



City of Hutto

Agenda

City Council Meeting

Thursday, March 4, 2021 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

Led by Marshall Hammond, Church of Christ and Latter Day Saints

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.

Comments for this meeting may also be sent to comments@huttotx.gov PRIOR to 4:00 pm on March 4, 2021. The email must include name, address, phone # and email to be

recognized properly.

Citizens wishing to comment by phone may call: Toll Free Call In: 1-800-717-4201
Conference ID: 242-3288

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

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

7. CITY MANAGER COMMENTS

8. CONSENT AGENDA ITEMS

- 8.1. Consideration and possible action on the February 25, 2021 Special Called City Council meeting minutes. 7 - 13

[City Council Minutes Feb 25 2021](#)

- 8.2. Consideration and possible action on Ordinance No. O-2021-002 providing a budget amendment to accommodate the Pro-Rata Share Agreement for Mustang Creek – HISD Improvements between the City of Hutto and Hutto ISD (Second Reading) (Misti Hancock) 14 - 43

[Ordinance No. O- 2021-002_HISD Pro Rata Mustang Creek Pro Rata Agreement & Actual Costs Budget Amendment HISD Mustang Creek](#)

- 8.3. Consideration and possible action on Ordinance No. O-2021-004 providing a budget amendment to accommodate the Professional Services Agreement between the Hutto CDC and the City of Hutto. (Second Reading)(Misti Hancock) 44 - 47

[Ordinance No. O-2021-004_HEDC Admin_Prof Services CDC Budget Amendment_Second Reading](#)

9. ORDINANCES

- 9.1. Consideration and possible action on Ordinance No. O-2021-009 providing a budget amendment to transfer an authorized position and funding to accommodate a proposed organizational change. (First Reading) (Misti Hancock) 48 - 50

[ORDINANCE with Exhibit_Organizational Transfer_March 2021](#)

10. RESOLUTIONS

- 10.1. Consideration and possible action on Resolution No. R-2020-110A for the **first** of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment project for the Funding and Partial Assignment of the City's rights and obligations under the Hotel Occupancy Tax Funding Agreement between the City of Hutto and GAR Broadcasting, LLC, for KOKEFEST after two separate readings; providing for repeal; providing for severability; and providing an effective date. (First Reading)(City Attorney) 51 - 59

[CC Res approving Kokefest Project 110520 \(002\)](#)
[2020-21 KOKEfest Agreement \(signed\) CDC](#)

- 10.2. Consideration and possible action on Resolution No. R-2020-110A for the **second** of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment project for the Funding and Partial Assignment of the City's rights and obligations under the Hotel Occupancy Tax Funding Agreement between the City of Hutto and GAR Broadcasting, LLC, for KOKEFEST after two separate readings; providing for repeal; providing for severability; and providing an effective date.(Second Reading)(City Attorney) 60 - 68

[CC Res approving Kokefest Project 110520 \(002\)](#)
[2020-21 KOKEfest Agreement \(signed\) CDC](#)

- 10.3. Consideration and possible action on Resolution No. R-2021-032 approving the Amended and Restated Hutto-KOKEFEST Agreement between the City of Hutto, Texas, and Texas Music Network d/b/a Austin Radio Network. 69 - 87

[R-2021-032 Hutto Resolution Approving KOKEFEST Agreement](#)
[kokefest amended K.docx 3.2.21 B](#)

11. OTHER BUSINESS

- 11.1. Discussion and possible action on the selection of a consultant in response to the City of Hutto's Request for Qualifications for the Hutto 2040 Comprehensive Plan. (Ashley Lumpkin) 88 - 90

[Agenda Item Report - AIR-21-024 - Pdf](#)

- 11.2. Presentation of the last two years of Economic Development Corporation expenses and Return on Investment for these expenses. (Councilmember Rose)

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

- 11.4. Consideration and possible action for Capital Improvement Projects relating to the recommendations from the Water Supply Study. (Samuel Ray) 91 - 147

[Agenda Item Report - AIR-21-026 - Pdf](#)
[2021.02.10 - Water Supply Study Presentation](#)

- 11.5. Discussion and possible action related to water customer bills for storm related damages. (Misti Hancock)

12. EXECUTIVE SESSION

The City Council for the City of Hutto reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above as authorized by the Texas Government Code Sections 551.071 [Litigation/Consultation with Attorney], 551.072 [Deliberations regarding real property], 551.073 [Deliberations regarding gifts and donations], 551.074 [Deliberations regarding personnel matters] or 551.076 [Deliberations regarding deployment/implementation of security personnel or devices] and 551.087 [Deliberations regarding Economic Development negotiations].

- 12.1. 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. (Ashley Lumpkin)

- 12.2. Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (2) relating to an Amended and Restated Development Agreement for the Cottonwood Creek Development.
- 12.3. Receive legal advice pursuant to Texas Government Code Section 551.071 relating to the release of confidential and/or privileged information that has not been made public.
- 12.4. Receive legal advice pursuant to Texas Government Code Section 551.071 relating to the municipal regulation of solicitation and peddling.
- 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

- 13.1. 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.
- 13.2. Possible action related to legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (2) relating to an Amended and Restated Development Agreement for the Cottonwood Creek Development.
- 13.3. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 relating to the release of confidential and/or privileged information that has not been made public.
- 13.4. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 related to the municipal regulation of solicitation and peddling.
- 13.5. 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.

14. ADJOURNMENT

15. CERTIFICATION

I certify that this notice of the **March 4, 2021** Hutto City Council meeting was posted on the City of Hutto website and the City Hall bulletin board of the City of Hutto on **March 1, 2021 at 5:00 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.



City of Hutto

MINUTES

City Council Meeting

Thursday, February 25, 2021 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 City Council present: 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: Warren Hutmacher, City Manager; Stacy Schmitt, Assistant to City Manager; Anthony Host, Executive Director of Community Services; Holly Nagy, City Secretary; Jessica Brown, Assistant City Secretary and Cristian Rosas-Grillet, City Attorney.

3. PLEDGE OF ALLEGIANCE

4. CITY COUNCIL COMMENTS

4.1. General Comments from City Council

Mayor Pro Tem Snyder presented a Proclamation recognizing Hutto Residents, Businesses & City Staff for a job well done during Winter Storm Uri.

5. PUBLIC COMMENT

None.

6. CITY MANAGER COMMENTS

Another beautiful day in Hutto.

7. CONSENT AGENDA ITEMS

Councilmember Martinez made a motion to accept the consent agenda items 7.1, 7.2, 7.3, 7.4 and 7.5 as presented. Councilmember Thornton seconded the motion. The motion passed unanimously.

7.1. Consideration and possible action on approving the February 4, 2021 City Council meeting minutes.

- 7.2. Consideration and possible action on approving the February 10, 2021 Special Called City Council meeting minutes.
- 7.3. Consideration and possible action on Resolution No. R-2021-030 approving the Highlands North Section 4 Final Plat, 21.298 acres, more or less, of land, 83 residential lots, located on Milano River Road. (Ashley Lumpkin)
- 7.4. Consideration and possible action on Resolution No. R-2021-031 approving the Highlands North Section 5 Final Plat, 11.859 acres, more or less, of land, 43 residential lots, located on Milano River Road. (Ashley Lumpkin)
- 7.5. Consideration and possible action on Resolution No. R-2020-148A approving a Consent Agreement between the City of Hutto, Texas and Harris & Straub, LLC creating Williamson County Municipal Utility District No. 35 and authorizing the City Manager to execute the Consent Agreement. (Wallin Tract)(City Attorney)

*Councilmember Gordon made a motion to move up items 10.1 and 10.2.
Councilmember Rose seconded the motion. The motion passed unanimously.*

10. OTHER BUSINESS

- 10.1. Discussion and possible action on amending the lease agreement between the City of Hutto and YMCA of Greater Williamson County dated December 15, 2011, as amended, for operation of the Hutto Family YMCA. (Jeff Andresen)(City Attorney)
Councilmember Gordon made a motion to direct staff to amend the current lease agreement between the City of Hutto and YMCA of Greater Williamson County and bring it back to council for review and approval. Councilmember Sutton seconded the motion. The motion passed unanimously.
- 10.2. Discussion and possible action on amending the management agreement between the City of Hutto and YMCA of Greater Williamson County dated December 15, 2011, regarding the lease of a building constructed by the City for recreational purposes. (Jeff Andresen)(City Attorney)
Councilmember Gordon made a motion to direct staff to amend the current management agreement between the City of Hutto and YMCA of Greater Williamson County and bring it back to council for review and approval. Councilmember Martinez seconded the motion. The motion passed unanimously.

8. ORDINANCES

- 8.1. Consideration and possible action on Ordinance No. O-2021-006, confirming and extending the Mayor Pro Tem's declaration of local disaster due to severe winter weather. (City Attorney)
Councilmember Martinez made a motion to approve item 8.1 as presented.
Councilmember Sutton seconded the motion. The motion passed unanimously.
- 8.2. Consideration and possible action on Ordinance No. O-2021-007, waiving the imposition or collection of late fees for municipal water utility accounts and waiving the disconnection of such services; and providing that such waivers shall expire after twenty-five (25) days. (City Attorney)
Councilmember Sutton made a motion to approve item 8.2 as presented.
Councilmember Martinez seconded the motion. The motion passed unanimously.
- 8.3. Consideration and possible action on Ordinance No. O-2021-008 amending Appendix A, Fee Schedule, Article A5.000, Section A5.004, of the Hutto Code of Ordinances to update the fee schedule with the impact fees adopted by Ordinance No. O- 2021-003 for plats recorded after February 4, 2021. (First Reading)(City Attorney)
Councilmember Gordon made a motion to approve item 8.3 as presented.
Councilmember Martinez seconded the motion. The motion passed unanimously.
- Councilmember Rose made a motion to dispense of the second reading of Ordinance No. O-2021-008. Councilmember Thornton seconded the motion. The motion passed unanimously.*

9. RESOLUTIONS

- 9.1. Consideration and possible action on Resolution No. R-2021-029 setting the public hearing for March 18, 2021 on the creation of the Cottonwood Creek Public Improvement District within the City of Hutto, Texas pursuant to Chapter 372 of the Texas Local Government Code and authorizing the mailing and publication of the notice of the public hearing in accordance with Chapter 372 of the Texas Local Government Code. (City Attorney)
Presentation by Kevin Pierce.
- Councilmember Gordon made a motion to approve item 9.1 as presented.*
Councilmember Sutton seconded the motion. The motion passed unanimously.
- 9.2. Consideration and possible action on Resolution No. R-2020-141A for the first of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment of the K Tonic, LLC Project after two separate readings; providing for repeal; providing for severability; and providing an effective date. (First Reading)(City Attorney)
Councilmember Rose made a motion to approve item 9.2 as presented.
Councilmember Thornton seconded the motion. The motion passed unanimously.

- 9.3. Consideration and possible action on Resolution No. R-2020-141A for the second of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment of the KTonic, LLC Project after two separate readings; providing for repeal; providing for severability; and providing an effective date. (Second Reading)(City Attorney).

Councilmember Sutton made a motion to approve item 9.3 as presented.

Councilmember Gordon seconded the motion. The motion passed unanimously.

Councilmember Rose requested for staff to bring back information regarding the PUD.

- 9.4. Consideration and possible action on Resolution No. R-2020-110A for the first of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment project for the Funding and Partial Assignment of the City's rights and obligations under the Hotel Occupancy Tax Funding Agreement between the City of Hutto and GAR Broadcasting, LLC, for KOKEFEST after two separate readings; providing for repeal; providing for severability; and providing an effective date. (First Reading)(City Attorney)

Councilmember Snyder requested to table items 9.4, 9.5 and 9.6 until the next regularly scheduled meeting at the advice of counsel. No objections.

- 9.5. Consideration and possible action on Resolution No. R-2020-110A for the second of two readings as required by Texas Local Government Code Section 505.158(b) authorizing the establishment project for the Funding and Partial Assignment of the City's rights and obligations under the Hotel Occupancy Tax Funding Agreement between the City of Hutto and GAR Broadcasting, LLC, for KOKEFEST after two separate readings; providing for repeal; providing for severability; and providing an effective date.(Second Reading)(City Attorney)

- 9.6. Consideration and possible action on Resolution No. R-2021-032 approving the Amended and Restated Hutto-KOKEFEST Agreement between the City of Hutto, Texas, and Texas Music Network d/b/a Austin Radio Network.

10. OTHER BUSINESS

- 10.3. Presentation of Financial Statement Audit and CAFR Preparation – What to Expect (Lupe Garcia, Whitley Penn)

Presentation given by Lupe Garcia.

No action taken.

- 10.4. Discussion and possible action on amending the Economic Development Corporation By-Laws to Require recording of EDC Executive Sessions.
(Councilmember Rose)
No action taken.
- 10.5. Consideration of and possible appointments, re-appointments and/or removals to Government Corporations. (City Secretary)
Councilmember Sutton made a motion to appoint Marquette Grant to the EDC Board. Councilmember Rose seconded the motion. The motion passed unanimously.

Councilmember Thornton made a motion to reappoint Laurie Pruser Stockman to the ADA Task Force. Councilmember Sutton seconded the motion. The motion passed unanimously.

11. EXECUTIVE SESSION: *8:26 PM*

- 11.1. Receive legal advice pursuant to Texas Local Government Code Section 551.071 relating to the Master Development Agreement for the Co-Op District dated August 17, 2017, as amended, between the City of Hutto and MA Partners, LLC and related agreements.
- 11.2. Executive Session in accordance with Texas Open Meetings Act Section 551.074. PERSONNEL MATTERS: CLOSED MEETING to deliberate employment and evaluation of a public officer or employee - City Manager.
- 11.3. Receive legal advice pursuant to Texas Government Code Section 551.071 relating to the release of confidential and/or privileged information that has not been made public.
- 11.4. Receive legal advice pursuant to Texas Government Code Section 551.071(2) relating to confidential information received in City Council executive sessions or Hutto CDC executive sessions.
- 11.5. Receive legal advice pursuant to Texas Local Government Code Section 551.071 relating to the request by property owners of 1551 Red Bud Lane, 1561 Red Bud Lane and 3800 Doris Lane for sewer CCN release to the City of Round Rock.
- 11.6. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

12. ACTION RELATIVE TO EXECUTIVE SESSION: *10:52 PM*

- 12.1. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 related to the Master Development Agreement for the Co-Op District dated August 17, 2017, as amended, between the City of Hutto and MA Partners, LLC and related agreements.
No action taken.
- 12.2. Discussion and Appropriate Action on Executive Session in accordance with Texas Open Meetings Act Section 551.074, PERSONNEL MATTERS: CLOSED MEETING to deliberate the employment and evaluation of a public officer or employee - City Manager.
No action taken.
- 12.3. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 relating to the release of confidential and/or privileged information that has not been made public.
Councilmember Rose made a motion to direct the City Attorney's office to research and share the findings with appropriate parties regarding the potential release of confidential and/or privileged information that has not been made public. Councilmember Sutton seconded the motion. The motion passed unanimously.
- 12.4. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071(2) relating to confidential information received in City Council executive sessions or Hutto CDC executive sessions.
No action taken.
- 12.5. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 relating to the request by property owners of 1551 Red Bud Lane, 1561 Red Bud Lane and 3800 Doris Lane for sewer CCN release to the City of Round Rock.
Councilmember Rose made a motion to authorize the City Manager to sign the release letter for the three properties for Sewer CCN. Councilmember Gordon seconded the motion. The motion passed unanimously.
- 12.6. Consideration and possible action on legal advice received pursuant to Texas Government Code Section 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.
No action taken.
13. ADJOURNMENT: *10:57 PM*

ATTEST:

Mike Snyder, Mayor Pro-Tem

Jessica Brown, Asst. City Secretary

ORDINANCE NO. O-2021-002

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS AMENDING THE FISCAL YEAR 2020-21 BUDGET FOR PASS THROUGH FUNDING ASSOCIATED WITH MUSTANG CREEK - HISD IMPROVEMENTS

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

SECTION 1: That the appropriations for the fiscal year beginning October 1, 2020, and ending September 30, 2021, for the support of capital improvement projects of the City of Hutto, Texas, be amended for pass through funding received in accordance with a pro-rata share agreement for Mustang Creek improvements.

SECTION 2: That the amendment is hereby approved in all aspects and adopted as an amendment to the City budget for the fiscal year October 1, 2020, and ending September 30, 2021.

SECTION 3: The City Secretary of the City of Hutto is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law and the *City Charter*.

SECTION 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If a court of competent jurisdiction to be invalid shall adjudge any provision of this Ordinance, the invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5: All ordinances or parts of ordinances and sections of the City Code of Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code* and the *City Charter*.

SECTION 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter. 551, Tex. Gov't. Code*.

READ and APPROVED on first reading on this the **4th** day of **February 2021**, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

READ, APPROVED and ADOPTED on second and final reading this 18th day of February 2021, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary



Item 8.5: Budget Amendment – HISD Mustang Creek

Per cost-sharing agreement terms, City is functioning in a pass-thru capacity.

- HISD funds held by City until final project inspection
- Once accepted, HISD funds transferred to the Developer

Utility Fund Revenue:

- HISD Pro Rata Share - \$1,150,000
- Increase in Utility Fund (Fund 50) Development Participation

Utility Fund Expenditure:

- Disbursement of HISD funds directly to Developer - \$1,150,000
- Increase expenditure authority in Utility Fund (Fund 50) Non-departmental Other

**PRO-RATA SHARE AGREEMENT
FOR MUSTANG CREEK – HISD IMPROVEMENTS
BETWEEN
THE CITY OF HUTTO
AND
THE HUTTO INDEPENDENT SCHOOL DISTRICT**

This Pro-Rata Agreement for Improvements (the “**Agreement**”), effective this 30th day of October, 2019 (“**Effective Date**”), by and between the City of Hutto, and through its representative, the City Manager, (the “**City**”), a home-rule municipality organized and existing under and in accordance with Texas law, and the Hutto Independent School District (the “**HISD**”), an independent school district organized and existing under and in accordance with Texas law (individually “**Party**,” together the “**Parties**”).

Recitals

WHEREAS, the City and the HISD are authorized to enter into this Agreement pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.001 et seq.; and

WHEREAS, the HISD is an independent political subdivision of the State of Texas charged with the public education of children in its boundaries, which has its own funding source and elected governing body separate from the City; and

WHEREAS, the HISD is authorized to expend school funds for the design, improvement, or construction of certain facilities on property owned by another entity under the Texas Education Code Section 45.109, as well as to use district resources for design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district under the Texas Education Code Section 11.168; and

WHEREAS, the HISD must meet certain construction standards and occupancy deadlines due to state mandated educational facility requirements and public fiduciary obligations regardless if any portion of the boundaries of the district lie within the limits and extraterritorial jurisdiction of the City;

WHEREAS, the City through its ordinances and regulations provides for wastewater services for new development regulations for the protection of the public health, safety and welfare of its citizens;

WHEREAS, the City is working with HUTTO1660, LP, a Texas limited partnership, (the “**Developer**”) to develop a tract of land as part of the development known as the Mustang Creek development (“**Development**”) depicted in Exhibits “A.1, A.2;” and

WHEREAS, the City and Developer entered into a certain Development Agreement on July 16, 2018 (the “**Development Agreement**”) covering the Development; and

WHEREAS, in order to accommodate the Development, the City has contracted with Developer for the (i) building of the Mustang Creek Wastewater Lift Station (the “**Lift Station**”), to specifications found in Exhibit “B,” (ii) routing of the flows from the Mustang Creek Lift Station via force mains and gravity systems to the downstream system, (iii) construction of an oversized gravity wastewater line to serve additional adjacent developments which conform to the specifications in Exhibit “B,” (collectively “**Wastewater Improvements**”) and (iv) construction of phase 1, section 1 of the shared arterial roadway (the “**Arterial A**”) conforming to specifications found in Exhibit “C” (provisions (i) – (iv) are collectively the “**Project**”). The City has found and determined that cooperation between the City and Developer to further the progress of the HISD’s developments and the Development will further the public interest and welfare, and that the benefits that will accrue to the City are consistent with the City’s economic development objectives; and

WHEREAS, Arterial A is a part of a shared roadway that will benefit several different portions of the Development, including the HISD's developments within the Development; and

WHEREAS, the City through Resolution No. R-18-06-07-9C is authorized to seek funds from other sources to fund Public Improvements within the Development; and

WHEREAS, the City and the HISD have previously entered into an Interlocal Agreement, effective February 21, 2019, establishing development standards and mutual agreements to share construction costs of certain improvements and infrastructure, as appropriate; and

WHEREAS, the City and HISD share an interest in the completion of the Project to promote growth and the expansion of educational facilities within the Development; and

WHEREAS, the Parties intend the future development, construction, and expansion of education facilities at ultimate build-out at FM1660 North within the corporate limits and extraterritorial jurisdiction of the City to be constructed in accordance with Section 212.902 of the Texas Local Government Code; and

WHEREAS, the City and Developer have entered into a Pro-Rata Share Agreement ("**Developer Pro-Rata Share Agreement**") on October 3, 2019, in which the Developer shall construct the Project by December 1, 2020 and be reimbursed by the City the HISD's pro rata share of construction costs for the Project; and

WHEREAS, the City and HISD desire to enter into this Agreement to facilitate payment by HISD to the City to provide adequate funds for the City to reimburse the Developer for HISD's pro rata share of construction costs for the Project as it serves HISD ("**HISD Construction Costs**," specified in **Exhibit "D"**); and

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

I.

Adoption of Recitals

- 1.1 Recitals. The Parties hereby adopt the recitals as true and correct and incorporate them herein.

II.

Authority; Agreements

- 2.1 Authority of the City. The City's execution of this Agreement constitutes a valid and binding obligation of the City. The City has the proper authority to enter into and negotiate this Agreement to facilitate the completion of the Project's public improvements within the Development.
- 2.2 Authority of the HISD. The HISD's execution of this Agreement constitutes a valid and binding obligation of the HISD. The HISD has the proper authority to enter into this agreement to pay HISD Construction Costs.

III.

Purpose

- 3.1 Purpose. The purpose of this Agreement is to establish the Project as benefiting HISD, the agreement of the City to ensure performance of the Developer to complete the road and sewer to serve HISD by December 1, 2020, and to establish the reimbursement obligations of HISD to the City for the Project. The HISD intends to pay its pro rata share of the construction of the Project to the City. The City shall

hold such monies in a separate account solely for the purpose of reimbursing the Developer for the Project.

IV.

Party Obligations

- 4.1 Obligations of HISD. The HISD hereby agrees to pay to the City for HISD's pro rata share of the Project, **ONE MILLION, ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000)** (the "HISD Pro Rata Share"), no later than fifteen (15) days of the date of HISD's receipt of a copy of the first invoice received by the City from the Developer evidencing the start of construction on the Project. If such day shall fall on a weekend or holiday, the HISD shall deposit the funds on the first following business day.
- 4.2 Obligations of the City. The City hereby agrees to uphold and enforce both the Development Agreement with Developer and the Developer Pro-Rata Share Agreement, in which the Developer is to complete the Project as it benefits HISD, including road and sewer to serve HISD by December 1, 2020, and to accept the HISD's payment for HISD's pro rata share of the Project and deposit it into a separate account designated for payment of HISD's pro rata share of Project construction costs. The City shall not use the funds for any other purpose other than to reimburse Developer for the HISD's pro rata share of the Project. The City also shall not co-mingle the funds with any other City funds.

The City shall pay Developer according to the methods and schedule established in the Developer Pro-Rata Share Agreement. In no event will the City provide payment to the Developer for any portion of the Project without the City Engineer's verification and review of the construction of the Project to verify that the work for which payment is requested has been completed, and receiving proof of Developer's actual out-of-pocket costs for the HISD share of Project construction costs, which shall also be verified by the City. In no event shall the City permit the entire amount of the HISD Pro Rata Share to be expended on or allocated to solely the Wastewater Improvements or solely Arterial A, leaving no available funds for the completion of the Project. Rather, the City shall track Project Expenses and approve the release of funds as they have been budgeted and set forth in Exhibit D, herein, and the City shall ensure that funds are available for each portion of the Project.

Should the amount paid by HISD not be fully utilized (for example, the Contingencies amount of \$45,047), the remaining balance shall be refunded to HISD within thirty (30) days of final completion of the Project. If for any reason the Developer breaches its performance to build the Project, the City shall, unless as specified in Section 7.1 of this Agreement, refund the full amount of such monies to the HISD if no money has been yet paid by the City to Developer, or otherwise such amount that remains after payments have been made to Developer prior to Developer's breach. Unless the City has made over-payment or paid without required receipts, the City is not liable to the HISD for money paid to the Developer prior to any breach in the event of a failure by Developer to complete the Project. The City shall also refund such monies to the HISD in the event of termination of this Agreement as stipulated in Section 8.1 of this Agreement, and shall not be liable for any payments made to Developer prior to termination.

V.

Term

- 5.1 The term of this Agreement shall commence on the Effective Date and shall continue until the obligations herein are satisfied, or until this Agreement is otherwise earlier terminated due to breach by Developer to perform its obligations or as set forth herein.

VI.

Current Revenue

- 6.1 The Parties warrant that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum or associated document, shall be paid from current revenues available to the paying Party. The Parties hereby warrant that no debt is created by this Agreement and that any debt created through the deposit of funds shall be the sole obligation of the depositing Party and no obligation or liability for such debt shall be a liability or obligation of the other Party.

VII.

Fiscal Funding

- 7.1 The financial obligations of the Parties under this Agreement are contingent upon the availability and appropriation of sufficient funding. Any Party may withdraw from this Agreement without penalty in the event funds are not available or appropriated. However, no Party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding and absent Developer breach or termination of the Agreement by mutual consent of the Parties as provided herein.

VIII.

Miscellaneous

- 8.1 Termination. This Agreement may be terminated by mutual written agreement of the Parties, in the event of breach by the Developer of its obligations for any reason, or if for any reason, the Developer Pro-Rata Share Agreement is terminated or otherwise amended to no longer require performance under this Agreement. Termination of this Agreement shall result in the termination of the Parties' obligations under the contract, apart from a refund of the remaining funds to the HISD that the City has in its possession at the time of termination as set forth herein.
- 8.2 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery or facsimile transmission addressed to the respective Party at the address set forth below. Each Party may from time to time change or update their address for purposes of notice under this section by informing the other Party in writing.

If notice is to the City:

Odis Jones, City Manager
500 West Live Oak Street
Hutto, Texas 78634
Phone: 512.759.4030

With a copy to:

City Attorney
500 West Live Oak Street
Hutto, Texas 78634
Phone: 512.759.4022

If notice is for the HISD:

Dr. Celina Estrada Thomas, Superintendent of Schools

Hutto Independent School District
200 College Street
Hutto, Texas 78634
Phone: 512.759.3771

With a copy to:

Ms. Ann Greenberg
Walsh Gallegos Trevino Russo & Kyle, P.C.
505 E. Huntland Dr., Suite 600
Austin, Texas 78752
Phone: 512.454.6864

- 8.3 Severability. In the event 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 the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement, or otherwise rewritten to reflect the original intent of the Parties in a legal and enforceable form.
- 8.4 Governing Law/Venue. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas. Venue for any action concerning this Agreement shall lie in Williamson County, Texas.
- 8.5 Entire Agreement. This Agreement represents the entire agreement between the Parties with respect to the subject matter covered by this Agreement. Any prior oral, written, or collateral agreements are incorporated herein.
- 8.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original constituting one and the same instrument.
- 8.7 No Assignment. The Parties may not assign or transfer their rights under this Agreement.
- 8.8 Compliance with Law. Each Party is responsible for complying with any additional or varying laws and regulations regarding their respective obligations under this Agreement.
- 8.9 No Waiver of Rights. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement. A waiver or failure to enforce any rights by either Party under this Agreement shall not constitute a permanent waiver of that right in the future or any other rights granted under this Agreement. Waivers shall be in writing and signed by the waiving Party.
- 8.10 Breach and Remedies. Failure to perform any obligations under this Agreement constitutes a breach unless expressly excepted herein. Failure of Developer to perform its obligations shall result in the termination of this Agreement, and shall not constitute a breach of the Parties herein. Any disputes regarding this Agreement shall go through the mediation process.

Any dispute, controversy or claim arising out of or relating in any way to the agreement or the relationship including without limitation any dispute concerning the construction, validity, interpretation, enforceability or breach of the Agreement, shall be exclusively resolved by litigation. In the event of a dispute, controversy or claim arising out of or relating in any way to the Agreement or the relationship, the complaining Party shall notify the other Party in writing thereof. Within thirty (30) days of such notice, management level representatives of both Parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within thirty

(30) days after such notice, the complaining Party shall seek remedies exclusively through mediation and if not resolved, litigation.

