



**CITY OF HUTTO, TEXAS
REGULAR CITY COUNCIL MEETING
THURSDAY, JANUARY 17, 2019 AT 7:00 PM
CITY HALL - CITY COUNCIL CHAMBERS
401 WEST FRONT STREET**

CITY COUNCIL

Doug Gaul, Mayor
Tom Hines, Place 2, Mayor Pro-tem
Scott Rose, Place 1
Nathan Killough, Place 3
Tim Jordan, Place 4
Patti Turner, Place 5
Terri Grimm, Place 6

AMENDED AGENDA

1. **CALL SESSION TO ORDER**

2. **ROLL CALL**

3. **INVOCATION**

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

5A. General Comments from City Council

6. **PUBLIC COMMENT**

Any citizen wishing to speak during public comment regarding an item on or off the agenda may do so after completing the required registration card. In accordance with the Texas Attorney General's Opinion, any public comment that is made on an item that is not on the published final agenda will only be heard by the City Council. No formal action, discussion, deliberation, or comment will be made by the City Council. Each person providing public comment will be limited to 3 minutes.

6A. Remarks from visitors. *(Three-minute time limit)*

7. **CITY MANAGER COMMENTS:**

7A. Presentation announcing the company for Project Wire. (Jessica Bullock)

7B. Discussion and possible action on Parks Advisory Board recommendations for parks improvements. (Scot Stromsness)

- 7C. Presentation of economic development results from ICSC conference. (Jessica Bullock)
- 7D. Update on Co-Op development. (Bob Wunsch)
- 7E. Presentation of the City Financials for the Month of December as required by the fiscal and budgetary policy. (Edena Atmore)

8. **CONSENT AGENDA ITEMS:**

All items listed on the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless requested by a Council member in which event, the item will be removed from the consent agenda and considered as a regular agenda item.

- 8A. Consideration and possible action approving the minutes of the January 3, 2019 Regular City Council Meeting. (Lisa Brown)
- 8B. Consideration and possible action on a resolution approving the proposed Star Ranch Commercial Lots 3A, 3B and 3C, Block B Final Plat, 2.562 acres, more or less, of land, 3 commercial lots, located on Muirfield Bend drive at Klattenhoff Lane. (Ashley Lumpkin)
- 8C. Consideration and possible action on a resolution approving the proposed Townwest Commons Section Seven Preliminary Plat, 3.8280 acres, more or less, of land, 2 commercial lots, located on US Highway 79 West at Alliance Boulevard. (Ashley Lumpkin)
- 8D. Consideration and possible action on the second and final reading of an ordinance approving a specific use permit for the property located at 151 West Austin Avenue, 0.56 acres, more or less, of land, Lot 1 of the Austin Avenue Commercial Subdivision, allowing a warehouse and distribution facility in the SD-A zoning district. (Ashley Lumpkin)
- 8E. Consideration and possible action on the second and final reading of an ordinance amending the Code of Ordinances (2014 Edition), Chapter 16, Article 16.02 Unified Development Code (UDC) Chapter 10 Section 10.406.7: Industrial Building Design and Section 10.407.5: Required Landscaping. (Ashley Lumpkin)

REGULAR AGENDA ITEMS

9. **ORDINANCES:**

- 9A. Consideration and possible action on the second reading of an ordinance accepting and approving a Service and Assessment Plan and Assessment Roll for Cross Creek Public Improvement District; making a finding of Special Benefit to the Property in the District; levying special assessments against property within the District and establishing a lien on such property; providing for the method of assessment and the payment of the special assessments in accordance with Chapter 372, Texas Local Government Code, as amended, providing penalties and interest on delinquent assessments, providing for severability, and providing and effective date. (City Attorney)
- 9B. Consideration and possible action of an ordinance authorizing the issuance and sale of one or more series of City of Hutto, Texas General Obligation Bonds, Series 2019; authorizing the levy of an ad valorem tax in support of said bonds; approving an official statement, the form of a paying agent/registrar agreement and related agreements; establishing procedures for selling and delivering of one or more series of bonds; and other matters relating to the issuance of the bonds. (Edena Atmore)

10. **RESOLUTIONS:**

- 10A. Consideration and possible action on a resolution ordering the May 4, 2019 General Election for the purpose of electing City Council, Place 3, City Council, Place 6 and Mayor. (Lisa Brown)

Consideración y posible acción sobre una resolución ordenando la Elección General del 4 de mayo de 2019 con el propósito de elegir el Concejo de la Ciudad, el Lugar 3 y el Consejo de la Ciudad, Lugar 6 y la oficina de Alcalde. (Lisa Brown)
- 10B. Consideration and possible action on a resolution authorizing the City Manager to execute a contract with HNTB Corporation for the engineering services related to the improvements to the intersection at FM 1660 N and Limmer Loop, FM 1660 N and US 79, FM 1660 and US 79/Front Street, pedestrian grade separation crossing of US 79 near the Co-Op, and the traffic grade separation of US 79 east of Cottonwood Creek. (Matt Rector)
- 10C. Consideration and possible action on a resolution authorizing the City Manager to execute a contract with Hejl, Lee & Associates Inc. for the engineering services related to the improvements to the Cottonwood Creek, Old Town Streets, CR 137, and certain Legends of Hutto Drainage facilities. (Matt Rector)
- 10D. Consideration and possible action on a resolution regarding Cross Creek Public Improvement District (Meritage Homes) approving certain agreements including an interlocal agreement, continuing disclosure agreement, landowner agreement and Public Finance Authority consent letter and further approving certain actions by the River Creek Development Corporation. (City Attorney)

- 10E. Consider adoption of a resolution approving the Hutto Economic Development Corporation Type A "resolution authorizing Hutto Economic Development Corporation Type A Revenue Bond (Peripheral Investments, L.P. Project), Series 2019; the execution of an indenture of trust, a loan agreement and a purchase letter; and other matters in connection therewith." (City Attorney)

11. **OTHER BUSINESS:**

- 11A. Consideration of and possible appointments to City Boards and Commissions, including the Economic Development Corporations. (Lisa Brown)

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].

- 12A. Executive Session, as authorized by Texas Government Code Section 551.087, deliberations regarding Economic Development negotiations, regarding Project Wire.

- 12B. Executive Session, as authorized by Texas Government Code Section 551.087 deliberations regarding Economic Development negotiations, regarding JRS Company, Inc.

- 12C. Executive Session, as authorized by Texas Government Code Section 551.087, Economic Development, regarding Project Expansion.

13. **ACTION RELATIVE TO EXECUTIVE SESSION:**

- 13A. Consideration and possible action regarding Project Wire.

- 13B. Consideration and possible action regarding JRS Company, Inc.

- 13C. Consideration and possible action regarding Project Expansion.

14. **ADJOURNMENT**

CERTIFICATION

I certify that this notice of the January 17, 2019 Hutto City Council meeting was posted on the City Hall bulletin board of the City of Hutto on January 14, 2019 at _____.

Original Agenda Signed

Lynn Trumbul, Senior Assistant City Secretary

The City of Hutto is committed to comply with the American with Disabilities Act. The Hutto City Council Chamber is wheelchair accessible. Request for reasonable special communications or accommodations must be made 48 hours prior to the meeting. Please contact the Senior Assistant City Secretary at (512) 759-5992 or lynn.trumbul@huttotx.gov for assistance.

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 7A. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Jessica Bullock, Director of Economic Development

ITEM: Presentation announcing the company for Project Wire. (Jessica Bullock)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

Announcing new company coming to Hutto.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Not applicable.

SUPPORTING MATERIAL:

There are no supporting documents.

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 7B. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Scot Stromsness, Executive Director of
Community Services & Kelley Gaydos,
Chairperson of Parks Advisory Board

ITEM: Discussion and possible action on Parks Advisory Board
recommendations for parks improvements. (Scot Stromsness)

STRATEGIC GUIDE POLICY: Quality of Life & Services

ITEM BACKGROUND:

This recommendation was made by the Parks Improvement Committee and approved by the Parks Advisory Board.

