attorney General of the State of Texas
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Questions Relating to the Use of Public Improvement District Assessments to Pay Certain Costs and the Necessity of Attorney General Review of Promissory Notes issued by a Local Government Corporation

Dear Attorney General Paxton:

I have been requested to submit this request for an attorney general opinion on behalf of the City of Hutto, Texas (the "City") with regard to the below questions. The City has informed me that it intends to perform all of its lawful obligations under the relevant transaction documents discussed herein and, therefore, seeks clarification from the Attorney General's Office in order that it may do so. All information below was provided to me by the City and its legal counsel. Although I do not have personal knowledge of the factual background information submitted, I am relying on the representations provided by Williamson County, the City, and its legal counsel regarding the factual background and known legal authorities and, based on those representations, I believe these questions are appropriate for submission to your office for an opinion.

Questions:

1. May public improvement district assessments be levied by a city under Chapter 372 of the Texas Local Government Code and used by the city to make installment payments through an interlocal agreement for the purchase of public improvements from the city's local government corporation, if the installment payments are sized to enable the corporation to pay debt service on a loan from an out-of-state bond issuer which was used to fund the cost of constructing the improvements, and to pay financing costs of issuing the bonds by the out-of-state issuer?
2. Does Chapter 431 of the Texas Transportation Code require that a loan agreement and promissory note executed by a local government corporation formed under such Chapter

be submitted to the Attorney General for examination if the promissory note is not a “public security”?

Factual Background:

On June 7, 2018, the City Council of the City of Hutto, Texas passed and approved a resolution authorizing the creation of the Hutto Co-Op Public Improvement District (the "District") pursuant to Chapter 372, Texas Local Government Code, as amended (the "PID Act"). The District was created, in part, to undertake and finance certain public improvements as defined in the District's Service and Assessment Plan and Assessment Roll (the "SAP"), which was approved by the City Council pursuant to an ordinance adopted on December 6, 2018 (the "Assessment Ordinance"). In addition, the City authorized the formation of the River Creek Development Corporation (the "Corporation") as a local government corporation pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code, as amended ("Chapter 431") in order to assist and act on behalf of the City to accomplish any governmental purpose of the City, including the financing of various development projects within the District.

Pursuant to a written loan agreement (the "Loan Agreement") and associated promissory note (the "Note"), the Corporation borrowed money from the Public Finance Authority, a unit of government and a body corporate and politic of the State of Wisconsin (the "Wisconsin PFA"), for the purpose of constructing certain public improvements in the District and to fund certain reserve funds and pay capitalized interest on and costs of issuing bonds by the Wisconsin PFA. The Wisconsin PFA issued \$17,400,000 of "Public Finance Authority Public Improvement Revenue Bonds (Hutto Co-Op Public Improvement District Project), Series 2018" (the "PFA Bonds") in order to raise the funds it lent to the Corporation.¹ The Corporation entered into a construction contract with a third party (the "Construction Manager") for the development and construction of the improvements and paid (or is paying) for such improvements with the money borrowed from the Wisconsin PFA under the Loan Agreement. The City authorized the Corporation to enter into the construction contract and the Loan Agreement pursuant to Section 4.01 of the Interlocal Agreement (defined below).

The SAP identified the initial authorized improvements to be constructed within the District, set an initial budgeted cost for such improvements at \$17,400,000, and established the amount of assessments (the "Assessments") on the benefitted property within the District based on such budgeted amount. Pursuant to the Assessment Ordinance, the City Council levied the Assessments against certain parcels within the boundaries of the District in accordance with the SAP and determined that the Assessments were to be paid in annual installments over a thirty-five (35) year period, as shown in the SAP, with interest. The PID Act provides that an Assessment can be paid in full at any time, but if not paid in full, the City may collect interest and collection costs on the outstanding Assessments.

The City and the Corporation entered into an Interlocal Agreement (the "Interlocal Agreement") pursuant to which the City agreed to purchase the improvements from the Corporation in consideration for scheduled installment purchase price payments. The purchase price to be paid by

¹ The PFA Bonds were issued as two term bonds: \$13,985,000 6.250% Term Bonds, Due October 1, 2050, Priced to Yield 6.250%; and \$3,415,000 6.300% Term Bonds, Due October 1, 2053, Priced to Yield 6.300%.

the City is the sum of all payments specified on a schedule which mirrors the debt service schedule of the Note. The Interlocal Agreement states that such payments are special obligations of the City payable solely from District assessment revenues. The City pledged to the Corporation, and granted a lien on and a security interest in, all of the District assessment revenues. In turn, the Corporation pledged to the Wisconsin PFA revenues it receives under the Interlocal Agreement as security for the Loan, and the Wisconsin PFA pledged revenues it receives from the Corporation to secure payment of the PFA Bonds. The Interlocal Agreement expressly states that proceeds from the PFA Bonds were to be used to (i) finance the loan to pay the Construction Manager's actual cost of the public improvements to be constructed in the District, (ii) fund capitalized interest, (iii) fund an extraordinary expense fund, debt service reserve fund, and other funds under the trust agreement securing the PFA Bonds, and (iv) pay certain costs of issuing the PFA Bonds. City staff, City attorneys and other City consultants were involved in all aspects of negotiating and documenting the above-described financing. In reliance on the advice of outside legal counsel, City Council approved all documents to which the City is a party, and the governing board of the Corporation [which is comprised of three members appointed by the City Council] approved all documents to which the Corporation is a party. The Corporation is required to comply with all financial and administrative ordinances and policies of the City.

Discussion and Analysis:

1. Public Improvement District Assessments

Texas law has long held that special assessments may only be levied on property in an amount based on the benefits such property receives from the improvements to the property. *See City of Houston v. Blackbird*, 394 S.W. 2d 159, 162 (Tex. 1965) (“An assessment against property and its owner for paving improvements on any basis other than for benefits conferred and in an amount materially greater than the benefits conferred violates Sec. 17 of Article 1 of the Constitution of Texas . . .”). The PID Act incorporates this concept, stating, “[t]he governing body of [a] municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.”²

The PID Act authorizes a city to levy assessments to pay costs of public improvements and to provide that assessments be paid “in periodic installments, at an interest rate and for a period approved by the governing body.”³ The PID Act also specifies what may be included in the “cost” of improvements for which special assessments may be levied. Costs of improvements payable from assessments that are payable in installments may be paid “under an installment sales contract or a reimbursement agreement . . . or by the issuance and sale of bonds under Section 372.024”⁴ of the PID Act. Section 372.003 of the PID Act does list certain “soft” costs and services among “authorized improvements” permitted to be financed under the PID Act, including “special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement” as well as “payment of

² Section 372.015(a) of the PID Act.

³ Section 372.017(b) of the PID Act.

⁴ Section 372.023(d) of the PID Act.

expenses incurred in the establishment, administration, and operation of the district.” However, it does not expressly authorize financing costs among “authorized improvements.” That is addressed by Section 372.023(h).

Section 372.023(h) of the PID Act provides that the costs of an improvement include “*all costs incurred in connection with the issuance of bonds under [the PID Act] and [such costs] may be included in the assessments against the property in the improvement district....*”⁵ Section 372.024 of the PID Act allows revenue bonds to be issued to pay permitted costs under the PID Act and to be “secured by liens on all or part of the revenue derived from improvements authorized under [the PID Act], including revenue derived from installment payments of special assessments.” Except as provided in Section 372.023(h) of the PID Act, costs of issuing bonds is not included among the list of expressly “authorized improvements” under the PID Act.⁶

The PID Act authorizes the City to pledge installment payments of assessments to secure the payment of bonds, temporary notes, time warrants, installment sale contracts or reimbursement agreements authorized by Subchapter A, Chapter 372, Texas Local Government Code to finance improvements.⁷ The PID Act also provides that the City may enter into an agreement with the Corporation that provides for payment to the Corporation of amounts pledged under Section 372.026 to secure indebtedness issued by the Corporation to finance improvements, “including indebtedness to pay capitalized interest and a reserve fund permitted by [Subchapter A] for revenue or general obligation bonds issued under [Subchapter A] and indebtedness issued to pay the corporation's costs of issuance.”⁸

Based on the above statutory framework, there seems to be authority for the City to levy assessments to pay for the costs of improvements which benefit the District. However, the City does not appear to be expressly authorized to levy assessments on property within the District to pay for costs of issuing bonds not issued by the City or a local government corporation formed by the City in accordance with the PID Act. Since Section 372.003 of the PID Act does not include costs of issuing bonds in its list of “authorized improvements” and the bonds were issued by the Wisconsin PFA and, therefore, were not issued under the PID Act (or approved by the Texas Attorney General), the PID Act does not appear to authorize assessments to be used to pay the cost of issuing the PFA Bonds or fund reserve funds of the Wisconsin PFA.

With those statutory restrictions noted, the installment sale nature of the Interlocal Agreement may have been intended to address the lack of clear statutory authority for District assessments to be levied to support the payment of the financing costs of the Wisconsin PFA. Section 372.023(d)(1) of the PID Act authorizes the City to pay costs payable from assessments under the terms of an installment sales contract between the City and a person who acquires, installs, or constructs public improvements. In this instance, the City would be acquiring the improvement from the Corporation (which is acquiring the public improvements from the Construction Manager, which is

⁵ Section 372.023(h) of the PID Act (emphasis added).

⁶ See Section 372.003(b) of the PID Act.

⁷ Section 372.026(b) of the PID Act.

⁸ Section 372.026(f) of the PID Act. Perhaps somewhat ironically, if the Corporation had issued the bonds directly (as opposed to entering into a Loan Agreement), there is express statutory authority for a contract between the City and the Corporation to allow for the transfer and pledge of the assessments.

constructing them pursuant to its construction contract with the Corporation). The argument is that, while the purchase price which the City is paying to the Corporation may include the cost of the Corporation's financing of the District improvements, that is just a component of the purchase price of the improvements under an installment sales contract, so is part of the "cost" of the improvements. However, we are aware that in certain other instances where public entities have tried to employ creative agreements to address statutory restrictions associated with debt issuances, the Attorney General has opined that there is a public policy argument "*to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibitions.*"⁹ The question seems to turn on whether an "installment sales contract" between the City and an entity controlled by the City provides sufficient legal authority for all stated installment payments due under such a contract to be authorized "costs" of improvements and, therefore, payable from annual installments of assessments, or does the law require that we look beyond the contractual characterization of the payments to the actual use of the funds as financing components associated with the underlying bonds, which were not issued under the PID Act and, therefore, are not permitted to be paid with assessments under the PID Act.

2. Examination of Promissory Note by Attorney General

Chapter 431 of the Texas Transportation Code generally authorizes the creation of corporations, which are limited to the promotion and development of public transportation facilities and systems; however, Subchapter D of such Chapter further authorizes the creation of local government corporations to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments. Section 431.071 of the Texas Transportation Code (which applies to both "corporations" and "local government corporations"¹⁰) states, in part, that "[a] corporation shall submit a bond or note authorized under Section 431.070 [of the Texas Transportation Code] and a contract supporting its issuance to the attorney general for examination."¹¹ Section 431.070 contains broad authority for "[a] corporation [to] issue bonds and

⁹ In Texas Attorney General Opinion CM-0634, the Attorney General was asked whether the Texas Water Development Board (the "TWDB") had the legal authority to make a commitment to political subdivisions to purchase bonds in the future. Tex. Att'y Gen. Op. CM-0634 (1970). Normally, the TWDB would sell its bonds to obtain funds to purchase bonds from political subdivisions to fund projects. However, due to market factors, the TWDB could not sell its bonds within the interest rate limitation prescribed in the Texas Constitution. As a result, the TWDB sought to make commitments to purchase bonds issued by political subdivisions from third-party holders or purchase refunding bonds from the political subdivisions in the future. The Attorney General opined that the TWDB could not make such commitments, as doing so "would constitute an effort to avoid the constitutional limitation upon interest rates," noting that "*it is the policy of the law to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibitions.*" *Id.* at 6 (emphasis added); see also *Christie v. Harris County Fresh Water Supply Dist. No. 23*, 317 S.W.2d 219 (Tex. Civ. App. – Waco 1958, writ ref'd n.r.e.) (quoting Am. Jur., "As in the case of other restrictions designed to limit the contracting of indebtedness by municipal corporations and other political bodies, numerous schemes have been devised to get around the statutory provision against a sale of public bonds for less than par. Finding themselves unable to sell bonds at par, officers in charge of bond issues frequently seek to accomplish indirectly what they are prohibited from doing directly. Needless to say, the courts have been prompt to declare invalid all such indirections. As in other cases where it is sought to do indirectly what cannot be done directly, it is the policy of the law to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibition.").

¹⁰ Section 431.003(2), Texas Transportation Code, states, "'corporation'" means a corporation organized under this chapter and includes a local government corporation."

¹¹ Tex. Transp. Code § 431.071.

notes to carry out its purpose.”¹² In addition, Section 431.006 provides that the Texas Non-Profit Corporation Act¹³ applies to a corporation formed under Chapter 431 “to the extent that the provisions of that Act are not inconsistent with this chapter.”¹⁴

A plain reading of the word “note,” as used in Section 431.071, would seem to include “promissory note,” but it is not clear whether other relevant statutory language or context limits that reading. The use of the word “issue” does not seem to limit the broad meaning of the word “note” because there are many other statutory uses where “issue” clearly indicates an issuance of a promissory note.¹⁵ Under a *noscitur a sociis*¹⁶ theory of statutory construction, there may be an argument that the use of the word “bond” before the word “note” informs the meaning of “note” to be limited to the type of note that is similar to a bond, but since only two words are included in the statutory list, the authoritative weight of such a statutory construction theory is diminished. Alternatively, a corporation formed under Chapter 431 (including a local government corporation) could arguably rely on the general authority provided by Chapter 22 of the Business Organizations Code (f/k/a the Texas Non-Profit Corporation Act) to issue promissory notes and enter into loan agreements for permitted corporate purposes. Generally, without an additional statutory requirement, an issuance of a promissory note by a local government entity would not require a review by the Attorney General unless such note is a “public security.”¹⁷ However, does the wording of Section 431.006 limit the applicability of the general authority of Chapter 22 of the Business Organizations Code because of the express statutory requirement contained in Section 431.071 that “notes” be submitted to the Attorney General or the express statutory statement in Section 431.108 that the operations of a local government corporation are governmental? Does this statutory analysis result in a requirement that all promissory notes issued by a Chapter 431 corporation or a local government corporation (regardless of whether such notes are public securities) be submitted to the Attorney General for examination?

¹² Tex. Transp. Code § 431.070 (emphasis added).

¹³ The former Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is now codified as Chapter 22 of the Texas Business Organizations Code.

¹⁴ Tex. Transp. Code § 431.006.

¹⁵ See Tex. Local Gov't Code § 382.152(b) (“A district may not *issue a negotiable promissory note* or notes unless approved by the commissioners court...” (emphasis added)); Tex. Transp. Code § 366.072(e) (“...described by Subsection (c), an authority may borrow money and *issue promissory notes* or other interest-bearing evidences of indebtedness payable out of...” (emphasis added)); Tex. Transp. Code § 366.174(c)(4), (5) (“...of a turnpike project or system; (5) borrow money and *issue promissory notes* or other indebtedness payable out of the revolving fund for...” (emphasis added), among others.

¹⁶ *Noscitur a Sociis* (aka the Associated-Word Canon) basically stands for the proposition that words that are associated with each other in a statute (such as in a list) should affect one another's meanings; however, that rule of statutory interpretation is not codified in the Texas Code Construction Act (Chapter 311 of the Texas Gov't Code).

¹⁷ Section 1203.003, Texas Government Code, requires a “public security” to be submitted to the Attorney General for approval before “issuance.” Section 1202.001, Texas Government Code, defines “public security” to include a note, but only if it is payable to bearer or the registered owner, and the Section defines “issuance” as the delivery of a public security to the initial purchaser in exchange for the purchase price.

If you have any questions concerning this request, please feel free to contact me or Dorothy Palumbo, City Attorney of the City of Hutto. Thank you for your attention to this opinion request.

Respectfully submitted,



Dee Hobbs
Williamson County Attorney

cc: **Via Electronic Mail**
(dottie@texasmunicipallawyers.com)
Dorothy Palumbo
Of Counsel
Bojorquez Law Firm, PC
11675 Jollyville Road, Suite 300
Austin, Texas 78759
Work: (512) 250-0411
Fax: (512) 250-0749



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 22, 2020

The Honorable Dee Hobbs
Williamson County Attorney
405 M.L.K Street, #7
Georgetown, Texas 78626

Via E-Mail

Re: Whether public improvement district assessments may be used in specific circumstances (RQ-0384-KP)

Dear Mr. Hobbs:

We received your request for an attorney general opinion and have designated it as Request No. 0384-KP. Section 402.042 of the Government Code provides that the Attorney General shall issue an opinion not later than the 180th day after the date that an opinion request is received, unless before that deadline the Attorney General notifies the requesting person in writing that the opinion will be delayed. TEX. GOV'T CODE § 402.042(c)(2). We received your request on October 15, 2020, setting a due date for your opinion of April 13, 2021.

Upon review of your request, it has come to our attention that one of the questions asked is also the subject of a lawsuit pending in the United States District Court for the Western District of Texas, styled *Preston Hollow Capital, LLC v. Cottonwood Development Corporation*, Cause No. 1:20-cv-978. In that lawsuit, the defendants seek a declaration that certain loan agreements are void for never having been reviewed or approved by the Texas Attorney General as required by section 431.071 of the Transportation Code. The second question in your request asks this same question—whether loan agreements executed under chapter 431 of the Transportation Code must be submitted to the Attorney General for approval.

It is the policy of this office to refrain from issuing an attorney general opinion on questions that we know to be the subject of pending litigation. *See* Tex. Att'y Gen. Op. Nos. GA-0502 (2007) at 3–4; MW-205 (1980) at 1; V-291 (1947) at 5–6. This policy, which has been in effect for more than sixty years, is based upon the fact that attorney general opinions, unlike those issued by courts of law, are advisory in nature. By contrast, court decisions are binding unless and until they have been modified or overturned by a higher court or until the law they construe has been amended. Consequently, when a legal matter is being litigated, the courts are generally the appropriate forum for resolving the issue. We will therefore decline to address your second question. If your question remains unanswered at the end of that litigation, you may resubmit it at that time. We will, however, proceed with addressing your first question.

By copy of this letter we are notifying those listed below of your request and asking them to submit briefing on your first question if they have a special interest or expertise in the subject matter. If you are aware of other interested parties, please forward this request for briefing to them or let us know, so that we may notify them as soon as possible. We ask that the briefs be submitted by November 20, 2020, to ensure that this office will have adequate time to review and consider arguments relevant to the request from all interested parties. Briefs may be submitted by e-mail to opinion.committee@oag.texas.gov. Please note that briefs and other correspondence are subject to the Public Information Act.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Virginia K. Hoelscher
Chair, Opinion Committee

VKH/som

Attachment: Request No. 0384-KP

cc: Mr. Warren Hutmacher, City Manager, City of Hutto
Ms. Dottie Palumbo, City Attorney, City of Hutto
Mr. Scott Carper, Program Manager, Public Finance Authority
Mr. Mike LaPierre, Program Manager, Public Finance Authority
Ms. Caitlin Lancot, Program Manager, Public Finance Authority
Mr. Bennett Sandlin, Executive Director, Texas Municipal League
Mr. Scott Houston, Deputy Executive Director, Policy & General Counsel, Texas
Municipal League
Ms. Johanna Meade, General Counsel Division, Office of the Governor

RECEIVED

By Opinion Committee at 12:00 pm, Oct 15, 2020

General Counsel
Jason Nassour
First Assistant
Brandon Dakroub
Criminal Division Chief
Laura Gorman
Civil Division Chief
Shannon C. Francis
Juvenile Division Director
Michael Cox

DEE HOBBS
COUNTY ATTORNEY

405 M.L.K. Street #7
Georgetown, Texas 78626



Office Administrator
Stephanie Lloyd
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Victim Services Director
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October 14, 2020

RQ-0384-KP

FILE# ML-48894-20

I.D.# 48894

Via Electronic Mail

(opinion.committee@oag.texas.gov)

The Honorable Ken Paxton
Attorney General of the State of Texas
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Questions Relating to the Use of Public Improvement District Assessments to Pay Certain Costs and the Necessity of Attorney General Review of Promissory Notes issued by a Local Government Corporation

Dear Attorney General Paxton:

I have been requested to submit this request for an attorney general opinion on behalf of the City of Hutto, Texas (the "City") with regard to the below questions. The City has informed me that it intends to perform all of its lawful obligations under the relevant transaction documents discussed herein and, therefore, seeks clarification from the Attorney General's Office in order that it may do so. All information below was provided to me by the City and its legal counsel. Although I do not have personal knowledge of the factual background information submitted, I am relying on the representations provided by Williamson County, the City, and its legal counsel regarding the factual background and known legal authorities and, based on those representations, I believe these questions are appropriate for submission to your office for an opinion.

Questions:

1. May public improvement district assessments be levied by a city under Chapter 372 of the Texas Local Government Code and used by the city to make installment payments through an interlocal agreement for the purchase of public improvements from the city's local government corporation, if the installment payments are sized to enable the corporation to pay debt service on a loan from an out-of-state bond issuer which was used to fund the cost of constructing the improvements, and to pay financing costs of issuing the bonds by the out-of-state issuer?
2. Does Chapter 431 of the Texas Transportation Code require that a loan agreement and promissory note executed by a local government corporation formed under such Chapter

be submitted to the Attorney General for examination if the promissory note is not a “public security”?

Factual Background:

On June 7, 2018, the City Council of the City of Hutto, Texas passed and approved a resolution authorizing the creation of the Hutto Co-Op Public Improvement District (the "District") pursuant to Chapter 372, Texas Local Government Code, as amended (the "PID Act"). The District was created, in part, to undertake and finance certain public improvements as defined in the District's Service and Assessment Plan and Assessment Roll (the "SAP"), which was approved by the City Council pursuant to an ordinance adopted on December 6, 2018 (the "Assessment Ordinance"). In addition, the City authorized the formation of the River Creek Development Corporation (the "Corporation") as a local government corporation pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code, as amended ("Chapter 431") in order to assist and act on behalf of the City to accomplish any governmental purpose of the City, including the financing of various development projects within the District.

Pursuant to a written loan agreement (the "Loan Agreement") and associated promissory note (the "Note"), the Corporation borrowed money from the Public Finance Authority, a unit of government and a body corporate and politic of the State of Wisconsin (the "Wisconsin PFA"), for the purpose of constructing certain public improvements in the District and to fund certain reserve funds and pay capitalized interest on and costs of issuing bonds by the Wisconsin PFA. The Wisconsin PFA issued \$17,400,000 of "Public Finance Authority Public Improvement Revenue Bonds (Hutto Co-Op Public Improvement District Project), Series 2018" (the "PFA Bonds") in order to raise the funds it lent to the Corporation.¹ The Corporation entered into a construction contract with a third party (the "Construction Manager") for the development and construction of the improvements and paid (or is paying) for such improvements with the money borrowed from the Wisconsin PFA under the Loan Agreement. The City authorized the Corporation to enter into the construction contract and the Loan Agreement pursuant to Section 4.01 of the Interlocal Agreement (defined below).

The SAP identified the initial authorized improvements to be constructed within the District, set an initial budgeted cost for such improvements at \$17,400,000, and established the amount of assessments (the "Assessments") on the benefitted property within the District based on such budgeted amount. Pursuant to the Assessment Ordinance, the City Council levied the Assessments against certain parcels within the boundaries of the District in accordance with the SAP and determined that the Assessments were to be paid in annual installments over a thirty-five (35) year period, as shown in the SAP, with interest. The PID Act provides that an Assessment can be paid in full at any time, but if not paid in full, the City may collect interest and collection costs on the outstanding Assessments.

The City and the Corporation entered into an Interlocal Agreement (the "Interlocal Agreement") pursuant to which the City agreed to purchase the improvements from the Corporation in consideration for scheduled installment purchase price payments. The purchase price to be paid by

¹ The PFA Bonds were issued as two term bonds: \$13,985,000 6.250% Term Bonds, Due October 1, 2050, Priced to Yield 6.250%; and \$3,415,000 6.300% Term Bonds, Due October 1, 2053, Priced to Yield 6.300%.

the City is the sum of all payments specified on a schedule which mirrors the debt service schedule of the Note. The Interlocal Agreement states that such payments are special obligations of the City payable solely from District assessment revenues. The City pledged to the Corporation, and granted a lien on and a security interest in, all of the District assessment revenues. In turn, the Corporation pledged to the Wisconsin PFA revenues it receives under the Interlocal Agreement as security for the Loan, and the Wisconsin PFA pledged revenues it receives from the Corporation to secure payment of the PFA Bonds. The Interlocal Agreement expressly states that proceeds from the PFA Bonds were to be used to (i) finance the loan to pay the Construction Manager's actual cost of the public improvements to be constructed in the District, (ii) fund capitalized interest, (iii) fund an extraordinary expense fund, debt service reserve fund, and other funds under the trust agreement securing the PFA Bonds, and (iv) pay certain costs of issuing the PFA Bonds. City staff, City attorneys and other City consultants were involved in all aspects of negotiating and documenting the above-described financing. In reliance on the advice of outside legal counsel, City Council approved all documents to which the City is a party, and the governing board of the Corporation [which is comprised of three members appointed by the City Council] approved all documents to which the Corporation is a party. The Corporation is required to comply with all financial and administrative ordinances and policies of the City.

Discussion and Analysis:

1. Public Improvement District Assessments

Texas law has long held that special assessments may only be levied on property in an amount based on the benefits such property receives from the improvements to the property. *See City of Houston v. Blackbird*, 394 S.W. 2d 159, 162 (Tex. 1965) (“An assessment against property and its owner for paving improvements on any basis other than for benefits conferred and in an amount materially greater than the benefits conferred violates Sec. 17 of Article 1 of the Constitution of Texas . . .”). The PID Act incorporates this concept, stating, “[t]he governing body of [a] municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.”²

The PID Act authorizes a city to levy assessments to pay costs of public improvements and to provide that assessments be paid “in periodic installments, at an interest rate and for a period approved by the governing body.”³ The PID Act also specifies what may be included in the “cost” of improvements for which special assessments may be levied. Costs of improvements payable from assessments that are payable in installments may be paid “under an installment sales contract or a reimbursement agreement . . . or by the issuance and sale of bonds under Section 372.024”⁴ of the PID Act. Section 372.003 of the PID Act does list certain “soft” costs and services among “authorized improvements” permitted to be financed under the PID Act, including “special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement” as well as “payment of

² Section 372.015(a) of the PID Act.

³ Section 372.017(b) of the PID Act.

⁴ Section 372.023(d) of the PID Act.

expenses incurred in the establishment, administration, and operation of the district.” However, it does not expressly authorize financing costs among “authorized improvements.” That is addressed by Section 372.023(h).

Section 372.023(h) of the PID Act provides that the costs of an improvement include “*all costs incurred in connection with the issuance of bonds under [the PID Act] and [such costs] may be included in the assessments against the property in the improvement district....*”⁵ Section 372.024 of the PID Act allows revenue bonds to be issued to pay permitted costs under the PID Act and to be “secured by liens on all or part of the revenue derived from improvements authorized under [the PID Act], including revenue derived from installment payments of special assessments.” Except as provided in Section 372.023(h) of the PID Act, costs of issuing bonds is not included among the list of expressly “authorized improvements” under the PID Act.⁶

The PID Act authorizes the City to pledge installment payments of assessments to secure the payment of bonds, temporary notes, time warrants, installment sale contracts or reimbursement agreements authorized by Subchapter A, Chapter 372, Texas Local Government Code to finance improvements.⁷ The PID Act also provides that the City may enter into an agreement with the Corporation that provides for payment to the Corporation of amounts pledged under Section 372.026 to secure indebtedness issued by the Corporation to finance improvements, “including indebtedness to pay capitalized interest and a reserve fund permitted by [Subchapter A] for revenue or general obligation bonds issued under [Subchapter A] and indebtedness issued to pay the corporation's costs of issuance.”⁸

Based on the above statutory framework, there seems to be authority for the City to levy assessments to pay for the costs of improvements which benefit the District. However, the City does not appear to be expressly authorized to levy assessments on property within the District to pay for costs of issuing bonds not issued by the City or a local government corporation formed by the City in accordance with the PID Act. Since Section 372.003 of the PID Act does not include costs of issuing bonds in its list of “authorized improvements” and the bonds were issued by the Wisconsin PFA and, therefore, were not issued under the PID Act (or approved by the Texas Attorney General), the PID Act does not appear to authorize assessments to be used to pay the cost of issuing the PFA Bonds or fund reserve funds of the Wisconsin PFA.

With those statutory restrictions noted, the installment sale nature of the Interlocal Agreement may have been intended to address the lack of clear statutory authority for District assessments to be levied to support the payment of the financing costs of the Wisconsin PFA. Section 372.023(d)(1) of the PID Act authorizes the City to pay costs payable from assessments under the terms of an installment sales contract between the City and a person who acquires, installs, or constructs public improvements. In this instance, the City would be acquiring the improvement from the Corporation (which is acquiring the public improvements from the Construction Manager, which is

⁵ Section 372.023(h) of the PID Act (emphasis added).

⁶ See Section 372.003(b) of the PID Act.

⁷ Section 372.026(b) of the PID Act.

⁸ Section 372.026(f) of the PID Act. Perhaps somewhat ironically, if the Corporation had issued the bonds directly (as opposed to entering into a Loan Agreement), there is express statutory authority for a contract between the City and the Corporation to allow for the transfer and pledge of the assessments.

constructing them pursuant to its construction contract with the Corporation). The argument is that, while the purchase price which the City is paying to the Corporation may include the cost of the Corporation's financing of the District improvements, that is just a component of the purchase price of the improvements under an installment sales contract, so is part of the "cost" of the improvements. However, we are aware that in certain other instances where public entities have tried to employ creative agreements to address statutory restrictions associated with debt issuances, the Attorney General has opined that there is a public policy argument "*to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibitions.*"⁹ The question seems to turn on whether an "installment sales contract" between the City and an entity controlled by the City provides sufficient legal authority for all stated installment payments due under such a contract to be authorized "costs" of improvements and, therefore, payable from annual installments of assessments, or does the law require that we look beyond the contractual characterization of the payments to the actual use of the funds as financing components associated with the underlying bonds, which were not issued under the PID Act and, therefore, are not permitted to be paid with assessments under the PID Act.

2. Examination of Promissory Note by Attorney General

Chapter 431 of the Texas Transportation Code generally authorizes the creation of corporations, which are limited to the promotion and development of public transportation facilities and systems; however, Subchapter D of such Chapter further authorizes the creation of local government corporations to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments. Section 431.071 of the Texas Transportation Code (which applies to both "corporations" and "local government corporations"¹⁰) states, in part, that "[a] corporation shall submit a bond or note authorized under Section 431.070 [of the Texas Transportation Code] and a contract supporting its issuance to the attorney general for examination."¹¹ Section 431.070 contains broad authority for "[a] corporation [to] issue bonds and

⁹ In Texas Attorney General Opinion CM-0634, the Attorney General was asked whether the Texas Water Development Board (the "TWDB") had the legal authority to make a commitment to political subdivisions to purchase bonds in the future. Tex. Att'y Gen. Op. CM-0634 (1970). Normally, the TWDB would sell its bonds to obtain funds to purchase bonds from political subdivisions to fund projects. However, due to market factors, the TWDB could not sell its bonds within the interest rate limitation prescribed in the Texas Constitution. As a result, the TWDB sought to make commitments to purchase bonds issued by political subdivisions from third-party holders or purchase refunding bonds from the political subdivisions in the future. The Attorney General opined that the TWDB could not make such commitments, as doing so "would constitute an effort to avoid the constitutional limitation upon interest rates," noting that "*it is the policy of the law to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibitions.*" *Id.* at 6 (emphasis added); *see also Christie v. Harris County Fresh Water Supply Dist. No. 23*, 317 S.W.2d 219 (Tex. Civ. App. – Waco 1958, writ ref'd n.r.e.) (quoting Am. Jur., "As in the case of other restrictions designed to limit the contracting of indebtedness by municipal corporations and other political bodies, numerous schemes have been devised to get around the statutory provision against a sale of public bonds for less than par. Finding themselves unable to sell bonds at par, officers in charge of bond issues frequently seek to accomplish indirectly what they are prohibited from doing directly. Needless to say, the courts have been prompt to declare invalid all such indirections. As in other cases where it is sought to do indirectly what cannot be done directly, it is the policy of the law to look beyond the face of the transaction and to hold unlawful any agreement having the effect of avoiding the statutory prohibition.").

¹⁰ Section 431.003(2), Texas Transportation Code, states, "'corporation'" means a corporation organized under this chapter and includes a local government corporation."

¹¹ Tex. Transp. Code § 431.071.

notes to carry out its purpose.”¹² In addition, Section 431.006 provides that the Texas Non-Profit Corporation Act¹³ applies to a corporation formed under Chapter 431 “to the extent that the provisions of that Act are not inconsistent with this chapter.”¹⁴

A plain reading of the word “note,” as used in Section 431.071, would seem to include “promissory note,” but it is not clear whether other relevant statutory language or context limits that reading. The use of the word “issue” does not seem to limit the broad meaning of the word “note” because there are many other statutory uses where “issue” clearly indicates an issuance of a promissory note.¹⁵ Under a *noscitur a sociis*¹⁶ theory of statutory construction, there may be an argument that the use of the word “bond” before the word “note” informs the meaning of “note” to be limited to the type of note that is similar to a bond, but since only two words are included in the statutory list, the authoritative weight of such a statutory construction theory is diminished. Alternatively, a corporation formed under Chapter 431 (including a local government corporation) could arguably rely on the general authority provided by Chapter 22 of the Business Organizations Code (f/k/a the Texas Non-Profit Corporation Act) to issue promissory notes and enter into loan agreements for permitted corporate purposes. Generally, without an additional statutory requirement, an issuance of a promissory note by a local government entity would not require a review by the Attorney General unless such note is a “public security.”¹⁷ However, does the wording of Section 431.006 limit the applicability of the general authority of Chapter 22 of the Business Organizations Code because of the express statutory requirement contained in Section 431.071 that “notes” be submitted to the Attorney General or the express statutory statement in Section 431.108 that the operations of a local government corporation are governmental? Does this statutory analysis result in a requirement that all promissory notes issued by a Chapter 431 corporation or a local government corporation (regardless of whether such notes are public securities) be submitted to the Attorney General for examination?

¹² Tex. Transp. Code § 431.070 (emphasis added).

¹³ The former Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is now codified as Chapter 22 of the Texas Business Organizations Code.

¹⁴ Tex. Transp. Code § 431.006.

¹⁵ See Tex. Local Gov't Code § 382.152(b) (“A district may not *issue a negotiable promissory note* or notes unless approved by the commissioners court...” (emphasis added)); Tex. Transp. Code § 366.072(e) (“...described by Subsection (c), an authority may borrow money and *issue promissory notes* or other interest-bearing evidences of indebtedness payable out of...” (emphasis added)); Tex. Transp. Code § 366.174(c)(4), (5) (“...of a turnpike project or system; (5) borrow money and *issue promissory notes* or other indebtedness payable out of the revolving fund for...” (emphasis added), among others.

¹⁶ *Noscitur a Sociis* (aka the Associated-Word Canon) basically stands for the proposition that words that are associated with each other in a statute (such as in a list) should affect one another's meanings; however, that rule of statutory interpretation is not codified in the Texas Code Construction Act (Chapter 311 of the Texas Gov't Code).

¹⁷ Section 1203.003, Texas Government Code, requires a “public security” to be submitted to the Attorney General for approval before “issuance.” Section 1202.001, Texas Government Code, defines “public security” to include a note, but only if it is payable to bearer or the registered owner, and the Section defines “issuance” as the delivery of a public security to the initial purchaser in exchange for the purchase price.

If you have any questions concerning this request, please feel free to contact me or Dorothy Palumbo, City Attorney of the City of Hutto. Thank you for your attention to this opinion request.

Respectfully submitted,



Dee Hobbs
Williamson County Attorney

cc: **Via Electronic Mail**
(dottie@texasmunicipallawyers.com)
Dorothy Palumbo
Of Counsel
Bojorquez Law Firm, PC
11675 Jollyville Road, Suite 300
Austin, Texas 78759
Work: (512) 250-0411
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City of Hutto

MINUTES

Special Called City Council Meeting
Tuesday, September 8, 2020 at 6:00 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

1. CALL SESSION TO ORDER – *6:00 PM*
2. ROLL CALL

Members of the City Council present were Mayor Doug Gaul, Councilmember Dan Thornton, Councilmember Mike Snyder, Councilmember Peter Gordon, Councilmember Patti Martinez (via videoconference) and Councilmember Tanner Rose.

Members of staff that were present were Anthony Host, Executive Director of Operations, Ashley Lumpkin, Executive Director of Business and Development Services and Holly Nagy, City Secretary.

3. PLEDGE OF ALLEGIANCE
4. CITY COUNCIL COMMENTS
 - 4.1. General Comments from City Council

Councilmember Snyder: Mayor I do have an item for citizen concern or citizen update. So today, I'd ask the City Attorney for guidance on the use of a truck camera to help patrol the trucks going through neighborhoods such as Emory Farms. I know that red-light cameras illegal, toll cameras are legal, I don't know about truck cameras to find a way to cheaply solve a problem there. I'd also ask for some information from the City Manager to share with the neighborhood regarding since the beginning of January the amount of truck stops that have happened in the neighborhood. How many people are getting tickets and warnings to try to share because I know there's a lot of concern right now on the continued use of Emory Farms for trucks and tractor trailers but just want to let the neighborhood know that people are on it.

5. PUBLIC COMMENT

- Andrew Boss
- Robin Sutton
- Ty Revenue (via email)
- Elaine Prout (via email)

6. OTHER BUSINESS

- 6.1. Consideration and possible appointments, re-appointments and/or removals to city boards and commissions.

Councilmember Rose made a motion to nominate Joel Combs to serve as the ETJ member for the Capital Improvement Committee. Councilmember Snyder seconded the motion. The motion passed unanimously.

Councilmember Martinez made a motion to remove Ed Pride from the Ethics Commission. Councilmember Rose seconded the motion. The motion passed unanimously.

- 6.2. Consideration and possible action on accepting the resignation of Scott Rose, Place 1.

Councilmember Gordon made a motion to accept the resignation of Councilmember Scott Rose Place 1. Councilmember Tanner Rose seconded the motion. The motion passed unanimously.

- 6.3. Consideration and possible action on selecting a qualified replacement to fulfill the remainder of Councilmember Scott Rose's remaining term.

Councilmember Rose made a motion to appoint Robin Sutton to fulfill the remainder of Councilmember Scott Rose's term. Councilmember Martinez seconded the motion. The motion passed unanimously.

7. EXECUTIVE SESSION **Entered: 6:20 PM**

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].

- 7.1. Discussions regarding City Manager position pursuant to Texas Government Code Section 551.074, Personnel Matters.

8. ACTION RELATIVE TO EXECUTIVE SESSION **Reconvened at 8:10 PM**

- 8.1. Discussion and possible action regarding City Manager position pursuant to Texas Government Code Section 551.074, Personnel Matters.

No action taken.

Councilmember Snyder made a motion to cancel the Special City Council meeting on September 9, 2020. Councilmember Gordon seconded the motion. The motion passed unanimously.

9. ADJOURNMENT – **8:12 PM**

ATTEST:

Jessica Brown, Asst. City Secretary

Mike Snyder, Mayor Pro Tem



City of Hutto

MINUTES

City Council Meeting

Thursday, September 17, 2020 at 7:00 PM

City Council Chambers

1. **CALL SESSION TO ORDER – 7:00 PM**

2. **ROLL CALL**

Members of City Council present were Mayor Doug Gaul, Councilmember Robin Sutton, Councilmember Dan Thornton, Councilmember Mike Snyder, Councilmember Peter Gordon and Councilmember Tanner Rose.

Members of staff present were Byron Frankland, Assistant City Manager; Ashley Lumpkin, Executive Director of Development Services; Stacy Schmitt, Assistant to City Manager; Holly Nagy, City Secretary and Dorothy Palumbo, City Attorney.

Absent: Councilmember Patti Martinez

3. **INVOCATION – Led by Gary Guthrie**

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

5.1. General Comments from City Council

Councilmember Snyder: So first I'd like to say that I view my primary job as representing the people of Hutto. I primarily do that through sharing the management of the city manager and the management of the city's finances with the rest of the city council. In my opinion, part of representing the citizens is making sure that the City of Hutto has a workforce that has the ability to provide the services that are being requested by our citizens. In my experience, this is done through the hard-working employees of the City of Hutto between paying competitive salary and benefits and the proper treatment of employees. Hutto should be able to achieve the wishes of those who are bosses, who are the tax paying citizens of the City of Hutto. While we know our problems of the past are becoming more and more apparent that we continue to have problems with professionalism and the treatment of our employees. Things like yelling, cursing people out and the like are in no way representative of a professional workplace. When this City Council passes new workplace rules or policies, it is my opinion that those rules, those

new rules, guidelines or policies are to be followed per the wishes of the City Council period, end of story. We all need to remember that we are here to serve the public. The public is pretty upset with the city overall. We're moving in a new direction, if you're on board with that, that's awesome. If your primary focus is your pay, you like to yell at subordinates or prefer to treat people unprofessionally, then I would say this council unlike previous City Councils has people on this council that will not tolerate an environment where people are continually treated poorly. Now I'm not saying everyone needs to be perfect, but it's obvious who this is directed at. Those that it is better get on the bus or move on. Lastly, for those employees who have reached out to me in the past and especially those most recently, I'm sorry that you were let down by the City Council on looking out for you. I want us to move faster and rectify on how we manage people. So, it's without said, I'm asking for an item on an upcoming agenda for a discussion and possible action on the hiring of an outside third-party firm who can discretely and most importantly confidentially survey our current employees and our recently past employed. These results would come directly to the City Council, not the executive staff. We need to change the culture at city hall, we need this to happen immediately in my opinion. The cost to our reputation and the constant hiring and training of new employees is way more than the cost of the third-party work that I'm asking for.

Councilmember Gordon:

I'll second that if you need a second Mayor.

Mayor Gaul: Okay.

Councilmember Gordon: I like that. Most of you know I work for Dell and Dell does an anonymous Tell Dell survey every year. I think that's done a lot to help Dell become the company that it is. The senior management has no clue who's responding and how we're responding and I think it works great. It's something that I asked for last October and didn't go anywhere. I'd love to be able to have some kind of anonymous survey so we can really see what's going on. Thanks.

5.2. Council Commission Liaison Reports

- *None.*

6. **PUBLIC COMMENT**

- Jackie Corbiere
- Rick Hudson
- Jacoby Schakonsky
- Robert Clark
- Robert Vossler *via email
- Elaine Prout *via email
- The Black Families of Hutto Community Group *via email
- Terra Ray *via email
- Diane Hinmond *via email

- Barbara McMillin *via email

7. **CITY MANAGER COMMENTS**

Councilmember Gordon made a motion to move agenda item 12.3 up. Councilmember Snyder seconded the motion. The motion passed. (5:1) with Councilmember Rose against.

12. **EXECUTIVE SESSION:** *Entered: 7:30 PM*

12.3 Deliberation on the appointment and compensation of a City Manager from the finalists selected by the City Council for the position of City Manager pursuant to Texas Government Code Section 551.074, Personnel Matters.

Reconvened: 8:13 PM

No action taken.

8. **CONSENT AGENDA ITEMS**

Councilmember Snyder made a motion to approve the consent agenda. Councilmember Thornton seconded the motion. The motion passed unanimously.

- 8.1. Consideration and possible action on a resolution approving the proposed Mustang Creek Phase 5 Final Plat, 19.868 acres, more or less, of land, 102 residential lots, located on FM 1660 North. (Ashley Lumpkin)
- 8.2. Consideration and possible action on a resolution approving the proposed Hutto 15 - 23 Crossing Industrial Park Final Plat, 125.977 acres, more or less, of land, 6 commercial lots, located at US 79 West and the SH-130 SB Frontage Road. (Ashley Lumpkin)
- 8.3. Consideration and possible action on August 6, 2020 Regular City Council meeting minutes.
- 8.4. Consideration and possible action on August 11, 2020 Special Called City Council meeting minutes.
- 8.5. Consideration and possible action on August 13, 2020 Special Called City Council meeting minutes.
- 8.6. Consideration and possible action on August 17, 2020 Special Called City Council meeting minutes.

9. **OTHER BUSINESS**

Mayor Doug Gaul requested to move agenda item 9.2 as to recuse himself from item 9.1.

9.2 Consideration and possible action on appointing a Mayor Pro Tem.

Councilmember Rose made a motion to approve Councilmember Snyder as Mayor Pro Tem. Councilmember Sutton seconded this motion. The motion passed unanimously.

9.1. Discussion and possible action on awarding the Outside Agency Funding requests of: Hutto Resource Center, Hutto Education Foundation- Building Growth, Hutto Education Foundation- Teacher & Faculty, TSTC Foundation, Hutto Young Life, Opportunities for WBC- Meals on Wheels, Hutto Lutheran Church-Feeding the 500, Sandbox at Madeline's Place, A Legends Lyfe Foundation, Round Rock Area Servicing Center, Hutto Family YMCA- Annual Campaign, Hutto Family YMCA-Senior Services. (Kristi Robich)

Discussion ensued.

Councilmember Thornton made a motion to accept the original amounts requested with the removal of the Hutto Education Foundation – Teacher & Faculty \$25,000 grant completely and reduction of Hutto Young Life by \$1,000. Councilmember Gordon seconded the motion. The motion passed unanimously.

Mayor Doug Gaul recused himself from this item as his daughter works for the YMCA.

9.3. Review plan of finance to be presented by City's financial advisor for proposed refinancing of certain of the City's outstanding bonds and certificates of obligation, and consider giving direction to staff and City's financial advisor to take all actions needed to execute such refinancing for debt service savings pursuant to the proposed plan of finance. (Misti Hancock)

Jim Sabonis with Hilltop Securities presented. Discussion ensued.

Councilmember Gordon made a motion to direct staff and finance advisors to move forward with the plan with finance to execute bond refinancing's for debt service savings. Councilmember Snyder seconded this motion. The motion passed unanimously.

9.4. Consideration and Possible Appointments, Re-appointments and/or Removals to City Boards and Commissions. (City Secretary)

Councilmember Snyder made a motion to nominate Shawn Lucas for the EDC Board. Councilmember Rose seconded this motion. The motion passed unanimously.

Councilmember Snyder made a motion to nominate David Myer to the Parks Advisory Board. Councilmember Gordon seconded this motion. The motion passed unanimously.

Councilmember Snyder made a motion to nominate Sandy Jackson to the Diversity and Inclusion Commission. Councilmember Gordon seconded this motion. The motion passed unanimously.

Councilmember Gordon made a motion to nominate Scott Rose to the Library Advisory Board. Councilmember Snyder seconded this motion. The motion passed unanimously.

Councilmember Thornton made a motion to nominate Mike Arismendez Jr. to the EDC Board. Councilmember Snyder seconded this motion. The motion passed unanimously.

Councilmember Thornton made a motion to nominate Tara Spoons to the Diversity and Inclusion Commission. Councilmember Snyder seconded this motion. The motion passed unanimously.

Councilmember Snyder made a motion to move item 11.9 up followed by item 13.3. Councilmember Thornton seconded this motion. The motion passed unanimously.

- 11.9 Consideration and possible action on Ordinance No. O-2020-032-amending Chapter 2 of the Hutto City Code by amending Section 2.03.041 of Article 2 to require that the City Manager reside within the Hutto City Limits and providing that a prospective City Manager establish a residence within the City Limits within six months after accepting the City Manager position. (City Attorney)
Councilmember Gordon made a motion to approve this amendment. Councilmember Sutton seconded this motion. This motion passed unanimously.

Councilmember Rose made a motion to dispense with the second reading. Councilmember Thornton seconded this motion. The motion passed unanimously.

- 13.3 Discussion and possible action on appointment and compensation of a City Manager from the finalists selected by the City Council for the position of City Manager pursuant to Texas Government Code Section 551.074, Personnel Matters.
Discussion ensued.

Councilmember Rose made a motion to appoint Warren Hutmacher as the new City Manager with the terms in the contract as presented to the Council today with an effective start date of September 28, 2020. Councilmember Gordon seconded the motion. The motion passed unanimously.

- 9.5. Consideration and possible action to set the date for a hearing to be held under Section 3.16 investigation regarding separation, severance and transition agreements for the purpose of conducting an investigation, to identify the relevant

witnesses and to issue or cause to be issued the subpoenas or other directions to appear and testify. (City Attorney)

Councilmember Snyder made a motion to hold a hearing on October 8, 2020 under Section 3.16. Councilmember Rose seconded this motion. The motion passed (4:2)with Mayor Gaul and Councilmember Gordon against.

- 9.6. Discussion and possible action regarding the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election. (City Secretary)
Councilmember Snyder made a motion to recommend a vote for Place 1 Robert Herrera, Place 2 John Fullen, Place 3 George Hyde and Place 4 Robert Hauck. Councilmember Thornton seconded the motion. The motion passed unanimously.

10. RESOLUTIONS

- 10.1. Discussion and possible action on Resolution No. R-2020-083 appointing a Charter Review Commission in accordance with Section 13.12 of the Hutto City Charter. (Councilmember Snyder)

Discussion ensued.

Councilmember Rose made a motion to appoint a Charter Review Commission. Councilmember Gordon seconded the motion. The motion passed unanimously.

10 - minute recess at 9:35 PM.

11. ORDINANCES

Returned from break at 9:45 PM

- 11.1. Consideration and possible action on the second reading of an ordinance making appropriations to support the City of Hutto during Fiscal Year 2021 from October 1, 2020 through September 30, 2021, and adopting the annual budget of the City of Hutto for Fiscal Year 2021. (Misti Hancock)

Councilmember Snyder made a motion to move the second reading of an ordinance making appropriations to support the City of Hutto during Fiscal Year 2021 from October 1, 2020 through September 30, 2021 and adopt the annual budget as presented for Fiscal Year 2021. Councilmember Gordon seconded the motion. The below amendments were presented and approved. The motion passed unanimously.

Councilmember Rose made a motion to amend the motion to reduce the vehicle allowance to \$500.00 a month. Councilmember Snyder seconded the motion. The motion passed unanimously.

Councilmember Snyder made a motion to amend the budget to add a 10% increase in pay for the positions of Sargent, Patrol Officer, Detectives, Warrant

Officer and Animal Control effective October 1, 2020. The motion passed unanimously.

Councilmember Snyder made a motion to amend the budget to keep the Chief and Assistant Chief of Police at the current salary. Councilmember Sutton seconded the motion. The motion passed. (5:1) with Mayor Gaul against.

Councilmember Snyder made a motion to amend the budget to add a position of Financial Auditor with a pay scale up to \$117,000 in total pay and benefits and increase the headcount to 124 and 1/2. Councilmember Thornton seconded the motion. The motion passed unanimously.

- 11.2. Consideration and possible action on the second reading of an ordinance levying Ad Valorem taxes for the use and support of the municipal government for the City of Hutto for the Tax Year 2020. (Misti Hancock)

Councilmember Snyder made a motion to levying Ad Valorem taxes for the use and support of the municipal government for the City of Hutto for the Tax Year 2020 at 60 cents even. Councilmember Thornton seconded the motion. The motion passed unanimously.

- 11.3. Consideration and possible action on the second reading of an ordinance ratifying an Ad Valorem tax increase for the 2020-2021 Fiscal Year for the use and support of the municipal government for the City of Hutto for the Tax Year 2020. (Misti Hancock)

Councilmember Rose made a motion for the second reading of an ordinance ratifying an Ad Valorem tax increase for the 2020-2021 Fiscal Year for the use and support for the City of Hutto for the Tax Year 2020 that this tax rate will raise the total property value taxes than last year's budget by \$128, 874 or a negative 0.975%, and of that amount \$817,677 is tax revenue to be raised from new property added to tax roll this year based on an ad valorem rate of \$0.600 on each \$100.00 valuation of property. Councilmember Gordon seconded the motion. The motion passed unanimously.

- 11.4. Consideration and possible action on the second reading of an ordinance concerning the adoption of the Community Development Corporation Fiscal Year 2020-2021 Budget. (Misti Hancock)

Councilmember Gordon made a motion to approve item 11.4. Councilmember Rose seconded the motion. The motion passed unanimously

- 11.5. Consideration and possible action on the second reading of an Ordinance repealing Ordinance O-2020-011 to reinstate water, sewer, and sanitation service disconnections, late fees, and penalties; and also providing for the following: findings of fact, adoption, enactment, repealer, severability, and effective date. (Misti Hancock)

Councilmember Gordon made a motion to approve item 11.5. Councilmember Sutton seconded the motion. The motion passed unanimously

Councilmember Snyder made a motion to move items 11.10 and 11.11 up. Councilmember Rose seconded the motion. The motion passed unanimously

- 11.10 Consideration and possible action on amending Article 22.05, Truck Traffic, of the Hutto City Code to provide for the use of a photographic traffic enforcement system for heavy trucks entering a “No Truck” zone.
(Councilmember Snyder)
Councilmember Snyder made a motion to request City Staff to prepare additional options for the traffic issue and present at the October 15 Regular City Council meeting. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 11.11 Consideration and possible action on Ordinance No. O-2020-029 declaring severance or transition agreements void. (Second Reading) (City Attorney)
Councilmember Sutton made a motion to approve item 11.11. Councilmember Snyder seconded the motion.
- Councilmember Snyder made an amendment to strike the NDA (Non-Disclosure Agreement) portion of the agreements. The motion passed (4:2) with Councilmember Gordon and Mayor Gaul against.*
- 11.6. Consideration and possible action on Ordinance No. O-2020-033 accepting and approving Annual Service and Assessment Plan Update for Co-Op Public Improvement District.
Councilmember Snyder made a motion to table this item and direct staff to verify the PID was set up in compliance with state statutes, verify Guarantee Agreement and have developer sign a reassessment plan to take the church out of reassessment. Councilmember Rose seconded the motion. The motion passed unanimously.
- Councilmember Rose made a request to add an agenda item for the next regular scheduled meeting for discussion and possible action to put the master developer of the Co-Op in default of the agreement(s).*
- 11.7. Consideration and possible action on Ordinance No. O-2020-034 accepting and approving Annual Service and Assessment Plan Update for Mustang Creek Public Improvement District.
Councilmember Gordon made a motion to approve this item. Councilmember Rose seconded the motion. The motion passed unanimously.

- 11.8. Consideration and possible action on Ordinance No. O-2020-035 accepting and approving Annual Service and Assessment Plan Update for Cross Creek Public Improvement District.

Councilmember Snyder made a motion to approve this item. Councilmember Gordon seconded the motion. The motion passed unanimously.

Councilmember Snyder made a motion to also discuss item 12.1 out of Executive Session. Councilmember Rose seconded the motion. Motion passed (5:1) with Mayor Gaul against.

- 12.1 Receive legal advice pursuant to Texas Government Code Section 551.071(1) and (2) relating to the Hutto Sports, Health and Entertainment District; 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

Discussion ensued outside Executive Session. No action taken.

12. **EXECUTIVE SESSION:** *Entered: 12:35 AM*

- 12.1. Receive legal advice pursuant to Texas Government Code Section 551.071(1) and (2) relating to the Hutto Sports, Health and Entertainment District; 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.
- 12.2. Discussion and deliberation regarding potential business prospects seeking to locate, stay, or expand in or near the territory of the City of Hutto and with which economic development proposals, negotiations, deliberations, offers of a financial or other incentive may be provided by the City of Hutto.
- 12.4. Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Interim City Manager pursuant to Texas Government Code Section 551.074, Personnel Matters.
- 12.5. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

13. **ACTION RELATIVE TO EXECUTIVE SESSION:** *Reconvened: 2:05 AM*

- 13.1. Possible action on legal advice received pursuant to Texas Government Code Section 551.071(1) and (2) relating to the Hutto Sports, Health and Entertainment District; 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.

Councilmember Snyder made a motion to not seek an extension regarding the Purchase and Sale Agreement. Councilmember Gordon seconded the motion. The motion passed unanimously.

- 13.2. Potential action regarding potential business prospects seeking to locate, stay, or expand in or near the territory of the City of Hutto and with which economic development proposals, negotiations, deliberations, offers of a financial or other incentive may be provided by the City of Hutto. [Tex. Gov't Code Sec. 551.087, Deliberations regarding Economic Development Negotiations].

- *No action.*

- 13.4. Discussion and possible action on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Interim City Manager pursuant to Texas Government Code Section 551.074, Personnel Matters.

- *No action.*

- 13.5. Possible action on legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

- *No action.*

14. **ADJOURNMENT- 2:07 AM**

Mike Snyder, Mayor Pro Tem

ATTEST:

Jessica Brown, Asst. City Secretary



City of Hutto

MINUTES

City Council Meeting

Thursday, October 1, 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

1. **CALL SESSION TO ORDER - 7:00 PM**

2. **ROLL CALL**

Members of City Council present were Councilmember Robin Sutton, Councilmember Dan Thornton, Councilmember Mike Snyder, Councilmember Peter Gordon, Councilmember Tanner Rose and Councilmember Patti Martinez (via video conference).

Members of staff that were present were Warren Hutmacher, City Manager (via video conference); Stacy Schmitt, Assistant to City Manager (via video conference); Samuel Ray, Director of Engineering (via video conference) Holly Nagy, City Secretary and Dorothy Palumbo, City Attorney.