8.11 Amendment. This Agreement shall only be amended by mutual written agreement of the Parties.

IN WITNESS WHEREOF, each Party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

CITY OF HUTTO

By: Michel Samu
Print: MICHEL SAMUEL
Title: ASSISTANT CITY MANAGER/CFO

APPROVED AS TO FORM

By: Melissa Seos
Attorney for the City of Hutto

HUTTO INDEPENDENT SCHOOL DISTRICT

By: [Signature]
Print: Terrence Owens
Title: Board President

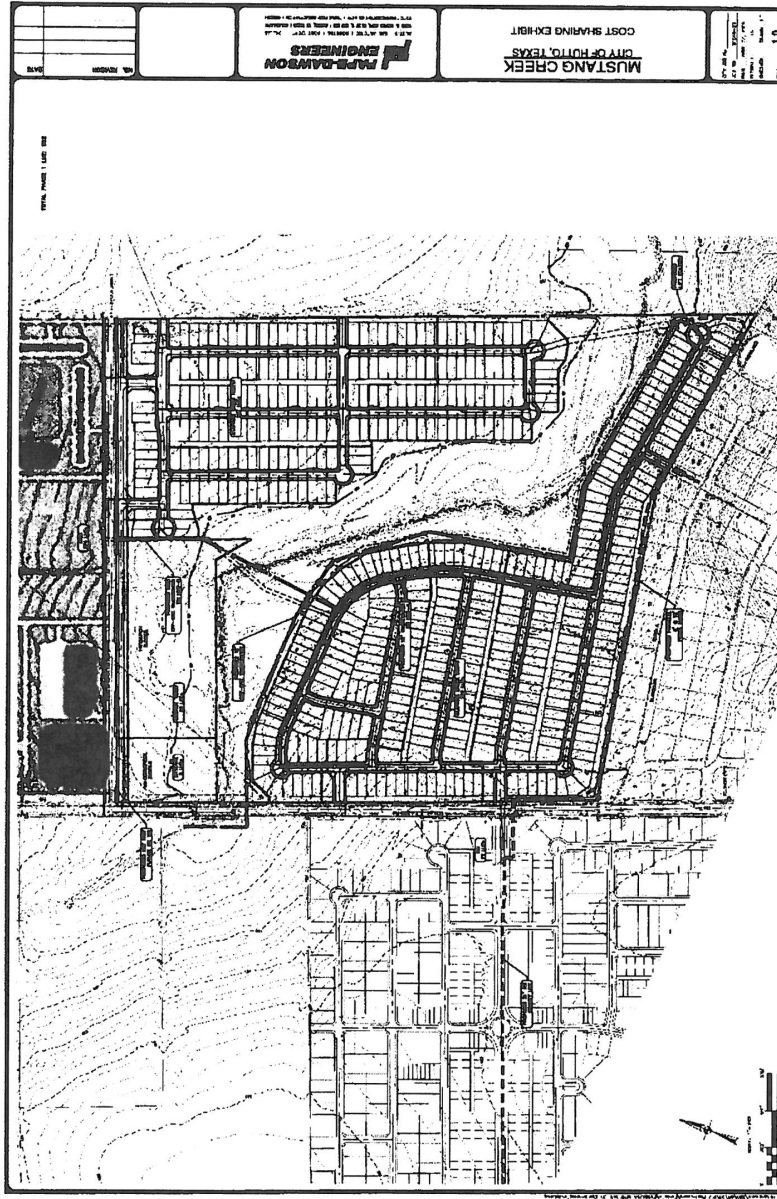


Exhibit A.1
Development/Wastewater

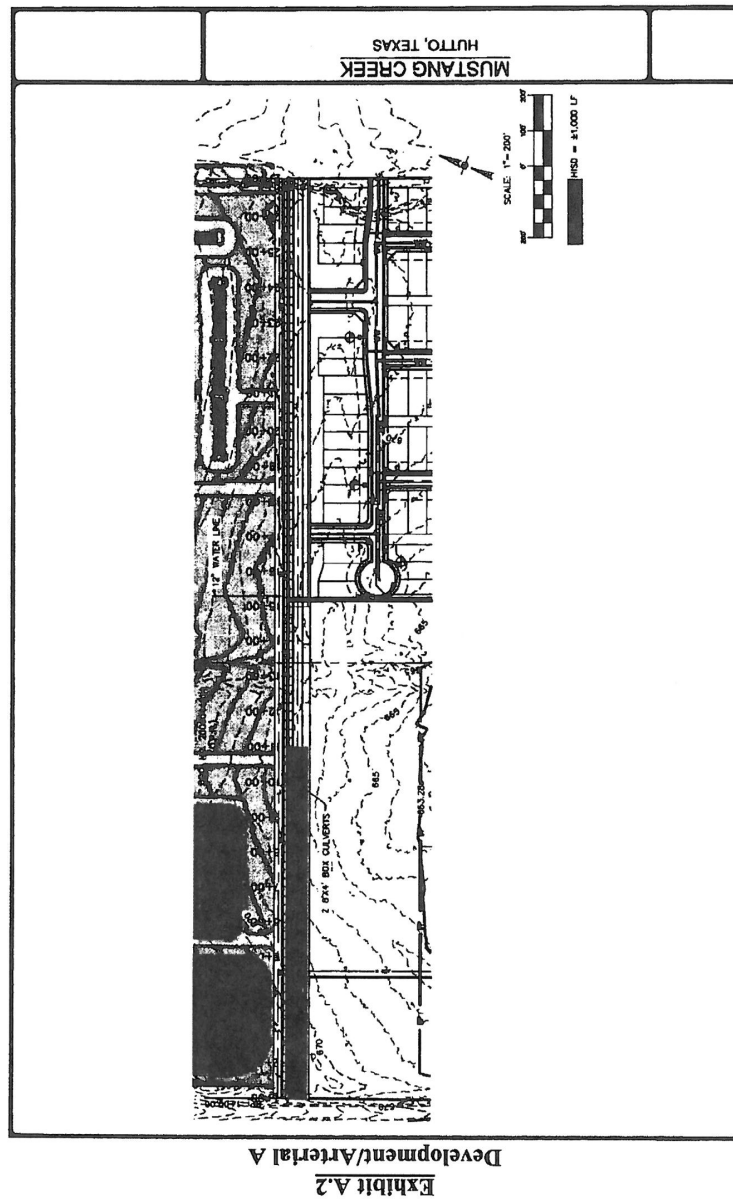


EXHIBIT B
Specifications/Description of Wastewater Infrastructure

REVIEW MUSTANG CREEK APPROVED PHASE 1 CONSTRUCTION PLAN SET
CITY OF HUTTO PROJECT 1619-ENG

Exhibit C
Specifications/Description of Arterial A Infrastructure

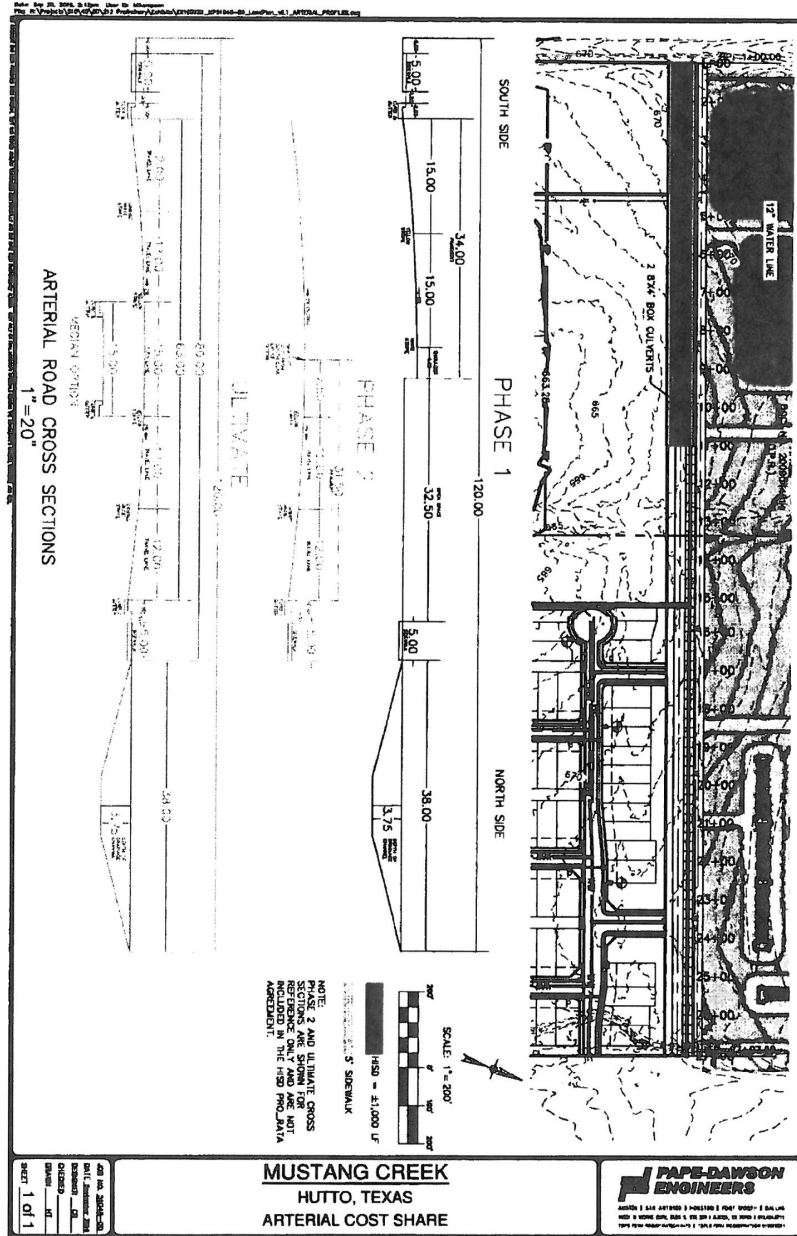


Exhibit D
Cost of Project / Estimated Construction Costs

Date 9/5/2019

Item No.	Description	Unit	Unit Cost			
	Onsite Wastewater	775	LUE	374		LUE
1	12" SDR-35 Wastewater Line (All Depths) Line A	LF	\$45	3111	48%	\$67,559
2	12" SDR-35 Wastewater Line (All Depths) Line B	LF	\$45	1280	100%	\$57,600
3	Trench Safety	LF	\$2	4391*	48%	\$5,563
4	4' Diameter Standard Manhole	EA	\$4,000	19**	48%	\$44,955
5	Connect to existing Wastewater Line	EA	\$3,700	1	48%	\$1,786
	ONSITE WASTEWATER SUBTOTAL					\$177,462
	Offsite Wastewater	982	LUE	374		LUE
6	Lift Station & Appurtenances	LS	\$739,330	1	38%	\$281,578
7	8" Force Main	LF	\$35	3500	38%	\$46,655
8	14" Force Main	LF	\$45	3500	38%	\$59,985
	OFFSITE WASTEWATER SUBTOTAL				38%	\$388,217
	ESC					
9	Stabilized Construction Entrance	EA	\$2,800	1	100%	\$2,800
10	Silt Fence	LF	\$3	2000	100%	\$6,000
11	Inlet Protection	EA	\$85	2	100%	\$170
12	Revegetation (ROW & Easements)	SY	\$2	5222	100%	\$10,444
13	SWPPP Plan Preparation, Permitting, Maintenance	LS	\$10,000	1	38%	\$3,809
	ESC SUBTOTAL					\$23,223
	SUBTOTAL FOR IMPROVEMENTS					\$588,902
	Contingencies				10%	\$58,890
	TOTAL WASTEWATER					\$647,792

*48% cost of 3111 + 100% cost of 1280

**48% of 15 + 100% cost of 4

Item No.	Description	Unit	Unit Cost			
	Arterial Street (South Side 36' Pavement): (costs based on 1000 LF)	LF		(1000')		
1	Clear & Grub (120' Wide)	SY	\$1	13333	100%	\$13,333
2	Excavation and Embankment (ROW - ROW) (120' Wide)	SY	\$3	13333	100%	\$40,000
3	Subgrade Prep (40' Wide)	SY	\$1	4444	100%	\$4,444
4	Lime Stabilization (8" Thick) (40' Wide)	SY	\$8	4444	100%	\$35,556
5	Crushed Limestone Base (16" Thick) (40' Wide)	SY	\$14	4444	100%	\$62,222
6	H.M.A.C. (3" Thick) (36' Wide)	SY	\$15	3778	100%	\$56,667
7	6" Curb and Gutter (south side)	LF	\$15	1000	100%	\$15,000
8	Ribbon Curb (North Side)	LF	\$15	1000	100%	\$15,000
9	10' Standard Inlets	EA	\$4000	2	100%	\$8,000
10	24" RCP	LF	\$55	750	100%	\$41,250
11	8X4 Box Culvert	LF	\$450	160	100%	\$72,000
12	Culvert Headwalls 8X4	EA	\$15000	2	100%	\$30,000
13	Channel Excavation	CY	\$15	1000	100%	\$15,000
14	Channel Revegetation	SY	\$1	42000	100%	\$42,000
	SUBTOTAL FOR IMPROVEMENTS					\$450,471
	Contingencies				10%	\$45,047
	TOTAL ARTERIAL A					\$495,518

Engineering & Fees	\$34,299
TOTAL PROJECT	\$1,177,609

EXHIBIT B
Cost of Project / Actual Construction Costs

Date 1/12/2021

Item No.	Description	Unit	Unit Cost	Quantity	Percentage	Total
	Onsite Wastewater (Line B)					
1	12" PVC SDR 26 Pipe 8-10'	LF	\$37.78	328	100%	\$12,391.84
2	12" PVC SDR 26 Pipe 10-12'	LF	\$40.19	278	100%	\$11,172.82
3	12" PVC SDR 26 Pipe 12-14'	LF	\$42.77	675	100%	\$28,869.75
4	Trench Safety	LF	\$1.12	1,281	100%	\$1,434.72
5	4' Diam. Standard Manhole	EA	\$3,972.46	4	100%	\$15,889.84
6	Extra Depth Manhole	VF	\$337.97	21	100%	\$7,097.37
7	24" Casing with Concrete Cap	LF	\$232.05	100	100%	\$23,205.00
8	Temporary Creek Crossing and Restoration	LS	\$10,387.87	1	100%	\$10,387.87
	ONSITE WASTEWATER LINE A SUBTOTAL					\$ 110,449.21
	Onsite Wastewater (Line A)	LUE	775	374	48%	
9	12" PVC SDR 26 Pipe 14-16'	LF	\$45.33	849	48%	\$18,572.20
10	12" PVC SDR 26 Pipe 16-18'	LF	\$47.46	1,024	48%	\$23,452.96
11	12" PVC SDR 26 Pipe 18-20'	LF	\$50.06	1,238	48%	\$29,907.59
12	Trench Safety	LF	\$1.12	3,111	48%	\$1,681.47
13	4' Diam. Standard Manhole	EA	\$3,972.46	15	48%	\$28,755.48
14	Extra Depth Manhole	VF	\$337.97	126	48%	\$20,550.32
	ONSITE WASTEWATER LINE B SUBTOTAL					\$ 122,920.01
	Offsite Wastewater	LUE	982	374	38%	
15	Lift Station & Appurtenances	LS	\$782,185.40	1	38%	\$297,899.53
16	8" Force Main	LF	\$36.48	3,043	38%	\$42,278.24
17	14" Force Main	LF	\$61.36	3,038	38%	\$70,995.89
18	8" Gate Valve	EA	\$1,873.22	1	38%	\$713.43
19	14" Gate Valve	EA	\$7,541.85	1	38%	\$2,872.35
20	21" PVC SDR 26 Pipe	LF	\$84.88	493	38%	\$15,937.21
21	Trench Safety	LF	\$1.18	6,574	38%	\$2,954.42
22	4' Diam. Standard Manhole	EA	\$5,118.69	3	38%	\$5,848.44
23	5' Diam. Standard Manhole	EA	\$7,238.49	1	38%	\$2,756.82
24	Electric Service	LS	\$5,500.00	1	38%	\$2,094.70
	OFFSITE WASTEWATER SUBTOTAL					\$ 444,351.04
	ESC					
25	Stabilized Construction Entrance	EA	\$2,607.62	1	38%	\$993.13
26	Silt Fence (Line B)	LF	\$2.35	2,340	100%	\$5,499.00
27	Silt Fence (Line A)	LF	\$2.35	1,225	48%	\$1,389.23
28	Revegetation (ROW & Easements) (Line B)	SY	\$1.45	2,257	100%	\$3,272.65
29	Revegetation (ROW & Easements) (Line A)	SY	\$1.45	2,462	48%	\$1,722.76
30	SWPPP Plan Preparation, Permitting, Maintenance	EA	\$3,350.27	1	38%	\$1,275.97
	ESC SUBTOTAL					\$ 14,152.74
	TOTAL WASTEWATER IMPROVEMENTS					\$ 691,873.00

Item No.	Description	Unit	Unit Cost	Quantity	Percentage	Total
	CR 118 Arterial (South Side 36' Pavement)					
	PHASE 1					
	Street Improvements					
1	Clear & Grub (ROW-ROW)	SY	\$0.29	13,035	100%	\$3,780.15
2	Excavation/Embankment (ROW-ROW)	SY	\$2.06	13,035	100%	\$26,852.10
3	Subgrade Preparation (3' BOC)	SY	\$1.99	4,892	100%	\$9,735.08
4	10" Lime Treated Subgrade (3' BOC)	SY	\$7.41	4,892	100%	\$36,249.72
5	Crushed Limestone Base (21" Thick) (3' BOC)	SY	\$22.72	4,892	100%	\$111,146.24

6	H.M.A.C. (6.0" Thick)	SY	\$36.64	3,989	100%	\$146,156.96
7	6" Standard Curb & Gutter w/Base	LF	\$15.67	950	100%	\$14,886.50
8	5' Concrete Sidewalk	LF	\$33.31	1,883	100%	\$62,722.73
9	Type 1 Sidewalk Ramps	EA	\$1,544.34	4	100%	\$6,177.36
10	Sawcut and Tie to Existing Street	EA	\$571.98	2	100%	\$1,143.96
11	Street End Barricade	EA	\$1,429.94	1	100%	\$1,429.94
12	Stop Signs With Street Name & Stop Bars	EA	\$571.98	1	100%	\$571.98
13	Miscellaneous Signage (Speed Limit, No Through Traffic)	EA	\$274.55	2	100%	\$549.10
14	Striping	LS	\$9,466.20	1	100%	\$9,466.20
STREET IMPROVEMENTS SUBTOTAL						\$ 430,868.02
Drainage Improvements						
15	10' City Standard Curb Inlet	EA	\$4,399.38	1	100%	\$4,399.38
16	4' X 4' Temporary Area Inlet	EA	\$3,229.77	1	100%	\$3,229.77
17	18" CLASS III R.C.P.	LF	\$50.43	69	100%	\$3,479.67
18	24" CLASS III R.C.P.	LF	\$59.98	323	100%	\$19,373.54
19	3' x 2' R.C.P. Box	LF	\$210.85	151	100%	\$31,838.35
20	5' x 3' R.C.P. Box	LF	\$316.79	110	100%	\$34,846.90
21	Drainage Channel D1.01	LF	\$17.16	797	100%	\$13,676.52
22	Drainage Channel D1.02	LF	\$17.16	145	100%	\$2,488.20
23	Drainage Channel D2.01	LF	\$17.16	440	100%	\$7,550.40
24	Drainage Channel D3.01	LF	\$17.16	145	100%	\$2,488.20
25	Drainage Channel F1.01	LF	\$17.16	509	100%	\$8,734.44
26	3' x 3' Junction Box	EA	\$2,730.09	1	100%	\$2,730.09
27	3' X 2' Sloping Headwall	EA	\$12,345.05	2	100%	\$24,690.10
28	5' X 3' Sloping Headwall	EA	\$18,892.25	2	100%	\$37,784.50
29	24" SET	EA	\$2,994.51	1	100%	\$2,994.51
30	Trench Safety	LF	\$1.14	653	100%	\$744.42
31	Rock Berm	LF	\$40.04	25	100%	\$1,001.00
32	Rock Rip-Rap	SY	\$35.36	890	100%	\$31,470.40
DRAINAGE IMPROVEMENTS SUBTOTAL						\$ 233,520.39
Water Improvements						
33	8" Class 305 C900 DR-14 Water Line	LF	\$40.15	113	100%	\$4,536.95
34	8" Gate Valve	EA	\$2,102.79	2	100%	\$4,205.58
35	12" Class 305 C900 DR-14 Water Line	LF	\$50.19	1,223	100%	\$61,382.37
36	12" Gate Valve	EA	\$2,830.11	9	100%	\$25,470.99
37	Fire Hydrant Assembly	EA	\$4,816.03	4	100%	\$19,264.12
38	16" Steel encasement	LF	\$132.09	113	100%	\$14,926.17
39	24" Steel encasement	LF	\$144.13	113	100%	\$16,286.69
40	Connect to Existing 12" Waterline (Standard connection)	EA	\$7,649.63	1	100%	\$7,649.63
41	Bore FM 1660	LF	\$565.47	80	100%	\$45,237.60
42	Trench Safety	LF	\$0.57	1,223	100%	\$697.11
43	Temporary Fire Type Blow off Hydrant	EA	\$2,405.81	1	100%	\$2,405.81
44	Air Release Valve	EA	\$3,264.95	1	100%	\$3,264.95
WATER IMPROVEMENTS SUBTOTAL						\$ 205,327.97
ESC						
45	Stabilized Construction Entrance	EA	\$3,700.68	1	100%	\$3,700.68
46	Silt Fence	LF	\$2.40	1,295	100%	\$3,108.00
47	Inlet Protection	EA	\$80.08	4	100%	\$320.32
48	Revegetation (R.O.W. & Easements)	SY	\$1.73	14,351	100%	\$24,827.23
49	SWPPP Plan Preparation, Permitting, Maintenance	LS	\$4,575.81	1	100%	\$4,575.81
50	Erosion Matting	SY	\$1.43	4,375	100%	\$6,256.25
ESC SUBTOTAL						\$ 42,788.29
TOTAL ARTERIAL IMPROVEMENTS						\$ 912,504.67
TOTAL PROJECT						\$ 1,604,377.67

**PRO-RATA SHARE AGREEMENT
FOR MUSTANG CREEK – HISD IMPROVEMENTS
BETWEEN
THE CITY OF HUTTO
AND
THE HUTTO INDEPENDENT SCHOOL DISTRICT**

This Pro-Rata Agreement for Improvements (the “**Agreement**”), effective this 30th day of October, 2019 (“**Effective Date**”), by and between the City of Hutto, and through its representative, the City Manager, (the “**City**”), a home-rule municipality organized and existing under and in accordance with Texas law, and the Hutto Independent School District (the “**HISD**”), an independent school district organized and existing under and in accordance with Texas law (individually “**Party**,” together the “**Parties**”).

Recitals

WHEREAS, the City and the HISD are authorized to enter into this Agreement pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.001 et seq.; and

WHEREAS, the HISD is an independent political subdivision of the State of Texas charged with the public education of children in its boundaries, which has its own funding source and elected governing body separate from the City; and

WHEREAS, the HISD is authorized to expend school funds for the design, improvement, or construction of certain facilities on property owned by another entity under the Texas Education Code Section 45.109, as well as to use district resources for design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district under the Texas Education Code Section 11.168; and

WHEREAS, the HISD must meet certain construction standards and occupancy deadlines due to state mandated educational facility requirements and public fiduciary obligations regardless if any portion of the boundaries of the district lie within the limits and extraterritorial jurisdiction of the City;

WHEREAS, the City through its ordinances and regulations provides for wastewater services for new development regulations for the protection of the public health, safety and welfare of its citizens;

WHEREAS, the City is working with HUTTO1660, LP, a Texas limited partnership, (the “**Developer**”) to develop a tract of land as part of the development known as the Mustang Creek development (“**Development**”) depicted in Exhibits “A.1, A.2;” and

WHEREAS, the City and Developer entered into a certain Development Agreement on July 16, 2018 (the “**Development Agreement**”) covering the Development; and

WHEREAS, in order to accommodate the Development, the City has contracted with Developer for the (i) building of the Mustang Creek Wastewater Lift Station (the “**Lift Station**”), to specifications found in Exhibit “B,” (ii) routing of the flows from the Mustang Creek Lift Station via force mains and gravity systems to the downstream system, (iii) construction of an oversized gravity wastewater line to serve additional adjacent developments which conform to the specifications in Exhibit “B,” (collectively “**Wastewater Improvements**”) and (iv) construction of phase 1, section 1 of the shared arterial roadway (the “**Arterial A**”) conforming to specifications found in Exhibit “C” (provisions (i) – (iv) are collectively the “**Project**”). The City has found and determined that cooperation between the City and Developer to further the progress of the HISD’s developments and the Development will further the public interest and welfare, and that the benefits that will accrue to the City are consistent with the City’s economic development objectives; and

WHEREAS, Arterial A is a part of a shared roadway that will benefit several different portions of the Development, including the HISD's developments within the Development; and

WHEREAS, the City through Resolution No. R-18-06-07-9C is authorized to seek funds from other sources to fund Public Improvements within the Development; and

WHEREAS, the City and the HISD have previously entered into an Interlocal Agreement, effective February 21, 2019, establishing development standards and mutual agreements to share construction costs of certain improvements and infrastructure, as appropriate; and

WHEREAS, the City and HISD share an interest in the completion of the Project to promote growth and the expansion of educational facilities within the Development; and

WHEREAS, the Parties intend the future development, construction, and expansion of education facilities at ultimate build-out at FM1660 North within the corporate limits and extraterritorial jurisdiction of the City to be constructed in accordance with Section 212.902 of the Texas Local Government Code; and

WHEREAS, the City and Developer have entered into a Pro-Rata Share Agreement ("**Developer Pro-Rata Share Agreement**") on October 3, 2019, in which the Developer shall construct the Project by December 1, 2020 and be reimbursed by the City the HISD's pro rata share of construction costs for the Project; and

WHEREAS, the City and HISD desire to enter into this Agreement to facilitate payment by HISD to the City to provide adequate funds for the City to reimburse the Developer for HISD's pro rata share of construction costs for the Project as it serves HISD ("**HISD Construction Costs**," specified in **Exhibit "D"**); and

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

I.

Adoption of Recitals

- 1.1 **Recitals.** The Parties hereby adopt the recitals as true and correct and incorporate them herein.

II.

Authority; Agreements

- 2.1 **Authority of the City.** The City's execution of this Agreement constitutes a valid and binding obligation of the City. The City has the proper authority to enter into and negotiate this Agreement to facilitate the completion of the Project's public improvements within the Development.
- 2.2 **Authority of the HISD.** The HISD's execution of this Agreement constitutes a valid and binding obligation of the HISD. The HISD has the proper authority to enter into this agreement to pay HISD Construction Costs.

III.

Purpose

- 3.1 **Purpose.** The purpose of this Agreement is to establish the Project as benefiting HISD, the agreement of the City to ensure performance of the Developer to complete the road and sewer to serve HISD by December 1, 2020, and to establish the reimbursement obligations of HISD to the City for the Project. The HISD intends to pay its pro rata share of the construction of the Project to the City. The City shall

hold such monies in a separate account solely for the purpose of reimbursing the Developer for the Project.

IV.

Party Obligations

- 4.1 Obligations of HISD. The HISD hereby agrees to pay to the City for HISD's pro rata share of the Project, **ONE MILLION, ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000)** (the "HISD Pro Rata Share"), no later than fifteen (15) days of the date of HISD's receipt of a copy of the first invoice received by the City from the Developer evidencing the start of construction on the Project. If such day shall fall on a weekend or holiday, the HISD shall deposit the funds on the first following business day.
- 4.2 Obligations of the City. The City hereby agrees to uphold and enforce both the Development Agreement with Developer and the Developer Pro-Rata Share Agreement, in which the Developer is to complete the Project as it benefits HISD, including road and sewer to serve HISD by December 1, 2020, and to accept the HISD's payment for HISD's pro rata share of the Project and deposit it into a separate account designated for payment of HISD's pro rata share of Project construction costs. The City shall not use the funds for any other purpose other than to reimburse Developer for the HISD's pro rata share of the Project. The City also shall not co-mingle the funds with any other City funds.

The City shall pay Developer according to the methods and schedule established in the Developer Pro-Rata Share Agreement. In no event will the City provide payment to the Developer for any portion of the Project without the City Engineer's verification and review of the construction of the Project to verify that the work for which payment is requested has been completed, and receiving proof of Developer's actual out-of-pocket costs for the HISD share of Project construction costs, which shall also be verified by the City. In no event shall the City permit the entire amount of the HISD Pro Rata Share to be expended on or allocated to solely the Wastewater Improvements or solely Arterial A, leaving no available funds for the completion of the Project. Rather, the City shall track Project Expenses and approve the release of funds as they have been budgeted and set forth in Exhibit D, herein, and the City shall ensure that funds are available for each portion of the Project.

Should the amount paid by HISD not be fully utilized (for example, the Contingencies amount of \$45,047), the remaining balance shall be refunded to HISD within thirty (30) days of final completion of the Project. If for any reason the Developer breaches its performance to build the Project, the City shall, unless as specified in Section 7.1 of this Agreement, refund the full amount of such monies to the HISD if no money has been yet paid by the City to Developer, or otherwise such amount that remains after payments have been made to Developer prior to Developer's breach. Unless the City has made over-payment or paid without required receipts, the City is not liable to the HISD for money paid to the Developer prior to any breach in the event of a failure by Developer to complete the Project. The City shall also refund such monies to the HISD in the event of termination of this Agreement as stipulated in Section 8.1 of this Agreement, and shall not be liable for any payments made to Developer prior to termination.

V.

Term

- 5.1 The term of this Agreement shall commence on the Effective Date and shall continue until the obligations herein are satisfied, or until this Agreement is otherwise earlier terminated due to breach by Developer to perform its obligations or as set forth herein.

VI.

Current Revenue

- 6.1 The Parties warrant that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum or associated document, shall be paid from current revenues available to the paying Party. The Parties hereby warrant that no debt is created by this Agreement and that any debt created through the deposit of funds shall be the sole obligation of the depositing Party and no obligation or liability for such debt shall be a liability or obligation of the other Party.

VII.

Fiscal Funding

- 7.1 The financial obligations of the Parties under this Agreement are contingent upon the availability and appropriation of sufficient funding. Any Party may withdraw from this Agreement without penalty in the event funds are not available or appropriated. However, no Party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding and absent Developer breach or termination of the Agreement by mutual consent of the Parties as provided herein.

VIII.

Miscellaneous

- 8.1 Termination. This Agreement may be terminated by mutual written agreement of the Parties, in the event of breach by the Developer of its obligations for any reason, or if for any reason, the Developer Pro-Rata Share Agreement is terminated or otherwise amended to no longer require performance under this Agreement. Termination of this Agreement shall result in the termination of the Parties' obligations under the contract, apart from a refund of the remaining funds to the HISD that the City has in its possession at the time of termination as set forth herein.
- 8.2 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery or facsimile transmission addressed to the respective Party at the address set forth below. Each Party may from time to time change or update their address for purposes of notice under this section by informing the other Party in writing.

If notice is to the City:

Odin Jones, City Manager
500 West Live Oak Street
Hutto, Texas 78634
Phone: 512.759.4030

With a copy to:

City Attorney
500 West Live Oak Street
Hutto, Texas 78634
Phone: 512.759.4022

If notice is for the HISD:

Dr. Celina Estrada Thomas, Superintendent of Schools

Hutto Independent School District
200 College Street
Hutto, Texas 78634
Phone: 512.759.3771

With a copy to:

Ms. Ann Greenberg
Walsh Gallegos Trevino Russo & Kyle, P.C.
505 E. Huntland Dr., Suite 600
Austin, Texas 78752
Phone: 512.454.6864

- 8.3 Severability. In the event 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 the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement, or otherwise rewritten to reflect the original intent of the Parties in a legal and enforceable form.
- 8.4 Governing Law/Venue. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas. Venue for any action concerning this Agreement shall lie in Williamson County, Texas.
- 8.5 Entire Agreement. This Agreement represents the entire agreement between the Parties with respect to the subject matter covered by this Agreement. Any prior oral, written, or collateral agreements are incorporated herein.
- 8.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original constituting one and the same instrument.
- 8.7 No Assignment. The Parties may not assign or transfer their rights under this Agreement.
- 8.8 Compliance with Law. Each Party is responsible for complying with any additional or varying laws and regulations regarding their respective obligations under this Agreement.
- 8.9 No Waiver of Rights. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement. A waiver or failure to enforce any rights by either Party under this Agreement shall not constitute a permanent waiver of that right in the future or any other rights granted under this Agreement. Waivers shall be in writing and signed by the waiving Party.
- 8.10 Breach and Remedies. Failure to perform any obligations under this Agreement constitutes a breach unless expressly excepted herein. Failure of Developer to perform its obligations shall result in the termination of this Agreement, and shall not constitute a breach of the Parties herein. Any disputes regarding this Agreement shall go through the mediation process.

Any dispute, controversy or claim arising out of or relating in any way to the agreement or the relationship including without limitation any dispute concerning the construction, validity, interpretation, enforceability or breach of the Agreement, shall be exclusively resolved by litigation. In the event of a dispute, controversy or claim arising out of or relating in any way to the Agreement or the relationship, the complaining Party shall notify the other Party in writing thereof. Within thirty (30) days of such notice, management level representatives of both Parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within thirty

(30) days after such notice, the complaining Party shall seek remedies exclusively through mediation and if not resolved, litigation.