BUDGETARY AND FINANCIAL SUMMARY:

Phase 1 calls for \$2.5 million of park improvements in Hutto.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Recommendation from Parks Improvement Committee.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends approval.

SUPPORTING MATERIAL:

There are no supporting documents.

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 7C. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Jessica Bullock, Director of Economic Development

ITEM: Presentation of economic development results from ICSC conference.
(Jessica Bullock)

STRATEGIC GUIDE POLICY: Well Balanced & Diversified Economy

ITEM BACKGROUND:

Economic Development Department staff attended the inaugural International Council of Shopping Centers Red River States Conference in Fort Worth Jan. 9-11. This conference had more than 3,000 attendees including a mix of retailer developers and economic development professionals looking to expand within Texas. The City of Hutto had a booth promoting all available retail sites and met with more than 200 people who stopped by the City of Hutto's booth location. Out of those 200, 69 direct contacts were received as well as 19 projects to follow up with, and at least five confirmed site visits. In addition to the contacts made and site visits secured, staff also positively promoted Hutto as a destination and highlighted the City's quality of life.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Not applicable.

SUPPORTING MATERIAL:

There are no supporting documents.

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 7D. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Bob Wunsch

ITEM: Update on Co-Op development. (Bob Wunsch)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

Construction update on the Co-op and City Hall.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Not applicable.

SUPPORTING MATERIAL:

There are no supporting documents.

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 7E. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Edena Atmore, Assistant City Manager

ITEM: Presentation of the City Financials for the Month of December as required by the fiscal and budgetary policy. (Edena Atmore)

STRATEGIC GUIDE POLICY: Fiscal Responsibility

ITEM BACKGROUND:

Financials for the month of December 2018 consisting of the Balance Sheets, Income Statements, and Fund Balances. The purpose is to inform the Council and public of the City's fiscal stewardship.

BUDGETARY AND FINANCIAL SUMMARY:

Overall activity is in line with expectations.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Not applicable

SUPPORTING MATERIAL:

There are no supporting documents.

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 8A. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Lisa Brown, City Secretary

ITEM: Consideration and possible action approving the minutes of the January 3, 2019 Regular City Council Meeting. (Lisa Brown)

STRATEGIC GUIDE POLICY: Quality of Life & Services

ITEM BACKGROUND:

Meeting minutes have been prepared and are presented for Council approval for the January 3, 2019 City Council Meeting.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends approval.

SUPPORTING MATERIAL:

1. [Minutes](#)



**CITY COUNCIL
MEETING MINUTES
JANUARY 3, 2019**

The Hutto City Council met in a regular session on Thursday, January 3, 2019, in the Hutto City Council Chamber, 401 W. Front Street, Hutto, TX 78634.

CALL SESSION TO ORDER

Mayor Gaul called the session to order at 7:00 p.m.

ROLL CALL

Members of the City Council present were Mayor Doug Gaul, Mayor Pro-tem Tom Hines, Councilmember Scott Rose, Councilmember Tim Jordan, Councilmember Patti Turner and Councilmember Terri Grimm. Councilmember Nathan Killough was absent.

Members of staff that were present were Odis Jones, City Manager; Helen Ramirez, Assistant City Manager; City Attorney Bill Bingham, Byron Frankland, Chief of Police; Paul Hall, Assistant Chief of Police; Matt Rector, Executive Director of Public Works and Engineering; Michel Sorrel, Chief Financial Officer; Ashley Lumpkin, Executive Director Business Development, Jessica Bullock, Director of Economic Development; Eliska Padilla, Executive Director of Communications; Tony Host, Director of Public Works and Lisa Brown, City Secretary.

INVOCATION

The invocation was given by Vicar Katie Wegner – Hutto Lutheran Church.

PLEDGE OF ALLEGIANCE

Mayor Gaul led the Pledge of Allegiance and the Texas Pledge.

CITY COUNCIL COMMENTS

There were no City Council comments.

PUBLIC COMMENT

Jack Kelley 2904 Margarita Loop, Round Rock – Mr. Kelley's son, Det. Sergeant Christopher Kelley, a Hutto police officer was killed in the line of duty. Mr. Kelley had previously petitioned the Texas House of Representatives to dedicate a portion of US 79 as a memorial to his son, but was unsuccessful. He has petitioned the Texas Senate this legislative session and has requested the City Council endorse the petition.

Odis Jones, City Manager, expressed his sympathy to Mr. Kelley and assured him that his office and the City Council will do everything they can to endorse the petition.

CONSENT AGENDA

7A. Consideration and possible action approving the minutes of the December 20, 2018 Regular City Council Meeting.

Motion: Councilmember Grimm made a motion to approve the December 20, 2018 minutes. Councilmember Jordan seconded the motion.

Vote:

Ayes	Mayor Doug Gaul Councilmember Scott Rose Mayor Pro-tem Tom Hines Councilmember Tim Jordan Councilmember Patti Turner Councilmember Terri Grimm
Absent	Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

REGULAR AGENDA ITEMS

ORDINANCES

8A. Consideration and possible action on the reading of an ordinance amending the Code of Ordinances, Chapter 22, Article 22.03 Operation of Vehicles, Section 22.03.034 School Zones and Article 22.07 Traffic Schedules, Section 22.07.002 School Zone.

Matt Rector, Executive Director of Engineering and Public Works, presented the ordinance to update defining the school zones and adding a process to define school zones for a second reading to the City Council.

Motion: Councilmember Rose made a motion accept the second reading of an ordinance amending the Code of Ordinances, Chapter 22, Article 22.03 Operation of Vehicles, Section 22.03.034 School Zones and Article 22.07 Traffic Schedules, Section 22.07.002 School Zone. Councilmember Jordan seconded the motion.

Vote:

Ayes	Mayor Doug Gaul Councilmember Scott Rose Mayor Pro-tem Tom Hines Councilmember Tim Jordan Councilmember Patti Turner Councilmember Terri Grimm
Absent	Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

8B. Consideration and possible action on the second reading of an ordinance adopting a Flood Damage Prevention Ordinance.

Matt Rector presented a second reading of the ordinance for a Flood Damage Prevention program.

Motion: Mayor Pro-tem Hines made a motion accept the second reading of an ordinance to adopt a Flood Damage Prevention Ordinance. Councilmember Rose seconded the motion.

Vote:

Ayes	Mayor Doug Gaul Councilmember Scott Rose Mayor Pro-tem Tom Hines Councilmember Tim Jordan Councilmember Patti Turner Councilmember Terri Grimm
Absent	Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

RESOLUTIONS

9A. Consideration and possible action on a resolution declaring support and pledge to participate in the It's Time Texas Community Challenge.

Eliska Padilla, Executive Director of Communication, presented the challenge to the City Council.

The It's Time Texas Community Challenge is an 8-week competition that unites and mobilizes community schools, businesses, organizations, residents and elected officials toward the common goal of transforming the community's health.

This year's Community Challenge starts January 7 and runs through March 13.

"All citizens are encouraged to participate so we can make our community more united, more productive, and more prosperous," said Mayor Doug Gaul.

Participants earn points for their city and are entered for prize drawings every time they make and submit a healthy choice. The Texas community that has the most points will receive funds toward future health efforts.

The City does not register as a whole. Instead, each individual registers and chooses the community they want their points to go to. Participants earn a 200 point bonus for registering

before Jan. 7, 2019 on top of the 500 points awarded for registration. Registering for the competition is free.

Additionally, there is a School District Challenge, which allows school staff and faculty, as well as parents of students in grades K-12, to earn points for their school district as well. If participants choose to opt-in to the school district challenge, the district will also earn points for each healthy activity submitted, along with their chosen city.