Absent: Mayor Doug Gaul

3. **INVOCATION** – Pastor Katie Wegner from Hutto Lutheran Church

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

5.1. General Comments from City Council

Councilmember Rose: I wanted to say I know there was a lot of discussion about the concert series that went on this past weekend. I know I've heard from several people near where I live down in the Riverwalk and Brushy Creek area and you know, I think a lot of people have heard some of the complaints for, some of the positives for it and some of the complaints against it. So, I'd like to see an agenda item either on the next regular meeting or the first one in November to kind of discuss some options to best address the concerns from all sides to try to find something there with the management parties from RS3 and the city and everyone else. I don't know what those options are, hopefully there are some experts that understand how all that works better than I do but I'd like to see some discussion there about all of that.

Councilmember Thornton: I'll second adding that to the agenda. I'll suggest maybe the first one in November because we have two more concerts in October and we'll have those all in the books by then and then we can get all the input.

Councilmember Gordon: I know city staff has already been working on a lot of that. We received an email I think today or yesterday from Stacy on some of the things. They've already had conversations with RS3 and they've made some changes for the upcoming concerts already and so, hopefully those will. We'll have a good feel if those changes were sufficient or not.

Brad Walker with the Hutto Area Chamber of Commerce welcomed City Manager Warren Hutmacher to the City of Hutto.

- 5.2. City Council Commission Liaison Reports
- None.

6. **PUBLIC COMMENT**

- Rudy Perez – yielding time to Ida Gayle Weaver
- Ida Gayle Weaver
- Gloria Duncan – yielding time to Jackie Corbiere
- Jackie Corbiere
- James Weaver
- Melissa McKee

7. **CITY MANAGER COMMENTS**

8. **CONSENT AGENDA ITEMS**

Councilmember Thornton made a motion to table items 8.1, 8.2, 8.3 and 8.4. Councilmember Rose seconded the motion. The motion passed unanimously.

- 8.1. Consideration and possible action on a resolution approving the proposed Cottonwood Creek Phase 3 Final Plat, 32.904 acres, more or less, of land, 138 residential lots, located on CR 199.(Ashley Lumpkin)
- 8.2. Consideration and possible action on a resolution approving the proposed Highlands North Section 3 Final Plat, 44.847 acres, more or less, of land, 134 residential lots, located on CR 133.(Ashley Lumpkin)
- 8.3. Consideration and possible action on a resolution approving the subdivision 10 plat approval extension request for the Hutto Highlands Section 2 Phase 3 Final Plat, 42.698 acres, more or less, of land, 114 residential lots, located on FM 1660 North.(Ashley Lumpkin)
- 8.4. Consideration and possible action on a resolution approving the subdivision 11 plat approval extension request for the Hutto Square Section 6 Final Plat, 16.015 acres, more or less, of land, 64 residential lots, located on Limmer Loop.(Ashley Lumpkin)
- 8.5. Consideration and possible action to approving the August 20, 2020 City Council Work Session minutes.
Councilmember Gordon made a motion to approve items 8.5, 8.6 and 8.7. Councilmember Rose seconded the motion. The motion passed unanimously.

- 8.6. Consideration and possible action on approving the August 20, 2020 City Council meeting minutes.
- 8.7. Consideration and possible action on approving the August 27, 2020 Special Called City Council meeting minutes.

Councilmember Gordon made a motion to move items 12.1 and 12.2 up. Councilmember Robin Sutton seconded the motion. The motion passed (5:1) with Councilmember Martinez against.

12. **EXECUTIVE SESSION:** *Entered: 7:32 PM*

- 12.1 Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Case 1:20-cv-00978 Preston Hollow Capital, LLC v. Cottonwood Development Corporation, et al; pending in the United States District Court for the Western District of Texas, Austin Division, engage the law firm of Russell Rodriguez Hyde Bullock, LLP to jointly represent the City and Cottonwood Development Corporation; and entering into a Joint Defense Agreement between Cottonwood Development Corporation and the City of Hutto, Texas in connection with the litigation.

- 12.2 Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

Reconvened: 8:44 PM

No action taken.

Councilmember Gordon made a motion to move up items 13.1 and 13.2 up. Councilmember Thornton seconded the motion. The motion passed unanimously.

13. **ACTION RELATIVE TO EXECUTIVE SESSION**

- 13.1 Possible action on legal advice received from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Case 1:20cv-00978 Preston Hollow Capital, LLC v. Cottonwood Development Corporation, et al; pending in the United States District Court for the Western District of Texas, Austin Division, engage the law firm of Russell Rodriguez Hyde Bullock, LLP to jointly represent the City and Cottonwood Development Corporation; and entering into a Joint Defense Agreement between Cottonwood Development Corporation and the City of Hutto, Texas in connection with the litigation.

Councilmember Snyder made a motion to have Russel Rodriguez Hyde Bullock, LLP represent the City of Hutto in said lawsuit to defend all claims against the City and assert all claims on behalf of the city as necessary in this case including claims that city may have against Winstead law firm and or McGinnis Lochridge law firm arising out of the project commonly known as Project Expansion and to authorize a joint defense agreement between the Cottonwood Development Corporation and the City of Hutto. Councilmember Rose seconded the motion. The motion passed unanimously.

- 13.2 Possible action on legal advice received pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.
- No action taken.

9. **ORDINANCES**

- 9.1. Consideration and possible action on Ordinance No. O-2020-034 accepting and approving Annual Service and Assessment Plan Update for Mustang Creek Public Improvement District. (Second Reading)
Councilmember Martinez made a motion to approve item 9.1. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 9.2. Consideration and possible action on Ordinance No. O-2020-035 accepting and approving Annual Service and Assessment Plan Update for Cross Creek Public Improvement District. (Second Reading)
Councilmember Gordon made a motion to approve item 9.2. Councilmember Martinez seconded the motion. The motion passed unanimously.

Councilmember Rose made a motion to move up item 11.2. Councilmember Thornton seconded the motion. The motion passed unanimously.
- 11.2 Consideration and possible action on compliance with the May 11, 2017 Master Development Agreement, as amended between the City of Hutto and MA Partners. (Councilmember T. Rose)
Presentation by Kevin Pierce.

Councilmember Snyder made a motion to direct staff to prepare a letter based on paragraph 5.07, Construction Schedule Performance Standards Letter D on remedies where it outlines the procedure for the Extension Fee. Also, to have the City Attorney to come back with information on the potential illegal delegations of legislative authority in regards to the amendments, the amended restated agreements, the conveyance of land, and also including everything. Councilmember Rose seconded the motion. Discussion ensued.

Councilmember Snyder amended the motion to clarify it is to direct staff to write the letter for the Extension Fee and also to come back with information on where were at with the illegal delegation of legislative authority regarding all the documents pertaining to the Co-Op. The motion passed unanimously.

Councilmember Rose requested a reconsideration on the motion to amend the motion to add for staff to administer legal research on why the large silo was deemed unusable. Councilmember Sutton seconded this motion. The motion passed unanimously.
- 9.3. Consideration and possible action on Ordinance No. O-2020-033 accepting and approving Annual Service and Assessment Plan Update for Co-Op Public Improvement District. (First Reading) (Tabled at the 9/17/20 meeting)

Councilmember Gordon made a motion to table item 9.3 until the next City Council meeting on November 5, 2020. Councilmember Thornton seconded the motion. The motion passed unanimously.

- 9.4. Consideration and possible action on approving the second reading of Ordinance No.O-2020-042 approving the annual update to the Co-Op Public Improvement District (PID) Service and Assessment Plan (SAP) from July 3, 2019 City Council meeting. (Jon Snyder PID Administrator) Returned from break at 11:18.
Councilmember Martinez made a motion to approve item 9.4. Councilmember Sutton seconded the motion. The motion passed unanimously.

*10-minute recess taken at 11:08 PM
Returned from break at 11:18 PM*

10. RESOLUTIONS

- 10.1. Consideration and Possible Action on a Resolution Authorizing the City Manager to Execute 3 Supplemental Agreements for HNTB Corporation to Individual Task Orders Related to the FM 1660 Intersection Improvement Projects. (Samuel Ray)
Councilmember Gordon made a motion to approve item 10.1 as presented. Councilmember Martinez seconded the motion. The motion passed unanimously.

11. OTHER BUSINESS

- 11.1. Consideration of and possible appointments to City Boards and Commissions. (City Secretary)
Discussion ensued. Councilmember Gordon suggested combining the Communications Task Forces and the ADA Task Forces into one and then disbanding the ADA Task Forces. No action taken.
- 11.3. Consideration and possible action on requesting that the City Manager require current City Employees to appear and provide information and for subpoenas to be issued by the City Secretary for witnesses to appear at the October 8, 2020 3.16 Investigation, concerning the Transition, Severance and Separation Agreement, Special Called City Council meeting. (City Attorney)
Councilmember Thornton made a motion to cancel the investigative hearing on October 8, 2020 and reschedule the investigation hearing to October 22, 2020 and to also add an agenda item on October 15, 2020 to allow council to clarify the scope of the investigation. Councilmember Rose seconded the motion. The motion passed unanimously.

Councilmember Thornton made a motion to move item 11.5 up. Councilmember Rose seconded the motion. The motion passed unanimously.
- 11.5. Update on Lakeside Lift Station. (Samuel Ray)
*Presentation by Samuel Ray
No action taken.*

- 11.4. Consideration and possible action regarding a status update on Resolution No. R-2020-075 that was approved on August 27, 2020 pertaining to waiving the attorney-client privilege concerning McGinnis Lochridge law firm's attorney fee bills in response to R000706-073019.
Discussion ensued.

*Item was moved to Executive Session entered at 1:07 AM
Reconvened at 1:34 AM.*

Councilmember Gordon made a motion to release all invoices that are dated 2017 and direct the City Attorney to review all invoices dates 2018 and 2019 up through July 30 and redact any information that would cause liability to the city and release after those redactions.

Councilmember Gordon made an amendment to the motion stating that prior to the invoices being released that they would be presented to Council for review at the next regular City Council meeting. Councilmember Sutton seconded the motion. The motion passed unanimously.

14. **ADJOURNMENT- 1:37 AM**

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, Secretary



City of Hutto

MINUTES

City Council Meeting

Thursday, October 15, 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

1. **CALL SESSION TO ORDER – 7:00 PM**

2. **ROLL CALL**

Members of City Council present were Councilmember Robin Sutton, Councilmember Dan Thornton, Councilmember Mike Snyder, Councilmember Peter Gordon, Councilmember Tanner Rose and Councilmember Patti Martinez.

Members of staff that were present were Warren Hutmacher, City Manager; Byron Frankland, Assistant City Manager; Stacy Schmitt, Assistant to City Manager; Ashley Lumpkin, Executive Director of Business and Development Services; Samuel Ray, Director of Engineering; Holly Nagy, City Secretary and Dorothy Palumbo, City Attorney.

Absent: Mayor Doug Gaul

3. **INVOCATION – Led by Pastor Piet Van Waarde of Shoreline Church**

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

5.1. General Comments from City Council.

Councilmember Martinez: To my constituents, Mayor, Mayor Pro Tem, Councilmembers thank you for this opportunity to speak and I'll try to make this as short as possible. I wanted to take this time to admit to the public that I have made mistakes and I've trusted people I shouldn't have. I was vulnerable as a newly appointed Councilmember and I was told by many others that this was how it worked and I believe I made my best effort with the information provided. I'm not here to whine about me, I'm here to take responsibility for my actions. I owe the people of Hutto an apology for the challenges we're facing today. I owe the city staff, former and current, an apology for the situation we are in today and I owe Mayor Pro Tem Mike Snyder an apology for not having trusted him from the beginning. To Tanner Rose for not having listened to his guidance and to former councilmember Terri Graham for not having her back the way a colleague and

best friend should and I have failed many others. I made a mistake by voting in favor of Otis Jones severance agreement. The investigation against Otis was found to have no merit and I wish I could say why but I don't want a lawsuit against me. There's so much I want to tell but can't. He lied. He manipulated. I'll never forgive myself for trusting him but I made a mistake in voting for that agreement. I recognize and I own it and I'm taking my beatings. The repercussions, the heavy heavy guilt I carry that I deserve and I heavily regret it. Today, I am not the councilmember I was before. I have stood on my own, I have fought my fights for what I believe was right but I also regret some decisions that were made under my watch because I didn't know any better and I thought it was the way it worked. I'm not here to ask for your pity, I'm here to ask for your forgiveness and I want to move forward and to continue to change and grow to learn from those that I have continuously shut down because I was given information by people whom I trusted. If I've learned anything it's how to trust someone but that's not all I've learned a lot from my mistakes and I will continue to learn and grow and to move the city forward by continuing to listen to what the residents want and by working with the council. Thank you for hearing me and I am open to questions now and after the meeting as well. That is all.

5.2. Council Commission Liaison Reports.

Councilmember Gordon advised an update on the Planning and Zoning Commission regarding annual reports.

Councilmember Gordon advised an update regarding the Communications Task Force regarding improving communication between the city and the residents.

Mayor Pro Tem Snyder advised an update regarding the Economic Development Corporation.

6. **PUBLIC COMMENT**

- Jackie Padesky *via email
- Layne Robinson
- Lucas Evans
- Elaine Prout
- Bobby Pruitt
- Helen Coffman

7. **CITY MANAGER COMMENTS**

City Manager Warren Hutmacher provided updates regarding Co-Op Boulevard being open, Southside Market BBQ opening for business and presented a short video from the communications staff regarding these updates.

Councilmember Martinez made a motion to move items 11.5, 11.6 and 12.4 up on the agenda. Councilmember Gordon seconded this motion. The motion passed unanimously.

- 11.5. Consideration and possible action on the request from Preston Hollow Capital for the City Manager to execute a “Securitization Bond” Continuing Disclosure Agreement for the Mustang Creek Public Improvement District. (City Attorney)
Councilmember Gordon made a motion to table item 11.5 until such time that Preston Hollow Capital can be present. Councilmember Martinez seconded the motion. The motion passed unanimously.
- 11.6. Consider and possible action on proposals for Disclosure Counsel for the City of Hutto General Obligation Refunding Bonds, Tax-Exempt Series 2020 and General Obligation Refunding Bonds, Taxable Series 2020. (City Attorney)
Councilmember Martinez made a motion to select Norton Rose Fulbright to negotiate as disclosure counsel. The motion passed unanimously.
- 12.4. Receive legal advice from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request for an opinion from the Texas Attorney General regarding the legality of certain aspects of the financing of improvements in the Hutto Co-Op Public Improvement District.
Removed from executive session and discussed in regular open session.

Councilmember Martinez made a motion to move up item 13.4. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 13.4. Possible action related to legal advice received from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request for an opinion from the Texas Attorney General regarding the legality of certain aspects of the financing of improvements in the Hutto Co-Op Public Improvement District.
Councilmember Martinez made a motion to direct the attorney to move forward with seeking the Attorney General opinion regarding the legality of certain aspects of the financing of improvements and file the correct disclosures. Councilmember Gordon seconded this motion. The motion passed unanimously.
8. **CONSENT AGENDA ITEMS**
Councilmember Gordon made a motion to pull items 8.1, 8.2 and 8.3 from the consent agenda. Councilmember Gordon seconded this motion. Councilmember Snyder requested to amend the motion and include item 8.4 as well. Seconded by Councilmember Martinez. The motion passed unanimously.
- 8.1. Consideration and possible action on Resolution No. R-2020-089 authorizing the City Manager to execute a proposal for Appraisal Services with Aegis Group, Inc. For appraisal services for the Hutto 315/Emory Crossing Public Improvement District. (City Attorney)
Councilmember Rose made a motion to approve item 8.1. Councilmember Martinez seconded the motion. The motion passed unanimously.

- 8.2. Consideration and possible action on Resolution No. R-2020-088 authorizing the City Manager to execute a proposal for Appraisal Services with the Aegis Group, Inc. for appraisal services for the Durango Farms Public Improvement District. (City Attorney)
Councilmember Rose made a motion to approve item 8.2. Councilmember Martinez seconded the motion. Discussion ensued. Councilmember Rose withdrew his motion.
- Councilmember Sutton made a motion to table this item. Councilmember Martinez seconded the motion. The motion passed unanimously.*
- 8.3. Consideration and possible action on Resolution No. R-2020-093 approving the proposed Covered Bridge Revised Preliminary Plat, 49.95 acres, more or less, of land, 231 residential lots, located on CR 138. (Ashley Lumpkin)
Councilmember Gordon made a motion to approve item 8.3 with the provision that no construction traffic be allowed through Lakeside Estates Subdivision. Councilmember Martinez seconded the motion. The motion passed unanimously.
- 8.4. Consideration and possible action on Resolution No. R-2020-094 approving the proposed Emory Crossing Preliminary Plat Revision #2, 315.28 acres, more or less, of land, 1,350 residential lots, one amenity lot and one commercial lot, located on FM 1660 North. (Ashley Lumpkin)
Councilmember Gordon made a motion to approve item 8.4. Councilmember Rose seconded the motion. The motion fails (3:3) with Councilmember Martinez, Councilmember Sutton and Mayor Pro Tem Snyder against.
- Councilmember Gordon made a motion to reconsider approving item 8.4. Councilmember Martinez seconded this motion. The motion passed (5:1) with Mayor Pro Tem Snyder against.*
- 8.5. Consideration and possible action on Resolution No. R-2020-095 approving the proposed Cottonwood Creek Phase 3 Final Plat, 32.904 acres, more or less, of land, 138 residential lots, located on CR 199.(Ashley Lumpkin)
Councilmember Martinez made a motion to accept Consent Agenda Items including 8.5, 8.7, 8.8, 8.9, 8.10, 8.11 and 8.12 as presented and pull item 8.6. Councilmember Gordon seconded the motion. The motion passed (6:0).
- 8.6. Consideration and possible action on Resolution No. R-2020-096 approving the proposed Emory Crossing Phase 2 Final Plat, 44.321 acres, more or less, of land, 108 residential lots, located off of CR 119 at Emory Crossing Boulevard.(Ashley Lumpkin)
Councilmember Martinez made a motion to approve item 8.6 as presented. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 10-Minute recess taken at 8:52 PM.*

Returned from break at 9:52 PM.

- 8.7. Consideration and possible action on Resolution No. R-2020-097 approving the proposed Hansons Corner Expansion Final Plat, 4.8530 acres, more or less, of land, 3 commercial lots, located on Ed Schmidt Boulevard.(Ashley Lumpkin)
- 8.8. Consideration and possible action on Resolution No. R-2020-098 approving the proposed Highlands North Section 3 Final Plat, 44.847 acres, more or less, of land, 134 residential lots, located on CR 133.(Ashley Lumpkin)
- 8.9. Consideration and possible action on Resolution No. R-2020-099 approving the proposed Hutto Crossing Phase 4 Section 13 Final Plat, 0.774 acres, more or less, of land, one ommercial lot, located on Chris Kelley Boulevard.(Ashley Lumpkin)
- 8.10. Consideration and possible action on Resolution No. R-2020-100 approving the subdivision plat approval extension request for the Hutto Highlands Section 2 Phase 3 Final Plat, 42.698 acres, more or less, of land, 114 residential lots, located on FM 1660 North.(Ashley Lumpkin)
- 8.11. Consideration and possible action on Resolution No. R-2020-101 approving the subdivision plat approval extension request for the Hutto Square Section 6 Final Plat, 16.015 acres, more or less, of land, 64 residential lots, located on Limmer Loop.(Ashley Lumpkin)
- 8.12. Consideration and possible action authorizing the request for a purchase order for PBS of Texas, LLC for the 2021 fiscal year. Monthly janitorial services for City Hall, Library, Police Department and Public Works. (Anthony Host)

9. **ORDINANCES**

- 9.1. Consideration of a public hearing and possible action on Ordinance No. O-2020-043 approving the proposed Unified Development Code (UDC) ordinance amendment to the Code of Ordinances (2014 Edition, as amended), Chapter 2 Section 10.203, Development Review Process, Section 10.204.2, Effective Date and Expiration, Chapter 3, Section 10.311.9, Swimming Pools and Chapter 4, Section 10.405, Building Setbacks, General Rules. (Ashley Lumpkin)

Public hearing held at 9:22 PM.

Public comment made by Lucas Evans.

Public hearing closed at 9:27 PM.

Councilmember Martinez made a motion to approve item 9.1 as presented.

Councilmember Gordon seconded the motion. The motion passed (5:1) with

Mayor Pro Tem Snyder against.

- 9.2. Consideration of a public hearing and possible action on the reading of Ordinance No. O-2020-044 approving the annexation of Titan Innovation Business Park Phase II, 106.66 acres, more or less, of land, and to establish the base zoning as LI (Light Industrial) located at the southeast corner of Limmer Loop and Innovation Boulevard. (Ashley Lumpkin)

Public hearing opened at 9:36 PM.

No public comments.

Public hearing closed at 9:37 PM.

Councilmember Gordon made a motion to annex the property as AGSFR.

Councilmember Martinez seconded the motion.

Councilmember Gordon withdrew his motion.

Councilmember Rose made a motion to approve item 9.2 with the change of the zoning as AGSFR. Councilmember Sutton seconded the motion. The motion failed (3:3) with Councilmember Gordon, Councilmember Martinez and Councilmember Thornton against.

10. RESOLUTIONS

- 10.1. Consideration and possible action on Resolution No. R-2020-090 approving a negotiated settlement between Atmos Cities Steering Committee (ACSC) and Atmos Energy Corporation, Mid-Tex Division regarding the company's rate review mechanism. (Misti Hancock)
Councilmember Martinez motioned to approve item 10.1 as presented.
Councilmember Gordon seconded the motion. The motion passed unanimously.
- 10.2. Consideration and possible action on Resolution No. R-2020-091 amending the authorized representatives for the City's TexPool account. (Misti Hancock)
Councilmember Martinez motioned to approve item 10.2 as presented.
Councilmember Sutton seconded the motion. The motion passed unanimously.
- 10.3. Consideration and possible action on Resolution No. R-2020-092 amending the authorized representatives for the City's Bancorp account(s). (Misti Hancock)
Councilmember Martinez motioned to approve item 10.3. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 10.4. Discussion and Possible action on Resolution No. R-2020-102 awarding the Lakeside Estates Lift Station decommissioning project to Bell Contractors, Inc and to direct the City Manager to execute contract documents with Bell Contractors, Inc. and to negotiate with developers of Covered Bridge and Southgate developments regarding an agreement for the funding of the project. (Samuel Ray)

Councilmember Gordon motioned to award the Lakeside Estates Lift Station decommissioning project to Bell Contractors, Inc. and to negotiate with developers of Covered Bridge and Southgate developments regarding an agreement for the funding of the project with the awarded contract price as \$1,372,489.13 (one million three hundred seventy-two thousand four hundred eighty-nine dollars and thirteen cents). Councilmember Rose seconded the motion. The motion passed unanimously.

11. OTHER BUSINESS

- 11.1. Presentation of the preliminary September 2020 financials. (Misti Hancock)
No action taken.

*10-Minute recess taken at 10:40 PM.
Returned from break at 10:52 PM.*

- 11.2. Consideration of and possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, and Local Government Corporations. (City Secretary)
No action taken.

- 11.3. Consideration and possible action on establishing the scope of the 316 investigation; requesting that the City Manager require current City Employees to appear and provide information and for subpoenas to be issued by the City Secretary for witnesses to appear at the October 22, 2020 hearing. (City Attorney)
Councilmember Martinez motioned to table item 11.3 until it can be discussed in executive session. Councilmember Rose seconded the motion. The motion passed unanimously.

*Executive session entered at 12:15 AM.
Reconvened at 12:41 AM.
No action was taken.*

*Councilmember Martinez motioned to table item 11.3 indefinitely.
Councilmember Gordon seconded the motion with the amendment to also cancel the October 22, 2020 hearing. The motion passed (5:1) with Councilmember Rose against.*

- 11.4. Consideration and possible action regarding redacting legal invoices provided by the McGinnis Lochridge LLP Law Firm from January 1, 2018 to July 30, 2019. (City Attorney)
Councilmember Martinez motioned to approve item 11.4 with the exception of pages 196, 203-205, 213-217, 224-238, 247-257, 266-269, 200, 996, 1005, 1041 and page 286. Councilmember Gordon seconded the motion. The motion passed unanimously.

Councilmember Gordon requested an agenda item for a future agenda for consideration and possible action of doing a similar release of legal invoices with our current City Attorney.

12. EXECUTIVE SESSION: *Entered at 11:06 PM*

- 12.1. Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Cause No. 20-1143-CC4, Sneed v. City of Hutto, In County Court at Law No. 4, Williamson County, Texas.
- 12.2. Receive legal advice in accordance with Section 551.071 (2) of the Texas Government Code related to the letter from Perfect Game dated October 6, 2020 in regard to the Multi-Party Development Agreement dated October 1, 2019 and the Continuous Occupancy Agreement dated December 11, 2019 for 24 Baseball Fields in the City of Hutto.
- 12.3. Receive legal advice from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request from Preston Hollow Capital for the City Manager to execute a "Securitization Bond" Continuing Disclosure Agreement for the Mustang Creek Public Improvement District.
- 12.5. Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (2) relating to a proposed development agreement for the Mansions of Hutto located in the Extraterritorial Jurisdiction of the City of Hutto.
- 12.6. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

13. ACTION RELATIVE TO EXECUTIVE SESSION: *Reconvened at 12:14 AM*

- 13.1. Possible action related to legal advice received from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Cause No. 20-1143-CC4, Sneed v. City of Hutto, In County Court at Law No. 4, Williamson County, Texas.
No action taken.
- 13.2. Possible action related to legal advice in accordance with Section 551.071 (2) of the Texas Government Code related to the letter from Perfect Game dated

October 6, 2020 in regard to the Multi-Party Development Agreement dated October 1, 2019 and the Continuous Occupancy Agreement dated December 11, 2019 for 24 Baseball Fields in the City of Hutto.

No action taken.

- 13.3. Possible action related to legal advice received from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request from Preston Hollow Capital for the City Manager to execute a “Securitization Bond” Continuing Disclosure Agreement for the Mustang Creek Public Improvement District.

No action taken.

- 13.5. Possible action related to legal advice received from the City Attorney in accordance with Tex. Gov’t Code § 551.071 (2) relating to a proposed development agreement for the Mansions of Hutto located in the Extraterritorial Jurisdiction of the City of Hutto.

No action taken.

- 13.6. Possible action related to legal advice received pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

No action taken.

Councilmember Rose requested a discussion for the next meeting regarding the amphitheater noise and costs. Councilmember Rose also requested an update regarding why there is not a school zone set up on Limmer in front of Cottonwood at an upcoming meeting.

14. ADJOURNMENT: *12:48 AM*

Mike Snyder, Mayor Pro Tem

ATTEST:

Jessica Brown, Asst. City Secretary

RESOLUTION NO. R-2020-126

A RESOLUTION OF THE CITY OF HUTTO DECLARING VOID THE JUNE 19, 2019 DEVELOPMENT AGREEMENT AND THE JUNE 19, 2019 PRORATA SHARE AGREEMENT FOR THE COVERED BRIDGE DEVELOPMENT PROJECT; ALTERNATIVELY, RESCINDING AND AVOIDING BOTH AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a development agreement dated June 19, 2019, was executed between the City of Hutto, Texas and P4 RE Management, LLC and a pro rata share agreement was executed dated June 19, 2019, between the City and P4 RE Management, LLC, both agreements relating to the Covered Bridge Development Project; and

WHEREAS, the agreements do not name the developer with whom the City Manager was authorized to negotiate regarding the proposed Covered Bridge Development Project, and were not executed by the authorized developer;

WHEREAS, at the time the developer that executed the agreements was on inactive status according to the records of the Texas Secretary of State when the developer executed said agreement;

WHEREAS, the developer that executed the agreements breached warranties and representations in the agreements regarding its good standing, the enforceability of the agreements, and the authority to execute them;

WHEREAS, the agreements contain no provision permitting the City to terminate them and include no termination date,

WHEREAS, the agreements contain numerous material unlawful provisions including, without limitation, those under which the City would impermissibly delegate its legislative and governmental functions that result in void agreements or in the alternative, the City of Hutto hereby rescinds and avoids both agreements.

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 and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2: The City Council does hereby declare both agreements void.

SECTION 3: In the alternative, the City of Hutto, Texas hereby rescinds and avoids both agreements.

SECTION 4: In the further alternative, the City Manager, is hereby directed and authorized promptly to notify the developer that the agreements are void and in the alternative, rescinds and avoids both agreements on behalf of the City of Hutto.

SECTION 5: The City and all officers and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution.

SECTION 6: It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject to the meeting of the City Council of the City at which this Resolution was adopted was posted at a place convenient and readily accessible at all times to the general public at the regular meeting place of the City for the time required by law preceding this meeting, as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that the meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof have been discussed, considered and formally acted upon. The City Council of the City further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 7: This Resolution shall be in full force and effect from and upon its adoption.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the 19th day of November, 2020.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

City Council

AGENDA ITEM REPORT



To: City Council
Subject: Consideration and possible action to approve Resolution approving and authorizing the City Manager to execute contract documents with Bell Contractors, Inc. for the Lakeside Estates Lift Station decommissioning project.
Meeting: City Council - 19 Nov 2020
Department: Engineering
Staff Contact: Samuel Ray

BACKGROUND INFORMATION:

AIR-20-402 This item is to allow the City Manager to execute contract documents with Bell Contractors for the construction of the Lakeside Estates Lift Station Abandonment project. The agreement is provided for Council review and approval. Bell Contractors are preparing necessary documentation including insurance and bonds prior to executing the agreement.

FINANCIAL IMPACT:

Project cost is \$1,372,489.13 and will be paid by existing funds from 2019 certificate of obligation bonds for water and wastewater improvements.

POLICY IMPLICATIONS:

Project improves wastewater infrastructure and results in an increase in wastewater revenue due to being able to end a wastewater agreement with the City of Pflugerville.

RECOMMENDATION:

Staff recommends approval.

RESOLUTION NO. 2020-106

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT DOCUMENTS WITH BELL CONTRACTORS, INC. FOR THE LAKESIDE ESTATES LIFT STATION DECOMMISSIONING PROJECT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council desires to authorize the City Manager to execute contract documents with Bell Contractors, Inc. for the Lakeside Estates Lift Station decommissioning project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, that the Hutto City Council hereby approves and authorizes the City Manager to execute contract documents with Bell Contractors, Inc. for the Lakeside Estates Lift Station decommissioning project, a copy is attached as Exhibit "A".

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

RESOLVED this 19th day of November, 2020.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

SECTION 00520 AGREEMENT

THIS AGREEMENT is by and between _____ City of Hutto _____ (“Owner”) and
_____ Bell Contractors, Inc. _____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents.

ARTICLE 2 – THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

City of Hutto
Lakeside Estates Lift Station Abandonment

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by DCS Engineering, LLC., (“Design Professional” or “Engineer”), which is to act as Owner’s representative, assumes all duties and responsibilities, and has the rights and authority assigned to Design Professional and CMT in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed within Two Hundred Fifteen (215) days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within Two Hundred Forty-Five (245) days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of

the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **five hundred dollars (\$500)** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **five hundred dollars (\$500)** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

A. For all Work, a lump sum of: \$

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment within thirty (30) days of receiving an approved payment application during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements. Contractor shall submit payment applications for review seven (7) days prior to the end of the month. Contractor shall only submit one (1) payment application per month.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character

and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

- b. 95 percent (with the balance being retainage) of cost of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in the General Conditions).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 5 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of zero (0) percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data."
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information,

observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work. When said conflicts, etc., have not been resolved through interpretation or clarification by Engineer, because of insufficient time or otherwise, Contractor has included in the Bid the greater quantity or better quality of Work, or compliance with the more stringent requirement resulting in a greater cost; and said greater cost is included in the Contract Price.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor acknowledges that reports and drawings referred to in Paragraph 8.01.D are not Contract Documents and may not be complete for Contractor's purposes.
- K. Contractor acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement.
 - 2. Performance bond.
 - 3. Payment bond.
 - 4. General Conditions.
 - 5. Supplementary Conditions.

6. Specifications as listed in the table of contents of the Project Manual.
7. Drawings consisting of 42 sheets with each sheet bearing the following general title:
City of Hutto
Lakeside Estates Lift Station Abandonment
8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid.
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the

Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Restrictions Regarding Boycotts of Israel*

- A. 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 2271.002(b), Texas Government Code that the Contractor does not boycott Israel and will not boycott Israel during the term of the contract.

10.07 *No Third Party Beneficiary*

- A. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party.

10.08 *Reservation of Rights*

- A. To the extent not inconsistent with the terms of this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

10.09 *No Joint Venture*

- A. It is acknowledged and agreed by the Parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the Parties. The Owner, its past, present and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with the development of the Project.

10.10 *Further Assurances*

- A. Both Parties agree that at any time after execution of this Agreement, they will, upon request of the other Party, execute and deliver such further documents and do such further acts and things as may be reasonably necessary or desirable to effectuate the terms of this Agreement.

10.11 *Authority for Execution*

- A. The Owner certifies, represents, and warrants that the execution of this Agreement has been duly authorized, and that this Agreement has been approved in conformity with City ordinances and other applicable legal requirements. Contractor certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with its organizational documents.

10.12 *Counterparts*

- A. This Agreement may be executed in multiple counterparts, which shall be construed together as a single original instrument as though all Parties had signed one instrument, and, when executed, each counterpart shall be binding upon and inure to the benefit of each of the Parties executing the instrument whether or not all other parties have executed same.

10.13 *Interpretation*

- A. 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.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, 2020 (which is the Effective Date of the Agreement).

OWNER:

BELL CONTRACTORS, INC.

City of Hutto

By: _____

By: _____

Title: City Manager

Title: _____

(If Contractor is a corporation, a partnership,
or a joint venture, attach evidence of authority
to sign.)

Attest: _____

Attest: _____

Title: City Secretary

Title: _____

Address for giving notices:

Address for giving notices:

500 W. Live Oak Street

Hutto, Texas 78634

STATE OF TEXAS

§

COUNTY OF _____

§

§

This instrument was acknowledged before me this ____ day of _____, 2020, by
_____ in his capacity as _____ of Bell Contractors, Inc.

Notary Public - State of Texas

(seal)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Agent for service of process:

PERFORMANCE BOND

CONTRACTOR (name and address):

Bell Contractors, Inc.
3082 W. HWY. 190
Belton, TX 76513

SURETY (name and address of principal place of business):

Philadelphia Indemnity Insurance Company
5340 Legacy Drive, Suite 135
Plano, TX 75024

OWNER (name and address):

City of Hutto, 500 W. Live Oak Street, Hutto, Texas 78634

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount: \$ 1,372,497.11

Description (name and location): City of Hutto Lakeside Estates Lift Station Abandonment, Hutto, Texas

BOND

Bond Number:

Date (not earlier than the Effective Date of the Agreement of the Construction Contract):

Amount:

Modifications to this Bond Form: ☒ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Bell Contractors, Inc. (seal)

Contractor's Name and Corporate Seal

Philadelphia Indemnity Insurance Company (seal)

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature (attach power of attorney)

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of

the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within

two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address):*

Bell Contractors, Inc.
3082 W. HWY. 190
Belton, TX 76513

SURETY *(name and address of principal place of business):*

Philadelphia Indemnity Insurance Company
5340 Legacy Drive, Suite 135
Plano, TX 75024

OWNER *(name and address):* City of Hutto, 500 W. Live Oak Street, Hutto, Texas 78634

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount: \$1,372,497.11

Description *(name and location):* City of Hutto Lakeside Estates Lift Station Abandonment, Hutto, Texas

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☒ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Bell Contractors, Inc. *(seal)*
Contractor's Name and Corporate Seal

Philadelphia Indemnity Insurance Company *(seal)*
Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or

(2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond

shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.1 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to CMT which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by CMT which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *City Management Team (CMT)*—The team may consist of, at the OWNER's discretion, one or more separate entities (including the OWNER's staff), whose specific division of duties shall be defined by the OWNER. The responsibilities of the entities other than the OWNER's staff who are part of the team shall be as indicated in their respective agreement with the OWNER. The CMT shall include the Owner, Design Professional, Design Professional's Consultant, Construction Manager and any other entities. The CMT will be the Owner's Representative to the Contractor during the bidding, construction, commissioning, certification, and warranty phases of this work.

11. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
12. *Construction Manager*—The individual or entity named by the OWNER and as part of the CMT. The Construction Manager will be the Owner's designated representative to the Contractor with respect to the Project during construction and until the issuance of the final Certificate for Payment. All communications with the Contractor shall be exclusively through the CMT and all of the Contractor's communications to the Owner or the CMT shall be exclusively through the Construction Manager. The term Construction Manager is referred to throughout the Contract Documents as if singular in number and neuter in gender.
13. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
14. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
15. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
16. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by CMT's written recommendation of final payment.
17. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
18. *Cost of the Work*—See Paragraph 11.01 for definition.
19. *Design Professional (DP)*—The individual or entity named by the OWNER and as part of the CMT. The term hereinafter "Design Professional" or "A/E" or "DP" or "Architect" or "Engineer," as used or set forth in the Contract Documents, shall mean the entity and its consulting firm or agencies, or their duly authorized representatives, that is responsible for designing or engineering the work, and performing the activities specified herein, as identified in the Contract with the City of Hutto, including any consulting engineers or subcontractors to said entity or firm. Such firm or agency and its representatives shall act severally within the scope of particular duties entrusted to them, unless otherwise provided for in the Contract. Any references, including protections or rights provided, to the CMT shall include the DP since the DP is a member of the CMT as set forth in Subparagraph 1.01.A.10. The Design Professional (DP) is referred to throughout the Contract Documents as if singular in number and neuter in gender. The Design Professional is further described as and, throughout this document, shall mean one or both of the following: ARCHITECT, a person or other legal entity lawfully licensed to practice Architecture in the state wherein the Project is located; ENGINEER, a person or other legal entity lawfully licensed to practice

Engineering in the state wherein the Project is located; and any other terms in common use for the design entity, which may have inadvertently survived the process of compiling and editing the Contract Documents, including but not necessarily limited to “A/E”, “Designer”, “Design Engineer”, “Design Architect”, “Structural Engineer”, “Electrical Engineer”, “Mechanical Engineer”, “Consulting Engineer”, “Consulting Architect”, “Subconsultant”, “Technical Consultant” and the like.

20. *Design Professional’s Consultant*—An individual or entity having a contract with Design Professional to furnish services as Design Professional’s independent professional associate or consultant with respect to the Project.
21. *Drawings*—That part of the Contract Documents prepared or approved by Design Professional which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
22. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
23. *Engineer*—The individual or entity named as such in the Agreement and as part of the CMT.
24. *Field Order*—A written order issued by CMT which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
25. *General Requirements*—Sections of Division 1 of the Specifications.
26. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
27. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
28. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
29. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
30. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
31. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

32. *Notice to Proceed*—A written notice given by CMT to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
33. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
34. *PCBs*—Polychlorinated biphenyls.
35. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
36. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
37. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
38. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
39. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
40. *Resident Project Representative*—The authorized representative of CMT who may be assigned to the Site or any part thereof.
41. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
42. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
43. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
44. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
45. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access

thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

46. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
47. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
48. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of CMT, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
49. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
50. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
51. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
52. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
53. *Unit Price Work*—Work to be paid for on the basis of unit prices.
54. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
55. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by CMT ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order

following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.2 Terminology

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Design Professional. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of CMT as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to CMT any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to CMT’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.1 *Delivery of Bonds and Evidence of Insurance*

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.2 *Copies of Documents*

- A. CMT shall furnish to Contractor up to two printed hard copies and one electronic copy of the Contract Documents, including one set for recording as built information. Additional copies will be furnished upon request at the cost of reproduction.

2.3 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the date of the Notice to Proceed. The CONTRACTOR shall not commence Work or store materials or equipment on site until written Notice to Proceed is issued or until the CONTRACTOR otherwise receives the CMT’s written consent.

2.4 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.5 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to CMT for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 2. a preliminary schedule of Shop Drawings and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.
- B. *Evidence of Safety Program:* Before any Work at the Site commences CONTRACTOR shall deliver to CMT a letter certifying that CONTRACTOR maintains a written safety program that meets the requirements of the Contract Documents.

2.6 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Contractor, CMT, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.7 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, CMT, and others as appropriate will be held to review for acceptability to CMT as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to CMT.
1. The Progress Schedule will be acceptable to CMT if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on CMT responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to CMT if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to CMT as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

2.8 *Smoking*

- A. Smoking shall be restricted on all phases of the Project. All project meetings, including casual meetings, shall be non-smoking occasions. Smoking in field offices, other offices, and lunch/break rooms shall be restricted to designated smoking areas. All conference rooms, conference areas, and computer and control equipment installation areas shall be non-smoking areas. Smoking in existing facilities or work areas shall be only in approved areas designated by the CMT.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.1 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by CMT as provided in Article 9.

3.2 *Reference Standards*

- A. Standards, Specifications, Codes, Laws, and Regulations
 1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, Design Professional, or Construction Manager, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Design Professional, or Construction Manager, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.3 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to CMT any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from CMT before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to CMT in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to CMT for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.4 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;

2. CMT's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
3. CMT's written interpretation or clarification.

3.5 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Design Professional or Design Professional's Consultants, including electronic media editions; or
 2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Design Professional and specific written verification or adaptation by Design Professional.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.6 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by CMT to Contractor, or by Contractor to CMT, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.1 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for

permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner, Design Professional, Construction Manager or Design Professional's Consultants, or any of their officers, directors, members, partners, employees, agents, other consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.3 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:
 - 1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify CMT in writing about such conditions. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *CMT's Review:* After receipt of written notice as required by Paragraph 4.03.A, CMT will promptly review the pertinent condition, determine the necessity of CMT's obtaining additional exploration or tests with respect thereto, and advise in writing to Contractor of CMT's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If CMT and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner, Design Professional, Construction Manager, Design Professional's Consultants, or any of their officers, directors,

members, partners, employees, agents, other consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.4 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to CMT by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. CMT shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to CMT. Design Professional will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If CMT conclude that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If CMT and Contractor are unable to agree on

entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, CMT or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.5 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Design Professional's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to CMT whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.6 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner, Design Professional, Construction Manager, Design Professional's Consultants, or any of their officers, directors, members, partners, employees, agents, other consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall

immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify CMT (and promptly thereafter confirm such notice in writing). CMT shall concern the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any. CMT shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If CMT and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then CMT may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If CMT and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. CMT may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Design Professional, Construction Manager, Design Professional's Consultants, and the officers, directors, members, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to

indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- H. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.1 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until two years after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify CMT and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.2 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.3 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.4 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner, Design Professional, Construction Manager, Design Professional's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and two years thereafter.

5.5 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.6 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof

(subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by CMT prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by CMT;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and CMT with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.7 *Waiver of Rights*

- A. Any insurance policy maintained by Owner covering any loss, damage or consequential loss shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, Design Professional, Construction Manager, Design Professional's Consultants, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.8 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.9 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the

other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.1 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of CMT in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to CMT except under extraordinary circumstances. CMT reserves the right to require removal and replacement of the contractor's superintendent if, in the opinion of CMT, the said superintendent is deemed incompetent. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or received from the superintendent shall be binding on Contractor.

6.2 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without CMT's written consent (which will not be unreasonably withheld) given after prior written notice to CMT.

1. Except where otherwise prohibited by Laws or Regulations, regular working hours are defined as up to 8 hours per day, beginning no earlier than 7:00 a.m. and ending no later than 7:00 p.m.
2. Maintenance and cleanup activities may be performed during hours other than regular working hours provided that such activities do not require the startup or operation of construction equipment.
3. If it shall become absolutely necessary to perform Work at night or on Saturdays, Sundays, or legal holidays, written notice shall be submitted to CMT at least 7 days in advance of the need for such Work. CMT will only consider the performance of such Work as can be performed satisfactorily under the conditions.
4. If CMT authorizes Work during other than regular working hours, Contractor shall reimburse Owner for all Owner's additional costs associated with such Work, including, but not limited to the overtime costs for CMT's personnel on the Site and any other additional costs assessed against or incurred by the Owner. At Owner's option, such additional costs may either be deducted from Contractor's progress payments or deducted from the retained amount prior to release at Substantial Completion.

6.3 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by CMT, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.4 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
 1. Contractor shall submit to CMT for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.5 *Substitutes and “Or-Equals”*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or-equal” item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to CMT for review under the circumstances described below.

1. *“Or-Equal” Items:* If in CMT’s sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by CMT as an “or-equal” item, in which case review and approval of the proposed item may, in CMT’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment CMT determines that:

- 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
- 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
- 3) it has a proven record of performance and availability of responsive service.

b. Contractor certifies that, if approved and incorporated into the Work:

- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
- 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in CMT’s sole discretion an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow CMT to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by CMT from anyone other than Contractor.

- c. The requirements for review by CMT will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as CMT may decide is appropriate under the circumstances.
 - d. Contractor shall make written application to CMT for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by CMT. Contractor shall submit sufficient information to CMT to allow CMT, in CMT's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by CMT will be similar to those provided in Paragraph 6.05.A.2.
- C. *CMT's Evaluation:* CMT will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. CMT may require

Contractor to furnish additional data about the proposed substitute item. CMT will be the sole judge of acceptability. No “or equal” or substitute will be ordered, installed or utilized until CMT’s review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an “or equal.” CMT will advise Contractor in writing of any negative determination.

- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor’s expense a special performance guarantee or other surety with respect to any substitute.
- E. *CMT’s Cost Reimbursement:* CMT will record CMT’s costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not CMT approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of CMT for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of CMT for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor’s Expense:* Contractor shall provide all data in support of any proposed substitute or “or-equal” at Contractor’s expense.

6.6 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to CMT as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom CMT may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to CMT in advance for acceptance by CMT by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, CMT’s acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by CMT of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of CMT to reject defective Work.
- C. Contractor shall be fully responsible to CMT for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor’s own acts and omissions. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between CMT and any such Subcontractor, Supplier or other individual or entity; nor

- 2. shall create any obligation on the part of CMT to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with CMT through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Design Professional, Construction Manager, Design Professional's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.7 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of CMT, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CMT in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Design Professional, Design Professional's Consultants, and the officers,

directors, members, partners, employees, agents, other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.8 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.9 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, the CMT shall not be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

- A. The OWNER is tax exempt from all federal, state, and local taxes. All materials to be used on this Project are therefore tax exempt. OWNER will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work. However, the CONTRACTOR shall pay all applicable consumer, use, and other similar taxes for the Work, or portions thereof, provided by the CONTRACTOR which are legally enacted at the time bids are received, whether or not yet effective.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Design Professional, Construction Manager, Design Professional's Consultants, and the officers, directors, members, partners, employees, agents, other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Design Professional, Construction Manager, Design Professional's Consultants, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of

all approved Shop Drawings will be available to CMT for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to CMT.

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform CMT of the specific requirements of Contractor's safety program with which CMT's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of CMT or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and CMT has issued a notice to Contractor in

accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give CMT prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If CMT determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

- A. Contractor shall submit Shop Drawings and Samples to CMT for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show CMT the services, materials, and equipment Contractor proposes to provide and to enable CMT to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
- b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as CMT may require to enable CMT to review the submittal for the limited purposes required by Paragraph 6.17.D.

- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to CMT's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give CMT specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to CMT for review and approval of each such variation.

D. *CMT's Review:*

1. CMT will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to CMT. CMT's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. CMT's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. CMT's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and CMT has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. CMT's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures:

1. Contractor shall make corrections required by CMT and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by CMT on previous submittals.

6.18 Continuing the Work

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with CMT. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as CMT and Contractor may otherwise agree in writing.

6.19 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Design Professional, Construction Manager, Design Professional's Consultants and its officers, directors, members, partners, employees, agents, other consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by CMT;
 2. recommendation by CMT or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by CMT or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by CMT;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER, DESIGN PROFESSIONAL, CONSTRUCTION MANAGER, DESIGN PROFESSIONAL'S CONSULTANTS, AND THE CURRENT AND FUTURE OFFICERS, SERVANTS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, OTHER CONSULTANTS AND SUBCONTRACTORS OF EACH AND ANY OF THEM FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PERFORMANCE OF THE WORK, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING THEREFROM BUT ONLY TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR, ANY SUPPLIER, OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM TO PERFORM ANY OF THE WORK OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.**
- B. In any and all claims against Owner, Design Professional, Construction Manager, Design Professional's Consultants or any of their officers, directors, members, partners, employees, agents, other consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Design Professional, Construction Manager, Design Professional's Consultants and officers, directors, members, partners, employees, agents, other consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, CMT will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to CMT.
- C. CMT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided CMT have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, CMT's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. CMT's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.1 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract,

each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of CMT and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to CMT in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.2 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 - 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 - 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 - 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.3 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER’S RESPONSIBILITIES

8.1 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through the CMT.

8.2 *Replacement of Entity in the CMT*

- A. In case of termination of the employment of an entity in the CMT, Owner shall appoint an entity whose status under the Contract Documents shall be that of the former entity.

8.3 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.4 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.5 *Lands and Easements; Reports and Tests*

- A. Owner’s duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner’s identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.6 *Insurance*

- A. Owner’s responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.7 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.8 *Inspections, Tests, and Approvals*

- A. Owner’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.9 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ARTICLE 9 – CMT'S STATUS DURING CONSTRUCTION

9.1 *Owner's Representative*

- A. CMT will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of CMT as Owner's representative during construction are set forth in the Contract Documents.

9.2 *Visits to Site*

- A. CMT will make visits to the Site at intervals appropriate to the various stages of construction as CMT deems necessary in order to observe as an experienced and qualified professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, CMT, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. CMT's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, CMT will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. CMT's visits and observations are subject to all the limitations on CMT's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of CMT's visits or observations of Contractor's Work, CMT will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.3 *Project Representative*

- A. CMT may furnish a Resident Project Representative to provide more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in Paragraph 9.09.

9.4 *Authorized Variations in Work*

- A. CMT may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.5 *Rejecting Defective Work*

- A. CMT will have authority to reject Work which CMT believes to be defective, or that CMT believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. CMT will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.6 *Shop Drawings, Change Orders and Payments*

- A. In connection with CMT's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with CMT's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with CMT's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with CMT's authority as to Applications for Payment, see Article 14.

9.7 *Determinations for Unit Price Work*

- A. CMT will determine the actual quantities and classifications of Unit Price Work performed by Contractor. CMT will review with Contractor the CMT's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). CMT's written decision thereon will be final and binding (except as modified by CMT to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.8 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. CMT will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to

the performance of the Work, will be referred initially to CMT in writing within 30 days of the event giving rise to the question.

- B. CMT will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of CMT's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. CMT's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, CMT will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.9 *Limitations on CMT's Authority and Responsibilities*

- A. Neither CMT's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by CMT in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by CMT shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by CMT to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. CMT will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. CMT will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. CMT will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. CMT's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, CMT's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which CMT has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.1 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, CMT may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If CMT and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.2 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.3 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders (or Written Amendments) covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.4 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's

responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.5 *Claims*

- A. *CMT's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the CMT for decision. A decision by CMT shall be required as a condition precedent to any exercise by Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to CMT and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the CMT and the other party to the Contract within 60 days after the start of such event (unless CMT allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to CMT and the claimant within 30 days after receipt of the claimant's last submittal (unless CMT allows additional time).
- C. *CMT's Action:* CMT will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the CMT is unable to resolve the Claim if, in the CMT's sole discretion, it would be inappropriate for the CMT to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that CMT does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. CMT's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.1 *Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by CMT, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by CMT and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by CMT.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of CMT, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
 5. Supplemental costs including the following:

- a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
- b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
- c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by CMT, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of CMT. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the

Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to CMT an itemized cost breakdown together with supporting data.

11.2 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to the CMT.
- B. *Cash Allowances:*
1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by CMT to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.3 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by CMT subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.1 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the CMT and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.2 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to

the CMT and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.3 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by CMT, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If CMT or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Design Professional, Construction Manager, Design Professional's Consultants, and their officers, directors, members, partners, employees, agents, other consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.1 *Notice of Defects*

- A. Prompt notice of all defective Work of which CMT has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.2 *Access to Work*

- A. CMT and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.3 *Tests and Inspections*

- A. Contractor shall give CMT timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish CMT the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for CMT's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to CMT.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of CMT, Contractor shall, if requested by CMT, uncover such Work for observation.

- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given CMT timely notice of Contractor's intention to cover the same and CMT has not acted with reasonable promptness in response to such notice.

13.4 *Uncovering Work*

- A. If any Work is covered contrary to the written request of CMT, it must, if requested by CMT, be uncovered for CMT's observation and replaced at Contractor's expense.
- B. If CMT considers it necessary or advisable that covered Work be observed by CMT or inspected or tested by others, Contractor, at CMT's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as CMT may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.5 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, CMT may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.6 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by CMT, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.7 *Correction Period*

- A. If within two years after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by CMT, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of CMT's written instructions, or in an emergency where delay would cause serious risk of loss or damage, CMT may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of two years after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.8 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, CMT prefers to accept it, CMT may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to CMT's evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to CMT's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.9 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from CMT to correct defective Work, or to remove and replace rejected Work as required by CMT in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, CMT may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Design Professional, Construction Manager, Design Professional's Consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to CMT. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.2 *Progress Payments*

A. *Applications for Payments:*

1. At least 7 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to CMT for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing by CMT, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications:*

1. CMT will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing CMT's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. CMT's recommendation of any payment requested in an Application for Payment will constitute a representation by CMT to Owner, based on CMT's observations of the executed Work as an experienced and qualified design professional, and on CMT's review of the Application for Payment and the accompanying data and schedules, that to the best of CMT's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;

- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is CMT's responsibility to observe the Work.
- 3. By recommending any such payment CMT will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CMT in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither CMT's review of Contractor's Work for the purposes of recommending payments nor CMT's recommendation of any payment, including final payment, will impose responsibility on CMT:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. CMT may refuse to recommend the whole or any part of any payment if, in CMT's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. CMT may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in CMT's opinion to protect Owner from loss because:
 - a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;

- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. CMT has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

- 1. Thirty days after presentation of the Application for Payment to Owner with CMT's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment:

- 1. Owner may refuse to make payment of the full amount recommended by CMT because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by CMT, Owner will give Contractor immediate written notice (with a copy to CMT) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.3 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.4 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify CMT in writing that the entire Work is substantially complete (except for items specifically

listed by Contractor as incomplete) and request that CMT issue a certificate of Substantial Completion.

- B. Promptly after Contractor's notification, Contractor and CMT shall make an inspection of the Work to determine the status of completion. If CMT does not consider the Work substantially complete, CMT will notify Contractor in writing giving the reasons therefor.
- C. If CMT considers the Work substantially complete, CMT will, within said 14 days, execute and deliver to Contractor a definitive certificate of Substantial Completion.
- D. At the time of delivery of the tentative certificate of Substantial Completion, CMT will deliver to Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Contractor agrees otherwise in writing and so informs CMT in writing prior to CMT's issuing the definitive certificate of Substantial Completion, CMT's aforesaid recommendation will be binding on Contractor until final payment.
- E. CMT shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.5 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which CMT and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor and CMT will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify CMT in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request CMT to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Contractor and CMT shall make an inspection of that part of the Work to determine its status of completion. If CMT does not consider that part of the Work to be substantially complete, CMT will notify Contractor in writing giving the reasons therefor. If CMT considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.6 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, CMT will promptly make a final inspection with Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.7 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of CMT, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Review of Application and Acceptance:*

1. If, on the basis of CMT's observation of the Work during construction and final inspection, and CMT's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, CMT is satisfied that the Work has been completed and

Contractor's other obligations under the Contract Documents have been fulfilled, CMT will, within ten days after receipt of the final Application for Payment, indicate in writing CMT's recommendation of payment and present the Application for Payment to Owner for payment. At the same time CMT will also give written notice to Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, CMT will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by CMT, less any sum Owner is entitled to set off against CMT's recommendation, including but not limited to liquidated damages, will become due and will be paid to Contractor.

14.8 *Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if CMT so confirms, CMT shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of CMT, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by CMT for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to CMT with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.9 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
 1. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.1 *Owner May Suspend Work*

- A. At any time and without cause, CMT may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.2 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of CMT; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by CMT as to their reasonableness and, when so approved by CMT, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its

failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.3 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.4 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by CMT or under an order of court or other public authority, or (ii) CMT fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to CMT, and provided CMT does not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if CMT has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has

failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to CMT, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.1 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to CMT for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, CMT's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 - 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 - 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.1 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.2 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.3 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.4 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.5 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located. All claims, counterclaims, disputes, and other matters in question between the OWNER, its agents and employees, and the CONTRACTOR arising out of or relating to this Contract or its breach will be decided in a court of competent jurisdiction within the County of Williamson, State of Texas, and the law of Texas shall govern.

17.6 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

Supplementary Conditions

1. GENERAL:

The following supplementary conditions shall prevail in this contract and will govern in case of a conflict with any other part of this Contract.

These Supplementary Conditions amend or supplement the modified Standard General Conditions of the Construction Contract, EJCDC C-700. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

The following are instructions that amend or supplement specific paragraphs in the General Conditions and other Contract Documents:

2. SUPPLEMENTARY CONDITIONS TO EJCDC GENERAL CONDITIONS

SC-4.02 Add the following new paragraphs immediately after Paragraph 4.02.B:

- C. The following reports of explorations and tests of subsurface conditions at or contiguous to the Site are known to Owner:
 - 1. Report dated June 2020 by Arias Geoprosessionals of Austin, TX, entitled "Geotechnical Engineering Services Project Hutto, Texas". The "technical data" contained in such report upon which Contractor may rely is none.
- D. The reports identified above are not part of the Contract Documents, but the "technical data" contained therein upon which Contractor may rely, as expressly identified and established above, are incorporated in the Contract Documents by reference. Contractor is not entitled to rely upon any other information and data known to or identified by CMT.