8.11 Amendment. This Agreement shall only be amended by mutual written agreement of the Parties.

IN WITNESS WHEREOF, each Party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

CITY OF HUTTO

By: Michel Samu
Print: MICHEL SAMUEL
Title: ASSISTANT CITY MANAGER/CFO

APPROVED AS TO FORM

By: Melissa Seos
Attorney for the City of Hutto

HUTTO INDEPENDENT SCHOOL DISTRICT

By: [Signature]
Print: Terrence Owens
Title: Board President

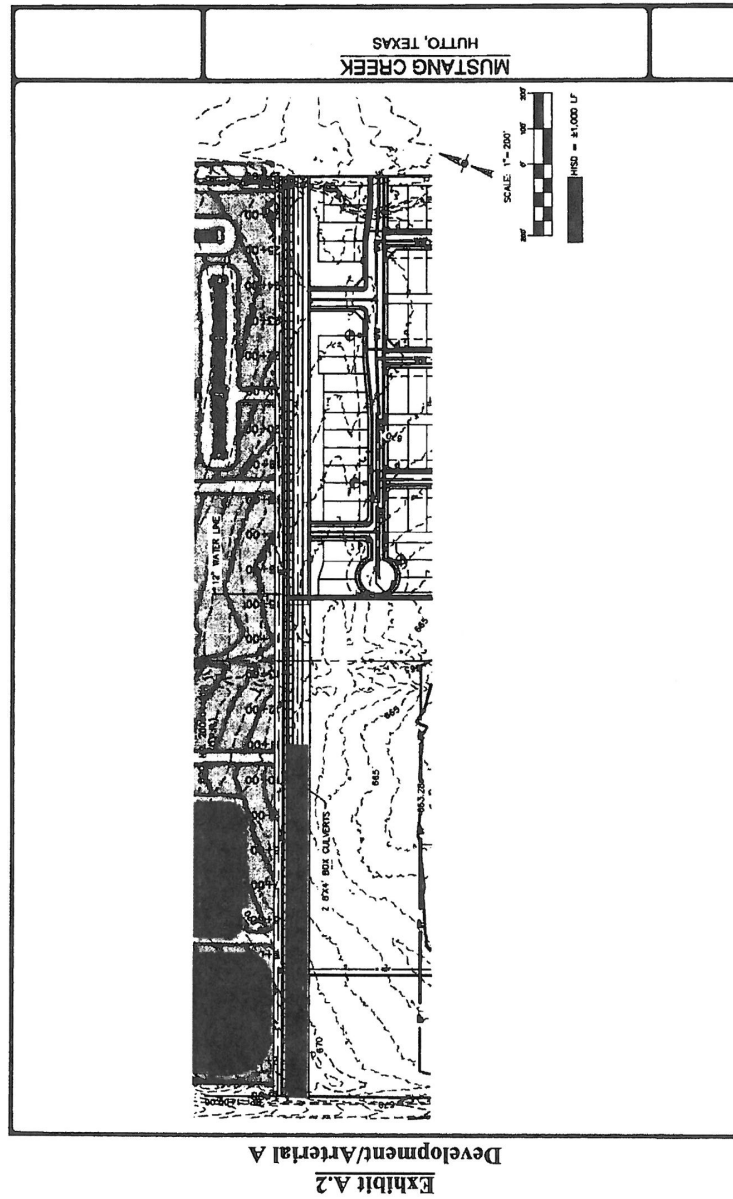


EXHIBIT B
Specifications/Description of Wastewater Infrastructure

REVIEW MUSTANG CREEK APPROVED PHASE 1 CONSTRUCTION PLAN SET
CITY OF HUTTO PROJECT 1619-ENG

Exhibit C
Specifications/Description of Arterial A Infrastructure

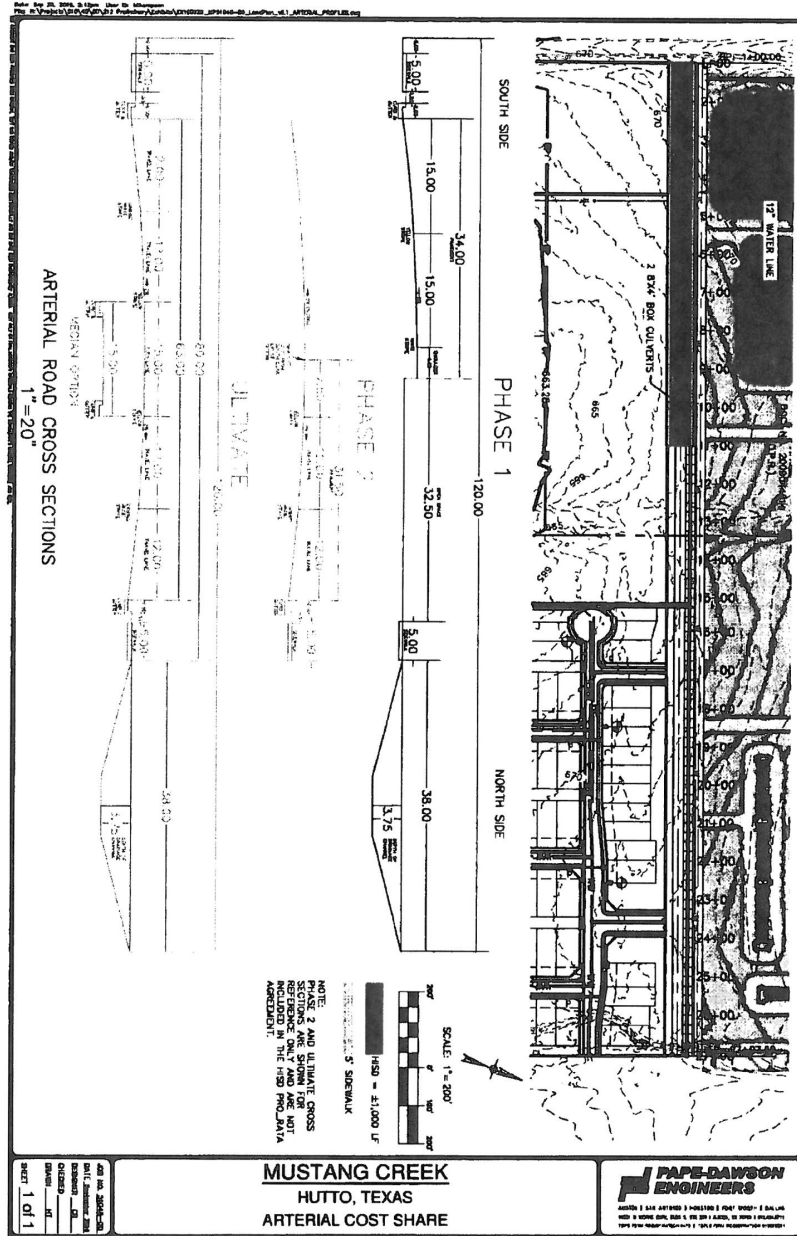


Exhibit D
Cost of Project / Estimated Construction Costs

Date 9/5/2019

Item No.	Description	Unit	Unit Cost			
	Onsite Wastewater	775	LUE	374		LUE
1	12" SDR-35 Wastewater Line (All Depths) Line A	LF	\$45	3111	48%	\$67,559
2	12" SDR-35 Wastewater Line (All Depths) Line B	LF	\$45	1280	100%	\$57,600
3	Trench Safety	LF	\$2	4391*	48%	\$5,563
4	4' Diameter Standard Manhole	EA	\$4,000	19**	48%	\$44,955
5	Connect to existing Wastewater Line	EA	\$3,700	1	48%	\$1,786
	ONSITE WASTEWATER SUBTOTAL					\$177,462
	Offsite Wastewater	982	LUE	374		LUE
6	Lift Station & Appurtenances	LS	\$739,330	1	38%	\$281,578
7	8" Force Main	LF	\$35	3500	38%	\$46,655
8	14" Force Main	LF	\$45	3500	38%	\$59,985
	OFFSITE WASTEWATER SUBTOTAL				38%	\$388,217
	ESC					
9	Stabilized Construction Entrance	EA	\$2,800	1	100%	\$2,800
10	Silt Fence	LF	\$3	2000	100%	\$6,000
11	Inlet Protection	EA	\$85	2	100%	\$170
12	Revegetation (ROW & Easements)	SY	\$2	5222	100%	\$10,444
13	SWPPP Plan Preparation, Permitting, Maintenance	LS	\$10,000	1	38%	\$3,809
	ESC SUBTOTAL					\$23,223
	SUBTOTAL FOR IMPROVEMENTS					\$588,902
	Contingencies				10%	\$58,890
	TOTAL WASTEWATER					\$647,792

*48% cost of 3111 + 100% cost of 1280

**48% of 15 + 100% cost of 4

Item No.	Description	Unit	Unit Cost			
	Arterial Street (South Side 36' Pavement): (costs based on 1000 LF)	LF		(1000')		
1	Clear & Grub (120' Wide)	SY	\$1	13333	100%	\$13,333
2	Excavation and Embankment (ROW - ROW) (120' Wide)	SY	\$3	13333	100%	\$40,000
3	Subgrade Prep (40' Wide)	SY	\$1	4444	100%	\$4,444
4	Lime Stabilization (8" Thick) (40' Wide)	SY	\$8	4444	100%	\$35,556
5	Crushed Limestone Base (16" Thick) (40' Wide)	SY	\$14	4444	100%	\$62,222
6	H.M.A.C. (3" Thick) (36' Wide)	SY	\$15	3778	100%	\$56,667
7	6" Curb and Gutter (south side)	LF	\$15	1000	100%	\$15,000
8	Ribbon Curb (North Side)	LF	\$15	1000	100%	\$15,000
9	10' Standard Inlets	EA	\$4000	2	100%	\$8,000
10	24" RCP	LF	\$55	750	100%	\$41,250
11	8X4 Box Culvert	LF	\$450	160	100%	\$72,000
12	Culvert Headwalls 8X4	EA	\$15000	2	100%	\$30,000
13	Channel Excavation	CY	\$15	1000	100%	\$15,000
14	Channel Revegetation	SY	\$1	42000	100%	\$42,000
	SUBTOTAL FOR IMPROVEMENTS					\$450,471
	Contingencies				10%	\$45,047
	TOTAL ARTERIAL A					\$495,518

Engineering & Fees	\$34,299
TOTAL PROJECT	\$1,177,609

EXHIBIT B
Cost of Project / Actual Construction Costs

Date 1/12/2021

Item No.	Description	Unit	Unit Cost	Quantity	Percentage	Total
	Onsite Wastewater (Line B)					
1	12" PVC SDR 26 Pipe 8-10'	LF	\$37.78	328	100%	\$12,391.84
2	12" PVC SDR 26 Pipe 10-12'	LF	\$40.19	278	100%	\$11,172.82
3	12" PVC SDR 26 Pipe 12-14'	LF	\$42.77	675	100%	\$28,869.75
4	Trench Safety	LF	\$1.12	1,281	100%	\$1,434.72
5	4' Diam. Standard Manhole	EA	\$3,972.46	4	100%	\$15,889.84
6	Extra Depth Manhole	VF	\$337.97	21	100%	\$7,097.37
7	24" Casing with Concrete Cap	LF	\$232.05	100	100%	\$23,205.00
8	Temporary Creek Crossing and Restoration	LS	\$10,387.87	1	100%	\$10,387.87
	ONSITE WASTEWATER LINE A SUBTOTAL					\$ 110,449.21
	Onsite Wastewater (Line A)	LUE	775	374	48%	
9	12" PVC SDR 26 Pipe 14-16'	LF	\$45.33	849	48%	\$18,572.20
10	12" PVC SDR 26 Pipe 16-18'	LF	\$47.46	1,024	48%	\$23,452.96
11	12" PVC SDR 26 Pipe 18-20'	LF	\$50.06	1,238	48%	\$29,907.59
12	Trench Safety	LF	\$1.12	3,111	48%	\$1,681.47
13	4' Diam. Standard Manhole	EA	\$3,972.46	15	48%	\$28,755.48
14	Extra Depth Manhole	VF	\$337.97	126	48%	\$20,550.32
	ONSITE WASTEWATER LINE B SUBTOTAL					\$ 122,920.01
	Offsite Wastewater	LUE	982	374	38%	
15	Lift Station & Appurtenances	LS	\$782,185.40	1	38%	\$297,899.53
16	8" Force Main	LF	\$36.48	3,043	38%	\$42,278.24
17	14" Force Main	LF	\$61.36	3,038	38%	\$70,995.89
18	8" Gate Valve	EA	\$1,873.22	1	38%	\$713.43
19	14" Gate Valve	EA	\$7,541.85	1	38%	\$2,872.35
20	21" PVC SDR 26 Pipe	LF	\$84.88	493	38%	\$15,937.21
21	Trench Safety	LF	\$1.18	6,574	38%	\$2,954.42
22	4' Diam. Standard Manhole	EA	\$5,118.69	3	38%	\$5,848.44
23	5' Diam. Standard Manhole	EA	\$7,238.49	1	38%	\$2,756.82
24	Electric Service	LS	\$5,500.00	1	38%	\$2,094.70
	OFFSITE WASTEWATER SUBTOTAL					\$ 444,351.04
	ESC					
25	Stabilized Construction Entrance	EA	\$2,607.62	1	38%	\$993.13
26	Silt Fence (Line B)	LF	\$2.35	2,340	100%	\$5,499.00
27	Silt Fence (Line A)	LF	\$2.35	1,225	48%	\$1,389.23
28	Revegetation (ROW & Easements) (Line B)	SY	\$1.45	2,257	100%	\$3,272.65
29	Revegetation (ROW & Easements) (Line A)	SY	\$1.45	2,462	48%	\$1,722.76
30	SWPPP Plan Preparation, Permitting, Maintenance	EA	\$3,350.27	1	38%	\$1,275.97
	ESC SUBTOTAL					\$ 14,152.74
	TOTAL WASTEWATER IMPROVEMENTS					\$ 691,873.00

Item No.	Description	Unit	Unit Cost	Quantity	Percentage	Total
	CR 118 Arterial (South Side 36' Pavement)					
	PHASE 1					
	Street Improvements					
1	Clear & Grub (ROW-ROW)	SY	\$0.29	13,035	100%	\$3,780.15
2	Excavation/Embankment (ROW-ROW)	SY	\$2.06	13,035	100%	\$26,852.10
3	Subgrade Preparation (3' BOC)	SY	\$1.99	4,892	100%	\$9,735.08
4	10" Lime Treated Subgrade (3' BOC)	SY	\$7.41	4,892	100%	\$36,249.72
5	Crushed Limestone Base (21" Thick) (3' BOC)	SY	\$22.72	4,892	100%	\$111,146.24

6	H.M.A.C. (6.0" Thick)	SY	\$36.64	3,989	100%	\$146,156.96
7	6" Standard Curb & Gutter w/Base	LF	\$15.67	950	100%	\$14,886.50
8	5' Concrete Sidewalk	LF	\$33.31	1,883	100%	\$62,722.73
9	Type 1 Sidewalk Ramps	EA	\$1,544.34	4	100%	\$6,177.36
10	Sawcut and Tie to Existing Street	EA	\$571.98	2	100%	\$1,143.96
11	Street End Barricade	EA	\$1,429.94	1	100%	\$1,429.94
12	Stop Signs With Street Name & Stop Bars	EA	\$571.98	1	100%	\$571.98
13	Miscellaneous Signage (Speed Limit, No Through Traffic)	EA	\$274.55	2	100%	\$549.10
14	Striping	LS	\$9,466.20	1	100%	\$9,466.20
STREET IMPROVEMENTS SUBTOTAL						\$ 430,868.02
Drainage Improvements						
15	10' City Standard Curb Inlet	EA	\$4,399.38	1	100%	\$4,399.38
16	4' X 4' Temporary Area Inlet	EA	\$3,229.77	1	100%	\$3,229.77
17	18" CLASS III R.C.P.	LF	\$50.43	69	100%	\$3,479.67
18	24" CLASS III R.C.P.	LF	\$59.98	323	100%	\$19,373.54
19	3' x 2' R.C.P. Box	LF	\$210.85	151	100%	\$31,838.35
20	5' x 3' R.C.P. Box	LF	\$316.79	110	100%	\$34,846.90
21	Drainage Channel D1.01	LF	\$17.16	797	100%	\$13,676.52
22	Drainage Channel D1.02	LF	\$17.16	145	100%	\$2,488.20
23	Drainage Channel D2.01	LF	\$17.16	440	100%	\$7,550.40
24	Drainage Channel D3.01	LF	\$17.16	145	100%	\$2,488.20
25	Drainage Channel F1.01	LF	\$17.16	509	100%	\$8,734.44
26	3' x 3' Junction Box	EA	\$2,730.09	1	100%	\$2,730.09
27	3' X 2' Sloping Headwall	EA	\$12,345.05	2	100%	\$24,690.10
28	5' X 3' Sloping Headwall	EA	\$18,892.25	2	100%	\$37,784.50
29	24" SET	EA	\$2,994.51	1	100%	\$2,994.51
30	Trench Safety	LF	\$1.14	653	100%	\$744.42
31	Rock Berm	LF	\$40.04	25	100%	\$1,001.00
32	Rock Rip-Rap	SY	\$35.36	890	100%	\$31,470.40
DRAINAGE IMPROVEMENTS SUBTOTAL						\$ 233,520.39
Water Improvements						
33	8" Class 305 C900 DR-14 Water Line	LF	\$40.15	113	100%	\$4,536.95
34	8" Gate Valve	EA	\$2,102.79	2	100%	\$4,205.58
35	12" Class 305 C900 DR-14 Water Line	LF	\$50.19	1,223	100%	\$61,382.37
36	12" Gate Valve	EA	\$2,830.11	9	100%	\$25,470.99
37	Fire Hydrant Assembly	EA	\$4,816.03	4	100%	\$19,264.12
38	16" Steel encasement	LF	\$132.09	113	100%	\$14,926.17
39	24" Steel encasement	LF	\$144.13	113	100%	\$16,286.69
40	Connect to Existing 12" Waterline (Standard connection)	EA	\$7,649.63	1	100%	\$7,649.63
41	Bore FM 1660	LF	\$565.47	80	100%	\$45,237.60
42	Trench Safety	LF	\$0.57	1,223	100%	\$697.11
43	Temporary Fire Type Blow off Hydrant	EA	\$2,405.81	1	100%	\$2,405.81
44	Air Release Valve	EA	\$3,264.95	1	100%	\$3,264.95
WATER IMPROVEMENTS SUBTOTAL						\$ 205,327.97
ESC						
45	Stabilized Construction Entrance	EA	\$3,700.68	1	100%	\$3,700.68
46	Silt Fence	LF	\$2.40	1,295	100%	\$3,108.00
47	Inlet Protection	EA	\$80.08	4	100%	\$320.32
48	Revegetation (R.O.W. & Easements)	SY	\$1.73	14,351	100%	\$24,827.23
49	SWPPP Plan Preparation, Permitting, Maintenance	LS	\$4,575.81	1	100%	\$4,575.81
50	Erosion Matting	SY	\$1.43	4,375	100%	\$6,256.25
ESC SUBTOTAL						\$ 42,788.29
TOTAL ARTERIAL IMPROVEMENTS						\$ 912,504.67
TOTAL PROJECT						\$ 1,604,377.67



Item 8.5: Budget Amendment – HISD Mustang Creek

Per cost-sharing agreement terms, City is functioning in a pass-thru capacity.

- HISD funds held by City until final project inspection
- Once accepted, HISD funds transferred to the Developer

Utility Fund Revenue:

- HISD Pro Rata Share - \$1,150,000
- Increase in Utility Fund (Fund 50) Development Participation

Utility Fund Expenditure:

- Disbursement of HISD funds directly to Developer - \$1,150,000
- Increase expenditure authority in Utility Fund (Fund 50) Non-departmental Other

ORDINANCE NO. O-2021-004

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS AMENDING THE FISCAL YEAR 2020-21 BUDGET FOR ACTIVITIES RELATED HEDC ADMINISTRATIVE AND PROFESSIONAL SERVICES CONTRACT.

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

SECTION 1: That the appropriations for the fiscal year beginning October 1, 2020, and ending September 30, 2021, for the support of the general government of the City of Hutto, Texas, be amended for said term in accordance with approved contract with the Hutto Economic Development Corporation Type 4B for administrative and professional services.

SECTION 2: That the amendment increasing revenues is hereby approved in all aspects and adopted as an amendment to the City budget for the fiscal year October 1, 2020, and ending September 30, 2021. In addition, increases to the City's authorized headcount (FTEs) and Salaries & Benefits expense line item is authorized for any HEDC staff transferred to the City.

SECTION 3: The City Secretary of the City of Hutto is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law and the *City Charter*.

SECTION 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If a court of competent jurisdiction to be invalid shall adjudge any provision of this Ordinance, the invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5: All ordinances or parts of ordinances and sections of the City Code of Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code* and the *City Charter*.

SECTION 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter. 551, Tex. Gov't. Code*.

READ and APPROVED on first reading on this the **4th** day of **February 2021**, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

READ, APPROVED and ADOPTED on second and final reading this **18th** day of **February 2021**, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary



Item 8.6: Budget Amendment – CDC Agreement

General Fund Revenues:

- Interlocal Agency Revenue + \$20,000
- CDC Contract (Feb. 2021-Sept. 2021)
 - \$30,000 per yr./\$2,500 per mo.

General Fund Expenditures:

- No budget increase associated with providing professional & administrative services. City will be performing services within existing approved budget.
- No additional FTEs requested



Item 8.6: Budget Amendment – CDC Agreement

General Fund Revenues:

- Interlocal Agency Revenue + \$20,000
- CDC Contract (Feb. 2021-Sept. 2021)
 - \$30,000 per yr./\$2,500 per mo.

General Fund Expenditures:

- No budget increase associated with providing professional & administrative services. City will be performing services within existing approved budget.
- No additional FTEs requested

ORDINANCE NO. O-2021-009

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS AMENDING THE FISCAL YEAR 2020-21 BUDGET TO ACCOMMODATE ORGANIZATIONAL CHANGES.

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

SECTION 1: That the appropriations for the fiscal year beginning October 1, 2020, and ending September 30, 2021, for the support of the general government of the City of Hutto, Texas, be amended to accommodate a transfer of position and funding between programmatic functions.

SECTION 2: That the amendment, as shown in words and figures in Exhibit A, is hereby approved in all aspects and adopted as an amendment to the City budget for the fiscal year October 1, 2020, and ending September 30, 2021.

SECTION 3: The City Secretary of the City of Hutto is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law and the *City Charter*.

SECTION 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If a court of competent jurisdiction to be invalid shall adjudge any provision of this Ordinance, the invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5: All ordinances or parts of ordinances and sections of the City Code of Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code* and the *City Charter*.

SECTION 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter. 551, Tex. Gov't. Code*.

READ and APPROVED on first reading on this the **4th** day of **March 2021**, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

READ, APPROVED and ADOPTED on second and final reading this 18th day of March 2021, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

EXHIBIT A

Budget Transfer

General Services - Operating Fund (Fund 10)

	Authorized FTE	Proposed FTE
Transfer Authorized Position	City Attorney	Executive Director, Public Works & Engineering

Division	Original Budget	Proposed Amended Budget	Variance
City Attorney			
Salary & Benefits	185,844	-	(185,844)
Supplies & Materials	1,250	-	(1,250)
Attorney Services	500,000	500,000	-
Other/Misc. Expenses	2,150	-	(2,150)
Subtotal - City Attorney	689,244	500,000	(189,244)
Public Works & Engineering			
Salary & Benefits	-	185,844	185,844
Supplies & Materials	-	1,250	1,250
Other/Misc. Expenses	-	2,150	2,150
Subtotal - Public Works & Engineering	-	189,244	189,244
TOTAL	689,244	689,244	-

RESOLUTION NO. R-2020-110A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE ESTABLISHMENT OF A SECTION 505.158 PROJECT AFTER TWO SEPARATE READINGS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about July 13, 2017, the City of Hutto, Texas, a home-rule municipality located in Williamson County, Texas, entered into a “Hotel Occupancy Tax Funding Agreement Between City of Hutto and GAR Broadcasting, LLC For KOKE-Fest” (the “Agreement”); and

WHEREAS, Hutto Economic Development Corporation, Type B dba the Hutto Community Development Corporation (the “HCDC”) is a Type B Economic Development Corporation organized and operated pursuant to Texas Local Government Code Chapters 501, 502, 504 and 505 (the “Act”); and

WHEREAS, Section 505.158 of the Act defines an authorized “project” for a Type B Economic Development Corporation created by a municipality with a population of 20,000 or less to include . . . expenditures found by the corporation’s board of directors to promote new or expanded business development; and

WHEREAS, the City Council of the City of Hutto, Texas is the governing body of the HCDC, who must adopt a resolution authorizing a project under Section 505.158 after giving the resolution at least two readings; and

WHEREAS, the HCDC held a public hearing regarding establishing a project for the KOKE-Fest event on October 5, 2020; and

WHEREAS, the HCDC adopted a resolution on November 2, 2020 establishing a project under Section 505.158 for the funding and partial assignment of the certain of the City’s rights and obligations under the Agreement; and

WHEREAS, the City may have one or both of the required readings on March 4, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hutto, Texas that:

Section 1. The items described in the recitals above are found to be true and correct.

Section 2. The City Council of the City of Hutto, Texas approves of the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation (the “HCDC”) establishing a Project under Section 505.158 of the Act for the Funding and Partial Assignment for Koke-Fest.

Section 3. The City Council hereby declares that written notice of the date, hour and place 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 when 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.

CONSIDERED AND RESOLVED by the City Council of the City of Hutto on this ____ day of _____ 2021.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

**HUTTO COMMUNITY DEVELOPMENT CORPORATION
RESOLUTION NO. R-2020-110**

**A RESOLUTION OF THE HUTTO COMMUNITY
DEVELOPMENT CORPORATION BOARD OF DIRECTORS
APPROVING A PROJECT TO PROMOTE NEW OR EXPANDED
BUSINESS DEVELOPMENT FOR THE KOKEFEST PROJECT
AND AUTHORIZING THE CHAIRPERSON OF THE HUTTO
COMMUNITY DEVELOPMENT CORPORATION TO EXECUTE
SAID PROJECT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Hutto Economic Development Corporation, Type B dba the Hutto Community Development Corporation (the "HCDC") is a Type B Economic Development Corporation organized and operated pursuant to Texas Local Government Code Chapters 501, 502, 504 and 505 (the "Act"); and

WHEREAS, Section 505.158 of the Act defines an authorized "project" for a Type B Economic Development Corporation created by a municipality with a population of 20,000 or less to include . . . expenditures found by the corporation's board of directors to promote new or expanded business development; and

WHEREAS, the Board of Directors of the HCDC finds that the funding of the KOKE-fest event will promote the HCDC and promote or develop new or expanded business enterprises; and

WHEREAS, the Board of Directors held a public hearing regarding establishing a project for the KOKE-Fest event on October 5, 2020; and

WHEREAS, the HCDC is authorized by Section 505.158 of the Act authorizes the HCDC's expenditures for the KOKE-Fest event to promote or develop new or expanded business enterprises within the City of Hutto, Texas is an authorized project as provided by the Act.

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

I.

The HCDC hereby finds that the statements set forth in the recitals of this resolution are true and correct, and the HCDC hereby incorporates such recitals as a part of this resolution.

II.

The HCDC is authorized to enter into a Funding Agreement with the City of Hutto attached hereto as Exhibit "A", in which the City of Hutto assigns certain of its obligations contained in the Hotel Occupancy Tax Funding Agreement Between City of Hutto and GAR Broadcasting LLC for Kokefest, attached hereto as Exhibit "B".

III.

The HCDC authorizes the Executive Director to execute all necessary documents, agreements and contracts required to complete the necessary improvements to carry out this Project, provided that such documents agreement and contracts are approved as to form and legality by the HCDC General Counsel.

IV.

The HCDC directs the Executive Director and its General Counsel to develop an operational plan, license agreements and all other related materials necessary to operate the Small Business Incubator Project for Board consideration and approval, prior to the completion of the improvements to allow for operation upon completion of the improvements.

V.

This resolution shall be and is hereby cumulative of all other resolutions of the HCDC 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.

VI.

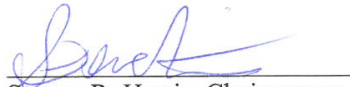
If any section, subsection, sentence, clause, or phrase of this resolution shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

VI.

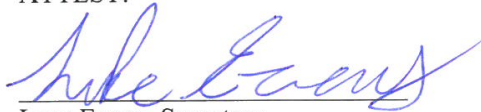
This resolution shall become effective and be in full force and effect from and after the date of passage and adoption by the Board of Directors of the HCDC, and upon approval thereof as prescribed by law.

PASSED AND ADOPTED by the Hutto Community Development Corporation on this 5th day of Nov. 2020.

APPROVED


Steven R. Harris, Chairperson

ATTEST:


Luas Evans, Secretary

**KOKEFEST FUNDING AGREEMENT
AND PARTIAL ASSIGNMENT**

This "KOKEFEST Funding Agreement and Partial Assignment" (the "Agreement") is made and entered into by the City of Hutto, a Texas home rule municipality located in Williamson County with a population of 20,000 or less that has been operating under a home-rule charter since February of 2004 (the "City") and the Hutto Economic Development Corporation, a Texas Type B Corporation dba the Hutto Community Development Corporation ("HCDC"); and

Chapter 380 of the Texas Local Government Code allows municipalities to establish economic development programs for the administration of programs making loans or grants of public money to promote local businesses and stimulate commercial activity in the municipality; and

The City entered into a Hotel Occupancy Tax Funding Agreement under Chapter 380 with GAR Broadcasting, LLC, a Texas limited liability company dba Austin Radio Network ("ARN") on or about March 12, 2018 to promote and conduct KOKEFEST at Hutto's Pollard Park on an annual basis; and

On November __, 2020, the City entered into an amended and restated Agreement with ARN to promote and conduct KOKEFEST (the "HOT Agreement"); and

On October 5, 2020, the HCDC held a public hearing to establish KOKEFEST as a business development project in the City pursuant to Section 505.158 of the Texas Local Government Code (the "Project"); and

On November 2, 2020, the HCDC approved KOKEFEST as a Project related to promoting new or expanded small business development in the City; and

The City Council of the City and the Board of Directors of the HCDC recognize the importance of acting as a resource to organizations who are hosting events in the City and activities that promote the economy as well as the arts; and

THEREFORE, in consideration of the mutual covenants and promises set forth below, the receipt and sufficiency of which are hereby acknowledged, the City and HCDC agree as follows:

SECTION 1. **PURPOSE.** The purpose of this Agreement is for the HCDC and City to enhance and promote the City of Hutto and the City's economy through expenditures that promote the arts and new or expanded business development through economic development projects as defined in Chapters 501, 502 and 505 of the Texas Local Government Code (the "Act").

SECTION 2. **OBLIGATIONS OF THE HCDC.**

(a) The HCDC shall provide funding to the City in an annual amount not to exceed two hundred fifty thousand dollars (\$250,000) for the co-funding of the Project and solely for the use of this eligible event.

(b) The HCDC shall provide these Funds to the City no more than thirty (30) days after receipt of the City's annual request.

SECTION 3. OBLIGATIONS OF THE CITY.

(a) The City will submit to the HCDC copies of receipts received from ARN as required by Section 5.b. of the HOT Agreement, a true and correct copy of which is attached hereto as Exhibit "A". No funding shall be made for expenses prior to receipt of these receipt copies.

(b) The HCDC funds shall only be used for those activities associated with activities covered under this Agreement for the Project.

(c) The City will submit to the HCDC a copy of the report required in Section 8.a. of the HOT Agreement.

(d) The City shall assign the commercial advertising time and professional services ARN granted the City in the HOT Agreement, Section 3.h. through 3.n. to the HCDC in exchange for the HCDC's annual payment set forth in Section 2(a), above.

(e) The City shall allow the HCDC or its auditors to conduct an audit of City books and records in conformance with Section 8.c. of the HOT Agreement.

SECTION 4. RIGHTS. The HCDC has the right to inspect the books or records of the City that may relate to the performance of this Agreement during normal business hours upon reasonable notice.

SECTION 5. TERM. This Agreement becomes effective on January 1, 2021 and terminates on December 31, 2021. The Parties may renew this Agreement by amendment signed by both Parties.

SECTION 6. RECAPTURE PROVISION. In the event the City is unable to use the funds according to this Agreement, or fails to appropriately spend the funds on the Project in accordance with the Act, or is otherwise in default under this Agreement, the City shall repay the HCDC all funds paid to the City for the Project.

SECTION 7. DEFAULT. The HCDC reserves the right to terminate this Agreement if the City fails to comply with the terms of this Agreement. The HCDC may terminate this Agreement for breach of any provision of this Agreement upon written notice of event of default and provide thirty (30) days in which to cure the breach to the satisfaction of the HCDC.

SECTION 8. NOTICE. All Notices required or permitted under this Agreement shall be in writing and shall be delivered in person or mailed to:

For the CITY:

Warren Hutmacher
City Manager
City of Hutto
500 West Live Oak Street
Hutto, Texas 78634

for the HCDC:

Steven R. Harris
Chairman, Board of Directors
Community Development Corporation

With a Copy to:

Alan Bojorquez
City Attorney
Bojorquez Law Firm PLLC
11675 Jollyville Road, Suite 300
Austin, TX 78759

With a Copy to:

George E. Hyde
General Counsel
Russell Rodriguez Hyde Bullock LLP
1633 Williams Drive, Bldg. 2, Suite 200
Georgetown, TX 78628

For GAR Broadcasting, LLC:

Lise Hudson
Market Manager
GAR Broadcasting, LLC
912 S. Cap. Of TX Hwy, Ste. 400
Austin, TX 78746

with a copy to:

Jason Nassour
3839 Bee Cave Rd., Ste 100
Austin, TX 78746

SECTION 9. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the Parties regarding the subject matter contained herein. The Parties may not modify or amend this Agreement, except by written agreement approved by the governing bodies of each party and duly executed by their authorized agents.

SECTION 10. APPROVAL. This Agreement has been duly considered and properly approved by each party's governing body and constitutes a binding obligation on each party.

SECTION 11. ASSIGNMENT. Except as otherwise provided in this Agreement, neither party may assign their duties under this Agreement nor subcontract the performance of services without first obtaining the written consent of the other party.

SECTION 12. NON-WAIVER. A party's failure to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

SECTION 13. HEADINGS. The various paragraph headings are inserted for convenience or reference only and shall not affect the meaning or interpretation of this Agreement or any section thereof.

SECTION 14. ATTORNEYS FEES. In any lawsuit concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party, plus all out-of-pocket expenses such as deposition costs, telephone calls, travel expenses, expert witness fees, court costs, and their reasonable expenses, unless otherwise prohibited by law.