Cities are divided into population categories, and the community with the most points in each category will receive an \$1,800 community grant to put toward future health-related efforts, along with a trophy, school district banner, Governor's certificate, web banner and badge, and four free registrations to the 2019 Healthier Texas Summit event! Runners-up and school district winners will receive a plaque.

Hutto won the Community Challenge in 2013 and participated in 2015, 2017, and 2018.

Motion: Mayor Pro-tem Hines made a motion accept the resolution declaring support and pledge to participate in It's Time Texas. Councilmember Grimm seconded the motion.

Vote:

Ayes	Mayor Doug Gaul
	Councilmember Scott Rose
	Mayor Pro-tem Tom Hines
	Councilmember Tim Jordan
	Councilmember Patti Turner
	Councilmember Terri Grimm
Absent	Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

9B. Consideration and possible action on a resolution expressing official intent to reimburse expenses related to constructing, acquiring, improving, renovating, developing and equipping, land, buildings and supporting infrastructure for public safety and communication facilities and constructing, improving, extending, upgrading and/or developing streets, roads and intersections at FM 1660 North and Limmer Loop, FM 1660 at U.S. 79, FM 1660 South and Front Street and other City roads.

Helen Ramirez, Assistant City Manager, presented the resolution that will approve that funds expended by the City immediately for infrastructure projects will be reimbursed by bond funds.

Mayor Pro-tem Tome Hines wanted clarification that this resolution allows us to borrow the funds and they will be paid back by the end of the year – Helen Ramirez – yes.

Councilwoman Patti Turner wanted to know when the debt would be issued – Odis Jones – approximately April.

Motion: Mayor Pro-tem Hines made a motion to approve the resolution expressing official intent to reimburse expenses related to constructing, acquiring, improving, renovating, developing and equipping, land, buildings and supporting infrastructure for public safety and communication facilities and constructing, improving, extending, upgrading and/or developing streets, roads and intersections at FM 1660 North and Limmer Loop, FM 1660 at U.S. 79, FM 1660 South and Front Street and other City roads. Councilmember Jordan seconded the motion.

Vote: Ayes Mayor Doug Gaul
 Councilmember Scott Rose
 Mayor Pro-tem Tom Hines
 Councilmember Tim Jordan
 Councilmember Patti Turner
 Councilmember Terri Grimm
 Absent Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

OTHER BUSINESS

10A. Consideration of and possible appointments to City Boards and Commissions, including the Economic Development Corporations.

Motion: Councilman Jordan made a motion to appoint Julia Cooper to the Parks Advisory Board. Mayor Pro-tem Hines seconded the motion.

Vote: Ayes Mayor Doug Gaul
 Councilmember Scott Rose
 Mayor Pro-tem Tom Hines
 Councilmember Tim Jordan
 Councilmember Patti Turner
 Councilmember Terri Grimm
 Absent Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

Motion: Councilman Scott Rose made a motion to appoint Troy Manella to the Building & Standards Commission. Mayor Pro-tem Hines seconded the motion.

Vote: Ayes Mayor Doug Gaul
 Councilmember Scott Rose
 Mayor Pro-tem Tom Hines
 Councilmember Tim Jordan
 Councilmember Patti Turner
 Councilmember Terri Grimm
 Absent Council Member Nate Killough

Action: The motion passed 6 ayes, and 0 nays

CITY MANAGER COMMENTS

11A. Presentation of Certificate of Appreciation to the Public Works staff for their dedication and commitment to serving the citizens of Hutto during the December water main break.

Odis Jones presented Certificates of Appreciation to members of the Public Works staff for their dedication to the City and for their hard work on the water main break repairs:

Utility Department

*Matt Edwards
Jose Sanchez
Calynn Duffey
Richard Rodriguez
Pete Gonzalez
Carson Monroe
Nick Parker
Aaron Neslony
Tony Townsend
Travis Duncan*

Streets and Drainage

*Mark Nunez
Lance Zeplin
John Ollaway
Greg Altamirano*

Construction Inspection

Todd Meaker

Councilwoman Turner stated the City could not have better individuals working for the City.

Mayor Gaul thanked the families of the employees for being understanding of the time their loved ones commit to the City and their jobs.

11B. Discussion with the Parks Improvement Committee regarding Proposition C and their recommendations.

Shane Mize, Director of Parks & Rec, and Kelly Gaydos, Chair of the Parks Advisory Board provided an overview of projects the Parks Improvement Committee compiled of immediate improvements to the City parks. Those projects included new playground equipment, restrooms, improved ball fields and access to Hutto Lake Park off of Chris Kelley Blvd.

Councilwoman Grimm expressed concern that the ropes structures are geared to a specific age group – Shane Mize: all structures have components for ages 2-5 and 5-12.

Councilmembers Rose, Jordan and Grimm would all like to see the presentation going through the Parks Board for recommendations and approval.

Mayor Gaul would like for the Committee to continue to meet with the Parks Board on a quarterly basis.

- 11C. Discussion with outlined the Planning and Zoning Commission regarding Proposition A and their recommendations.

Ashley Lumpkin and Jessica Romigh, Chair of the Planning and Zoning Commission outlined the Commissions recommendations on immediate projects. Other than those projects specifically identified in the Bond: Cottonwood Creek Drainage, FM 1660 N. @ Limmer Loop, FM 1660 N @ US 79, FM 1660 S @ US 79.

Another project identified was of improvement the Legends of Hutto drainages ditches. Dedication of the land to the City would need to happen prior to commencement of the project.

Councilman Jordan commented the dedication the land/ditches to the City was to have happened several years ago – he would hope that the dedication of all of the land would happen at the same time.

The Council recessed to executive session at 9:01 p.m. and reconvened at 9:54 p.m.

EXECUTIVE SESSION

- 12A. Executive Session, as authorized by Texas Government Code Section 551.087, Economic Development, regarding Titan development project and Project Expansion.
- 12B. Executive Session, as authorized by Texas Government Code Section 551.071, Consultation with Attorney, regarding Transportation Impact Fee.

No action was taken in Executive Session.

ACTION RELATIVE TO EXECUTIVE SESSION

- 13A. Consideration and possible action regarding a Transportation Impact Fee.

Motion: Councilman Turner made a motion authorizing the City Manager to suspend operation of Ordinance O-18-07-19-9A at his discretion. Mayor Pro-tem Hines seconded the motion.

Vote: Ayes Mayor Doug Gaul
 Councilmember Scott Rose
 Mayor Pro-tem Tom Hines
 Councilmember Tim Jordan
 Councilmember Patti Turner

Nays Councilmember Terri Grimm
Absent Council Member Nate Killough

Action: The motion passed 5 ayes, and 1 nays

ADJOURNMENT

There being no further business to be heard, the meeting was adjourned at 9:55 p.m.

CITY OF HUTTO

Doug Gaul, Mayor

ATTESTED:

Lisa L. Brown, City Secretary

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 8B. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Ashley Lumpkin, AICP, Executive
Director of Business & Development
Services

ITEM: Consideration and possible action on a resolution approving the proposed Star Ranch Commercial Lots 3A, 3B and 3C, Block B Final Plat, 2.562 acres, more or less, of land, 3 commercial lots, located on Muirfield Bend drive at Klattenhoff Lane. (Ashley Lumpkin)

STRATEGIC GUIDE POLICY: Well Balanced & Diversified Economy

ITEM BACKGROUND:

The Lot 3A, 3B and 3C, Block B of Star Ranch Commercial Subdivision Final Plat includes 3 proposed commercial lots that front on State Highway 130 and Muirfield Bend Drive with a total acreage of 2.562 acres.

Lot 3A – 0.920 acres (40,075 SF)

Lot 3B – 0.802 acres (34,935 SF)

Lot 3C – 0.840 acres (36,590 SF)

WEST: Shopping Center that is under construction (Great Clips, Smoothie King)

NORTH: Muirfield Bend Drive and golf course

EAST: State Highway 130

SOUTH: HEB Shopping Center

Utilities

Water and wastewater service will be provided by the Williamson County Water, Sewer, Irrigation and Drainage District No. 3.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The Planning and Zoning Commission recommended approval to City Council on January 8, 2019.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends that the Council approve the resolution.