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

SC-5.04 Add the following new paragraph immediately after Paragraph 5.04.B:

- C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following

amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverage's under Paragraphs 5.04.A.1 and A.2 of the General Conditions:

- | | | |
|----|---|---------------------|
| a. | State: | Statutory |
| b. | Applicable Federal
(e.g., Longshoreman's): | Statutory |
| c. | Employer's Liability: | <u>\$ 1,000,000</u> |

2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- | | | |
|----|--|---------------------|
| a. | General Aggregate | <u>\$ 2,000,000</u> |
| b. | Products - Completed
Operations Aggregate | <u>\$ 2,000,000</u> |
| c. | Personal and Advertising Injury | <u>\$ 1,000,000</u> |
| d. | Each Occurrence
(Bodily Injury and
Property Damage) | <u>\$ 1,000,000</u> |
| e. | Property Damage liability insurance will provide
Explosion, Collapse, and Under-ground coverages
where applicable. | |
| f. | Excess or Umbrella Liability | |
| | ☐ General Aggregate | \$ _____ |
| | ☐ Each Occurrence | <u>\$ 1,000,000</u> |

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

- | | | |
|----|-----------------------------------|----------|
| a. | Bodily Injury: Each
person | \$ _____ |
| | Each Accident | \$ _____ |
| b. | Property Damage:
Each Accident | \$ _____ |
| | <i>[or]</i> | |

a. Combined Single Limit of \$ 1,000,000

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury: Each person \$ _____

Each Accident \$ _____

b. Property Damage:
Each Accident \$ _____
Annual Aggregate \$ _____

SC-6.06 Add a new paragraph immediately after Paragraph 6.06.G:

H. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by a particular Subcontractor or Supplier.

SC-6.17 Add the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. CMT will record time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Contractor shall reimburse Owner for CMT's charges for such time.

G. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for CMT's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-7.01 Add the following to paragraph 7.01A regarding related work at the site:

D. CONTRACTOR shall schedule, coordinate and execute all Work in order to insure full operational control of the City of Hutto's Wastewater System. During construction, CONTRACTOR shall make all requests in writing regarding taking facilities off line a minimum of seven (7) working days prior to the proposed date. The OWNER will make every effort to accommodate the Contractor's request.

The Engineer or his designated representative shall have the authority and responsibility for coordination for activities on the project site for the OWNER. CONTRACTOR's responsibilities regarded other related work at the site are defined in Paragraphs 7.01B and 7.01C of the General Conditions.

SC-9.03 Add the following new paragraphs immediately after Paragraph 9.03.A:

B. The Resident Project Representative (RPR) will be CMT's employee or agent at the Site, will act as directed by and under the supervision of CMT, and will confer

with CMT regarding RPR's actions. RPR's dealings in matters pertaining to the Work in general shall be with CMT and Contractor. RPR's dealings with Subcontractors shall be through or with the full knowledge and approval of Contractor. The RPR shall:

1. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with CMT concerning acceptability.
2. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. *Liaison:*
 - a. Serve as CMT's liaison with Contractor, working principally through Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist in serving as CMT's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining additional details or information, when required for proper execution of the Work.
4. *Interpretation of Contract Documents:* Report to CMT when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by CMT.
5. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify CMT of availability of Samples for examination.
6. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to CMT. Transmit to Contractor in writing decisions as issued by CMT.
7. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Contractor's work in progress to assist CMT in determining if the Work is in general proceeding in accordance with the Contract Documents.

- b. Report to CMT whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise CMT of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- 8. *Inspections, Tests, and System Startups:*
 - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - b. Observe, record, and report to CMT appropriate details relative to the test procedures and systems start-ups.
- 9. *Records:*
 - a. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - b. Maintain records for use in preparing Project documentation.
- 10. *Reports:*
 - a. Furnish to CMT periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - b. Draft and recommend to CMT proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - c. Immediately notify CMT of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.
- 11. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to CMT, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not

incorporated in the Work.

12. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to CMT for review and forwarding to Owner prior to payment for that part of the Work.
13. *Completion:*
 - a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
 - b. Participate in a final inspection in the company of CMT and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to CMT concerning acceptance and issuance of the Notice of Acceptability of the Work.

C. The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including “or-equal” items).
2. Exceed limitations of CMT’s authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor’s superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor’s work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by CMT.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize Owner to occupy the Project in whole or in part.

SC-9.09 Add the following new paragraphs immediately after Paragraph 9.09.E:

- F. The Owner's communications with the Contractor may be through the CMT, who will have full authority to act on behalf of the Owner with regard to all aspects of the Project except that the Owner must approve all Contract Modifications and payments to the Contractor. All of the Contractor's communications to the Owner or to the Design Professional shall be exclusively through the CMT. All of the CMT's actions with regard to this Project will be as the representative of the Owner. The Contractor acknowledges by the execution of this Contract that the CMT is not an independent contractor.
- G. The CMT shall issue such written clarifications and interpretations of the requirement of the Contract Documents. Such clarifications and interpretations shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.
- H. The CMT is not authorized to revoke, alter, change, relax, or release any requirements of the Contract, nor to approve or accept any portion of the Work not executed in accordance with, nor to issue instructions contrary to, the Contract Documents. Any advice that the CMT may give the Contractor shall be taken as a suggestion and in no way be construed as binding the Owner in any way, nor as releasing the Contractor from fulfillment of any and all of the terms of the Contract Documents. Modification of the Contract can only be as indicated in the Contract Documents.

SC-11.01.A.5.c Delete Paragraph 11.01.A.5.c in its entirety and insert the following in its place:

- c. *Construction Equipment and Machinery:*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the Rental Rate Blue Book as published by EquipmentWatch (1-800- 669-3282). An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for

the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

SC-12.01.C Delete the semicolon at the end of Paragraph 12.01.C.2.c, and add the following language:

, provided, however, that on any subcontracted work the total maximum fee to be paid by Owner under this subparagraph shall be no greater than 27 percent of the costs incurred by the Subcontractor who actually performs the work;

SC-12.03.C Add the following language at the end of the second sentence of Paragraph 12.03.C:

Time extensions will not be granted for rain, wind, flood, mud/wet soils/muddy soils or other natural phenomena of normal intensity for the locality where Work is performed. For purpose of determining the extent of a delay attributable to unusual rainfall, the number of rain days experienced during a month will be compared to the normal weather recorded and expected for Austin, Texas. Normal rainfall compiled by the State climatologist, based on U.S. Weather Bureau Records for Austin, Texas, is considered a part of the Calendar Day Contract, and is not a justification for an extension of time. Listed as follows are the mean number of days in which there occurred 0.01 inch or more of precipitation:

		Total Days Lost	83
January	8	July	5
February	8	August	5
March	7	September	7
April	7	October	7
May	9	November	7
June	6	December	7

Rain days per month in amounts exceeding the number of days shown above may be credited as a Rain Day if a Claim is made in accordance with General Conditions and meets the following definition: a "Rain Day" is any day in which a rain event occurs at the site and is sufficient to prevent CONTRACTOR from performing units of Work critical to maintaining the project schedule.

SC-14.04 Add the following to paragraph 14.04 regarding the Maintenance Bond:

- F. Upon final completion, Contractor shall submit a Maintenance Bond to warranty the project for two years in the amount of 35% of the construction cost."

3. EXISTING STRUCTURES AND UTILITIES:

The plans show the locations of all known surface and subsurface structures and underground utilities. However, the Owner assumes no responsibility for failure to show any or all of these structures or utilities on the Drawings, or to show them in their exact location. It is mutually agreed that such failure shall not be considered sufficient basis for claims for additional compensation for extra Work or for increasing the pay quantities in any manner whatsoever, unless the obstruction encountered such as to necessitate changes in the lines or grades, or requires the building of special Work, provisions for which are not made in the Drawings or Proposal, in which case the provisions in these Specifications for extra Work shall apply. The Contractor shall be responsible for the protection of all existing utilities or service lines crossed or exposed by his construction operations. Where existing utilities or service lines are cut, broken or damaged, the Contractor shall replace or repair the utilities or service lines with the same type of original material and construction, or better, at his own cost and expense.

4. PROJECT MAINTENANCE:

The Contractor shall maintain and keep in good repair the improvements covered by these Drawings and Specifications during the life of this Contract.

5. CLEAN-UP:

(1) During Construction:

The Contractor shall at all times keep the job site free from all material, debris and rubbish as is practicable and shall remove same from any portion of the job site, when it becomes objectionable or interferes with the progress of the project in the opinion of the Engineer.

(2) Final:

Upon completion of the Work, the Contractor shall remove from the site, all materials, tools and equipment belonging to him, and leave the site with an appearance acceptable to the Engineer.

The Contractor shall thoroughly clean all equipment and materials installed by him and shall deliver such materials and equipment in a bright, clean, polished and like new condition and appearance.

6. COPIES OF PLANS AND SPECIFICATIONS:

Four (4) copies of Plans and Specifications will be furnished to the Contractor at no charge. Additional copies may be obtained at the cost of reproduction upon request.

7. TEMPORARY WATER:

All water used during construction shall be provided by the Owner and shall be metered. The Owner shall specify the location from which the Contractor is to procure water. The Contractor shall be responsible for providing all apparatus necessary for procuring, storing, transporting and using water during construction. The Contractor shall strive to use that

amount of water which is reasonable to perform the work associated with this contract and shall endeavor to avoid excessive waste. The Contractor will be required to pay for all water used if it is found that unnecessary or excessive waste is occurring during construction.

8. POWER:

The Contractor shall provide temporary power as required for proper execution of Work. The temporary power facilities shall be installed in such a manner as not to interfere with construction. Power for construction shall be at the Contractor's expense.

9. TRENCH SAFETY SYSTEM:

The Contractor will submit to the Engineer the planned safety program and trench safety plan to be used on this construction project. This program will include the type of system, designed by a professional engineer of the State of Texas and meeting the specifications of the current OSHA standards, and the qualifications of the person designated as "Inspector" during the project. Daily inspections are to be made to insure that changing conditions in the soils by weather or location of Work has not jeopardized the integrity of the safety system used. Reports shall indicate date, type of weather, soils observed, problems observed and corrective measures taken to insure employee safety during the Work. After submittal of the Trench Plan to the Engineer, the contractor may begin to execute the Contract.

10. CROSSING UTILITIES

Prior to commencing the work associated with this contract, it shall be the Contractor's responsibility to make arrangements with the Owners of utility companies to uncover their particular utility lines or otherwise confirm their location. Certain utility companies perform such services at their own expense, however, where such is not the case, the Contractor will cause such work to be done at his own expense.

11. LAND FOR WORK

Owner provides, as indicated on Drawings, land upon which work is to done, right-of-way for access to same and such other lands that are designated for the use of the Contractor. Contractor provides, at his expense and without liability of Owner, any additional land and access thereto that may be required for his construction operations, temporary construction facilities, or for storage of materials.

12. CONSTRUCTION STAKING

Initial construction staking required to complete the work associated with this contract shall be provided by the Contractor. The Contractor shall be responsible for determining the layout and extent of any additional staking necessary to construct the improvements to the lines and grades shown in the Drawings and such staking shall be provided by the Contractor. The Contractor shall consult with the Engineer and Owners representative in the field for assistance as necessary. Sufficient staking materials and equipment shall be provided by the Contractor including but not limited to: paint, flagging, laths, hubs, blue tops, nails, hammers, measuring chains or tapes, transits and levels. The Contractor shall be responsible for setting and marking control and off-set points for measuring distances and angles, for

shooting levels, and for any other items pertaining to additional construction staking. This item shall not be paid for separately and shall be considered subsidiary to other bid items.

13. ACCESS AND TRAFFIC CONTROL

Access shall be provided for the public and emergency vehicles at all possible times. When it becomes necessary to restrict access, the Contractor shall notify the Owner and coordinate with the Owner, all applicable agencies (i.e. Fire Department, E.M.S., Public Works, etc.), residents, and affected parties. If emergency access is required during the work and such access is being hindered by the work, the Contractor will suspend the work if necessary, and otherwise endeavor to assist emergency personnel in accessing a location restricted by the work. Unless otherwise directed by the Engineer, at the end of each day all lanes of traffic shall be opened to the public. The Contractor shall be responsible for all maintenance, signing and safety precautions necessary for traffic control. This item shall be considered subsidiary to other bid items and no additional compensation shall be given for complying with the Supplementary Conditions.

14. TESTING MATERIALS

The Owner shall bear the cost of all material testing required in the Contract Documents. Testing shall be done by an approved certified laboratory under the supervision of a registered professional engineer. The Owner and Engineer shall be furnished a copy of all test results. The Contractor shall pay for all failing tests.

15. PAYMENT FOR MATERIALS ON HAND

Due to the short construction duration for this project, the Owner will not reimburse the Contractor for materials on hand (i.e. materials purchased for use on the project but not yet incorporated into the constructed project). However, Owner will pay for all materials purchased and installed by the Contractor which form a part of the completed project. This stipulation governs in the event of conflict with any other sections of the contract or specifications.

16. INTERESTED PARTIES

Contractor acknowledges that Section 2252.908, Texas Government Code ("Section 2252.908") requires disclosure of certain matters by business entities entering into a contract with a local government entity such as the Owner. Contractor confirms that it has reviewed Section 2252.908 and will 1) complete Form 1295 for the Owner and electronically file such forms with the Texas Ethics Commission ("TEC"); and 2) submit a signed and notarized Form 1295, including the certification of filing number of the Form 1295 with the TEC, to the Owner at the time the Contractor executes and submits this Agreement to the Owner. Form 1295 is available at the TEC's website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This Agreement is not effective until the requirements listed above are satisfied and any approval of this Agreement by the Owner is expressly made contingent upon Contractor's compliance with such requirements.

17. DISCLOSURE OF BUSINESS RELATIONSHIPS/AFFILIATIONS; CONFLICT OF INTEREST QUESTIONNAIRE

Contractor represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

18. ENGAGING IN BUSINESS WITH SUDAN, IRAN OR FOREIGN TERRORIST ORGANIZATIONS PROHIBITED.

Pursuant to Section 2252.152, Texas Government Code, Contractor warrants, represents, and agrees that Contractor is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts as a company that engages in business with Sudan, Iran or a foreign terrorist organization.

RESOLUTION NO. 2020-107

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A COST SHARING AGREEMENT WITH NEXUS PRIVATE CAPITAL FOR THE INSTALLATION OF AN OFFSITE WASTEWATER LINE RELATED TO THE LAKESIDE ESTATES LIFT STATION DECOMMISSIONING PROJECT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council desires to authorize the City Manager to execute a cost sharing agreement with Nexus Private Capital for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, that the Hutto City Council hereby approves and authorizes the City Manager to execute a cost sharing agreement with Nexus Private Capital for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project, a copy is attached as Exhibit "A".

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

RESOLVED this 19th day of November, 2020.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

COST SHARING AGREEMENT

This COST SHARING AGREEMENT (this "**Agreement**") is made and entered into as of November _____, 2020 (the "**Effective Date**"), by and between Nexus Management, LLC d/b/a NPC Management, LLC ("**Developer**") and the CITY OF HUTTO, TEXAS, a Texas Home-Rule municipal corporation (the "**City**") (collectively referred to herein as the "**Parties**").

RECITALS:

- A. **Developer** is the developer of certain real property located in the City of Hutto, Williamson County, Texas, as more fully described in Exhibit B attached hereto that it intends to develop as a residential subdivision in accordance with that certain Resolution No. R-2020-093 passed unanimously by City of Hutto Mayor and Council on October 15, 2020..
- B. **Developer** has agreed to participate in the installation of an offsite wastewater line for the benefit of the City and **Developer**, such offsite wastewater line being referred to in this Agreement as the "**Improvements**" and described on Exhibit A.
- C. The City and **Developer** desire to set out their agreement with respect to construction and payment of the Improvements;

NOW, THEREFORE, in order to set forth their mutual rights and obligations with respect to the Improvements, the Parties agree as follows:

1. Purpose of the Agreement. The purpose of this Agreement is to set forth the agreement between the Parties with respect to (i) construction of the Improvements (the "**Work**") and (ii) **Developer's** proportional financial participation in the project.

2. Obligations of Developer. **Developer** will reimburse the City \$148,988.00 as **Developer's** contribution to the cost of Improvements in the following manner:

- (a) Developer shall pay the City \$74,494.00, which is FIFTY PERCENT (50%) of Developer's contribution to the cost of Improvements, within THIRTY (30) DAYS after the City provides Developer evidence of the Work's commencement.
- (b) Developer shall pay the City \$74,494.00, which is FIFTY PERCENT (50%) of Developer's contribution to the cost of Improvements, within THIRTY (30) DAYS after the City provides Developer evidence of the Work's substantial completion. For the purposes of this provision, substantial completion shall be deemed to occur on the date on which the Work is sufficiently complete

so that Developer can use the Improvements for Developer's intended purposes.

3. Obligations of the City. The City shall be responsible for all actual costs of construction and installation of the Work. Actual costs include, but are not limited to, design costs, labor costs, materials costs, engineering costs, legal fees, permits, inspection fees, insurance costs, equipment costs, construction costs, and any other costs actually incurred by The City in the design and construction of the Work. The City shall be solely responsible for ensuring completion of the Work within the budget as used to establish Developer's proportional financial contribution herein, and any cost overruns will be the sole responsibility of the City.

4. Commencement and Completion of the Work. The parties agree that each will be relying on good faith efforts of the other to make plans and decisions regarding when each shall have use of the Improvements. To that end, the parties agree that the City shall commence construction of the Improvements no later than January 1, 2021 and shall thereafter continuously and diligently proceed with construction of the Work until completion. The Parties intend to communicate effectively with each other so that Developer can monitor the City's progress in performing the Work and constructing the Improvements.

5. Assignment. Developer may assign all or part of its rights and obligations under this Agreement to a third party without the necessity of obtaining the consent of the City, including, but not limited to, collateral assignments to a lender. Developer shall provide a copy of any such assignment to the City. Nothing herein shall prevent Developer from conveying or leasing all or any portion of the Property to a third party and no such conveyance or lease shall be considered an assignment of this Agreement, unless such third party expressly assumes in writing the rights and obligations of Developer. **The City may not** may assign or transfer any interest in this Agreement without the written consent of Developer.

6. Third Party Beneficiary. It is expressly agreed by the Parties that this Agreement is for the sole benefit of the Parties hereto and shall not be construed or deemed made for the benefit of any third party or parties.

7. Headings. The titles and headings of the various sections hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

8. Validity. If any clause or provisions of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms hereof, then and in the event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

9. Attorneys' Fees. In the event of any dispute, litigation or other proceeding between the Parties hereto to enforce any of the provisions of this Agreement or any right of either party hereunder, each party to such dispute, litigation, or other proceeding shall be responsible for payment of its own costs and expenses, including reasonable attorneys' fees, incurred at trial, on appeal, and in any arbitration, administrative or other proceedings, all of which may be included in and as a part of the judgment rendered in such litigation.

10. Time. Time is of the essence of this Agreement, provided that if any date upon which some action, notice or response is required of any party hereunder occurs on a weekend or national holiday, such action, notice or response shall not be required until the next succeeding business day.

11. Governing Law. **THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE OBLIGATIONS OF THE PARTIES HERETO ARE AND SHALL BE PERFORMABLE IN WILLIAMSON COUNTY, TEXAS, WHEREIN THE PROPERTY IS LOCATED. BY EXECUTING THIS AGREEMENT, EACH PARTY HERETO EXPRESSLY (i) CONSENTS AND SUBMITS TO PERSONAL JURISDICTION CONSISTENT WITH THE PREVIOUS SENTENCE, (ii) WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE THAT SUCH VENUE IS NOT PROPER OR CONVENIENT, AND (iii) CONSENTS TO THE SERVICE OF PROCESS IN ANY MANNER AUTHORIZED BY TEXAS LAW. ANY FINAL JUDGMENT ENTERED IN AN ACTION BROUGHT HEREUNDER SHALL BE CONCLUSIVE AND BINDING UPON THE PARTIES HERETO.**

12. Gender; Plural; Singular; Terms. A reference in this Agreement to any gender, masculine, feminine or neuter, shall be deemed a reference to the other, and the singular shall be deemed to include the plural and vice versa, unless the context otherwise requires. The terms "herein," "hereof," "hereunder," and other words of a similar nature mean and refer to this Agreement as a whole and not merely to the specified section or clause in which the respective word appears unless expressly so stated.

13. Exhibits. All exhibits attached hereto are incorporated herein by reference to the same extent as though such exhibits were included in the body of this Agreement verbatim.

14. Counterparts, Further Instruments, etc. This Agreement may be executed in counterparts, and when so executed shall be deemed executed as one agreement. City and Developer shall execute any and all documents and perform any and all acts reasonably necessary to fully implement this Agreement.

15. Entire Agreement. This Agreement, together with the exhibits attached hereto, supersedes all prior agreements between the parties as to the Property, if any, and constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be modified, amended or otherwise changed in any manner except by a writing executed by Developer and City or their respective counsel.

16. Facsimile Signatures. A facsimile signature of a party shall be binding on such party to the same extent as an original signature. If this Agreement, or any future amendment to this Agreement, is signed by the parties or a party and delivered by means of facsimile transmission, the parties agree promptly to thereafter exchange original, executed counterparts thereof.

17. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction – to the effect that any ambiguities are to be resolved against the drafting party – shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

18. Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement shall be in writing, signed by the party or its counsel, and shall be delivered by registered or certified mail, overnight courier service or facsimile transmission, at the addresses set forth below:

If to City:	City of Hutto Attn: City Manager 500 West Live Oak Street Hutto, Texas 78634 Email:
With a copy to:	Bojorquez Law Firm, PC Attn: Alan Bojorquez, City Attorney 11675 Jollyville Road, Suite 300 Austin, Texas 78759 Email: alan@texasmunicipallawyers.com
As to	Developer Nexus Management, LLC d/b/a NPC Management, LLC 809 S. Lamar Blvd., Suite D Austin, TX 787804 (512) 230-9867 Cort@nexuslending.net Attn: Cortlandt Chalfant

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered upon deposit, postage prepaid, in the United States Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered upon deposit with such courier, (c) sent by facsimile, in which case notice shall be deemed delivered upon transmission of such notice if the sender receives a machine generated facsimile confirmation containing the facsimile number and time sent and verifying the transmission was completed error free, or (d) sent by personal delivery. The above addresses may be changed by written notice to the other party; provided, however, that

no notice of a change of address shall be effective until actual receipt of such notice.

19. Interested Parties. **Developer** acknowledges that Section 2252.908, Texas Government Code ("Section 2252.908") requires disclosure of certain matters by business entities entering into a contract with a local government entity such as the City. **Developer** confirms that it has reviewed Section 2252.908 and will (i) complete Form 1295 for the City, using the unique identification number(s) specified on page 1 of this Agreement, and electronically file such forms with the Texas Ethics Commission ("TEC"); and (ii) submit a signed and notarized Form 1295, including the certification of filing number of the Form 1295 with the TEC, to the City at the time the Developer executes and submits this Agreement to the City. Form 1295 is available at the TEC's website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This Agreement is not effective until the requirements listed above are satisfied and any approval of this Agreement by the City is expressly made contingent upon **Developer's** compliance with such requirements.

20. Chapter 2270, Texas Government Code. In accordance with Chapter 2270, Texas Government Code, **Developer** hereby represents and warrants that **Developer** does not boycott Israel and will not boycott Israel during the term of the Reimbursement Agreement.

21. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. **Developer** represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

22. Engaging in Business with Sudan, Iran or Foreign Terrorist Organizations Prohibited. Pursuant to Section 2252.152, Texas Government Code, **Developer** warrants, represents, and agrees that Developer is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts as a company that engages in business with Sudan, Iran or a foreign terrorist organization.

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

24. Exactions Roughly Proportional. Developer hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 and Section 212.904 of the Texas Local Government Code, arising out of this Agreement. Both Developer and the City further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement. Developer further acknowledges that the benefits of platting and concept planning have been accepted with full knowledge of potential claims and causes of action which may be raised now and, in the future, and Developer acknowledges the receipt of good and valuable consideration for the release and waiver of such claims.

25. No Joint Venture. It is acknowledged and agreed by the Parties that the terms of this Agreement 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 do not assume any responsibilities or liabilities to any third party in connection with the Work.

[signature pages immediately follow]

**COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO
COST SHARING AGREEMENT**

Executed by the undersigned on the date set forth hereinbelow, to be effective as of the Effective Date.

Developer:

By: Nexus Management, LLC,
A Delaware Limited Liability Company
d/b/a NPC Management, LLC

By: _____

Printed Name: Cortlandt Chalfant _____

Title: Manager _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me this ____ day of _____, 2020, by Cortlandt Chalfant in his capacity as Manager of Nexus Management, LLC d/b/a NPC Management, LLC.

Notary Public - State of Texas

(seal)

**COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO
COST SHARING AGREEMENT**

Executed by the undersigned on the date set forth hereinbelow, to be effective as of _____, 2020 (the "Effective Date").

CITY:

CITY OF HUTTO, TEXAS, a Texas Home-Rule municipal corporation

By: _____

Printed Name: Warren Hutmacher

Title: City Manager

Date: _____

ATTEST:

Holly Nagy, City Secretary

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
IMPROVEMENTS

EXHIBIT B

PROPERTY

RESOLUTION NO. 2020-108

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A COST SHARING AGREEMENT WITH HARRIS & STRAUB, LLC FOR THE INSTALLATION OF AN OFFSITE WASTEWATER LINE RELATED TO THE LAKESIDE ESTATES LIFT STATION DECOMMISSIONING PROJECT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council desires to authorize the City Manager to execute a cost sharing agreement with Harris & Straub, LLC for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, that the Hutto City Council hereby approves and authorizes the City Manager to execute a cost sharing agreement with Harris & Straub, LLC for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project, a copy is attached as Exhibit "A".

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

RESOLVED this 19th day of November, 2020.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

COST SHARING AGREEMENT

This COST SHARING AGREEMENT (this “**Agreement**”) is made and entered into as of _____, 2020 (the “**Effective Date**”), by and between SOUTHGATE HUTTO DEVELOPMENT, INC., a Texas corporation (“**Developer**”), and the CITY OF HUTTO, TEXAS, a Texas Home-Rule municipal corporation (the “**City**”) (collectively referred to herein as the “**Parties**”).

RECITALS:

A. Developer is the developer of certain real property located in the City of Hutto, Williamson County, Texas, as more particularly described on Exhibit A attached hereto (the “**Property**”), which property Developer intends to develop as a residential subdivision to be called “Southgate” pursuant to the Riverwalk South Preliminary Plat No. 1613-Plat approved by the City on August 15, 2019, as it may be amended from time to time (the “**Subdivision**”).

B. Developer has agreed to participate in the installation of an offsite wastewater line for the benefit of the City and the Property, such offsite wastewater line being referred to in this Agreement as the “**Improvements**” and described on Exhibit B.

C. The City and Developer desire to set out their agreement with respect to construction and payment of the Improvements.

NOW, THEREFORE, in order to set forth their mutual rights and obligations with respect to the Improvements, the Parties agree as follows:

1. Purpose of the Agreement. The purpose of this Agreement is to set forth the agreement between the Parties with respect to: (i) construction of the Improvements (the “**Work**”); (ii) Developer’s proportional financial participation in the Work; and (iii) the City’s commitment for retail water service to the Subdivision via the Improvements.

2. Obligations of Developer. Subject to the terms and conditions set forth herein, Developer shall reimburse the City the sum of One Hundred Forty-Eight Thousand Nine Hundred Ninety-Eight and No/100 Dollars (\$152,213.00), as Developer’s contribution to the cost of the Work in the following manner:

(a) Developer shall pay the City the sum of Seventy-Four Thousand Four Hundred Ninety-Nine and No/100 Dollars (\$76,106.50), which amount is the initial fifty percent (50%) of Developer’s contribution to the cost of the Work, within thirty (30) days after the City delivers notice of commencement of the Work, together with reasonable documentation of such commencement; and

(b) Developer shall pay the City the sum of Seventy-Four Thousand Four Hundred Ninety-Nine and No/100 Dollars (\$76,106.50), which amount is the remaining fifty percent (50%) of Developer’s contribution to the cost of the Work, within thirty (30)

days after the City delivers notice of completion of the Work and the City's acceptance of the Improvements for ownership, operation and maintenance, such that the Improvements are immediately available for use to serve the Subdivision, together with reasonable documentation of such completion and acceptance.

3. Obligations of the City. The City shall be responsible for all actual costs of construction and installation of the Work. Actual costs include, but are not limited to, design costs, labor costs, materials costs, engineering costs, legal fees, permits, inspection fees, insurance costs, equipment costs, construction costs, and any other costs actually incurred by the City in the design and construction of the Work. The City shall be solely responsible for ensuring completion of the Work within the budget used to establish Developer's proportional financial contribution hereunder, and any cost overruns shall be the sole responsibility of the City.

4. Commencement and Completion of the Work. The Parties agree that each will be relying on good faith efforts of the other to make plans and decisions regarding when each shall have use of the Improvements. To that end, the Parties agree that the City shall commence the Work no later than January 1, 2021 and shall thereafter continuously and diligently proceed with the Work until completion and acceptance of the Improvements. The Parties intend to communicate effectively with each other to so that Developer can monitor the City's progress in performing the Work. Notwithstanding any provision of this Agreement to the contrary, if the City fails to commence the Work by January 1, 2021, Developer shall have the unilateral right to terminate this Agreement, whereupon neither party shall have any obligations to the other hereunder, by delivering written notice to the City at any time prior to the City's commencement of the Work.

5. Commitment for Service. Subject to the terms and conditions set forth herein, the City commits and agrees to provide retail water service to the Property as and when required by customers within and/or for development of the Property in an amount, at flow rates and pressures and in quantities, sufficient to serve the Subdivision, including fire flow, in the same manner and on the same terms and conditions as the City provides service to similarly situated retail customers inside its corporate limits.

6. Assignment. Developer and the City agree that neither party may assign or transfer any interest in this Agreement without the written consent of the other party; provided, however, that Developer may assign its interest in this Agreement to an Affiliate of Developer. For purposes of this Agreement, "**Affiliate**" means, with respect to Developer, any person or entity who controls, is controlled by, or is under common control with Developer.

7. Third Party Beneficiary. It is expressly agreed by the Parties that this Agreement is for the sole benefit of the Parties hereto and shall not be construed or deemed made for the benefit of any third party or parties.

8. Headings. The titles and headings of the various sections hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

9. Validity. If any clause or provisions of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms hereof, then and in the event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

10. Attorneys' Fees. In the event of any dispute, litigation or other proceeding between the Parties hereto to enforce any of the provisions of this Agreement or any right of either party hereunder, each party to such dispute, litigation or other proceeding shall be responsible for payment of its own costs and expenses, including reasonable attorneys' fees, incurred at trial, on appeal, and in any arbitration, administrative or other proceedings, all of which may be included in and as a part of the judgment rendered in such litigation.

11. Time. Time is of the essence of this Agreement, provided that if any date upon which some action, notice or response is required of any party hereunder occurs on a weekend or national holiday, such action, notice or response shall not be required until the next succeeding business day.

12. Governing Law. **THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE OBLIGATIONS OF THE PARTIES HERETO ARE AND SHALL BE PERFORMABLE IN WILLIAMSON COUNTY, TEXAS, WHEREIN THE IMPROVEMENTS ARE LOCATED. BY EXECUTING THIS AGREEMENT, EACH PARTY HERETO EXPRESSLY (i) CONSENTS AND SUBMITS TO PERSONAL JURISDICTION CONSISTENT WITH THE PREVIOUS SENTENCE, (ii) WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE THAT SUCH VENUE IS NOT PROPER OR CONVENIENT, AND (iii) CONSENTS TO THE SERVICE OF PROCESS IN ANY MANNER AUTHORIZED BY TEXAS LAW. ANY FINAL JUDGMENT ENTERED IN AN ACTION BROUGHT HEREUNDER SHALL BE CONCLUSIVE AND BINDING UPON THE PARTIES HERETO.**

13. Gender; Plural; Singular; Terms. A reference in this Agreement to any gender, masculine, feminine or neuter, shall be deemed a reference to the other, and the singular shall be deemed to include the plural and vice versa, unless the context otherwise requires. The terms "herein," "hereof," "hereunder," and other words of a similar nature mean and refer to this Agreement as a whole and not merely to the specified section or clause in which the respective word appears unless expressly so stated.

14. Exhibits. All exhibits attached hereto are incorporated herein by reference to the same extent as though such exhibits were included in the body of this Agreement verbatim.

15. Counterparts, Further Instruments, etc. This Agreement may be executed in counterparts, and when so executed shall be deemed executed as one agreement. The City and Developer shall execute any and all documents and perform any and all acts reasonably necessary to fully implement this Agreement.

16. Entire Agreement. This Agreement, together with the exhibits attached hereto, supersedes all prior agreements between the Parties as to the Work, if any, and constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement may not be modified, amended or otherwise changed in any manner except by a writing executed by Developer and the City or their respective counsel.

17. Facsimile/Electronic Signatures. A facsimile or electronic signature (including a scanned copy) of a party shall be binding on such party to the same extent as an original signature. If this Agreement, or any future amendment to this Agreement, is signed by the Parties or a party and delivered by means of facsimile or e-mail transmission, the Parties agree promptly to thereafter exchange original, executed counterparts thereof.

18. Construction. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction – to the effect that any ambiguities are to be resolved against the drafting party – shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

19. Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement shall be in writing, signed by the party or its counsel, and shall be delivered by registered or certified mail, overnight courier service or electronic mail transmission, at the addresses set forth below:

If to City: City of Hutto
 Attn: City Manager
 500 West Live Oak Street
 Hutto, Texas 78634
 Email: _____

With a copy to: Bojorquez Law Firm, PC
 Attn: Alan Bojorquez, City Attorney
 11675 Jollyville Road, Suite 300
 Austin, Texas 78759
 Email: alan@texasmunicipallawyers.com

If to Developer: Southgate Hutto Development, Inc.
 Attn: Joseph W. Straub

4408 Spicewood Springs Road
Austin, Texas 78759
Email: jwstraub@harris-straub.com

With a copy to: Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Email: kflahive@abaustin.com

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered upon deposit, postage prepaid, in the United States Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered upon deposit with such courier, (c) sent by electronic mail, in which case notice shall be deemed delivered upon transmission of such notice if the sender receives a machine generated confirmation, or (d) sent by personal delivery. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

20. Interested Parties. Developer acknowledges that Section 2252.908, Texas Government Code ("Section 2252.908") requires disclosure of certain matters by business entities entering into a contract with a local government entity such as the City. Developer confirms that it has reviewed Section 2252.908 and will 1) complete Form 1295 for the City, using the unique identification number(s) specified on page 1 of this Agreement, and electronically file such forms with the Texas Ethics Commission ("TEC"); and 2) submit a signed and notarized Form 1295, including the certification of filing number of the Form 1295 with the TEC, to the City at the time the Developer executes and submits this Agreement to the City. Form 1295 is available at the TEC's website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This Agreement is not effective until the requirements listed above are satisfied and any approval of this Agreement by the City is expressly made contingent upon Developer's compliance with such requirements.

21. Chapter 2270, Texas Government Code. In accordance with Chapter 2270, Texas Government Code, Developer hereby represents and warrants that Developer does not boycott Israel and will not boycott Israel during the term of the Reimbursement Agreement.

22. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. Developer represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

23. Engaging in Business with Sudan, Iran or Foreign Terrorist Organizations Prohibited. Pursuant to Section 2252.152, Texas Government Code, Developer warrants, represents, and agrees that Developer is not identified on a list prepared and maintained by the

Texas Comptroller of Public Accounts as a company that engages in business with Sudan, Iran or a foreign terrorist organization.

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

25. Exactions Roughly Proportional. Developer hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 and Section 212.904 of the Texas Local Government Code, arising out of this Agreement. Both Developer and the City further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement. Developer further acknowledges that the benefits of platting and concept planning have been accepted with full knowledge of potential claims and causes of action which may be raised now and, in the future, and Developer acknowledges the receipt of good and valuable consideration for the release and waiver of such claims.

26. No Joint Venture. It is acknowledged and agreed by the Parties that the terms of this Agreement 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 do not assume any responsibilities or liabilities to any third party in connection with the Work.

[signature pages immediately follow]

**COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO
COST SHARING AGREEMENT**

Executed by the undersigned on the date set forth hereinbelow, to be effective as of the Effective Date.

DEVELOPER:

SOUTHGATE HUTTO DEVELOPMENT, INC.,
a Texas corporation

By: _____
Joseph W. Straub, President

Date: _____

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me this ____ day of _____, 2020, by Joseph W. Straub in his capacity as President of Southgate Hutto Development, Inc.

Notary Public - State of Texas

(seal)

**COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO
COST SHARING AGREEMENT**

Executed by the undersigned on the date set forth hereinbelow, to be effective as of _____, 2020 (the "Effective Date").

CITY:

CITY OF HUTTO, TEXAS,
a Texas Home-Rule municipal corporation

By: _____

Printed Name: Warren Hutmacher

Title: City Manager

Date: _____

ATTEST:

Holly Nagy, City Secretary

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

PROPERTY



FIELD NOTES

FOR

A 118.971 ACRE, OR 5,182,372 SQUARE FOOT, TRACT OF LAND BEING ALL OF THE REMNANT PORTION OF A CALLED 120.7058 ACRE TRACT CONVEYED TO JOSEPH F. GIBNEY AND JUDITH A. GIBNEY, IN WARRANTY DEED WITH VENDOR'S LIEN, RECORDED IN VOLUME 2726, PAGE 76 OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS, SITUATED IN JOHN KELSEY SURVEY, SECTION NO. 18, ABSTRACT NO. 377, IN WILLIAMSON COUNTY, TEXAS. SAID 118.971 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE NORTH AMERICAN DATUM OF 1983 (NA 2011) EPOCH 2010.00; FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE;

BEGINNING at an iron rod with cap marked "Bryan Tech" found on a point in the northwest corner of a called 0.365 acre tract recorded in Document No. 2016037486 of the Official Public Records of Williamson County, Texas, same being a point in the east boundary line of a remnant portion of a called 75.35 acre tract recorded in Document No. 2007040774 of the Official Public Records of Williamson County, Texas, also being a west corner of said remnant portion of a 120.7058 acre tract for a west corner and **POINT OF BEGINNING** hereof;

THENCE N 07°28'47" E, with the east boundary line of said remnant portion of a 75.35 acre tract, same being the west boundary line of said remnant portion of a 120.7058 acre tract, at a distance of 2648.31 feet, passing through the northeast corner of said remnant portion of a 75.35 acre tract, continuing with the west boundary line of the aforementioned remnant portion of a 120.7058 acre tract, for a total distance of **2705.44 feet** to an iron rod with cap marked "RJ Surveying" found on a point in the east boundary line of Lakeside Estates, Section Three, a subdivision according to the plat recorded in Document no. 2002048767 of the Official Public Records of Williamson County, Texas, also being the southwest corner of Riverwalk Phase 3, Section 4, a subdivision according to the plat recorded in Document No. 2017016795 of the Official Public Records of Williamson County, Texas for the northwest corner hereof;

THENCE S 81°28'31" E, with the south boundary line of said Riverwalk, Phase 3, Section 4, same being the north boundary line of said remnant portion of a 120.7058 acre tract, at a distance of 853.55 feet, passing through an iron rod with cap marked "RJ Surveying" found on the southeast corner of said Riverwalk, Phase 3, Section 4, same being the southwest corner of Riverwalk, Phase 3, Section 5, a subdivision according to the plat recorded in Document No. 2017016718 of the Official Public Records of Williamson County, Texas, continuing with the south boundary line of the aforementioned Riverwalk, Phase 3, Section 5, for a total distance of **1701.09 feet** to a 60D nail found on a point in the west boundary line of a called 307.5795 acre tract recorded in Document No. 2016098133 of the Official Public Records of Williamson County, Texas, for the northeast corner hereof;

TBPE Firm Registration #470 | TBPLS Firm Registration #10028801
Austin | San Antonio | Houston | Fort Worth | Dallas
Transportation | Water Resources | Land Development | Surveying | Environmental
10801 N MoPac Expy., Bldg. 3, Suite 200, Austin, TX 78759 512.454.8711 www.Pape-Dawson.com

THENCE S 07°35'18" W, in part with the west boundary line of said 307.5795 acre tract, and in part with the west boundary line of a called 10.0 acre tract recorded in Volume 2364, Page 184 of the Official Records of Williamson County, Texas, same being the east boundary line of said remnant portion of a 120.7058 acre tract, a distance of **3098.34 feet** to a ½" iron rod with yellow cap marked "Pape-Dawson" set on a point in the north margin of County Road 138, a variable width right-of-way, for the southeast corner hereof;

THENCE N 81°22'41" W, with the north margin of said County Road 138, same being the south boundary line of said remnant portion of a 120.7058 acre tract, a distance of **1695.27 feet** to a ½" iron rod with yellow cap marked "Pape-Dawson" set on a point in the southwest corner of said remnant portion of a 120.7058 acre tract, said point being the southeast corner of a called 1.210 acre tract recorded in Document No. 2009062923 of the Official Public Records of Williamson County, Texas for the southwest corner hereof;

THENCE N 07°28'47" E, departing the north margin of said County Road 138, with the east boundary line of said 1.210 acre tract, a distance of **60.10 feet** to a ½" iron rod with yellow cap marked "Pape-Dawson" set on a point in the southwest corner of a called 1.377 acre tract recorded in Document No. 2006109103 of the Official Public Records of Williamson County, Texas for a west corner hereof;

THENCE S 82°25'12" E, with the south boundary line of said 1.377 acre tract, at a distance of 200.00 feet passing through the southwest corner of a said 0.365 acre tract, continuing with the south boundary line of the aforementioned 0.365 acre tract, same being a north boundary line of said remnant portion of a 120.7058 acre tract, for a total distance of **230.03 feet** to a ½" iron rod found for a west corner hereof;

THENCE N 07°28'46" E, with the east boundary line of said 0.365 acre tract, same being a west boundary line of said remnant portion of a 120.7058 acre tract, a distance of **330.11 feet** to an iron rod with cap marked "Bryan Tech" found on a point in the northeast corner of said 0.365 acre tract, for a west corner hereof;

THENCE N 82°26'35" W, with the north boundary line of said 0.365 acre tract, same being a south boundary line of said remnant portion of a 120.7058 acre tract, a distance of **230.03 feet** to the **POINT OF BEGINNING**, and containing 118.971 acres in Williamson County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape Dawson Engineers, Inc. under Job No. 51061-00

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: February 15, 2019
JOB No.: 51061-00
DOC.ID.: H:\survey\CIVIL\51061-00\Word\FN-5106100_118.971Ac.docx
TBPE Firm Registration #470 TBPLS Firm Registration #100288-01

Parker J. Graham



EXHIBIT B
IMPROVEMENTS
[insert]

RESOLUTION NO. 2020-109

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A COST SHARING AGREEMENT WITH DEVELOPER FOR THE BRIDGE COMMUNITY CHURCH FOR THE INSTALLATION OF AN OFFSITE WASTEWATER LINE RELATED TO THE LAKESIDE ESTATES LIFT STATION DECOMMISSIONING PROJECT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council desires to authorize the City Manager to execute a cost sharing agreement with Developer for the Bridge Community Church for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, that the Hutto City Council hereby approves and authorizes the City Manager to execute a cost sharing agreement with Developer for the Bridge Community Church for the installation of an offsite wastewater line related to the Lakeside Estates Lift Station decommissioning project, a copy is attached as Exhibit "A".

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

RESOLVED this 19th day of November, 2020.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

CERTIFICATE FOR ORDINANCE NO. – _____

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

We, the undersigned officers and members of the City Council of the City of Hutto, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in REGULAR MEETING ON THE 19TH DAY OF NOVEMBER, 2020, at Council Chambers, 500 W. Live Oak St., Hutto, Texas (the "Meeting"), and the roll was called of the duly constituted officers and members of the City, to-wit:

~~Doug Gaul~~ Vacant, Mayor
Robin Sutton, Place 1
Dan Thornton, Place 2
Mike Snyder, Mayor Pro-Tem, Place 3
Peter Gordon, Place 4
Patti Martinez, Place 5
Tanner Rose, Place 6

and all of the persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be passed on first reading; and, after due discussion, said motion carrying with it the passage of the Ordinance, prevailed and carried by the following vote:

AYES: ___ NOES: ___ ABSTENTIONS: ___

2. A true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting

pertaining to the passage of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Ordinance would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

[Signature Page Follows]

SIGNED AND SEALED this _____, 2020.

City Secretary

Mayor ~~[Pro-Tem]~~

(CITY SEAL)

ORDINANCE NO. – _____

ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERE TO

DATE OF APPROVAL: NOVEMBER 19, 2020

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
~~\$~~ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
 TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
 AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
 BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
 AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
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 THERETO**

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Exhibit A - Definitions

Exhibit B - Description of Annual Financial Information

Exhibit C - Paying Agent/Registrar Agreement

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Exhibit F - Requirements of the Insurer with Respect to the Municipal Bond Insurance Policy

ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

**THE STATE OF TEXAS
COUNTY OF WILLIAMSON
CITY OF HUTTO**

**§
§
§**

WHEREAS, the City of Hutto, Texas (the "City") is a duly incorporated home rule city and political subdivision of the State of Texas (the "State") operating and existing under the State Constitution and laws of the State, including the City Charter (as defined herein);

WHEREAS, among numerous series of obligations of the City which are secured by the full faith and credit of the City and a pledge by the City to levy ad valorem taxes sufficient to pay principal of and interest on such obligations as they become due, there is specifically outstanding the following series of obligations of which the City now desires to refund with the issuance of the Refunding Obligations (as defined herein) the following series of obligations:

City of Hutto, Texas General Obligation Bonds, Series 2010, dated September 15, 2010, maturing on August 1, 2030 and currently outstanding in the aggregate principal amount of \$1,805,000 (the "Series 2010 Bonds"); and

City of Hutto, Texas Tax and Waterworks and Sewer System Revenue Certificates of Obligation, Series 2010, dated January 1, 2010, maturing on August 1, in the years 2021 through 2034 and currently outstanding in the aggregate principal amount of \$6,830,000 (the "Series 2010 Obligations," together with the Series 2010 Bonds are collectively referred to herein as the "Refunded Obligations"); and

WHEREAS, the City now desires to refund the outstanding Series 2010 Bonds maturing in 2030 (aggregating \$1,805,000 in principal amount), and the Series 2010 Obligations maturing in the years 2021 through 2034, inclusive (aggregating \$6,830,000 in principal amount), as more specifically described as maturing in the years and in the principal amounts and bearing the interest as shown in the following tables:

CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2010				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2030	1,805,000	1,805,000	3.600	PRVTLYHLD

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2021	155,000	155,000	4.000	448474FN1
08/01/2022	160,000	160,000	4.000	448474FP6
08/01/2023	165,000	165,000	4.000	448474FQ4
08/01/2024	170,000	170,000	4.000	448474FR2
08/01/2025	175,000	175,000	4.000	448474FS0
08/01/2026	180,000	180,000	4.000	448474FT8
08/01/2027	190,000	190,000	4.000	448474FU5
08/01/2028	195,000	195,000	4.125	448474FV3
08/01/2029	205,000	205,000	4.250	448474FW1
08/01/2030	210,000	210,000	4.300	448474FX9
08/01/2031	155,000	155,000	4.375	448474FY7
08/01/2032	160,000	160,000	4.375	448474FZ4
08/01/2033	165,000	165,000	4.400	448474GA8
08/01/2034	170,000	170,000	4.500	448474GB6

WHEREAS, all of the Refunded Obligations are subject to redemption at the option of the City on August 1, 2020, or on any date thereafter; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, in an amount sufficient to provide for the payment and/or redemption of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, Chapter 1207 (specifically Section 1207.062, Texas Government Code) further authorizes the City to enter into an escrow agreement with (i) any paying agent for the

Refunded Obligations, or (ii) another trust company or commercial bank that does not act as a depository for the City and is named in the proceedings authorizing such escrow agreement, with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such paying agent, trust company or commercial bank may agree; provided that such deposits may be invested and reinvested:

(i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City (the "Council") adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent;

and all of which must mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or redemption of the Refunded Obligations; and

WHEREAS, *U.S. Bank, National Association*, currently serves as the paying agent for the Series 2010 Bonds and *Regions Bank* currently serves as the paying agent for the Series 2010 Obligations; however, as permitted by Section 1207.062, Texas Government Code, the City desires to appoint *BOKF, NA*, which is a commercial bank that does not act as a depository for the City, to serve as escrow agent in connection with the refunding and defeasing of the Refunded Obligations, and the Escrow Agreement(s) hereinafter authorized between the City and BOKF, NA, constitutes an escrow agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, the City Council hereby finds and declares a public purpose and it is advisable and in the best interests of the City to issue a series of bonds (defined in Section 4 hereof as the "Bonds"), the proceeds of which will be used to pay the costs of issuance and refund the Refunded Obligations in order to achieve a gross debt service savings of approximately \$_____ and a net present value debt services savings of approximately \$_____ to the City; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to Chapter 1207, Texas Government Code; and

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

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in *Exhibit A* to this Ordinance have the meanings assigned to them in *Exhibit A*.

Section 3. AMOUNT AND PURPOSE OF THE BONDS. General obligation bonds of the City are hereby authorized to be issued and delivered in the aggregate principal amount of \$_____ **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS FOR DEBT SERVICE SAVINGS AND TO PAY THE COST OF ISSUANCE OF THE BONDS.**

Section 4. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. (a) Designation, Date, Denominations and Numbers. Each Bond issued pursuant to this Ordinance shall be designated "CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A" (a "Bond" and collectively, the "Bonds") and initially there shall be issued, sold and delivered hereunder one fully registered bond, without interest coupons, dated as of November 15, 2020, with Bonds issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof, and with Bonds issued and delivered in substitution for the Initial Bond being numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Bond being payable to the initial purchaser designated in Section 14 hereof), or to the registered assignee or assignees of said bond or any portion or portions thereof (in each case, the "Registered Owner").

(b) Maturities. The Bonds shall mature on the dates and in the respective principal amounts as set forth below:

DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)	DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)
2021		2028	
2022		2029	
2023		2030	
2024		2031	
2025		2032	
2026		2033	
2027		2034	

Section 5. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum as set forth below:

YEAR OF MATURITY	INTEREST RATE (%)	YEAR OF MATURITY	INTEREST RATE (%)
2021		2028	
2022		2029	
2023		2030	
2024		2031	
2025		2032	
2026		2033	
2027		2034	

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Ordinance.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust or commercial banking office (currently located in Dallas, Texas) of BOKF, NA (the "Paying Agent/Registrar"), books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as **Exhibit C** is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor, ~~Mayor~~ Pro-Tem and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds shall be paid as provided in the FORM OF BOND set forth in this Ordinance. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's

Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Subchapter D of Chapter 1201, Texas Government Code, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said certificate, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bonds and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bonds.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof, (ii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Initial Bond is not required to be, and shall not be, authenticated by the Paying Agent/ Registrar, but on each substitute Bond issued in exchange for the Initial Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying

Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Bonds. The Bonds issued in exchange for the Bonds initially issued to the purchaser specified in Section 14 herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (i) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the Ordinance of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and

discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfers Outside Book-Entry Only Systems. In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) DTC Letter of Representation. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of Representation, if necessary, with DTC establishing the book-entry only system with respect to the Bonds.

(i) Delivery of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds and, payable in stated installments to the initial registered owner named in Section 14 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor ~~or Mayor-Pro-Tem~~ and City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Bonds, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

<u>FORM OF BOND</u>				
R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BOND, SERIES 2020A			PRINCIPAL AMOUNT \$ _____
<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF BONDS</u>	<u>DATE OF DELIVERY</u>	<u>CUSIP NO.</u>

PRINCIPAL AMOUNT: _____ **DOLLARS**

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at

maturity, or upon the date fixed for its redemption prior to maturity, at BOKF, NA, which is the "Paying Agent/Registrar" for this Bond at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the 15th day of the month preceding such interest payment date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is

not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a Series of Bonds dated November 15, 2020, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$_____ (the "Bonds"), **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS AND TO PAY THE COSTS OF ISSUANCE OF THE BONDS.**

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

WITH RESPECT TO any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Bond Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall

not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Bond.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this

Bond have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

IT IS FURTHER certified that the City has designated the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor ~~or Mayor~~ Pro-Tem of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Hutto, Texas
(SEAL)

Mayor ~~{Pro-Tem}~~, City of Hutto, Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

BOKE, N.A.

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

FORM OF REGISTRATION CERTIFICATE OF THE COMPTROLLER OF PUBLIC ACCOUNTS

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

STATEMENT OF INSURANCE

[Insert disclosure of insurer if insurance is obtained]

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Hutto, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from August 1, 2021, at the respective Interest Rates per annum specified below, payable on February 1, 2021 and semiannually on each February 1 and August 1 thereafter to the respective Maturity Dates specified below. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

<u>Maturity Date</u>	<u>Principal</u>	<u>Interest</u>
<u>(August 1)</u>	<u>Installment (\$)</u>	<u>Rate (%)</u>

(Insert information from Sections 4 and 5 above)

C. The Initial Bond shall be numbered "T-1."

Section 8. INTEREST AND SINKING FUND; TAX LEVY. (a) Interest and Sinking Fund; Tax Levy. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the

Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 9. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in each Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date on which such funds will be needed. Income and profits from such investments shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on proceeds which are required to be rebated to the United States of America pursuant to Section 13 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 10. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America

sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities and thereafter the City will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank or trust company as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

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

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the Registered Owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being

defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bond. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a Replacement Bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any Replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every Replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Chapter 1201, Texas Government Code, this Section 11 of this Ordinance shall constitute authority for the issuance of any such Replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 6(a) of this Ordinance for Bonds issued in exchange for other Bonds.

Section 12. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINIONS; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The ~~Mayor or the~~ Mayor Pro-Tem of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinions of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

Section 13. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

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

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

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

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

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

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

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Bonds are issued,

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

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

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

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

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

(b) Rebate Fund. In order to facilitate compliance with the above covenant (9), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the

Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Assistant City Manager to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings of Bonds to be used for the purposes described in Section 3 of this Ordinance (collectively referred to herein as the "Project") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of this subsection, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

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

Section 14. SALE AND DELIVERY OF BONDS. The Bonds are hereby initially sold and shall be delivered to _____ for cash at a purchase price of \$ _____ (which amount is equal to the par value thereof, plus a net original issue premium of \$ _____, less a discount retained by the purchaser of \$ _____). The Bonds initially shall be registered in the name of _____.¹ It is hereby officially found, determined, and declared that said purchaser is the highest bidder for the Bonds as a result of invitations for competitive bids. It is further officially found, determined, and declared that the Bonds have been sold at public sale to the bidder offering the lowest interest cost, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated November 9, 2020, prepared and distributed in connection with the sale of the Bonds. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Bonds as set forth in this Ordinance and resulting from the receipt of such competitive bids are in the City's best interests.

Section 15. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

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

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

¹ [On the date of delivery of the Bonds, the Purchaser will purchase from Build America Mutual (the "Insurer") a municipal bond insurance policy to provide credit support for the Bonds. No additional requirements will be imposed on the City by the Insurer in connection with the issuance of such municipal bond insurance policy.]

(b) Remedies for Default.

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

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

(c) Remedies not Exclusive.

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

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

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

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

Section 16. INTEREST EARNINGS ON BOND PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with other bond proceeds for the purpose for which the Bonds are issued set forth in Section 3 and 4 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United

States of America pursuant to Section 13 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 17. APPROVAL OF THE FORM OF PAYING AGENT/REGISTRAR AGREEMENT AND LETTER OF REPRESENTATIONS. The Paying Agent/Registrar Agreement is hereby approved in substantially the form previously used by the City on other financings. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized to amend, complete or modify the Paying Agent/Registrar Agreement as necessary and is further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

Section 18. APPROVAL OF OFFICIAL STATEMENT. The City Council hereby approves the form and content of the Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Bonds by the winning bidder thereof in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Bonds, dated November 9, 2020, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

Section 19. APPROVAL OF ESCROW AGREEMENT; REFUNDING OF REFUNDED OBLIGATIONS. Concurrently with the initial delivery of the Bonds the City shall deposit an amount from the proceeds from the sale of the Bonds and other available funds of the City, if required, with BOKF, NA, as "Escrow Agent," sufficient to provide for the refunding of the Refunded Obligations, all in accordance with Chapter 1207. Attached hereto as **Exhibit D** is an Escrow Agreement between the City and the Escrow Agent, which is hereby approved in substantially final form, and the ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized, for and on behalf of the City, to approve any changes in the Escrow Agreement from the form attached hereto and to execute the Escrow Agreement in final form.

Section 20. NOTICE OF DEFEASANCE AND REDEMPTION OF REFUNDED OBLIGATIONS. There is attached to this Ordinance as **Exhibit E** a NOTICE OF DEFEASANCE AND REDEMPTION with respect to the Refunded Obligations. The Refunded Obligations are hereby called for redemption on the "Redemption Date" set forth in the NOTICE OF DEFEASANCE AND REDEMPTION. As soon as practicable after the adoption of this Ordinance, a copy such NOTICE shall be (i) posted with the MSRB through the EMMA system, and (ii) sent to all registered owners of the Refunded Obligations by first class mail postage prepaid, addressed to such registered owners at their respective addresses shown on the registration books of the paying agent/registrar for the Refunded Obligations.