SECTION 15. SEVERABILITY. If any of the terms, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences clauses, phrases, provisions, covenants or conditions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated by the offending term.

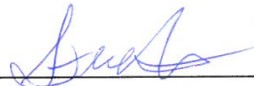
SECTION 16. VENUE. The parties agree that all disputes that arise from this Agreement are governed by the laws of the State of Texas and venue for all purposes herein shall be in Williamson County, Texas.

IN WITNESS WHEREOF, the City and the HCDT make and execute this Agreement on the dates reflected below.

CITY OF HUTTO, TEXAS:

HUTTO COMMUNITY DEVELOPMENT CORPORATION:

By: _____
Warren Hutmacher
City Manager

By:  _____
Steven R. Harris
Chairman, Board of Directors

Date: _____

Date: 11/5/2020

**CONSENT OF GAR Broadcasting, LLC dba
Austin Radio Network**

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"

Hotel Occupancy Tax Funding Agreement between the City of Hutto and
GAR Broadcasting, LLC for KOKEFEST
(44 Pages)

RESOLUTION NO. R-2020-110A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS, AUTHORIZING THE ESTABLISHMENT OF A SECTION 505.158 PROJECT AFTER TWO SEPARATE READINGS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about July 13, 2017, the City of Hutto, Texas, a home-rule municipality located in Williamson County, Texas, entered into a “Hotel Occupancy Tax Funding Agreement Between City of Hutto and GAR Broadcasting, LLC For KOKE-Fest” (the “Agreement”); and

WHEREAS, Hutto Economic Development Corporation, Type B dba the Hutto Community Development Corporation (the “HCDC”) is a Type B Economic Development Corporation organized and operated pursuant to Texas Local Government Code Chapters 501, 502, 504 and 505 (the “Act”); and

WHEREAS, Section 505.158 of the Act defines an authorized “project” for a Type B Economic Development Corporation created by a municipality with a population of 20,000 or less to include . . . expenditures found by the corporation’s board of directors to promote new or expanded business development; and

WHEREAS, the City Council of the City of Hutto, Texas is the governing body of the HCDC, who must adopt a resolution authorizing a project under Section 505.158 after giving the resolution at least two readings; and

WHEREAS, the HCDC held a public hearing regarding establishing a project for the KOKE-Fest event on October 5, 2020; and

WHEREAS, the HCDC adopted a resolution on November 2, 2020 establishing a project under Section 505.158 for the funding and partial assignment of the certain of the City’s rights and obligations under the Agreement; and

WHEREAS, the City may have one or both of the required readings on March 4, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hutto, Texas that:

Section 1. The items described in the recitals above are found to be true and correct.

Section 2. The City Council of the City of Hutto, Texas approves of the Hutto Economic Development Corporation, Type B dba Hutto Community Development Corporation (the “HCDC”) establishing a Project under Section 505.158 of the Act for the Funding and Partial Assignment for Koke-Fest.

Section 3. The City Council hereby declares that written notice of the date, hour and place 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 when 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.

CONSIDERED AND RESOLVED by the City Council of the City of Hutto on this ____ day of _____ 2021.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

**HUTTO COMMUNITY DEVELOPMENT CORPORATION
RESOLUTION NO. R-2020-110**

**A RESOLUTION OF THE HUTTO COMMUNITY
DEVELOPMENT CORPORATION BOARD OF DIRECTORS
APPROVING A PROJECT TO PROMOTE NEW OR EXPANDED
BUSINESS DEVELOPMENT FOR THE KOKEFEST PROJECT
AND AUTHORIZING THE CHAIRPERSON OF THE HUTTO
COMMUNITY DEVELOPMENT CORPORATION TO EXECUTE
SAID PROJECT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Hutto Economic Development Corporation, Type B dba the Hutto Community Development Corporation (the "HCDC") is a Type B Economic Development Corporation organized and operated pursuant to Texas Local Government Code Chapters 501, 502, 504 and 505 (the "Act"); and

WHEREAS, Section 505.158 of the Act defines an authorized "project" for a Type B Economic Development Corporation created by a municipality with a population of 20,000 or less to include . . . expenditures found by the corporation's board of directors to promote new or expanded business development; and

WHEREAS, the Board of Directors of the HCDC finds that the funding of the KOKE-fest event will promote the HCDC and promote or develop new or expanded business enterprises; and

WHEREAS, the Board of Directors held a public hearing regarding establishing a project for the KOKE-Fest event on October 5, 2020; and

WHEREAS, the HCDC is authorized by Section 505.158 of the Act authorizes the HCDC's expenditures for the KOKE-Fest event to promote or develop new or expanded business enterprises within the City of Hutto, Texas is an authorized project as provided by the Act.

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

I.

The HCDC hereby finds that the statements set forth in the recitals of this resolution are true and correct, and the HCDC hereby incorporates such recitals as a part of this resolution.

II.

The HCDC is authorized to enter into a Funding Agreement with the City of Hutto attached hereto as Exhibit "A", in which the City of Hutto assigns certain of its obligations contained in the Hotel Occupancy Tax Funding Agreement Between City of Hutto and GAR Broadcasting LLC for Kokefest, attached hereto as Exhibit "B".

III.

The HCDC authorizes the Executive Director to execute all necessary documents, agreements and contracts required to complete the necessary improvements to carry out this Project, provided that such documents agreement and contracts are approved as to form and legality by the HCDC General Counsel.

IV.

The HCDC directs the Executive Director and its General Counsel to develop an operational plan, license agreements and all other related materials necessary to operate the Small Business Incubator Project for Board consideration and approval, prior to the completion of the improvements to allow for operation upon completion of the improvements.

V.

This resolution shall be and is hereby cumulative of all other resolutions of the HCDC 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.

VI.

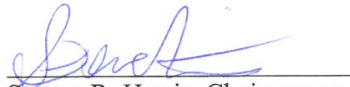
If any section, subsection, sentence, clause, or phrase of this resolution shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

VI.

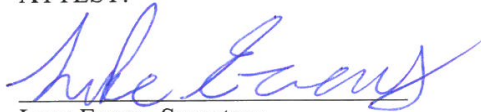
This resolution shall become effective and be in full force and effect from and after the date of passage and adoption by the Board of Directors of the HCDC, and upon approval thereof as prescribed by law.

PASSED AND ADOPTED by the Hutto Community Development Corporation on this 5th day of Nov. 2020.

APPROVED


Steven R. Harris, Chairperson

ATTEST:


Luas Evans, Secretary

**KOKEFEST FUNDING AGREEMENT
AND PARTIAL ASSIGNMENT**

This "KOKEFEST Funding Agreement and Partial Assignment" (the "Agreement") is made and entered into by the City of Hutto, a Texas home rule municipality located in Williamson County with a population of 20,000 or less that has been operating under a home-rule charter since February of 2004 (the "City") and the Hutto Economic Development Corporation, a Texas Type B Corporation dba the Hutto Community Development Corporation ("HCDC"); and

Chapter 380 of the Texas Local Government Code allows municipalities to establish economic development programs for the administration of programs making loans or grants of public money to promote local businesses and stimulate commercial activity in the municipality; and

The City entered into a Hotel Occupancy Tax Funding Agreement under Chapter 380 with GAR Broadcasting, LLC, a Texas limited liability company dba Austin Radio Network ("ARN") on or about March 12, 2018 to promote and conduct KOKEFEST at Hutto's Pollard Park on an annual basis; and

On November __, 2020, the City entered into an amended and restated Agreement with ARN to promote and conduct KOKEFEST (the "HOT Agreement"); and

On October 5, 2020, the HCDC held a public hearing to establish KOKEFEST as a business development project in the City pursuant to Section 505.158 of the Texas Local Government Code (the "Project"); and

On November 2, 2020, the HCDC approved KOKEFEST as a Project related to promoting new or expanded small business development in the City; and

The City Council of the City and the Board of Directors of the HCDC recognize the importance of acting as a resource to organizations who are hosting events in the City and activities that promote the economy as well as the arts; and

THEREFORE, in consideration of the mutual covenants and promises set forth below, the receipt and sufficiency of which are hereby acknowledged, the City and HCDC agree as follows:

SECTION 1. **PURPOSE.** The purpose of this Agreement is for the HCDC and City to enhance and promote the City of Hutto and the City's economy through expenditures that promote the arts and new or expanded business development through economic development projects as defined in Chapters 501, 502 and 505 of the Texas Local Government Code (the "Act").

SECTION 2. **OBLIGATIONS OF THE HCDC.**

(a) The HCDC shall provide funding to the City in an annual amount not to exceed two hundred fifty thousand dollars (\$250,000) for the co-funding of the Project and solely for the use of this eligible event.

(b) The HCDC shall provide these Funds to the City no more than thirty (30) days after receipt of the City's annual request.

SECTION 3. OBLIGATIONS OF THE CITY.

(a) The City will submit to the HCDC copies of receipts received from ARN as required by Section 5.b. of the HOT Agreement, a true and correct copy of which is attached hereto as Exhibit "A". No funding shall be made for expenses prior to receipt of these receipt copies.

(b) The HCDC funds shall only be used for those activities associated with activities covered under this Agreement for the Project.

(c) The City will submit to the HCDC a copy of the report required in Section 8.a. of the HOT Agreement.

(d) The City shall assign the commercial advertising time and professional services ARN granted the City in the HOT Agreement, Section 3.h. through 3.n. to the HCDC in exchange for the HCDC's annual payment set forth in Section 2(a), above.

(e) The City shall allow the HCDC or its auditors to conduct an audit of City books and records in conformance with Section 8.c. of the HOT Agreement.

SECTION 4. RIGHTS. The HCDC has the right to inspect the books or records of the City that may relate to the performance of this Agreement during normal business hours upon reasonable notice.

SECTION 5. TERM. This Agreement becomes effective on January 1, 2021 and terminates on December 31, 2021. The Parties may renew this Agreement by amendment signed by both Parties.

SECTION 6. RECAPTURE PROVISION. In the event the City is unable to use the funds according to this Agreement, or fails to appropriately spend the funds on the Project in accordance with the Act, or is otherwise in default under this Agreement, the City shall repay the HCDC all funds paid to the City for the Project.

SECTION 7. DEFAULT. The HCDC reserves the right to terminate this Agreement if the City fails to comply with the terms of this Agreement. The HCDC may terminate this Agreement for breach of any provision of this Agreement upon written notice of event of default and provide thirty (30) days in which to cure the breach to the satisfaction of the HCDC.

SECTION 8. NOTICE. All Notices required or permitted under this Agreement shall be in writing and shall be delivered in person or mailed to:

For the CITY:

Warren Hutmacher
City Manager
City of Hutto
500 West Live Oak Street
Hutto, Texas 78634

for the HCDC:

Steven R. Harris
Chairman, Board of Directors
Community Development Corporation

With a Copy to:

Alan Bojorquez
City Attorney
Bojorquez Law Firm PLLC
11675 Jollyville Road, Suite 300
Austin, TX 78759

With a Copy to:

George E. Hyde
General Counsel
Russell Rodriguez Hyde Bullock LLP
1633 Williams Drive, Bldg. 2, Suite 200
Georgetown, TX 78628

For GAR Broadcasting, LLC:

Lise Hudson
Market Manager
GAR Broadcasting, LLC
912 S. Cap. Of TX Hwy, Ste. 400
Austin, TX 78746

with a copy to:

Jason Nassour
3839 Bee Cave Rd., Ste 100
Austin, TX 78746

SECTION 9. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the Parties regarding the subject matter contained herein. The Parties may not modify or amend this Agreement, except by written agreement approved by the governing bodies of each party and duly executed by their authorized agents.

SECTION 10. APPROVAL. This Agreement has been duly considered and properly approved by each party's governing body and constitutes a binding obligation on each party.

SECTION 11. ASSIGNMENT. Except as otherwise provided in this Agreement, neither party may assign their duties under this Agreement nor subcontract the performance of services without first obtaining the written consent of the other party.

SECTION 12. NON-WAIVER. A party's failure to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

SECTION 13. HEADINGS. The various paragraph headings are inserted for convenience or reference only and shall not affect the meaning or interpretation of this Agreement or any section thereof.

SECTION 14. ATTORNEYS FEES. In any lawsuit concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party, plus all out-of-pocket expenses such as deposition costs, telephone calls, travel expenses, expert witness fees, court costs, and their reasonable expenses, unless otherwise prohibited by law.

SECTION 15. SEVERABILITY. If any of the terms, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences clauses, phrases, provisions, covenants or conditions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated by the offending term.

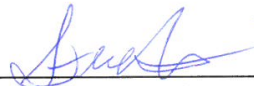
SECTION 16. VENUE. The parties agree that all disputes that arise from this Agreement are governed by the laws of the State of Texas and venue for all purposes herein shall be in Williamson County, Texas.

IN WITNESS WHEREOF, the City and the HCDT make and execute this Agreement on the dates reflected below.

CITY OF HUTTO, TEXAS:

HUTTO COMMUNITY DEVELOPMENT CORPORATION:

By: _____
Warren Hutmacher
City Manager

By:  _____
Steven R. Harris
Chairman, Board of Directors

Date: _____

Date: 11/5/2020

**CONSENT OF GAR Broadcasting, LLC dba
Austin Radio Network**

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"

Hotel Occupancy Tax Funding Agreement between the City of Hutto and
GAR Broadcasting, LLC for KOKEFEST
(44 Pages)

RESOLUTION NO. R-2021-032

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS
APPROVING THE AMENDED AND RESTATED HUTTO-
KOKEFEST AGREEMENT BETWEEN THE CITY OF
HUTTO AND GAR BROADCASTING, LLC;
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
PUBLIC AGREEMENT; AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the City Council desires to enter into an Amended and Restated Hutto-KOKEFEST Agreement between the City of Hutto and GAR Broadcasting, LLC; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Amended and Restated Hutto-KOKEFEST Agreement between the City of Hutto and GAR Broadcasting, LLC, attached as Exhibit A;

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: That the Hutto City Council hereby approves and authorizes the City Manager to execute the Amended and Restated Hutto-KOKEFEST Agreement between the City of Hutto and GAR Broadcasting, LLC, attached as Exhibit "A", a copy of same being attached hereto and incorporated herein for all purposes.

SECTION 3: 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 25th day of February, 2021.

Mike Snyder, Mayor Pro Tem

ATTEST:

Holly Nagy, City Secretary

**AMENDED AND RESTATED
HUTTO-KOKEFEST AGREEMENT
BETWEEN CITY OF HUTTO AND TEXAS MUSIC NETWORK**

This Amended and Restated **HUTTO-KOKEFEST AGREEMENT** ("Agreement") is entered into as of the ____ day of _____, 2021 ("Effective Date"), by and between Texas Music Network, a Texas limited liability company, d/b/a Austin Radio Network ("ARN") and the City of Hutto, Texas, a Texas home-rule municipal corporation (the "City").

RECITALS:

WHEREAS, ARN is a broadcast and media production company that seeks to promote Hutto to residents and visitors; and

WHEREAS, ARN desires to promote, organize and conduct an annual music festival ("KOKEFEST") at Hutto Park at Brushy Creek or as otherwise agreed upon within the city limits of Hutto, Texas ("Venue"). "KOKEFEST" is hereafter referred to as the "Event"; and

WHEREAS, the City desires to have ARN promote and conduct KOKEFEST at the Venue; and

WHEREAS, the Parties desire to amend and restate the Original Agreement in its entirety with this Agreement to provide for the terms, including funding obligations for the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the receipt and sufficiency of which are hereby acknowledged, ARN and the City hereby agree as follows:

1. **Events:** ARN shall promote, organize and conduct the Event listed on Exhibit A, as may be amended from time to time.
2. **Term:** Future Modifications. The term of the Original Agreement commenced on July 13, 2017 and extended through December 31, 2026. The Original Agreement for the 2017-2018 period served as the baseline year. The 2020-2021 Agreement begins year four of the term. The parties realize that as the Event proceeds from year to year, changes and modifications to the Agreement will be appropriate and the parties agree to negotiate in good faith such changes and modifications as may be required and are reasonable from time to time to continue to reflect the intent of the parties as set out in this Agreement. The parties agree that at the end of the term of the Original Agreement, the Agreement may be extended for an additional seven (7) year term.
3. **Obligations of ARN.**
 - a. **Licenses.** ARN shall be responsible for maintaining licenses for alcoholic beverage sales, managing food and retail vendors and similar subcontractors during performances.

- (i) All alcohol expenses and revenue from such will be expended and retained by ARN.
- b. Marketing. ARN shall use generally accepted practices to perform all organizational, marketing and promotional activities for the Event except as otherwise provided herein.
 - (i) ARN will secure and oversee a marketing a promotions team to promote Event, to include securing and overseeing on-air, online, and print advertising, on stage, and backstage staff.
- c. Experience. ARN will create a complete event experience, to include lighting, staging, backlighting, activities, performances, food through a licensed concessionaire, retail and other entertainment for ticket holders, including special provisions for the VIP experience, and in doing so will lead, develop, manage, and execute all event logistics.
 - (i) ARN will secure and oversee games, photo booth and videographer.
- d. Management. ARN will secure and oversee details for the event, providing management of the Event, talent, food, retail and other subcontractors, including police, security, EMS and fire, and as such will be responsible for all interactions between the artists, vendors, and subcontractors for Event.
 - (i) ARN will secure and oversee catering for stagehands, on the ground venue staff and first responders.
 - (ii) ARN will secure and oversee concert ticketing and ticketing staff, and gate staff, creating a custom experience for VIP ticket holders.
 - (iii) ARN will secure and oversee a logistics team to work in conjunction with the City personnel provided to support the Event.
 - (iv) ARN will secure and oversee RVs, golf carts, and gators to support Event and Event staff.
 - (v) ARN will secure and oversee parking, on-site signage, mobile restrooms, fans, misters, heating elements, onsite barricades, fencing, artist areas, refuse services, waste collection, cleanup and make-ready.
 - (vi) To the extent there is anything not stated herein but is determined by ARN to be a part of the KOKEFEST experience, such will be subject to the management, control and oversight of ARN.
- e. Tourism. ARN will coordinate with hotels to reserve blocks of rooms for visitors brought into the City for the Event, given preference where possible to hotels located within the City.
- f. Landowners Coordination. ARN will also use best efforts to coordinate landowners regarding use and relationship to property not controlled by City.

- g. ARN represents that it will deliver the Event, subject to a Force Majeure Event or any prohibition by the City, state or federal ordinance, regulation or law as to any portion or all of the Event that substantially and negatively impacts the Event or would make the event financially unreasonable.
- h. Except as otherwise provided herein with respect to the City's funding obligation as provided in Section 5.a, ARN shall be responsible for all financial obligations in connection with the Event.
- i. ARN will grant to City commercial advertising to attract tourists to the Hutto area to be placed on radio stations controlled by ARN and agreed to by City having a total value of Fifty Thousand Dollars (\$50,000.00). ARN will provide Print and/or Web advertising and or social media advertising for the City for a value of Seventeen Thousand Five Hundred Dollars (\$17,500.00) on ARN platforms and partner platforms:
 - (i) Values will be determined based on ARN's then highest value on its standard rate card.
 - (ii) The advertising may be placed for periods, times and days agreed to by the parties and is subject to availability.
 - (iii) The advertising may be used by the City for promotion of the City and the City's economy.
 - (iv) ARN will provide commercial scripts and production using internal ARN resources, provided outside talent and/or resources are not required.
 - (v) Commercials will vary from fifteen (15) seconds, thirty (30) seconds and sixty (60) seconds as appropriate.
- j. ARN will provide reasonable amounts (not less than \$200,000.00) of promotional advertising to promote the Event and highlighting the City, attracting tourism to the Hutto area.
- k. ARN will air no less than ten (10) times, 10-15 second commercials provided use by the City to promote economic development on the video board used during the Event.
- l. ARN will provide two booth spaces at the Event and tents to cover the booth spaces to be used by the City for tourism and economic development promotion during the Event.
- m. ARN will provide promotional presence for a minimum of sixteen (16) weeks on social media, website and advertising values at an additional Twenty-five Thousand Dollars (\$25,000.00).
- n. ARN's obligations pursuant to subparagraphs 3.i.-3.n. are in consideration for the City's obligations under Section 5 of this Agreement, which include the agreement to pay Three Hundred and fifty thousand dollars (\$350,000.00). The City shall notify ARN on the first of October each year that funds are available for the Event.

- o. ARN will, where possible, give current City gym, food and retail vendors and local City businesses the right of first refusal to have a presence to provide merchandise and service at the Event.
- 4. Funding. The City intends to make a portion of its payment as provided in this Agreement from the City's Hotel Occupancy Tax Fund, as long as Hotel Occupancy Tax Funds are available. Funds paid by the City are subject to appropriation in a yearly City Council approved budget from either the Hotel Occupancy Tax Fund or other City funds. The failure of the City to provide an approved budget for the base funds as agreed on in this Agreement or such other funds as may be agreed on in the future shall entitle ARN to cancel this Agreement.
- 5. Obligations of City.
 - a. ARN's performance and compliance with the terms of this Agreement shall obligate the City to pay ARN a total of Three Hundred and Fifty Thousand dollars (\$350,000.00) pursuant to the payment terms provided herein. All funding will be used by ARN to promote and advertise to attract to the Hutto vicinity, and to encourage vocal and instrumental music through the Event.
 - b. Terms of Funding. The City will pay ARN, subject to receipt of a proper invoice from ARN, the amount of Two Hundred Thousand Dollars (\$200,000.00) as expenses associated with event are incurred and presented in advance of the Event. The City shall not make reimbursements for expenses where no receipt or invoice is provided. The remainder of the three hundred and fifty thousand dollars (\$350,000.00) payable shall be paid upon receipt of the initial report pursuant to Paragraph 8 herein which is anticipated to be paid within thirty (30) days of receipt of the initial report, unless there is a bona fide dispute between the City and ARN concerning goods, supplies, materials, equipment delivered, or the services performed. The City shall notify ARN of any disputed amounts within ten (10) business days of receipt of initial report.
 - c. Venue. The City will provide a venue for the Event, that includes water (running or trucked in) adequate to meet the demands of the Event for backstage and concert grounds, and lighted parking areas for concert patrons, vendors and artists; lighted, paved or gravel parking area for staff, truck, RV, vendors, talent, and patrons.
 - d. Make Ready. The City will provide Venue in "make-ready" condition and will maintain the Venue. For purposes of this Agreement, "make-ready is defined as:
 - (i) Safe entry, exit and return to the Venue including roadways for 18-wheel trucks to enter, park, and exit property safely,
 - (ii) Parking and parking alternatives,
 - (iii) The Venue has been treated for ants, snakes and other forms of dangerous wildlife, and

- (iv) The Venue will be mowed, cleared, and cleaned of debris, rocks and broken branches.
- e. Evacuation Plan. The City will provide an evacuation plan with appropriate signage.
- f. Traffic. The City will post all signage tied to traffic flow, entry and exiting of the Venue, and will take responsibility for supplying road barriers, traffic control plan, highway signage and alcohol and firearm signage. Plans will be provided a minimum of ninety (90) days prior to the Event. ARN and concessionaire will post alcohol and firearm signage per TABC requirements.
- g. Collaboration. The City will collaborate with ARN staff and logistics team, including third party event and security teams, and third-party traffic control personnel.
 - (i) The City will coordinate with the ESD for fire, and EMS support for Event. ARN shall be responsible for all financial obligations in connection with the police support for the Event.
- h. Promotion. The City will promote Event through the City's social media outlets, website, and other means available to City.
- i. Personnel. The City will provide a primary liaison, permit/event coordinator, and public safety primary contact for the Event to work in collaboration with ARN.
- j. Permits, Approvals. The City will assist to facilitate any and all necessary permits or entitlements necessary for ARN to promote and execute the Event, and work as a liaison between ARN and state, county, and local entities to assist with permitting.
 - (i) The City will extend the noise ordinance, waiving restrictions to decibel levels to 12:00 a.m. as necessary. The City Manager and Chief of Police or their designees may grant a special exception and extend the noise ordinance to 12:30 in the event of unforeseeable delays beyond the control of ARN upon receipt of an application for a special exception in accordance with the City's rules and regulations.
 - (ii) The City will assist in providing necessary event notification to areas surrounding the Event grounds that may be affected, at least 30 days prior to the Event.
 - (i) The City also grants to ARN permits and permission to place advertising, traffic control and security signs at locations approved by the City Manager. Proper sign permits applications must be submitted to the City and the sign permit fee shall be waived.
- k. Miscellaneous Obligations.
 - (i) City will use its mobile marquis sign on CR 137 to support the Event so long as the sign is not needed for a necessary transportation or emergency use.

- (ii) City will ensure all electrical equipment and water facilities are operational and will recheck on Wednesday prior to the Event.
 - (iii) City will mow all grass areas of the Venue.
 - (iv) City will treat for ants and mosquitoes not less than three (3) days prior to the Event and recheck one (1) day prior to the Event.
 - (v) City will have a representative of City on-site during the Event to assist ARN with any issues that may arise.
6. Cooperation. ARN and the City will cooperate with each other in good faith to achieve a successful Event, and neither of the parties shall take actions that will jeopardize the continuation or reputation of the Event or the other party.
7. Funding and Payment Terms.
- a. Use of Awarded Funds. ARN shall use awarded funds provided by the City in accordance with Chapter 351 of the Texas Tax Code, the City's Hotel Occupancy Tax Use Policy, attached hereto as Exhibit B, and ARN's funding application, attached hereto as Exhibit C.
8. Reporting Requirements.
- a. ARN shall deliver a report in a reasonable form acceptable to the City Manager detailing the use of Hotel Occupancy Tax revenues or other funding sources (collectively, "Funding Sources") at the time the City provides initial funds for the Event and following the completion of the Event. The report will include details of advertising and marketing activities described in Section 3(b), use of local vendors and use of local hotels and other facilities. Copies of receipts shall be provided for expenses to be reimbursed using Funding Sources. The City shall not make reimbursements for expenses where no receipt or invoice is provided. Reports shall include Event information including but not limited to total revenues, total expenses, estimated number of attendees versus expected, financial impact of the Event. ARN shall submit a report within thirty (30) days of the Event. The City shall issue reimbursements within thirty (30) days of receiving the complete report. Partial or incomplete reports will not be accepted. The initial report to the City shall contain a general summary of attendance, economic benefits and expenses with a more detailed report provided by ARN to the City within sixty (60) days after conclusion of the Event.
 - b. Authorization of Payment. City shall submit payment to ARN within thirty (30) days of receipt of initial report. Absent any specific guidelines from the city, any reasonable form and substance to the report tendered by ARN will be deemed sufficient.
 - c. Inspection; Audit. The City shall have the right at any time to inspect the books and records of ARN that may relate to this Agreement. The City shall have the right to audit, at the City's expense, any reports or documents submitted by ARN to the City upon not less than thirty (30) days prior written notice to ARN.

9. Postponement. ARN shall decide if an Event must be postponed due to weather and/or competition issues with other events within sixty (60) miles of such Event with input from and in consultation with the City. The City or other government entity with competent jurisdiction shall decide if an Event must be postponed due to pandemic or other public health or natural emergency to the extent not prohibited by State or Federal law. If required, ARN and City shall mutually agree upon an Event postponement schedule. Neither party shall publish or otherwise make an announcement of a postponement without the written approval of the other not to be unreasonably withheld. In the event of postponement, ARN, to the extent reasonably possible, will terminate expenditure of funds provided by City and refund to City the funds unspent. To the extent that City funds have been spent or committed, and commitments cannot be terminated, ARN will enter into an agreement with City to provide advertising on ARN stations at then current standard rate card rates for promotion of the City and its economic development activities.

10. Term. This agreement shall be in effect through December 31, 2026.

11. Termination. Upon the occurrence of an Event of Default and expiration of the cure periods provided in Section 13 of this Agreement, the non-defaulting party shall have the right to terminate this Agreement.

12. Representations and Warranties.

a. Representations and Warranties of ARN.

(i) Authorization. ARN is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Texas with authority to perform its obligations under this Agreement.

(ii) Performance. Performance of this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which ARN is a party or by which ARN may be bound.

(iii) Execution. The execution and delivery by ARN of, and ARN's performance under, this Agreement are within ARN's powers and have been duly authorized by all requisite organizational action. The Person executing this Agreement on behalf of ARN has the authority to do so. This Agreement constitutes the legal, valid and binding obligation of ARN enforceable in accordance with its terms.

(iv) Litigation. ARN has not received written notice and has no actual knowledge of any litigation pending or threatened against ARN that might adversely affect ARN's ability to perform its obligations under this Agreement.

b. Representations and Warranties of City.

(i) Authorization. The City is a municipal corporation with full right and authority to enter into this Agreement and to consummate the transactions described in this Agreement.

- (ii) Performance. Performance of this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which the City is a party or by which the City may be bound.
- (iii) Execution. The execution and delivery of, and the City's performance under, this Agreement are within the City's powers and have been duly authorized by all requisite municipal action. Each of the parties executing this Agreement on behalf of the City is duly authorized to do so. This Agreement constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms.

13. Events of Default; Remedies. For purposes of this Agreement, "Event of Default" means: (i) Failure of either party to abide by the terms and conditions of this Agreement, and the defaulting party fails to cure such failure within ten (10) days of its receipt of written notice reasonably detailing the failure to comply, or if the Event of Default occurs less than thirty (30) days prior to the Event, the defaulting party shall have forty-eight hours (48) to cure such Event of Default; (ii) the inability of ARN to conform to any change required by federal, state or local laws or regulations; (iii) a change, material or otherwise, in the ownership, control or management of ARN, unless otherwise expressly permitted by this Agreement or consented to in writing between the parties; and/or (iv) a statement by either party that it is not or will not be able to pay its debts as they become due; an application or agreement by either party for the appointment of a receiver or trustee in liquidation; a general assignment by either party for the benefit of creditors; the filing by either party of a voluntary petition in bankruptcy or a petition seeking reorganization or an arrangement of creditors under any bankruptcy law; the filing by another person or entity of a petition under any bankruptcy law that makes either party, or the adjudication of either party, as bankrupt under any bankruptcy law. If there is an Event of Default caused by either party, at its option the non-defaulting party may, by written notice to the defaulting party, terminate this Agreement in accordance with the notice and cure periods described above and/or withhold any payments due to the defaulting party under this Agreement. If this Agreement is terminated, such termination shall be effective as of the date the notice is received or two (2) days after written notice is sent by overnight carrier or certified mail. The defaulting party shall promptly comply with all monetary obligations that have accrued as of the effective date of termination, and all other terms and conditions of this Agreement shall survive such termination. Nothing in this Section shall be construed to limit the non-defaulting party's other rights or remedies.

14. DISCLAIMER OF LIABILITY. NEITHER CITY NOR ANY OF ITS PAST, PRESENT OR FUTURE OFFICERS, EMPLOYEES, DIRECTORS, MANAGERS OR AGENTS (COLLECTIVELY, THE "CITY PARTIES"), WILL BE LIABLE OR RESPONSIBLE FOR ANY LOSS, DAMAGE, OR INJURY TO ANY PERSON OR TO ANY PROPERTY OF ARN OR ARN'S EMPLOYEES, OFFICERS, DIRECTORS, SUCCESSORS, ASSIGNS, AGENTS, CONTRACTORS, SUBCONTRACTORS, SUBCONTRACTORS, SUPPLIERS, INVITEES AND ALL OTHER PERSONS PERFORMING SERVICES OR SUPPLYING GOODS ON ARN'S BEHALF, UNLESS SUCH LOSS, DAMAGE OR INJURY IS THROUGH THE NEGLIGENT ACTIONS OR INACTIONS OF THE CITY PARTIES AND THEN ONLY TO ANY EXTENT THAT THE TEXAS LEGISLATURE HAS WAIVED THE CITY'S IMMUNITY FROM SUIT, AND

NOTHING HEREIN WILL ABSOLVE THE CITY OF ANY POTENTIAL LIABILITY THAT IT MIGHT HAVE INDEPENDENT OF THE ACTIONS/IN ACTIONS OF ARN.