SUPPORTING MATERIAL:

1. [Resolution - Star Ranch Commercial Lots 3A, 3B & 3C Block B Final Plat](#)

RESOLUTION NO.

A RESOLUTION APPROVING THE PLAT KNOWN AS "STAR RANCH COMMERCIAL LOTS 3A, 3B AND 3C, BLOCK B FINAL PLAT"; IN THE EXTRATERRITORIAL JURISDICTION OF HUTTO, WILLIAMSON COUNTY, TEXAS.

WHEREAS, the Texas Local Government Code Chapter 212 and the City of Hutto Subdivision Ordinance requires the Planning and Zoning Commission to take action to recommend to the City Council whether or not to approve or disapprove a subdivision plat within thirty (30) days of the date an application is accepted, and;

WHEREAS, the Texas Local Government Code Chapter 212 and the City of Hutto Subdivision Ordinance requires the City Council take action to approve or disapprove a subdivision plat within thirty (30) days of the date of presentation at Planning and Zoning Commission, and;

WHEREAS, the Development Services Department and the City Engineer have reviewed the above referenced plat for compliance with statute and engineering standards, and;

WHEREAS, if City Council fails to take action on this plat within the prescribed thirty (30) day period, the plat is granted statutory approval, Now therefore,

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

that the Hutto City Council hereby approves the resolution for the plat known as "Star Ranch Commercial Lots 3A, 3B and 3C, Block B Final Plat", a copy of same being attached hereto as "Exhibit A" and incorporated herein for all purposes.

CONSIDERED and RESOLVED on this the **17th** day of the month **January, 2019**.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Lisa L. Brown, City Secretary

LOT 3A, LOT 3B AND LOT 3C, BLOCK B OF STAR RANCH COMMERCIAL SUBDIVISION

Being a REPLAT of Lot 3, Block B of Lot 1, Lot 2 and Lot 3, Block B of the STAR RANCH COMMERCIAL SUBDIVISION, of record in Document No. 2018005993, Official Public Records of Williamson County, Texas.



SCALE: 1" = 100'



LEGEND	
●	5/8" IRON ROD WITH "ACS" CAP SET
● "ACAP"	1/2" IRON ROD WITH "TXDOT" ALUMINUM CAP FOUND
○	1/2" IRON ROD WITH "TRUE-SURV 6614" CAP FOUND
△	CALCULATED POINT
⊠	CONTROL POINT/BENCHMARK LOCATION
J.A.E.	JOINT ACCESS EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
T.C.E.	TEMPORARY CONSTRUCTION EASEMENT
W.L.E.	WATERLINE EASEMENT
W.W.L.E.	WASTEWATER LINE EASEMENT
()	RECORD INFORMATION

JAMES H. NEILY
SURVEY ABS. 485

N.D. WALLING SURVEY NO. 19
ABS. 675

WILLIAMSON COUNTY, TEXAS TACK DEVELOPMENT, LTD.
(0.479 ACRE)
(2017028229)

KLATTENHOFF LANE

STAR GOLF PARTNERS, LTD.
REM. OF (70.8081 ACRES)
(2004037056)

TACK DEVELOPMENT, LTD.
REM. OF (11.18 ACRES)
(2006027467)

MUIRFIELD BEND DRIVE
(70' R.O.W. WIDTH)
(2017094788)

TACK DEVELOPMENT, LTD.
REM. OF (6.043 ACRES)
(1999069583)

TACK DEVELOPMENT, LTD.
REM. OF (26.1086 ACRES)
(2003031850)

STAR GOLF PARTNERS
(7.23 ACRES)
(2006047705)

MUIRFIELD BEND DRIVE
(70' R.O.W. WIDTH)
(2016020314)

LOT 1A
AMENDED PLAT OF
STAR RANCH GATTIS
SCHOOL ROAD/SH 130 SUBDIVISION,
LOTS 1A AND 3A
(2017005623)

HEB GROCERY COMPANY LP
SQUARE CUT ON CURB
ELEV. = 750.65'
(NAVD88/GEOD 12B)

20' WASTEWATER
EASEMENT
(2006021697)

LOT 3A, LOT 3B AND LOT 3C, BLOCK B
OF STAR RANCH COMMERCIAL SUBDIVISION
OWNER: TACK DEVELOPMENT, LTD.
SURVEY: N.D. WALLING SURVEY NO. 19, ABSTRACT NO. 675
JAMES H. NEILY SURVEY, ABSTRACT NO. 485

PLAT REVISION DATE: OCTOBER 11, 2018

NO. OF BLOCKS: 1
NO. OF NON-RESIDENTIAL LOTS: 3
NO. OF COMMON AREAS: NONE
NEW STREETS: NONE

DATE OF SURVEY: NOVEMBER 14, 2017;

SURVEYOR: ALL COUNTY SURVEYING, INC.
4330 S. 5th STREET
TEMPLE, TEXAS 76504

ENGINEER: CATALYST ENGINEERING GROUP
100 SOUTH 2ND STREET
PFLUGERVILLE, TEXAS 78660

THIS IS A SURFACE DRAWING.

BEARING BASIS: THE TEXAS COORDINATE SYSTEM
OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS
SOLUTIONS FROM THE NATIONAL GEODETIC
SURVEY (NGS) ON-LINE POSITIONING USER
SERVICE (OPUS) FOR TRUE-SURV PROFESSIONAL
LAND SURVEYING, L.L.C. CONTROL POINT
"TRAV10001".

1/2" IRON ROD SET

TEXAS STATE PLANE COORDINATES:
N 10158078.79
E 3163805.29

SURFACE COORDINATES:
N 10159222.82
E 3164161.61

ELEVATION = 734.30'
VERTICAL DATUM: NAVD 88 (GEOD 12B)

COMBINED SCALE FACTOR = 0.99988739
(FOR SURFACE TO GRID CONVERSION)

INVERSE SCALE FACTOR = 1.00011262268244
(FOR GRID TO SURFACE CONVERSION)

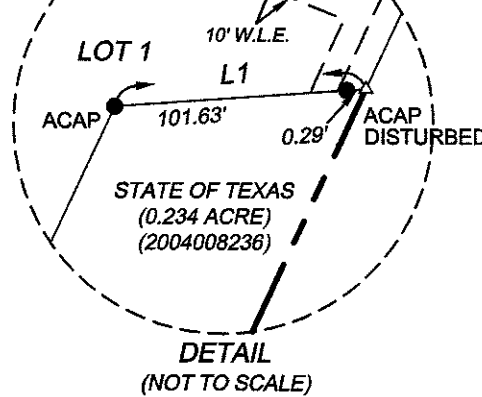
SCALED ABOUT 0.0
THETA ANGLE: 1° 25' 07"

LINE	BEARING	DISTANCE
L1	S 86°01'05" W	101.92'
	(S 86°01'05" W)	(101.92')
L2	S 25°01'17" W	32.57'
	(S 25°01'17" W)	(32.57')
L3	N 09°17'34" E	92.11'
	(N 09°17'34" E)	(92.11')
L4	S 64°49'50" E	86.66'
	(S 64°49'50" E)	(86.66')
L5	S 19°50'43" E	49.46'
	(S 19°50'43" E)	(49.46')