Section 21. AMENDMENT OF ORDINANCE. The City hereby reserves the right to

amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds by a Rating Agency, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then Outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then Outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any Outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on Outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each Registered Owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in

aggregate principal amount of all of the Bonds then Outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then Outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 22. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, (1) within six months after the end of each Fiscal Year of the City ending in or after 2020, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 22 of this Ordinance, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in **Exhibit B** hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such Fiscal Year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal Year, when and if the audit report on such statements becomes available.

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

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

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

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws, and tender offers;
- H. Bond calls, if material within the meaning of the federal securities laws;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City; (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the

termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws;

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

O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 10 that causes the Bonds no longer to be Outstanding.

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

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

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

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

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

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

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“*Financial Obligation*” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time.

“*SEC*” means the United States Securities and Exchange Commission.

Section 23. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Bonds shall be personally liable

thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 24. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or Insurance Policy and the Official Statement. In addition, prior to the initial delivery of the Bonds, ~~the Mayor~~, the Mayor Pro-Tem, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 25. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the pledged revenues to secure the payment of the Bonds.

Section 26. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 27. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owners of the Bonds.

Section 28. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 29. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 30. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 31. EFFECTIVE DATE. This Ordinance shall become effective immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 32. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

READ and APPROVED on first reading this the 19th day of November, 2020.

THE CITY OF HUTTO, TEXAS

By: Mayor ~~Pro-Tem~~
City of Hutto, Texas

ATTEST:

City Secretary
City of Hutto, Texas

APPROVED AS TO FORM:

City Attorney
City of Hutto, Texas

EXHIBIT "A"

DEFINITIONS

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

"*Assistant City Manager(s)*" means the assistant city manager(s) of the City or any individual appointed to serve in such capacity for the City.

"*Bond Insurer*" or "*Insurer*" means the provider of a municipal bond insurance policy for the Bonds.

"*Book-Entry-Only System*" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"*Cede & Co.*" means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"*City*" means the City of Hutto, Texas, and where appropriate, the City Council.

"*City Charter*" means the charter of the City of Hutto, Texas adopted February 7, 2004, as further amended on November 7, 2006, November 3, 2009 and May 6, 2017, respectively.

"*City Council*" means the governing body of the City.

"*City Manager*" means the city manager of the City or any individual appointed to serve in such capacity for the City.

"*City Secretary*" means the city secretary of the City or any individual appointed to serve in such capacity for the City.

"*Defeasance Securities*" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any

other than authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"DTC" means The Depository Trust Company, New York, New York and its successors and assigns.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

"Financial Advisor" means Hilltop Securities Inc.

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

"Initial Bond(s)" means the Bond(s) authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"Insurance Policy" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"Interest and Sinking Fund" means the special fund maintained by the provisions of Section 8 of this Ordinance.

~~"Mayor" means the mayor of the City.~~

"Mayor Pro-Tem" means the mayor pro-tem of the City or any individual appointed to serve in such capacity for the City.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this ordinance finally adopted by the City Council on the date of the City Council's first reading of this Ordinance.

"Outstanding" or "outstanding", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds deemed paid pursuant to the provisions of Section 10 of this Ordinance;

(3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance; or

(4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in the Form of Bond.

"*Refunding Obligations*" means the City of Hutto, Texas General Obligation Refunding Bonds, Series 2020A.

"*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Bond.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bond as provided in Section 11 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 22 of this Ordinance.

Annual Financial Statements and Operating Data

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

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within twelve months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 5 and 7 through 13.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.

EXHIBIT "C"
PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT "D"
ESCROW AGREEMENT

D-1

HUTTO GO SERIES 2020A: BOND RES

EXHIBIT "E"
NOTICES OF DEFEASANCE AND REDEMPTION

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NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash to defease, and has further called for redemption on January 20, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2010, the outstanding obligations maturing on August 1 in the year 2030, aggregating \$1,805,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>
2030*	\$1,805,000**	3.600%	January 20, 2021

*Term Bond.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with Regions Bank, (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

<u>First Class/Registered/Certified Mail</u>	<u>By Overnight or Courier</u>	<u>By Hand</u>
Regions Bank Lakeshore Operations Center 201 Milan Parkway 2 nd Floor Corporate Trust Operations Birmingham, AL 35211	Regions Bank Lakeshore Operations Center 201 Milan Parkway 2 nd Floor Corporate Trust Operations Birmingham, AL 35211	Regions Bank Lakeshore Operations Center 201 Milan Parkway 2 nd Floor Corporate Trust Operations Birmingham, AL 35211

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2030 to be redeemed will be as follows:

<u>Term Bond Maturing August 1, 2030</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2021	\$ 155,000
August 1, 2022	160,000
August 1, 2023	165,000
August 1, 2024	170,000
August 1, 2025	175,000
August 1, 2026	180,000
August 1, 2027	190,000
August 1, 2028	195,000
August 1, 2029	205,000
August 1, 2030	210,000

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash to defease, and has further called for redemption on January 20, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010, the outstanding obligations maturing on August 1 in the years of 2021 through 2034, aggregating \$6,830,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2021	\$370,000	4.000%	January 20, 2021	448474FN1
2022	385,000	4.000	January 20, 2021	448474FP6
2023	400,000	4.000	January 20, 2021	448474FQ4
2024	420,000	4.000	January 20, 2021	448474FR2
2025	435,000	4.000	January 20, 2021	448474FS0
2026	450,000	4.000	January 20, 2021	448474FT8
2027	470,000	4.000	January 20, 2021	448474FU5
2028	490,000	4.125	January 20, 2021	448474FV3
2029	510,000	4.250	January 20, 2021	448474FW1
2030	530,000	4.300	January 20, 2021	448474FX9
2031	555,000	4.375	January 20, 2021	448474FY7
2032	580,000	4.375	January 20, 2021	448474FZ4
2033	605,000	4.400	January 20, 2021	448474GA8
2034	630,000	4.500	January 20, 2021	448474GB6

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with U.S. Bank, National Association (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

U.S. Bank Global Corporate Trust
Attn: Bondholder Services - EP-MN-
WS2N
111 Fillmore Avenue East
St Paul, MN 55107-1402

By Overnight or Courier

U.S. Bank Global Corporate Trust
Attn: Bondholder Services - EP-MN-
WS2N
111 Fillmore Avenue East
St Paul, MN 55107-1402

By Hand

U.S. Bank Global Corporate
Trust – St. Paul
111 Fillmore Avenue East, 1st Floor
St. Paul, MN 55107

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

EXHIBIT "F"
REQUIREMENTS OF THE INSURER WITH RESPECT TO
THE MUNICIPAL BOND INSURANCE POLICY

[To be determined]

the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Ordinance would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

[Signature Page Follows]

SIGNED AND SEALED this _____, 2020.

City Secretary

Mayor [Pro-Tem]

(CITY SEAL)

ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

DATE OF APPROVAL: NOVEMBER 19, 2020

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ ~~_____~~ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

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Exhibit B - Description of Annual Financial Information

Exhibit C - Paying Agent/Registrar Agreement

Exhibit D - Escrow Agreement

Exhibit E - Notices of Defeasance and Redemption

Exhibit F - Requirements of the Insurer with Respect to the Municipal Bond Insurance Policy

ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERE TO**

**THE STATE OF TEXAS
COUNTY OF WILLIAMSON
CITY OF HUTTO**

WHEREAS, the City of Hutto, Texas (the "City") is a duly incorporated home rule city and political subdivision of the State of Texas (the "State") operating and existing under the State Constitution and laws of the State, including the City Charter (as defined herein);

WHEREAS, among numerous series of obligations of the City which are secured by the full faith and credit of the City and a pledge by the City to levy ad valorem taxes sufficient to pay principal of and interest on such obligations as they become due, there is specifically outstanding the following series of obligations of which the City now desires to refund with the issuance of the Refunding Obligations (as defined herein) the following series of obligations:

City of Hutto, Texas General Obligation Bonds, Series 2010, dated September 15, 2010, maturing on August 1, 2030 and currently outstanding in the aggregate principal amount of \$1,805,000 (the "Series 2010 Bonds"); and

City of Hutto, Texas Tax and Waterworks and Sewer System Revenue Certificates of Obligation, Series 2010, dated January 1, 2010, maturing on August 1, in the years 2021 through 2034 and currently outstanding in the aggregate principal amount of \$6,830,000 (the "Series 2010 Obligations," together with the Series 2010 Bonds are collectively referred to herein as the "Refunded Obligations"); and

WHEREAS, the City now desires to refund the outstanding Series 2010 Bonds maturing in 2030 (aggregating \$1,805,000 in principal amount), and the Series 2010 Obligations maturing in the years 2021 through 2034, inclusive (aggregating \$6,830,000 in principal amount), as more specifically described as maturing in the years and in the principal amounts and bearing the interest as shown in the following tables:

CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2010				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2030	1,805,000	1,805,000	3.600	PRVTLYHLD

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2021	155,000	155,000	4.000	448474FN1
08/01/2022	160,000	160,000	4.000	448474FP6
08/01/2023	165,000	165,000	4.000	448474FQ4
08/01/2024	170,000	170,000	4.000	448474FR2
08/01/2025	175,000	175,000	4.000	448474FS0
08/01/2026	180,000	180,000	4.000	448474FT8
08/01/2027	190,000	190,000	4.000	448474FU5
08/01/2028	195,000	195,000	4.125	448474FV3
08/01/2029	205,000	205,000	4.250	448474FW1
08/01/2030	210,000	210,000	4.300	448474FX9
08/01/2031	155,000	155,000	4.375	448474FY7
08/01/2032	160,000	160,000	4.375	448474FZ4
08/01/2033	165,000	165,000	4.400	448474GA8
08/01/2034	170,000	170,000	4.500	448474GB6

WHEREAS, all of the Refunded Obligations are subject to redemption at the option of the City on August 1, 2020, or on any date thereafter; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, in an amount sufficient to provide for the payment and/or redemption of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, Chapter 1207 (specifically Section 1207.062, Texas Government Code) further authorizes the City to enter into an escrow agreement with (i) any paying agent for the

Refunded Obligations, or (ii) another trust company or commercial bank that does not act as a depository for the City and is named in the proceedings authorizing such escrow agreement, with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such paying agent, trust company or commercial bank may agree; provided that such deposits may be invested and reinvested:

(i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City (the "Council") adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent;

and all of which must mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or redemption of the Refunded Obligations; and

WHEREAS, *U.S. Bank, National Association*, currently serves as the paying agent for the Series 2010 Bonds and *Regions Bank* currently serves as the paying agent for the Series 2010 Obligations; however, as permitted by Section 1207.062, Texas Government Code, the City desires to appoint *BOKF, NA*, which is a commercial bank that does not act as a depository for the City, to serve as escrow agent in connection with the refunding and defeasing of the Refunded Obligations, and the Escrow Agreement(s) hereinafter authorized between the City and BOKF, NA, constitutes an escrow agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, the City Council hereby finds and declares a public purpose and it is advisable and in the best interests of the City to issue a series of bonds (defined in Section 4 hereof as the "Bonds"), the proceeds of which will be used to pay the costs of issuance and refund the Refunded Obligations in order to achieve a gross debt service savings of approximately \$_____ and a net present value debt services savings of approximately \$_____ to the City; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to Chapter 1207, Texas Government Code; and

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

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in *Exhibit A* to this Ordinance have the meanings assigned to them in *Exhibit A*.

Section 3. AMOUNT AND PURPOSE OF THE BONDS. General obligation bonds of the City are hereby authorized to be issued and delivered in the aggregate principal amount of \$ _____ **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS FOR DEBT SERVICE SAVINGS AND TO PAY THE COST OF ISSUANCE OF THE BONDS.**

Section 4. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. (a) Designation, Date, Denominations and Numbers. Each Bond issued pursuant to this Ordinance shall be designated "CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020A" (a "Bond" and collectively, the "Bonds") and initially there shall be issued, sold and delivered hereunder one fully registered bond, without interest coupons, dated as of November 15, 2020, with Bonds issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof, and with Bonds issued and delivered in substitution for the Initial Bond being numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Bond being payable to the initial purchaser designated in Section 14 hereof), or to the registered assignee or assignees of said bond or any portion or portions thereof (in each case, the "Registered Owner").

(b) Maturities. The Bonds shall mature on the dates and in the respective principal amounts as set forth below:

DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)	DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)
2021		2028	
2022		2029	
2023		2030	
2024		2031	
2025		2032	
2026		2033	

2027		2034	
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Section 5. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum as set forth below:

YEAR OF MATURITY	INTEREST RATE (%)	YEAR OF MATURITY	INTEREST RATE (%)
2021		2028	
2022		2029	
2023		2030	
2024		2031	
2025		2032	
2026		2033	
2027		2034	

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Ordinance.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust or commercial banking office (currently located in Dallas, Texas) of BOKF, NA (the "Paying Agent/Registrar"), books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as **Exhibit C** is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor, ~~Mayor~~ Pro-Tem and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds shall be paid as provided in the FORM OF BOND set forth in this Ordinance. Registration of assignments, transfers and exchanges of Bonds shall be made in the

manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Subchapter D of Chapter 1201, Texas Government Code, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said certificate, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bonds and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bonds.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof, (ii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Initial Bond is not required to be, and shall not be, authenticated by the Paying Agent/ Registrar, but on each substitute Bond issued in exchange for the Initial Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Bonds. The Bonds issued in exchange for the Bonds initially issued to the purchaser specified in Section 14 herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (i) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying

Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the Ordinance of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfers Outside Book-Entry Only Systems. In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) DTC Letter of Representation. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of Representation, if necessary, with DTC establishing the book-entry only system with respect to the Bonds.

(i) Delivery of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds and, payable in stated installments to the initial registered

owner named in Section 14 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor ~~or Mayor~~ Pro-Tem and City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Bonds, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

Section 7. FORM OF BOND. The form of the Bond, including the FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to be attached to the Bonds initially issued and delivered pursuant to this Ordinance), shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF BOND

R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BOND, SERIES 2020A	PRINCIPAL AMOUNT \$ _____
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<u>INTEREST</u>	<u>MATURITY</u>	<u>DATE OF</u>	<u>DATE OF</u>	
<u>RATE</u>	<u>DATE</u>	<u>BONDS</u>	<u>DELIVERY</u>	<u>CUSIP NO.</u>

REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE specified above, the City of Hutto, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from December 17, 2020, the initial date of delivery of the Bonds, on February 1, 2021, and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above calculated on the basis of a 360-day year of twelve 30-day months; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been

paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at BOKF, NA, which is the "Paying Agent/Registrar" for this Bond at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the 15th day of the month preceding such interest payment date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment

date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a Series of Bonds dated November 15, 2020, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$_____ (the "Bonds"), **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS AND TO PAY THE COSTS OF ISSUANCE OF THE BONDS.**

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

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

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Bond.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the

requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

IT IS FURTHER certified that the City has designated the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor ~~or Mayor~~ Pro-Tem of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Hutto, Texas
(SEAL)

Mayor ~~{Pro-Tem}~~, City of Hutto, Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally

was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

BOKF, N.A.

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT
ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

STATEMENT OF INSURANCE

[Insert disclosure of insurer if insurance is obtained]

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Hutto, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from August 1, 2021, at the respective Interest Rates per annum specified below, payable on February 1, 2021 and semiannually on each February 1 and August 1 thereafter to the respective Maturity Dates specified below. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

<u>Maturity Date</u> <u>(August 1)</u>	<u>Principal</u> <u>Installment (\$)</u>	<u>Interest</u> <u>Rate (%)</u>
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(Insert information from Sections 4 and 5 above)

C. The Initial Bond shall be numbered "T-1."

Section 8. INTEREST AND SINKING FUND; TAX LEVY. (a) Interest and Sinking Fund; Tax Levy. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 9. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in each Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date on which such funds will be needed. Income and profits from such investments shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on proceeds which are required to be

rebated to the United States of America pursuant to Section 13 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 10. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities and thereafter the City will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank or trust company as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City

shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the Registered Owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bond. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a Replacement Bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any Replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every Replacement Bond issued pursuant

to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Chapter 1201, Texas Government Code, this Section 11 of this Ordinance shall constitute authority for the issuance of any such Replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 6(a) of this Ordinance for Bonds issued in exchange for other Bonds.

Section 12. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINIONS; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The ~~Mayor or the~~ Mayor Pro-Tem of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinions of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

Section 13. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

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

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

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

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

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

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

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Bonds are issued,

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

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

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

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

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

(b) Rebate Fund. In order to facilitate compliance with the above covenant (9), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Assistant City Manager to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings of Bonds to be used for the purposes described in Section 3 of this Ordinance (collectively referred to herein as the "Project") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of

the Bonds. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of this subsection, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

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

Section 14. SALE AND DELIVERY OF BONDS. The Bonds are hereby initially sold and shall be delivered to _____ for cash at a purchase price of \$ _____ (which amount is equal to the par value thereof, plus a net original issue premium of \$ _____, less a discount retained by the purchaser of \$ _____). The Bonds initially shall be registered in the name of _____.¹ It is hereby officially found, determined, and declared that said purchaser is the highest bidder for the Bonds as a result of invitations for competitive bids. It is further officially found, determined, and declared that the Bonds have been sold at public sale to the bidder offering the lowest interest cost, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated November 9, 2020, prepared and distributed in connection with the sale of the Bonds. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Bonds as set

¹ [On the date of delivery of the Bonds, the Purchaser will purchase from Build America Mutual (the "Insurer") a municipal bond insurance policy to provide credit support for the Bonds. No additional requirements will be imposed on the City by the Insurer in connection with the issuance of such municipal bond insurance policy.]

forth in this Ordinance and resulting from the receipt of such competitive bids are in the City's best interests.

Section 15. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

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

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

(c) Remedies not Exclusive.

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

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

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or

representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

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

Section 16. INTEREST EARNINGS ON BOND PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with other bond proceeds for the purpose for which the Bonds are issued set forth in Section 3 and 4 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 13 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 17. APPROVAL OF THE FORM OF PAYING AGENT/REGISTRAR AGREEMENT AND LETTER OF REPRESENTATIONS. The Paying Agent/Registrar Agreement is hereby approved in substantially the form previously used by the City on other financings. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized to amend, complete or modify the Paying Agent/Registrar Agreement as necessary and is further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

Section 18. APPROVAL OF OFFICIAL STATEMENT. The City Council hereby approves the form and content of the Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Bonds by the winning bidder thereof in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Bonds, dated November 9, 2020, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

Section 19. APPROVAL OF ESCROW AGREEMENT; REFUNDING OF REFUNDED OBLIGATIONS. Concurrently with the initial delivery of the Bonds the City shall deposit an amount from the proceeds from the sale of the Bonds and other available funds of the City, if required, with BOKF, NA, as "Escrow Agent," sufficient to provide for the refunding of the Refunded Obligations, all in accordance with Chapter 1207. Attached hereto as

Exhibit D is an Escrow Agreement between the City and the Escrow Agent, which is hereby approved in substantially final form, and the ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized, for and on behalf of the City, to approve any changes in the Escrow Agreement from the form attached hereto and to execute the Escrow Agreement in final form.

Section 20. NOTICE OF DEFEASANCE AND REDEMPTION OF REFUNDED

OBLIGATIONS. There is attached to this Ordinance as *Exhibit E* a NOTICE OF DEFEASANCE AND REDEMPTION with respect to the Refunded Obligations. The Refunded Obligations are hereby called for redemption on the "Redemption Date" set forth in the NOTICE OF DEFEASANCE AND REDEMPTION. As soon as practicable after the adoption of this Ordinance, a copy such NOTICE shall be (i) posted with the MSRB through the EMMA system, and (ii) sent to all registered owners of the Refunded Obligations by first class mail postage prepaid, addressed to such registered owners at their respective addresses shown on the registration books of the paying agent/registrar for the Refunded Obligations.

Section 21. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds by a Rating Agency, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then Outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then Outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any Outstanding Bonds;

(4) Modify the terms of payment of principal or of interest or redemption premium on Outstanding Bonds or any of them or impose any condition with respect to such payment; or

(5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each Registered Owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then Outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then Outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 22. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, (1) within six months after the end of each Fiscal Year of the City ending in or after 2020, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 22 of this Ordinance, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in *Exhibit B* hereto, or such other accounting principles as the City may be required to

employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such Fiscal Year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal Year, when and if the audit report on such statements becomes available.

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

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

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

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

J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;

K. Rating changes;

L. Bankruptcy, insolvency, receivership or similar event of the City; (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

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

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

O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 10 that causes the Bonds no longer to be Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and

notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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

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

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

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

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

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 23. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 24. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or Insurance Policy and the Official Statement. In addition, prior to the initial delivery of the Bonds, ~~the Mayor~~, the Mayor Pro-Tem, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 25. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the pledged revenues to secure the payment of the Bonds.

Section 26. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 27. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owners of the Bonds.

Section 28. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 29. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 30. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 31. EFFECTIVE DATE. This Ordinance shall become effective immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 32. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

READ and APPROVED on first reading this the 19th day of November, 2020.

THE CITY OF HUTTO, TEXAS

By: Mayor {Pro-Tem}
City of Hutto, Texas

ATTEST:

City Secretary
City of Hutto, Texas

APPROVED AS TO FORM:

City Attorney
City of Hutto, Texas

EXHIBIT "A"

DEFINITIONS

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

"*Assistant City Manager(s)*" means the assistant city manager(s) of the City or any individual appointed to serve in such capacity for the City.

"*Bond Insurer*" or "*Insurer*" means the provider of a municipal bond insurance policy for the Bonds.

"*Book-Entry-Only System*" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"*Cede & Co.*" means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"*City*" means the City of Hutto, Texas, and where appropriate, the City Council.

"*City Charter*" means the charter of the City of Hutto, Texas adopted February 7, 2004, as further amended on November 7, 2006, November 3, 2009 and May 6, 2017, respectively.

"*City Council*" means the governing body of the City.

"*City Manager*" means the city manager of the City or any individual appointed to serve in such capacity for the City.

"*City Secretary*" means the city secretary of the City or any individual appointed to serve in such capacity for the City.

"*Defeasance Securities*" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its

equivalent and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"DTC" means The Depository Trust Company, New York, New York and its successors and assigns.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

"Financial Advisor" means Hilltop Securities Inc.

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

"Initial Bond(s)" means the Bond(s) authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"Insurance Policy" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"Interest and Sinking Fund" means the special fund maintained by the provisions of Section 8 of this Ordinance.

~~"Mayor" means the mayor of the City.~~

"Mayor Pro-Tem" means the mayor pro-tem of the City or any individual appointed to serve in such capacity for the City.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this ordinance finally adopted by the City Council on the date of the City Council's first reading of this Ordinance.

"Outstanding" or "outstanding", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds deemed paid pursuant to the provisions of Section 10 of this Ordinance;

(3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance; or

(4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in the Form of Bond.

"*Refunding Obligations*" means the City of Hutto, Texas General Obligation Refunding Bonds, Series 2020A.

"*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Bond.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bond as provided in Section 11 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 22 of this Ordinance.

Annual Financial Statements and Operating Data

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

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within twelve months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 5 and 7 through 13.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.

EXHIBIT "C"
PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT "D"
ESCROW AGREEMENT

D-3

HUTTO GO SERIES 2020A: BOND RES

EXHIBIT "E"
NOTICES OF DEFEASANCE AND REDEMPTION

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NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash to defease, and has further called for redemption on January 20, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2010, the outstanding obligations maturing on August 1 in the year 2030, aggregating \$1,805,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>
2030*	\$1,805,000**	3.600%	January 20, 2021

*Term Bond.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with Regions Bank, (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

Regions Bank
Lakeshore Operations Center
201 Milan Parkway
2nd Floor Corporate Trust Operations
Birmingham, AL 35211

By Overnight or Courier

Regions Bank
Lakeshore Operations Center
201 Milan Parkway
2nd Floor Corporate Trust Operations
Birmingham, AL 35211

By Hand

Regions Bank
Lakeshore Operations Center
201 Milan Parkway
2nd Floor Corporate Trust
Operations
Birmingham, AL 35211

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2030 to be redeemed will be as follows:

<u>Term Bond Maturing August 1, 2030</u>	
<u>Mandatory</u>	<u>Refunded</u>
<u>Redemption Date</u>	<u>Principal Amount</u>
August 1, 2021	\$ 155,000
August 1, 2022	160,000
August 1, 2023	165,000
August 1, 2024	170,000
August 1, 2025	175,000
August 1, 2026	180,000
August 1, 2027	190,000
August 1, 2028	195,000
August 1, 2029	205,000
August 1, 2030	210,000

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash to defease, and has further called for redemption on January 20, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010, the outstanding obligations maturing on August 1 in the years of 2021 through 2034, aggregating \$6,830,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2021	\$370,000	4.000%	January 20, 2021	448474FN1
2022	385,000	4.000	January 20, 2021	448474FP6
2023	400,000	4.000	January 20, 2021	448474FQ4
2024	420,000	4.000	January 20, 2021	448474FR2
2025	435,000	4.000	January 20, 2021	448474FS0
2026	450,000	4.000	January 20, 2021	448474FT8
2027	470,000	4.000	January 20, 2021	448474FU5
2028	490,000	4.125	January 20, 2021	448474FV3
2029	510,000	4.250	January 20, 2021	448474FW1
2030	530,000	4.300	January 20, 2021	448474FX9
2031	555,000	4.375	January 20, 2021	448474FY7
2032	580,000	4.375	January 20, 2021	448474FZ4
2033	605,000	4.400	January 20, 2021	448474GA8
2034	630,000	4.500	January 20, 2021	448474GB6

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with U.S. Bank, National Association (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

U.S. Bank Global Corporate Trust
Attn: Bondholder Services - EP-MN-
WS2N
111 Fillmore Avenue East
St Paul, MN 55107-1402

By Overnight or Courier

U.S. Bank Global Corporate Trust
Attn: Bondholder Services - EP-MN-
WS2N
111 Fillmore Avenue East
St Paul, MN 55107-1402

By Hand

U.S. Bank Global Corporate
Trust – St. Paul
111 Fillmore Avenue East, 1st Floor
St. Paul, MN 55107

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

EXHIBIT "F"
**REQUIREMENTS OF THE INSURER WITH RESPECT TO
THE MUNICIPAL BOND INSURANCE POLICY**

[To be determined]

ESCROW AGREEMENT

CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAX-EXEMPT SERIES 2020A

THIS ESCROW AGREEMENT, dated as of December 17, 2020 (herein, together with any amendments or supplements hereto, called the "Agreement"), entered into by and between the City of Hutto, Texas (the "Issuer") and BOKF, NA, as escrow agent (together with any successor in such capacity, the "Escrow Agent"). The addresses of the Issuer and the Escrow Agent are shown on Exhibit "A" attached hereto and made apart hereof.

W I T N E S S E T H:

WHEREAS, the Issuer heretofore issued and there presently remain outstanding the obligations (the "Refunded Obligations") described in the Sufficiency Certificate prepared by Hilltop Securities Inc. relating to the Refunded Obligations, attached hereto as Exhibit "B" and made a part hereof (the "Certificate"); and

WHEREAS, the Refunded Obligations are scheduled to mature in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in the Certificate; and

WHEREAS, when firm banking arrangements have been made for the payment of principal and interest to the maturity or redemption dates of the Refunded Obligations, then the Refunded Obligations shall no longer be regarded as outstanding except for the purposes of receiving payment from the funds provided for such purpose and Issuer's right to call such Refunded Obligations for redemption in accordance with the provisions of the resolution, order or ordinance authorizing their issuance upon compliance with the provisions of Texas law; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the Issuer to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with an eligible institution, including any place of payment (paying agent) for any of the Refunded Obligations, and such deposit, if made before such payment dates and in sufficient amounts, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, Chapter 1207 further authorizes the Issuer to enter into an escrow agreement with any such paying agent for any of the Refunded Obligations with respect to the safekeeping, investment, administration and disposition of any such deposit, upon such terms and conditions as the Issuer and such paying agent may agree, provided that such deposits may be invested only in obligations authorized by Chapter 1207, and which shall mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of principal and interest on the Refunded Obligations when due; and

WHEREAS, this Agreement constitutes an escrow agreement of the kind authorized and required by said Chapter 1207; and

WHEREAS, in accordance with Section 1207.061(a)(3) of the Government Code the Escrow Agent does not act as a depository bank of the Issuer; and

WHEREAS, Regions Bank is the paying agent for the Issuer's General Obligation Bonds, Series 2010 and U.S. Bank, N.A. is the paying agent for the Tax and Waterworks and Sewer System Revenue Certificates of Obligation, Series 2010, hereinafter referred to collectively as, the "Refunded Obligations"; and

WHEREAS, Chapter 1207 makes it the duty of the Escrow Agent to comply with the terms of this Agreement and timely make available to the other places of payment (paying agents) for the Refunded Obligations the amounts required to provide for the payment of the principal of and interest on such obligations when due, and in accordance with their terms, but solely from the funds, in the manner, and to the extent provided in this Agreement; and

WHEREAS, the Issuer's General Obligation Refunding Bonds, Tax-Exempt Series 2020A (the "Refunding Obligations") have been issued, sold and delivered for the purpose, among others, of obtaining the funds required to provide for the payment of the principal of the Refunded Obligations at their respective maturity dates or dates of redemption and the interest thereon to such dates as set forth in the Certificate; and

WHEREAS, the Issuer desires that, concurrently with the delivery of the Refunding Obligations to the purchasers thereof, certain proceeds of the Refunding Obligations shall be held for deposit to the credit of the Escrow Fund created pursuant to the terms of this Agreement in such Escrow Fund; and

WHEREAS, the cash will be sufficient to pay interest on the Refunded Obligations as it accrues and becomes payable and the principal of the Refunded Obligations on their respective maturity dates or dates of redemption; and

WHEREAS, the Escrow Agent is herein also referred to as the "Paying Agent," and any paying agent for the Refunded Obligations, acting through the Escrow Agent, is also a party to this Agreement, as a paying agent for the Refunded Obligations to acknowledge their acceptance of the terms and provisions of this Agreement in such capacity.

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which are hereby acknowledged, and in order to secure the full and timely payment of principal of and the interest on the Refunded Obligations, the Issuer and the Escrow Agent mutually undertake, promise, and agree for themselves and their respective representatives and successors, as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions. Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

"Code" means the Internal Revenue Code of 1986, as amended, or to the extent applicable the Internal Revenue Code of 1954, together with any other applicable provisions of any successor federal income tax laws.

"Escrow Fund" means the fund created by this Agreement to be administered by the Escrow Agent pursuant to the provisions of this Agreement.

"Paying Agent" means BOKF, NA acting in its capacity as paying agent for the Refunded Obligations.

Section 1.02. Other Definitions. The terms "Agreement," "Issuer," "Escrow Agent," "Paying Agent," "Refunded Obligations," "Refunding Obligations," and "Report" when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section 1.03. Interpretations. The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Obligations in accordance with applicable law.

ARTICLE II

DEPOSIT OF FUNDS

Section 2.01. Deposits in the Escrow Fund. Concurrently with the sale and delivery of the Refunding Obligations the Issuer shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds described in the Certificate, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the Issuer in writing.

ARTICLE III

CREATION AND OPERATION OF ESCROW FUND

Section 3.01. Escrow Fund. The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Issuer's Tax-Exempt Bonds Refunded Obligations Escrow Fund 2020A (the "Tax-Exempt Bonds Escrow Fund"). The Escrow Agent hereby agrees that upon receipt thereof it will irrevocably deposit to the credit of the Tax-Exempt Bonds Escrow Fund the funds described in the Certificate. Such deposit therein (a) shall be the property of the Tax-Exempt Bonds Escrow Fund, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Obligations, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.02 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Obligations on their respective maturity dates or dates of redemption, any balance then remaining in the Tax-Exempt Bonds Escrow Fund shall be transferred to the Issuer, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.02. Payment of Principal and Interest. The Escrow Agent is hereby irrevocably instructed to transfer from the cash balance on deposit in the Tax-Exempt Bonds Escrow Fund, the amounts required to pay the principal of the Refunded Obligations at their respective maturity dates or dates of redemption and interest thereon to such maturity dates or dates of redemption in the amounts and at the times shown in the Certificate.

Section 3.03. Sufficiency of Tax-Exempt Bonds Escrow Fund. The Issuer represents that the cash balance on deposit in the Tax-Exempt Bonds Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Obligations at their respective maturity dates or dates of redemption as such interest comes due and the principal of the Refunded Obligations mature, all as more fully set forth in the Certificate.

Section 3.04. Trust Fund. The Escrow Agent shall hold at all times the Tax-Exempt Bonds Escrow Fund and all other assets of the Tax-Exempt Bonds Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Tax-Exempt Bonds Escrow Fund to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Tax-Exempt Bonds Escrow Fund only as set forth herein. The assets of the Tax-Exempt Bonds Escrow Fund shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Obligations; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Obligations shall be entitled to the same preferred claim and first lien upon the assets of the Tax-Exempt Bonds Escrow Fund to which they are entitled as owners of the Refunded Obligations. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Issuer, and the Escrow Agent shall have no right to title with respect thereto except as a constructive trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent

under this Agreement shall not be subject to warrants, drafts or checks drawn by the Issuer or, except to the extent expressly herein provided, by the Paying Agent.

Section 3.05. Security for Cash Balances. Cash balances from time to time on deposit in the Tax-Exempt Bonds Escrow Fund shall, to the extent not insured by the Federal Deposit Insurance Corporation or its successor, be continuously secured by a pledge of direct obligations of, or obligations unconditionally guaranteed by, the United States of America, having a market value at least equal to such cash balances.

ARTICLE IV

LIMITATION ON INVESTMENTS

The Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder.

ARTICLE V

APPLICATION OF CASH BALANCES

No withdrawals, transfers, or reinvestment shall be made of cash balances in the Tax-Exempt Bonds Escrow Fund.

ARTICLE VI

RECORDS AND REPORTS

Section 6.01. Records. The Escrow Agent will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money deposited to the Tax-Exempt Bonds Escrow Fund and all proceeds thereof, and such books shall be available for inspection at reasonable hours and under reasonable conditions by the Issuer and the owners of the Refunded Obligations.

Section 6.02. Reports. While this Agreement remains in effect, the Escrow Agent annually shall prepare and send to the Issuer a written report summarizing all transactions relating to the Tax-Exempt Bonds Escrow Fund during the preceding year, including, without limitation, transfers from the Tax-Exempt Bonds Escrow Fund for payments on the Refunded Obligations or otherwise, together with a detailed statement of the cash balance on deposit in the Tax-Exempt Bonds Escrow Fund as of the end of such period.

ARTICLE VII

CONCERNING THE PAYING AGENTS AND ESCROW AGENT

Section 7.01. Representations. The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 7.02. Limitation on Liability. The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Obligations shall be limited to the cash balances from time to time on deposit in the Tax-Exempt Bonds Escrow Fund. Notwithstanding any provision contained herein to the contrary, neither the Escrow Agent nor the Paying Agent shall have any liability whatsoever for the insufficiency of funds from time to time in the Tax-Exempt Bonds Escrow Fund or any failure of the obligors to make timely payment thereon, except for the obligation to notify the Issuer as promptly as practicable of any such occurrence.

The recitals herein and in the proceedings authorizing the Refunding Obligations shall be taken as the statements of the Issuer and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent. The Escrow Agent is not a party to the proceedings authorizing the Refunding Obligations or the Refunded Obligations and is not responsible for nor bound by any of the provisions thereof (except as a place of payment and paying agent and/or a Paying Agent/Registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Tax-Exempt Bonds Escrow Fund, or any part thereof, or as to the title of the Issuer thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or willful misconduct.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the Issuer with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Tax-Exempt Bonds Escrow Fund, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own willful misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the Issuer at any time.

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

Section 7.03. Compensation. (a) Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Escrow Agent, as a fee for performing the services hereunder and for all expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement, the amount set forth in Exhibit "C" attached hereto, the sufficiency of which is hereby acknowledged by the Escrow Agent. In the event that the Escrow Agent is requested to perform any extraordinary services hereunder, the Issuer hereby agrees to pay reasonable fees to the Escrow Agent for such extraordinary services and to reimburse the Escrow Agent for all expenses incurred by the Escrow Agent in performing such extraordinary services, and the Escrow Agent hereby agrees to look only to the Issuer for the payment of such fees and reimbursement of such expenses. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against the Tax-Exempt Bonds Escrow Fund for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses.

(b) Upon receipt of the aforesaid specific sums stated in subsection (a) of this Section 7.03 for Escrow Agent fees, expenses, and services, the Escrow Agent shall acknowledge such receipt to the Issuer in writing.

(c) Regions Bank, Houston, Texas is the place of payment (paying agent) for the Refunded Obligations. Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Paying Agent, the sum of \$_____, the sufficiency of which is hereby acknowledged by Regions Bank for all future paying agency services with respect to the Refunded Obligations for which Regions Bank is paying agent, and Regions Bank warrants that such sum is sufficient for such purpose.

(d) U.S. Bank, N.A., Houston, Texas is the place of payment (paying agent) for the Refunded Obligations. Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Paying Agent, the sum of \$300.00, the sufficiency of which is hereby acknowledged by U.S. Bank, N.A. for all future paying agency services with respect to the Refunded Obligations for which U.S. Bank, N.A. is paying agent, and U.S. Bank, N.A. warrants that such sum is sufficient for such purpose.

Section 7.04. Successor Escrow Agents. If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the Issuer, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the Issuer within 60 calendar days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Obligations then outstanding by an instrument or instruments in writing filed with the Issuer, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Obligation may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Texas, authorized under such laws to exercise corporate trust powers, authorized under Texas law to act as an escrow agent, having its principal office and place of business in the State of Texas, having a combined capital and surplus of at least \$5,000,000 and subject to the supervision or examination by Federal or State authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the Issuer and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the

terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The Escrow Agent at the time acting hereunder may at any time resign and be discharged from the trust hereby created by giving not less than sixty (60) days' written notice to the Issuer and publishing notice thereof, specifying the date when such resignation will take effect, in a newspaper printed in the English language and with general circulation in New York, New York, such publication to be made once at least three (3) weeks prior to the date when the resignation is to take effect. No such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the owners of the Refunded Obligations or by the Issuer as herein provided and such successor Escrow Agent shall be a paying agent for the Refunded Obligations and shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

Under any circumstances, the Escrow Agent shall pay over to its successor Escrow Agent proportional parts of the Escrow Agent's fee and, if applicable, its Paying Agent's fee hereunder.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notice. Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the Issuer or the Escrow Agent at the address shown on Exhibit "A" attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten (10) calendar days prior notice thereof. Prior written notice of any amendment to this Agreement contemplated pursuant to Section 8.08 and immediate written notice of any incidence of a severance pursuant to Section 8.04 shall be sent to Moody's Investors Service, Attn: Public Finance Rating Desk/Refunded Bonds, 99 Church Street, New York, New York 10007 and Standard & Poor's Corporation, Attn: Municipal Bond Department, 25 Broadway, New York, New York 10004.

Section 8.02. Termination of Responsibilities. Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the Issuer, the owners of the Refunded Obligations or to any other person or persons in connection with this Agreement.

Section 8.03. Binding Agreement. This Agreement shall be binding upon the Issuer and the Escrow Agent and their respective successors and legal representatives, and shall inure

solely to the benefit of the owners of the Refunded Obligations, the Issuer, the Escrow Agent and their respective successors and legal representatives.

Section 8.04. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 8.05. Texas Law Governs. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Texas.

Section 8.06. Time of the Essence. Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 8.07. Effective date of Agreement. This Agreement shall be effective upon receipt by the Escrow Agent of the funds described in the Certificate, together with the specific sums stated in subsection (a) of Section 7.03 for the Escrow Agent and paying agency fees, expenses, and services.

Section 8.08. Amendments. This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Obligations.

Section 8.09. Counterparts. This Agreement may be executed in one or more counterparts, each and all of which shall constitute one and the same instrument. The transactions described herein may be conducted and related documents may be sent and stored by electronic means.

Section 8.10. No Boycott of Israel. The Escrow Agent represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Escrow Agent understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

Section 8.11. No Terrorism. The Escrow Agent represents that, neither the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>

<https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Escrow Agent and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Escrow Agent understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

[Remainder of this Page Intentionally Left Blank]

EXECUTED as of the date first written above.

THE CITY OF HUTTO, TEXAS

By: _____
Mayor [Pro-Tem]

BOKF, NA, as Escrow Agent

By: _____
Name: Tony Hongnoi
Title: Vice President

Solely for the purpose of acknowledging the provisions in Section 7.03(c).

REGIONS BANK

By _____
Authorized Signatory

Solely for the purpose of acknowledging the provisions in Section 7.03(d).

U.S. BANK, N.A.

By _____
Authorized Signatory

EXHIBIT "A"

ADDRESSES OF THE ISSUER AND THE ESCROW AGENT

Issuer

The City of Hutto, Texas
500 W. Live Oak Street
Hutto, Texas 78634
Attn: Warren Hutmacher

Escrow Agent

BOKF, NA
5956 Sherry Lane
Suite 1201
Dallas, Texas 75225
Attn: Tony Hongnoi

EXHIBIT "B"

SUFFICIENCY CERTIFICATE

[See Separate Tab of Transcript]

EXHIBIT "C"

ESCROW AGENT FEE SCHEDULE

C-1

H:\00\GORB 2020A\ EscrowAgrmnt

CERTIFICATE OF SUFFICIENCY OF FUNDS

The undersigned, being an authorized officer of Hilltop Securities Inc., which serves as the financial advisor to the City of Hutto, Texas (the "City") in connection with the issuance of the "City of Hutto, Texas General Obligation Refunding Bonds, Tax-Exempt Series 2020A" (the "Series 2020A Bonds") hereby certifies as follows:

1. This certificate is given in connection with the defeasance and payment of \$1,805,000 in outstanding aggregate principal amount of the City's "General Obligation Bonds, Series 2010" and \$6,830,000 in outstanding aggregate principal amount of the City's "Tax and Waterworks and Sewer System Revenue Certificates of Obligation, Series 2010" (collectively, the "Refunded Obligations") as further described in the Escrow Agreement (as defined herein). The Refunded Obligations will be redeemed on January 20, 2021 (the "Redemption Date").
2. The City has authorized the issuance of the Series 2020A Bonds in the original principal amount of \$_____ for the purpose of defeasing and refunding the Refunded Obligations.
3. The amounts described in paragraph 4 below will be deposited by the City with _____, acting as escrow agent (the "Escrow Agent") for the Refunded Obligations under that certain Escrow Agreement dated as of December __, 2020 (the "Escrow Agreement") between the City and the Escrow Agent, to be applied to pay the redemption price of the Refunded Obligations on the Redemption Date.
4. A portion of the proceeds of the Series 2020A Bonds in the aggregate amount of \$_____ (representing the aggregate outstanding principal balance of the Refunded Obligations of \$_____ plus accrued interest in the amount of \$_____) shall be deposited with the Escrow Agent on December __, 2020. Such deposited amount, without any subsequent reinvestment, is sufficient to redeem the Refunded Obligations on the applicable Redemption Date.

[Signature page follows]

EXECUTED THIS _____, 20__.

HILLTOP SECURITIES INC.

By:

Title:

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of December 17, 2020 (this "Agreement"), by and between the City of Hutto, Texas (the "Issuer"), and BOKF, NA, a banking corporation duly organized and existing under the laws of the United States of America (the "Bank").

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "General Obligation Bonds Refunding Bonds, Tax-Exempt Series 2020A" in the aggregate principal amount of \$ _____ and "General Obligation Refunding Bonds, Taxable Series 2020B" in the aggregate principal amount of \$ _____ (collectively, the "Securities"), such Securities to be issued in fully registered form only as to the payment of principal and interest thereon; and

WHEREAS, the Securities are scheduled to be delivered to the initial purchasers thereof on or about December 17, 2020; and

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

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

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01. Appointment.

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

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

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

Section 1.02. Compensation.

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for municipalities, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year.

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

**ARTICLE TWO
DEFINITIONS**

Section 2.01. Definitions.

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

"Bank Office" means the designated office of the Bank as indicated on the signature page hereof, except that the payment and registration duties of the Bank will be performed from the Bank's designated office located in Dallas, Texas. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Financial Advisor" means Hilltop Securities Inc.

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

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

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

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for

which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Ordinances).

"Record Date" means the Record Date as defined in the Ordinances.

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

"Registered Owner" each means the Person in whose name a Security is registered in the Security Register.

"Ordinances" means the orders, ordinances or resolutions of the governing body of the Issuer pursuant to which the Securities are issued, certified by the City Secretary of the Issuer or any other officer of the Issuer and delivered to the Bank.

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

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

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

Section 2.02. Other Definitions.

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

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

ARTICLE THREE PAYING AGENT

Section 3.01. Duties of Paying Agent.

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

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Registered Owner and preparing and sending checks by United States Mail, first class postage prepaid, on each payment date, to the Registered Owners of the Securities (or their Predecessor Securities) on the respective Record Date, to the address appearing on the Security Register or by such other method, acceptable to the Bank, requested in writing by the Registered Owner at the Registered Owner's risk and expense.

Section 3.02. Payment Dates.

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

Section 3.03 Reporting Requirements.

To the extent required by the Internal Revenue Code of 1986 and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto, the Bank shall report, or assure that a report is made to the Holder and the Internal Revenue Service any amount of acquisition premium, interest paid on, original issue discount or adjusted basis of the Security.

**ARTICLE FOUR
REGISTRAR**

Section 4.01. Security Register - Transfers and Exchanges.

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

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority,

in form satisfactory to the Bank, duly executed by the Registered Owner thereof or his agent duly authorized in writing.

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

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Registered Owners thereof will be completed and new Securities delivered to the Registered Owner or the assignee of the Registered Owner in not more than three (3) business days after the receipt of the Securities to be canceled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Registered Owner, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02. Certificates.

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

Section 4.03. Form of Security Register.

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

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

Section 4.04. List of Registered Owners.

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

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

Section 4.05. Return of Canceled Certificates.

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

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

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

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

Section 4.07. Transaction Information to Issuer.

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

**ARTICLE FIVE
THE BANK**

Section 5.01. Duties of Bank.

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

Section 5.02. Reliance on Documents, Etc.

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

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

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

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

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

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

(g) The Bank shall maintain a copy of the Security Register within the State of Texas.

The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner described in any closing memorandum as prepared by the City, the

City's Financial Advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum acknowledged by the City or its Financial Advisor or other agent as the final closing memorandum. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with the instructions set forth in the closing memorandum.

Section 5.03. Recitals of Issuer.

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

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

Section 5.04. May Hold Securities.

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

Section 5.05. Moneys Held by Bank.

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

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

Section 5.06. Indemnification.

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

Section 5.07. Interpleader.

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

Section 5.08. Depository Trust Company Services.

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

Attached hereto is a copy of the Blanket Letter of Representations with The Depository Trust Company.

**ARTICLE SIX
MISCELLANEOUS PROVISIONS**

Section 6.01. Amendment.

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

Section 6.02. Assignment.

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

Section 6.03. Notices.

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

Section 6.04. Effect of Headings.

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

Section 6.05. Successors and Assigns.

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

Section 6.06. Severability.

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

Section 6.07. Benefits of Agreement.

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

Section 6.08. Entire Agreement.

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

Section 6.09. Counterparts.

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

Section 6.10. Termination.

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

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

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.11. Governing Law.

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

Section 6.12. No Boycott of Israel. The Paying Agent/Registrar represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Paying Agent/Registrar, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Paying Agent/Registrar understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Paying Agent/Registrar and exists to make a profit.

Section 6.13. No Terrorism. The Paying Agent/Registrar represents that, neither the Paying Agent/Registrar, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>

<https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Paying Agent/Registrar and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Paying Agent/Registrar understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Paying Agent/Registrar and exists to make a profit.

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

BOKF, NA

By _____

Title _____

[PARA Sig Pg]

Hutto\GORB\2020A&B: PARA

THE CITY OF HUTTO, TEXAS

By: _____
Mayor [Pro-Tem]

[PARA Sig Pg]

Hutto\GORB\2020A&B: PARA

SCHEDULE A

Paying Agent/Registrar Fee Schedules

A-1

Hutto\GORB\2020A&B; PARA

CERTIFICATE FOR ORDINANCE NO. – _____

THE STATE OF TEXAS ☐
COUNTY OF WILLIAMSON ☐
CITY OF HUTTO ☐

We, the undersigned officers and members of the City Council of the City of Hutto, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in REGULAR MEETING ON THE 19TH DAY OF NOVEMBER, 2020, at Council Chambers, 500 W. Live Oak St., Hutto, Texas (the "Meeting"), and the roll was called of the duly constituted officers and members of the City, to-wit:

Vacant, Mayor
Robin Sutton, Place 1
Dan Thornton, Place 2
Mike Snyder, Mayor Pro-Tem, Place 3
Peter Gordon, Place 4
Patti Martinez, Place 5
Tanner Rose, Place 6

and all of the persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE
"CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS,
TAXABLE SERIES 2020B"; AUTHORIZING THE LEVY OF AN AD VALOREM TAX
IN SUPPORT OF SAID BONDS; AND APPROVING AND AUTHORIZING THE
EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN ESCROW
AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND
PROCEDURES RELATED THERETO**

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be passed on first reading; and, after due discussion, said motion carrying with it the passage of the Ordinance, prevailed and carried by the following vote:

AYES: ___ NOES: ___ ABSTENTIONS: ___

2. A true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that

the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Ordinance would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

[Signature Page Follows]

SIGNED AND SEALED this _____, 2020.

City Secretary

Mayor Pro-Tem

(CITY SEAL)

ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE
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IN SUPPORT OF SAID BONDS; AND APPROVING AND AUTHORIZING THE
EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN ESCROW
AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND
PROCEDURES RELATED THERETO**

DATE OF APPROVAL: NOVEMBER 19, 2020

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE
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ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE
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IN SUPPORT OF SAID BONDS; AND APPROVING AND AUTHORIZING THE
EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN ESCROW
AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND
PROCEDURES RELATED THERETO**

THE STATE OF TEXAS ☐
COUNTY OF WILLIAMSON ☐
CITY OF HUTTO ☐

WHEREAS, the City of Hutto, Texas (the "City") is a duly incorporated home rule city and political subdivision of the State of Texas (the "State") operating and existing under the State Constitution and laws of the State, including the City Charter (as defined herein);

WHEREAS, among numerous series of obligations of the City which are secured by the full faith and credit of the City and a pledge by the City to levy ad valorem taxes sufficient to pay principal of and interest on such obligations as they become due, there is specifically outstanding the following series of obligations of which the City now desires to refund with the issuance of the Refunding Obligations (as defined herein) the following series of obligations:

City of Hutto, Texas Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2011A, dated April 1, 2011, maturing on August 1, in the years 2021 through 2036, and currently outstanding in the aggregate principal amount of \$1,860,000 (the "Series 2011A Obligations"); and

City of Hutto, Texas Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2011B, dated April 1, 2011, maturing on August 1, in the years 2021 through 2030, and currently outstanding in the aggregate principal amount of \$1,435,000 (the "Series 2011B Obligations"); and

City of Hutto, Texas General Obligation Improvement and Refunding Bonds, Series 2012, dated October 17, 2012, maturing on August 1, in the years 2021 through 2026, and in 2029, 2032 and 2037, and currently outstanding in the aggregate principal amount of \$3,435,000 (the "Series 2012 Bonds"); and

City of Hutto, Texas General Obligation Improvement and Refunding Bonds, Series 2012A, dated October 17, 2012, maturing on August 1, in the years 2021 through 2022, and in 2024, 2026, 2028, 2031, 2034, 2037 and 2042, and currently outstanding in the aggregate

principal amount of \$34,235,000 (the "Series 2012A Bonds" together with the Series 2011A Obligations, the Series 2011B Obligations and the Series 2012 Bonds are collectively referred to herein as the "Refunded Obligations"); and

WHEREAS, the City now desires to refund the outstanding Series 2011A Obligations maturing in the years 2022 through 2036, inclusive (aggregating \$1,770,000 in principal amount); the Series 2011B Obligations maturing in the years 2022 through 2030, inclusive, (aggregating \$1,315,000 in principal amount); the Series 2012 Bonds maturing in the years 2023 through 2026, inclusive, and in 2029, 2032 and 2037; and the Series 2012A Bonds maturing in the years 2024, 2026, 2028, 2031, 2034, 2037 and 2042 (aggregating \$3,960,000 in principal amount) as more specifically described as maturing in the years and in the principal amounts and bearing the interest as shown in the following tables:

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2022	90,000	90,000	2.350	448474GM2
08/01/2023	95,000	95,000	2.550	448474GN0
08/01/2024	100,000	100,000	2.650	448474GP5
08/01/2025	100,000	100,000	2.800	448474GQ3
08/01/2026	105,000	105,000	2.900	448474GR1
08/01/2027	110,000	110,000	3.000	448474GS9
08/01/2028	110,000	110,000	3.150	448474GT7
08/01/2029	115,000	115,000	3.200	448474GU4
08/01/2030	120,000	120,000	3.250	448474GV2
08/01/2031	125,000	125,000	3.350	448474GW0
08/01/2032	130,000	130,000	3.450	448474GX8
08/01/2033	135,000	135,000	3.500	448474GY6
08/01/2034	140,000	140,000	3.600	448474GZ3
08/01/2035	145,000	145,000	3.700	448474HA7
08/01/2036	150,000	150,000	3.750	448474HB5

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011B				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2022	125,000	125,000	4.190	PRVTLYHLD
08/01/2023	130,000	130,000	4.190	PRVTLYHLD
08/01/2024	135,000	135,000	4.190	PRVTLYHLD

08/01/2025	140,000	140,000	4.190	PRVTLYHLD
08/01/2026	145,000	145,000	4.190	PRVTLYHLD
08/01/2027	150,000	150,000	4.190	PRVTLYHLD
08/01/2028	155,000	155,000	4.190	PRVTLYHLD
08/01/2029	165,000	165,000	4.190	PRVTLYHLD
08/01/2030	170,000	170,000	4.190	PRVTLYHLD

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2012				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2023	345,000	345,000	3.000	448474HN9
08/01/2024	355,000	355,000	3.000	448474HP4
08/01/2025	365,000	365,000	3.000	448474HQ2
08/01/2026	375,000	375,000	3.000	448474HR0
*****	*****	*****	*****	*****
08/01/2029	320,000	320,000	3.000	448474HS8
*****	*****	*****	*****	*****
08/01/2032	350,000	350,000	3.250	448474HT6
*****	*****	*****	*****	*****
08/01/2037	665,000	665,000	3.375	448474HU3

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2012A				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2024	295,000	295,000	3.000	448474JD9
*****	*****	*****	*****	
08/01/2026	315,000	315,000	3.000	448474JE7
*****	*****	*****	*****	
08/01/2028	335,000	335,000	3.000	448474JF4
*****	*****	*****	*****	
08/01/2031	540,000	540,000	3.000	448474JG2
*****	*****	*****	*****	
08/01/2034	585,000	585,000	3.250	448474JH0
*****	*****	*****	*****	
08/01/2037	650,000	650,000	3.375	448474JJ6
*****	*****	*****	*****	
08/01/2042	1,240,000	1,240,000	3.750	448474JK3

WHEREAS, all of the Refunded Obligations are subject to redemption at the option of the City on August 1, 2020, or on any date thereafter; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, in an amount sufficient to provide for the payment and/or redemption of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, Chapter 1207 (specifically Section 1207.062, Texas Government Code) further authorizes the City to enter into an escrow agreement with (i) any paying agent for the Refunded Obligations, or (ii) another trust company or commercial bank that does not act as a depository for the City and is named in the proceedings authorizing such escrow agreement, with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such paying agent, trust company or commercial bank may agree; provided that such deposits may be invested and reinvested:

(i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City (the "Council") adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent;

and all of which must mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or redemption of the Refunded Obligations; and

WHEREAS, *BOKF, NA*, currently serves as the paying agent for the Series 2011A Obligations, *Truist Bank* currently serves as the paying agent for the Series 2011B Obligations, and *The Bank of New York Mellon Trust Company, National Association*, currently serves as the paying agent for the Series 2012 Bonds and the Series 2012A Bonds; however, as permitted by Section 1207.062, Texas Government Code, the City desires to appoint *BOKF, NA*, which is a commercial bank that does not act as a depository for the City, to serve as escrow agent in

connection with the refunding and defeasing of the Refunded Obligations, and the Escrow Agreement(s) hereinafter authorized between the City and BOKF, NA, constitutes an escrow agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, the City Council hereby finds and declares a public purpose and it is advisable and in the best interests of the City to issue a series of bonds (defined in Section 4 hereof as the "Bonds"), the proceeds of which will be used to pay the costs of issuance and refund the Refunded Obligations in order to achieve a gross debt service savings of approximately \$_____ and a net present value debt services savings of approximately \$_____ to the City; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to Chapter 1207, Texas Government Code; and

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

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in *Exhibit A* to this Ordinance have the meanings assigned to them in *Exhibit A*.

Section 3. AMOUNT AND PURPOSE OF THE BONDS. General obligation bonds of the City are hereby authorized to be issued and delivered in the aggregate principal amount of \$_____ **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS FOR DEBT SERVICE SAVINGS AND TO PAY THE COST OF ISSUANCE OF THE BONDS.**

Section 4. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. (a) Designation, Date, Denominations and Numbers. Each Bond issued pursuant to this Ordinance shall be designated "CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B" (a "Bond" and collectively, the "Bonds") and initially there shall be issued, sold and delivered hereunder one fully registered bond, without interest coupons, dated as of November 15, 2020, with Bonds issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof, and with Bonds issued and delivered in substitution for the Initial Bond being numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Bond being payable to the initial purchaser designated in Section 13 hereof), or to the registered

assignee or assignees of said bond or any portion or portions thereof (in each case, the "Registered Owner").