15. INDEMNIFICATION. ARN AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY AND PAST, PRESENT AND FUTURE OFFICERS, AGENTS AND EMPLOYEES OF THE CITY, FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, CAUSE OF ACTION, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ARN'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ARN'S NEGLIGENCE, GROSS NEGLIGENCE, OR INTENTIONAL CONDUCT. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THE CITY PARTIES, AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. BOTH PARTIES EXPRESSLY AGREE THAT THIS AGREEMENT DOES NOT ASSIGN ANY RESPONSIBILITY FOR CIVIL LIABILITY TO THE CITY OF HUTTO THAT MAY ARISE BY VIRTUE OF THIS AGREEMENT.

16. Insurance.

a. Required Coverage. ARN shall maintain and require its subcontractors to maintain in effect throughout the entire term of this Agreement, insurance coverage (under an "occurrence" policy form) with an insurance company or companies in the amount described below insuring: (a) ARN's indemnity obligations under this Agreement; (b) statutory workers compensation; and (c) ARN's liability for any property damage, bodily injuries or death sustained by any persons or persons, including agents and employees of ARN, which was in any manner caused by, arising from, or related to the Events. As a condition to City's obligations under this Agreement going into effect and prior to ARN commencing any work under this Agreement, ARN shall provide to City one or more Certificates of Insurance that together will certify the existence of all coverage required hereunder and Additional Insured Endorsements naming City, as an additional insured thereunder. The copies of the policies covered by such certificates must include all endorsements, exclusions, amendments, renewals, extensions and other documents changing any coverage or terms. All such insurance shall be kept and maintained without cost or expense to City during the term of this Agreement. Failure to maintain continuous insurance coverage by ARN shall represent a material breach of ARN's obligations under this Agreement. All policies of insurance shall waive any and all rights of subrogation against City pursuant to Subsection (b) below. Additional insured coverage shall apply as primary insurance with respect to any other insurance afforded to the City of Hutto. The coverage available to City shall not be less than the limits set forth below. Without limiting any of the foregoing, ARN agrees to secure and maintain, at ARN's sole cost and expense, the following insurance, at the coverage limits specified:

- (i) Workers Compensation Insurance. In accordance with the laws of the State of Texas, statutory requirements must be evidenced in a certificate inclusive of

limits in the amount of \$1,000,000 employer's liability each accident, \$1,000,000 each employee and \$1,000,000 policy limit.

- (ii) Comprehensive General Liability. Required limits are \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
- (iii) Automobile Liability. Combined bodily injury and property damage liability with a combined single limit of \$1,000,000.
- (iv) Rain Out Insurance. (To be determined prior to each Event.)

b. Waiver of Subrogation. ARN's insurance shall contain a waiver of subrogation clause. For purposes of waiver of subrogation, ARN releases City, its affiliates and each of their respective officers, directors, employees, and agents from any claims based on negligence or otherwise, for loss, damage, injury or death which occur hereafter and are insured against by ARN under insurance policies carried by ARN. ARN shall furnish to City the waiver of subrogation endorsement consistent with the terms of this Agreement.

17. Compliance with Laws. ARN and City shall comply with all local, state and federal laws and regulations applicable to ARN, promotion and occurrence of the Event and ARN shall obtain in a timely manner all necessary licenses, permits or other governmental approvals required for the Event, unless otherwise granted by this Agreement.

18. Notice. All notices required or permitted under this AGREEMENT shall be deemed delivered by actual delivery, by electronic mail, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

to the City:

City of Hutto
Attention: Warren Hutmacher, City Manager
500 W. Live Oak Street
Hutto, TX 78634
warren.hutmacher@huttotx.gov
(512) 759-4033

With a copy to:

Alan Bojorquez
Bojorquez Law Firm, PC.
11675 Jollyville Road, Suite 300
Austin, TX 78759

to ARN:

GAR BROADCASTING, LLC. (Austin Radio Network)
Attention: Lise Hudson, Market Manager
912 S. Capital of Texas Hwy, Ste. 400
Austin, TX 78746
lisehudson@austinradionetwork.com
(512) 416-1100

With a copy to:

Jason Nassour
3839 Bee Caves Road Suite 100
Austin Texas 78746
jason@keelnassour.com
(512) 480-8693 ext 1819

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

19. Miscellaneous.

- a. Relationship of Parties. Nothing in this Agreement shall be construed to make or render either party an agent, servant, or employee of or engaged in a joint venture with, the other.
- b. Force Majeure. "**Force Majeure Event**" means the occurrence of:
 - i. an act of war (whether declared or not), hostilities, invasion, act of foreign enemies, terrorism or civil disorder;
 - ii. pressure waves from devices travelling at supersonic speeds or damage caused by any aircraft or similar device;
 - iii. a strike or strikes or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not), in each case affecting on a general basis the industry related to the affected Services and which is not attributable to any unreasonable action or inaction on the part of the Company or any of its Subcontractors or suppliers and the settlement of which is beyond the reasonable control of all such persons;
 - iv. specific incidents of adverse weather conditions that would risk the safety of the persons attending the Event or the crew working the event, or weather conditions that impact the ability to put on the event;
 - v. tempest, earthquake or any other natural disaster of overwhelming proportions; pollution of water sources resulting from any plane crashing into the Property where the event is to be held;

- vi. orders or restraints of any kind of government of the United States of America or of the State of Texas or any state or any of their departments, agencies, political subdivisions or officials;
- vii. discontinuation of electricity supply; or
- viii. other unforeseeable circumstances beyond the control of the Parties, including but not limited to, nuclear catastrophes, interruptions, loss or failures of mechanical or communications systems, epidemics, a material adverse change in the COVID-19 pandemic or a new pandemic, against which it would have been unreasonable for the affected party to take precautions and which the affected party cannot avoid even by using its best efforts,

which in each case directly causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

- (a) Neither Party shall be in breach of its obligations under this Agreement (other than payment obligations) or incur any liability to the other Party for any losses or damages of any nature whatsoever incurred or suffered by that other (otherwise than under any express indemnity in this Agreement) if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure Event except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure Event had not occurred (in which case this Section 19(b) shall not apply to that extent).
- (b) As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, any Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.
- (c) ARN shall, and procure that its Subcontractors shall, at all times take all reasonable steps within their respective powers and consistent with Good Operating Practices (but without incurring unreasonable additional costs) to:
 - I. prevent Force Majeure Events affecting the performance of the Company's obligations under this Agreement;
 - II. mitigate the effect of any Force Majeure Event; and
 - III. comply with its obligations under this Agreement.

The Parties shall consult together in relation to the above matters following the occurrence of a Force Majeure Event.

c. Governing Law and Jurisdiction. The validity, interpretation and performance of this Agreement shall be governed by the laws of the State of Texas, without giving effect to the principles of comity or conflicts of laws thereof. The parties knowingly and voluntarily intend and agree that the mandatory, exclusive venue for any action in any way related to this Agreement or its enforcement shall be in Williamson County, Texas for state court claims, or the U.S. District Court, Western District of Texas for issues of diversity, or federal question. All parties hereby knowingly and voluntarily waive any and all objections to venue and personal jurisdiction in the foregoing, and submit themselves thereto without. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the aforementioned courts shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this Agreement.

d. Assignment. A party may not assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party, except as otherwise expressly permitted by this Agreement.

e. Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matter contained herein. All previous communications and negotiations between ARN and the City, whether oral or written, not contained herein are hereby withdrawn and void. This Agreement may not be amended except in writing and signed by both parties.

f. Approval. This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

g. Waiver. A party's failure or delay to exercise right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

h. Severability. The parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be in full force and effect.

i. Successors and Assigns. The rights and obligations contained in this Agreement shall bind, and inure to the benefit of the parties and their respective successors and permitted assigns.

j. Further Assurances. City shall have the right at any time to require adequate assurances of ARN's performance.

k. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

l. Survival. Sections 12-17 shall survive termination or earlier expiration of this Agreement.

m. No Personal liability of public officials or the City. To the extent permitted by State law, neither the City, any City agent or representative, nor any public official or employee shall be personally liable or responsible for any liability arising under or related to this Agreement.

No Boycott of Israel. If applicable, if the ARN employs 10 or more full-time employees and the contract has a value of \$100,000 or more, ARN shall comply with the provisions of Section 2271.002(b), Government Code that the ARN does not boycott Israel or that during the term of the contract will not boycott Israel.

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

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

20. Termination and Replacement of Prior Agreements. The Parties agree that the prior Hotel Occupancy Tax Funding Agreement between the City of Hutto and GAR Broadcasting, LLC for KOKEFEST dated March 1, 2019, and all prior agreements regarding KOKEFEST are terminated and replaced by this amended and restated Agreement set out herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

GAR Broadcasting, LLC, d/b/a Austin Radio Network

By: _____
Its: _____

Date: _____

CITY OF HUTTO, a municipal corporation

By: Warren Hutmacher, City Manager

Date: _____

Attest: _____
Holly Nagy, City Secretary

Date: _____

EXHIBIT A

KOKEFEST is a two-day long event taking place at the Hutto Park at Brushy Creek in Hutto

Event Date:

Charity: A portion of proceeds to benefit HONOR FLIGHT

Artists: are to be determined

Expected Attendance: 10-15,000

Onsite:

Parking will be coordinated onsite, with possible of transportation provided from offsite

Police / Fire/ EMS plan secured

Waste management - Clawson Waste Management, Hutto, Texas

All liquor is handled by TABC certified servers

Vendors to include food, games, and retail, and display of the eight food vendors are Hutto Businesses.

Vendor agreement includes Williamson County Festival Guidelines obtained from City of Hutto.

Firework Company or Balloon Company are vendors used by the City.

Holiday Inn Express and Suites and Hampton Inn and Suites are receiving web and on-air promotion.

EXHIBIT B

Advertising:

Commercials will run Monday-Sunday 6 a.m.-12 a.m. and M-F 5:30 a.m. –7:30 p.m. In some cases (dependent upon promotion of event or city economy) the City and Station have the discretion to place advertising in special evening and weekend programming.

Rates will be assigned according to the current rate card in the period or month the advertising is placed.

The number of commercials and length of flight will be determined when the commercial schedule is placed. The same applies to Social Media and Website banners.

Advertising schedules Social Media and Web site placement should be placed two weeks in advance and at which time the City will provide copy points.

Once the commercial is produced it may be approved by the city.

At the end of the advertising flight a statement will be sent to the City displaying flight days, times, and values.

Air Checks will be supplied up to two times per week when requested.

Current advertising rate cards are attached.

EXHIBIT C

City Application and policies are attached

City Council

AGENDA ITEM REPORT



To: City Council
Subject: Discussion and possible action on the selection of a consultant in response to the City of Hutto's Request for Qualifications for the Hutto 2040 Comprehensive Plan. (Ashley Lumpkin)
Meeting: City Council - 04 Mar 2021
Department: Development Services
Staff Contact: Ashley Lumpkin

BACKGROUND INFORMATION:

In January, the City of Hutto released a Request for Qualifications (RFQ) to select firms and those who responded to the published notice. Evaluation Personnel reviewed each respondent's submission to ascertain their capability to perform all the requirements contemplated by the solicitation.

The following RFQ timeline was followed:

Date	Event
January 17, 2021	Advertise intent to solicit qualifications.
January 17, 2021	Distribute Request for Qualification (RFQ) to select firms, as well as those responding to the published notice.
January 17, 2021 - January 26, 2021	Preparation and submission of written proposals by interested firms, and resolution of any questions not otherwise addressed in this Request for Qualifications.
February 4, 2021 at 3:00 P.M.	Deadline for submission of proposals and scheduled public opening of timely received proposals.
February 12, 2021 - February 27, 2021	The City of Hutto Selection Committee reviews all proposals received and evaluates submissions.
March 4, 2021	Ex Dir of Development services presents the City of Hutto Selection Committee's recommendation to the City Council for award.

Evaluation Committee:

La'Mar Kemp – Financial Services
Sydawnie Douglass – Community Services
Ashley Lumpkin– Executive Director Development Services
Ashby Grundman – Development Services Director
Samuel Ray - Director of Engineering/City Engineer

Best Value Evaluation:

All proposals received were evaluated based on the best value for the City using a criterion weight rating scale. Evaluation personnel carefully reviewed and rated each proposal by considering all or part of the criteria listed below.

Statement of Qualifications completed in format	Experience in providing proposed services	Design and Technology relating to municipal projects	Perform all tasks outlined either directly or through sub-consultants	Key personnel professional background and experience	Quality and competency of projects previously undertaken	Familiarity with, and proximity to the geographic location to the City of Hutto
10 pts	30 pts	10 pts	20 pts	10 pts	10 pts	10 pts

Respondents:

The following firms responded to the RFQ and their proposals were reviewed by the Evaluation Committee: (*HUB = Historically Underutilized Business*)

Able City – Texas based firm –HUB

MRB Group – Texas based firm –Non HUB

Freese and Nichols – Texas based firm, has Texas locations – Non-HUB

Halff and Associates Texas based firm – Non-HUB

Evaluation Results:

Evaluation Committee member ratings of each respondent were tallied, and this was used to determine an overall average rating of the proposals. The results are as follows:

98.0	Freese and Nichols
94.4	Halff and Associates
87.2	Able City
84.0	MRB Group

Based on the submission by Freese and Nichols and its demonstration that their firm would have the capability to perform all the requirements contemplated by the solicitation, the Evaluation Committee would recommend this firm for selection.

Evaluation Committee Comments:

Freese and Nichols –

“The firm seems very qualified and articulates their services & approach very well. The process & communication seem in line with what is being requested of them.”

“Local firm with an all-around focus and a wide net approach. Offers a specialist staff, experience in similar engagements to what we need.”

Conclusion:

The Evaluation Committee recommends Council approve the City of Hutto to retain Freese and Nichols for its Comprehensive Plan.

City Council

AGENDA ITEM REPORT



To: City Council
Subject: Consideration and possible action for Capital Improvement Projects relating to the recommendations from the Water Supply Study. (Samuel Ray)
Meeting: City Council - 04 Mar 2021
Department: Engineering
Staff Contact: Samuel Ray

BACKGROUND INFORMATION:

On February 10th DCS Engineering presented the findings and recommendations from a water supply study that analyzed all of the known available options to meet the Cities source water needs in the short, middle and long term. The presentation included a list of projects that are recommended to start as soon as possible in order to increase the Cities water supply capacity and meet the anticipated demands over the next two years and beyond. The recommended projects were broken into 3 phases. The first phase of improvements includes needed distribution system improvements and an aquifer storage and recovery well that will leverage the Cities existing source water to meet increased peak flow demands by storing excess water in times of lower demand to be used in the summer times where water use is at its peak. It is recommended that phase 1 of the water improvements be started as soon as possible to avoid a potential prolonged period where growth must stop. Phase 2 and phase 3 will follow in the coming years and include increasing the capacity of the Heart of Texas system to its maximum capacity of 5.7 MGD, drilling water wells closer to Hutto into the Trinity aquifer and constructing a brackish water treatment plant. Currently it is recommended that the City move forward with phase 1 of these projects in order to meet the water demands on the system that is anticipated. The water supply study final report will not be ready until May of this year but all of the findings and analysis has been completed to provide the recommendations.

FINANCIAL IMPACT:

Phase 1 of the water capital improvement projects are estimated to cost a total of \$17M.

POLICY IMPLICATIONS:

Moving forward with the recommendations from the water supply study will allow for the continued growth of the City of Hutto.

RECOMMENDATION:

Staff recommends that Council approve the recommendations presented in the water supply study and direct staff to move forward with implementing phase 1 of the needed projects.



City of Hutto Water Supply Alternatives Analysis

February 10, 2021

Presented by:



Primary Goals of Study

- ▶ Establish water supply source(s) and plan to meet:
 - Short term water demands within 5 years
 - Midterm water demands within 5 to 10 years
 - Long term water demands within 10 to 50 years



- ▶ Identify required capital improvements
- ▶ Reduce City Customer's water rate per 1,000 gal

Presentation Outline

- ▶ Existing Water System Facilities
- ▶ Distribution System Improvements
- ▶ City's Water Service Area
- ▶ Water Supply Source Alternatives
- ▶ Aquifers and Hydrogeology
- ▶ Alternatives Analysis
- ▶ Recommendations

Existing Water System Facilities



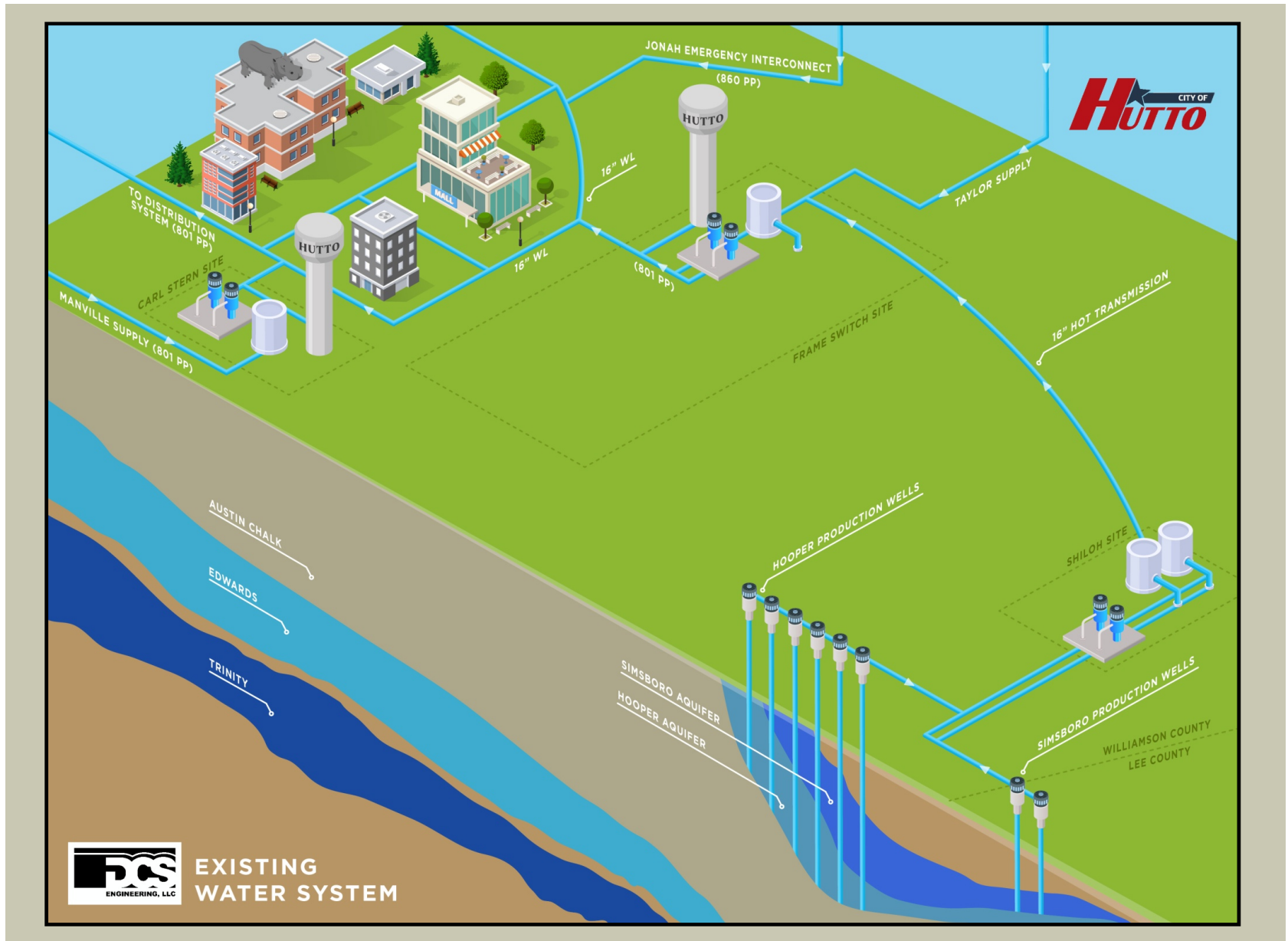
Existing Water Supply

- ▶ Water Supply Calculations:

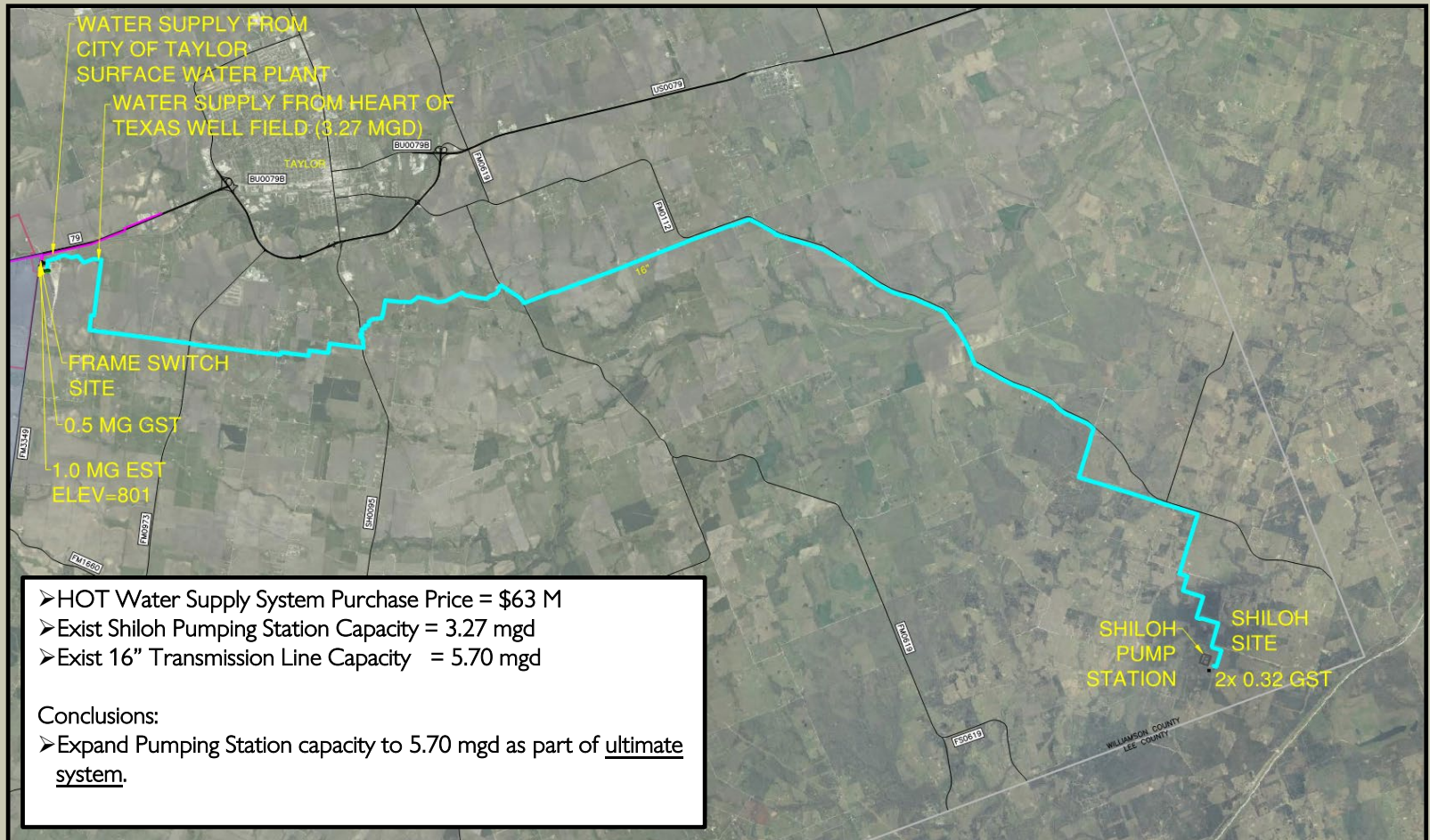
$$\text{Average Day Demand} = \frac{\text{Total Water Used in a Year}}{365 \text{ Days}}$$

$$\text{Water Supply Cost} = \frac{\text{Debt Service} + \text{O\&M}}{\text{Total Water Used in a Year}}$$

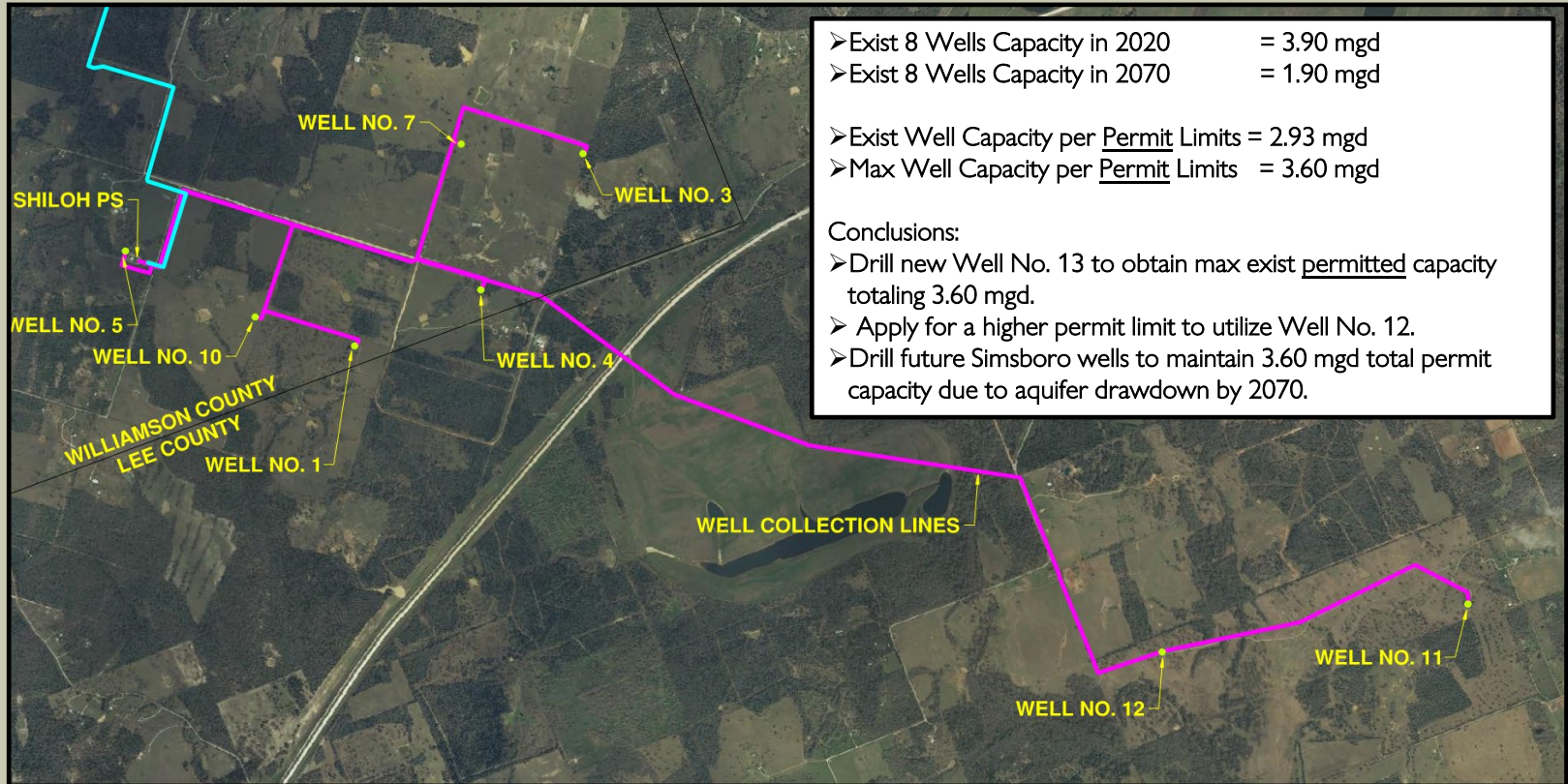
- ▶ Max Day Demand = Maximum Recorded Flow in a year, about twice the Average Day Demand.