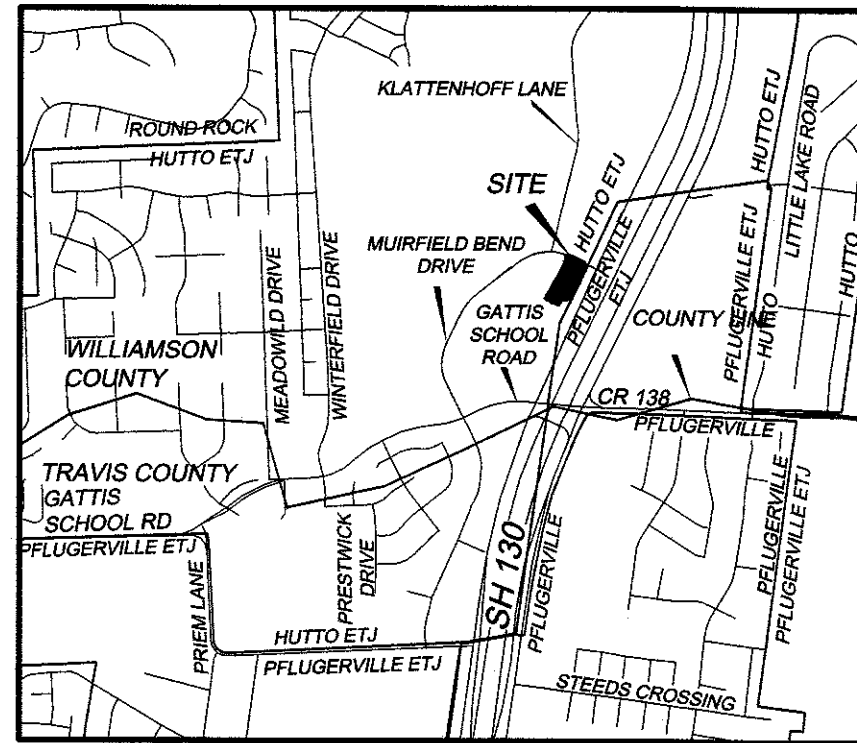
FLOOD PLAIN NOTE:

NO PORTION OF THE SUBJECT PROPERTY IS
LOCATED WITHIN THE BOUNDARIES OF THE 100
YEAR FLOODPLAIN, AS IDENTIFIED BY THE
FEDERAL EMERGENCY MANAGEMENT AGENCY,
FEDERAL INSURANCE ADMINISTRATION, SHOWN
ON MAP NO. 48491C0515E, DATED SEPTEMBER
26, 2008 FOR WILLIAMSON COUNTY, TEXAS AND
INCORPORATED AREAS.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	530.00'	149.42'	148.92'	S 72°57'13" E	16°09'09"
	(530.00')	(149.42')	(148.92')	(S 72°57'13" E)	(16°09'09")



Received 12/21/18



VICINITY MAP
SCALE: 1" = 2000'

SHEET 1 OF 2

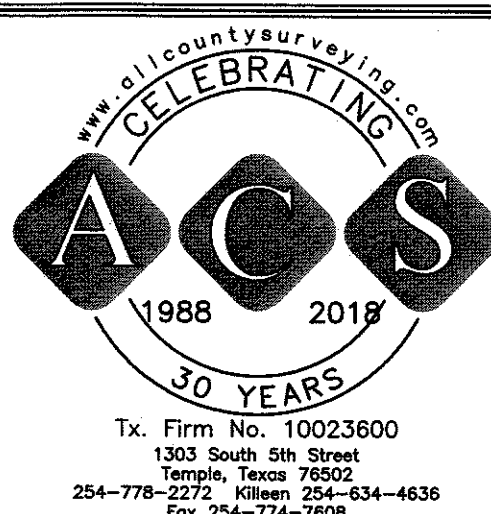
Copyright 2018 All County Surveying, Inc.

Revised 12-20-18 - Notes, Vicinity Map

Revised 11-27-18 - Engineer, Owner Address

**LOT 3A, LOT 3B AND LOT 3C, BLOCK B
OF STAR RANCH COMMERCIAL SUBDIVISION**
Being a REPLAT of Lot 3, Block B of Lot 1, Lot 2 and Lot 3,
Block B of the STAR RANCH COMMERCIAL SUBDIVISION,
of record in Document No. 2018005993, Official Public Records
of Williamson County, Texas.

Plot Date: 12-20-2018
Survey
completed 11-14-2017
Scale: 1" = 100'
Job No. 170414.5
Dwg No. 17041405P
Drawn by MDH
Surveyor CCL #4636



Tx. Firm No. 10023600
1303 South 5th Street
Temple, Texas 76502
254-778-2272 • Killeen 254-634-4636
Fax 254-774-7608

STATE OF TEXAS {
COUNTY OF WILLIAMSON {

THAT TACK DEVELOPMENT, LTD., ACTING BY AND THROUGH ITS PRESIDENT, TIM TIMMERMAN, SOLE OWNER OF THE CERTAIN 2.562 ACRE TRACT OF LAND SHOWN HEREON AND DESCRIBED AS LOT 3, BLOCK B OF LOT 1, LOT 2 AND LOT 3, BLOCK B OF THE STAR RANCH COMMERCIAL SUBDIVISION, OF RECORD IN DOCUMENT NO. 2018005993, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AND DO HEREBY STATE THAT THERE ARE NO LIEN HOLDERS OF THE CERTAIN TRACT OF LAND, AND DO HEREBY SUBDIVIDE SAID TRACT AS SHOWN HEREON, AND DO HEREBY CONSENT TO ALL PLAT NOTE REQUIREMENTS SHOWN HEREON, AND DO HEREBY DEDICATE TO THE CITY OF HUTTO, TEXAS AND WILLIAMSON COUNTY, TEXAS, THE STREETS, ALLEYS, RIGHTS-OF-WAY, EASEMENTS AND PUBLIC PLACES SHOWN HEREON FOR SUCH PUBLIC PURPOSES AS THE CITY OF HUTTO MAY DEEM APPROPRIATE. THIS SUBDIVISION IS TO BE KNOWN AS

LOT 3A, LOT 3B AND LOT 3C, BLOCK B OF STAR RANCH COMMERCIAL SUBDIVISION

TO CERTIFY WHICH, WITNESS BY MY HAND THIS 20th DAY OF December, 2018.

TIM TIMMERMAN, PRESIDENT
TACK DEVELOPMENT, LTD.
230 KLATTENHOFF LANE, SUITE 100
HUTTO, TEXAS 78634
(512) 784-3362

STATE OF TEXAS {
COUNTY OF WILLIAMSON {

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED TIM TIMMERMAN, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 20th DAY OF December, 2018.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

Whitney D. Horstmann
NOTARY PUBLIC PRINTED OR TYPED NAME

MY COMMISSION EXPIRES ON: 12-18-2021

ENGINEER'S CERTIFICATION:

I, DANIEL J. ARREDONDO, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS HEREBY CERTIFY THAT THE PLAT AND ALL PLANS AND SPECIFICATIONS WHICH ARE INCLUDED WITH THE PLAT ARE TO THE BEST OF MY PROFESSIONAL CAPACITY, COMPLETE AND ACCURATE AND IN COMPLIANCE WITH ALL RELEVANT CITY ORDINANCES, CODES, PLANS AND REGULATIONS, ORDINANCES, CODES, PLANS, AND RELEVANT STATE STANDARDS.

DANIEL J. ARREDONDO
TEXAS REGISTRATION NO. 119989
CATALYST ENGINEERING GROUP, PLLC
100 SOUTH 2ND STREET
PFLUGERVILLE, TEXAS 78660

12-20-18
DATE

SURVEYOR'S CERTIFICATION:

I, CHARLES C. LUCKO, REGISTERED PUBLIC LAND SURVEYOR NO. 4636, IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THAT PROPERTY MARKERS AND MONUMENTS WERE PLACED UNDER MY SUPERVISION ON THE GROUND. THE FIELD WORK WAS COMPLETED ON NOVEMBER 31, 2017.