(b) Maturities. The Bonds shall mature on the dates and in the respective principal amounts as set forth below:

DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)	DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)
2021		2032	
2022		2033	
2023		2034	
2024		2035	
2025		2036	
2026		2037	
2027		2038	
2028		2039	
2029		2040	
2030		2041	
2031		2042	

Section 5. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum as set forth below:

YEAR OF MATURITY	INTEREST RATE (%)	YEAR OF MATURITY	INTEREST RATE (%)
2021		2032	
2022		2033	
2023		2034	
2024		2035	
2025		2036	
2026		2037	
2027		2038	
2028		2039	
2029		2040	
2030		2041	
2031		2042	

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Ordinance.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust or commercial banking office (currently located in Dallas, Texas) of BOKF, NA (the "Paying Agent/Registrar"), books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as **Exhibit C** is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor Pro-Tem and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds shall be paid as provided in the FORM OF BOND set forth in this Ordinance. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Subchapter D of Chapter 1201, Texas Government Code, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said certificate, the transferred and exchanged Bond shall be valid,

incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bonds and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bonds.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof, (ii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Initial Bond is not required to be, and shall not be, authenticated by the Paying Agent/ Registrar, but on each substitute Bond issued in exchange for the Initial Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and

appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Bonds. The Bonds issued in exchange for the Bonds initially issued to the purchaser specified in Section 13 herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (i) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the Ordinance of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of

business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfers Outside Book-Entry Only Systems. In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) DTC Letter of Representation. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of Representation, if necessary, with DTC establishing the book-entry only system with respect to the Bonds.

(i) Delivery of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds and, payable in stated installments to the initial registered owner named in Section 13 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor Pro-Tem and City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Bonds, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

Section 7. FORM OF BOND. The form of the Bond, including the FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to be attached to the Bonds initially issued and delivered pursuant to this

Ordinance), shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF BOND

R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BOND, TAXABLE SERIES 2020B	PRINCIPAL AMOUNT \$ _____
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<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF BONDS</u>	<u>DATE OF DELIVERY</u>	<u>CUSIP NO.</u>
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REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE specified above, the City of Hutto, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from December 17, 2020, the initial date of delivery of the Bonds, on February 1, 2021, and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above calculated on the basis of a 360-day year of twelve 30-day months; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at BOKF, NA, which is the "Paying Agent/Registrar" for this Bond at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying

Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the 15th day of the month preceding such interest payment date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to

close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a Series of Bonds dated November 15, 2020, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$_____ (the "Bonds"), **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS AND TO PAY THE COSTS OF ISSUANCE OF THE BONDS.**

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

WITH RESPECT TO any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Bond Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such

prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Bond.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor Pro-Tem of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Hutto, Texas
(SEAL)

Mayor Pro-Tem, City of Hutto, Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

BOKF, N.A.

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

FORM OF REGISTRATION CERTIFICATE OF THE COMPTROLLER OF PUBLIC ACCOUNTS

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____

(COMPTROLLER'S SEAL)

STATEMENT OF INSURANCE

[Insert disclosure of insurer if insurance is obtained]

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Hutto, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from August 1, 2021, at the respective Interest Rates per annum specified below, payable on February 1, 2021 and semiannually on each February 1 and August 1 thereafter to the respective Maturity Dates specified below. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

<u>Maturity Date</u>	<u>Principal</u>	<u>Interest</u>
<u>(August 1)</u>	<u>Installment (\$)</u>	<u>Rate (%)</u>

(Insert information from Sections 4 and 5 above)

C. The Initial Bond shall be numbered "T-1."

Section 8. INTEREST AND SINKING FUND; TAX LEVY. (a) Interest and Sinking Fund; Tax Levy. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are

outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 9. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in each Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date on which such funds will be needed. Income and profits from such investments shall be deposited in the Interest and Sinking Fund.

Section 10. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to

principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities and thereafter the City will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank or trust company as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

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

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the Registered Owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the

provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bond. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a Replacement Bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any Replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every Replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Chapter 1201, Texas Government Code, this Section 11 of this Ordinance shall constitute authority for the issuance of any such Replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the

effect, as provided in Section 6(a) of this Ordinance for Bonds issued in exchange for other Bonds.

Section 12. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINIONS; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor Pro-Tem of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinions of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

Section 13. SALE AND DELIVERY OF BONDS. The Bonds are hereby initially sold and shall be delivered to _____ for cash at a purchase price of \$ _____ (which amount is equal to the par value thereof, plus a net original issue premium of \$ _____, less a discount retained by the purchaser of \$ _____). The Bonds initially shall be registered in the name of _____.¹ It is hereby officially found, determined, and declared that said purchaser is the highest bidder for the Bonds as a result of invitations for competitive bids. It is further officially found, determined, and declared that the Bonds have been sold at public sale to the bidder offering the lowest interest cost, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated November 9, 2020, prepared and distributed in connection with the sale of the Bonds. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Bonds as set forth in this Ordinance and resulting from the receipt of such competitive bids are in the City's best interests.

Section 14. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the

¹ [On the date of delivery of the Bonds, the Purchaser will purchase from Build America Mutual (the "Insurer") a municipal bond insurance policy to provide credit support for the Bonds. No additional requirements will be imposed on the City by the Insurer in connection with the issuance of such municipal bond insurance policy.]

rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

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

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

(c) Remedies not Exclusive.

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

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

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

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

Section 15. INTEREST EARNINGS ON BOND PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with other bond proceeds for the purpose for which the Bonds are issued set forth in Section 3 and 4 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund.

Section 16. APPROVAL OF THE FORM OF PAYING AGENT/REGISTRAR AGREEMENT AND LETTER OF REPRESENTATIONS. The Paying Agent/Registrar Agreement is hereby approved in substantially the form previously used by the City on other financings. The Mayor Pro-Tem and City Secretary of the City are hereby authorized to amend, complete or modify the Paying Agent/Registrar Agreement as necessary and is further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

Section 17. APPROVAL OF OFFICIAL STATEMENT. The City Council hereby approves the form and content of the Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Bonds by the winning bidder thereof in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Bonds, dated November 9, 2020, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

Section 18. APPROVAL OF ESCROW AGREEMENT; REFUNDING OF REFUNDED OBLIGATIONS. Concurrently with the initial delivery of the Bonds the City shall deposit an amount from the proceeds from the sale of the Bonds and other available funds of the City, if required, with BOKF, NA, as "Escrow Agent," sufficient to provide for the refunding of the Refunded Obligations, all in accordance with Chapter 1207. Attached hereto as ***Exhibit D*** is an Escrow Agreement between the City and the Escrow Agent, which is hereby approved in substantially final form, and the Mayor Pro-Tem and City Secretary of the City are hereby authorized, for and on behalf of the City, to approve any changes in the Escrow Agreement from the form attached hereto and to execute the Escrow Agreement in final form.

Section 19. NOTICE OF DEFEASANCE AND REDEMPTION OF REFUNDED OBLIGATIONS. There is attached to this Ordinance as ***Exhibit E*** a NOTICE OF DEFEASANCE AND REDEMPTION with respect to the Refunded Obligations. The Refunded Obligations are hereby called for redemption on the "Redemption Date" set forth in the NOTICE OF DEFEASANCE AND REDEMPTION. As soon as practicable after the adoption of this Ordinance, a copy such NOTICE shall be (i) posted with the MSRB through the EMMA system, and (ii) sent to all registered owners of the Refunded Obligations by first class mail postage

prepaid, addressed to such registered owners at their respective addresses shown on the registration books of the paying agent/registrar for the Refunded Obligations.

Section 20. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds by a Rating Agency, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then Outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then Outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any Outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on Outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each Registered Owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once

in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then Outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then Outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 21. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports.

The City shall provide annually to the MSRB, (1) within six months after the end of each Fiscal Year of the City ending in or after 2020, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 21 of this Ordinance, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in ***Exhibit B*** hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such Fiscal Year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal Year, when and if the audit report on such statements becomes available.

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

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

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

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws, and tender offers;
- H. Bond calls, if material within the meaning of the federal securities laws;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City; (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States

Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

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

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

O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 10 that causes the Bonds no longer to be Outstanding.

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

not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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

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

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

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

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

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 22. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 23. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or Insurance Policy and the Official Statement. In addition, prior to the initial delivery of the Bonds, the Mayor Pro-Tem, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 24. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The

titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the pledged revenues to secure the payment of the Bonds.

Section 25. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 26. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owners of the Bonds.

Section 27. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 28. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 29. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 30. EFFECTIVE DATE. This Ordinance shall become effective immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 31. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Mayor Pro-Tem and City Secretary of the City are hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

READ and APPROVED on first reading this the 19th day of November, 2020.

THE CITY OF HUTTO, TEXAS

By: Mayor Pro-Tem
City of Hutto, Texas

ATTEST:

City Secretary
City of Hutto, Texas

APPROVED AS TO FORM:

City Attorney
City of Hutto, Texas

EXHIBIT "A"

DEFINITIONS

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

"*Assistant City Manager(s)*" means the assistant city manager(s) of the City or any individual appointed to serve in such capacity for the City.

"*Bond Insurer*" or "*Insurer*" means the provider of a municipal bond insurance policy for the Bonds.

"*Book-Entry-Only System*" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"*Cede & Co.*" means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"*City*" means the City of Hutto, Texas, and where appropriate, the City Council.

"*City Charter*" means the charter of the City of Hutto, Texas adopted February 7, 2004, as further amended on November 7, 2006, November 3, 2009 and May 6, 2017, respectively.

"*City Council*" means the governing body of the City.

"*City Manager*" means the city manager of the City or any individual appointed to serve in such capacity for the City.

"*City Secretary*" means the city secretary of the City or any individual appointed to serve in such capacity for the City.

"*Defeasance Securities*" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its

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equivalent and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"DTC" means The Depository Trust Company, New York, New York and its successors and assigns.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

"Financial Advisor" means Hilltop Securities Inc.

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

"Initial Bond(s)" means the Bond(s) authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"Insurance Policy" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"Interest and Sinking Fund" means the special fund maintained by the provisions of Section 8 of this Ordinance.

"Mayor Pro-Tem" means the mayor pro-tem of the City or any individual appointed to serve in such capacity for the City.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this ordinance finally adopted by the City Council on the date of the City Council's first reading of this Ordinance.

"Outstanding" or "outstanding", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds deemed paid pursuant to the provisions of Section 10 of this Ordinance;

(3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance; or

(4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in the Form of Bond.

"*Refunding Obligations*" means the City of Hutto, Texas General Obligation Refunding Bonds, Taxable Series 2020B.

"*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Bond.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bond as provided in Section 11 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of this Ordinance.

Annual Financial Statements and Operating Data

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

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within twelve months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 5 and 7 through 13.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.

EXHIBIT "C"
PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT "D"
ESCROW AGREEMENT

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

EXHIBIT "E"
NOTICES OF DEFEASANCE AND REDEMPTION

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NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

**CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM
SUBORDINATE LIEN REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A,**
the outstanding obligations maturing on August 1 in the years of 2022 through 2036, aggregating \$1,770,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2022	\$90,000	2.350%	08/01/2021	448474GM2
2023	95,000	2.550	08/01/2021	448474GN0
2024	100,000	2.650	08/01/2021	448474GP5
2025	100,000	2.800	08/01/2021	448474GQ3
2026	105,000	2.900	08/01/2021	448474GR1
2027	110,000	3.000	08/01/2021	448474GS9
2028	110,000	3.150	08/01/2021	448474GT7
2029	115,000	3.200	08/01/2021	448474GU4
2030	120,000	3.250	08/01/2021	448474GV2
2031	125,000	3.350	08/01/2021	448474GW0
2032	130,000	3.450	08/01/2021	448474GX8
2033	135,000	3.500	08/01/2021	448474GY6
2034	140,000	3.600	08/01/2021	448474GZ3
2035	145,000	3.700	08/01/2021	448474HA7
2036	150,000	3.750	08/01/2021	448474HB5

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with BOKF, NA (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

BOKF, NA Corporate Trust Services
Attn: Original Issuance
P.O. Box 64106
St. Paul, MN 55164-0106

By Overnight or Courier

BOKF, NA Corporate Trust Services
Attn: Original Issuance
60 Livingston Avenue
St. Paul, MN 55107

By Hand

BOKF, NA Corporate Trust Services
Attn: Original Issuance
60 Livingston Avenue
St. Paul, MN 55107

Phone: 1-866-429-7481

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011B, the outstanding obligations maturing on August 1 in the years of 2022 through 2030, inclusive, aggregating \$1,315,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>
2022	\$125,000	4.190%	08/01/2021
2023	130,000	4.190	08/01/2021
2024	135,000	4.190	08/01/2021
2025	140,000	4.190	08/01/2021
2026	145,000	4.190	08/01/2021
2027	150,000	4.190	08/01/2021
2028	155,000	4.190	08/01/2021
2029	165,000	4.190	08/01/2021
2030	170,000	4.190	08/01/2021

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with Truist (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

<u>First Class/Registered/Certified Mail</u>	<u>By Overnight or Courier</u>	<u>By Hand</u>
Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217	Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217	Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT & REFUNDING BONDS, SERIES 2012, the outstanding obligations maturing on August 1 in the years of 2023 through 2026, inclusive, and in 2029, 2032 and 2037, aggregating \$2,775,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2023	\$370,000	3.000%	August 1, 2021	448474HN9
2024	385,000	3.000	August 1, 2021	448474HP4
2025	400,000	3.000	August 1, 2021	448474HQ2
2026	420,000	3.000	August 1, 2021	448474HR0
2029**	435,000	3.000	August 1, 2021	448474HS8
2032**	450,000	3.250	August 1, 2021	448474HT6
2037**	470,000	3.375	August 1, 2021	448474HU3

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

**Term Bonds.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with The Bank of New York Mellon Trust Company, N.A. (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

The Bank of New York Mellon
Global Corporate Trust
P.O. Box 2320
Dallas, Texas 75221-2320

By Overnight or Courier

The Bank of New York Mellon
Global Corporate Trust
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

By Hand

The Bank of New York Mellon
Global Corporate Trust
Corporate Trust Window
240 Greenwich Street, 1st Floor East
New York, New York 10286

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2029, 2032 and 2037 (collectively, the "Term Bonds") to be redeemed will be as follows:

<u>Term Bond Maturing in 2029</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2027	\$ 105,000
August 1, 2028	105,000
August 1, 2029	110,000

<u>Term Bond Maturing in 2032</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2030	\$ 115,000
August 1, 2031	115,000
August 1, 2032	120,000

<u>Term Bond Maturing in 2037</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2033	\$ 125,000
August 1, 2034	130,000
August 1, 2035	135,000
August 1, 2036	135,000
August 1, 2037	140,000

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2022 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT & REFUNDING BONDS, SERIES 2012A, the outstanding obligations maturing on August 1 in the years of 2024, 2026, 2028, 2031, 2034, 2037 and 2042, aggregating \$3,960,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2024**	\$295,000	3.000%	August 1, 2021	448474JD9
2026**	315,000	3.000	August 1, 2021	448474JE7
2028**	335,000	3.000	August 1, 2021	448474JF4
2031**	540,000	3.000	August 1, 2021	448474JG2
2034**	585,000	3.250	August 1, 2021	448474JH0
2037**	650,000	3.375	August 1, 2021	448474JJ6
2042**	1,240,000	3.750	August 1, 2021	448474JK3

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

**Term Bonds.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with The Bank of New York Mellon Trust Company, N.A. (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

The Bank of New York Mellon
Global Corporate Trust
P.O. Box 2320
Dallas, Texas 75221-2320

By Overnight or Courier

The Bank of New York Mellon
Global Corporate Trust
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

By Hand

The Bank of New York Mellon
Global Corporate Trust
Corporate Trust Window
240 Greenwich Street, 1st Floor East
New York, New York 10286

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2024, 2026, 2028, 2031, 2034, 2037 and 2042 (collectively, the "Term Bonds") to be redeemed will be as follows:

<u>Term Bond Maturing in 2024</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2023	\$ 145,000
August 1, 2024 (Stated Maturity)	150,000

<u>Term Bond Maturing in 2026</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2025	\$ 155,000
August 1, 2026	160,000

<u>Term Bond Maturing in 2028</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2027	\$ 165,000
August 1, 2028	170,000

<u>Term Bond Maturing in 2031</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2029	\$ 175,000
August 1, 2030	180,000
August 1, 2031	185,000

<u>Term Bond Maturing in 2034</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2032	\$ 190,000
August 1, 2033	195,000
August 1, 2034	200,000

<u>Term Bond Maturing in 2037</u>	
<u>Mandatory Redemption Date</u>	<u>Refunded Principal Amount</u>
August 1, 2035	\$ 210,000
August 1, 2036	215,000
August 1, 2037	225,000

<u>Term Bond Maturing in 2042</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2038	\$ 230,000
August 1, 2039	240,000
August 1, 2040	250,000
August 1, 20341	255,000
August 1, 20242	265,000

EXHIBIT "F"
**REQUIREMENTS OF THE INSURER WITH RESPECT TO
THE MUNICIPAL BOND INSURANCE POLICY**

[To be determined]

CERTIFICATE FOR ORDINANCE NO. – _____

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

We, the undersigned officers and members of the City Council of the City of Hutto, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in REGULAR MEETING ON THE 19TH DAY OF NOVEMBER, 2020, at Council Chambers, 500 W. Live Oak St., Hutto, Texas (the "Meeting"), and the roll was called of the duly constituted officers and members of the City, to-wit:

~~Doug Gaul~~ Vacant, Mayor
Robin Sutton, Place 1
Dan Thornton, Place 2
Mike Snyder, Mayor Pro-Tem, Place 3
Peter Gordon, Place 4
Patti Martinez, Place 5
Tanner Rose, Place 6

and all of the persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
~~\$ _____ IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERE TO**

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be passed on first reading; and, after due discussion, said motion carrying with it the passage of the Ordinance, prevailed and carried by the following vote:

AYES: ___ NOES: ___ ABSTENTIONS: ___

2. A true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing

paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Ordinance would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

[Signature Page Follows]

SIGNED AND SEALED this _____, 2020.

City Secretary

Mayor ~~[Pro-Tem]~~

(CITY SEAL)

ORDINANCE NO. – _____

ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERE TO

DATE OF APPROVAL: NOVEMBER 19, 2020

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
~~\$~~ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

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Exhibit A - Definitions

Exhibit B - Description of Annual Financial Information

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ORDINANCE NO. – _____

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF
\$ _____ ~~IN AGGREGATE PRINCIPAL AMOUNT OF THE~~ "CITY OF HUTTO,
TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B";
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING
AGENT/REGISTRAR AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL
STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED
THERETO**

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

WHEREAS, the City of Hutto, Texas (the "City") is a duly incorporated home rule city and political subdivision of the State of Texas (the "State") operating and existing under the State Constitution and laws of the State, including the City Charter (as defined herein);

WHEREAS, among numerous series of obligations of the City which are secured by the full faith and credit of the City and a pledge by the City to levy ad valorem taxes sufficient to pay principal of and interest on such obligations as they become due, there is specifically outstanding the following series of obligations of which the City now desires to refund with the issuance of the Refunding Obligations (as defined herein) the following series of obligations:

City of Hutto, Texas Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2011A, dated April 1, 2011, maturing on August 1, in the years 2021 through 2036, and currently outstanding in the aggregate principal amount of \$1,860,000 (the "Series 2011A Obligations"); and

City of Hutto, Texas Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2011B, dated April 1, 2011, maturing on August 1, in the years 2021 through 2030, and currently outstanding in the aggregate principal amount of \$1,435,000 (the "Series 2011B Obligations"); and

City of Hutto, Texas General Obligation Improvement and Refunding Bonds, Series 2012, dated October 17, 2012, maturing on August 1, in the years 2021 through 2026, and in 2029, 2032 and 2037, and currently outstanding in the aggregate principal amount of \$3,435,000 (the "Series 2012 Bonds"); and

City of Hutto, Texas General Obligation Improvement and Refunding Bonds, Series 2012A, dated October 17, 2012, maturing on August 1, in the years 2021 through 2022, and in 2024, 2026,

2028, 2031, 2034, 2037 and 2042, and currently outstanding in the aggregate principal amount of \$34,235,000 (the "Series 2012A Bonds" together with the Series 2011A Obligations, the Series 2011B Obligations and the Series 2012 Bonds are collectively referred to herein as the "Refunded Obligations"); and

WHEREAS, the City now desires to refund the outstanding Series 2011A Obligations maturing in the years 2022 through 2036, inclusive (aggregating \$1,770,000 in principal amount); the Series 2011B Obligations maturing in the years 2022 through 2030, inclusive, (aggregating \$1,315,000 in principal amount); the Series 2012 Bonds maturing in the years 2023 through 2026, inclusive, and in 2029, 2032 and 2037; and the Series 2012A Bonds maturing in the years 2024, 2026, 2028, 2031, 2034, 2037 and 2042 (aggregating \$3,960,000 in principal amount) as more specifically described as maturing in the years and in the principal amounts and bearing the interest as shown in the following tables:

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2022	90,000	90,000	2.350	448474GM2
08/01/2023	95,000	95,000	2.550	448474GN0
08/01/2024	100,000	100,000	2.650	448474GP5
08/01/2025	100,000	100,000	2.800	448474GQ3
08/01/2026	105,000	105,000	2.900	448474GR1
08/01/2027	110,000	110,000	3.000	448474GS9
08/01/2028	110,000	110,000	3.150	448474GT7
08/01/2029	115,000	115,000	3.200	448474GU4
08/01/2030	120,000	120,000	3.250	448474GV2
08/01/2031	125,000	125,000	3.350	448474GW0
08/01/2032	130,000	130,000	3.450	448474GX8
08/01/2033	135,000	135,000	3.500	448474GY6
08/01/2034	140,000	140,000	3.600	448474GZ3
08/01/2035	145,000	145,000	3.700	448474HA7
08/01/2036	150,000	150,000	3.750	448474HB5

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011B				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2022	125,000	125,000	4.190	PRVTLYHLD
08/01/2023	130,000	130,000	4.190	PRVTLYHLD

08/01/2024	135,000	135,000	4.190	PRVTLYHLD
08/01/2025	140,000	140,000	4.190	PRVTLYHLD
08/01/2026	145,000	145,000	4.190	PRVTLYHLD
08/01/2027	150,000	150,000	4.190	PRVTLYHLD
08/01/2028	155,000	155,000	4.190	PRVTLYHLD
08/01/2029	165,000	165,000	4.190	PRVTLYHLD
08/01/2030	170,000	170,000	4.190	PRVTLYHLD

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2012				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2023	345,000	345,000	3.000	448474HN9
08/01/2024	355,000	355,000	3.000	448474HP4
08/01/2025	365,000	365,000	3.000	448474HQ2
08/01/2026	375,000	375,000	3.000	448474HR0
*****	*****	*****	*****	*****
08/01/2029	320,000	320,000	3.000	448474HS8
*****	*****	*****	*****	*****
08/01/2032	350,000	350,000	3.250	448474HT6
*****	*****	*****	*****	*****
08/01/2037	665,000	665,000	3.375	448474HU3

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2012A				
MATURITY (AUGUST 1)	PRINCIPAL AMOUNT MATURING (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP NO.
08/01/2024	295,000	295,000	3.000	448474JD9
*****	*****	*****	*****	
08/01/2026	315,000	315,000	3.000	448474JE7
*****	*****	*****	*****	
08/01/2028	335,000	335,000	3.000	448474JF4
*****	*****	*****	*****	
08/01/2031	540,000	540,000	3.000	448474JG2
*****	*****	*****	*****	
08/01/2034	585,000	585,000	3.250	448474JH0
*****	*****	*****	*****	
08/01/2037	650,000	650,000	3.375	448474JJ6
*****	*****	*****	*****	
08/01/2042	1,240,000	1,240,000	3.750	448474JK3

WHEREAS, all of the Refunded Obligations are subject to redemption at the option of the City on August 1, 2020, or on any date thereafter; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, in an amount sufficient to provide for the payment and/or redemption of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, Chapter 1207 (specifically Section 1207.062, Texas Government Code) further authorizes the City to enter into an escrow agreement with (i) any paying agent for the Refunded Obligations, or (ii) another trust company or commercial bank that does not act as a depository for the City and is named in the proceedings authorizing such escrow agreement, with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such paying agent, trust company or commercial bank may agree; provided that such deposits may be invested and reinvested:

(i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City (the "Council") adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent;

and all of which must mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or redemption of the Refunded Obligations; and

WHEREAS, *BOKF, NA*, currently serves as the paying agent for the Series 2011A Obligations, *Truist Bank* currently serves as the paying agent for the Series 2011B Obligations, and *The Bank of New York Mellon Trust Company, National Association*, currently serves as the paying agent for the Series 2012 Bonds and the Series 2012A Bonds; however, as permitted by Section 1207.062, Texas Government Code, the City desires to appoint *BOKF, NA*, which is a commercial bank that does not act as a depository for the City, to serve as escrow agent in connection with the

refunding and defeasing of the Refunded Obligations, and the Escrow Agreement(s) hereinafter authorized between the City and BOKF, NA, constitutes an escrow agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, the City Council hereby finds and declares a public purpose and it is advisable and in the best interests of the City to issue a series of bonds (defined in Section 4 hereof as the "Bonds"), the proceeds of which will be used to pay the costs of issuance and refund the Refunded Obligations in order to achieve a gross debt service savings of approximately \$_____ and a net present value debt services savings of approximately \$_____ to the City; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to Chapter 1207, Texas Government Code; and

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

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in *Exhibit A* to this Ordinance have the meanings assigned to them in *Exhibit A*.

Section 3. AMOUNT AND PURPOSE OF THE BONDS. General obligation bonds of the City are hereby authorized to be issued and delivered in the aggregate principal amount of \$_____ **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS FOR DEBT SERVICE SAVINGS AND TO PAY THE COST OF ISSUANCE OF THE BONDS.**

Section 4. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. (a) Designation, Date, Denominations and Numbers. Each Bond issued pursuant to this Ordinance shall be designated "CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B" (a "Bond" and collectively, the "Bonds") and initially there shall be issued, sold and delivered hereunder one fully registered bond, without interest coupons, dated as of November 15, 2020, with Bonds issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof, and with Bonds issued and delivered in substitution for the Initial Bond being numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Bond being payable to the initial purchaser designated in Section 13 hereof), or to the registered assignee or assignees of said bond or any portion or portions thereof (in each case, the "Registered Owner").

(b) Maturities. The Bonds shall mature on the dates and in the respective principal amounts as set forth below:

DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)	DATE OF MATURITY (AUGUST 1)	PRINCIPAL AMOUNT (\$)
2021		2032	
2022		2033	
2023		2034	
2024		2035	
2025		2036	
2026		2037	
2027		2038	
2028		2039	
2029		2040	
2030		2041	
2031		2042	

Section 5. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum as set forth below:

YEAR OF MATURITY	INTEREST RATE (%)	YEAR OF MATURITY	INTEREST RATE (%)
2021		2032	
2022		2033	
2023		2034	
2024		2035	
2025		2036	
2026		2037	
2027		2038	
2028		2039	
2029		2040	
2030		2041	
2031		2042	

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Ordinance.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust

or commercial banking office (currently located in Dallas, Texas) of BOKF, NA (the "Paying Agent/Registrar"), books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as **Exhibit C** is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor, ~~Mayor~~ Pro-Tem and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds shall be paid as provided in the FORM OF BOND set forth in this Ordinance. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Subchapter D of Chapter 1201, Texas Government Code, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said certificate, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bonds and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bonds.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof, (ii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Initial Bond is not required to be, and shall not be, authenticated by the Paying Agent/ Registrar, but on each substitute Bond issued in exchange for the Initial Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar

shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Bonds. The Bonds issued in exchange for the Bonds initially issued to the purchaser specified in Section 13 herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (i) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the Ordinance of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfers Outside Book-Entry Only Systems. In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the

appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) DTC Letter of Representation. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of Representation, if necessary, with DTC establishing the book-entry only system with respect to the Bonds.

(i) Delivery of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds and, payable in stated installments to the initial registered owner named in Section 13 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor ~~or Mayor~~ Pro-Tem and City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Bonds, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

Section 7. FORM OF BOND. The form of the Bond, including the FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to be attached to the Bonds initially issued and delivered pursuant to this Ordinance), shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF BOND

R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF HUTTO, TEXAS GENERAL OBLIGATION REFUNDING BOND, TAXABLE SERIES 2020B	PRINCIPAL AMOUNT \$ _____
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<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>DATE OF</u> <u>BONDS</u>	<u>DATE OF</u> <u>DELIVERY</u>	<u>CUSIP NO.</u>
--	--	--	---	-------------------------

REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE specified above, the City of Hutto, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from December 17, 2020, the initial date of delivery of the Bonds, on February 1, 2021, and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above calculated on the basis of a 360-day year of twelve 30-day months; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at BOKF, NA, which is the "Paying Agent/Registrar" for this Bond at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the 15th day of the month preceding such interest payment date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when

funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a Series of Bonds dated November 15, 2020, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$_____ (the "Bonds"), **FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING OBLIGATIONS AND TO PAY THE COSTS OF ISSUANCE OF THE BONDS.**

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date provided, however, that the failure to send, mail or receive such notice, or any defect therein or

in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

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

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment

of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Bond.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor ~~or Mayor~~ Pro-Tem of the City and countersigned with the manual

or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Hutto, Texas
(SEAL)

Mayor ~~Pro-Tem~~, City of Hutto, Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

BOKF, N.A.

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT
ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

STATEMENT OF INSURANCE

[Insert disclosure of insurer if insurance is obtained]

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Hutto, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from August 1, 2021, at the respective Interest Rates per annum specified below, payable on February 1, 2021 and semiannually on each February 1 and August 1 thereafter to the respective Maturity Dates specified below. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

Maturity Date	Principal	Interest
(August 1)	Installment (\$)	Rate (%)

(Insert information from Sections 4 and 5 above)

C. The Initial Bond shall be numbered "T-1."

Section 8. INTEREST AND SINKING FUND; TAX LEVY. (a) Interest and Sinking Fund; Tax Levy. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while

the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under Section 8(a) of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 9. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in each Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date on which such funds will be needed. Income and profits from such investments shall be deposited in the Interest and Sinking Fund.

Section 10. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities and thereafter the City will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank or trust company as provided in this Section may at the discretion of the City Council also be

invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

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

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the Registered Owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bond. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a Replacement Bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of

damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any Replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every Replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Chapter 1201, Texas Government Code, this Section 11 of this Ordinance shall constitute authority for the issuance of any such Replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 6(a) of this Ordinance for Bonds issued in exchange for other Bonds.

Section 12. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINIONS; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The ~~Mayor or the~~ Mayor Pro-Tem of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinions of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

Section 13. SALE AND DELIVERY OF BONDS. The Bonds are hereby initially sold and shall be delivered to _____ for cash at a purchase price of \$_____ (which amount is equal to the par value thereof, plus a net original issue premium of \$_____, less a discount retained by the purchaser of \$_____). The Bonds initially shall be registered in the name of

_____.¹ It is hereby officially found, determined, and declared that said purchaser is the highest bidder for the Bonds as a result of invitations for competitive bids. It is further officially found, determined, and declared that the Bonds have been sold at public sale to the bidder offering the lowest interest cost, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated November 9, 2020, prepared and distributed in connection with the sale of the Bonds. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Bonds as set forth in this Ordinance and resulting from the receipt of such competitive bids are in the City's best interests.

Section 14. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

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

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

(c) Remedies not Exclusive.

¹ [On the date of delivery of the Bonds, the Purchaser will purchase from Build America Mutual (the "Insurer") a municipal bond insurance policy to provide credit support for the Bonds. No additional requirements will be imposed on the City by the Insurer in connection with the issuance of such municipal bond insurance policy.]

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

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

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

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

Section 15. INTEREST EARNINGS ON BOND PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with other bond proceeds for the purpose for which the Bonds are issued set forth in Section 3 and 4 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund.

Section 16. APPROVAL OF THE FORM OF PAYING AGENT/REGISTRAR AGREEMENT AND LETTER OF REPRESENTATIONS. The Paying Agent/Registrar Agreement is hereby approved in substantially the form previously used by the City on other financings. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized to amend, complete or modify the Paying Agent/Registrar Agreement as necessary and is further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

Section 17. APPROVAL OF OFFICIAL STATEMENT. The City Council hereby approves the form and content of the Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Bonds by the winning bidder thereof in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Bonds, dated November 9, 2020, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the

meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

Section 18. APPROVAL OF ESCROW AGREEMENT; REFUNDING OF REFUNDED OBLIGATIONS. Concurrently with the initial delivery of the Bonds the City shall deposit an amount from the proceeds from the sale of the Bonds and other available funds of the City, if required, with BOKF, NA, as "Escrow Agent," sufficient to provide for the refunding of the Refunded Obligations, all in accordance with Chapter 1207. Attached hereto as **Exhibit D** is an Escrow Agreement between the City and the Escrow Agent, which is hereby approved in substantially final form, and the ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby authorized, for and on behalf of the City, to approve any changes in the Escrow Agreement from the form attached hereto and to execute the Escrow Agreement in final form.

Section 19. NOTICE OF DEFEASANCE AND REDEMPTION OF REFUNDED OBLIGATIONS. There is attached to this Ordinance as **Exhibit E** a NOTICE OF DEFEASANCE AND REDEMPTION with respect to the Refunded Obligations. The Refunded Obligations are hereby called for redemption on the "Redemption Date" set forth in the NOTICE OF DEFEASANCE AND REDEMPTION. As soon as practicable after the adoption of this Ordinance, a copy such NOTICE shall be (i) posted with the MSRB through the EMMA system, and (ii) sent to all registered owners of the Refunded Obligations by first class mail postage prepaid, addressed to such registered owners at their respective addresses shown on the registration books of the paying agent/registrar for the Refunded Obligations.

Section 20. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds by a Rating Agency, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then Outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then Outstanding Bonds,

nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any Outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on Outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each Registered Owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then Outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then Outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 21. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, (1) within six months after the end of each Fiscal Year of the City ending in or after 2020, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 21 of this Ordinance, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in **Exhibit B** hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such Fiscal Year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal Year, when and if the audit report on such statements becomes available.

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

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

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

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws, and tender offers;

H. Bond calls, if material within the meaning of the federal securities laws;

I. Defeasances;

J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;

K. Rating changes;

L. Bankruptcy, insolvency, receivership or similar event of the City; (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

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

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

O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 10 that causes the Bonds no longer to be Outstanding.

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

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

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

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

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

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of

the holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 22. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 23. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or Insurance Policy and the Official Statement. In addition, prior to the initial delivery of the Bonds; ~~the Mayor~~, the Mayor Pro-Tem, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in

order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 24. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the pledged revenues to secure the payment of the Bonds.

Section 25. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 26. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owners of the Bonds.

Section 27. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 28. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 29. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 30. EFFECTIVE DATE. This Ordinance shall become effective immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 31. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The ~~Mayor or~~ Mayor Pro-Tem and City Secretary of the City are hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

READ and APPROVED on first reading this the 19th day of November, 2020.

THE CITY OF HUTTO, TEXAS

By: Mayor {Pro-Tem}
City of Hutto, Texas

ATTEST:

City Secretary
City of Hutto, Texas

APPROVED AS TO FORM:

City Attorney
City of Hutto, Texas

EXHIBIT "A"

DEFINITIONS

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

"*Assistant City Manager(s)*" means the assistant city manager(s) of the City or any individual appointed to serve in such capacity for the City.

"*Bond Insurer*" or "*Insurer*" means the provider of a municipal bond insurance policy for the Bonds.

"*Book-Entry-Only System*" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"*Cede & Co.*" means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"*City*" means the City of Hutto, Texas, and where appropriate, the City Council.

"*City Charter*" means the charter of the City of Hutto, Texas adopted February 7, 2004, as further amended on November 7, 2006, November 3, 2009 and May 6, 2017, respectively.

"*City Council*" means the governing body of the City.

"*City Manager*" means the city manager of the City or any individual appointed to serve in such capacity for the City.

"*City Secretary*" means the city secretary of the City or any individual appointed to serve in such capacity for the City.

"*Defeasance Securities*" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any other

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"DTC" means The Depository Trust Company, New York, New York and its successors and assigns.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

"Financial Advisor" means Hilltop Securities Inc.

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

"Initial Bond(s)" means the Bond(s) authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"Insurance Policy" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"Interest and Sinking Fund" means the special fund maintained by the provisions of Section 8 of this Ordinance.

~~"Mayor" means the mayor of the City.~~

"Mayor Pro-Tem" means the mayor pro-tem of the City or any individual appointed to serve in such capacity for the City.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this ordinance finally adopted by the City Council on the date of the City Council's first reading of this Ordinance.

"Outstanding" or "outstanding", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) ~~(1)~~ Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;

- (2) Bonds deemed paid pursuant to the provisions of Section 10 of this Ordinance;
- (3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance; or
- (4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in the Form of Bond.

"*Refunding Obligations*" means the City of Hutto, Texas General Obligation Refunding Bonds, Taxable Series 2020B.

"*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Bond.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bond as provided in Section 11 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of this Ordinance.

Annual Financial Statements and Operating Data

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

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within twelve months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 5 and 7 through 13.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.

EXHIBIT "C"

PAYING AGENT/REGISTRAR AGREEMENT

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

EXHIBIT "D"
ESCROW AGREEMENT

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

EXHIBIT "E"
NOTICES OF DEFEASANCE AND REDEMPTION

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NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

**CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM
SUBORDINATE LIEN REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A**, the outstanding obligations maturing on August 1 in the years of 2022 through 2036, aggregating \$1,770,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2022	\$90,000	2.350%	08/01/2021	448474GM2
2023	95,000	2.550	08/01/2021	448474GN0
2024	100,000	2.650	08/01/2021	448474GP5
2025	100,000	2.800	08/01/2021	448474GQ3
2026	105,000	2.900	08/01/2021	448474GR1
2027	110,000	3.000	08/01/2021	448474GS9
2028	110,000	3.150	08/01/2021	448474GT7
2029	115,000	3.200	08/01/2021	448474GU4
2030	120,000	3.250	08/01/2021	448474GV2
2031	125,000	3.350	08/01/2021	448474GW0
2032	130,000	3.450	08/01/2021	448474GX8
2033	135,000	3.500	08/01/2021	448474GY6
2034	140,000	3.600	08/01/2021	448474GZ3
2035	145,000	3.700	08/01/2021	448474HA7
2036	150,000	3.750	08/01/2021	448474HB5

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with BOKF, NA (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

BOKF, NA Corporate Trust Services
Attn: Original Issuance
P.O. Box 64106
St. Paul, MN 55164-0106

By Overnight or Courier

BOKF, NA Corporate Trust Services
Attn: Original Issuance
60 Livingston Avenue
St. Paul, MN 55107

By Hand

BOKF, NA Corporate Trust Services
Attn: Original Issuance
60 Livingston Avenue
St. Paul, MN 55107

Phone: 1-866-429-7481

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

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HUTTO GO SERIES TAXABLE 2020B: BOND RES

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011B, the outstanding obligations maturing on August 1 in the years of 2022 through 2030, inclusive, aggregating \$1,315,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>
2022	\$125,000	4.190%	08/01/2021
2023	130,000	4.190	08/01/2021
2024	135,000	4.190	08/01/2021
2025	140,000	4.190	08/01/2021
2026	145,000	4.190	08/01/2021
2027	150,000	4.190	08/01/2021
2028	155,000	4.190	08/01/2021
2029	165,000	4.190	08/01/2021
2030	170,000	4.190	08/01/2021

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with Truist (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

<u>First Class/Registered/Certified Mail</u>	<u>By Overnight or Courier</u>	<u>By Hand</u>
Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217	Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217	Branch Banking and Trust Company now TRUIST 5130 Parkway Plaza Boulevard Charlotte, NC 28217

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2021 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT & REFUNDING BONDS, SERIES 2012, the outstanding obligations maturing on August 1 in the years of 2023 through 2026, inclusive, and in 2029, 2032 and 2037, aggregating \$2,775,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2023	\$370,000	3.000%	August 1, 2021	448474HN9
2024	385,000	3.000	August 1, 2021	448474HP4
2025	400,000	3.000	August 1, 2021	448474HQ2
2026	420,000	3.000	August 1, 2021	448474HR0
2029**	435,000	3.000	August 1, 2021	448474HS8
2032**	450,000	3.250	August 1, 2021	448474HT6
2037**	470,000	3.375	August 1, 2021	448474HU3

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

**Term Bonds.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with The Bank of New York Mellon Trust Company, N.A. (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

The Bank of New York Mellon
Global Corporate Trust
P.O. Box 2320
Dallas, Texas 75221-2320

By Overnight or Courier

The Bank of New York Mellon
Global Corporate Trust
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

By Hand

The Bank of New York Mellon
Global Corporate Trust
Corporate Trust Window
240 Greenwich Street, 1st Floor East
New York, New York 10286

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2029, 2032 and 2037 (collectively, the "Term Bonds") to be redeemed will be as follows:

<u>Term Bond Maturing in 2029</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2027	\$ 105,000
August 1, 2028	105,000
August 1, 2029	110,000

<u>Term Bond Maturing in 2032</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2030	\$ 115,000
August 1, 2031	115,000
August 1, 2032	120,000

<u>Term Bond Maturing in 2037</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2033	\$ 125,000
August 1, 2034	130,000
August 1, 2035	135,000
August 1, 2036	135,000
August 1, 2027	140,000

NOTICE OF DEFEASANCE AND REDEMPTION

NOTICE IS HEREBY GIVEN that Hutto, Texas (the "City") has deposited cash and/or escrow securities to defease, and has further called for redemption on August 1, 2022 (the "Redemption Date"), the following obligations of the City (the "Obligations"):

CITY OF HUTTO, TEXAS GENERAL OBLIGATION IMPROVEMENT & REFUNDING BONDS, SERIES 2012A, the outstanding obligations maturing on August 1 in the years of 2024, 2026, 2028, 2031, 2034, 2037 and 2042, aggregating \$3,960,000 in principal amount:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Date</u>	<u>CUSIP*</u>
2024**	\$295,000	3.000%	August 1, 2021	448474JD9
2026**	315,000	3.000	August 1, 2021	448474JE7
2028**	335,000	3.000	August 1, 2021	448474JF4
2031**	540,000	3.000	August 1, 2021	448474JG2
2034**	585,000	3.250	August 1, 2021	448474JH0
2037**	650,000	3.375	August 1, 2021	448474JJ6
2042**	1,240,000	3.750	August 1, 2021	448474JK3

*The CUSIP Numbers have been assigned to this issue by the CUSIP Service Bureau and are included solely for the convenience of the owners of the Obligations. The City shall not be responsible for the selection or the correctness of the CUSIP numbers set forth herein.

**Term Bonds.

The redemption price for the above Obligations is par plus accrued interest to the date fixed for redemption. Such Obligations shall be redeemed and shall no longer bear interest after the redemption date. Due provision for the payment of the obligations described above has been made with The Bank of New York Mellon Trust Company, N.A. (the "Bank"), and said obligations shall be presented for payment either in person or by mail, at the following address:

First Class/Registered/Certified Mail

The Bank of New York Mellon
Global Corporate Trust
P.O. Box 2320
Dallas, Texas 75221-2320

By Overnight or Courier

The Bank of New York Mellon
Global Corporate Trust
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

By Hand

The Bank of New York Mellon
Global Corporate Trust
Corporate Trust Window
240 Greenwich Street, 1st Floor East
New York, New York 10286

In compliance with section 3406 of the Internal Revenue Code of 1986, as amended, payors making certain payments due on debt securities may be obligated to deduct and withhold a portion of such payment from the remittance to any payee who has failed to provide such payor with a valid taxpayer identification number. To avoid the imposition of this withholding tax, such payees should submit a certified taxpayer identification number when surrendering the Obligations for redemption.

CITY OF HUTTO, TEXAS

**Additionally, the City has determined that the mandatory sinking fund installments related to the Obligations maturing in 2024, 2026, 2028, 2031, 2034, 2037 and 2042 (collectively, the "Term Bonds") to be redeemed will be as follows:

Term Bond Maturing in 2024

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2023	\$ 145,000
August 1, 2024 (Stated Maturity)	150,000

Term Bond Maturing in 2026

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2025	\$ 155,000
August 1, 2026	160,000

Term Bond Maturing in 2028

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2027	\$ 165,000
August 1, 2028	170,000

Term Bond Maturing in 2031

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2029	\$ 175,000
August 1, 2030	180,000
August 1, 2031	185,000

Term Bond Maturing in 2034

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2032	\$ 190,000
August 1, 2033	195,000
August 1, 2034	200,000

Term Bond Maturing in 2037

<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2035	\$ 210,000
August 1, 2036	215,000
August 1, 2037	225,000

<u>Term Bond Maturing in 2042</u>	
<u>Mandatory</u> <u>Redemption Date</u>	<u>Refunded</u> <u>Principal Amount</u>
August 1, 2038	\$ 230,000
August 1, 2039	240,000
August 1, 2040	250,000
August 1, 2041	255,000
August 1, 2042	265,000

EXHIBIT "F"
REQUIREMENTS OF THE INSURER WITH RESPECT TO
THE MUNICIPAL BOND INSURANCE POLICY

[To be determined]

ESCROW AGREEMENT

**CITY OF HUTTO, TEXAS
GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B**

THIS ESCROW AGREEMENT, dated as of December 17, 2020 (herein, together with any amendments or supplements hereto, called the "Agreement"), entered into by and between the City of Hutto, Texas (the "Issuer") and BOKF, NA, as escrow agent (together with any successor in such capacity, the "Escrow Agent"),

W I T N E S S E T H:

WHEREAS, the Issuer heretofore issued and there presently remain outstanding the obligations (the "Refunded Obligations") described in the Verification Report of _____ (the "Report") relating to the Refunded Obligations, attached hereto as Exhibit "B" and made a part hereof; and

WHEREAS, the Refunded Obligations are scheduled to mature in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in the Report; and

WHEREAS, when firm banking arrangements have been made for the payment of principal and interest to the maturity or redemption dates of the Refunded Obligations, then the Refunded Obligations shall no longer be regarded as outstanding except for the purposes of receiving payment from the funds provided for such purpose and Issuer's right to call such Refunded Obligations for redemption in accordance with the provisions of the resolution, order or ordinance authorizing their issuance upon compliance with the provisions of Texas law; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the Issuer to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with an eligible institution, including any place of payment (paying agent) for any of the Refunded Obligations, and such deposit, if made before such payment dates and in sufficient amounts, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, Chapter 1207 further authorizes the Issuer to enter into an escrow agreement with any such paying agent for any of the Refunded Obligations with respect to the safekeeping, investment, administration and disposition of any such deposit, upon such terms and conditions as the Issuer and such paying agent may agree, provided that such deposits may be invested only in obligations authorized by Chapter 1207, and which shall mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of principal and interest on the Refunded Obligations when due; and

WHEREAS, BOKF, NA, Dallas, Texas, The Bank of New York Mellon Trust Company, N.A. and Truist Bank are the paying agents for a series of the Refunded Obligations described in the Report; and

WHEREAS, this Agreement constitutes an escrow agreement of the kind authorized and required by said Chapter 1207; and

WHEREAS, in accordance with Section 1207.061(a)(3) of the Government Code the Escrow Agent does not act as a depository bank of the Issuer; and

WHEREAS, Chapter 1207 makes it the duty of the Escrow Agent to comply with the terms of this Agreement and timely make available to the other places of payment (paying agents) for the Refunded Obligations the amounts required to provide for the payment of the principal of and interest on such obligations when due, and in accordance with their terms, but solely from the funds, in the manner, and to the extent provided in this Agreement; and

WHEREAS, the Issuer's General Obligation Refunding Bonds, Taxable Series 2020B (the "Refunding Obligations") have been issued, sold and delivered for the purpose, among others, of obtaining the funds required to provide for the payment of the principal of the Refunded Obligations at their respective maturity dates or dates of redemption and the interest thereon to such dates as set forth in the Report; and

WHEREAS, the Issuer desires that, concurrently with the delivery of the Refunding Obligations to the purchasers thereof, certain proceeds of the Refunding Obligations, together with certain other available funds of the Issuer, if applicable, shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as the "Escrowed Securities" for deposit to the credit of the Escrow Fund created pursuant to the terms of this Agreement and to establish a beginning cash balance (if needed) in such Escrow Fund; and

WHEREAS, the Escrowed Securities shall mature and the interest thereon shall be payable at such times and in such amounts so as to provide moneys which, together with cash balances from time to time on deposit in the Escrow Fund, will be sufficient to pay interest on the Refunded Obligations as it accrues and becomes payable and the principal of the Refunded Obligations on their respective maturity dates or dates of redemption; and

WHEREAS, to facilitate the receipt and transfer of proceeds of the Escrowed Securities, particularly those in book entry form, the Issuer desires to establish the Escrow Fund at the principal corporate trust office of the Escrow Agent; and

WHEREAS, the Escrow Agent is herein also referred to as the "Paying Agent," and any paying agent for the Refunded Obligations, acting through the Escrow Agent, is also a party to this Agreement, as a paying agent for the Refunded Obligations to acknowledge their acceptance of the terms and provisions of this Agreement in such capacity.

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which are hereby acknowledged, and in order to secure the full and timely payment of principal of and the interest on the Refunded Obligations, the Issuer and the Escrow Agent mutually undertake, promise, and agree for themselves and their respective representatives and successors, as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions. Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

"Code" means the Internal Revenue Code of 1986, as amended, or to the extent applicable the Internal Revenue Code of 1954, together with any other applicable provisions of any successor federal income tax laws.

"Escrow Fund" means the fund created by this Agreement to be administered by the Escrow Agent pursuant to the provisions of this Agreement.

"Escrowed Securities" means the direct noncallable, not pre-payable United States Treasury obligations and obligations the due timely payment of which is unconditionally guaranteed by the United States of America described in the Report or cash or other direct obligations of the United States of America substituted therefor pursuant to Article IV of this Agreement.

"Paying Agent" means BOKF, NA.

Section 1.02. Other Definitions. The terms "Agreement," "Issuer," "Escrow Agent," "Refunded Obligations," "Refunding Obligations," and "Report" when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section 1.03. Interpretations. The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Obligations in accordance with applicable law.

ARTICLE II

DEPOSIT OF FUNDS AND ESCROWED SECURITIES

Section 2.01. Deposits in the Escrow Fund. Concurrently with the sale and delivery of the Refunding Obligations the Issuer shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds and Escrowed Securities described in the Report, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the Issuer in writing.

ARTICLE III

CREATION AND OPERATION OF ESCROW FUND

Section 3.01. Escrow Fund. The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Issuer's Taxable Bonds Refunded Obligations Escrow Fund 2020B (the "Taxable Bonds Escrow Fund"). The Escrow Agent hereby agrees that upon receipt thereof it will irrevocably deposit to the credit of the Taxable Bonds Escrow Fund the funds and the Escrowed Securities described in the Report. Such deposit, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Taxable Bonds Escrow Fund, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Obligations, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.02 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Obligations on their respective maturity dates or dates of redemption, any balance then remaining in the Taxable Bonds Escrow Fund shall be transferred to the Issuer, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.02. Payment of Principal and Interest. The Escrow Agent is hereby irrevocably instructed to transfer from the cash balances from time to time on deposit in the Taxable Bonds Escrow Fund, the amounts required to pay the principal of the Refunded Obligations at their respective maturity dates or dates of redemption and interest thereon to such maturity dates or dates of redemption in the amounts and at the times shown in the Report.

Section 3.03. Sufficiency of Taxable Bonds Escrow Fund. The Issuer represents that the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Taxable Bonds Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Obligations at their respective maturity dates or dates of redemption as such interest comes due and the principal of the Refunded Obligations at their respective maturity dates or dates of redemption as the Refunded Obligations mature, all as more fully set forth in the Report. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Taxable Bonds Escrow Fund shall be insufficient to transfer the amounts required by each place of payment (paying agent) for the Refunded Obligations to make the payments set forth in Section 3.02 hereof, the Issuer shall timely deposit in the Taxable Bonds Escrow Fund, from any funds that are lawfully available therefor,

additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given as promptly as practicable as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Taxable Bonds Escrow Fund or the Issuer's failure to make additional deposits thereto.

Section 3.04. Trust Fund. The Escrow Agent shall hold at all times the Taxable Bonds Escrow Fund, the Escrowed Securities and all other assets of the Taxable Bonds Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Taxable Bonds Escrow Fund to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Taxable Bonds Escrow Fund only as set forth herein. The Escrowed Securities and other assets of the Taxable Bonds Escrow Fund shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Obligations; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Obligations shall be entitled to the same preferred claim and first lien upon the Escrowed Securities, the proceeds thereof, and all other assets of the Taxable Bonds Escrow Fund to which they are entitled as owners of the Refunded Obligations. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Issuer, and the Escrow Agent shall have no right to title with respect thereto except as a constructive trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent under this Agreement shall not be subject to warrants, drafts or checks drawn by the Issuer or, except to the extent expressly herein provided, by the Paying Agent.

Section 3.05. Security for Cash Balances. Cash balances from time to time on deposit in the Taxable Bonds Escrow Fund shall, to the extent not insured by the Federal Deposit Insurance Corporation or its successor, be continuously secured by a pledge of direct obligations of, or obligations unconditionally guaranteed by, the United States of America, having a market value at least equal to such cash balances.

ARTICLE IV

LIMITATION ON INVESTMENTS

Section 4.01. Except as provided in Sections 3.02, 4.02, 4.03 and 4.04 hereof, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer or otherwise dispose of the Escrowed Securities.

Section 4.02. Reinvestment of Certain Cash Balances in Escrow by Escrow Agent. In addition to the Escrowed Securities listed in the Report, the Escrow Agent shall reinvest cash balances shown in the Report in United States Treasury Obligations - State and Local Government Series with an interest rate equal to zero percent (0%) to the extent such Obligations are available from the Department of the Treasury. All such re-investments shall be made only from the portion of cash balances derived from the maturing principal of and interest on Escrowed Securities that are United States Treasury Certificates of Indebtedness, Notes or Bonds

- State and Local Government Series. All such re-investments shall be acquired on and shall mature on the dates shown on the Report.

Section 4.03. Substitutions and Reinvestments. At the discretion of the Issuer, the Escrow Agent shall reinvest cash balances representing receipts from the Escrowed Securities, make substitutions of the Escrowed Securities or redeem the Escrowed Securities and reinvest the proceeds thereof or hold such proceeds as cash, together with other moneys or securities held in the Taxable Bonds Escrow Fund provided that the Issuer delivers to the Escrow Agent the following:

(1) an opinion by an independent certified public accountant that after such substitution or reinvestment the principal amount of the securities in the Taxable Bonds Escrow Fund (which shall be noncallable, not pre-payable direct obligations of the United States of America), together with the interest thereon and other available moneys, will be sufficient to pay, without further investment or reinvestment, as the same become due in accordance with the Report, the principal of, interest on and premium, if any, on the Refunded Obligations which have not previously been paid, and

(2) an unqualified opinion of nationally recognized municipal bond counsel to the effect that (a) such substitution or reinvestment will not cause the Refunded Obligations to be "arbitrage bonds" within the meaning of Section 103 of the Code or the regulations thereunder in effect on the date of such substitution or reinvestment, or otherwise make the interest on the Refunded Obligations subject to federal income taxation, and (b) such substitution or reinvestment complies with the Constitution and laws of the State of Texas and with all relevant documents relating to the issuance of the Refunded Obligations.

The Escrow Agent shall have no responsibility or liability for loss or otherwise with respect to investments made at the direction of the Issuer.

Section 4.04. Substitution for Escrowed Securities. Concurrently with the initial deposit by the Issuer with the Escrow Agent, but not thereafter, the Issuer, at its option, may substitute cash or direct noncallable and not pre-payable obligations of the United States Treasury (i.e., Treasury obligations which mature and are payable in a stated amount on the maturity date thereof, and for which there are no payments other than the payment made on the maturity date) (the "Substitute Obligations") for Escrowed Securities, if any, but only if such Substitute Obligations

- (a) are in an amount, and/or mature in an amount, which is equal to or greater than the amount payable on the maturity date of the obligation listed in the Report for which such Substitute Obligation is substituted,
- (b) mature on or before the maturity date of the obligation listed in the Report for which such Substitute Obligation is substituted, and

- (c) produce the amount necessary to pay the interest on and principal of the Refunded Obligations, as set forth in the Report, as verified by a certified public accountant or a firm of certified public accountants.

If, concurrently with the initial deposit by the Issuer with the Escrow Agent, any such Substitute Obligations are so substituted for any Escrowed Securities, the Issuer may, at any time thereafter, substitute for such Substitute Obligations the same Escrowed Securities for which such Substitute Obligations originally were substituted.

Section 4.05. Arbitrage. The Issuer hereby covenants and agrees that it shall never request the Escrow Agent to exercise any power hereunder or permit any part of the money in the Taxable Bonds Escrow Fund or proceeds from the sale of Escrowed Securities to be used directly or indirectly to acquire any securities or obligations if the exercise of such power or the acquisition of such securities or obligations would cause any Refunding Obligations or Refunded Obligations to be an "arbitrage bond" within the meaning of the Code.

ARTICLE V

APPLICATION OF CASH BALANCES

Section 5.01. In General. Except as provided in Sections 3.02, 4.02, 4.03 and 4.04 hereof, no withdrawals, transfers, or reinvestment shall be made of cash balances in the Taxable Bonds Escrow Fund.

ARTICLE VI

RECORDS AND REPORTS

Section 6.01. Records. The Escrow Agent will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Taxable Bonds Escrow Fund and all proceeds thereof, and such books shall be available for inspection at reasonable hours and under reasonable conditions by the Issuer and the owners of the Refunded Obligations.