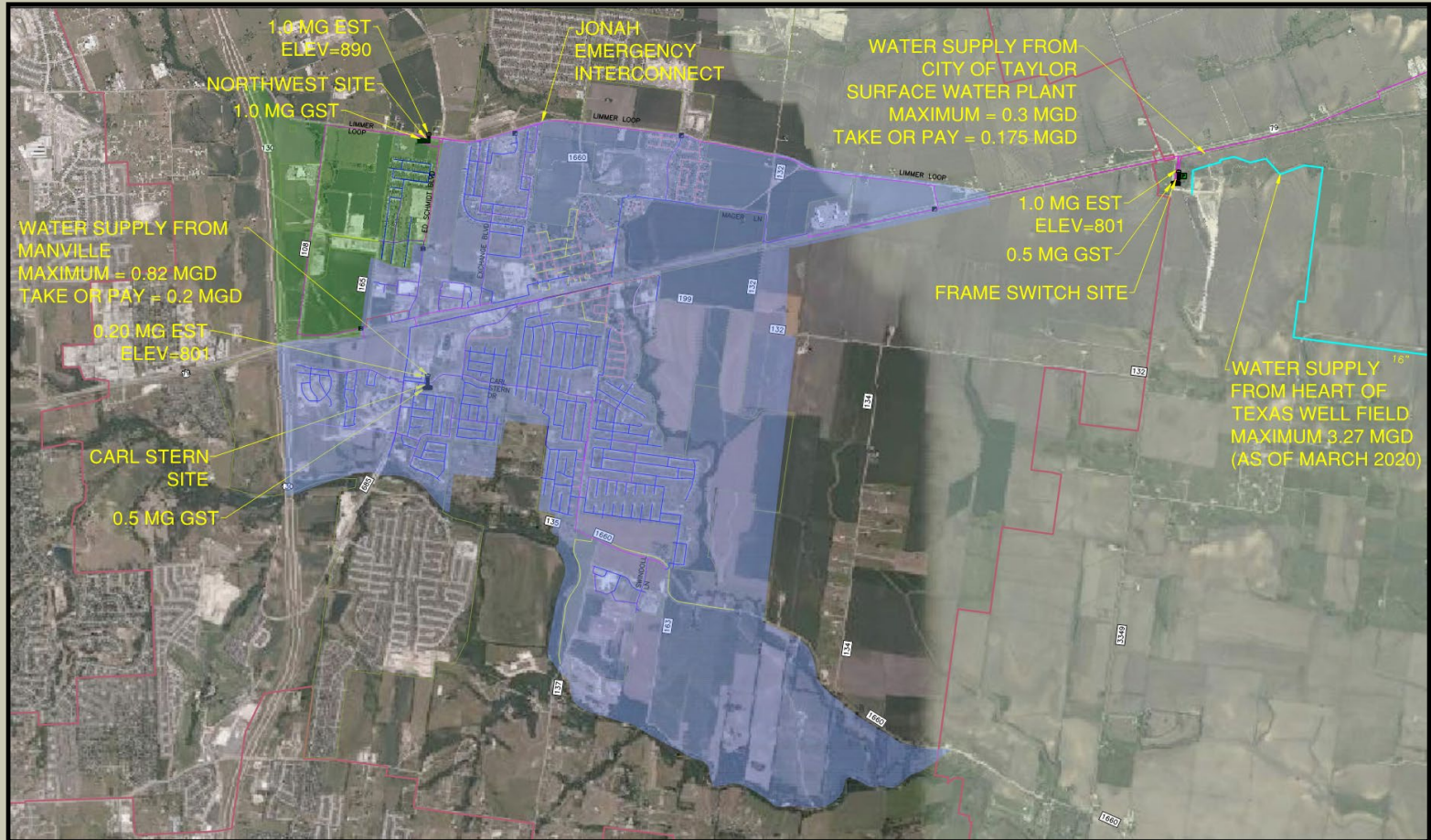
Existing HOT Water Supply Facilities



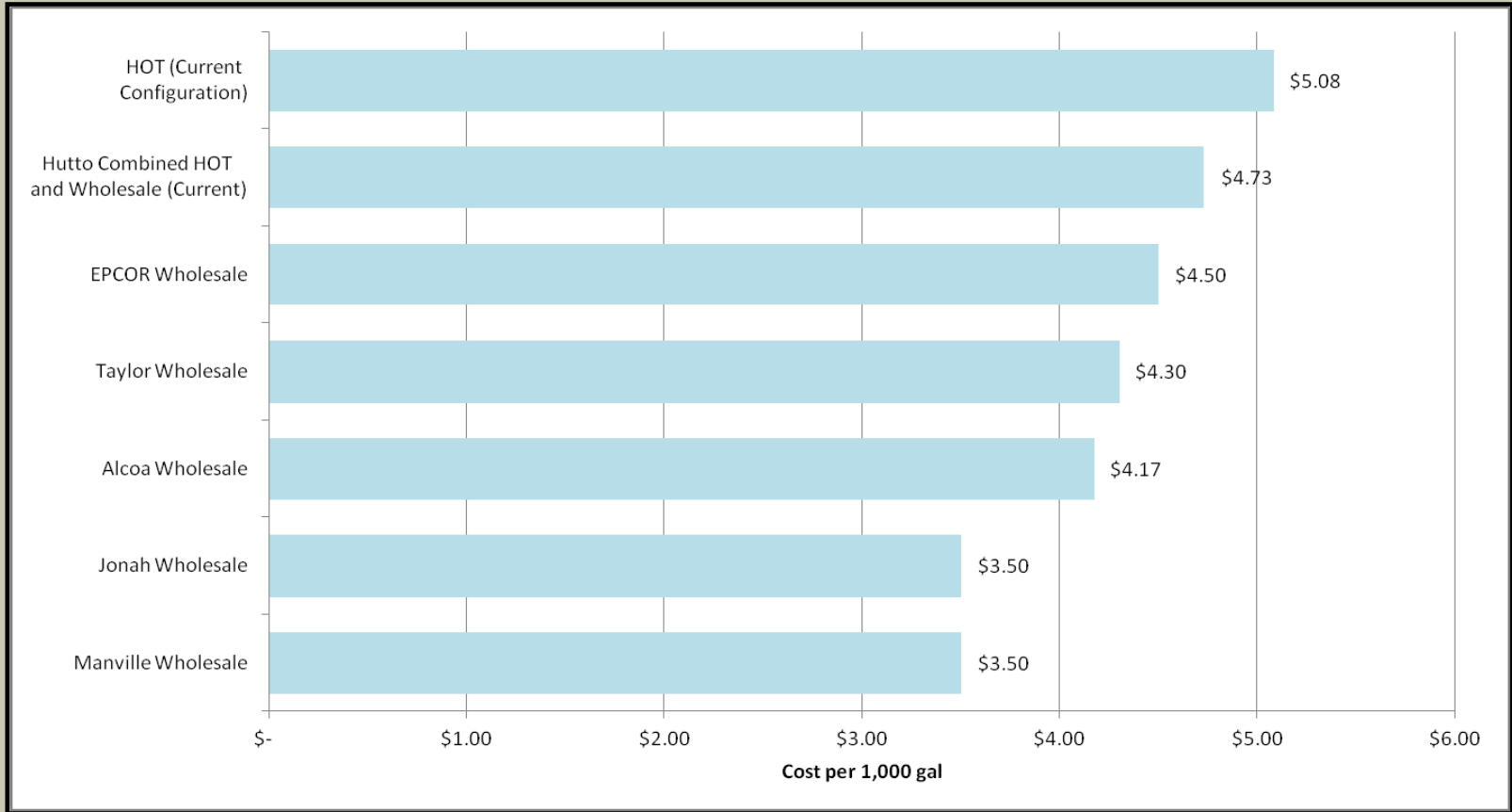
Existing HOT Water Supply Facilities



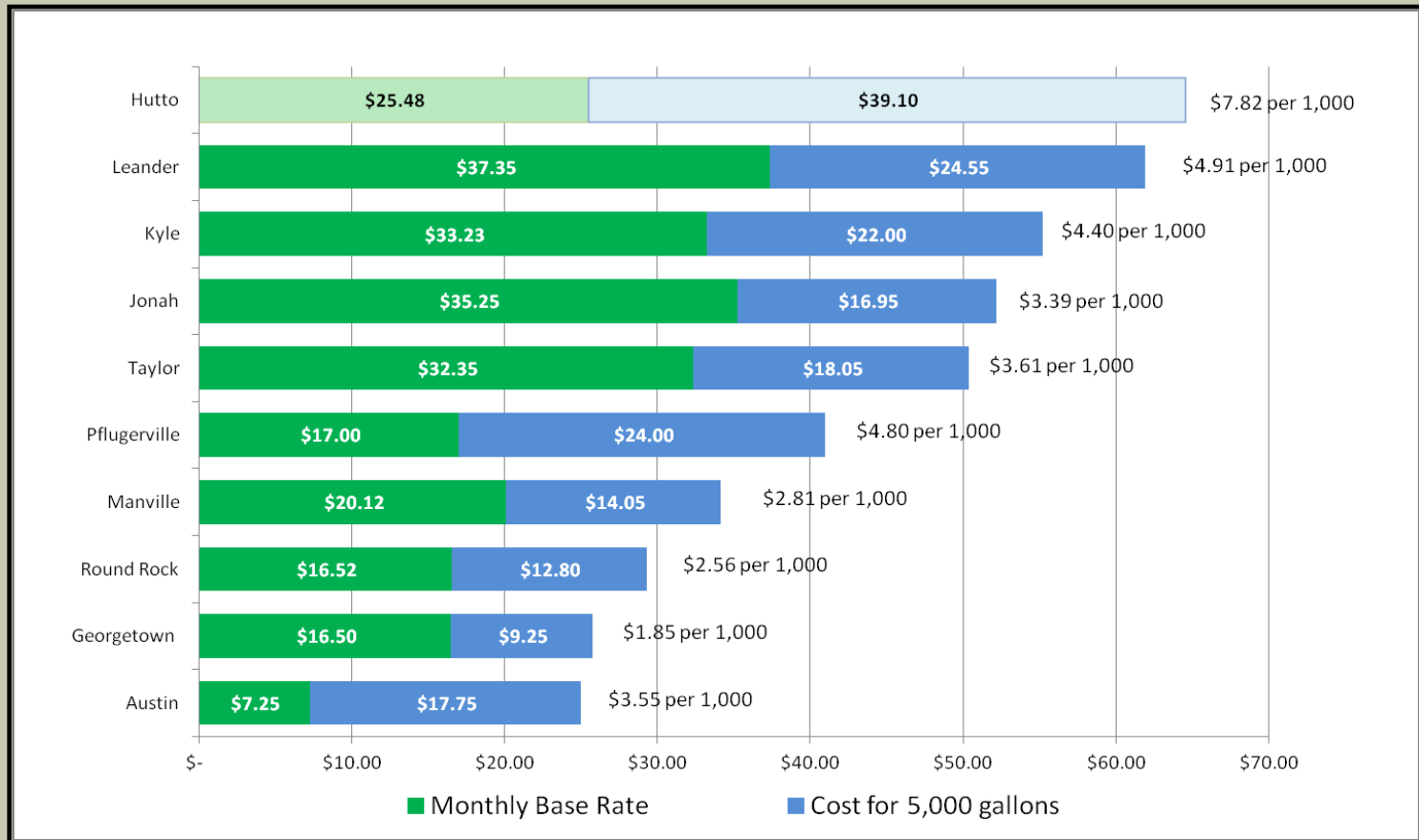
Existing Water Distribution Facilities



Comparison of Water Supply Cost per 1,000 gal

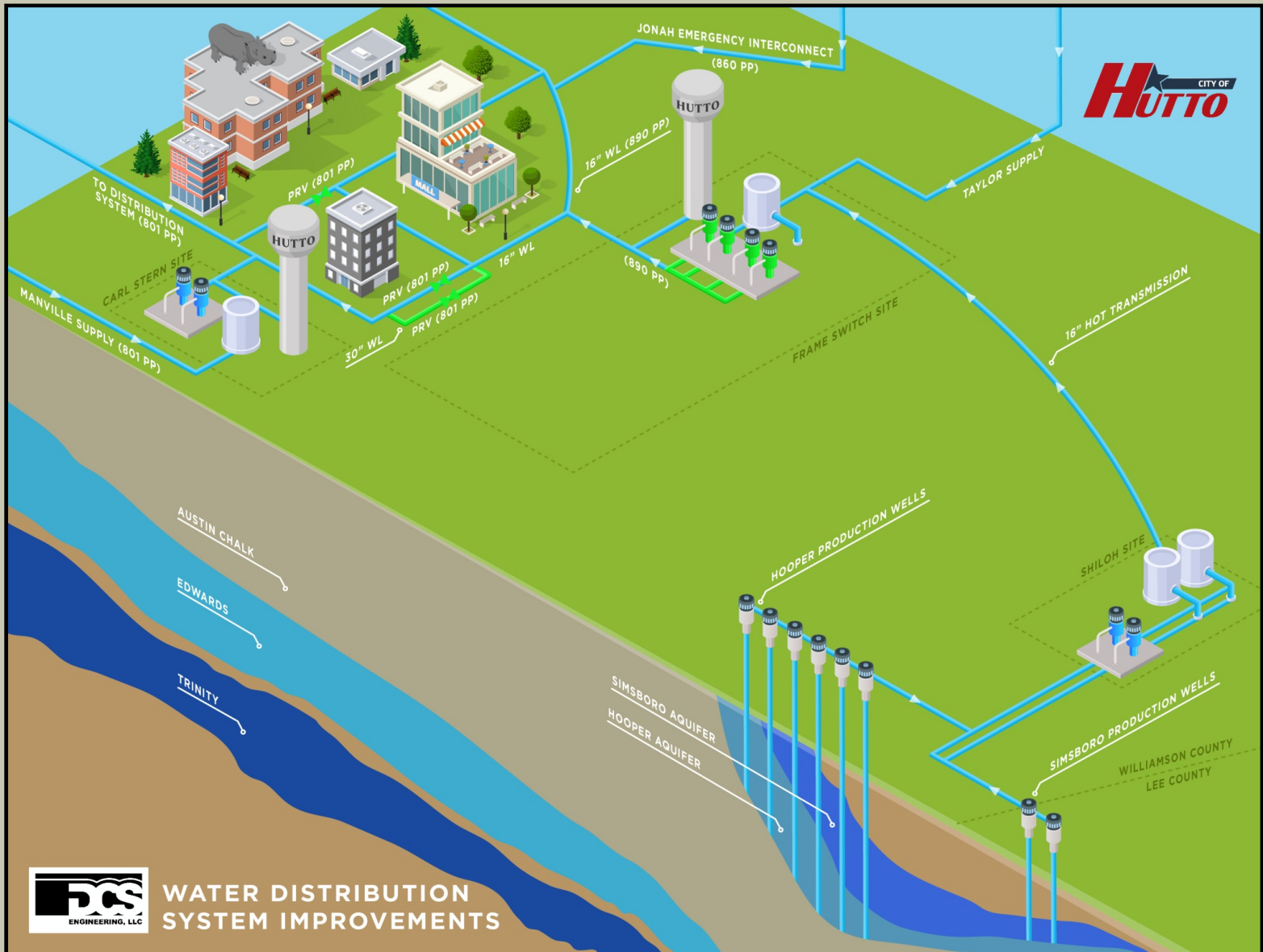


Comparison of Customer Water Rates for 5,000 gallon water bill



Distribution System Improvements

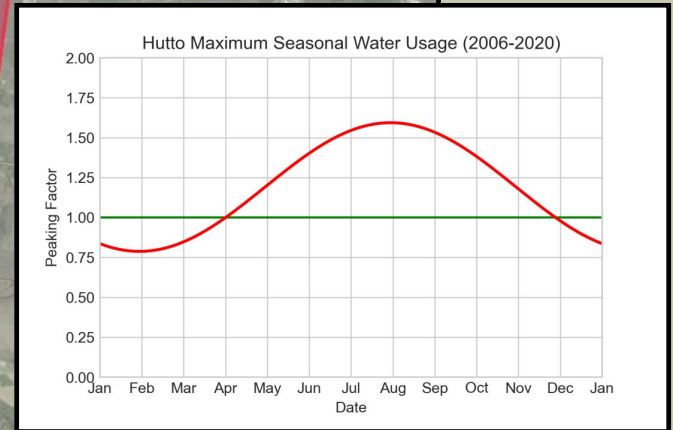
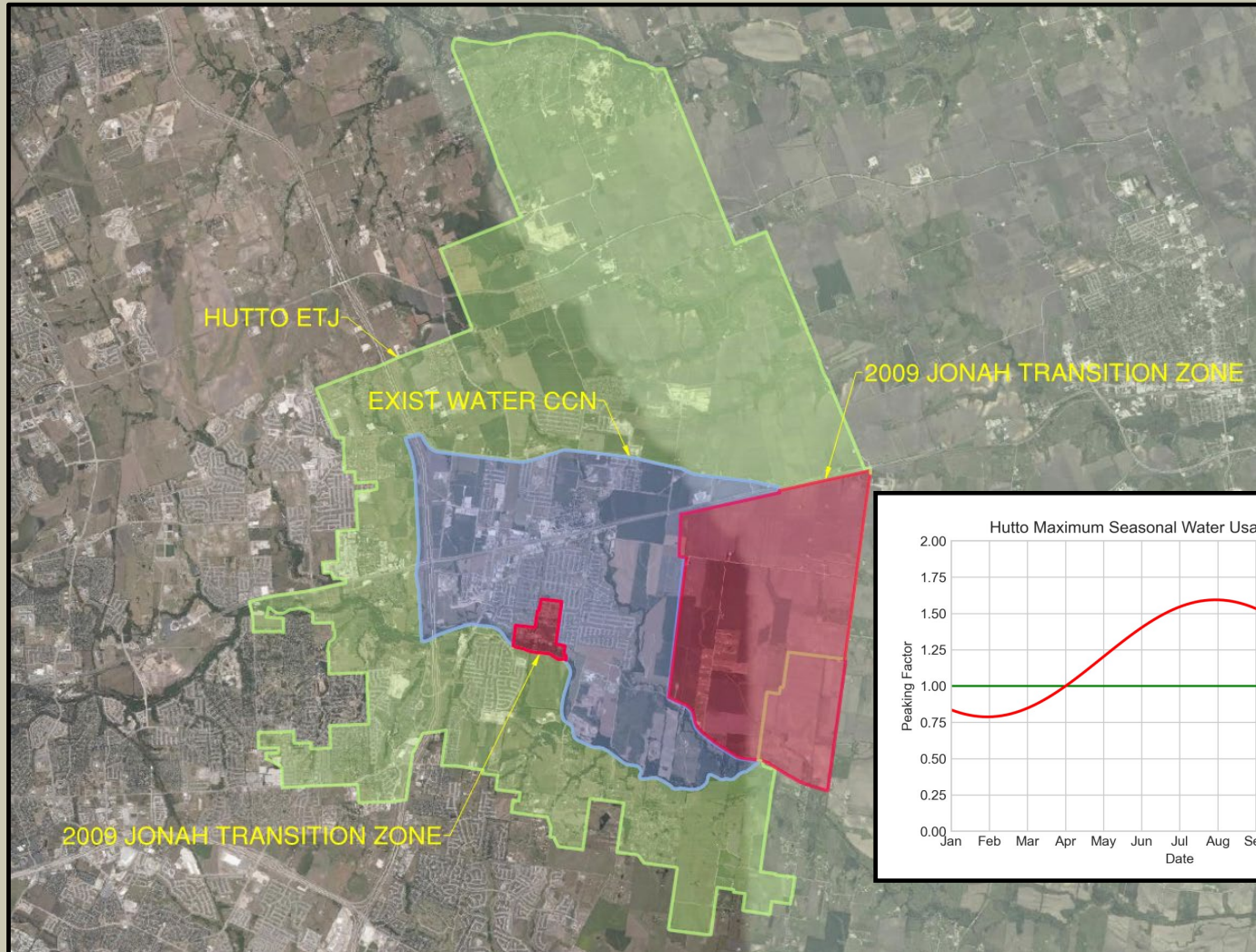
- ▶ Proposed Distribution System Improvements required regardless of decisions made on Water Supply.



Distribution System Improvements

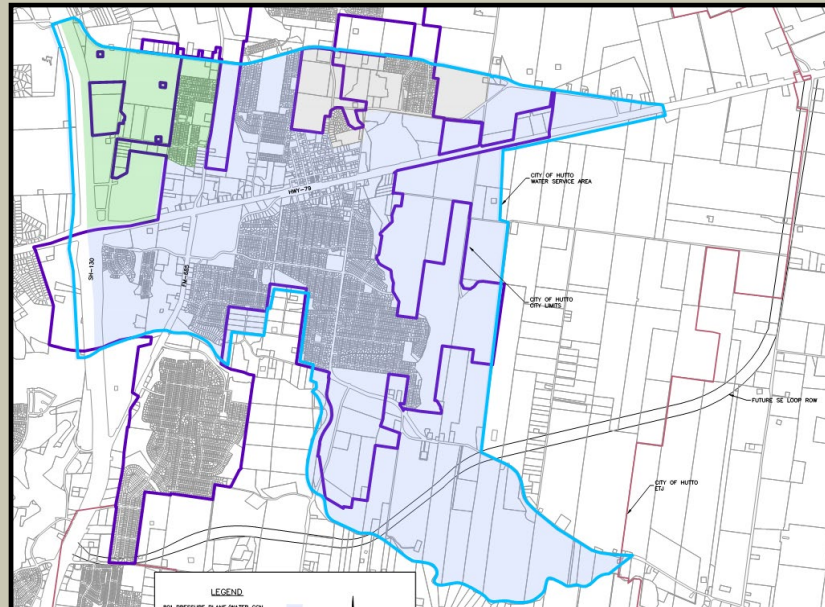
- ▶ November 2020: Total Water Project CIP cost was \$32 M with September 2023 completion
- ▶ Total Distribution System CIP Costs are \$11.1 M out of the \$32 M (complete by June 2022)
- ▶ Total Water Supply CIP Costs are \$5.8M out of the \$32 M (complete by April 2022)
- ▶ Total of \$15.1 M deferred of the \$32 M as part of proposed solution set (complete by January 2024)

City's Water Service Area

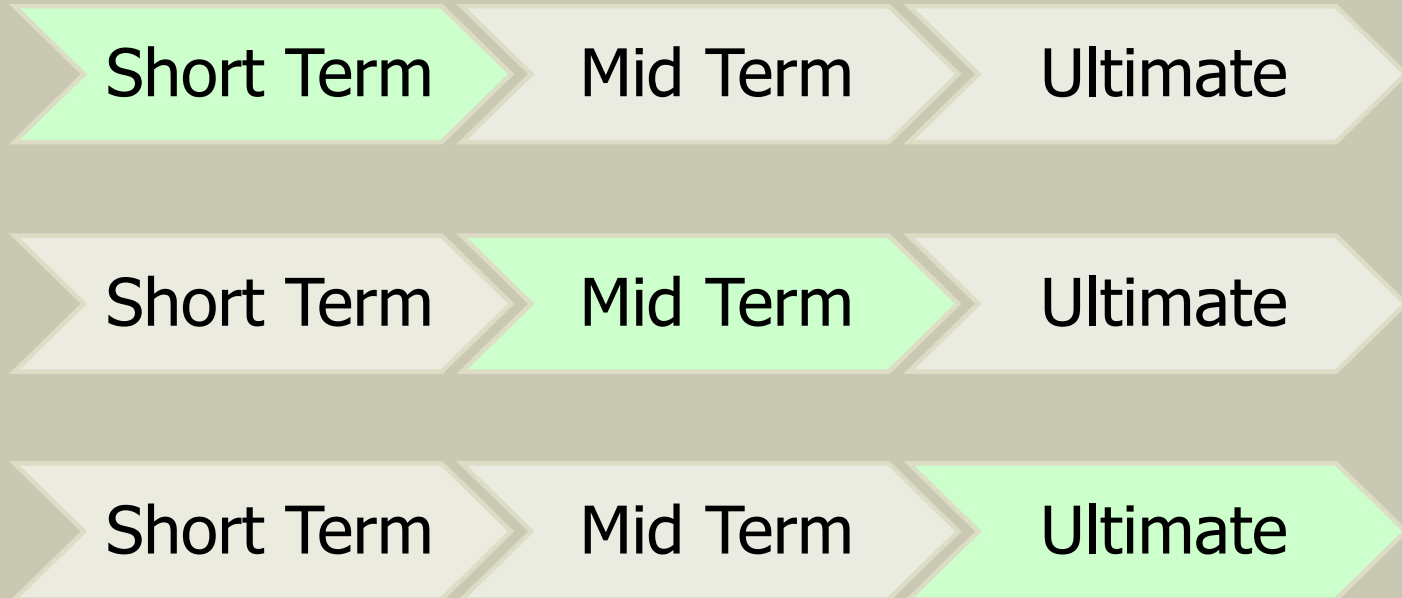


Service Area - Required Water Supply

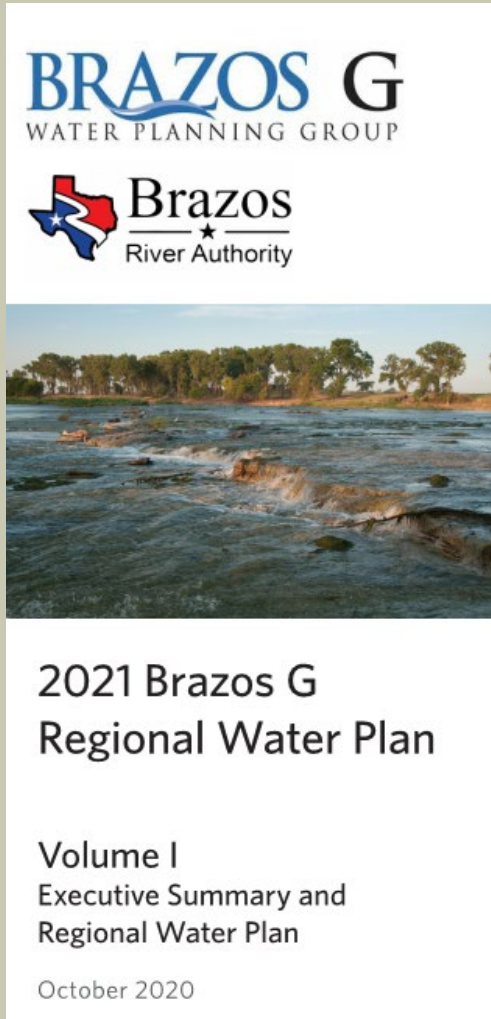
Scenario	Projected Ultimate Population	Projected Average Daily Flow (MGD)	Projected Max Day Flow (MGD)	Total Water Supply Capacity (Acre-ft/yr)
City CCN	66,575	9.7	19.4	10,865
City CCN & Jonah Transition Zone	101,000	14.7	29.5	16,466
City ETJ	269,800	39.4	78.8	44,134



Water Supply Source Alternatives



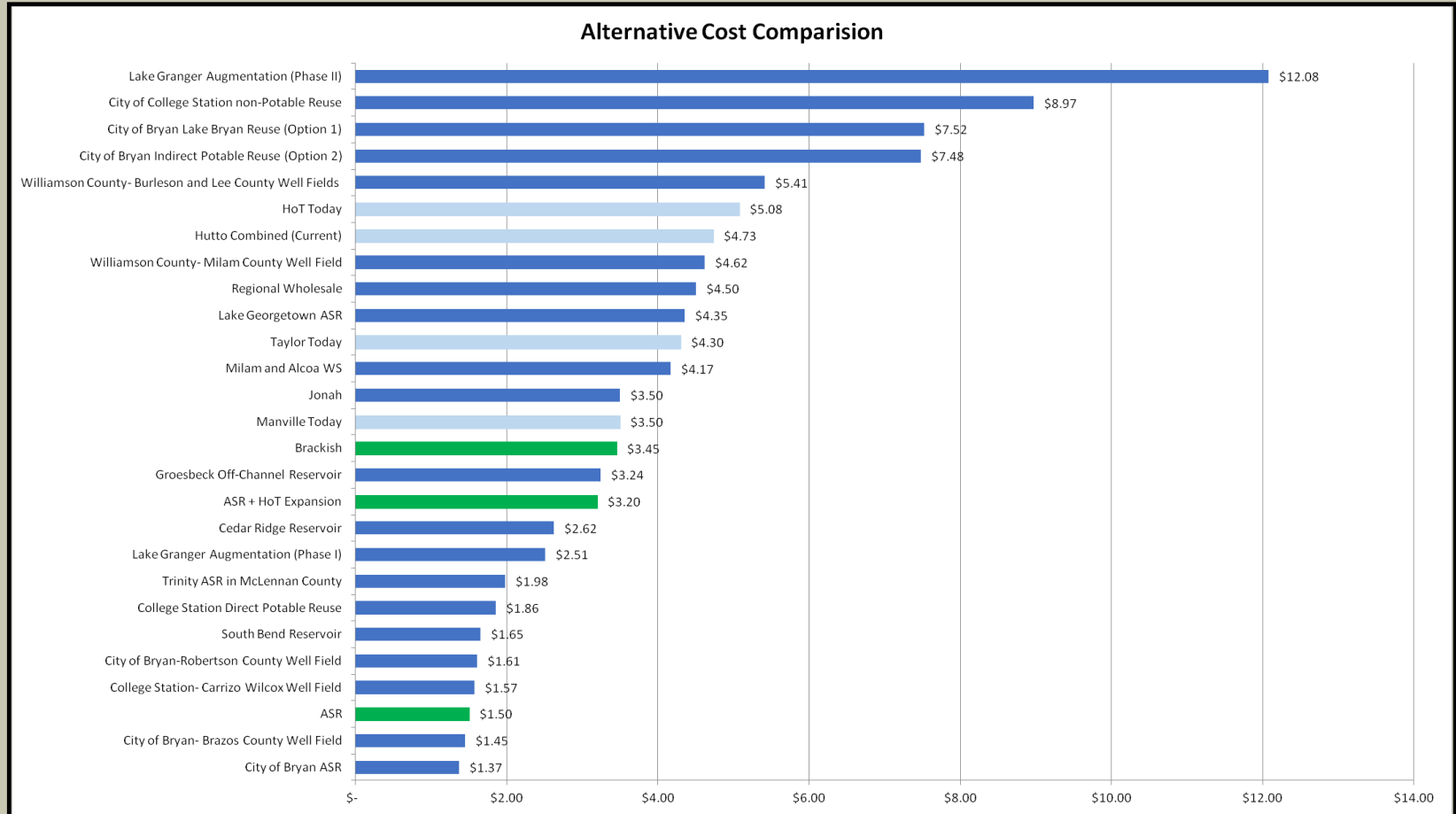
TWDB Uniform Costing Model



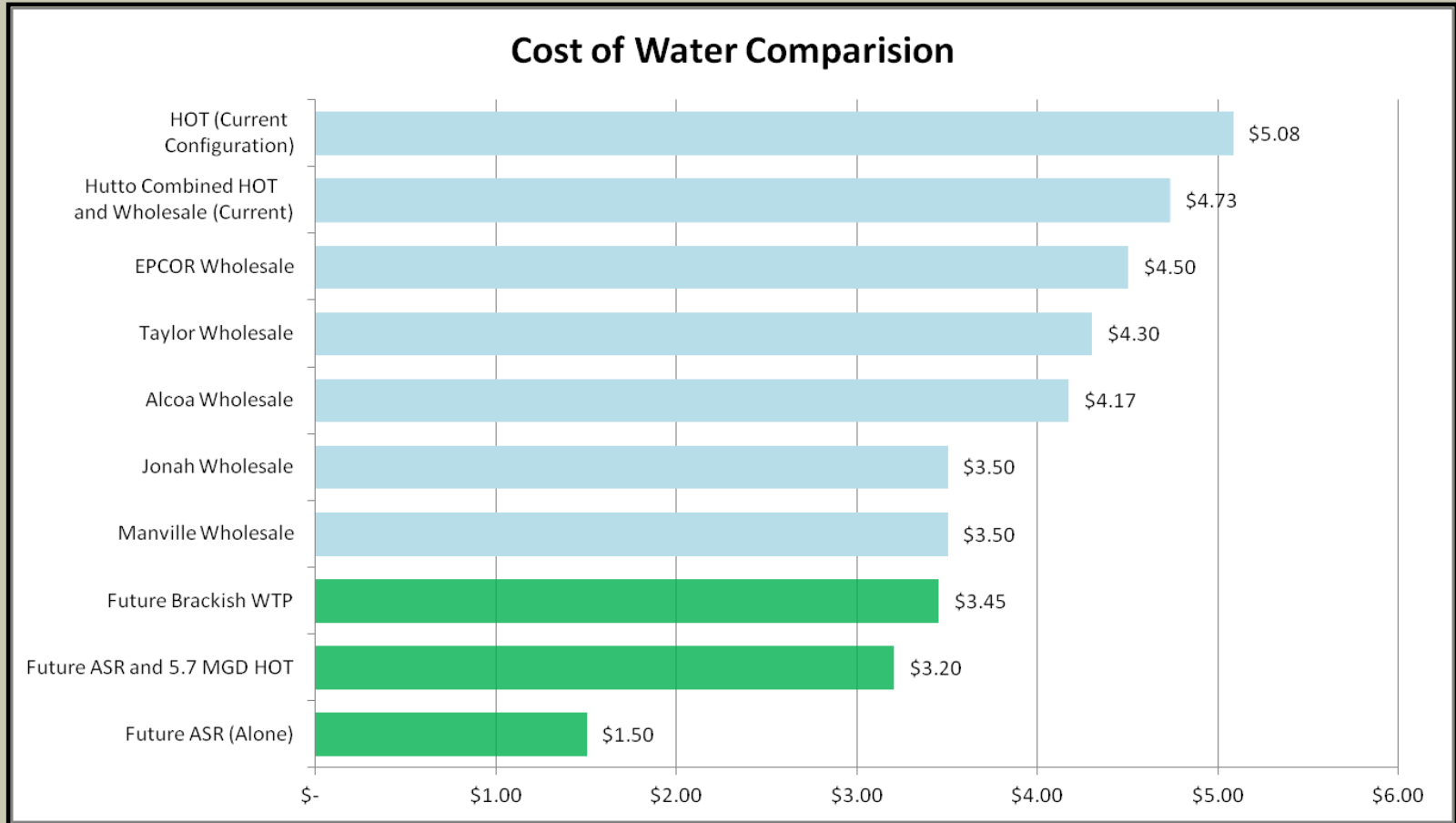
- ▶ 2019 update for TWDB 2021 State of Texas water plan update.
- ▶ Model generates capital cost, O&M, and cost per 1,000 gallons for comparing water supply strategies.
- ▶ Model includes debt service for capital projects assuming no other capital recovery method such as impact fees or base water rates are collected.
- ▶ Model excludes cost of distribution and administrative cost.