CHARLES C. LUCKO
TEXAS REGISTRATION NO. 4636
ALL COUNTY SURVEYING, INC
4330 S. 5th STREET
TEMPLE, TX 76504

12.20.2018
DATE

CITY DEVELOPMENT SERVICES:

THIS SUBDIVISION IS LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF HUTTO, THIS THE ____ DAY OF

____, 20____.

ASHLEY LUMPKIN, AICP, DIRECTOR

DATE

CITY MAYOR AND CITY SECRETARY SIGNATURES

THIS PLAT WAS APPROVED FOR RECORDING BY THE HUTTO CITY COUNCIL ON THE ____ DAY OF

____, 20____.

DOUG GAUL, MAYOR

DATE

LISA L. BROWN, CITY SECRETARY

DATE

METES AND BOUNDS DESCRIPTION

2.562 ACRES, situated in the N. D. Walling Survey, Abstract No. 675 and the James H. Neilly Survey, Abstract No. 485, Williamson County, Texas, being all of Lot 3, Block B of Lot 1, Lot 2 and Lot 3, Block B of the Star Ranch Commercial Subdivision, of record in Document No. 2018005993, Official Public Records of Williamson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod with "True-Surv 6614" cap found on the west right of way of State Highway 130 (right of way width varies), being the most easterly, northeast corner of said Lot 3, for the most easterly, northeast corner of this tract of land;

THENCE in a southerly direction, with the east line of said Lot 3 (Plat S. 25° 02' 41" W., 356.14 feet), same being the west right of way of State Highway 130, S. 25° 02' 41" W., 356.14 feet, to a calculated point, being the most easterly, southeast corner of said Lot 3, same being the northeast corner of a called 0.234 acre tract of land conveyed to the State of Texas in Document No. 2004008236, of said Official Public Records, for the most easterly, southeast corner of this tract of land;

THENCE in a southwesterly direction, continuing with the east line of said Lot 3, same being the north and west lines of said 0.234 acre tract, the following two (2) courses and distances:

- 1) S. 86° 01' 05" W., at a distance of 0.29 feet passing a 1/2" iron rod with a disturbed "TXDOT" aluminum cap found, and continuing a total distance of 101.92 feet (Plat S. 86° 01' 05" W., 101.92 feet), to a 1/2" iron rod with "TXDOT" aluminum cap found, being a corner of said Lot 3 and being the northwest corner of said 0.234 acre tract, for a corner of this tract of land;
- 2) S. 25° 01' 17" W., 32.57 feet (Plat S. 25° 01' 17" W., 32.57 feet), to a 1/2" iron rod with "True-Surv 6614" cap found, being the most southerly, southeast corner of said Lot 3, same being the northeast corner of Common Area "A" of said Star Ranch Commercial Subdivision, for the most southerly, southeast corner of this tract of land;

THENCE in a westerly direction, with the south line of said Lot 3 (Plat S. 63° 39' 09" E., 163.17 feet), same being the north line of said Common Area "A", N. 63° 39' 09" W., 163.17 feet, to a 1/2" iron rod with "True-Surv 6614" cap found on the east line of Lot 1 of said Block B, being the southwest corner of said Lot 3, same being the northwest corner of said Common Area "A", for the southwest corner of this tract of land;

THENCE in a northerly direction, with the west line of said Lot 3, same being the east line of said Lot 1 and Lot 2 of said Block B, the following two (2) courses and distances:

- 1) N. 26° 20' 51" E., 360.41 feet (Plat N. 26° 20' 51" E., 360.60 feet), to a 1/2" iron rod with "True-Surv 6614" cap found, being a common corner of said Lot 3 and Lot 2, for a corner of this tract of land;
- 2) N. 09° 17' 34" E., 92.11 feet (Plat N. 09° 17' 34" E., 92.11 feet), to a 1/2" iron rod with "True-Surv 6614" cap found on a curve to the right on the south right of way of Muirfield Bend Drive (70' right of way width), being the northwest corner of said Lot 3, same being the northeast corner of said Lot 2, for the northwest corner of this tract of land;

THENCE in an easterly direction, with the north line of said Lot 3, same being the south right of way of Muirfield Bend Drive, the following three (3) courses and distances:

- 1) 149.42 feet, with said curve to the right, having a radius of 530.00 feet, a delta angle of 16° 09' 09" and a chord which bears S. 72° 57' 13" E., 148.92 feet, to a 1/2" iron rod with "True-Surv 6614" cap found at the end of said curve to the right, for a corner of this tract of land;
- 2) S. 64° 49' 50" E., 86.66 feet (Plat S. 64° 49' 50" E., 86.66 feet), to a 1/2" iron rod with "True-Surv 6614" cap found, for a corner of this tract of land;
- 3) S. 19° 50' 43" E., 49.46 feet (Plat S. 19° 50' 43" E., 49.46 feet), to the POINT OF BEGINNING and containing 2.562 Acres of Land.

GENERAL NOTES

1. A 10' P.U.E. IS DEDICATED ALONG AND ADJACENT TO ALL STREET PROPERTY LINES.
2. ALL RIGHT-OF-WAY AND EASEMENTS TO BE PUBLICLY DEDICATED ON THIS PLAT ARE FREE OF LIENS.
3. NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTION IS MADE TO PUBLIC WATER AND WASTEWATER UTILITIES.
4. SIDEWALKS SHALL BE CONSTRUCTED ON STREETS BOUNDING THE SUBDIVISION. ALL SIDEWALKS ARE TO BE MAINTAINED BY THE PROPERTY OWNER.
5. THIS SUBDIVISION IS RESTRICTED TO COMMERCIAL USE, UNLESS OTHERWISE INDICATED.
6. WATER AND WASTEWATER SERVICE FOR THIS SUBDIVISION WILL BE AVAILABLE THROUGH THE WILLIAMSON COUNTY WATER SEWER IRRIGATION DRAINAGE DISTRICT #3 AFTER THE APPROPRIATED WATER AND WASTEWATER SYSTEM IMPROVEMENTS ARE INSTALLED TO THE SITE. THE WILLIAMSON COUNTY WATER SEWER IRRIGATION DRAINAGE DISTRICT #3 ASSUMES NO OBLIGATIONS FOR INSTALLING ANY WATER AND WASTEWATER IMPROVEMENTS REQUIRED TO SERVE THIS SITE.
7. THIS SUBDIVISION IS SUBJECT TO THE STORMWATER MANAGEMENT CONTROLS AS REQUIRED BY WILLIAMSON COUNTY SUBDIVISION REGULATIONS, SECTION B11.1, ON NEW DEVELOPMENT THAT WOULD EVOKE SUCH CONTROLS BEYOND EXISTING CONDITIONS.
8. THERE ARE NO AREAS WITHIN THE BOUNDARIES OF THIS SUBDIVISION IN THE 100-YEAR FLOODPLAIN AS DEFINED BY FIRM MAP NO. 48491C0515E, EFFECTIVE DATE OF SEPTEMBER 26, 2008.
9. A DEFACIO CERTIFICATE OF COMPLIANCE IS HERE BY ISSUED FOR THIS SUBDIVISION. THIS CERTIFICATE IS VALID UNTIL SUCH TIME AS FEMA REVISES OR NEWLY ADOPTS FLOODPLAIN BOUNDARIES IN THIS AREA.
10. RIGHT-OF-WAY EASEMENTS FOR WIDENING ROADWAYS OR IMPROVING DRAINAGE SHALL BE MAINTAINED BY LANDOWNER UNTIL ROAD OR DRAINAGE IMPROVEMENTS ARE ACTUALLY CONSTRUCTED ON THE PROPERTY. THE COUNTY HAS THE RIGHT AT ANY TIME TO TAKE POSSESSION OF ANY ROAD WIDENING EASEMENT FOR THE CONSTRUCTION, IMPROVEMENT OR MAINTENANCE OF THE ADJACENT ROAD. THE LANDOWNER ASSUMES ALL RISKS ASSOCIATED WITH IMPROVEMENTS LOCATED IN THE RIGHT-OF-WAY OR ROAD WIDENING EASEMENTS. BY PLACING ANYTHING IN THE RIGHT-OF-WAY OR ROAD WIDENING EASEMENT, THE LANDOWNER INDEMNIFIES AND HOLDS THE COUNTY, ITS OFFICERS AND EMPLOYEES HARMLESS FROM ANY LIABILITY OWING TO THE PROPERTY DEFECTS AND NEGLIGENCE NOT ATTRIBUTABLE TO THEM AND ACKNOWLEDGES THAT THE IMPROVEMENTS MAY BE REMOVED BY THE COUNTY AND THAT THE OWNER OF THE IMPROVEMENT SHALL BE RESPONSIBLE FOR THE RELOCATION AND/OR PLACEMENT OF THE IMPROVEMENT.
11. NO BUILDING, FENCING, LANDSCAPING OR STRUCTURES ARE ALLOWED WITHIN DRAINAGE OR WASTEWATER EASEMENT UNLESS EXPRESSLY PERMITTED BY THE CITY OF HUTTO.
12. THE SETBACK ALONG MUIRFIELD BEND DRIVE SHALL BE A MINIMUM OF 25 FEET, THE SETBACK ALONG S.H. 130 SHALL BE A MINIMUM OF 50 FEET AND THE REAR YARD SETBACK SHALL BE A MINIMUM OF 25 FEET. SIDEYARD SETBACK SHALL BE A MINIMUM OF 10 FEET OR 0 FEET FOR COMMON WALLS.
13. ALL SUBDIVISION CONSTRUCTION SHALL CONFORM TO THE CITY OF HUTTO 2002 SUBDIVISION CODE AS ADOPTED BY CITY OF HUTTO ORDINANCE NO. 1216-02 AND ORDINANCE NO. 5-17-04, CONSTRUCTION STANDARDS, AND GENERALLY ACCEPTED ENGINEERING PRACTICES.
14. STORM WATER DISCHARGE FROM THE SUBJECT PROPERTY OF THE 2, 10, 25, AND 100-YEAR STORM EVENTS UNDER DEVELOPED CONDITIONS MAY EXCEED THAT OF THE EXISTING PRE-DEVELOPMENT PEAK RATES, AS CALCULATED DURING THE SITE PLAN REVIEW PROCESS AND BASED ON STANDARD ENGINEERING PRACTICE, WITH THE APPROVAL OF THE WILLIAMSON COUNTY WATER, SEWER, IRRIGATION AND DRAINAGE DISTRICT NO. 3, AS LONG AS THE OVERALL DRAINAGE RELEASED FROM BLOCK B DOES NOT EXCEED THAT OF THE EXISTING PRE-DEVELOPMENT PEAK RATES AS CALCULATED DURING THE SITE PLAN REVIEW PROCESS AND BASED ON STANDARD ENGINEERING PRACTICE.
15. THE SURFACE OF ALL PUBLICLY DEDICATED EASEMENT AREAS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE PROPERTY OWNER OR ASSIGNS.
16. UTILITY PROVIDERS FOR THIS DEVELOPMENT ARE:

ELECTRIC:	GAS:	WATER/WASTEWATER:
ONCOR ELECTRIC DELIVERY 350 TEXAS AVENUE ROUND ROCK, TEXAS 78664 JIM KRUMNOW PHONE: 512-244-5693	ATMOS ENERGY CORP. 3110 NORTH IH-35 ROUND ROCK, TEXAS 78664 BRAD CROSSWHITE PHONE: 512-310-3801	WILLIAMSON COUNTY WATER, SEWER, IRRIGATION AND DRAINAGE DISTRICT NO. 3 1101 CAPITAL OF TEXAS HIGHWAY, SUITE D110, AUSTIN, TEXAS 78746 ROBERT FERGUSON, MURFEE ENGINEERING PHONE 512-327-9204
17. THE MINIMUM FINISHED FLOOR ELEVATION SHALL BE ONE FOOT HIGHER THAN THE HIGHEST SPOT ELEVATION THAT IS LOCATED WITHIN FIVE FEET OUTSIDE THE PERIMETER OF THE BUILDING, OR ONE FOOT ABOVE THE BFE, WHICHEVER IS HIGHER.
18. IT IS THE RESPONSIBILITY OF THE OWNER, NOT THE COUNTY, TO ASSURE COMPLIANCE WITH THE PROVISIONS OF ALL APPLICABLE STATE, FEDERAL AND LOCAL LAWS AND REGULATIONS RELATING TO THE PLATTING AND DEVELOPMENT OF THIS PROPERTY.
19. THE COUNTY ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF REPRESENTATIONS BY OTHER PARTIES IN THIS PLAT. FLOODPLAIN DATA, IN PARTICULAR, MAY CHANGE. IT IS FURTHER UNDERSTOOD THAT THE OWNERS OF THE TRACT OF LAND CONVEYED BY THIS PLAT MUST INSTALL AT THEIR OWN EXPENSE ALL TRAFFIC CONTROL DEVICES AND SIGNAGE THAT MAY BE REQUIRED BEFORE THE ROADS IN THE SUBDIVISION HAVE FINALLY BEEN ACCEPTED FOR MAINTENANCE BY THE COUNTY.
20. ANY EASEMENTS AND SETBACKS SHOWN HEREON THAT ARE CREATED BY A SEPARATE INSTRUMENT SHALL BE GOVERNED BY THE TERMS, PROVISIONS AND CONDITIONS OF SUCH SEPARATE INSTRUMENT, AND THE LOCATIONS OF SUCH EASEMENTS DEPICTED HEREON ARE APPROXIMATE WITH THE EXACT LOCATIONS SET FORTH IN SUCH SEPARATELY RECORDED INSTRUMENT.
21. THIS SUBDIVISION IS SUBJECT TO ALL GENERAL NOTES AND RESTRICTIONS APPEARING ON THE PLAT OF LOT 1, LOT 2 AND LOT 3, BLOCK B OF THE STAR RANCH COMMERCIAL SUBDIVISION, RECORDED IN DOCUMENT NO. 2018005993, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS.
22. ALL JOINT ACCESS EASEMENTS ON THIS PLAT WILL BE MAINTAINED BY THE OWNERSHIP OF EACH LOT.

WILLIAMSON COUNTY 911 ADDRESSING

ROAD NAME AND ADDRESS ASSIGNMENT VERIFIED THIS THE ____ DAY OF _____, 2018.

WILLIAMSON COUNTY ADDRESSING COORDINATOR

DATE

COUNTY JUDGE'S APPROVAL

STATE OF TEXAS {
COUNTY OF WILLIAMSON {

I, DAN A. GATTIS, COUNTY JUDGE OF WILLIAMSON COUNTY, TEXAS, DO HEREBY CERTIFY THAT THIS MAP OR PLAT, WITH FIELD NOTES HEREON, FOR A SUBDIVISION HAVING BEEN FULLY PRESENTED TO THE COMMISSIONER'S COURT OF WILLIAMSON COUNTY, TEXAS, AND BY THE SAID COURT DULY CONSIDERED, WERE ON THIS DAY APPROVED AND THAT THIS PLAT IS AUTHORIZED TO BE REGISTERED AND RECORDED IN THE PROPER RECORDS OF THE COUNTY CLERK OF WILLIAMSON COUNTY, TEXAS.

DAN A. GATTIS, COUNTY JUDGE
WILLIAMSON COUNTY, TEXAS

DATE

COUNTY CLERK CERTIFICATION

STATE OF TEXAS {
COUNTY OF WILLIAMSON {

I, NANCY E. RISTER, CLERK OF THE COUNTY COURT OF SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IN WRITING, WITH ITS CERTIFICATION OF AUTHENTICATION, WAS FILED FOR RECORD IN MY OFFICE ON THE ____ DAY OF _____, 20____, A.D., AT ____ O'CLOCK ____ M. AND DULY RECORDED THIS ____ DAY OF _____, 20____, A.D., AT ____ O'CLOCK ____ M., IN THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, IN DOCUMENT NO. _____.