Section 6.02. Reports. While this Agreement remains in effect, the Escrow Agent annually shall prepare and send to the Issuer a written report summarizing all transactions relating to the Taxable Bonds Escrow Fund during the preceding year, including, without limitation, credits to the Taxable Bonds Escrow Fund as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Taxable Bonds Escrow Fund for payments on the Refunded Obligations or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Taxable Bonds Escrow Fund as of the end of such period.

ARTICLE VII

CONCERNING THE PAYING AGENTS AND ESCROW AGENT

Section 7.01. Representations. The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 7.02. Limitation on Liability. The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Obligations shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Taxable Bonds Escrow Fund. Notwithstanding any provision contained herein to the contrary, neither the Escrow Agent nor the Paying Agent shall have any liability whatsoever for the insufficiency of funds from time to time in the Taxable Bonds Escrow Fund or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the Issuer as promptly as practicable of any such occurrence.

The recitals herein and in the proceedings authorizing the Refunding Obligations shall be taken as the statements of the Issuer and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent. The Escrow Agent is not a party to the proceedings authorizing the Refunding Obligations or the Refunded Obligations and is not responsible for nor bound by any of the provisions thereof (except as a place of payment and paying agent and/or a Paying Agent/Registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Taxable Bonds Escrow Fund, or any part thereof, or as to the title of the Issuer thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or willful misconduct.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the Issuer with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Taxable Bonds Escrow Fund, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the

occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own willful misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the Issuer at any time.

Section 7.03. Compensation. (a) Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Escrow Agent, as a fee for performing the services hereunder and for all expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement, the amount of \$500, as set forth in Exhibit "C" attached hereto, the sufficiency of which is hereby acknowledged by the Escrow Agent. In the event that the Escrow Agent is requested to perform any extraordinary services hereunder, the Issuer hereby agrees to pay reasonable fees to the Escrow Agent for such extraordinary services and to reimburse the Escrow Agent for all expenses incurred by the Escrow Agent in performing such extraordinary services, and the Escrow Agent hereby agrees to look only to the Issuer for the payment of such fees and reimbursement of such expenses. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against the Taxable Bonds Escrow Fund for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses.

(b) Upon receipt of the aforesaid specific sums stated in subsection (a) of this Section 7.03 for Escrow Agent fees, expenses, and services, the Escrow Agent shall acknowledge such receipt to the Issuer in writing.

(c) BOKF, NA, Dallas, Texas is the place of payment (paying agent) for the Refunded Obligations. Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Paying Agent, the sum of \$_____, the sufficiency of which is hereby acknowledged by BOKF, NA for all future paying agency services with respect to the Refunded Obligations for which BOKF, NA is paying agent, and BOKF, NA warrants that such sum is sufficient for such purpose.

(d) The Bank of New York Mellon Trust Company, N.A., Houston, Texas is the place of payment (paying agent) for the Refunded Obligations. Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Paying Agent, the sum of \$_____, the sufficiency of which is hereby acknowledged by The Bank of New York Mellon Trust Company, N.A. for all future paying agency services with respect to the Refunded Obligations for which The Bank of New York Mellon Trust Company, N.A. is paying agent, and The Bank of New York Mellon Trust Company, N.A. warrants that such sum is sufficient for such purpose.

(e) Truist Bank, Houston, Texas is the place of payment (paying agent) for the Refunded Obligations. Concurrently with the sale and delivery of the Refunding Obligations, the

Issuer shall pay to the Paying Agent, the sum of \$ _____, the sufficiency of which is hereby acknowledged by Truist Bank, N.A. for all future paying agency services with respect to the Refunded Obligations for which Truist Bank, N.A. is paying agent, and Truist Bank, N.A. warrants that such sum is sufficient for such purpose.

Section 7.04. Successor Escrow Agents. If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the Issuer, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the Issuer within sixty (60) calendar days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Obligations then outstanding by an instrument or instruments in writing filed with the Issuer, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Obligation may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Texas, authorized under such laws to exercise corporate trust powers, authorized under Texas law to act as an escrow agent, having its principal office and place of business in the State of Texas, having a combined capital and surplus of at least \$5,000,000 and subject to the supervision or examination by Federal or State authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the Issuer and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The Escrow Agent at the time acting hereunder may at any time resign and be discharged from the trust hereby created by giving not less than sixty (60) days' written notice to the Issuer and publishing notice thereof, specifying the date when such resignation will take effect, in a newspaper printed in the English language and with general circulation in New York, New York, such publication to be made once at least three (3) weeks prior to the date when the resignation is to take effect. No such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the owners of the Refunded Obligations or by the Issuer as herein provided and such successor Escrow Agent shall be a paying agent for the Refunded Obligations and shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

Under any circumstances, the Escrow Agent shall pay over to its successor Escrow Agent proportional parts of the Escrow Agent's fee and, if applicable, its Paying Agent's fee hereunder.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notice. Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the Issuer or the Escrow Agent at the address shown on Exhibit "A" attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten (10) calendar days prior notice thereof. Prior written notice of any amendment to this Agreement contemplated pursuant to Section 8.08 and immediate written notice of any incidence of a severance pursuant to Section 8.04 shall be sent to Moody's Investors Service, Attn: Public Finance Rating Desk/Refunded Bonds, 99 Church Street, New York, New York 10007 and Standard & Poor's Corporation, Attn: Municipal Bond Department, 25 Broadway, New York, New York 10004.

Section 8.02. Termination of Responsibilities. Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the Issuer, the owners of the Refunded Obligations or to any other person or persons in connection with this Agreement.

Section 8.03. Binding Agreement. This Agreement shall be binding upon the Issuer and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Obligations, the Issuer, the Escrow Agent and their respective successors and legal representatives.

Section 8.04. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 8.05. Texas Law Governs. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Texas.

Section 8.06. Time of the Essence. Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 8.07. Effective date of Agreement. This Agreement shall be effective upon receipt by the Escrow Agent of the funds described in the Report and the Escrowed Securities,

together with the sums stated in Section 7.03 for Escrow Agent and paying agency fees, expenses, and services.

Section 8.08. Amendments. This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Obligations.

Section 8.09. Counterparts. This Agreement may be executed in one or more counterparts, each and all of which shall constitute one and the same instrument.

Section 8.10. No Boycott of Israel. The Escrow Agent represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Escrow Agent understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

Section 8.11. No Terrorism. The Escrow Agent represents that, neither the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>

<https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Escrow Agent and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Escrow Agent understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

EXECUTED as of the date first written above.

THE CITY OF HUTTO, TEXAS

By: _____
Mayor [Pro-Tem]

BOKF, NA, as Escrow Agent

By: _____
Name: Tony Hongnoi
Title: Vice President

Solely for the purpose of acknowledging the provisions in Section 7.03(c).

BOKF, NA

By _____
Authorized Signatory

Solely for the purpose of acknowledging the provisions in Section 7.03(d).

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.

By _____
Authorized Signatory

Solely for the purpose of acknowledging the provisions in Section 7.03(e).

TRUIST BANK

By _____
Authorized Signatory

EXHIBIT "A"

ADDRESSES OF THE ISSUER AND THE ESCROW AGENT

Issuer

The City of Hutto, Texas
500 W. Live Oak Street
Hutto, Texas 78634
Attn: Warren Hutmacher

Escrow Agent

BOKF, NA
5956 Sherry Lane
Suite 1201
Dallas, Texas 75225
Attn: Tony Hongnoi

EXHIBIT "B"

VERIFICATION REPORT

[SEE SEPARATE TAB OF TRANSCRIPT]

B-1

Htoo\GORB 2020B: EscrowAgrmnt

EXHIBIT "C"

ESCROW AGENT FEE SCHEDULE

C-1

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of December 17, 2020 (this "Agreement"), by and between the City of Hutto, Texas (the "Issuer"), and BOKF, NA, a banking corporation duly organized and existing under the laws of the United States of America (the "Bank").

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "General Obligation Bonds Refunding Bonds, Tax-Exempt Series 2020A" in the aggregate principal amount of \$ _____ and "General Obligation Refunding Bonds, Taxable Series 2020B" in the aggregate principal amount of \$ _____ (collectively, the "Securities"), such Securities to be issued in fully registered form only as to the payment of principal and interest thereon; and

WHEREAS, the Securities are scheduled to be delivered to the initial purchasers thereof on or about December 17, 2020; and

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

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

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01. Appointment.

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

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

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

Section 1.02. Compensation.

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for municipalities, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year.

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

**ARTICLE TWO
DEFINITIONS**

Section 2.01. Definitions.

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

"Bank Office" means the designated office of the Bank as indicated on the signature page hereof, except that the payment and registration duties of the Bank will be performed from the Bank's designated office located in Dallas, Texas. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Financial Advisor" means Hilltop Securities Inc.

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

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

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

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for

which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Ordinances).

"Record Date" means the Record Date as defined in the Ordinances.

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

"Registered Owner" each means the Person in whose name a Security is registered in the Security Register.

"Ordinances" means the orders, ordinances or resolutions of the governing body of the Issuer pursuant to which the Securities are issued, certified by the City Secretary of the Issuer or any other officer of the Issuer and delivered to the Bank.

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

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

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

Section 2.02. Other Definitions.

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

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

ARTICLE THREE PAYING AGENT

Section 3.01. Duties of Paying Agent.

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

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Registered Owner and preparing and sending checks by United States Mail, first class postage prepaid, on each payment date, to the Registered Owners of the Securities (or their Predecessor Securities) on the respective Record Date, to the address appearing on the Security Register or by such other method, acceptable to the Bank, requested in writing by the Registered Owner at the Registered Owner's risk and expense.

Section 3.02. Payment Dates.

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

Section 3.03 Reporting Requirements.

To the extent required by the Internal Revenue Code of 1986 and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto, the Bank shall report, or assure that a report is made to the Holder and the Internal Revenue Service any amount of acquisition premium, interest paid on, original issue discount or adjusted basis of the Security.

**ARTICLE FOUR
REGISTRAR**

Section 4.01. Security Register - Transfers and Exchanges.

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

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority,

in form satisfactory to the Bank, duly executed by the Registered Owner thereof or his agent duly authorized in writing.

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

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Registered Owners thereof will be completed and new Securities delivered to the Registered Owner or the assignee of the Registered Owner in not more than three (3) business days after the receipt of the Securities to be canceled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Registered Owner, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02. Certificates.

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

Section 4.03. Form of Security Register.

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

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

Section 4.04. List of Registered Owners.

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

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

Section 4.05. Return of Canceled Certificates.

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

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

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

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

Section 4.07. Transaction Information to Issuer.

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

**ARTICLE FIVE
THE BANK**

Section 5.01. Duties of Bank.

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

Section 5.02. Reliance on Documents, Etc.

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

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

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

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

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

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

(g) The Bank shall maintain a copy of the Security Register within the State of Texas.

The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner described in any closing memorandum as prepared by the City, the

City's Financial Advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum acknowledged by the City or its Financial Advisor or other agent as the final closing memorandum. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with the instructions set forth in the closing memorandum.

Section 5.03. Recitals of Issuer.

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

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

Section 5.04. May Hold Securities.

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

Section 5.05. Moneys Held by Bank.

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

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

Section 5.06. Indemnification.

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

Section 5.07. Interpleader.

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

Section 5.08. Depository Trust Company Services.

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

Attached hereto is a copy of the Blanket Letter of Representations with The Depository Trust Company.

**ARTICLE SIX
MISCELLANEOUS PROVISIONS**

Section 6.01. Amendment.

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

Section 6.02. Assignment.

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

Section 6.03. Notices.

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

Section 6.04. Effect of Headings.

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

Section 6.05. Successors and Assigns.

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

Section 6.06. Severability.

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

Section 6.07. Benefits of Agreement.

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

Section 6.08. Entire Agreement.

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

Section 6.09. Counterparts.

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

Section 6.10. Termination.

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

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

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.11. Governing Law.

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

Section 6.12. No Boycott of Israel. The Paying Agent/Registrar represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Paying Agent/Registrar, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Paying Agent/Registrar understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Paying Agent/Registrar and exists to make a profit.

Section 6.13. No Terrorism. The Paying Agent/Registrar represents that, neither the Paying Agent/Registrar, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>

<https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Paying Agent/Registrar and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Paying Agent/Registrar understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Paying Agent/Registrar and exists to make a profit.

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

BOKF, NA

By _____

Title _____

[PARA Sig Pg]

Hutto\GORB\2020A&B: PARA

THE CITY OF HUTTO, TEXAS

By: _____
Mayor [Pro-Tem]

[PARA Sig Pg]

Hutto\GORB\2020A&B: PARA

SCHEDULE A

Paying Agent/Registrar Fee Schedules

A-1

Hutto\GORB\2020A&B; PARA

RESOLUTION NO. R-2020-124

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HUTTO, TEXAS, APPROVING THE AMENDMENTS TO THE
BYLAWS FOR THE RIVER CREEK DEVELOPMENT
CORPORATION**

WHEREAS, the River Creek Development Corporation was created pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code, which authorizes the creation and organization of a local government corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes of its creation; and

WHEREAS, Section 4.2 of the Corporation's bylaws provides that the bylaws may be amended at any time and from time to time by majority vote of the Directors then in office, but only with approval of the City Council; and

WHEREAS, on November 12, 2020, the Board of Directors of the Corporation approved the amendments to the bylaws to modify the length of the terms the officers of the Corporation and update the principal office of the Corporation; and

WHEREAS, the City Council of the City of Hutto desires to approve the amendments to the bylaws of the Corporation.

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

The amendments to the bylaws of the River Creek Development Corporation, previously approved by the Board of Directors of the Corporation, attached hereto as Exhibit "A," are approved by the City Council.

Dated this __th day of **November, 2020**.

CITY OF HUTTO, TEXAS

Mayor

ATTEST:

Holly Nagy, City Secretary

EXHIBIT "A"

BYLAWS OF THE RIVER CREEK DEVELOPMENT CORPORATION

Effective _____

Article I: Powers and Purposes

Section 1.1: Corporate Identity; Offices. The name of the corporation is the River Creek Development Corporation (the "Corporation"). The principal office of the Corporation shall be at [~~401 W. Front Street~~] 500 W. Live Oak Street, Hutto, TX 78634. The Corporation may relocate such principal office and have such other offices as the Board of Directors shall determine.

Section 1.2: Powers, Purposes and Authority. The Corporation is a public non-profit corporation organized under the laws of the State of Texas for the purpose of aiding, assisting, and acting on behalf of the City of Hutto (the "City") in the performance of its governmental functions to promote the common good and general welfare of the City.

The Corporation is formed pursuant to the provisions of Subchapter D, Chapter 431, of the Texas Transportation Code ("Chapter 431") as it now or may hereafter be amended, which authorizes the Corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes for its creation, in the manner specified by Chapter 394 of the Texas Local Government Code, and in conformance with the Texas Nonprofit Corporation Law, Chapter 22 of the Texas Business Organizations Code (the "TNCL").

The Corporation shall have and exercise all rights, powers, privileges, authority, and functions of every kind and nature whatsoever, both expressed and implied, given by the general laws of the State of Texas to non-profit corporations incorporated under Chapter 431, including, without limitation, the TNCL.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The Corporation is created as a local governmental corporation pursuant to Chapter 431 and shall be a governmental unit within the meaning of Subdivision (2), Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with Chapter 431 as amended from time to time.

Section 1.3: Annual Corporate Budget. At least sixty (60) days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of anticipated revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications as shall be in such form as may be prescribed from time to time by the City Manager and/or Council. The budget shall not be effective until same has been approved by the City Council. The Corporation's fiscal year shall start on October 1 and end on September 30th of the following year and may be changed by action of the Board and approval of the City Council.

Section 1.4: Books and Records: Review of Financial Statements. The Corporation shall keep correct and complete books and records of all accounts and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any director or his or her agent or attorney at a reasonable time: and at all times the City Manager and/or City Council of the City (the "City of Hutto") will have access to the books, records and financial statements of the Corporation. At the direction of the City Manager and/or Council, the books, records, accounts and financial statements may be maintained for the Corporation by the staff of the City. In such event, the Corporation shall pay to the City reasonable compensation for such services.

Section 1.5: Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Certificate of Formation, these Bylaws and the Resolutions, Orders and Ordinances of the City Council.

Article II: Board of Directors

Section 2.1: Appointment, Powers, Number and Term of Office. The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Certificate of Formation and these Bylaws.

The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors (the "Board"), appointed by the Hutto City Council and subject to the applicable limitations imposed by the Act, other applicable legislation and these Bylaws. The Board may, by contract, resolution or otherwise, give general or limited or special powers and authority to the Officers of the Corporation.

The Board may plan and direct its work through the Chairperson who will be charged with the responsibility of carrying out the Corporation's programs as adopted and planned by the Board.

The Board shall consist of three (3) persons who shall each be appointed by the City Council. The term of each directorship will be for three (3) years. All directors must be residents of the City. Those filling vacancies shall serve out the term of those seats.

Any Director, or all Directors, may be removed from office at any time by majority vote of the City Council, for cause or at will. Any vacancy occurring on the Board shall be filled by appointment by majority vote of the City Council.

Section 2.2: Meetings of Directors in General. The Board shall meet at least once each year and any member of the Board may request that an item be placed on the agenda by providing same in writing, to the Secretary no later than ten (10) days prior to the date of the Board meeting.

The Board may hold its meetings at any place authorized by Chapter 431 and as the Board may from time to time determine; provided that. In the absence of any such determination by the Board, the meeting shall be held at the principal office of the Corporation, at the City Council Chambers of the City or such other location determined by the Board. The Board shall conduct its meetings in accordance with the requirements of the TNCL and Chapter 431.

Section 2.3: Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board. Notice of regular meetings need not be given to each of the Directors, but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4: Special Meetings. Special meetings of the Board shall be held whenever called by the Chairperson, by the Secretary or by a majority of the Directors then in office, or upon advice of or by request of the City Council.

The Secretary or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each Director either by mail, telephone, electronically or in person at least two (2) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting. At any meeting at which every Director is present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon, except as otherwise provided by law.

Section 2.5: Quorum. A majority of the Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law. Any member of the Board may request a record vote on any matter to come before the Directors and that record vote will become a part of the minutes.

Section 2.6: Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order from time to time as the Board may determine.

Section 2.7: Compensation of Directors. Compensation of Directors. Directors shall not receive any compensation for their services as Directors except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties.

Section 2.8: Board Committees. The Board may designate two (2) or more directors to constitute an official committee of the Board to exercise such authority as is delegated and approved by resolution of the Board. It is provided, however, that all final, official actions of the Corporation may be exercised only by the full Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

Section 2.9: Advisory Board. The Board may appoint an advisory board or boards to assist the Board and perform such other duties as the Board may from time to time assign to the advisory board. An advisory board shall be made up of no more than seven (7) individuals. At the time the Board creates an advisory board, the Board shall adopt rules and regulations regarding membership of the advisory board. The advisory boards may make recommendations to the Board, but all final, official actions of the Corporation shall be exercised only by the Board.

Section 2.10: Texas Open Meetings Act and Open Records Act. Meetings of the Board, Board committees, and the advisory board are subject to the Texas Open Meetings Act, Texas Government Code Chapter 551, and the Corporation is subject to the Texas Open Records Act, Texas Government Code Chapter 552.

Article III: Officers

Section 3.1: Titles and Terms of Office. The Officers of the Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer, and such person may hold more than one office, except the Chairperson shall not hold the office of Secretary. The Chairperson and each other Officer of the Corporation shall be appointed by a majority vote of the Directors then in office and shall hold office for a term of [~~two (2) years~~] three (3) years or until his or her successor is elected or appointed.

All Officers shall be subject to removal from office with or without cause at any time by a majority vote of the Directors then in office.

A vacancy in any office shall be filled by appointment by a majority vote of the Directors then in office.

Section 3.2: Chairperson The Chairperson shall be the Chief Executive Officer of the Corporation, and, subject to the control of the Board of Directors, the Chairperson shall be in general charge of the properties and affairs of the Corporation. The Chairperson shall preside at all meetings of the Board of Directors in furtherance of the purposes of this Corporation; the Chairperson may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, notes and other instruments in the name of the Corporation.

The Chairperson shall have the authority to appoint standing committees to aid and assist the Board in its business undertakings or matters incidental to the operation and functions of the Board. The Chairperson shall have the authority to appoint ad-hoc committees which may address issues of a temporary nature of concern or which have a temporary effect on the business of the Board.

Section 3.3: Vice Chairperson. The Vice Chairperson shall have such powers and duties as may be assigned by the Board of Directors and shall exercise the powers of the Chairperson during the Chairperson's absence or inability to act. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be with conclusive evidence of the absence or inability of the Chairperson to act at the time such action was taken.

Section 3.4: Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation that come in to his or her hands or shall and otherwise provide for custody.

When necessary, or proper, the Treasurer may sign or endorse, on behalf of the Corporation for collection or payment checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or depositories as shall be designated by the Board of Directors. Whenever required by the Board of Directors, the Treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the Treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation. The Treasurer shall perform all acts incident to the position of the Treasurer subject to the control of the Board of Directors.

Section 3.5: Secretary. The Secretary shall keep or shall cause to be kept the minutes of all meetings of the Board of Directors, its committees and those of Executive Sessions in books provided for that purpose. The Secretary shall attend to giving and serving notices in furtherance of the corporate purposes. The Secretary may attest or sign with the Chairperson in the Corporation's name, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation. The Secretary shall have charge of the corporate books, records, and all records of the securities of which the Treasurer shall have custody, and such other books and papers as the Board of Directors may direct, all of which shall during business hours be open to inspection at the office of the Corporation; and the Secretary shall in general perform all duties incident to the office of Secretary subject to the control of the Board of Directors.

In the absence of the Secretary, the Chairperson may appoint any other Board of Director to act as Secretary during such absence.

Section 3.6: Chief Executive Officer. The City Manager for the City of Hutto shall serve as the Chief Executive Officer for the Corporation and the Board. The Chief Executive Officer shall carry out all administrative duties as directed by the Board and shall be authorized to sign all agreements and documents approved by the Board.

Section 3.7: Compensation. Officers of the Board shall not receive any compensation for their services as Officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

Article IV: Provisions Regarding Bylaws

Section 4.1: Effective Date. These Bylaws shall become effective only upon the occurrence of the following events:

- (1) the adoption of these Bylaws by the Board of Directors; and
- (2) the approval of these Bylaws by the City Council.

Section 4.2: Amendments to Bylaws. These Bylaws may be amended at any time and from time to time by majority vote of the Directors then in office, but only with approval of the City Council.

Section 4.3: Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to a person or circumstance, shall ever be

held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

Article V: General Provisions

Section 5.1: Principal Office. The current principal office of the Corporation is at shall be at ~~[401 W. Front Street]~~ 500 W. Live Oak Street, Hutto, TX 78634. The Corporation may relocate such principal office and have such other offices as the Board shall determine.

Section 5.2: Seal. The seal of the Corporation shall be as determined by the Board of Directors. The Board may determine the Corporation will have no seal.

Section 5.3: Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board of Directors under the Act, the Certificate of Formation or these Bylaws, such notices shall be deemed to be sufficient if given by depositing it for mailing in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. A written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be set forth in any notice to a Director of such meeting unless required by the Board of Directors.

Any notice whatsoever that may be required to be given to the public by law, shall be given in the manner prescribed by law.

Section 5.4: Resignations. Any Director or Officer may resign at any time. Any such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chairperson or the Secretary. Absent a written notice of the resignation, the City Council of the City shall cause a notice of the resignation to be provided. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Notwithstanding the effective date, a resigning Director shall serve until such time as her or her successor takes office.

Section 5.5: Approval of the City Council. To the extent these Bylaws refer to any approval or action to be taken by the City, such shall be evidenced by a certified copy of a Resolution, Ordinance, Order or Motion duly adopted by the City Council.

Section 5.6: Organizational Control. The City Council may, at its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Act and any limitation on the impairment of

contracts. The Corporation shall comply with all financial and administrative ordinances and policies of the City.

Section 5.7: Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interest in any real or personal property then owned by the Corporation shall vest in the City except and unless as authorized by the City Council.

Section 5.8: Staff and organizational management. Staffing of the Corporation shall be provided by the City of Hutto and the City Manager and Chairperson shall work together to ensure that the Chief Executive Officer of the Corporation and/or subsequent City departmental staff fully implement the policies of the Board of Directors. The Corporation shall utilize the staff and employees of the City for the provision of all support services required by the Corporation. The Corporation shall pay compensation to the City for such services. The performance of City staff of services for the Corporation shall not materially interfere with the other duties of such staff, provided that in the performance of services for the Corporation, such staff shall answer to the Corporation, under direction of the City Manager.

Section 5.9: Indemnification. The Corporation shall indemnify any current or former director, officer, or employee of the Corporation, or any person who may have served at the Corporation's request as a director, officer, or employee of another corporation or entity in which it owns shares of stock or other ownership interest or of which it is a creditor, against expenses actually and necessarily incurred by such person and any amount paid in satisfaction of judgments in connection with any action, suit, or proceeding, whether civil, criminal, arbitral, or investigative in nature, in which such person was, is, or is threatened to be made a named defendant or respondent by reason of being or having been such a director, officer, or employee (whether or not the person is or was such at the time such costs or expenses are incurred by or imposed upon such person) as is required by Section 8.051 of the Texas Business Organizations Code ("TBOC"). The Corporation may indemnify any such person against and for any such expenses or costs and may advance expenses to any such person as is permitted by and according to the terms of Section 8.101 of the TBOC.

Section 5.10: Insurance. The Corporation may at the discretion of the Board of Directors purchase and maintain insurance on behalf of the Corporation and any person whom it has the power to indemnify pursuant to law, the Certificate of Formation, these Bylaws or otherwise, including without limitation directors and officers liability insurance.

These Bylaws were adopted at a duly called meeting of the Board of Directors of the Corporation held on _____, 20__. These Bylaws shall become effective upon the date of their approval by resolution of the City Council of the City of Hutto, Texas.

By: _____
_____, Secretary
River Creek Development Corporation

Adopted and approved this _____.

THE CITY OF HUTTO, TEXAS

By: _____
Doug Gaul, Mayor

RESOLUTION NO. R-2020-125

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTTO,
TEXAS, APPROVING THE AMENDMENTS TO THE BYLAWS OF THE
COTTONWOOD DEVELOPMENT CORPORATION.**

WHEREAS, the Cottonwood Development Corporation was created pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code, which authorizes the creation and organization of a local government corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes of its creation; and

WHEREAS, Section 4.2 of the Corporation's bylaws provides that the bylaws may be amended at any time and from time to time by majority vote of the Directors then in office, but only with approval of the City Council; and

WHEREAS, on November 12, 2020, the Board of Directors of the Corporation approved the amendments to the bylaws to modify the length of the terms of the officers of the Corporation; and

WHEREAS, it is appropriate for the City Council to consider, ratify and confirm actions taken by the Directors of Cottonwood Development Corporation.

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

The amendments to the bylaws of Cottonwood Development Corporation, previously approved by the Board of Directors of the Corporation, attached hereto as Exhibit "A," are approved by the City Council.

Dated this ___th day of November, 2020.

CITY OF HUTTO, TEXAS

Mayor

ATTEST:

Holly Nagy, City Secretary

EXHIBIT “A”

BYLAWS OF THE COTTONWOOD DEVELOPMENT CORPORATION

Effective _____

Article I: **Powers and Purposes**

Section 1.1: Corporate Identity: Offices. The name of the corporation is the Cottonwood Development Corporation (the “Corporation”). The principal office of the Corporation shall be at 500 W. Live Oak Street, Hutto, TX 78634. The Corporation may relocate such principal office and have such other offices as the Board of Directors shall determine.

Section 1.2: Powers, Purposes and Authority. The Corporation is a public non-profit corporation organized under the laws of the State of Texas for the purpose of aiding, assisting, and acting on behalf of the City of Hutto (the “City”) in the performance of its governmental functions to promote the common good and general welfare of the City.

The Corporation is formed pursuant to the provisions of Subchapter D, Chapter 431, of the Texas Transportation Code (“Chapter 431”) as it now or may hereafter be amended, which authorizes the Corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes for its creation, in the manner specified by Chapter 394 of the Texas Local Government Code, and in conformance with the Texas Nonprofit Corporation Law, Chapter 22 of the Texas Business Organizations Code (the “TNCL”).

The Corporation shall have and exercise all rights, powers, privileges, authority, and functions of every kind and nature whatsoever, both expressed and implied, given by the general laws of the State of Texas to non-profit corporations incorporated under Chapter 431, including, without limitation, the TNCL.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The Corporation is created as a local governmental corporation pursuant to Chapter 431 and shall be a governmental unit within the meaning of Subdivision (2), Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with Chapter 431 as amended from time to time.

Section 1.3: Annual Corporate Budget. At least sixty (60) days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of anticipated revenues and proposed expenditures for the next ensuing fiscal year. The budget shall

contain such classifications as shall be in such form as may be prescribed from time to time by the City Manager and/or Council. The budget shall not be effective until same has been approved by the City Council. The Corporation's fiscal year shall start on October 1 and end on September 30th of the following year and may be changed by action of the Board and approval of the City Council.

Section 1.4: Books and Records: Review of Financial Statements. The Corporation shall keep correct and complete books and records of all accounts and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any director or his or her agent or attorney at a reasonable time: and at all times the City Manager and/or City Council of the City (the "City of Hutto") will have access to the books, records and financial statements of the Corporation. At the direction of the City Manager and/or Council, the books, records, accounts and financial statements may be maintained for the Corporation by the staff of the City. In such event, the Corporation shall pay to the City reasonable compensation for such services.

Section 1.5: Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Certificate of Formation, these Bylaws and the Resolutions, Orders and Ordinances of the City Council.

Article II: Board of Directors

Section 2.1: Appointment, Powers, Number and Term of Office. The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Certificate of Formation and these Bylaws.

The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors (the "Board"), appointed by the Hutto City Council and subject to the applicable limitations imposed by the Act, other applicable legislation and these Bylaws. The Board may, by contract, resolution or otherwise, give general or limited or special powers and authority to the Officers of the Corporation.

The Board may plan and direct its work through the Chairperson who will be charged with the responsibility of carrying out the Corporation's programs as adopted and planned by the Board.

The Board shall consist of three (3) persons who shall each be appointed by the City Council. The term of each directorship will be for three (3) years. All directors must be residents of the City. Those filling vacancies shall serve out the term of those seats.

Any Director, or all Directors, may be removed from office at any time by majority vote of the City Council, for cause or at will. Any vacancy occurring on the Board shall be filled by appointment by majority vote of the City Council.

Section 2.2: Meetings of Directors in General. The Board shall meet at least once each year and any member of the Board may request that an item be placed on the agenda by providing same in writing, to the Secretary no later than ten (10) days prior to the date of the Board meeting. The Board may hold its meetings at any place authorized by Chapter 431 and as the Board may from time to time determine; provided that. In the absence of any such determination by the Board,

the meeting shall be held at the principal office of the Corporation, at the City Council Chambers of the City or such other location determined by the Board. The Board shall conduct its meetings in accordance with the requirements of the TNCL and Chapter 431.

Section 2.3: Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board. Notice of regular meetings need not be given to each of the Directors, but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4: Special Meetings. Special meetings of the Board shall be held whenever called by the Chairperson, by the Secretary or by a majority of the Directors then in office, or upon advice of or by request of the City Council.

The Secretary or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each Director either by mail, telephone, electronically or in person at least two (2) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting. At any meeting at which every Director is present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon, except as otherwise provided by law.

Section 2.5: Quorum. A majority of the Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law. Any member of the Board may request a record vote on any matter to come before the Directors and that record vote will become a part of the minutes.

Section 2.6: Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order from time to time as the Board may determine.

Section 2.7: Compensation of Directors. Compensation of Directors. Directors shall not receive any compensation for their services as Directors except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties.

Section 2.8: Board Committees. The Board may designate two (2) or more directors to constitute an official committee of the Board to exercise such authority as is delegated and approved by resolution of the Board. It is provided, however, that all final, official actions of the Corporation may be exercised only by the full Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

Section 2.9: Advisory Board. The Board may appoint an advisory board or boards to assist the Board and perform such other duties as the Board may from time to time assign to the

advisory board. An advisory board shall be made up of no more than seven (7) individuals. At the time the Board creates an advisory board, the Board shall adopt rules and regulations regarding membership of the advisory board. The advisory boards may make recommendations to the Board, but all final, official actions of the Corporation shall be exercised only by the Board.

Section 2.10: Texas Open Meetings Act and Open Records Act. Meetings of the Board, Board committees, and the advisory board are subject to the Texas Open Meetings Act, Texas Government Code Chapter 551, and the Corporation is subject to the Texas Open Records Act, Texas Government Code Chapter 552.

Article III: Officers

Section 3.1: Titles and Terms of Office. The Officers of the Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer, and such person may hold more than one office, except the Chairperson shall not hold the office of Secretary. The Chairperson and each other Officer of the Corporation shall be appointed by a majority vote of the Directors then in office and shall hold office for a term of [~~two (2) years~~] three (3) years or until his or her successor is elected or appointed.

All Officers shall be subject to removal from office with or without cause at any time by a majority vote of the Directors then in office.

A vacancy in any office shall be filled by appointment by a majority vote of the Directors then in office.

Section 3.2: Chairperson The Chairperson shall be the Chief Executive Officer of the Corporation, and, subject to the control of the Board of Directors, the Chairperson shall be in general charge of the properties and affairs of the Corporation. The Chairperson shall preside at all meetings of the Board of Directors in furtherance of the purposes of this Corporation; the Chairperson may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, notes and other instruments in the name of the Corporation.

The Chairperson shall have the authority to appoint standing committees to aid and assist the Board in its business undertakings or matters incidental to the operation and functions of the Board. The Chairperson shall have the authority to appoint ad-hoc committees which may address issues of a temporary nature of concern or which have a temporary effect on the business of the Board.

Section 3.3: Vice Chairperson. The Vice Chairperson shall have such powers and duties as may be assigned by the Board of Directors and shall exercise the powers of the Chairperson during the Chairperson's absence or inability to act. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be with conclusive evidence of the absence or inability of the Chairperson to act at the time such action was taken.

Section 3.4: Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation that come in to his or her hands or shall and otherwise provide for custody. When necessary, or proper, the Treasurer may sign or endorse, on behalf of the Corporation for

collection or payment checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or depositories as shall be designated by the Board of Directors. Whenever required by the Board of Directors, the Treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the Treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation. The Treasurer shall perform all acts incident to the position of the Treasurer subject to the control of the Board of Directors.

Section 3.5: Secretary. The Secretary shall keep or shall cause to be kept the minutes of all meetings of the Board of Directors, its committees and those of Executive Sessions in books provided for that purpose. The Secretary shall attend to giving and serving notices in furtherance of the corporate purposes. The Secretary may attest or sign with the Chairperson in the Corporation's name, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation. The Secretary shall have charge of the corporate books, records, and all records of the securities of which the Treasurer shall have custody, and such other books and papers as the Board of Directors may direct, all of which shall during business hours be open to inspection at the office of the Corporation; and the Secretary shall in general perform all duties incident to the office of Secretary subject to the control of the Board of Directors.

In the absence of the Secretary, the Chairperson may appoint any other Board of Director to act as Secretary during such absence.

Section 3.6: Chief Executive Officer. The City Manager for the City of Hutto shall serve as the Chief Executive Officer for the Corporation and the Board. The Chief Executive Officer shall carry out all administrative duties as directed by the Board and shall be authorized to sign all agreements and documents approved by the Board.

Section 3.7: Compensation. Officers of the Board shall not receive any compensation for their services as Officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

Article IV: Provisions Regarding Bylaws

Section 4.1: Effective Date. These Bylaws shall become effective only upon the occurrence of the following events:

- (1) the adoption of these Bylaws by the Board of Directors; and
- (2) the approval of these Bylaws by the City Council.

Section 4.2: Amendments to Bylaws. These Bylaws may be amended at any time and from time to time by majority vote of the Directors then in office, but only with approval of the City Council.

Section 4.3: Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to a person or circumstance, shall ever be

held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

Article V: General Provisions

Section 5.1: Principal Office. The current principal office of the Corporation is at shall be at 500 W. Live Oak Street, Hutto, TX 78634. The Corporation may relocate such principal office and have such other offices as the Board shall determine.

Section 5.2: Seal. The seal of the Corporation shall be as determined by the Board of Directors. The Board may determine the Corporation will have no seal.

Section 5.3: Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board of Directors under the Act, the Certificate of Formation or these Bylaws, such notices shall be deemed to be sufficient if given by depositing it for mailing in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. A written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be set forth in any notice to a Director of such meeting unless required by the Board of Directors.

Any notice whatsoever that may be required to be given to the public by law, shall be given in the manner prescribed by law.

Section 5.4: Resignations. Any Director or Officer may resign at any time. Any such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chairperson or the Secretary. Absent a written notice of the resignation, the City Council of the City shall cause a notice of the resignation to be provided. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Notwithstanding the effective date, a resigning Director shall serve until such time as her or her successor takes office.

Section 5.5: Approval of the City Council. To the extent these Bylaws refer to any approval or action to be taken by the City, such shall be evidenced by a certified copy of a Resolution, Ordinance, Order or Motion duly adopted by the City Council.

Section 5.6: Organizational Control. The City Council may, at its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including

the termination of the Corporation), subject to the Act and any limitation on the impairment of contracts. The Corporation shall comply with all financial and administrative ordinances and policies of the City.

Section 5.7: Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interest in any real or personal property then owned by the Corporation shall vest in the City except and unless as authorized by the City Council.

Section 5.8: Staff and organizational management. Staffing of the Corporation shall be provided by the City of Hutto and the City Manager and Chairperson shall work together to ensure that the Chief Executive Officer of the Corporation and/or subsequent City departmental staff fully implement the policies of the Board of Directors. The Corporation shall utilize the staff and employees of the City for the provision of all support services required by the Corporation. The Corporation shall pay compensation to the City for such services. The performance of City staff of services for the Corporation shall not materially interfere with the other duties of such staff, provided that in the performance of services for the Corporation, such staff shall answer to the Corporation, under direction of the City Manager.

Section 5.9: Indemnification. The Corporation shall indemnify any current or former director, officer, or employee of the Corporation, or any person who may have served at the Corporation's request as a director, officer, or employee of another corporation or entity in which it owns shares of stock or other ownership interest or of which it is a creditor, against expenses actually and necessarily incurred by such person and any amount paid in satisfaction of judgments in connection with any action, suit, or proceeding, whether civil, criminal, arbitral, or investigative in nature, in which such person was, is, or is threatened to be made a named defendant or respondent by reason of being or having been such a director, officer, or employee (whether or not the person is or was such at the time such costs or expenses are incurred by or imposed upon such person) as is required by Section 8.051 of the Texas Business Organizations Code ("TBOC"). The Corporation may indemnify any such person against and for any such expenses or costs and may advance expenses to any such person as is permitted by and according to the terms of Section 8.101 of the TBOC.

Section 5.10: Insurance. The Corporation may at the discretion of the Board of Directors purchase and maintain insurance on behalf of the Corporation and any person whom it has the power to indemnify pursuant to law, the Certificate of Formation, these Bylaws or otherwise, including without limitation directors and officers liability insurance.

These Bylaws were adopted at a duly called meeting of the Board of Directors of the Corporation held on _____, 20_. These Bylaws shall become effective upon the date of their approval by resolution of the City Council of the City of Hutto, Texas.

By: _____
Patti Turner, Secretary
Cottonwood Development Corporation

Adopted and approved this_____.

THE CITY OF HUTTO, TEXAS

By: _____
Doug Gaul, Mayor

RESOLUTION NO. R-2020-122

A RESOLUTION OF THE CITY OF HUTTO DECLARING THE OFFICE OF THE MAYOR VACANT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hutto City Charter Section 3.06 b) provides for a forfeiture of Office when the Mayor or an Council Member fails to attend three (3) consecutive regular City Council meetings without being excused by the City Council; and

WHEREAS, Pursuant to Hutto City Charter Section 3.06 b), Forfeiture of Office, Mayor Gaul forfeited the Office of the Mayor by email delivered at 10:57 a.m. on November 5, 2020 to the City Council and City staff that he resigns his office on 5 p.m. on November 5, 2020 and did not request to be excused by the City Council for not attending the November 5, 2020 City Council meeting; and

WHEREAS, Hutto City Charter Section 3.06 b) provides that the City Council shall at its next regular meeting declare the office to be vacant and shall fill such vacancy as set forth in Subsection (c), which provides for the filing of vacancies;

WHEREAS, the City Council desires to declare the Office of the Mayor forfeited pursuant to Hutto City Charter Section 3.06 b) for failing to attend three (3) consecutive regular City Council meetings without being excused by the City Council and to declare the Office of the Mayor vacant.

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 and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2: Pursuant to Hutto City Charter Section 3.06 b), Forfeiture of Office, Mayor Gaul forfeited the Office of the Mayor by email delivered at 10:57 a.m. on November 5, 2020 to the City Council and City staff that he resigns his office on 5 p.m. on November 5, 2020 and not requesting to be excused by the City Council for not attending the November 5, 2020 City Council meeting.

SECTION 3: The City Council does hereby declare the Office of the Mayor vacant on November 19, 2020 pursuant to Hutto City Charter Section 3.06 b) for failing to attend three (3) consecutive regular City Council meetings without being excused by the City Council.

SECTION 4: It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject to the meeting of the City Council of the City at which this Resolution was adopted was posted at a place convenient and readily accessible at all times to the general public at the regular meeting place of the City for the time required by law preceding this meeting, as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as

amended, and that the meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof have been discussed, considered and formally acted upon. The City Council of the City further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 5: This Resolution shall be in full force and effect from and upon its adoption.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the **19th** day of **November 2020**.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy City Secretary

**HUTTO COMMUNITY DEVELOPMENT CORPORATION
RESOLUTION NO. R-2020-111**

**A RESOLUTION OF THE HUTTO COMMUNITY
DEVELOPMENT CORPORATION BOARD OF DIRECTORS
AUTHORIZING THE AMENDMENT TO ITS BYLAWS AND
REFERRAL TO THE CITY COUNCIL FOR THE CITY OF HUTTO,
TEXAS FOR APPROVAL PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Hutto Economic Development Corporation, Type B dba the Hutto Community Development Corporation (the "HCDC") wishes to now amend its bylaws to allow for more efficient operations and be consistent with Texas Local Government Code Chapters 501, 502, 504 and 505 (the "Act"); and

WHEREAS, Section 501.064 of the Act, requires that amendments to bylaws of a corporation created pursuant to the Development Corporation Act of 1979 be consistent with state law and with the certificate of formation of the corporation; and

WHEREAS, Section 501.064 also required each amendment of the bylaws be approved by the governing body of the corporation's authorizing unit or the City Council of the City of Hutto.

NOW, THEREFORE, BE IT RESOLVED by the Hutto Community Development Corporation of the City of Hutto, Texas that:

I.

The proposed amendment of the bylaws of the Hutto Community Development Corporation should be recommended for approval and adoption by the City Council of the City of Hutto, Texas as reflected in "EXHIBIT A" attached hereto.

II.

This Resolution shall be and is hereby cumulative of all other resolutions of the Hutto Community Development Corporation 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.

III.

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.

IV.

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 of the Hutto Community Development Corporation, and upon approval thereof as prescribed by law.

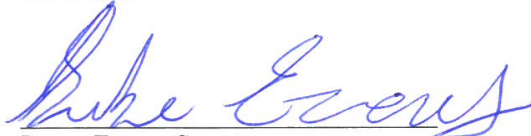
PASSED AND ADOPTED by the Hutto Community Development Corporation on this 5th day of November 2020.

APPROVED



Steven R. Harris, Chairman

ATTEST:



Lucas Evans, Secretary

SECOND AMENDED AND RESTATED BYLAWS OF
THE HUTTO ECONOMIC DEVELOPMENT CORPORATION, TYPE B
dba HUTTO COMMUNITY DEVELOPMENT CORPORATION
Effective November 5, 2020

Article I: Powers and Purposes.

Section 1.1: Corporate Identity: Offices. The name of the corporation is the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation (the "Corporation"). The principal office of the Corporation shall be at 500 W. Live Oak Street, Hutto, TX 78634. The Corporation may have other offices as the Board of Directors (the "Board") may determine.

Section 1.2: Powers. In order to implement the purposes for which the Corporation was formed, as set forth in its Articles of Incorporation, the Corporation shall have all the authority and powers of every nature and kind whatsoever, both expressed and implied, which are authorized or permitted by the terms of the Development Corporation Act of 1979, Chapter 501 of the Local Government Code, as amended (the "Act"). The Corporation shall have and may exercise each power and authority enumerated in the Act as if such power and authority were specifically set forth herein; provided the Corporation shall be governed by Chapter 505 of the Local Government Code and any other term or provision of the Act, Chapter 505 of the Local Government Code shall govern and prevail. The Corporation shall have the power and authority to undertake any lawful action not inconsistent with the Act and it shall promote economic development benefitting the City of Hutto, Texas (the "City"), including without limitation promoting industrial, manufacturing, commercial, retail, parks and residential development to encourage employment and the public welfare, both within the City limits and areas outside of the City limits which contribute to the economic welfare of the City. The powers of the Corporation shall include the authority to contract and be contracted with, and absent a conflict with Chapter 505 of the Local Government Code, the power to purchase, lease, sell and mortgage real estate, and to issue obligations for or otherwise finance all or part of the cost of one or more "Projects" as defined by the Act.

Section 1.3: Annual Corporate Budget. At least sixty (60) days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of anticipated revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications as shall be in such format as may be prescribed from time to time by Board of Directors of the Corporation. Classifications of expenditures within the budget that are designated as routine ("R") (i.e. items such as salaries, multi-year contractual obligations, debt service payments, routine business expenses, etc.) are authorized for expenditure by the City Council approving the budget in accordance with Texas Local Government Code Section 501.073(a). Classifications of expenditures within the budget that are designated as discretionary (D) (i.e. items such as allocations of unencumbered funds for use in future incentive, performance or funding agreements are appropriated by the City Council approving the budget but any expenditure of such funds must be subsequently approved by the City Council in connection with the specifically identified use or expenditure. The Corporation's fiscal year shall start on

October 1 and end on September 30th of the following calendar year and may be changed or amended by action of the Board with approval by the City Council.

Section 1.4: Books and Records: Review of Financial Statements. The Corporation shall keep correct and complete books and records of all accounts and shall keep minutes of the proceedings of its Board and committees having any of the authority of the Board. All books and records of the Corporation may be inspected by any director, or his or her agent, any attorney representing the Corporation, any member of the City Council, and the City Manager, or such designee as the City Manager so designates, at a mutually reasonable time for the parties involved. The books, records, accounts and financial statements may be maintained for the Corporation by the staff of the City, subject to approval by the Board and City Council, and if so, the Corporation shall pay the City reasonable compensation for such services pursuant to an agreement between the parties.

Section 1.5: Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Certificate of Formation, these amended bylaws and the resolutions and ordinances of the City Council.

ARTICLE II: Board of Directors.

Section 2.1: Appointment, Powers, Number and Term of Office. The Board shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Certificate of Formation, and these Bylaws. The Board shall consist of seven (7) members, each appointed by the City Council for a two (2) year term. At least three (3) directors shall be persons who are not employees, officers, or members of the City Council of the City. No more than four (4) of the seven (7) directors may be City employees or City Council members. All directors must be residents of the City or its extraterritorial jurisdiction ("ETJ") to ensure City residents have the opportunity to sit on and participate in the activities of the Corporation.

Any director, or all directors, may be removed from office at any time by majority vote of the City Council, for cause or at will. Any vacancy occurring on the Board shall be filled by appointment by majority vote of the City Council. Those filling vacancies shall serve out the term of the seat they are filling. In the event any member of the Board's term expires, but is not yet replaced, such member shall continue serving in the position until a replacement is appointed or removed by action of the City Council.

Section 2.2: Meetings of the Directors in General. The Board shall meet at least once each month and any member of the Board may request that an item be placed on the agenda by providing same in writing, to the Chairman no later than ten (10) days prior to the date of the Board meeting. The Board may hold its meeting at any place authorized by the Act and as the Board may from time to time determine; provided that in the absence of any such determination by the Board, the meeting shall be held at the principal office of the Corporation or at the City Council Chambers of the City. The Board shall conduct its meetings in accordance with all applicable Texas law.

Section 2.3: Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board. Notice of regular

meetings need not be given to each Director, but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4: Special Meetings. Special meetings of the Board shall be held whenever called by the Chairperson, by the Secretary or by a majority of the Directors then in office, upon advice of the Corporation's General Counsel or by request of the City Council.

The Chairperson or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each Director either by mail, telephone, electronically or in person at least two (2) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting. At any meeting at which every Director is present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon, except as otherwise provided by law.

Section 2.5: Quorum. A majority of the Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law. Any member of the Board may request a record vote on any matter to come before the Directors and that record vote will become a part of the minutes.

Section 2.6: Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order from time to time as the Board may determine.

Section 2.7: Compensation of Directors. Directors shall not receive any compensation for their services as Directors except that they may, upon request, be reimbursed for their actual expenses incurred in the performance of their official duties.

Section 2.8 Board Committees. The Board may designate two (2) or more directors to constitute an official committee of the Board to exercise such authority as is delegated and approved by resolution of the Board. It is provided, however, that all final, official actions of the Corporation may be exercised only by a majority of the full Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

Section 2.9: Advisory Board. The Board may appoint an advisory board or boards to assist the Board and perform such other duties as the Board may from time to time assign to the advisory board. An advisory board shall be made up of no more than seven (7) individuals. At the time the Board creates an advisory board, the Board shall adopt rules and regulations regarding membership of the advisory board. The advisory board may make recommendations to the Board, but all final, official actions of the Corporation shall be exercised only by the Board. The Board shall create a small business, convention and tourism advisory board which may include board members of the Hutto Chamber of Commerce, in addition to such other advisory boards desired by the Board.

Section 2.10: Texas Open Meetings Act and Texas Public Information Act. Meetings of the Board are subject to the Texas Open Meetings Act, Texas Government Code Chapter 551, and the Corporation is subject to the Texas Public Information Act, Texas Government Code Chapter 552.

Article III: Officers.

Section 3.1: Titles and Terms of Office. The Officers of the Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer, and such person may hold more than one office, except the Chairperson shall not also hold the office of Secretary. The Chairperson and each other officer of the Corporation shall be appointed by a majority vote of the directors of the Board then in office and shall hold office for a term of two (2) years or until his/her successor is elected or appointed.

All officers shall be subject to removal from office with or without cause at any time by a majority vote of the City Council members then in office. A vacancy in any office shall be filled by appointment by the City Council.

Section 3.2: Chairperson. The Chairperson shall be the Chief Executive Officer of the Corporation, and, subject to the control of the Board, the Chairperson shall be in general charge of the properties and affairs of the Corporation. The Chairperson shall preside at all meetings of the Board in furtherance of the purposes of the Corporation; the Chairperson may sign and execute all contracts, conveyances, resolutions, franchises, bonds, deeds, assignments, notes and other instruments in the name of the Corporation.

The Chairperson shall have the authority to appoint standing committees to aid and assist the Board in its business undertakings or matters incidental to the operation and functions of the Board. The Chairperson shall have the authority to appoint ad-hoc committees which may address issues of a temporary nature of concern or which have a temporary effect on the business of the Board.

The Chairperson shall have charge of the corporate books, records, and all records of the securities of which the Treasurer shall have custody, and such other books and papers as the Board may direct, all of which shall during business hours be open to inspection at the principal office of the Corporation.

Section 3.3 Vice-Chairperson. The Vice Chairperson shall have such powers and duties as may be assigned by the Board and shall exercise the powers of the Chairperson during the Chairperson's absence or inability to act. Any action taken by the Vice Chairperson in the performance of the duties of the Corporation shall be with conclusive evidence of the absence or inability of the Chairperson to act at the time such action was taken.

Section 3.4 Secretary. The Secretary shall attest or sign with the Chairperson in the Corporation's name all contracts, conveyances, resolutions, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments of the Corporation.

In the absence of the Secretary, the Chairperson may appoint any other Board member as Secretary during such absence.

Section 3.5 Treasurer. The Treasurer shall have custody of all funds and securities of the Corporation that come in to his/her hands. When necessary, or proper, the Treasurer may sign or

endorse, on behalf of the Corporation for collection or payment of checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or depositories as shall be designated by the Board. Whenever required by the Board, the Treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the Treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation. The Treasurer shall perform all acts incident to the position of the Treasurer subject to the control of the Board. The Treasurer, if required by the Board, shall give such bond for the faithful discharge of his/her duties in such form as the Board may require. Financial accounting for Corporate funds may be delegated to the City as determined by the board and if so, the Corporation shall pay the City reasonable compensation for such services pursuant to an agreement between the parties.

Section 3.6: Compensation. Officers of the Board shall not receive any compensation for their services as Officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

Article IV: Provisions Regarding Bylaws.

Section 4.1: Effective Date. These Second Amended and Restated Bylaws shall become effective only upon the occurrence of the following events:

- (1) the adoption of these Bylaws by the Board of the Corporation; and,
- (2) the approval of these Bylaws by the City Council.

Section 4.2: Amendment of Bylaws. These Second Amended and Restated Bylaws may be amended at any time and from time to time, if consistent with state law and the Certificate of Formation, by majority vote of the Board of Directors then in office, but only with the approval by resolution of the City Council.

Section 4.3: Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Second Amended and Restated Bylaws, or the application thereof to a person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Second Amended and Restated Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Second Amended and Restated Bylaws to any other person or circumstance shall not be affected thereby.

Article V: General Provisions.

Section 5.1 Principal Office. The current principal office of the Corporation is at 500 W. Live Oak Street, Hutto, Texas 78644. The Corporation may relocate such principal office and have such other offices as the Board shall determine necessary.

Section 5.2: Seal. The seal of the Corporation shall be as determined by the Board. The Board may determine the Corporation will have no seal.

Section 5.3: Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board under the Act, the Certificate of Formation or these Second Amended and Restated Bylaws, such notices shall be deemed to be sufficient if given by depositing it for mailing in a post office

box or with a private courier in a sealed postpaid wrapper addressed to the person entitled thereto at his/her address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing or courier receipt.

Attendance of a member of the Board at a meeting shall constitute waiver of notice of such meeting except where a director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. A written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted nor the purpose of any regular or special meeting of the Board need be set forth in any notice to a director of such meeting unless required by the Board. Any notice whatsoever that may be required to be given to the public by law, shall be given in the manner prescribed by law.

Section 5.4: Resignations. Any director or Officer may resign at any time. Any such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the Chairperson. Absent a written notice of the resignation, the City Council of the City shall cause a notice of the resignation to be provided. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Notwithstanding the effective date, a resigning director shall serve until such time as his/her successor takes office.

Section 5.6: Organizational Control. The Board may, by majority vote and in its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Act, any limitation on the impairment of contracts and the approval of the City Council.

Section 5.7: Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interest in any real or personal property then owned by the Corporation shall vest in the City except and unless otherwise expressly authorized by the City Council.

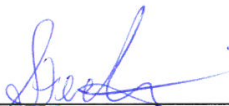
Section 5.8: Staff and Organizational Management. The Board, in its sole discretion, may hire and terminate employees of the Corporation. Pursuant to an administrative and professional services agreement between the Corporation and the City, the City may provide some staffing and support to the Corporation and pursuant to such an agreement, the Corporation shall reimburse the City for costs and expenses reasonably necessary for such support.

Section 5.9: Indemnification. The Corporation shall indemnify any current or former members of the Board, Officer, or employee of the Corporation, or any other person who may serve at the Corporation's request as a director, officer, or employee of another corporation or entity in which it owns shares of stock or other ownership interest or of which it is a creditor, against expenses actually and necessarily incurred by such person and any amount paid in satisfaction of judgments in connection with any action, suit, or proceeding, whether civil, criminal, arbitral, or investigative in nature, in which such person was, is, or is threatened to be made a named defendant or respondent by reason of being or having been such a director,

officer, or employee (whether or not the person is or was such at the time the costs or expenses are incurred by or imposed upon such person) as is required by Section 8.051 of the Texas Business Organizations Code ("TOBC"). The Corporation may indemnify any such person against and for any such expenses or costs and may advance expenses to any such person as is permitted by and according to the terms of Section 8.101 of the TBOC.

Section 5.10: Insurance. The Corporation may at the discretion of the Board purchase and maintain insurance on behalf of the Corporation and any person whom it has the power to indemnify pursuant to law, the Certificate of Formation and Second Amended and Restated Bylaws or otherwise, including without limitation directors and officers liability insurance.

The Second Amended and Restated Bylaws of the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation were adopted at a duly called meeting of the Board of Directors of the Corporation, held on November __, 2020. These Second Amended and Restated Bylaws shall become effective upon the date of their approval by resolution of the City Council of the City of Hutto, Texas.

By: 
Steven R. Harris, Chairman
Hutto Community Development Corporation

By: _____
Doug Gaul
Mayor, City of Hutto, Texas

SECOND AMENDED AND RESTATED BYLAWS OF

THE HUTTO ECONOMIC DEVELOPMENT CORPORATION, TYPE B

dba HUTTO COMMUNITY DEVELOPMENT CORPORATION

Effective ~~December 13, 2018~~ _____, 2020

Article I: Powers and Purposes.