Comparison of Water Supply Cost per 1,000 gal



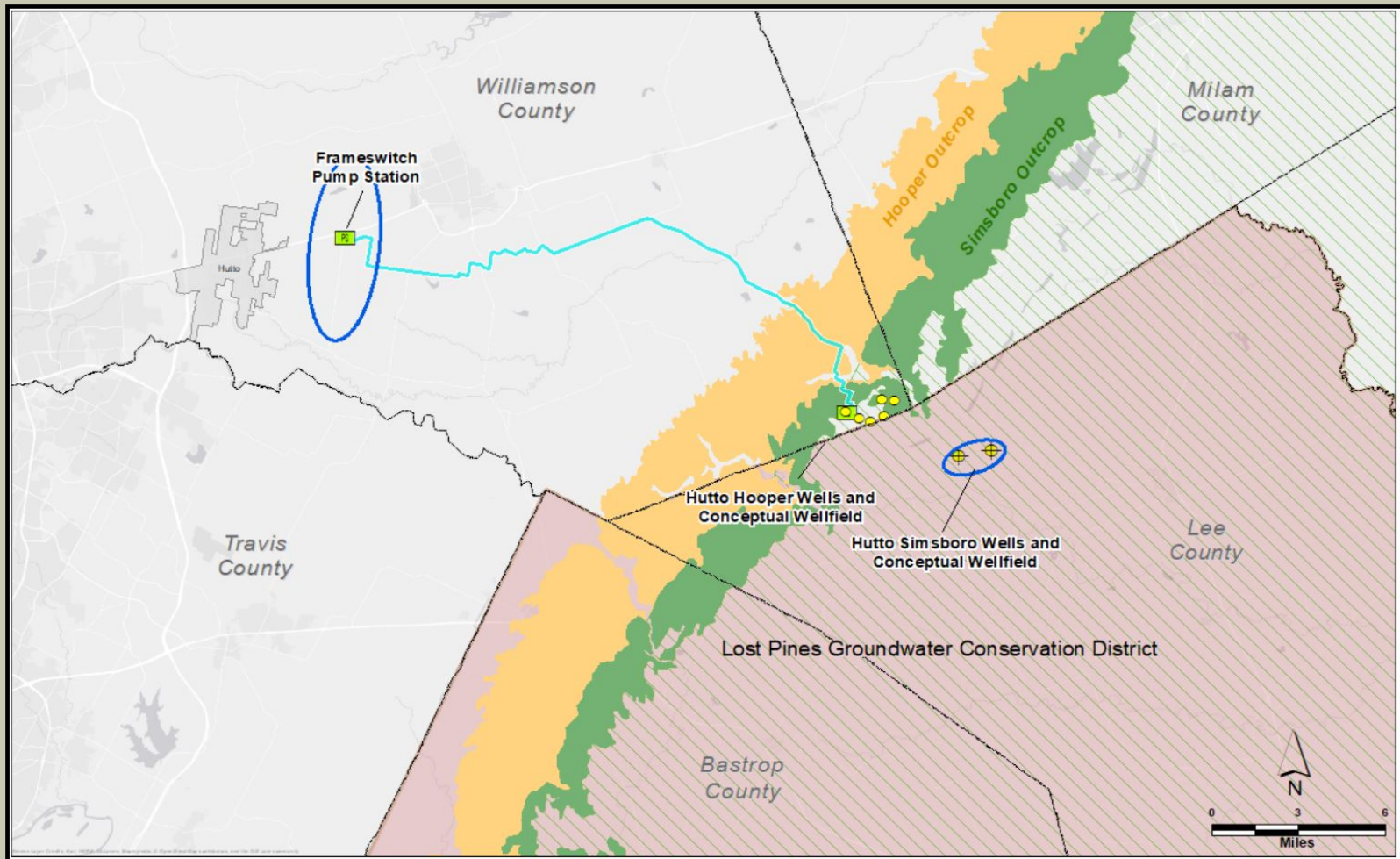
Comparison of Water Supply Cost per 1,000 gal



Aquifers and Hydrogeology



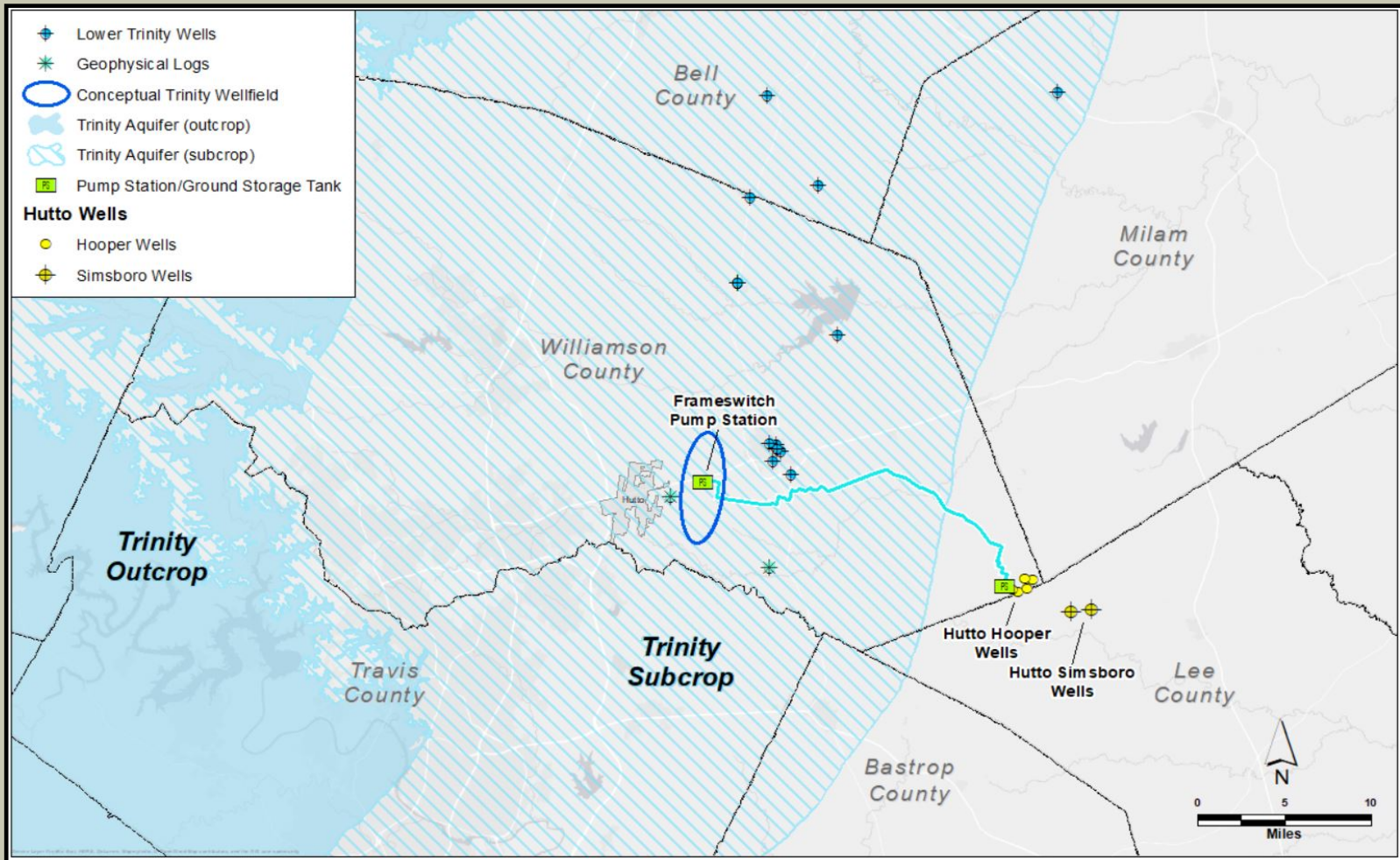
Existing Hooper and Simsboro Wells



Exist Hooper and Simsboro Wells

- ▶ Why presently used?
 - Quality: Water's Total Dissolved Solids = 350 mg/L; and TCEQ Potable Water Limit = 1,000 mg/L
 - Temperature: Water's temperature is about 70°F; and palatable limit is about 85°F
- ▶ Groundwater districts in Lee County.

Proposed Trinity Wells



Proposed Trinity Wells

- ▶ Why not presently used?
 - Quality: Water's Total Dissolved Solids = 1,400 mg/L; and TCEQ Potable Water Limit = 1,000 mg/L
 - Temperature: Water's temperature is about 115°F; and palatable limit is about 85°F
- ▶ Anticipated high production capacity (i.e. 4 to 5 mgd per well)
- ▶ No groundwater districts in Williamson County.

Alternatives Analysis



Short Term

Mid Term

Ultimate

Local Wholesale Providers

Regional Wholesale Providers

Trinity Aquifer with Blending

Aquifer Storage and Recovery in the Trinity Aquifer

Expand HOT to 5.7 MGD

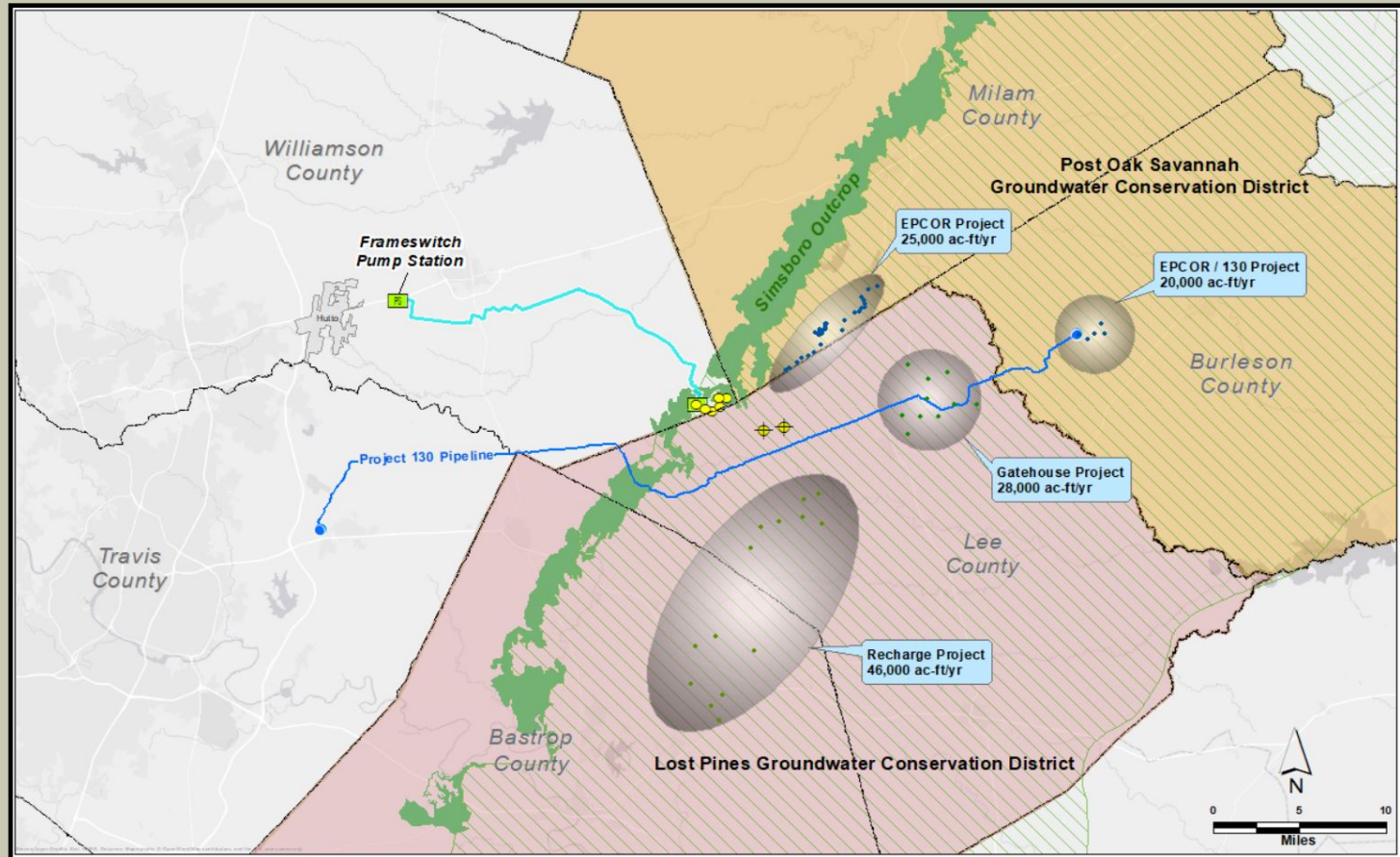
Local Wholesale Summary



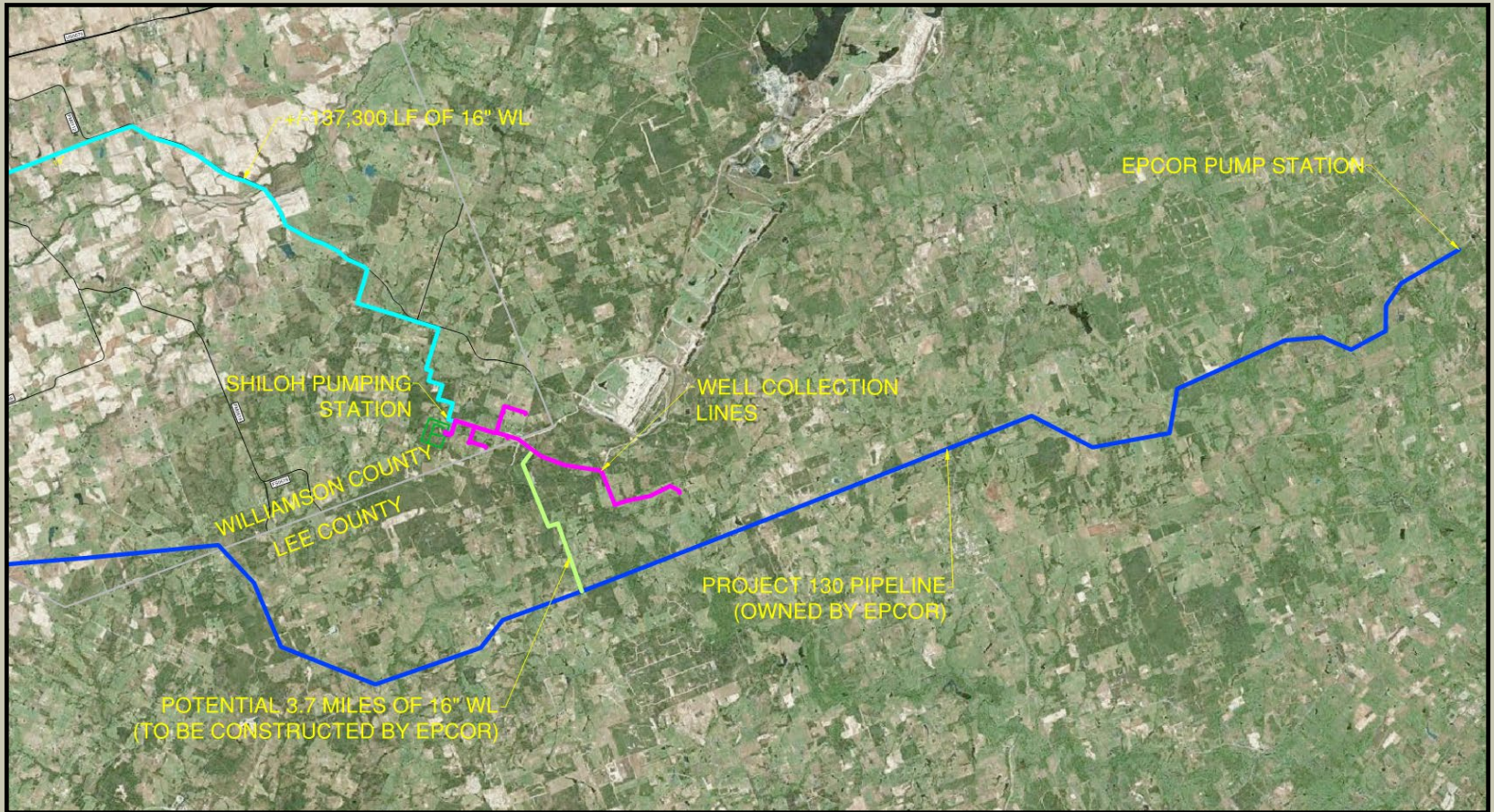
Jonah Water Option - Infrastructure



Regional Wholesale Water Providers



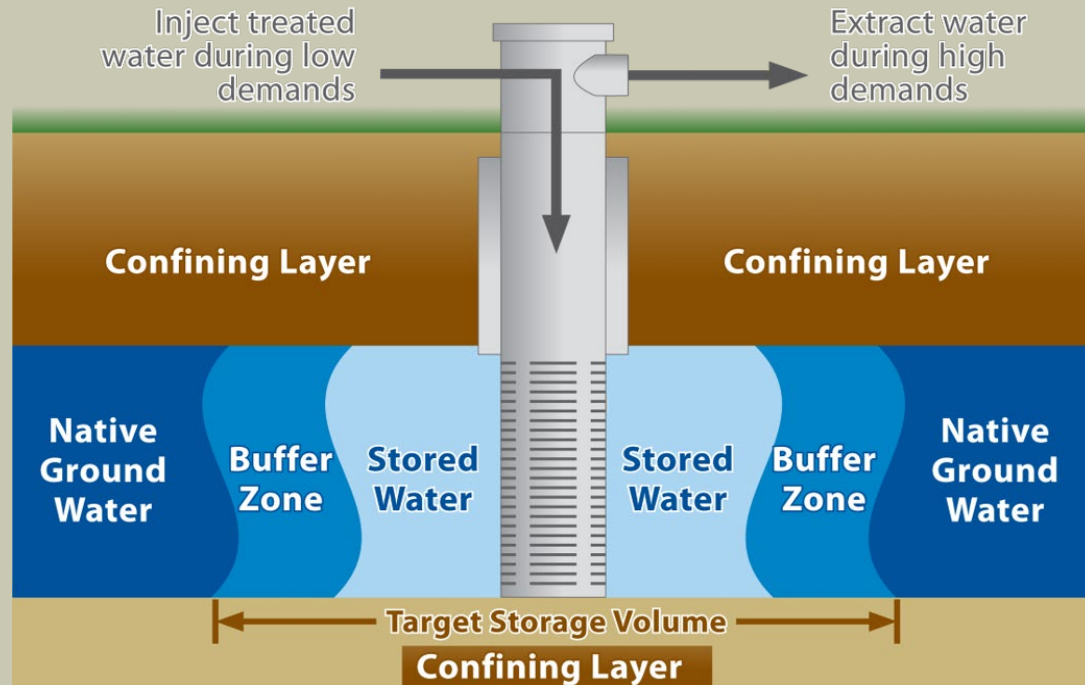
EPCOR - Infrastructure



ASR Evaluation Checklist

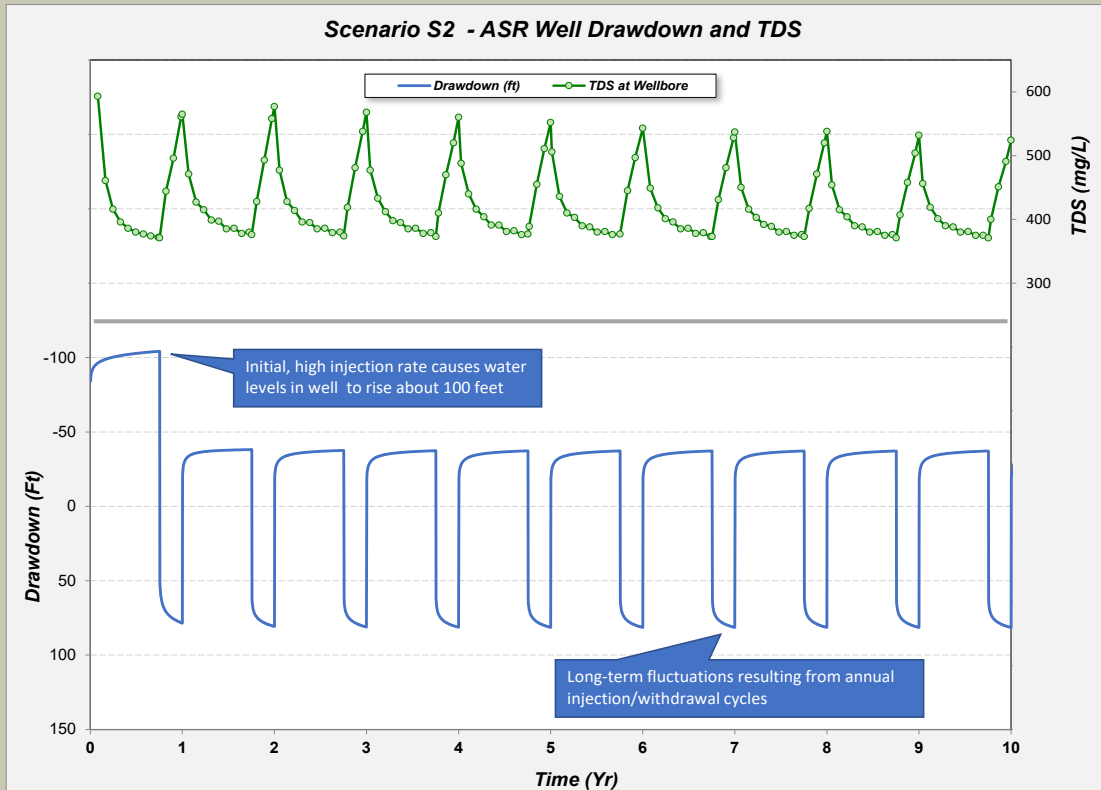
- ▶ Steady supply of potable water for storage (i.e. HOT well field)
- ▶ Local productive aquifer with brackish characteristics (i.e. Trinity Aquifer)
- ▶ Need for additional potable water supplies during summer high-demand periods

Proposed Trinity Wells

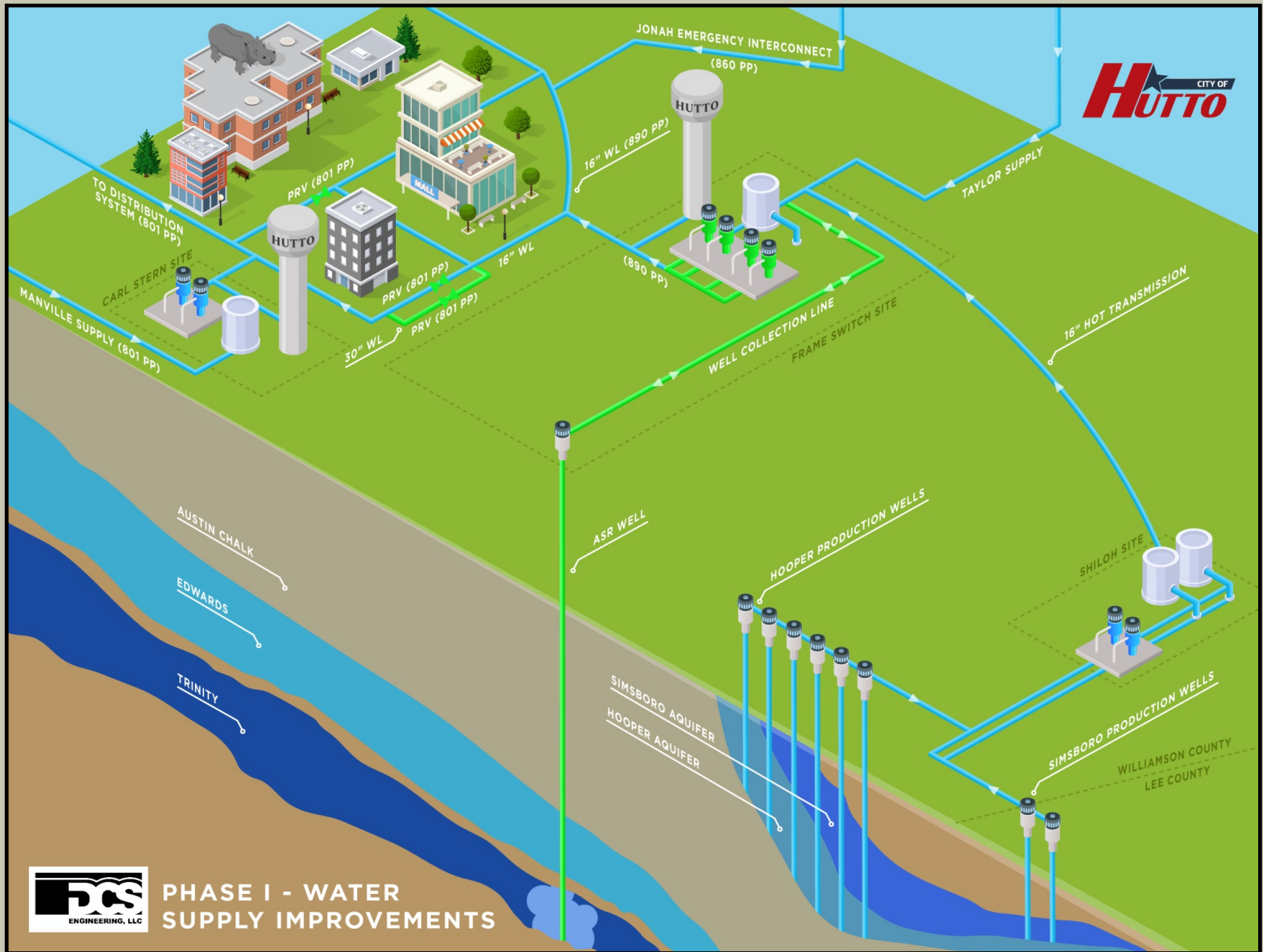


- ▶ Water injected by only gravity. Pump is not needed.
- ▶ Phase I Water Supply cost is \$1.50 per 1,000 gallons
- ▶ Discontinue take or pay Taylor Water Supply Contract

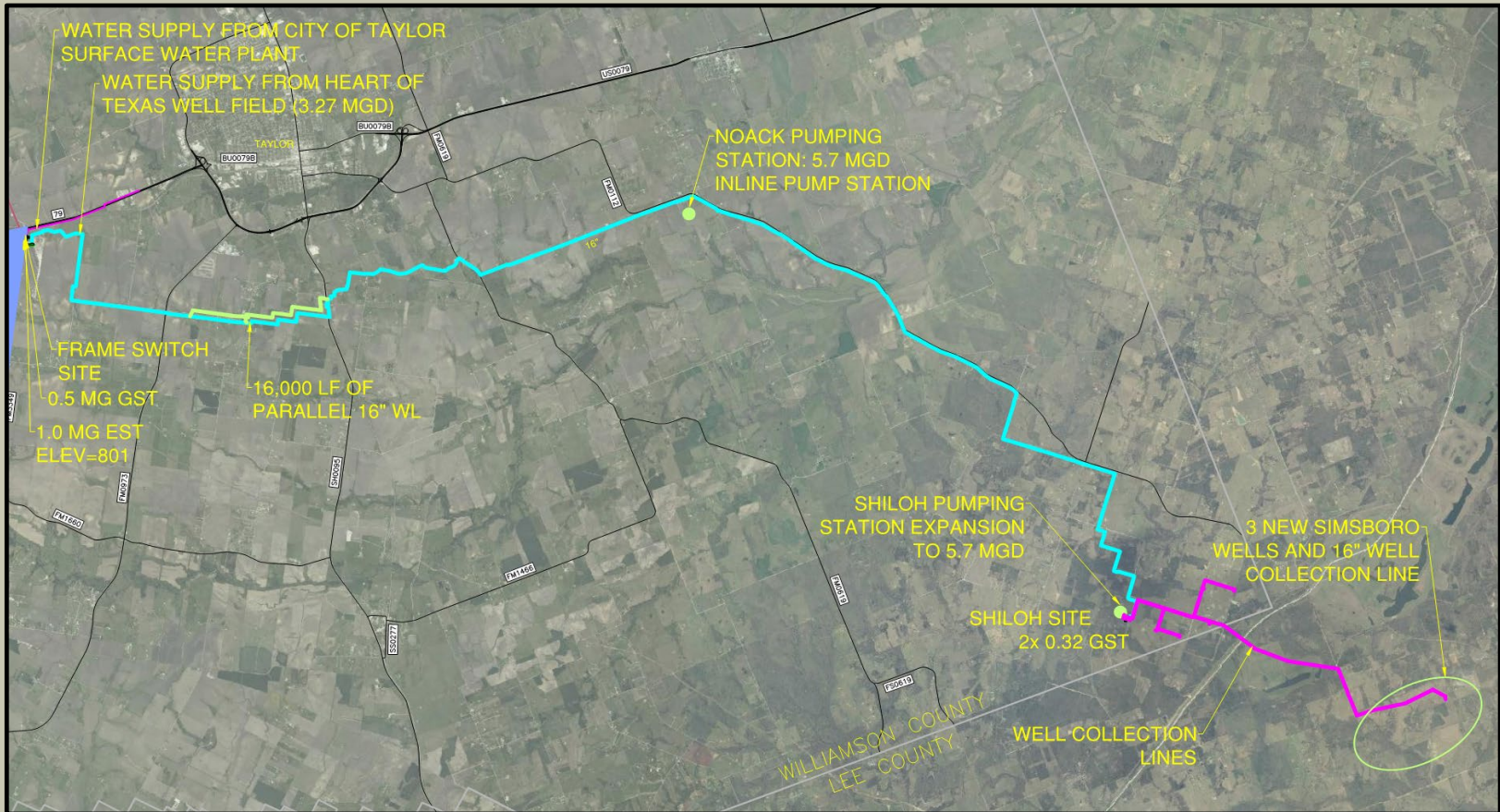
ASR Modeling



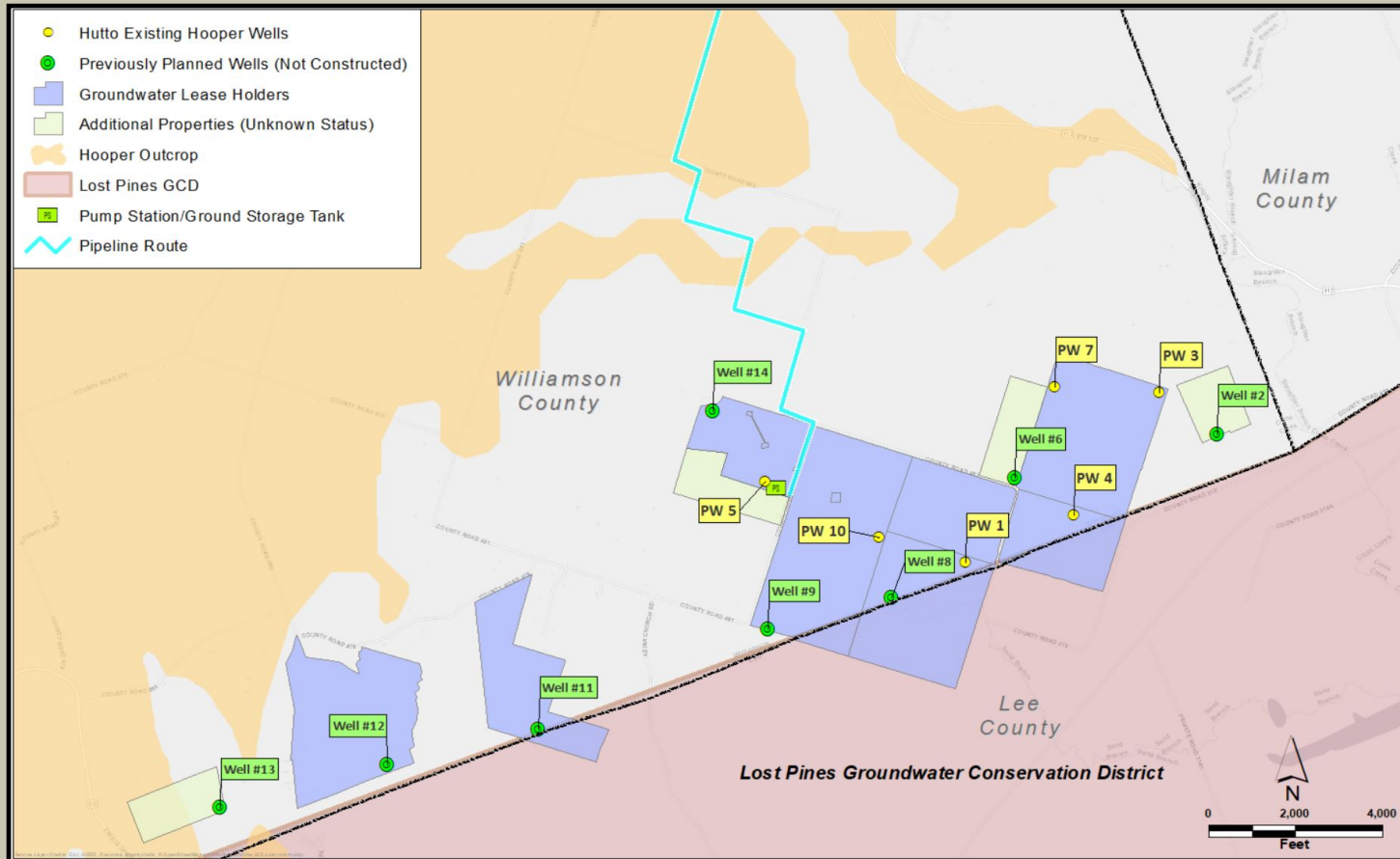
- ▶ Injection/withdrawal scenarios modeled
- ▶ Simulations of:
 - Water levels
 - Total Dissolved Solids (TDS)
 - Water Temperature
 - Percent recovery
- ▶ Model results indicate that implementation of ASR is favorable