Section 1.1:- Corporate Identity; Offices. The name of the corporation is the Hutto Economic Development Corporation, Type B ~~d/b/a dba~~ Hutto ~~Community Development Corporation (the "Corporation").~~ The principal office of the Corporation shall ~~be at 401500 W. FrontLive Oak Street,~~ Hutto, TX 78634. The Corporation may ~~relocate such principal office and have such other offices as the Board of Directors shall determine (the "Board") may determine.~~

Section 1.2:- Powers, Purposes and Authority. In order to implement the purposes for which the Corporation was formed, as set forth in its Articles of Incorporation, the Corporation shall have all the authority and powers of every nature and kind whatsoever, both expressed and implied, which are authorized or permitted by the terms of the Development Corporation Act of 1979, Chapter 501 of the Local Government Code, as amended (the ~~"Act"~~ "Act"). The Corporation shall have and may exercise each power and authority enumerated in the Act as if such power and authority were specifically set forth herein; provided ~~that~~ the Corporation shall be governed by Chapter 505 of the Local Government Code and any other term or provision of the Act, Chapter 505 of the Local Government Code shall govern and prevail. The Corporation shall have the power and authority to undertake any lawful action not inconsistent with the Act and it shall promote economic development ~~benefiting~~ benefitting the City of Hutto, Texas (the ~~"City"~~ "City"), including without limitation promoting industrial, manufacturing, commercial, retail, parks and residential development to encourage employment and the public welfare, both within the City limits and areas outside of the City limits which contribute to the economic welfare of the City. The powers of the Corporation shall include the authority to contract and be contracted with, and, absent a conflict with Chapter 505 of the Local Government Code, the power to purchase, lease, sell and mortgage real estate, and to issue obligations for or otherwise finance all or part of the cost of one or more "Projects" as defined ~~in the Act~~ by the Act.

Section 1.3:- Annual Corporate Budget. At least sixty (60) days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of anticipated revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications as shall be in such ~~form~~ format as may be prescribed from time to time by ~~the City Manager and/or Council. The Board of Directors of the Corporation. Classifications of expenditures within the budget shall not be effective until same has been approved that are designated as routine ("R") (i.e. items such as salaries, multi-year contractual obligations, debt service payments, routine business expenses, etc.) are authorized for expenditure by the City Council. The Corporation's approving the budget in accordance with Texas Local Government Code Section 501.073(a). Classifications of expenditures within the budget that are designated as discretionary (D) (i.e. items such as allocations of unencumbered funds for use in future incentive,~~

performance or funding agreements are appropriated by the City Council approving the budget but any expenditure of such funds must be subsequently approved by the City Council in connection with the specifically identified use or expenditure. The Corporation's fiscal year shall start on October -1- and end -on September -30th of the following calendar year and may be changed or amended by action of the Board andwith approval ofby the City Council.

Section 1.4:- Books and Records; Review of Financial Statements. The Corporation shall keep correct and complete books and records of all accounts and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any director, or his or her agent or, any attorney at a reasonable time and at all times representing the Corporation, any member of the City Council, and the City Manager and /or City Council of the City (the "City of Hutto") will have access to the books, records and financial statements of

~~the Corporation. At the direction of, or such designee as the City Manager and/or Council, these designates, at a mutually reasonable time for the parties involved. The books, records, accounts and financial statements may be maintained for the Corporation by the staff of the City. In such event, subject to approval by the Board and City Council, and if so, the Corporation shall pay to the City reasonable compensation for such services pursuant to an agreement between the parties.~~

Section 1.5: Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Certificate of Formation, these ~~Bylaws~~amended bylaws and the ~~Resolutions, Orders~~resolutions and ~~Ordinances~~ordinances of the City Council.

Article~~ARTICLE~~ II: **Board of Directors.**

Section 2.1: Appointment, Powers, Number and Term of Office. ~~The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Certificate of Formation and these Bylaws.~~

~~The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Certificate of Formation, and these Bylaws. The Board shall consist of seven (7) members, each appointed by the City Council for a two (2) year term. At least three (3) directors shall be persons who are not employees, officers, or members of the City Council of the City. No more than four (4) of the seven (7) directors may be City employees or City Council members. and these Bylaws. All directors must be residents of the City or its extraterritorial jurisdiction ("ETJ") to ensure City residents have the opportunity to sit on and participate in the activities of the Corporation.~~

~~The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors (the "Board"), appointed by the Hutto City Council and subject to the applicable limitations imposed by the Act, other applicable legislation and these Bylaws. The Board may, by contract, resolution or otherwise, give general or limited or special powers and authority to the Officers of the Corporation.~~

~~The Board may plan and direct its work through the Chairman who will be charged with the responsibility of carrying out the Corporation's programs as adopted and planned by the Board.~~

~~The Board shall consist of seven (7) persons who shall each be appointed by the City Council. Any director, or all directors. No more than four (4) of the seven (7) directors may be City employees or City Council members. The term of each directorship will be for two (2) years. All directors must be residents of the City of Hutto or its Extraterritorial Jurisdiction "ETJ" to ensure Hutto residents have the opportunity to sit on and participate in the activities of the Hutto Economic Development Corporation. Those filling vacancies shall serve out the term of those seats.~~

~~Any Director, or all Directors, may be removed from office at any time by majority vote of the City Council, for cause or at will. Any vacancy occurring on the Board shall be filled by appointment by majority vote of the City Council. Those filling vacancies shall serve out the term of the seat they are filling. In the~~

event any member of the Board's term expires, but is not yet replaced, such member shall continue serving in the position until a replacement is appointed or removed by action of the City Council.

Section 2.2: ~~Meetings~~ Meetings of the Directors in General. The Board shall meet at least once each month and any member of the Board may request that an item be placed on the agenda by providing same in writing, to the Secretary no later than ten (10) days prior to the date of the Board meeting. The Board may hold its ~~meetings~~ meeting at any place authorized by the Act and as the Board may from time to time determine; provided that ~~in~~ in the absence of any such determination by the Board, the meeting shall be held at the principal office of the Corporation or at the City Council Chambers of the City. The Board shall conduct its meetings in accordance with ~~the requirements of the Act and Chapter 505 of the Local Government Code as amended.~~ all applicable Texas law.

Section 2.3: ~~Regular Meetings~~ Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board. Notice ~~of regular~~ of regular meetings need not be given to each ~~of the Directors~~ Director, but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4:- Special Meetings. Special meetings of the Board shall be held whenever called by the Chairperson, by the Secretary or by a majority of the Directors then in office, ~~or~~ upon advice of the Corporation's General Counsel or by request of the City Council.

The Secretary or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each Director either by mail, telephone, electronically or in person at least two (2) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting. At any meeting at which every Director is present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered ~~and~~ acted upon, except as otherwise provided by law.

Section 2.5:- Quorum. A majority of the Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law. Any member of the Board may request a record vote on any matter to come before the Directors and that record vote will become a part of the minutes.

Section 2.6:- Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order from time to time as the Board may determine.

Section 2.7:- Compensation of Directors. ~~Compensation of Directors.~~ Directors shall not receive any compensation for their services as Directors except that they shall may, upon request, be reimbursed for their actual expenses incurred in the performance of their official duties.

Section 2.8:- Board Committees. The Board may designate two (2) or more directors to constitute an official committee of the Board to exercise such authority as is delegated and approved by resolution of the Board. It is provided, however, that all final, official actions of the Corporation may be exercised only by a majority of the full Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

Section 2.9:- Advisory Board. The Board may appoint an advisory board or boards to assist the Board and perform such other duties as the Board may from time to time assign to the advisory board. An advisory board shall be made up of no more than seven (7) individuals. At the time the Board creates an advisory board, the Board shall adopt rules and regulations regarding membership of the advisory board. The advisory ~~boards~~board may make ~~recommendations to~~ recommendations to the Board, but all ~~fi~~ ~~nal~~final, official actions of the Corporation shall be exercised only by the Board. The Board shall create a small business, convention and tourism advisory board which may include board members of the Hutto Chamber of ~~Comm-erce~~Commerce, in addition to such other advisory boards desired by the Board.

Section 2.10:- ~~Texas Open Meetings Act and Open Records~~ Texas Public Information Act. Meetings of the Board, ~~Board committees, and the advisory board~~ are subject to the ~~Texas Open Meetings Act, Texas Government Code Chapter 551, and the Corporation is subject to the Texas Open Records Public Information Act, Texas Government Code Chapter 552.~~

Article III: Officers.

Section 3.1: ~~Title s~~ Titles and Terms of Office. The Officers of the Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, and ~~a~~ Treasurer, ~~and such person may hold more than one office, except the Chairperson shall not also hold the office of Secretary. The Chairperson and each other Officer officer of the Corporation shall be appointed by a majority vote of the Directors directors of the Board then in office and shall hold office for a term of two (2) years or until his or her successor is elected or appointed.~~

All ~~Officers officers~~ shall be subject to removal from office with or without cause at any time by a majority vote of the ~~Directors then in office~~ City Council members then in office. A vacancy in any office shall be filled by appointment by the City Council.

~~A vacancy in any office shall be filled by appointment by a majority vote of the Directors then in office.~~

Section 3.2:- Chairperson. The Chairperson shall be the Chief Executive Officer of the Corporation, and, subject to the control of the Board ~~of Directors~~, the Chairperson shall be in general charge of the ~~propertie~~ properties and affairs of the Corporation. ~~The Chairperson shall preside at all meetings of the Board of Directors in furtherance of the purposes of this the Corporation; the Chairperson may sign and execute all contracts, conveyances, resolutions, franchises, bonds, deeds, assignments, notes and other instruments in the name of the Corporation.~~

The Chairperson shall have the authority to appoint standing committees to aid and assist the Board in its business undertakings or matters incidental to the operation and functions of the Board. ~~The Chairperson shall have the authority to appoint ad-hoc committees which may address issues of a temporary nature of concern or which have a temporary effect on the business of the Board.~~

Section 3.3:- Vice-Chairperson. The Vice Chairperson shall have such powers and duties as may be assigned by the Board ~~of Directors~~ and shall exercise the ~~powers of the Chairperson during the Chair person's~~ Chairperson's absence or inability to act. ~~Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson Corporation shall be with conclusive evidence of the absence or inability of the Chairperson to act at the time such action was taken.~~

Section 3.4: ~~Treasurer,~~ Secretary. The Secretary shall keep or shall cause to be kept the minutes of all meetings of the Board, its committees and those of Executive Session in books provided for that purpose. The Secretary shall attend to giving and serving notices in furtherance of the Corporation's purpose. The Secretary may attest or sign with the Chairperson in the Corporation's name all contracts, conveyances, resolutions, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments of the Corporation. The Secretary shall have charge of the corporate books, records, and all records of the

securities of which the Treasurer shall have custody of all the, and such other books and papers as the Board may direct, all of which shall during business hours be open to inspection at the principal office of the Corporation; and the Secretary shall in general perform all duties incident to the office of Secretary subject to the control of the Board.

In the absence of the Secretary, the Chairperson may appoint any other Board member as Secretary during such absence.

Section 3.5 Treasurer. The Treasurer shall have custody of all funds and securities of the Corporation that come in to his ~~or~~/her hands. When necessary, or proper, the Treasurer may sign or endorse, on behalf of the Corporation for collection or payment of checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or depositories as shall be designated by the Board of Directors. Whenever required by the Board of Directors, the Treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the Treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation. The Treasurer shall perform all acts incident to the position of the Treasurer subject to the control of the Board of Directors. ~~The Treasurer, if. The Treasurer, if required by the Board, shall give such bond for the faithful discharge of his/her duties in such form as the Board may require. Financial accounting for Corporate funds may be delegated to the City as determined by the board and if so, the Corporation shall pay the City reasonable compensation for such services pursuant to an agreement between the parties.~~

required by the Board of Directors, shall give such bond for the faithful discharge of his/her duties in such form as the Board of Directors may require.

Section 3.5: Secretary. The Secretary shall keep or shall cause to be kept the minutes of all meetings of the Board of Directors, its committees and those of Executive Sessions in books provided for that purpose. The Secretary shall attend to giving and serving notices in furtherance of the corporate purposes. The Secretary may attest or sign with the Chairperson in the Corporation's name, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation. The Secretary shall have charge of the corporate books, records, and all records of the securities of which the Treasurer shall have custody, and such other books and papers as the Board of Directors may direct, all of which shall during business hours be open to inspection at the office of the Corporation; and the Secretary shall in general perform all duties incident to the office of Secretary subject to the control of the Board of Directors.

~~In the absence of the Secretary, the Chairperson may appoint any other Board of Director to act as Secretary during such absence.~~

Section 3.6: Compensation. Officers of the Board shall not receive any compensation for their services as Officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

Article ~~IV~~: Provisions Regarding Bylaws.

Section 4.1: Effective Date. These Second Amended and Restated Bylaws shall become effective only upon the occurrence of the following events:

- ~~(1)~~ the adoption of these Bylaws by the Board of ~~Directors~~ the Corporation; and,
- (2) the approval of these Bylaws by the City Council.

Section 4.2: Amendments to Amendment of Bylaws. These Second Amended and Restated Bylaws may be amended at any time and from time to time ~~by, if consistent with state law and the Hutto City Council, or Certificate of Formation,~~ by majority vote of the Board of Directors then in office, but only with the approval by resolution of the City Council.

Section 4.3: Interpretation Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Second Amended and Restated Bylaws, or the application thereof to a person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Second Amended and Restated Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Second Amended and Restated Bylaws to any other person or circumstance shall not be affected thereby.

Article V: General Provisions.

Section 5.1- Principal Office. The current principal office of the Corporation is at ~~shall be at~~ ~~401500~~ W. ~~Front~~Live Oak Street, Hutto, ~~TX 78634~~Texas 78644. The Corporation may relocate such principal office -and have such other offices as the Board shall determine necessary.

Section 5.2: Seal. The seal of the Corporation shall be as determined by the Board ~~of~~ ~~Directors.~~ The Board may determine the Corporation will have no seal.

Section 5.3:- Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board ~~of Directors~~ under the Act, the Certificate of Formation or these Second Amended and Restate Bylaws, such notices shall be deemed to be sufficient if given by depositing it for mailing in a post office box or with a private courier in a sealed postpaid wrapper addressed to the person entitled thereto at his ~~or~~ her ~~post office~~ address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing or courier receipt.

Attendance of a ~~Director~~ member of the Board at a meeting shall constitute ~~a~~ waiver of notice of such meeting except where a ~~Director~~ director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. ~~A~~ written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated ~~there in~~ therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted ~~nor~~ not the purpose of any regular or special meeting of the Board ~~of Directors~~ need be set forth in any notice to a ~~Director~~ director of such meeting unless required by the Board ~~of Directors~~.

~~Any~~ notice whatsoever that may be required to ~~be given~~ be given to the public by law, shall be given in the manner prescribed by law.

Section 5.4:- Resignations. Any ~~Director~~ director or Officer may resign at any time. ~~Any~~ such resignation shall be made in writing and shall take effect at ~~the time specified therein, or, -if no time~~ beis specified, at the time of ~~its receipt by the Chairperson or the Secretary.~~ Absent a ~~written~~ notice of the resignation, the City Council of the City shall cause a notice of the resignation to be provided. ~~The~~ acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. ~~Notwithstanding the effective date, a resigning~~ Director ~~director~~ shall serve until such time as ~~her or his~~ her successor ~~takes office~~ takes office.

Section 5.5: Approval of the City Council. ~~To the extent these Bylaws refer to any approval or action to be taken by the City, such shall be evidenced by a certified copy of a Resolution, Ordinance, Order or Motion duly adopted by the City Council.~~

Section 5.6:- Organizational Control. ~~The City Council~~ Board may, ~~at by majority vote and~~ in its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Act ~~and, any~~ any limitation on ~~the impairment of contracts. The Corporation shall comply with all financial and administrative ordinances and policies and the approval~~ of the City Council.

Section 5.7: Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interest in any real or personal property then owned ~~by the Corporation shall vest in~~ the City except and unless ~~as otherwise expressly~~ as otherwise expressly authorized by the City Council.

Section 5.8:- Staff and organizational management, Organizational Management. The Board, in its sole discretion, may hire and terminate ~~an employee~~ employees of the Corporation ~~with the recommendation of the.~~ Pursuant to an administrative and professional services

agreement between the Corporation and the City Manager. The, the City shall continue to may
provide some staffing and legal support at the direction of to the City Manager Corporation and
pursuant to such an agreement, the Corporation shall reimburse the City for anycosts and all
expenses reasonably necessary for such support.

Section 5.9: Indemnification. The Corporation shall indemnify any current or former director,
officermembers of the Board, Officer, or employee of the Corporation, or any other person who may
have servedserve at the Corporation'sthe Corporation's request as a director, officer, or employee of
another corporation or entity in which it owns shares of stock or other ownership interest or of which
it is a creditecreditor, against expenses actually and necessarily incurred

by such person and any amount paid in satisfaction of ~~judgements~~ judgments in connection with any action, suit, or proceeding, whether civil, criminal, arbitrative, or investigative in nature, in which such person was, is, or is threatened to be made a named defendant or respondent by reason of being or having been such a director, officer, or employee (whether or not the person is or was such at the time ~~such~~ the costs or expenses are incurred by or imposed upon such person) as is required by Section 8.051 of the Texas Business Organizations Code (~~"TBOC"~~ ~~)(~~"TOBC"). The Corporation may indemnify any such person against and for any such expenses or costs and may advance expenses to any such person as is permitted by and according to the terms of Section 8.101 of the TBOC.

Section 5.10: ~~Insurance.~~ The ~~Insurance.~~ Insurance. The Corporation may at the discretion of the Board ~~of Directors~~ purchase and maintain insurance on behalf of the Corporation and any person whom it has the power to indemnify pursuant to law, the Certificate of Formation, ~~these~~ and Second Amended and Restated Bylaws or otherwise, including without limitation directors and officers liability insurance.

The Second Amended and Restated Bylaws of the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation were adopted at a duly called meeting of the Board of Directors of the Corporation, held on September 18, 2017. ~~The November , 2020. These Second~~ Amended and Restated Bylaws ~~of the Hutto Economic Development Corporation, Type B~~ shall become effective upon the date of their approval by resolution of the City Council of the City of Hutto, Texas.

By: _____

|

4

By: _____

Steven R. Harris, Chairman
Hutto Community Development Corporation

By: _____

Doug Gaul,

Mayor

-7-, City of Hutto, Texas

School Zones

Child Safety Fees collected since 2010, current balance \$29,357.22

We are hoping to update some of the school zones for the only one that has any programming ability is the RES/FMS zone at 1660 and CR 137. We met with TxDOT over there a few weeks ago and those times have been updated and the City light at CR 137 is now updated to match. TXxDot should be moving the flashing beacon on the east side of the school zone a little further east to encompass the intersection of Swindle.

A couple of weeks ago in the joint meeting with City and ISD we discussed two other areas where there are currently no school zones that we have a need for. This would be Cottonwood Creek and Ray ES. Ray has a particular challenge for it seems the roadway there was City then deeded to County and its current split ownership, but there is no school zone at all in front of either of those schools on Limmer loop

TxDOT is doing a pedestrian survey on Chris Kelley and looking at bringing an awareness signs in front of the high school due to the number of pedestrian crossings that are occurring now with the opening of the new facilities on the West side of Chris Kelley. TxDOT is adamant they are not willing to reduce speed on Chris Kelley, but they have been receptive to looking at possible solutions to the increased dangers now present.

--

William Edwards

Chief of Police

Section 4: School Speed Zones

Introduction

Reduced speed limits should be used for school zones during the hours when children are going to and from school. Usually such school speed zones are only considered for schools located adjacent to highways or visible from highways.

Pedestrian crossing activity should be the primary basis for reduced school speed zones. However, irregular traffic and pedestrian movements must also be considered when children are being dropped off and picked up from school.

Planning

The Texas Department of Transportation (TxDOT) should make certain that all applicable traffic control devices are utilized to prevent problems in school areas. Maintaining contact with school officials can help TxDOT become aware of proposed building programs or other problems at an early stage so that solutions will be more promptly implemented. When proposed building plans are known, it may be possible to offer suggestions on access points that will prevent future problems. Also the installation of needed safety and traffic control devices can be scheduled to be in place when needed.

An engineering and traffic investigation should be conducted to determine the need for a reduced school speed limit as well as all appropriate traffic control devices to provide maximum safety.

Prompt Installation Important

Districts should initiate the installation of school speed limit signs and flashers immediately after submitting the request to the Traffic Operations Division (TRF) for Transportation Commission action. Every effort should be made to have these signs in operation as soon as practical after the minute order is approved by the Transportation Commission. If, for some reason, there is a delay in the installation of a school flasher, other static signs for school zones should be installed as soon as possible after the minute order is enacted.

Signs

Where TxDOT is responsible for signing school speed zones, the zones shall be signed with a combination of the S4-3 SCHOOL and the R2-1 SPEED LIMIT sign assembly. Flashing beacons shall also be used with the S4-4 WHEN FLASHING sign to identify the periods the school speed limit is in force. One sign, S5-1, could be used, which is a combination of these. The S5-1 SCHOOL SPEED LIMIT XX

WHEN FLASHING may be used in place of the S4-3, R2-1, and S4-4. A Transportation Commission minute order, city ordinance, or county ordinance authorizing the reduced speed limit is required prior to use of these signs in school zones.

Cities should be allowed to sign school speed zones in accordance with the other options set out in the Texas Manual on Uniform Traffic Control Devices ([TMUTCD](#)).

The S4-3, R2-1 and S4-4 sign assembly with flashers shall be mounted on a permanent type mounting and placed at each zone limit of the section of highway, road, or street through which the speed limit has been reduced. The sign assembly with flashing beacons may be placed off the shoulder of the road, in the median, or overhead to face traffic entering the school speed zone. An illustration of signing for school speed zones is shown in the TMUTCD. Other types of signs used by cities should be similarly located in conformance with the TMUTCD.

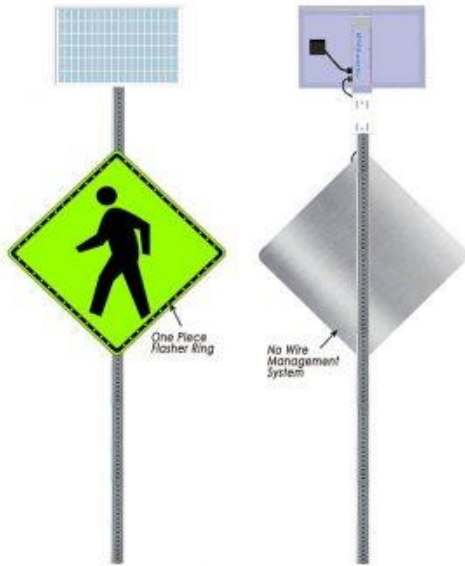
Intervals of Operation

Generally, the zones indicated on the signs should be in effect only during the following specified intervals:

- from approximately 45 minutes before school opens until classes begin
- from the beginning to the end of the lunch period
- for a 30 minute period beginning at the close of school.

The intervals of operation of the flashing beacons on the school zone speed limit assembly may be extended or revised for school events as mutually agreed upon by the school district and the entity responsible for the operation of the flashing beacons. In this case, the flashing beacons should only be operated when there is an increase in vehicular activity and pedestrian traffic in and around the roadway associated with the school event.

90900-QUOTE 2 EA \$3,975.00 TOTAL \$7,950.00 2 BATTERY SCHOOL ZONE BEACON



90900-QUOTE 5 EA \$79.00, TOTAL \$395.00 (QTY 5) 24X48 SCHOOL 20 MPH 7AM-8 AM / 2:30PM-3:30 PM
- A3



90900-QUOTE 5 EA \$28.00, TOTAL \$140.00 (Q TY 5) 24X18 CELL PHONE USE PROHIBITED \$200 FINE - HIP



Hutto High School & Nadine Johnson Elementary



7:15AM-9:00AM
2:30PM-4:30PM

Chris Kelley & Carl Stern Kothman & Carl Stern



7:15AM-9:00AM
2:30PM-4:30PM



Carl Stern & Pauley

7:15AM-9:00AM
2:30PM-4:30PM

Ray Elementary

FM1660 SZ Area & CR 137
6:55AM-8:40AM
2:55PM-3:30PM

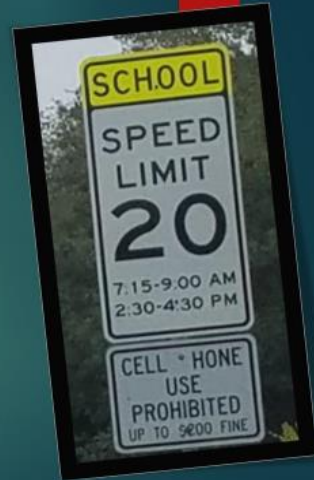
Swindoll Ln
NO SCHOOL Zones



Williamson
County



Hutto Middle School & Cottonwood Creek Elementary



7:15AM-9:00AM
2:30PM-4:30PM

ISD Drive HMS - CCES



Lights NON FUNCTIONING



Forensic Audit - Engagement Timeline
City Council Meeting November 19, 2020

Date	Description
6/8/2020	City authorizes full scope of forensic audit
6/9/2020	Send Initial Document Request
6/19/2020	Receive portion of requested information
6/22/2020	Receive portion of requested information
6/23/2020	Receive portion of requested information
6/24/2020	Receive portion of requested information
6/25/2020	Send updated document request to Jennifer B.
6/26/2020	Receive records from City Attorney for review/consideration
6/27/2020	Receive records from City Attorney for review/consideration
7/6/2020	Receive records from City Attorney for review/consideration
7/9/2020	Receive portion of requested information
7/13/2020	Send Change Order and Update Memo to City
7/14/2020	Receive portion of requested information
7/15/2020	Receive portion of requested information
7/22/2020	Receive portion of requested information
7/24/2020	Receive portion of requested information
7/28/2020	Send missing P-Card receipt request to Jennifer B.
7/30/2020	Receive portion of requested information
8/12/2020	Send updated document request to Jennifer B.
8/14/2020	Receive portion of requested information
8/17/2020	Receive records from City Attorney for review/consideration
8/19/2020	Receive portion of requested information
8/21/2020	Receive portion of requested information
8/24/2020	Receive portion of requested information
8/26/2020	Receive records from City Attorney for review/consideration
8/27/2020	Receive records from City Attorney for review/consideration
9/2/2020	Send updated document request to Jennifer B.
9/3/2020	Additional funds requested from City for portion of severance examination that is out-of-scope; approval obtained via email
9/3/2020	Receive portion of requested information
9/11/2020	Send updated document request to Jennifer B.
9/14/2020	Receive portion of requested information
9/15/2020	Receive portion of requested information
9/25/2020	Send updated document request to Jennifer B.
9/29/2020	Receive portion of requested information
9/30/2020	Receive records from City Attorney for review/consideration
10/5/2020	Send updated document request to Misti H.
10/6/2020	Receive portion of requested information
10/7/2020	Receive portion of requested information
10/8/2020	Receive records from City Attorney for review/consideration
10/9/2020	Issue final letter on severance/transition agreement examination
10/26/2020	Send request for purchase order reports to Misti H.
10/27/2020	Receive requested PO reports
11/17/2020	Send updated document request after review of ~10,000 pages of AP records

City Council

AGENDA ITEM REPORT



To: City Council
Subject: Consideration and possible action on approving the purchase of a wastewater easement from KMHR LP ET AL located on Chris Kelley Blvd., Hutto TX to support the Lakeside Estates Lift Station Abandonment project in the amount of \$56,644.
Meeting: City Council - 19 Nov 2020
Department: Engineering
Staff Contact: Samuel Ray

BACKGROUND INFORMATION:

AIR-20-416 This easement is needed to support the Lakeside Estates Lift Station Abandonment project and bridges a gap between land owned by the City in Hutto Lake Park and green space within the Park at Brushy Creek subdivision and allows the wastewater line to avoid a dam structural easement owned by Upper Brushy Creek W.C.I.D. The property is located on Chris Kelley Blvd. and has been discussed as a property that the city is interested in purchasing in order to expand Hutto Lake Park and provide an entrance and parking area off of Chris Kelley Blvd. The easement document is based off of a template provided by the City Attorney and will be approved by the City Attorney prior to execution and recordation.

FINANCIAL IMPACT:

The cost of the easement is \$56,644 and will be paid out of utility bond funds in support of the Lakeside Estates Lift station Abandonment Project. The cost of the easement comes out to \$2 per square foot and has been agreed to by the property owner.

POLICY IMPLICATIONS:

Approval of this item is needed to ensure that there are no delays in the construction of the Lakeside Estates Lift Station Abandonment project.

RECOMMENDATION:

Staff Recommends Approval

ATTACHMENTS:

[Huggins Property Easement](#)

County: Williamson
Parcel: PARCEL 2 (11.24 Acre)
Project: Lakeside

Page 1 of 4
August 25, 2020

EXHIBIT _____
PROPERTY DESCRIPTION FOR PARCEL 2

DESCRIPTION OF A 0.650 ACRE (28,322 SQUARE FOOT), TRACT OF LAND SITUATED IN THE N.D. WALLING SURVEY, ABSTRACT NO. 675, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 11.24 ACRE TRACT OF LAND DESCRIBED AS "TRACT IX" IN DOCUMENT NO. 2004018332, AND CONVEYED BY INSTRUMENT TO KMR, L.P. AS RECORDED IN DOCUMENT NOS. 2006036699 (19.75981% INTEREST) AND 2009093520 (13.573523% INTEREST), TO OUR TALENTS, L.P. AS RECORDED IN DOCUMENT NOS. 2006036761 (19.75981% INTEREST) AND 2009093519 (13.573523% INTEREST) TO DREAMGIRL, L.P. AS RECORDED IN DOCUMENT NOS. 2007000663 (19.562212% INTEREST) AND 2009093521 (13.573523% INTEREST) AND TO JCM PROPERTIES, L.L.C. AS RECORDED IN DOCUMENT NO. 2007000663 (0.1975981% INTEREST) ALL RECORDED IN THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.650 ACRE (28,322 SQUARE FOOT) PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point in the westerly boundary line of said 11.24 acre tract, same being the existing easterly Right-of-Way (R.O.W.) line of Farm to Market Road (F.M.) 685 (R.O.W. width varies), for the southwesterly corner of the herein described parcel, from which a broken TxDOT Type I R.O.W. monument found in said easterly R.O.W. line bears S 25°04'58" W at a distance of 382.58 feet;

1) **THENCE**, with said westerly boundary line and said easterly R.O.W. line, **N 25°04'58" E** for a distance of **223.70** feet to a calculated point, for the northwesterly corner hereof, from which a broken TxDOT Type I R.O.W. monument found in said easterly R.O.W. line bears N 25°04'58" E at a distance of 494.19 and S 61°22'46" E at a distance of 1.42 feet;

2) **THENCE**, departing the common R.O.W. and property line of F.M. 685 and said 11.24 acre tract, through the interior of said 11.24 acre tract, **N 51°30'21" E** for a distance of **325.88** feet to a calculated point in the westerly boundary line of Lot 127, Block G, of The Park at Brushy Creek, Phase 1, a subdivision of record in Cabinet CC, Slides 69-72 of the Plat Records of Williamson County, Texas, same being the easterly boundary line of said 11.24 acre tract, for the northeasterly corner hereof;

3) **THENCE**, in part with the common boundary line of said Lot 127 and in part with the westerly boundary line of Lot 122 of said subdivision and said 11.24 acre tract, **S 07°37'25" W**, pass at a distance of 16.57 feet the common boundary line of said Lots 122 and 127, for a total distance of **43.28** feet to a calculated ell corner in the easterly boundary line hereof;

THENCE, departing said common boundary line of Lot 122 and said 11.24 acre tract, through the interior of said 11.24 acre tract, the following three (3) courses;

- 4) **S 51°30'21" W** for a distance of **303.65** feet, to a calculated ell corner;
- 5) **S 24°54'17" W** for a distance of **168.65** feet to a calculated ell corner;
- 6) **S 42°48'15" E** for a distance of **337.40** feet to a calculated point in the westerly boundary line of Lot 74, Block K, of Lakeside Estates, Section 4, a subdivision of

County: Williamson
Parcel: PARCEL 2 (11.24 Acre)
Project: Lakeside

Page 2 of 4
August 25, 2020

record in Cabinet X, Slides 201-204 of the Plat Records of Williamson County, Texas, same being in said easterly boundary line of said 11.24 acre tract, for an ell corner in the easterly boundary line hereof;

7) **THENCE**, with the common boundary line of said Lot 74 and said 11.24 acre tract, **S 07°42'12" W** for a distance of **51.84** feet to a calculated point, for the southeasterly corner hereof;

8) **THENCE**, departing said common boundary line of Lot 74 and said 11.24 acre tract, through the interior of said 11.24 acre tract, **N 42°48'15" W** for a distance of **379.37** feet to the **POINT OF BEGINNING**, containing 0.650 acres (28,322 square feet) of land.

NOTE: This parcel is accompanied by two (2) separate Temporary Construction Easements (T.C.E.), the first abutting and being parallel with and 70 feet northerly of the above described course No. 2 and the second abutting and being parallel with and 60 feet southerly of course No. 8 as shown on the accompanying sketch.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct and that the property described herein was determined by a survey made on the ground under my direct supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale
M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LLC
Firm Registration No: 100591-00
1504 Chisholm Trail Road, Suite 103
Round Rock, TX 78681

26 AUG 2020

Date

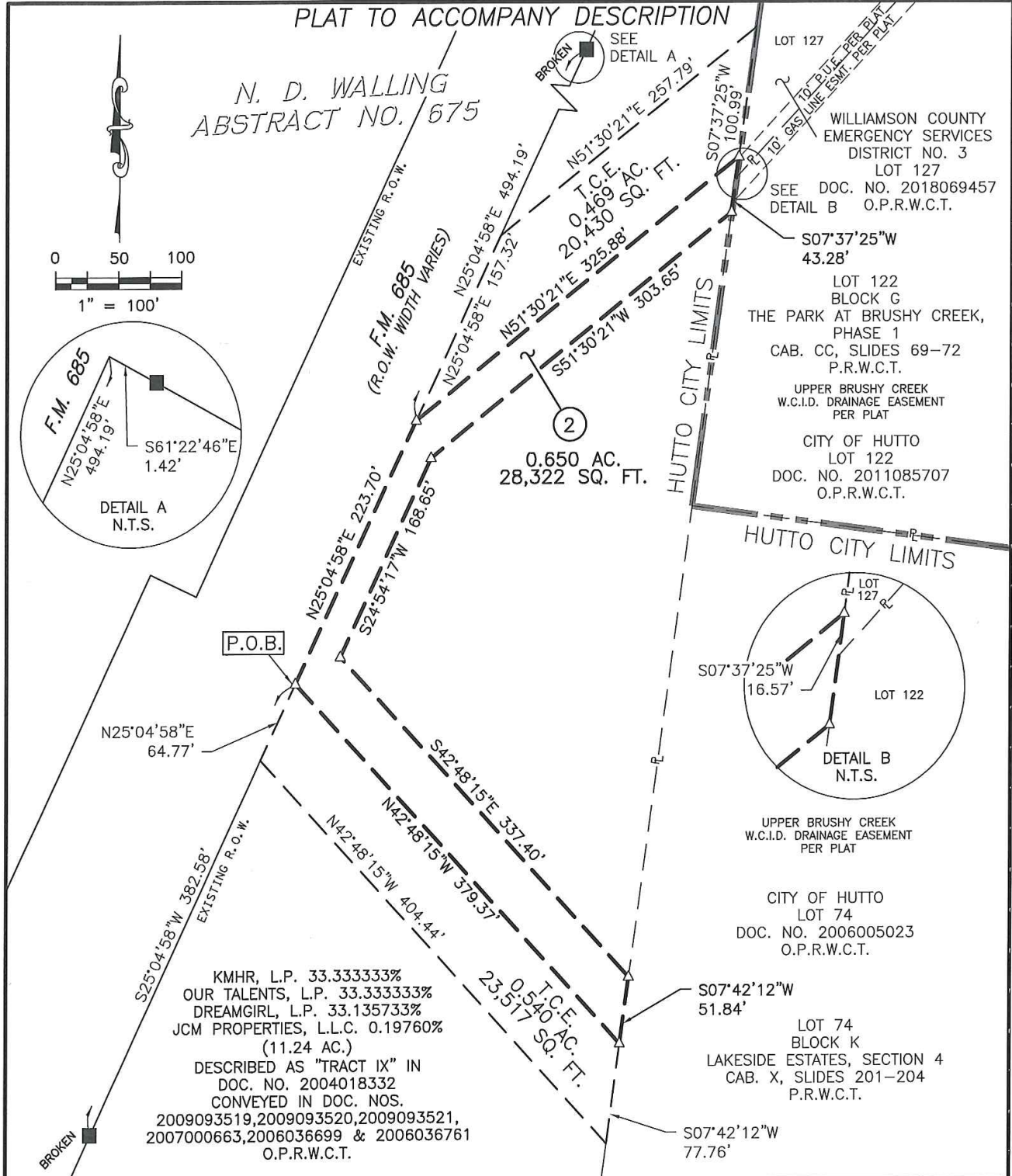
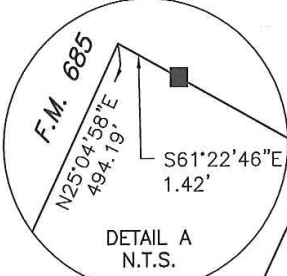


EXHIBIT

PLAT TO ACCOMPANY DESCRIPTION

N. D. WALLING
ABSTRACT NO. 675

0 50 100
1" = 100'



INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

EASEMENT
0.650 ACRES
28,322 SQUARE FEET

AUGUST 25, 2020
PAGE 3 OF 4

PLAT TO ACCOMPANY DESCRIPTION

LEGEND

⊙	IRON ROD WITH CAP FOUND	P.R.W.C.T.	PLAT RECORDS WILLIAMSON COUNTY, TEXAS
●	1/2" IRON ROD FOUND UNLESS NOTED	O.R.W.C.T.	OFFICIAL RECORDS WILLIAMSON COUNTY, TEXAS
△	CALCULATED POINT	O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
■	TxDOT TYPE I MONUMENT	P.U.E.	PUBLIC UTILITY EASEMENT
○	IRON ROD WITH CAP SET	T.C.E.	TEMPORARY CONSTRUCTION EASEMENT
ℙ	PROPERTY LINE	P.O.B.	POINT OF BEGINNING
D.R.W.C.T.	DEED RECORDS WILLIAMSON COUNTY, TEXAS	N.T.S.	NOT TO SCALE
		()	RECORD INFORMATION

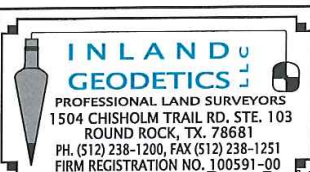
NOTES:

- 1) BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE. DISTANCES ARE SURFACE DISTANCES.
- 2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

M. Stephen Truesdale 26 AUG 2020

M. STEPHEN TRUESDALE DATE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933
LICENSED STATE LAND SURVEYOR
INLAND GEODETICS, LLC
FIRM REGISTRATION NO. 100591-00
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 78681



Page 5 of 5

EASEMENT
0.650 ACRES
28,322 SQUARE FEET

AUGUST 25, 2020
PAGE 4 OF 4

County: Williamson
Parcel: PARCEL 2 (11.24 Acre)
Project: Lakeside

Page 1 of 4
August 25, 2020

EXHIBIT _____
PROPERTY DESCRIPTION FOR PARCEL 2

DESCRIPTION OF A 0.650 ACRE (28,322 SQUARE FOOT), TRACT OF LAND SITUATED IN THE N.D. WALLING SURVEY, ABSTRACT NO. 675, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 11.24 ACRE TRACT OF LAND DESCRIBED AS "TRACT IX" IN DOCUMENT NO. 2004018332, AND CONVEYED BY INSTRUMENT TO KMR, L.P. AS RECORDED IN DOCUMENT NOS. 2006036699 (19.75981% INTEREST) AND 2009093520 (13.573523% INTEREST), TO OUR TALENTS, L.P. AS RECORDED IN DOCUMENT NOS. 2006036761 (19.75981% INTEREST) AND 2009093519 (13.573523% INTEREST) TO DREAMGIRL, L.P. AS RECORDED IN DOCUMENT NOS. 2007000663 (19.562212% INTEREST) AND 2009093521 (13.573523% INTEREST) AND TO JCM PROPERTIES, L.L.C. AS RECORDED IN DOCUMENT NO. 2007000663 (0.1975981% INTEREST) ALL RECORDED IN THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.650 ACRE (28,322 SQUARE FOOT) PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point in the westerly boundary line of said 11.24 acre tract, same being the existing easterly Right-of-Way (R.O.W.) line of Farm to Market Road (F.M.) 685 (R.O.W. width varies), for the southwesterly corner of the herein described parcel, from which a broken TxDOT Type I R.O.W. monument found in said easterly R.O.W. line bears S 25°04'58" W at a distance of 382.58 feet;

1) **THENCE**, with said westerly boundary line and said easterly R.O.W. line, **N 25°04'58" E** for a distance of **223.70** feet to a calculated point, for the northwesterly corner hereof, from which a broken TxDOT Type I R.O.W. monument found in said easterly R.O.W. line bears N 25°04'58" E at a distance of 494.19 and S 61°22'46" E at a distance of 1.42 feet;

2) **THENCE**, departing the common R.O.W. and property line of F.M. 685 and said 11.24 acre tract, through the interior of said 11.24 acre tract, **N 51°30'21" E** for a distance of **325.88** feet to a calculated point in the westerly boundary line of Lot 127, Block G, of The Park at Brushy Creek, Phase 1, a subdivision of record in Cabinet CC, Slides 69-72 of the Plat Records of Williamson County, Texas, same being the easterly boundary line of said 11.24 acre tract, for the northeasterly corner hereof;

3) **THENCE**, in part with the common boundary line of said Lot 127 and in part with the westerly boundary line of Lot 122 of said subdivision and said 11.24 acre tract, **S 07°37'25" W**, pass at a distance of 16.57 feet the common boundary line of said Lots 122 and 127, for a total distance of **43.28** feet to a calculated ell corner in the easterly boundary line hereof;

THENCE, departing said common boundary line of Lot 122 and said 11.24 acre tract, through the interior of said 11.24 acre tract, the following three (3) courses;

- 4) **S 51°30'21" W** for a distance of **303.65** feet, to a calculated ell corner;
- 5) **S 24°54'17" W** for a distance of **168.65** feet to a calculated ell corner;
- 6) **S 42°48'15" E** for a distance of **337.40** feet to a calculated point in the westerly boundary line of Lot 74, Block K, of Lakeside Estates, Section 4, a subdivision of

County: Williamson
Parcel: PARCEL 2 (11.24 Acre)
Project: Lakeside

Page 2 of 4
August 25, 2020

record in Cabinet X, Slides 201-204 of the Plat Records of Williamson County, Texas, same being in said easterly boundary line of said 11.24 acre tract, for an ell corner in the easterly boundary line hereof;

7) **THENCE**, with the common boundary line of said Lot 74 and said 11.24 acre tract, **S 07°42'12" W** for a distance of **51.84** feet to a calculated point, for the southeasterly corner hereof;

8) **THENCE**, departing said common boundary line of Lot 74 and said 11.24 acre tract, through the interior of said 11.24 acre tract, **N 42°48'15" W** for a distance of **379.37** feet to the **POINT OF BEGINNING**, containing 0.650 acres (28,322 square feet) of land.

NOTE: This parcel is accompanied by two (2) separate Temporary Construction Easements (T.C.E.), the first abutting and being parallel with and 70 feet northerly of the above described course No. 2 and the second abutting and being parallel with and 60 feet southerly of course No. 8 as shown on the accompanying sketch.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct and that the property described herein was determined by a survey made on the ground under my direct supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale
M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LLC
Firm Registration No: 100591-00
1504 Chisholm Trail Road, Suite 103
Round Rock, TX 78681

26 AUG 2020

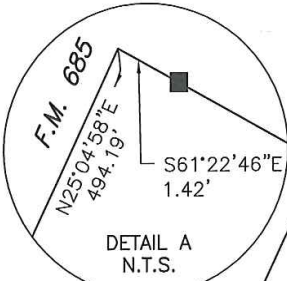
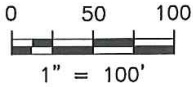
Date



EXHIBIT

PLAT TO ACCOMPANY DESCRIPTION

N. D. WALLING
ABSTRACT NO. 675



P.O.B.

N25°04'58"E
64.77'

S25°04'58"W 382.58'
EXISTING R.O.W.

KMHR, L.P. 33.333333%
OUR TALENTS, L.P. 33.333333%
DREAMGIRL, L.P. 33.135733%
JCM PROPERTIES, L.L.C. 0.19760%
(11.24 AC.)
DESCRIBED AS "TRACT IX" IN
DOC. NO. 2004018332
CONVEYED IN DOC. NOS.
2009093519, 2009093520, 2009093521,
2007000663, 2006036699 & 2006036761
O.P.R.W.C.T.

F.M. 685
(R.O.W. WIDTH VARIES)

N25°04'58"E 223.70'
S24°54'17"W 168.65'

S42°48'15"E 337.40'
N42°48'15"W 379.37'
N42°48'15"W 404.44'

0.650 AC.
28,322 SQ. FT.

BROKEN
SEE
DETAIL A
N51°30'21"E 257.79'
T.C.E.
0.469 AC.
20,430 SQ. FT.

S51°30'21"W 303.65'

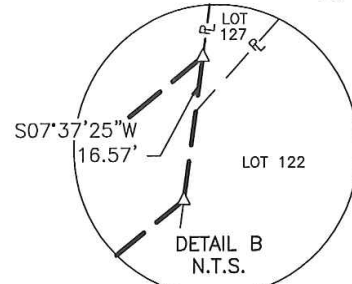
HUTTO CITY LIMITS

S07°37'25"W 100.99'

S07°37'25"W 43.28'

LOT 127
WILLIAMSON COUNTY
EMERGENCY SERVICES
DISTRICT NO. 3
LOT 127
SEE DOC. NO. 2018069457
DETAIL B O.P.R.W.C.T.
LOT 122
BLOCK G
THE PARK AT BRUSHY CREEK,
PHASE 1
CAB. CC, SLIDES 69-72
P.R.W.C.T.
UPPER BRUSHY CREEK
W.C.I.D. DRAINAGE EASEMENT
PER PLAT
CITY OF HUTTO
LOT 122
DOC. NO. 2011085707
O.P.R.W.C.T.

HUTTO CITY LIMITS



UPPER BRUSHY CREEK
W.C.I.D. DRAINAGE EASEMENT
PER PLAT

CITY OF HUTTO
LOT 74
DOC. NO. 2006005023
O.P.R.W.C.T.

S07°42'12"W 51.84'

LOT 74
BLOCK K
LAKESIDE ESTATES, SECTION 4
CAB. X, SLIDES 201-204
P.R.W.C.T.

S07°42'12"W 77.76'

INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

EASEMENT
0.650 ACRES
28,322 SQUARE FEET

AUGUST 25, 2020
PAGE 3 OF 4

PLAT TO ACCOMPANY DESCRIPTION

LEGEND

⊙	IRON ROD WITH CAP FOUND	P.R.W.C.T.	PLAT RECORDS WILLIAMSON COUNTY, TEXAS
●	1/2" IRON ROD FOUND UNLESS NOTED	O.R.W.C.T.	OFFICIAL RECORDS WILLIAMSON COUNTY, TEXAS
△	CALCULATED POINT	O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
■	TxDOT TYPE I MONUMENT	P.U.E.	PUBLIC UTILITY EASEMENT
○	IRON ROD WITH CAP SET	T.C.E.	TEMPORARY CONSTRUCTION EASEMENT
ℙ	PROPERTY LINE	P.O.B.	POINT OF BEGINNING
D.R.W.C.T.	DEED RECORDS WILLIAMSON COUNTY, TEXAS	N.T.S.	NOT TO SCALE
		()	RECORD INFORMATION

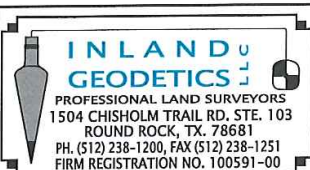
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M. Stephen Truesdale 26 AUG 2020

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1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 78681



EASEMENT
0.650 ACRES
28,322 SQUARE FEET

AUGUST 25, 2020
PAGE 4 OF 4

City Council

AGENDA ITEM REPORT



To: City Council
Subject: Presentation of land use assumptions and capital improvements plan for the 2021 update to the City of Hutto Water and Wastewater Impact Fee and request for a public hearing.
Meeting: City Council - 19 Nov 2020
Department: Engineering
Staff Contact: Samuel Ray

BACKGROUND INFORMATION:

AIR-20-417 The City of Hutto desires and is required to update the water and wastewater impact fee schedule as specified in section 395 of the Texas Local Government Code. As part of the process of adopting an updated water and wastewater impact fee the City must first adopt land use assumptions and a 10 year capital improvement plan the will be the basis on which the maximum allowable impact fee can be.

FINANCIAL IMPACT:

This item is a continuation of the water and wastewater impact fee study and is the next step needed to adopt updated water and wastewater impact fees.

POLICY IMPLICATIONS:

Adoption of the land use assumptions and capital improvements plan is needed prior to adoption of updated water and wastewater impact fee.

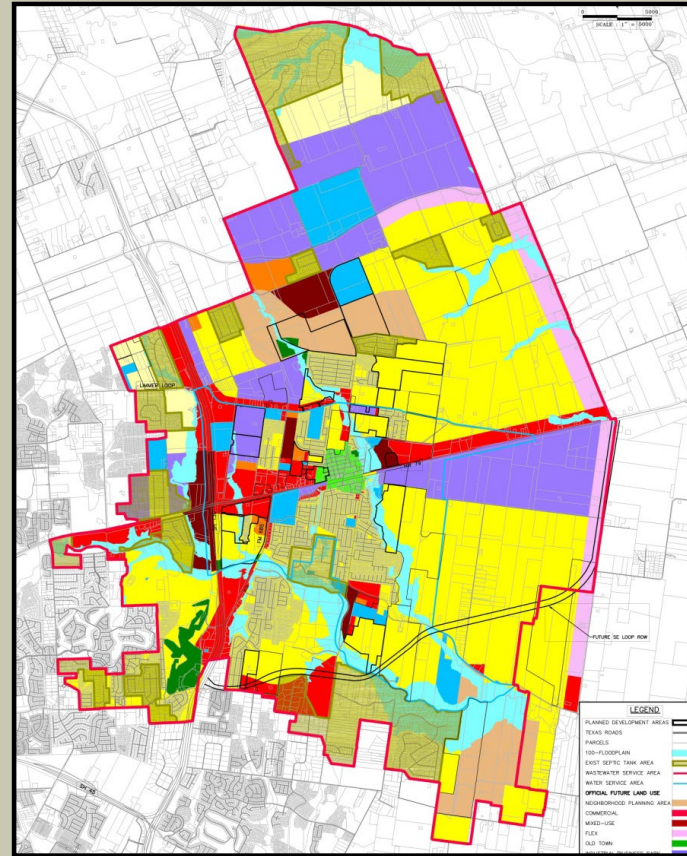
RECOMMENDATION:

Staff recommends setting the public hearing date for acceptance of Land Use Assumptions and Capital Improvement Plans on January 4th of 2021.

ATTACHMENTS:

[Council Packet Items Presentation 11-19](#)

Presented by:



City of Hutto Water and Wastewater Impact Fee Study

November 19, 2020

Impact Fee Purpose and Principles

Page 3 of 12

- ▶ Impact fees shift the burden of infrastructure costs from the tax payers to the developers
- ▶ Allows the City to recover a portion of the cost of capital improvement projects
- ▶ Provides a structured approach to assessment of fees
- ▶ Impact fees for a new development are based on the water and wastewater capacity required
 - Measured in Living Unit Equivalencies (LUEs)



Impact Fee Purpose and Principles

► Impact Fee Process

- Develop Land Use Assumptions (LUA)
- Develop 10-year Capital Improvement Plan (CIP)
- City Council Approval of LUA and 10-year CIP
- Conduct Impact Fee Calculations and Prepare Technical Report
- Capital Improvement Advisory Committee (CIAC) Approval of Impact Fee and Recommendation to City Council
- Public Hearing and Council Consideration
- Adopt Updated Impact Fee Ordinance

Impact Fee Purpose and Principles

Page 5 of 12

► Impact Fee Calculation

- Maximum Impact Fees are calculated based on the cost of the eligible CIP projects in the next 10 years and the projected new LUE growth over that time period

$$\text{Impact Fee per LUE} = \frac{\text{Eligible CIP Cost}}{\text{New LUEs}}$$

- The City may elect not to charge the maximum Impact Fee amount

Impact Fee Purpose and Principles

Page 6 of 12

► Eligible CIP projects

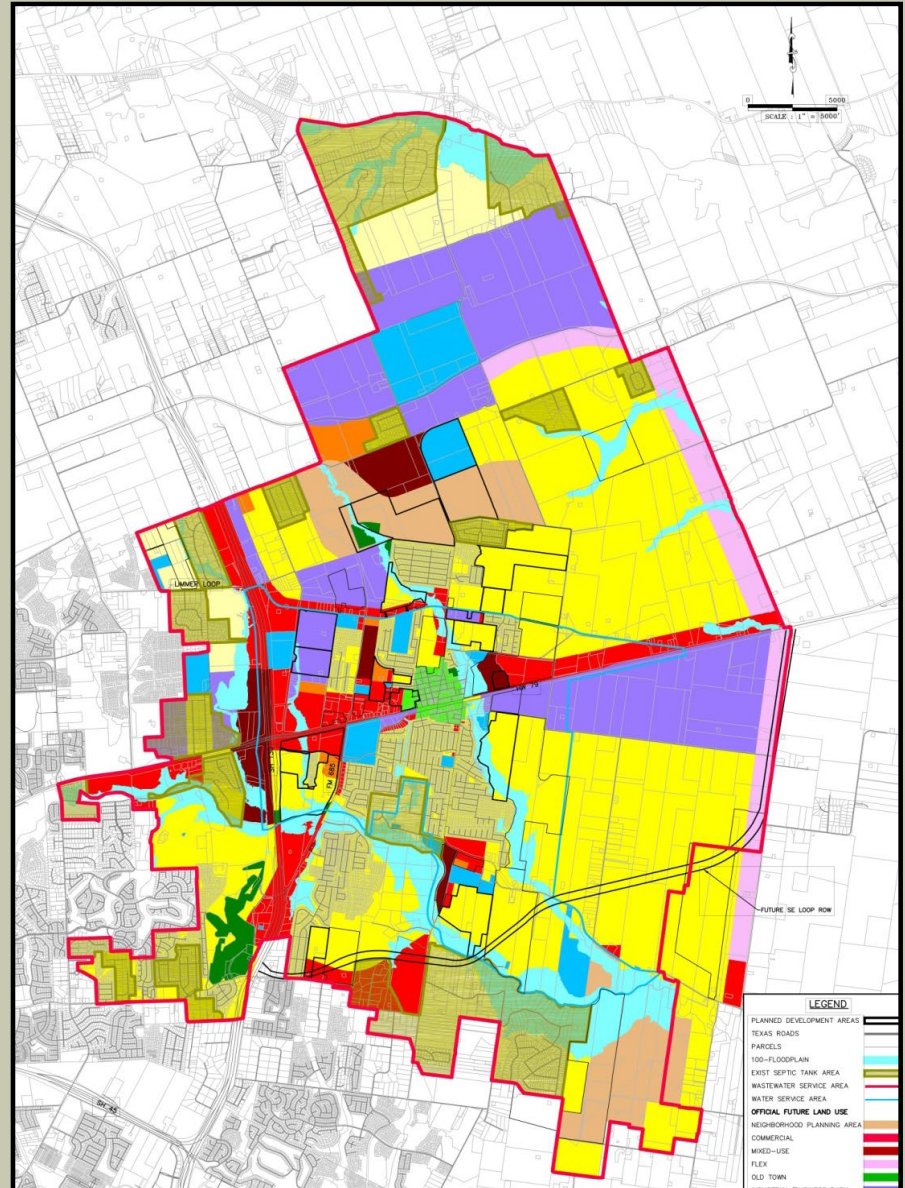
- Recently constructed projects with capacity remaining
- Proposed projects that will accommodate growth in the next 10 years
 - Construction Cost, Easement Acquisition, Professional Fees, etc.
- Financing Costs
- Cost of Impact Fee Study
 - Split between Water and Wastewater Impact Fees

Land Use Assumptions

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Land Use Assumptions

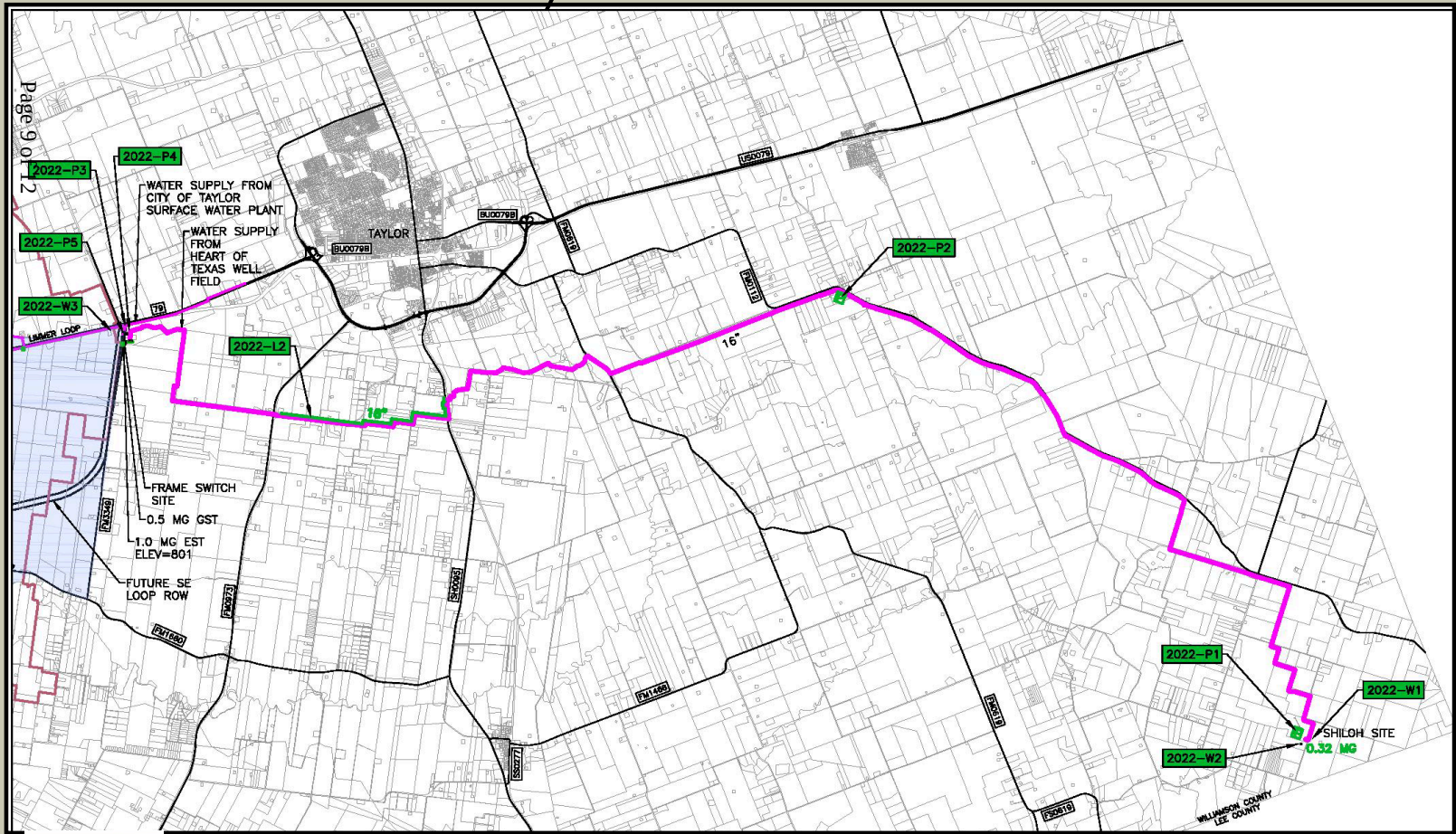
COH Future Land Use	Density (LUE/Ac)	Notes
Commercial	7.04	Actual - Hansons Corner, Townwest Commons
Mixed-Use	8	Developed for Water Master Plan (50% High Density Residential, 50% Commercial)
Flex	5.4	Developed- mix of 50% commercial and 50% mid-density residential
Old Town	3.5	Downtown Hutto
Industrial/Business Park	1.8	Actual - Tradesmens Industrial Park, 79 Business Park
Institutional	1.6	Actual - Howard Norman Elementary, Veterans Hill Elementary
Agricultural/Open Space	0.1	Defined as Floodplain and Parkland
Low-Density Residential	1.5	Actual - Carmel Creek Est, Country View Est, Green Haven
Mid-Density Residential	3.84	Actual - Enclave, Riverwalk, Park at Brushy Creek
High-Density Residential	17	COH Definition from Unified Development Code
Neighborhood Planning Area	3.84	Developed to match Mid-Density Residential



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Water System -10-Year CIP



Water System Impact Fee Eligible Projects

Project Date	Project ID	Fiscal Year Completed	Project Name	Project Description	2021 Utilization	2031 Utilization	Eligible Utilization (2031 - 2021)	Engineer's Opinion of Most Probable Cost or Actual Project Cost	Impact Fee Eligible Cost
Existing Projects*									
Completed	N/A	2017	12" Waterline - Future Carl Stern Dr (SH 130 South)	9,000 linear feet of 12" waterline to transfer water for new development areas at Future Carl Stern Dr / SH 130 South	11%	83%	72%	\$940,000	\$679,468
Completed	N/A	2018	12" Waterline - West of FM 685	1,500 linear feet of 12" waterline to transfer water	11%	83%	72%	\$156,000	\$112,763
Completed	N/A	2018	12" Waterline - Front Street	3,600 linear feet of 12" waterline	30%	100%	70%	\$376,000	\$263,200
Completed	N/A	2018	16" Waterline - Front Street	900 linear feet of 16" waterline	30%	100%	70%	\$152,000	\$106,400
Completed	N/A	2018	20" Waterline - Front Street	2,500 linear feet of 20" waterline	30%	100%	70%	\$595,000	\$416,500
Completed	N/A	2018	24" Waterline - Front Street	1,800 linear feet of 24" waterline	30%	100%	70%	\$548,000	\$383,600
Completed	N/A	2020	Old Town Waterline Replacement Program	Waterline Replacements as shown in report Figure No. 2.11 including: East Street Phase I at \$60,000, Live Oak Street at \$480,000, Taylor Street at \$240,000, West Street Phase I and II with Metcalf Street at \$540,000, Marvin Cove at \$175,000, East Street Phase II at \$150,000, Ross Street at \$160,000, and Brushy Street/Evans Street at \$280,000.	100%	100%	0%	\$2,085,000	\$0
Completed	N/A	2020	Shiloh Booster Station Upgrade to 3.27 MGD	Install 3 new pumps to reach a capacity of 3.27 mgd	64%	100%	36%	\$500,000	\$178,899
Proposed Projects**									
Under Design	2022-P1	2022	Shiloh Pumping Station Upgrade to 5.70 MGD	Install 5.7 mgd booster pump station at Shiloh Pump Station to replace existing 3.27 MGD pump station.	53%	100%	47%	\$4,900,000	\$2,321,053
Under Design	2022-P2	2022	Heart of Texas In-Line 5.7 MGD Pumping Station	Install 5.7 mgd inline booster pump station at the proposed Noack Pumping Station to allow the Heart of Texas Transmission Line to serve 5.7 mgd	53%	100%	47%	\$5,250,000	\$2,486,842
Under Design	2022-P3	2022	Frame Switch 890 PP 5.7 MGD Pump Station	Install 5.7 MGD 890' PP Pump Station at the Frame Switch Pumping Station.	53%	100%	47%	\$4,290,000	\$2,032,105
Under Design	2022-P4	2022	Frame Switch 801 PP 6.48 MGD Pump Station	Install 6.48 MGD 801' PP Pumping Station at the Frame Switch Pumping Station.	53%	100%	47%	\$2,960,000	\$1,402,105
Under Design	2022-T1	2022	Frame Switch 801 Pressure Plane Tank Modifications	Install new dedicated tank inlet to improve tank operation and mixing characteristics.	100%	100%	0%	\$520,000	\$0
Under Design	2022-V1	2022	890' Pressure Plane Expansion	To expand the 890' pressure plane east, 4 pressure reducing valves will be installed around Hutto's Historic Downtown. 1 Pressure sustaining valve will be converted into a pressure reducing valve.	100%	100%	0%	\$100,000	\$0
Under Design	2022-L1	2022	24" Waterline - US 79	5,500 linear feet of 24" waterline, and 6,000 linear feet of 30" waterline	37%	87%	50%	\$2,342,000	\$1,170,468
Under Design	2022-L2	2022	Heart of Texas 16" Parallel Pipeline	16,000 linear feet of 16" waterline	53%	100%	47%	\$2,658,000	\$1,249,260
Under Design	N/A	2021	Water Impact Fee Update	Update water impact fees.	0%	100%	100%	\$39,670	\$39,670
FY 2021 thru FY 2026	2026-L3	2026	16" Waterline - Limmer Loop	1,600 linear feet of 16" waterline to transfer water from the existing 890-ft PP at Ed Schmidt Blvd to Anderson St in Hutto Square (for expanding 890-ft PP)	100%	100%	0%	\$404,000	\$0
FY 2021 thru FY 2026	2024-L4	2024	12" Waterline - FM 1660/Mager Ln	4,800 linear feet of 12" waterline to transfer water from Delby St in Hutto Square to Carol Dr in Carol Meadows (for expanding 890-ft PP)	0%	100%	100%	\$728,000	\$728,000
FY 2021 thru FY 2026	2024-L5	2024	12" Waterline - Alliance Blvd (CR 108)	2,400 linear feet of 12" waterline to transfer water for new development areas along Innovation Blvd	0%	100%	100%	\$265,000	\$265,000
FY 2021 thru FY 2026	2026-L6	2026	Jonah Water Service Transfer Tier II South	7,910 linear feet of 8" waterline to transfer water to Coyote Trail	0%	100%	100%	\$953,000	\$953,000
FY 2021 thru FY 2026	2025-L7	2025	16" Waterline - CR 132	2,500 linear feet of 16" waterline to transfer water for new development areas at US79 / CR 132	0%	51%	51%	\$449,000	\$228,979
FY 2021 thru FY 2026	2025-L8	2025	12" Waterline - CR 199	3,300 linear feet of 12" waterline	0%	51%	51%	\$366,000	\$186,651
FY 2021 thru FY 2026	2026-L9	2026	12" Waterline	4,000 linear feet of 12" waterline	0%	54%	54%	\$606,000	\$328,107
FY 2027 thru FY 2031	2028-L10	2028	20" Waterline - CR 132	800 linear feet of 20" waterline	0%	36%	36%	\$202,000	\$73,257
FY 2027 thru FY 2031	2028-L11	2028	12" Waterline - Future Roadway	3,800 linear feet of 12" waterline	0%	36%	36%	\$421,000	\$152,678
FY 2027 thru FY 2031	2028-L12	2028	12" Waterline - Future Carl Stern Dr	4,300 linear feet of 12" waterline	0%	54%	54%	\$477,000	\$258,262
FY 2021 thru FY 2027	2026-L13	2026	36" Waterline - US 79	9,200 linear feet of 36" waterline	0%	62%	62%	\$4,623,000	\$2,856,402
FY 2027 thru FY 2031	2029-L14	2029	12" Waterline - FM 1660	5,400 linear feet of 12" waterline	0%	79%	79%	\$771,000	\$612,599
FY 2027 thru FY 2031	2029-L15	2029	12" Waterline - CR 163	3,900 linear feet of 12" waterline	0%	63%	63%	\$557,000	\$348,362
FY 2027 thru FY 2027	2026-P5	2026	Frameswitch 890' PP Pump Upgrades	Replace 4 50 HP 890' PP pumps with 4 150 HP 890' PP pumps	0%	100%	100%	\$500,000	\$500,000
FY 2021 thru FY 2026	2022-W1	2022	Well Capacity Increase to 5.7 MGD	Install 2 new Hooper wells, Drill one new Simsboro well, repermit the existing Simsboro well No. 12.	0%	100%	100%	\$3,688,000	\$3,688,000
FY 2021 thru FY 2026	2022-W2	2022	Well Collection Capacity Increase to 5.7 MGD	Install +/- 21,000 LF of 16" and 12" piping.	0%	100%	100%	\$3,955,000	\$3,955,000
FY 2027 thru FY 2031	2027-W3	2027	5 MGD Brackish Water Treatment Plant	5 MGD brackish water treatment and cooling, 3 lower trinity aquifer wells, 1 injection well.	0%	54%	54%	\$27,300,000	\$14,742,000
Total =								\$74,676,670	\$42,718,631

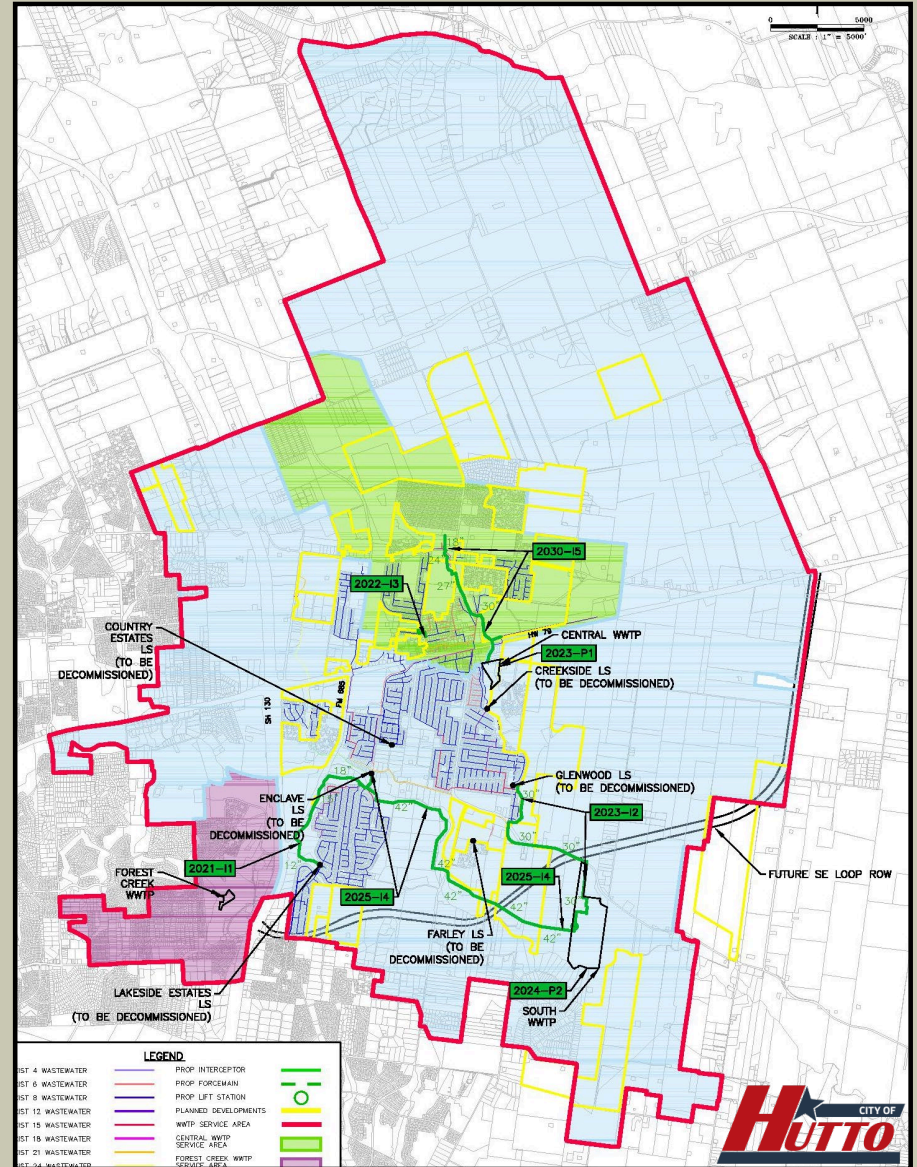
*Existing projects includes projects currently completed that provide capacity to the system

**Proposed projects includes all future projects including those currently under design or construction not completed



Wastewater System - 10-Year CIP

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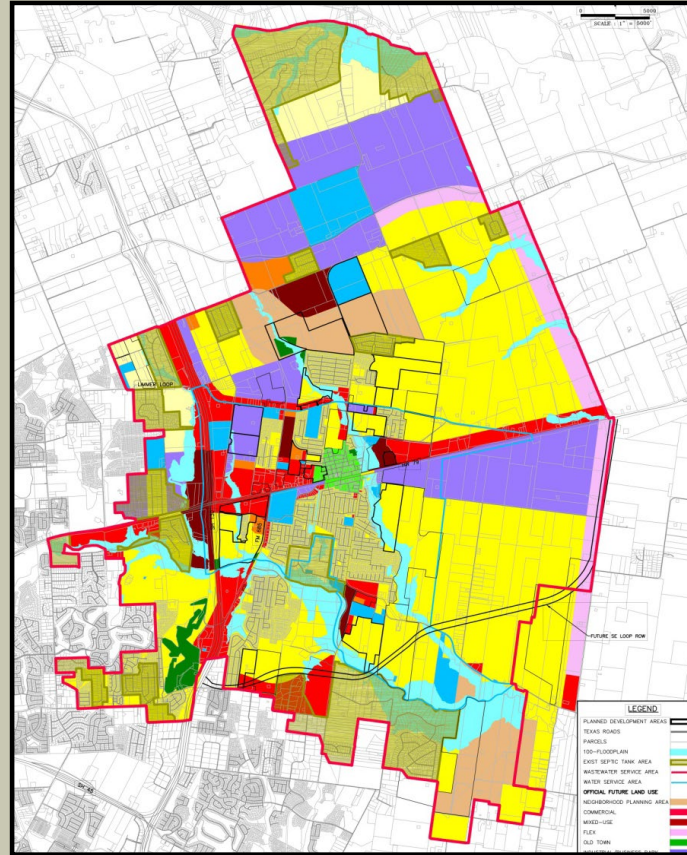
Wastewater System - 10-Year CIP

Wastewater System Impact Fee Eligible Projects								
Project Date	Project ID	Project Name	Project Description	2021 Utilization	2031 Utilization	Eligible Utilization (2031 - 2021)	Engineer's Opinion of Most Probable Cost or Actual Project Cost	Impact Fee Eligible Cost
Existing Projects¹								
2013-2017	N/A	Existing 2.00 MGD South WWTP	The existing South WWTP with 2.00 mgd capacity	47%	100%	53%	\$17,167,062	\$9,029,875
2013-2016	N/A	Existing Enclave LS and FM	The existing Enclave lift station and forcemain with 8,960 LUEs of capacity	34%	100%	66%	\$3,074,224	\$2,043,193
Proposed Projects								
2020-2021	N/A	Wastewater Impact Fee Update ²	Update wastewater impact fees.	0%	100%	100%	\$39,670	\$39,670
2020-2021	2020-I1	Lakeside Estates Lift Station Abandonment ²	8,700 LF of 12", 15", and 18" interceptor to decommission the Lakeside Estates Lift Station and provide additional capacity for future developments in the area.	26%	100%	74%	\$1,584,472	\$1,168,995
2019-2023	2021-I3	Glenwood Lift Station Decommission, Interceptor, and 2 - WWTP Lift Stations ²	10,500 LF of 30" interceptor to take Glenwood lift station offline and transfer flows to the South WWTP. Includes decommissioning of Glenwood LS, construction of new lift station at the south WWTP, and construction of new lift station at the Central WWTP.	34%	75%	41%	\$8,645,099	\$3,554,167
2021-2022	2022-I5	The Landing Pipe Bursting	Pipe burst existing 500 LF of 12-inch pipe to 15-inch on Whitfield, located north of Co-op to provide capacity for the future Landing development	60%	100%	40%	\$250,372	\$99,546
2021-2023	2023-P2	Phosphorus Chemical Dosing	Adding Phosphorus chemical dosing system to the Central WWTP to meet TCEQ permit requirements.	0%	100%	100%	\$420,000	\$420,000
2021-2023	2024-P1	South WWTP from 2.0 to 4.0 MGD Capacity	Expand South WWTP plant capacity from 2.00 mgd to 4.00 mgd.	0%	80%	80%	\$30,199,320	\$24,159,456
2028-2030	2025-I6	Cottonwood Creek Parallel Interceptor	700 LF of 18", 1,700 LF of 24", 3,900 LF of 27", and 2,100 LF of 30" Interceptor along east side of Cottonwood Creek to increase capacity of current Cottonwood Creek interceptor to ultimate conditions.	0%	75%	75%	\$4,727,561	\$3,545,671
2023-2025	2030-I7	Brushy Creek Interceptor & LS	2,800 LF of 36" and 15,100 LF of 42" interceptor to take Enclave LS offline and transfer flows to the South WWTP. Includes inverted siphon with two access vaults and on-site LS at WWTP. Decommissioning of Enclave LS is included in this project.	42%	65%	23%	\$14,238,000	\$3,270,720
Total =							\$80,345,781	\$47,331,291
1. Existing projects are currently under review and the list will be updated for any other qualifying projects that are identified. 2. Projects are currently under design								





Presented by:



City of Hutto Water and Wastewater Impact Fee Study

November 19, 2020

Impact Fee Purpose and Principles

- ▶ Impact fees shift the burden of infrastructure costs from the tax payers to the developers
- ▶ Allows the City to recover a portion of the cost of capital improvement projects
- ▶ Provides a structured approach to assessment of fees
- ▶ Impact fees for a new development are based on the water and wastewater capacity required
 - Measured in Living Unit Equivalencies (LUEs)

Impact Fee Purpose and Principles

► Impact Fee Process

- Develop Land Use Assumptions (LUA)
- Develop 10-year Capital Improvement Plan (CIP)
- City Council Approval of LUA and 10-year CIP
- Conduct Impact Fee Calculations and Prepare Technical Report
- Capital Improvement Advisory Committee (CIAC) Approval of Impact Fee and Recommendation to City Council
- Public Hearing and Council Consideration
- Adopt Updated Impact Fee Ordinance

Impact Fee Purpose and Principles

► Impact Fee Calculation

- Maximum Impact Fees are calculated based on the cost of the eligible CIP projects in the next 10 years and the projected new LUE growth over that time period

$$\text{Impact Fee per LUE} = \frac{\text{Eligible CIP Cost}}{\text{New LUEs}}$$

- The City may elect not to charge the maximum Impact Fee amount

Impact Fee Purpose and Principles

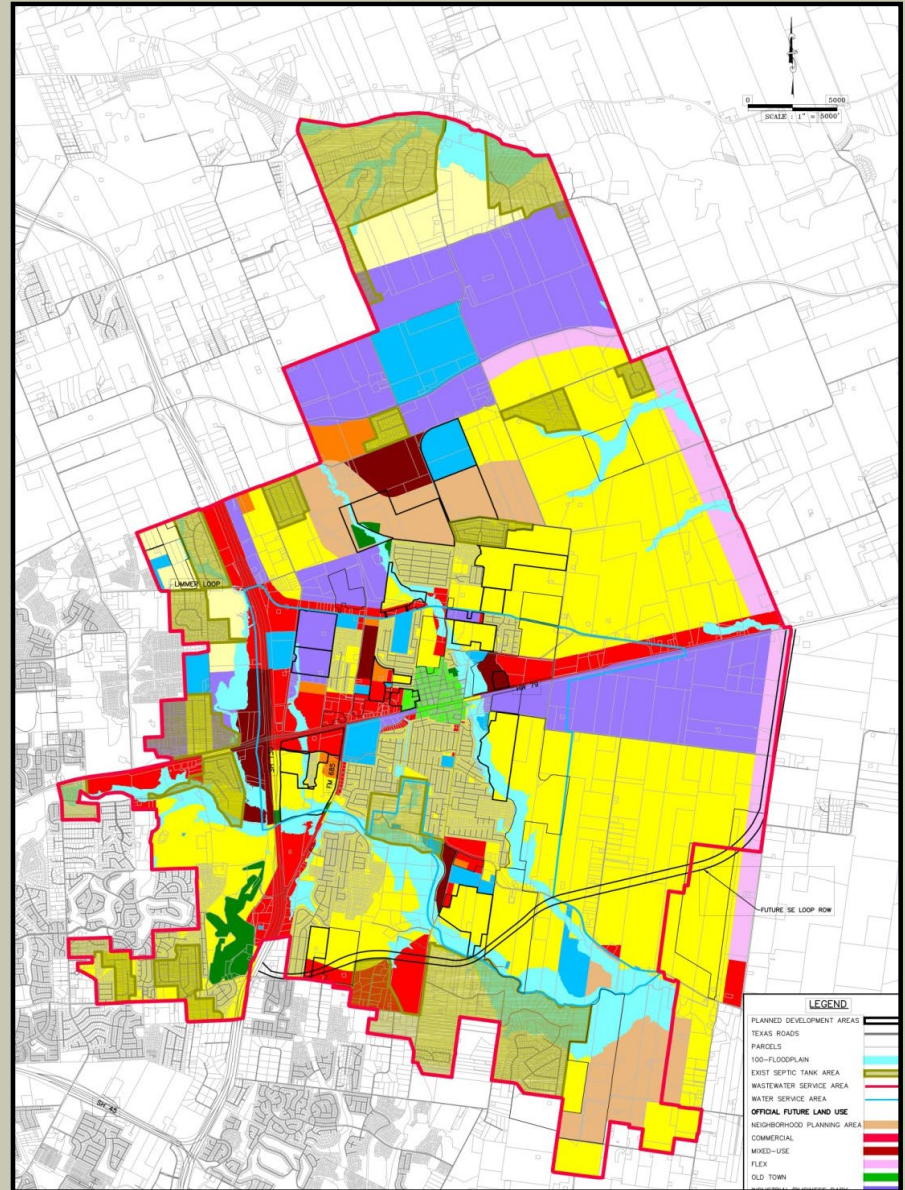
► Eligible CIP projects

- Recently constructed projects with capacity remaining
- Proposed projects that will accommodate growth in the next 10 years
 - Construction Cost, Easement Acquisition, Professional Fees, etc.
- Financing Costs
- Cost of Impact Fee Study
 - Split between Water and Wastewater Impact Fees

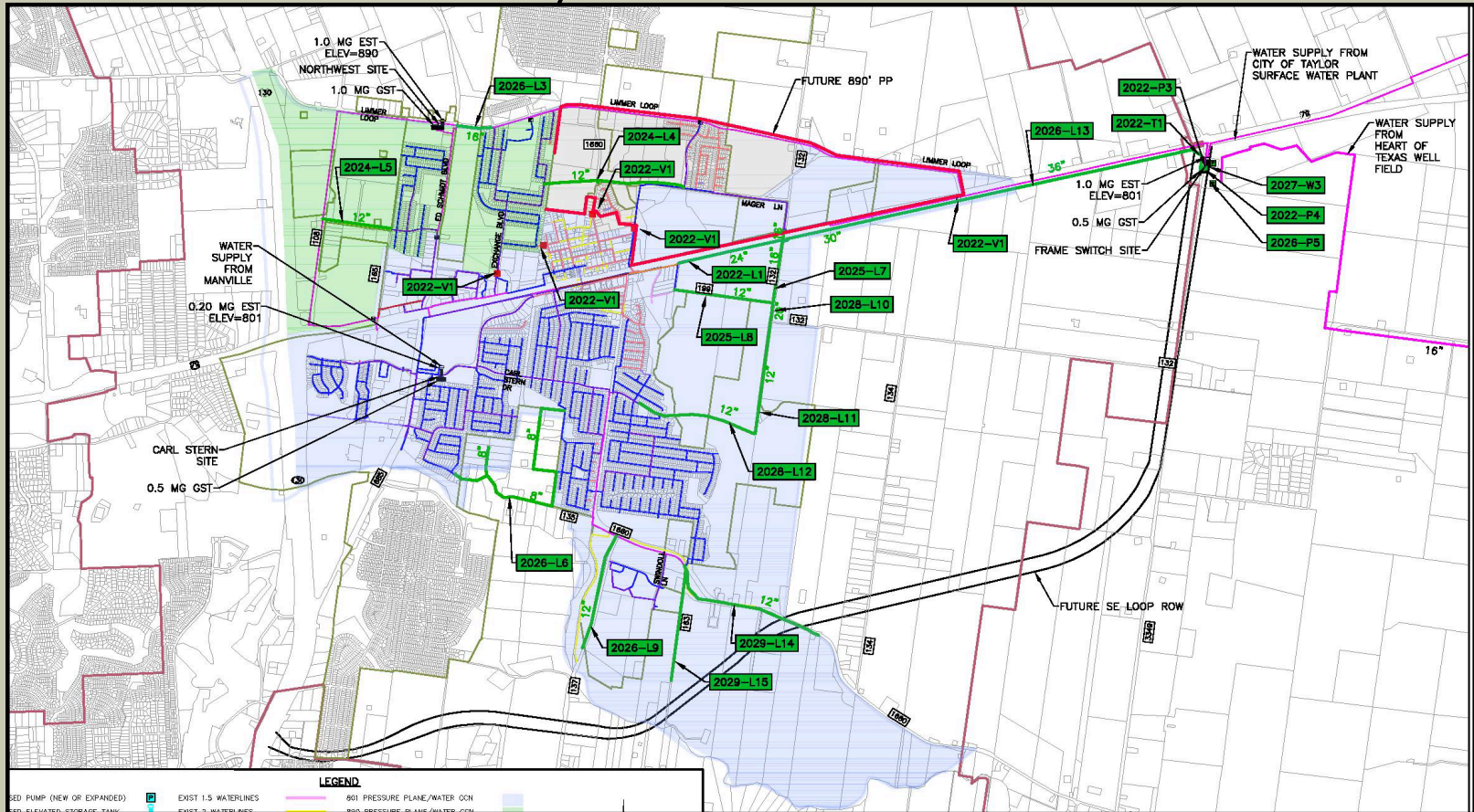
Land Use Assumptions

Land Use Assumptions

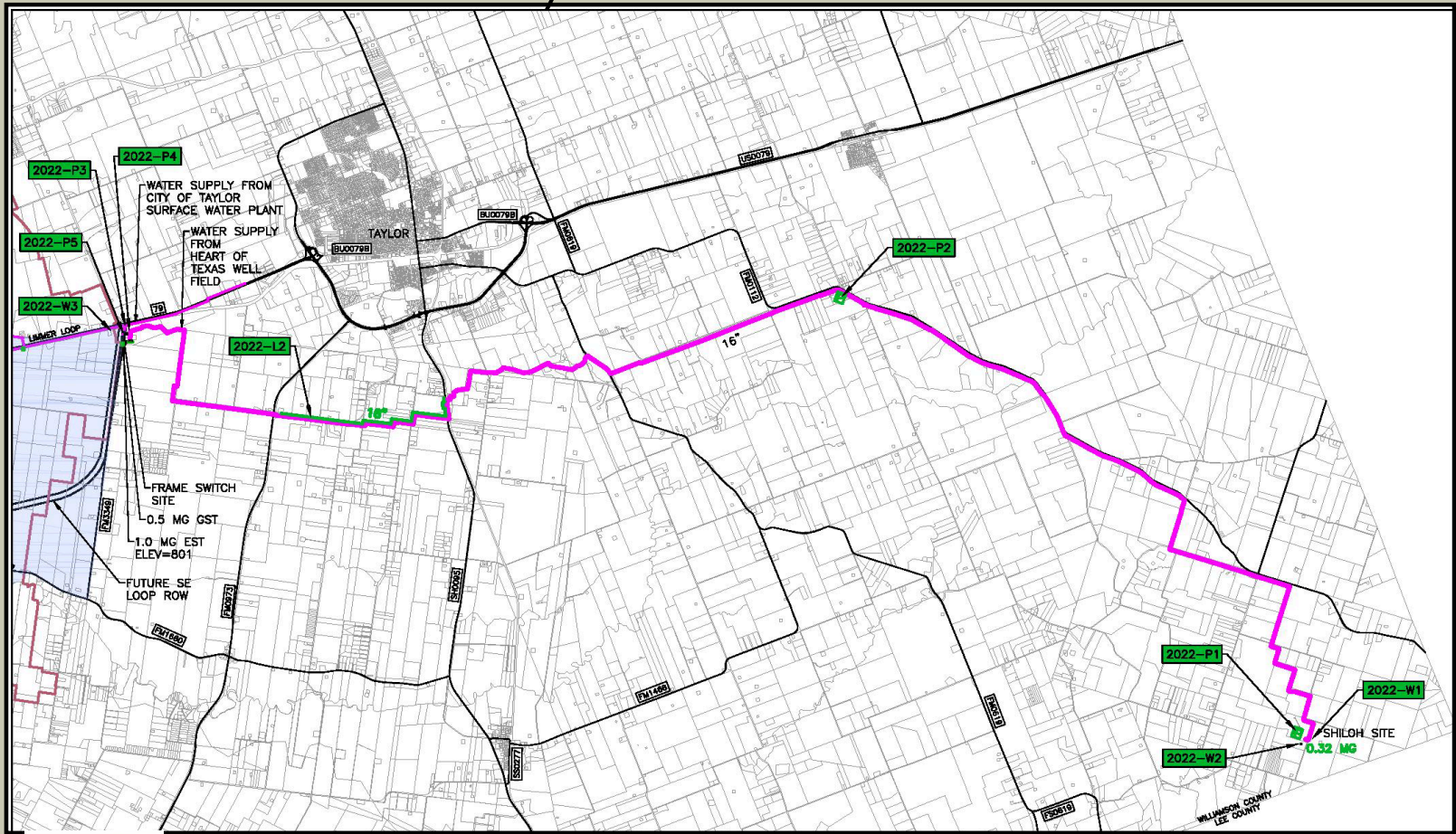
COH Future Land Use	Density (LUE/Ac)	Notes
Commercial	7.04	Actual - Hansons Corner, Townwest Commons
Mixed-Use	8	Developed for Water Master Plan (50% High Density Residential, 50% Commercial)
Flex	5.4	Developed- mix of 50% commercial and 50% mid-density residential
Old Town	3.5	Downtown Hutto
Industrial/Business Park	1.8	Actual - Tradesmens Industrial Park, 79 Business Park
Institutional	1.6	Actual - Howard Norman Elementary, Veterans Hill Elementary
Agricultural/Open Space	0.1	Defined as Floodplain and Parkland
Low-Density Residential	1.5	Actual - Carmel Creek Est, Country View Est, Green Haven
Mid-Density Residential	3.84	Actual - Enclave, Riverwalk, Park at Brushy Creek
High-Density Residential	17	COH Definition from Unified Development Code
Neighborhood Planning Area	3.84	Developed to match Mid-Density Residential



Water System -10-Year CIP



Water System -10-Year CIP



Water System Impact Fee Eligible Projects

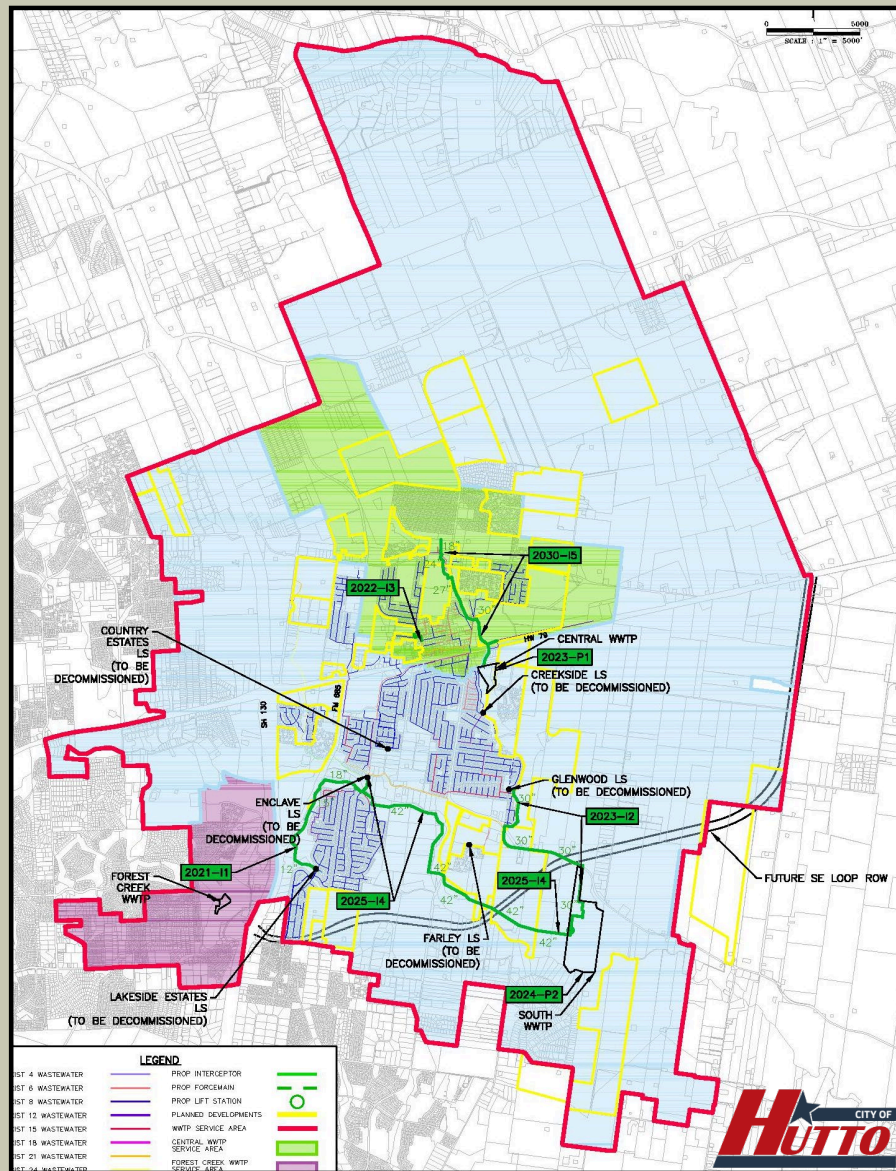
Project Date	Project ID	Fiscal Year Completed	Project Name	Project Description	2021 Utilization	2031 Utilization	Eligible Utilization (2031 - 2021)	Engineer's Opinion of Most Probable Cost or Actual Project Cost	Impact Fee Eligible Cost
Existing Projects*									
Completed	N/A	2017	12" Waterline - Future Carl Stern Dr (SH 130 South)	9,000 linear feet of 12" waterline to transfer water for new development areas at Future Carl Stern Dr / SH 130 South	11%	83%	72%	\$940,000	\$679,468
Completed	N/A	2018	12" Waterline - West of FM 685	1,500 linear feet of 12" waterline to transfer water	11%	83%	72%	\$156,000	\$112,763
Completed	N/A	2018	12" Waterline - Front Street	3,600 linear feet of 12" waterline	30%	100%	70%	\$376,000	\$263,200
Completed	N/A	2018	16" Waterline - Front Street	900 linear feet of 16" waterline	30%	100%	70%	\$152,000	\$106,400
Completed	N/A	2018	20" Waterline - Front Street	2,500 linear feet of 20" waterline	30%	100%	70%	\$595,000	\$416,500
Completed	N/A	2018	24" Waterline - Front Street	1,800 linear feet of 24" waterline	30%	100%	70%	\$548,000	\$383,600
Completed	N/A	2020	Old Town Waterline Replacement Program	Waterline Replacements as shown in report Figure No. 2.11 including: East Street Phase I at \$60,000, Live Oak Street at \$480,000, Taylor Street at \$240,000, West Street Phase I and II with Metcalf Street at \$540,000, Marvin Cove at \$175,000, East Street Phase II at \$150,000, Ross Street at \$160,000, and Brushy Street/Evans Street at \$280,000.	100%	100%	0%	\$2,085,000	\$0
Completed	N/A	2020	Shiloh Booster Station Upgrade to 3.27 MGD	Install 3 new pumps to reach a capacity of 3.27 mgd	64%	100%	36%	\$500,000	\$178,899
Proposed Projects**									
Under Design	2022-P1	2022	Shiloh Pumping Station Upgrade to 5.70 MGD	Install 5.7 mgd booster pump station at Shiloh Pump Station to replace existing 3.27 MGD pump station.	53%	100%	47%	\$4,900,000	\$2,321,053
Under Design	2022-P2	2022	Heart of Texas In-Line 5.7 MGD Pumping Station	Install 5.7 mgd inline booster pump station at the proposed Noack Pumping Station to allow the Heart of Texas Transmission Line to serve 5.7 mgd	53%	100%	47%	\$5,250,000	\$2,486,842
Under Design	2022-P3	2022	Frame Switch 890 PP 5.7 MGD Pump Station	Install 5.7 MGD 890' PP Pump Station at the Frame Switch Pumping Station.	53%	100%	47%	\$4,290,000	\$2,032,105
Under Design	2022-P4	2022	Frame Switch 801 PP 6.48 MGD Pump Station	Install 6.48 MGD 801' PP Pumping Station at the Frame Switch Pumping Station.	53%	100%	47%	\$2,960,000	\$1,402,105
Under Design	2022-T1	2022	Frame Switch 801 Pressure Plane Tank Modifications	Install new dedicated tank inlet to improve tank operation and mixing characteristics.	100%	100%	0%	\$520,000	\$0
Under Design	2022-V1	2022	890' Pressure Plane Expansion	To expand the 890' pressure plane east, 4 pressure reducing valves will be installed around Hutto's Historic Downtown. 1 Pressure sustaining valve will be converted into a pressure reducing valve.	100%	100%	0%	\$100,000	\$0
Under Design	2022-L1	2022	24" Waterline - US 79	5,500 linear feet of 24" waterline, and 6,000 linear feet of 30" waterline	37%	87%	50%	\$2,342,000	\$1,170,468
Under Design	2022-L2	2022	Heart of Texas 16" Parallel Pipeline	16,000 linear feet of 16" waterline	53%	100%	47%	\$2,658,000	\$1,249,260
Under Design	N/A	2021	Water Impact Fee Update	Update water impact fees.	0%	100%	100%	\$39,670	\$39,670
FY 2021 thru FY 2026	2026-L3	2026	16" Waterline - Limmer Loop	1,600 linear feet of 16" waterline to transfer water from the existing 890-ft PP at Ed Schmidt Blvd to Anderson St in Hutto Square (for expanding 890-ft PP)	100%	100%	0%	\$404,000	\$0
FY 2021 thru FY 2026	2024-L4	2024	12" Waterline - FM 1660/Mager Ln	4,800 linear feet of 12" waterline to transfer water from Delby St in Hutto Square to Carol Dr in Carol Meadows (for expanding 890-ft PP)	0%	100%	100%	\$728,000	\$728,000
FY 2021 thru FY 2026	2024-L5	2024	12" Waterline - Alliance Blvd (CR 108)	2,400 linear feet of 12" waterline to transfer water for new development areas along Innovation Blvd	0%	100%	100%	\$265,000	\$265,000
FY 2021 thru FY 2026	2026-L6	2026	Jonah Water Service Transfer Tier II South	7,910 linear feet of 8" waterline to transfer water to Coyote Trail	0%	100%	100%	\$953,000	\$953,000
FY 2021 thru FY 2026	2025-L7	2025	16" Waterline - CR 132	2,500 linear feet of 16" waterline to transfer water for new development areas at US79 / CR 132	0%	51%	51%	\$449,000	\$228,979
FY 2021 thru FY 2026	2025-L8	2025	12" Waterline - CR 199	3,300 linear feet of 12" waterline	0%	51%	51%	\$366,000	\$186,651
FY 2021 thru FY 2026	2026-L9	2026	12" Waterline	4,000 linear feet of 12" waterline	0%	54%	54%	\$606,000	\$328,107
FY 2027 thru FY 2031	2028-L10	2028	20" Waterline - CR 132	800 linear feet of 20" waterline	0%	36%	36%	\$202,000	\$73,257
FY 2027 thru FY 2031	2028-L11	2028	12" Waterline - Future Roadway	3,800 linear feet of 12" waterline	0%	36%	36%	\$421,000	\$152,678
FY 2027 thru FY 2031	2028-L12	2028	12" Waterline - Future Carl Stern Dr	4,300 linear feet of 12" waterline	0%	54%	54%	\$477,000	\$258,262
FY 2021 thru FY 2027	2026-L13	2026	36" Waterline - US 79	9,200 linear feet of 36" waterline	0%	62%	62%	\$4,623,000	\$2,856,402
FY 2027 thru FY 2031	2029-L14	2029	12" Waterline - FM 1660	5,400 linear feet of 12" waterline	0%	79%	79%	\$771,000	\$612,599
FY 2027 thru FY 2031	2029-L15	2029	12" Waterline - CR 163	3,900 linear feet of 12" waterline	0%	63%	63%	\$557,000	\$348,362
FY 2021 thru FY 2027	2026-P5	2026	Frameswitch 890' PP Pump Upgrades	Replace 4 50 HP 890' PP pumps with 4 150 HP 890' PP pumps	0%	100%	100%	\$500,000	\$500,000
FY 2021 thru FY 2026	2022-W1	2022	Well Capacity Increase to 5.7 MGD	Install 2 new Hooper wells, Drill one new Simsboro well, repermit the existing Simsboro well No. 12.	0%	100%	100%	\$3,688,000	\$3,688,000
FY 2021 thru FY 2026	2022-W2	2022	Well Collection Capacity Increase to 5.7 MGD	Install +/- 21,000 LF of 16" and 12" piping.	0%	100%	100%	\$3,955,000	\$3,955,000
FY 2027 thru FY 2031	2027-W3	2027	5 MGD Brackish Water Treatment Plant	5 MGD brackish water treatment and cooling, 3 lower trinity aquifer wells, 1 injection well.	0%	54%	54%	\$27,300,000	\$14,742,000
Total =								\$74,676,670	\$42,718,631

*Existing projects includes projects currently completed that provide capacity to the system

**Proposed projects includes all future projects including those currently under design or construction not completed



Wastewater System - 10-Year CIP



Wastewater System - 10-Year CIP

Wastewater System Impact Fee Eligible Projects								
Project Date	Project ID	Project Name	Project Description	2021 Utilization	2031 Utilization	Eligible Utilization (2031 - 2021)	Engineer's Opinion of Most Probable Cost or Actual Project Cost	Impact Fee Eligible Cost
Existing Projects¹								
2013-2017	N/A	Existing 2.00 MGD South WWTP	The existing South WWTP with 2.00 mgd capacity	47%	100%	53%	\$17,167,062	\$9,029,875
2013-2016	N/A	Existing Enclave LS and FM	The existing Enclave lift station and forcemain with 8,960 LUEs of capacity	34%	100%	66%	\$3,074,224	\$2,043,193
Proposed Projects								
2020-2021	N/A	Wastewater Impact Fee Update ²	Update wastewater impact fees.	0%	100%	100%	\$39,670	\$39,670
2020-2021	2020-I1	Lakeside Estates Lift Station Abandonment ²	8,700 LF of 12", 15", and 18" interceptor to decommission the Lakeside Estates Lift Station and provide additional capacity for future developments in the area.	26%	100%	74%	\$1,584,472	\$1,168,995
2019-2023	2021-I3	Glenwood Lift Station Decommission, Interceptor, and 2 - WWTP Lift Stations ²	10,500 LF of 30" interceptor to take Glenwood lift station offline and transfer flows to the South WWTP. Includes decommissioning of Glenwood LS, construction of new lift station at the south WWTP, and construction of new lift station at the Central WWTP.	34%	75%	41%	\$8,645,099	\$3,554,167
2021-2022	2022-I5	The Landing Pipe Bursting	Pipe burst existing 500 LF of 12-inch pipe to 15-inch on Whitfield, located north of Co-op to provide capacity for the future Landing development	60%	100%	40%	\$250,372	\$99,546
2021-2023	2023-P2	Phosphorus Chemical Dosing	Adding Phosphorus chemical dosing system to the Central WWTP to meet TCEQ permit requirements.	0%	100%	100%	\$420,000	\$420,000
2021-2023	2024-P1	South WWTP from 2.0 to 4.0 MGD Capacity	Expand South WWTP plant capacity from 2.00 mgd to 4.00 mgd.	0%	80%	80%	\$30,199,320	\$24,159,456
2028-2030	2025-I6	Cottonwood Creek Parallel Interceptor	700 LF of 18", 1,700 LF of 24", 3,900 LF of 27", and 2,100 LF of 30" Interceptor along east side of Cottonwood Creek to increase capacity of current Cottonwood Creek interceptor to ultimate conditions.	0%	75%	75%	\$4,727,561	\$3,545,671
2023-2025	2030-I7	Brushy Creek Interceptor & LS	2,800 LF of 36" and 15,100 LF of 42" interceptor to take Enclave LS offline and transfer flows to the South WWTP. Includes inverted siphon with two access vaults and on-site LS at WWTP. Decommissioning of Enclave LS is included in this project.	42%	65%	23%	\$14,238,000	\$3,270,720
Total =							\$80,345,781	\$47,331,291
1. Existing projects are currently under review and the list will be updated for any other qualifying projects that are identified. 2. Projects are currently under design								



BOARDS AND COMMISSIONS MASTER LIST as of 11/17/20					
			Term Ends		
Council Member Place 1		Robin Sutton	May-20		
Council Member Place 2		Dan Thornton	May-21		
Council Member Place 3		Mike Snyder	May-22		
Council Member Place 4		Peter Gordon	May-20		
Council Member Place 5		Patti Martinez	May-21		
Council Member Place 6		Tanner Rose	May-22		
Mayor		Vacant	May-22		
Planning & Zoning Commission					
Meets: 1st Tuesday @ 7:00 p.m. of each month in City Council Chambers					
2 year terms per Charter					
Staff Liasion: Ashley Lumpkin					
Council Liasion: Peter Gordon					
				Appointed	Term Ends
Place 1	Jericka	Lawyer	Commissioner	2-Jul-20	30-Jun-22
Place 2	Randal	Clark	Commissioner	18-Jun-20	30-Jun-22
Place 3	John	Klein	Commissioner	4-Feb-20	30-Jun-22
Place 4	Tony	Wertz	Chair	3-Jul-19	30-Jun-21
Place 5	Richard	Hudson	Vice Chair	18-Jun-20	30-Jun-22
Place 6	James	Weaver	Commissioner	20-Aug-20	30-Jun-21
Place 7	Susanna	Boyer	Commissioner	1-Aug-19	30-Jun-21
Parks Advisory Board					
Meets: 2nd Wednesday @ 7:00 p.m. of each month in City Council Chambers					
3 year terms					
Staff Liasion: Tony Host					
Council Liasion: Patti Martinez					
				Appointed	Term Ends
Place 1	Katie	Weiss	Vice Chair	30-Sep-18	20-Jun-21
Place 2	Wendel	Teltow	Member	23-Jan-20	30-Jun-23
Place 3	David	Meyer	Member	17-Sep-20	30-Jun-21
Place 4	Kevin	Grimm	Member	2-Jul-20	30-Jun-22
RESIGNED Place 5	Daniel	Thornton	Member	7-Nov-19	30-Jun-22
Place 6	Rose	McMillin	Member	20-Jun-19	30-Jun-22
Place 7	Perry	Savard	Chair	20-Jun-19	30-Jun-22

Library Advisory Board						
Meets: Quarterly @ 6:00 p.m. in City Council Chambers						
3 year terms						
Staff Liasion: Kristi Robich						
Council Liasion: Tanner Rose						
				Appointed	Term Ends	
Place 1	Christina	Garza	Member	16-May-19	30-Jun-22	
Place 2	Dwight	Baker	Chair	20-Sep-18	30-Jun-21	
Place 3	Tara	Chappell	Vice Chair	3-Jul-19	30-Jun-22	
Place 4	Scott	Rose	Member	17-Sep-20	30-Jun-22	
Place 5	Havala	Merit	Member	16-May-19	30-Jun-22	
Place 6	David	Westbrook	Member	7-Nov-19	30-Jun-22	
Place 7	Brian	Thompson	Member	27-Feb-20	30-Jun-23	
Zoning Board of Adjustment						
Meets: 4th Weds @ 7:00 p.m. of each month in City Council Chambers						
3 year terms						
Staff Liasion: Ashby Grundman						
Council Liasion: Doug Gaul						
				Appointed	Term Ends	
Place 1	Bryan	Dempsey	Member	17-Jan-19	30-Jun-22	
Place 2	Thomas	McGowan	Member	20-Sep-18	30-Jun-21	
Place 3	David	Meyer	Member	17-Sep-20	30-Jun-22	
Place 4	Wendell	Teltow	Member	20-Jun-19	30-Jun-22	
Place 5	Vacant		Member			
Place 6	Maureen	Rooker	Member	20-Jun-19	30-Jun-22	
Place 7	Randal	Clark	Member	19-Sep-19	30-Jun-22	
Historic Preservation Commission						
Meets: 4th Tuesday @ 6:30 p.m. of each month in City Council Chambers						
3 year terms						
Staff Liasion:						
Council Liasion: Robin Sutton						
				Appointed	Term Ends	
Place 1	DeAnne	Worley	Commissioner	3-Jul-19	30-Jun-22	
Place 2	Mary	Belton	Commissioner	2-Aug-18	30-Jun-21	
Place 3	Curtis	Orton	Commissioner	20-Sep-18	30-Jun-22	
Place 4	Robert	Lykins	Commissioner	20-Sep-18	30-Jun-22	
Place 5	Vacant		Commissioner			
Place 6	Travis	Allen	Commissioner	20-Jun-19	30-Jun-22	
Place 7	Vacant		Commissioner			

Building and Standards Commission						
Meets: As Needed in City Council Chambers (at least once a year)						
3 year terms						
Staff Liasion: Ashley Lumpkin						
Council Liasion: None						
					Appointed	Term Ends
Place 1	Troy	Manella	Commissioner	3-Jan-19	30-Jun-22	
Place 2	Olinda	Ramirez	Commissioner	20-Sep-18	30-Jun-21	
Place 3	Kendrick	Whittington	Commissioner	2-Aug-18	30-Jun-21	
Place 4	Bryan	Dempsey	Commissioner	20-Jun-19	30-Jun-22	
Place 5	Tom	Brown	Commissioner	20-Sep-18	30-Jun-21	
Place 6	Maureen	Rooker	Commissioner	20-Jun-19	30-Jun-22	
Place 7	Richard	Hudson	Commissioner	20-Jun-19	30-Jun-22	
Ethics Review Commission						
Meets: As needed in City Council Chambers (at least once a year)						
3 year terms						
Staff Liasion: City Secretary						
Council Liasion: None						
					Appointed	Term Ends
Resigned- Place 1	Vacant		Member	20-Sep-18	30-Jun-21	
Place 2	Lori	Brown-Duncan	Vice Chair	20-Sep-18	30-Jun-21	
Place 3	Bill	Kohl	Member	11-Jul-19	30-Jun-22	
Place 4	Vacant		Member	27-Aug-20	30-Jun-22	
Place 5	Abel	Landin	Member	19-Sep-19	30-Jun-22	
Place 6	April	Willis	Member	15-Aug-19	30-Jun-22	
Place 7	Krystal	Kinsey	Member	21-Nov-19	30-Jun-22	
Economic Development Corporation						
Meets: 1st Monday at 6:30 p.m. of each month in City Council Chambers						
Staff Liasion: Stacy Schmitt						
Council Liasion: Mike Snyder						
					Appointed	Term Ends
Place 1	Lucas	Evans	Member	18-Jun-20	30-Jun-21	
Place 2	Mike	Arismendez	Member	17-Sep-20	30-Jun-21	
Place 3	Shawn	Lucas	Member	17-Sep-20	30-Jun-21	
Place 4	Don	Carlson	Vice Chair	3-Jul-19	30-Jun-21	
Place 5	Kevin	LaFrance	Treasurer	3-Jul-19	30-Jun-21	
Place 6	Henry	Gideon	Member	20-Jun-19	30-Jun-21	
Place 7	Steven	Harris	Chair	20-Jun-19	30-Jun-21	

Communications/Technology Task Force						
Meets once a month.						
1 year term- appts in Feb.						
Council Liasion: Peter Gordon						
Place 1	Laurie	Stockman	Member	6-Feb-20	6-Feb-21	
Place 2	Timothy	Martin	Member	6-Feb-20	6-Feb-21	
RESIGNED Place 3	Ida	Weaver	Member	16-Jul-20		
Place 4	Andrew	Ingrassia	Member	27-Aug-20	1-Feb-21	
Place 5	Ross	Barber	Member	27-Aug-20	1-Feb-21	
Place 6	Jerica	Lawyer	Member	6-Feb-20	6-Feb-21	
Place 7	Dana	Wilcott	Member	27-Aug-20	1-Feb-21	
ADA/Electronic and Information Resource Task Force						
Meets once a month						
1 year term-Appts in Feb						
Council Liasion: Dan Thornton						
Place 1	Vacant		Member			
Place 2	Vacant		Member			
Place 3	Vacant		Member			
Place 4	Laurie	Stockman	Member	26-Feb-20	6-Feb-21	
Place 5	Vacant		Member			
Place 6	Vacant		Member			
Place 7	Vacant		Member			
Diversity and Inclusion Commission						
Meets monthly						
3 yr terms						
Council Liasion: Patti Martinez						
PENDING APP- Place 1	Ana	Gonzales	Member			
Place 2	Tara	Spoons	Member	17-Sep-20	30-Jun-23	
Place 3	Vanessa	Henry	Member	5-Nov-20	30-Jun-23	
Place 4	Brian	Thompson	Member	27-Aug-20	30-Jun-23	
Place 5	Onnesha	Williams	Member	20-Aug-20	30-Jun-23	
Place 6	Beatriz	Rodriguez	Member	5-Nov-20	30-Jun-23	
Place 7			Member			



Mayor Pro-tem
Mike Snyder, Place 3

Council Members
Robin Sutton, Place 1
Dan Thornton, Place 2
Peter Gordon, Place 4
Patti Martinez, Place 5
Tanner Rose, Place 6

City Manager
Warren Hutmacher

November 16, 2020

Holly Nagy, City Secretary
City of Hutto
500 W. Live Oak Street
Hutto, Texas 78634

City Secretary Nagy,

Pursuant to Charter Section 4.01 subsection g (printed below) I hereby designate Byron Frankland to perform the duties of the City Manager in my absence or disability.

4.01 g) Assistant City Manager: The City Manager, within sixty (60) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his or her absence or disability. Such designation shall be subject to the prior approval of the City Council. The Assistant City Manager is authorized to perform the same powers and duties as the City Manager while acting in the City Manager's stead. No member of the City Council shall serve as Assistant City Manager. From time to time the City Manager may remove and appoint another Assistant City Manager.

Mr. Frankland was appointed as the Assistant City Manager by the previous City Manager. I have had insufficient time to fully evaluate my leadership team and propose any changes prior to submitting this letter. I reserve the right under the Charter to remove and appoint another Assistant City Manager once I complete a proper review of the leadership team.

Please pass this letter along to the City Council and add this to the November 19th agenda, as this designation of an Assistant City Manager is subject to their prior approval.

Sincerely,

A handwritten signature in blue ink, appearing to read 'WA. Hutmacher'.

Warren A. Hutmacher
City Manager