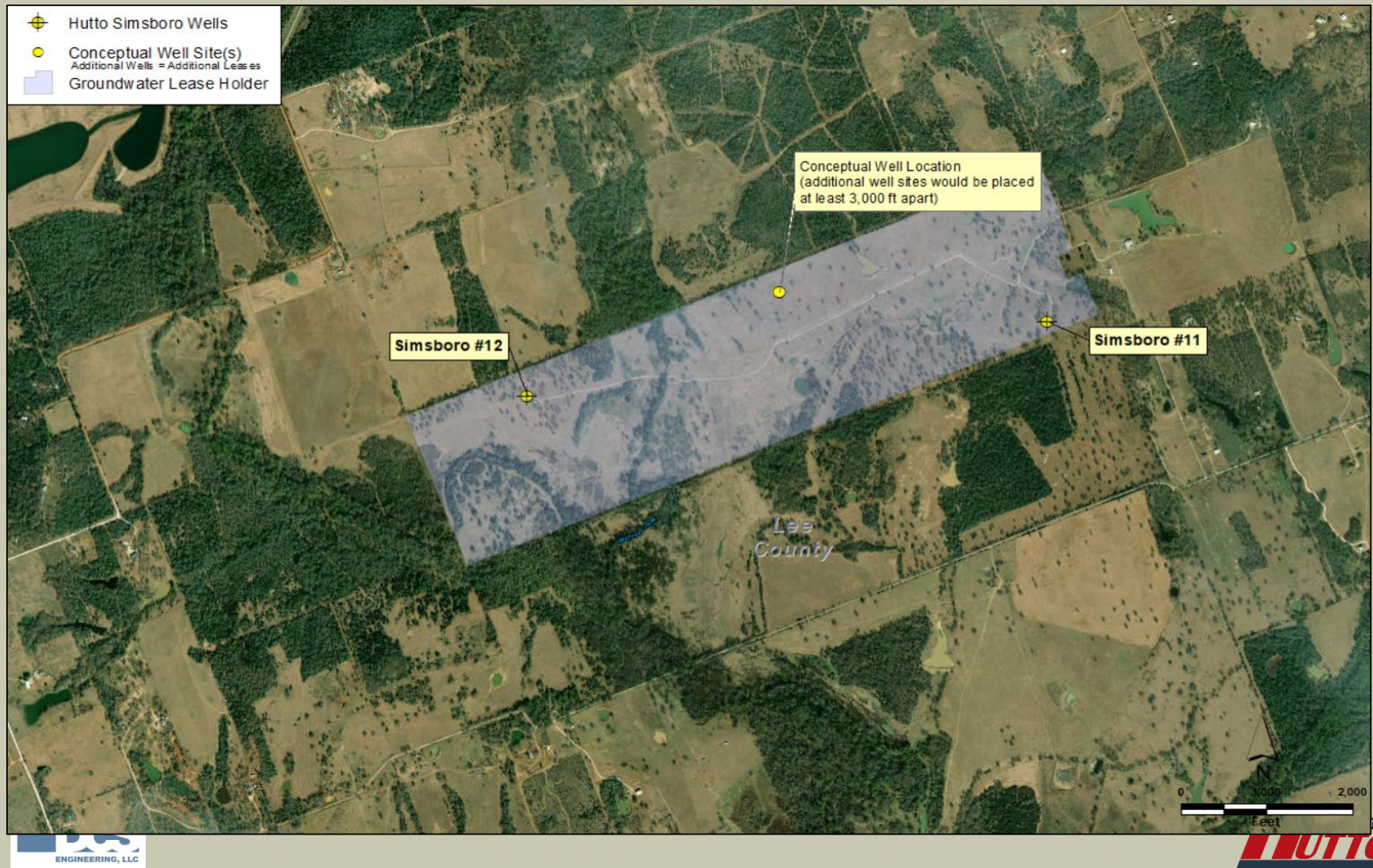
Phase II - HOT Well and Pumping Station Capacity to 5.7 mgd



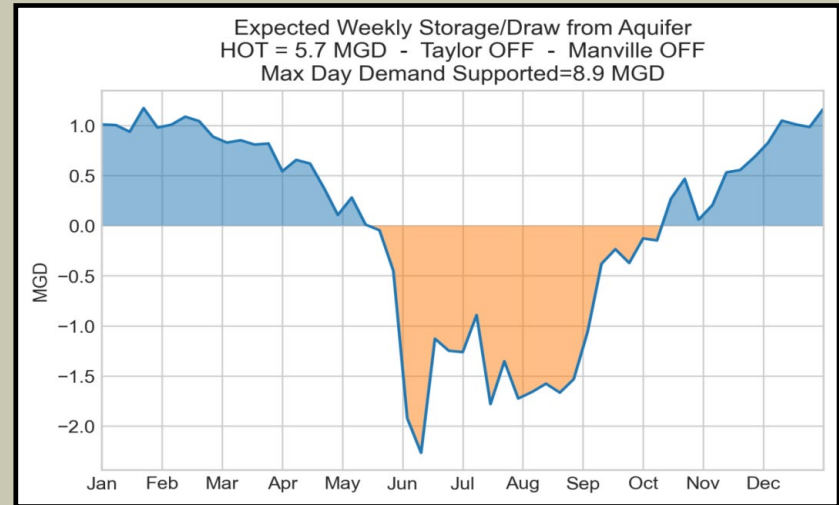
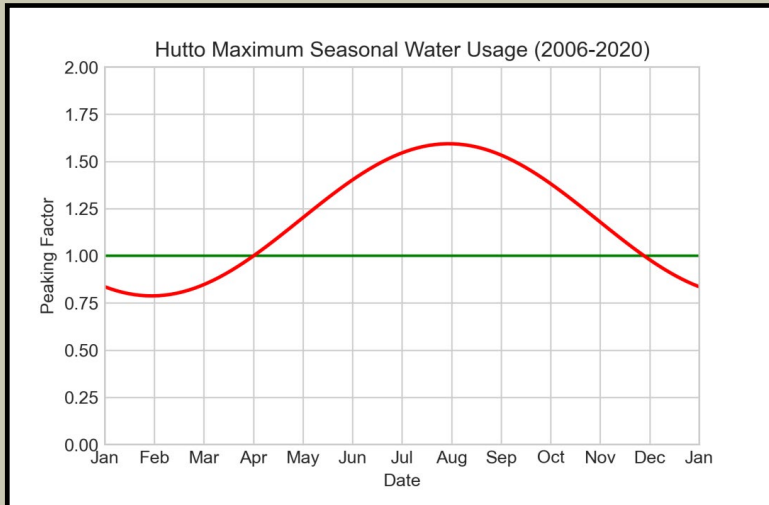
Additional Hooper Wells - Option



RW New HOT Wells Slide No. 3 -



HOT Improvements & ASR



- ▶ Construct HOT Pumping Station Capacity to 5.7 mgd and Three Simsboro wells (firm capacity)
- ▶ Phase II Water Supply cost is \$3.20 per 1,000 gallons

Short Term

Mid Term

Ultimate

Expand HOT to 5.7 MGD in Combination with ASR

Direct wholesale from local or regional providers

Expand HOT to 5.7 MGD with wholesale water rights

Off Channel Reservoir Storage



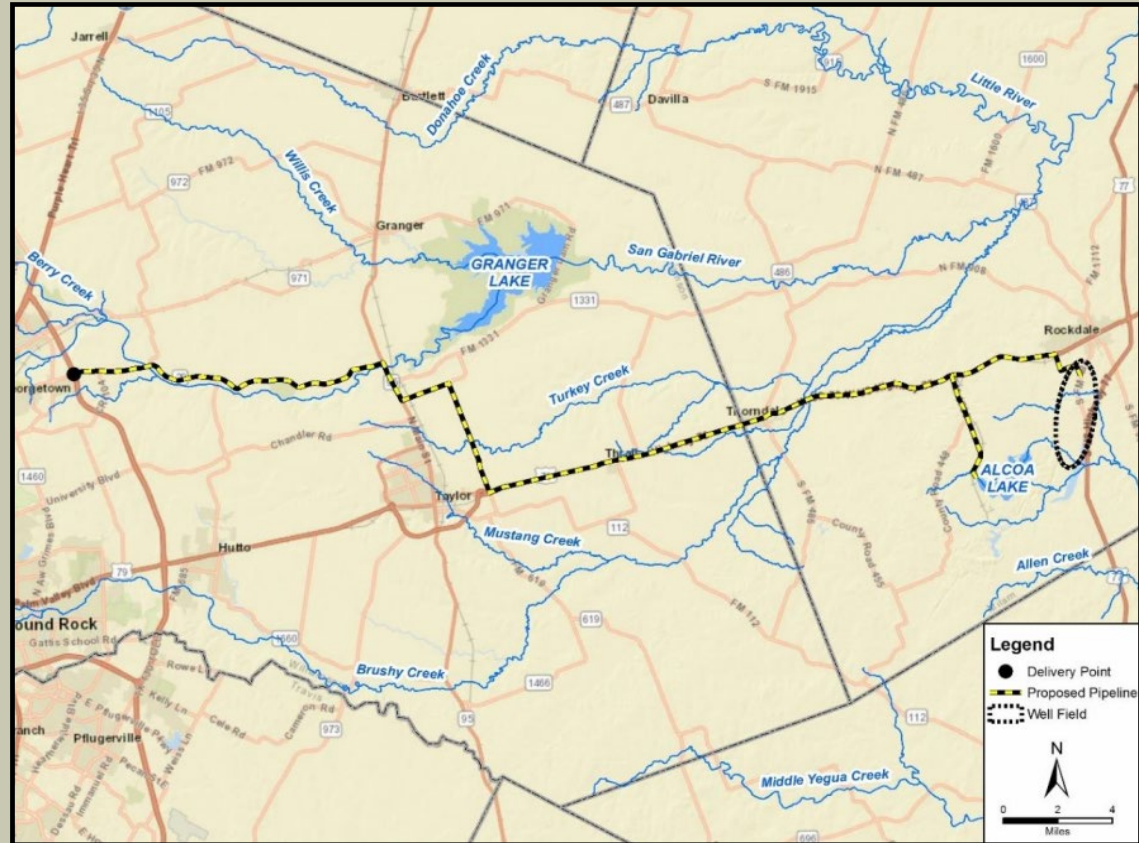
Brackish Water Treatment

- ▶ Brackish water desalination is a cost effective water treatment option.
- ▶ Elevated temperature of the Trinity aquifer increases the efficiency of Reverse osmosis membranes
- ▶ Projected Water Cost of 3.45 per 1,000 gallons



Milam County and Alcoa Water Supply

- ▶ Regional Water Supply Option to serve ultimate water system.
- ▶ 32,000 Acre/ft-yr capacity
- ▶ Projected water cost of \$4.17 / 1,000 gallons
- ▶ 37,000 LF of additional pipeline required.



Short Term

Mid Term

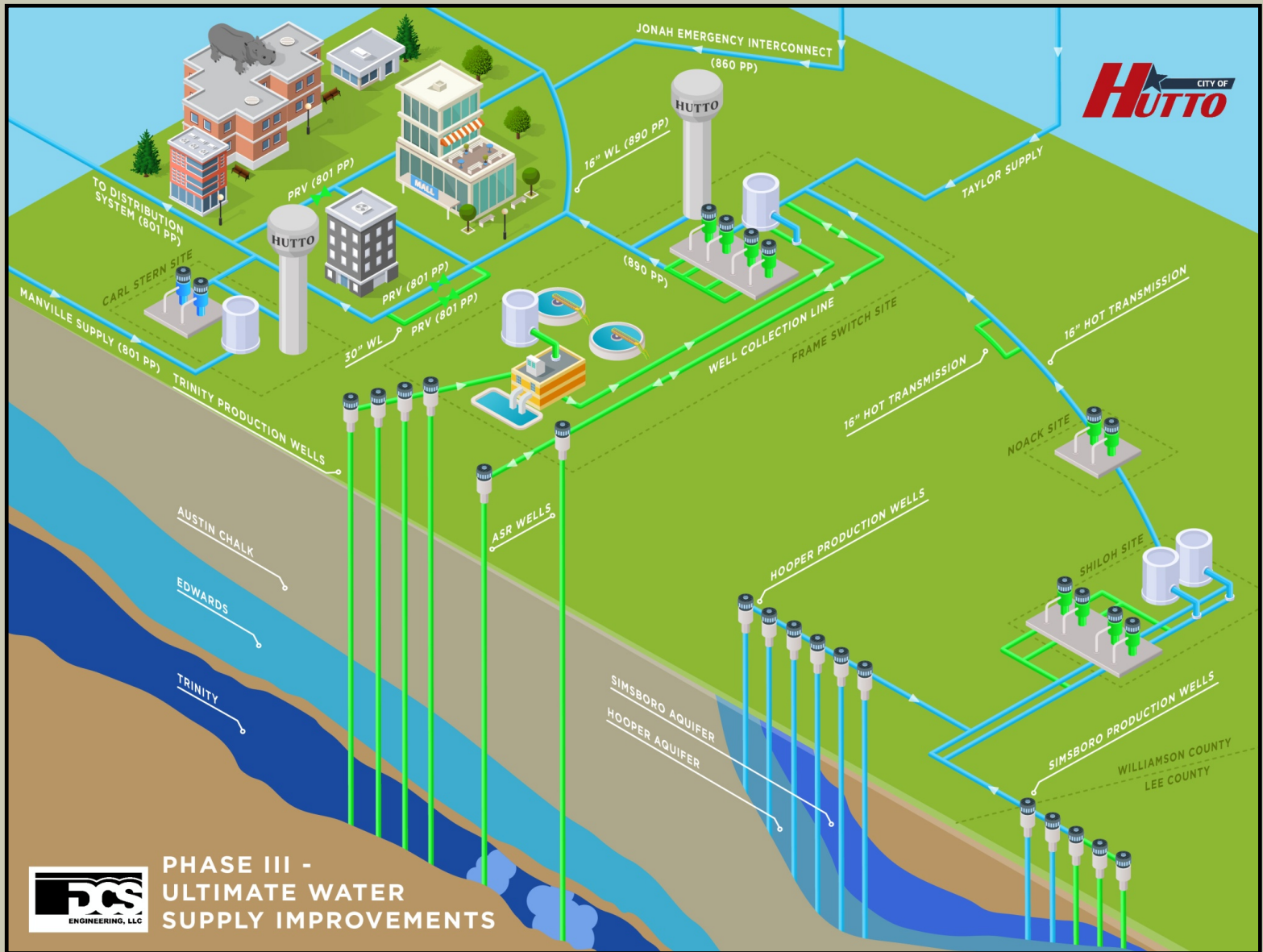
Ultimate

Brackish Water Treatment Plant in combination with ASR

Obtain through wholesale agreements

Milam County and Alcoa Water Supply

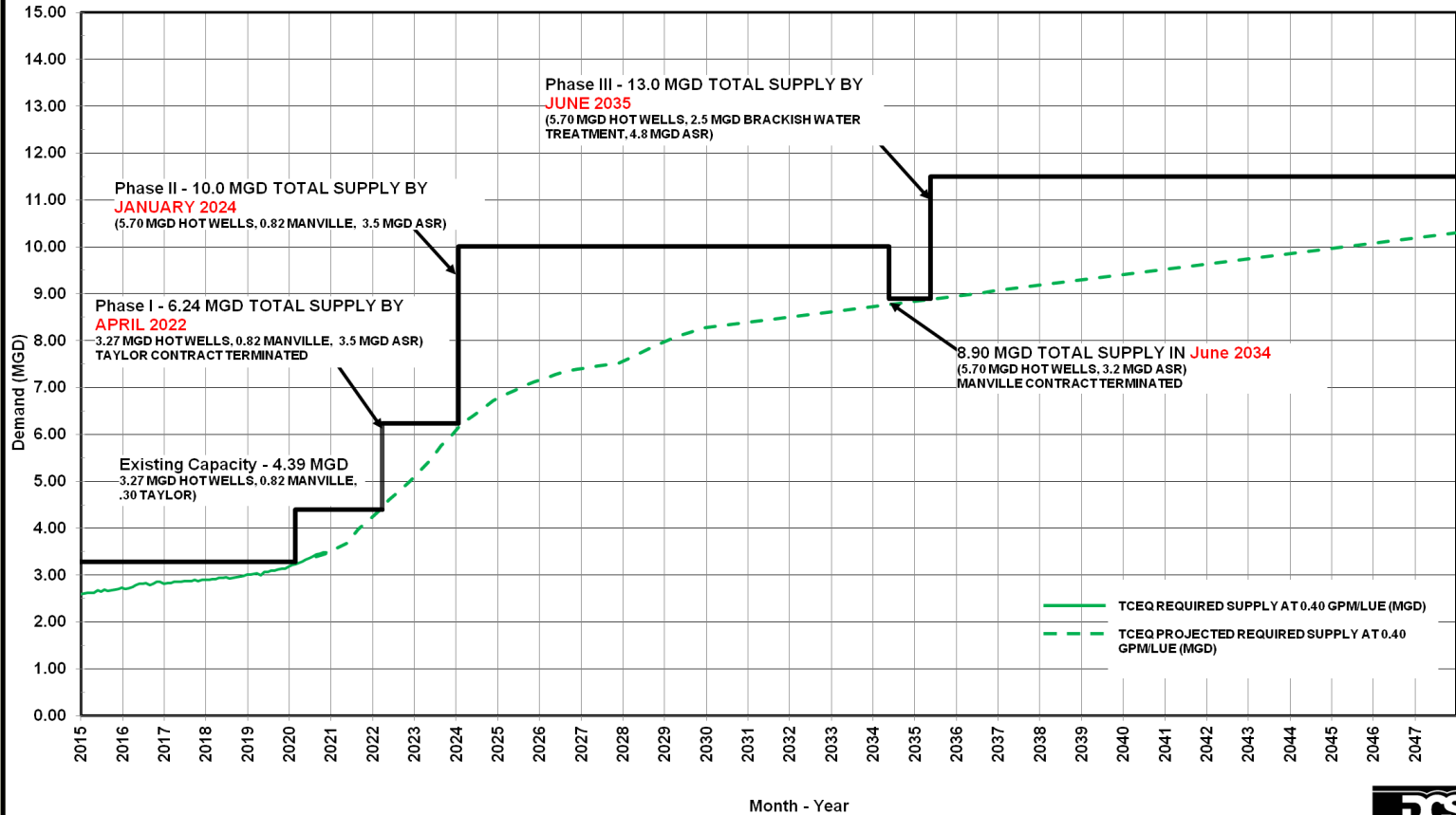
Obtaining Surface Water Rights

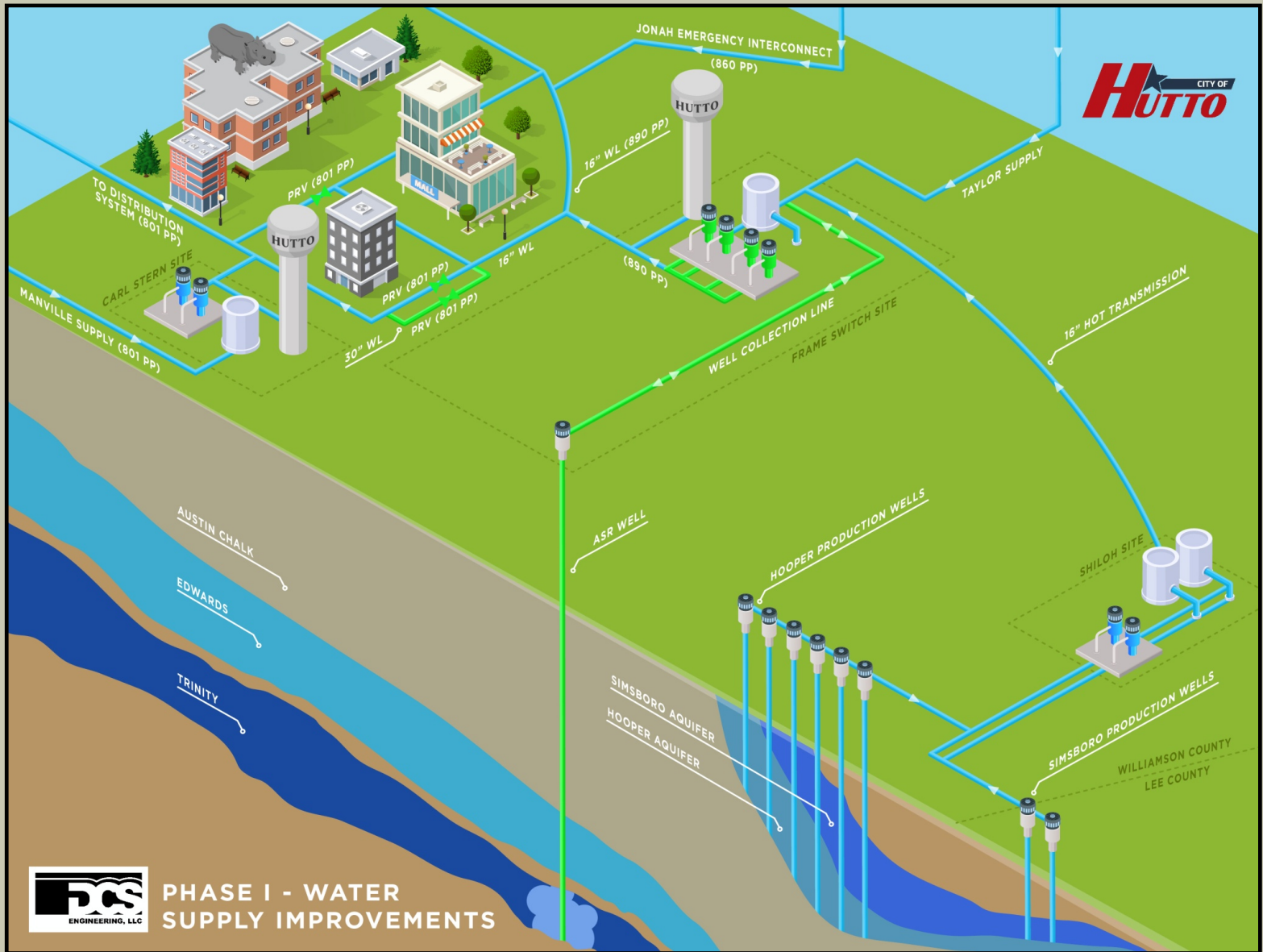


Recommendations



City of Hutto Project TCEQ Required Water Supply





Phase I – Water Supply Improvements

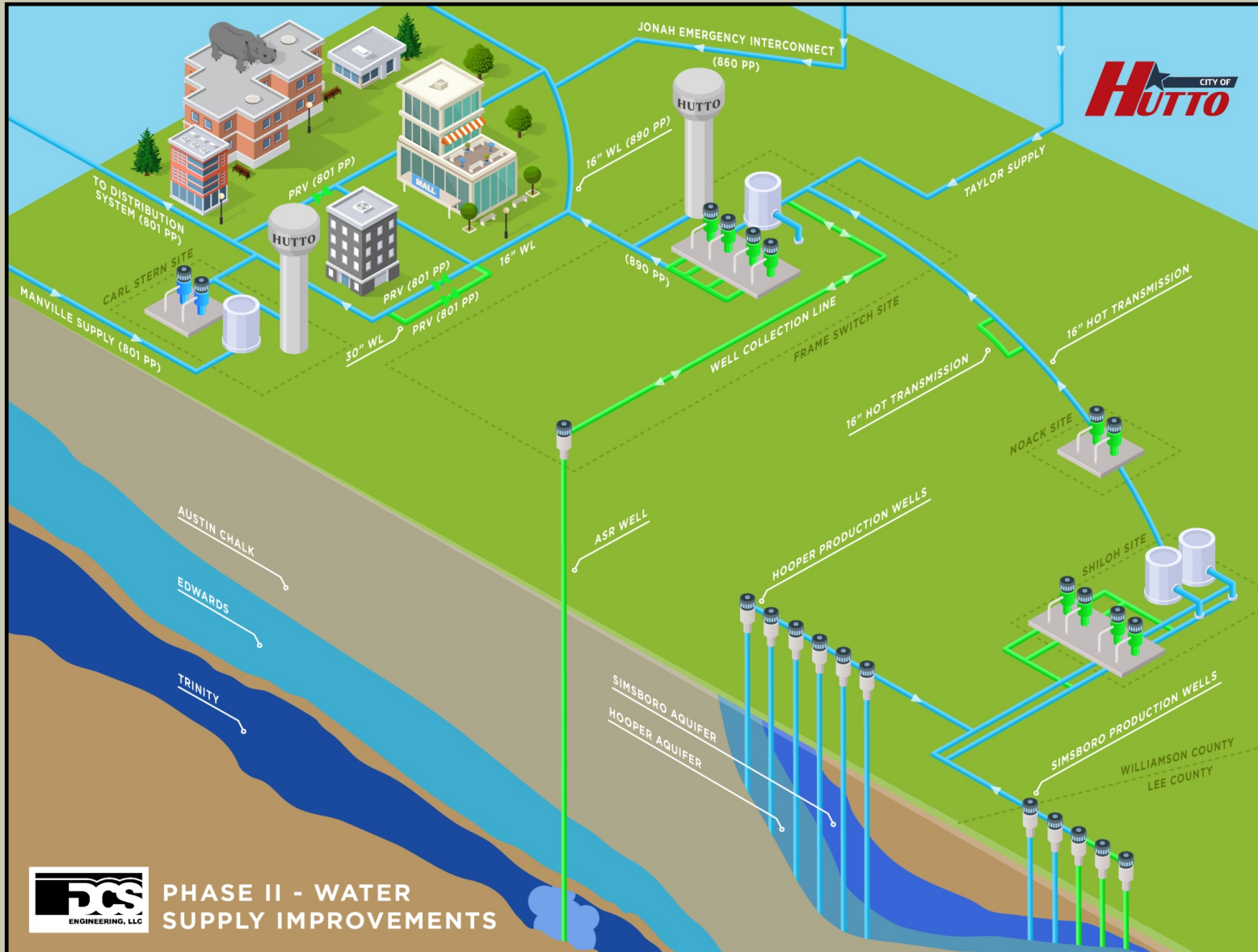
- ▶ Begin permitting for three new Simsboro Wells
- ▶ Reduce Taylor and Manville Supplies to min daily take or pay volume (0.175 mgd and 0.200 mgd). City saves a total of \$160,000 per year.
- ▶ Discontinue Taylor Water Supply Contract to end April 2022 or February 2024. City saves \$350,000 per year.
- ▶ Discontinue Manville Water Supply Contract . City saves \$350,000 per year.
- ▶ Last Rate Study adopted January 4, 2018. Conduct 2021 Rate Study to reflect recent changes to:
 - Impact Fees
 - CIP completion dates
 - Platted but not constructed LUEs
 - Operational adjustments
- ▶ Recommend 2022, 2023, 2024 Rate Study update due to projected 10% growth rate.



Phase I – Water Supply Improvements

- ▶ Complete by September 2022 – \$3.2 M
 - ▶ One Trinity Aquifer Storage and Recovery Well at Frameswitch Pumping Station site
- ▶ Complete by September 2022 – \$13.8 M
 - ▶ Frameswitch 801' PP and 890' Pressure Plane Pumping Stations – \$7.3 M
 - ▶ Frameswitch Elevated Tank Modifications – \$0.5 M
 - ▶ 79 Waterlines – 24" and 36" – \$3.3 M
 - ▶ 16" Parallel HOT Waterline - \$2.7 M

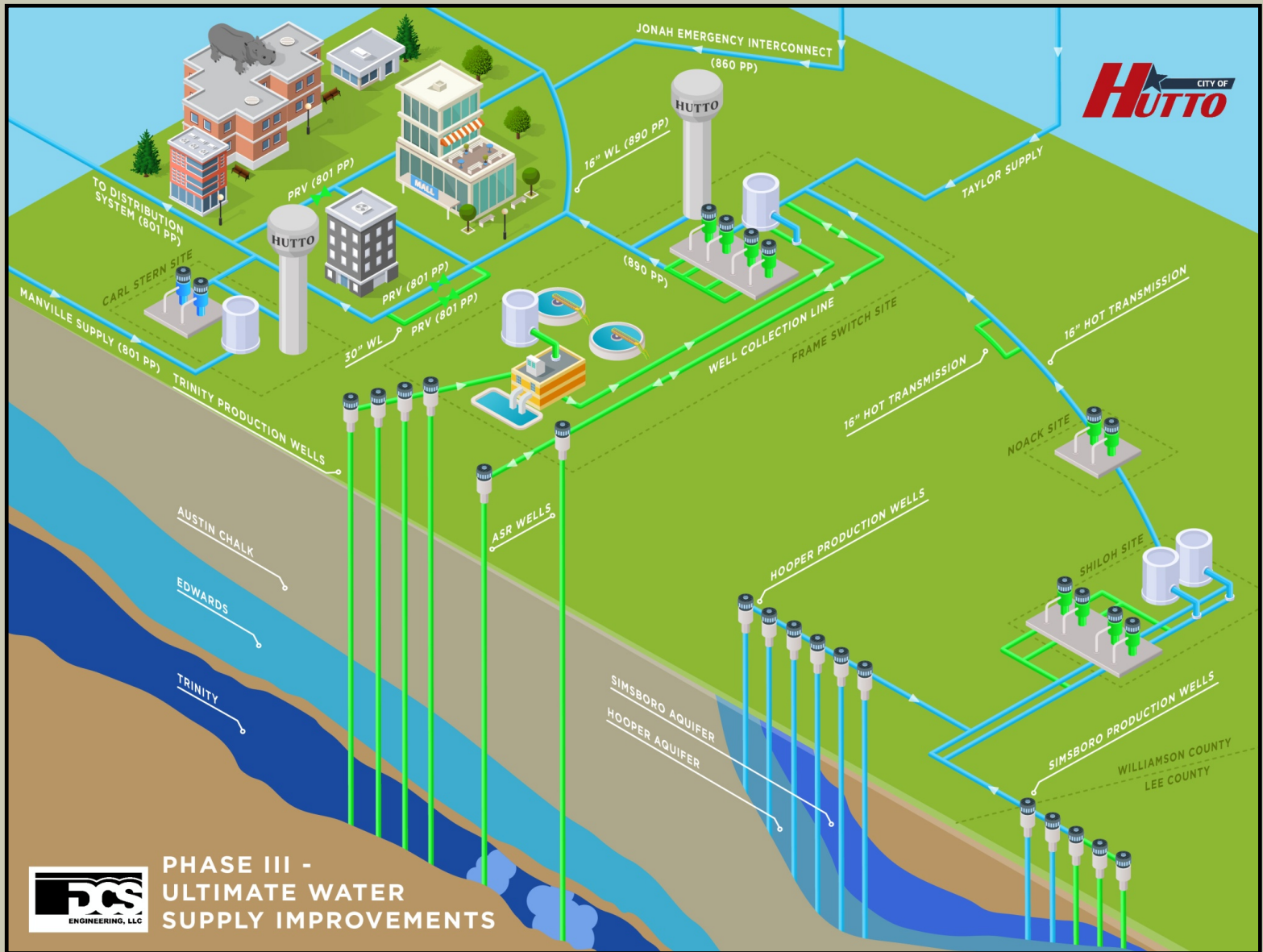




Phase II – Water Supply Improvements

- ▶ Complete by January 2024 – \$15.1 M
 - ▶ Shiloh Pumping Station Expansion to 5.7 MGD – \$4.9 M
 - ▶ Noack Inline Pumping Station 5.7 MGD – \$5.3 M
 - ▶ Three new Simsboro aquifer wells – \$3.1 M
 - ▶ 16” Well Collection Piping - \$0.7 M
 - ▶ Iron and Manganese Removal System - \$0.5 M
 - ▶ Replace Ground Storage Tank No. 1 – \$0.7 M





Phase III – Water Supply Improvements

- ▶ Complete by 2034 – Manville Wholesale Agreement Contract expires per 15 year contract term
 - ▶ 2.5 mgd Brackish Water Treatment Plant
 - ▶ One additional Trinity Production Wells
 - ▶ One additional Trinity Aquifer Storage and Recovery Well

Ultimate – Water Supply Improvements

- ▶ Ultimate -
 - ▶ Expansion from 2.5 mgd to 8.6 mgd Brackish Water Treatment Plant
 - ▶ Three additional Trinity Production Wells

Schedule

- ▶ November 12, 2020 – Verbal Notice to Proceed
- ▶ February 4, 2021 – Study Findings Presentation at Council Meeting
- ▶ February 10, 2021 – Study Findings Council Workshop
- ▶ March 4, 2021 (latest date) – Direction from City to DCS on Water Supply Study Alternative to implement
- ▶ May 6, 2021 – Draft Report submitted to City
- ▶ May 27, 2021 – City Review comments to DCS
- ▶ June 3, 2021 – Final Report submitted to City
- ▶ July 4, 2021 – 1st Advertisement for CIP projects to avoid a construction moratorium starting September 2022