TO CERTIFY WHICH, WITNESS MY HAND AND SEAL AT THE COUNTY COURT OF SAID COUNTY, AT MY OFFICE IN GEORGETOWN, TEXAS, THE DATE LAST SHOWN ABOVE WRITTEN.

NANCY E. RISTER, CLERK COUNTY COURT
OF WILLIAMSON COUNTY, TEXAS

BY: _____, DEPUTY



Received 12/21/18



**LOT 3A, LOT 3B AND LOT 3C, BLOCK B
OF STAR RANCH COMMERCIAL SUBDIVISION**
Being a REPLAT of Lot 3, Block B of Lot 1, Lot 2 and Lot 3,
Block B of the STAR RANCH COMMERCIAL SUBDIVISION,
of record in Document No. 2018005993, Official Public Records
of Williamson County, Texas.

SHEET 2 OF 2
Copyright 2018 All County Surveying, Inc.
Revised 11-21-18 - Engineer's Office Address

Plot Date: 12-20-2018
Survey completed: 11-14-2017
Scale: 1" = 100'
Job No.: 170414.5
Dwg No.: 17041405P
Drawn by: MDH
Surveyor: CCL #4636

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 8C. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Ashley Lumpkin, AICP, Executive
Director of Business & Development
Services

ITEM: Consideration and possible action on a resolution approving the proposed Townwest Commons Section Seven Preliminary Plat, 3.8280 acres, more or less, of land, 2 commercial lots, located on US Highway 79 West at Alliance Boulevard. (Ashley Lumpkin)

STRATEGIC GUIDE POLICY: Well Balanced & Diversified Economy

ITEM BACKGROUND:

The Townwest Commons Section 7 Preliminary Plat includes 2 commercial lots, and is located on 3.828 acres at the corner of US 79 and Alliance Boulevard (Formerly CR 165). The property is zoned PUD (Planned Unit Development) with a base zoning of General Commercial (B-2).

WEST: Alliance Boulevard and Farm Land

NORTH: Open Space (Part of PUD) and YMCA

EAST: Starbucks and Walgreens

SOUTH: Highway 79 and Carmel Creek PUD

Lot A is proposed at 1.6345 acres (71,198 SF)

Lot B is proposed at 2.1935 acres (95,548 SF)

Both lots have a waterline easement and a joint access easement running along the rear of the property. Lot A has an electric easement running along the western end of the property. Lot B has a stormwater easement running along the eastern end of the property.

The proposed preliminary plat is consistent with the approved PUD.

Utilities

Water and wastewater service will be provided by City of Hutto.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The Planning and Zoning Commission recommended approval to City Council on January 8, 2019.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends that the Council approve the resolution.

SUPPORTING MATERIAL:

1. [Resolution - Townwest Commons Section Seven Preliminary Plat](#)

RESOLUTION NO.

A RESOLUTION APPROVING THE PLAT KNOWN AS "TOWNWEST COMMONS SECTION SEVEN PRELIMINARY PLAT"; IN THE CITY OF HUTTO, WILLIAMSON COUNTY, TEXAS.

WHEREAS, the Texas Local Government Code Chapter 212 and the City of Hutto Subdivision Ordinance requires the Planning and Zoning Commission to take action to recommend to the City Council whether or not to approve or disapprove a subdivision plat within thirty (30) days of the date an application is accepted, and;

WHEREAS, the Texas Local Government Code Chapter 212 and the City of Hutto Subdivision Ordinance requires the City Council take action to approve or disapprove a subdivision plat within thirty (30) days of the date of presentation at Planning and Zoning Commission, and;

WHEREAS, the Development Services Department and the City Engineer have reviewed the above referenced plat for compliance with statute and engineering standards, and;

WHEREAS, if City Council fails to take action on this plat within the prescribed thirty (30) day period, the plat is granted statutory approval, Now therefore,

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

that the Hutto City Council hereby approves the resolution for the plat known as "Townwest Commons Section Seven Preliminary Plat", a copy of same being attached hereto as "Exhibit A" and incorporated herein for all purposes.

CONSIDERED and RESOLVED on this the **17th** day of the month **January, 2019**.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Lisa L. Brown, City Secretary

STATE OF TEXAS: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON:

I, A-S 64 CR 119-HWY 79, L.P., a Texas limited partnership, sole owner of the certain tract of land shown hereon and described in a deed recorded in Document Nos. W.C.C.F. Nos. 2007026600 and 2007026602 of the Official Records of Williamson County, Texas, (and do hereby state that there are no lien holders of the certain tract of land), and do hereby subdivide said tract as shown hereon, and do hereby consent to all plat note requirements shown hereon, and do hereby dedicate to the City of Hutto the streets, alleys, rights-of-way, easements and public places shown hereon for such public purposes as the City of Hutto may deem appropriate. This subdivision is to be known as (Subdivision Name).

TO CERTIFY WHICH, WITNESS by my hand this ____ day of _____, 2018.

(Owner's Signature and typed name and address)

STATE OF TEXAS: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON:

Before me, the undersigned authority, on this day personally appeared (Owner), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2018.

Notary Public in and for the State of Texas

My Commission Expires _____ Notary Public

This plat was approved for recording by the Hutto City Council on the on the
____ day of _____, 2018.

Doug Gaul, Mayor Date Lisa L. Brown, City Secretary Date

STATE OF TEXAS: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON:

I, Brian Nesvadba, Registered Public Surveyor, No. 5776, in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property and that property markers and monuments were placed under my supervision on the ground. The field work was completed on July 16, 2018.

TO CERTIFY WHICH, WITNESS my hand and seal at Stafford, Fort Bend County, Texas, this ____ day of _____, 2018.

Brian Nesvadba
Registered Professional Land Surveyor State of Texas No. 5776
Address: 12718 Century Drive, Stafford, TX 77477
Telephone: 281-491-2525



STATE OF TEXAS: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON:

I, Gregory A. Schmidt, Registered Professional Engineer in the State of Texas, do hereby certify that this plat is in compliance with the codes and ordinances of the City of Hutto, Texas.

TO CERTIFY WHICH, WITNESS my hand and seal at Stafford, Fort Bend County, Texas, this ____ day of _____, 2018.

Gregory A. Schmidt
Registered Professional Engineer No. 67293
Address: 12718 Century Drive, Stafford, TX 77477
Telephone: 281-491-2525



NOTES:

- 1) NO BUILDING, FENCING, LANDSCAPING OR STRUCTURES ARE ALLOWED WITHIN ANY DRAINAGE OR WASTEWATER EASEMENT UNLESS EXPRESSLY PERMITTED BY THE CITY OF HUTTO.
- 2) BUILDING SETBACKS SHALL CONFORM TO UDC REQUIREMENTS.
- 3) A TEN (10) FOOT PUBLIC UTILITY EASEMENT (PUE) SHALL BE DEDICATED ALONG ALL LOT LINES.
- 4) NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTION IS MADE TO PUBLIC WATER AND WASTEWATER UTILITIES.
- 5) SIDEWALKS AND TREES SHALL BE PROVIDED ON BOTH SIDES OF ALL STREETS WITHIN THIS SUBDIVISION.
- 6) SIDEWALKS AND TRESS SHALL BE PROVIDED ALONG ALL STREETS BOUNDING THIS SUBDIVISION.
- 7) AN ARTERIAL FENCE SHALL BE CONSTRUCTED PER UDC REQUIREMENTS.
- 8) STREET LIGHTING SHALL BE PROVIDED BY THE DEVELOPER IN CONFORMANCE WITH THE UDC REQUIREMENTS.
- 9) UTILITY NOTES:
 - A. WITHIN CCN
 - I. WATER AND WASTEWATER WILL BE AVAILABLE THROUGH THE CITY OF HUTTO AFTER THE APPROPRIATE WATER AND WASTEWATER SYSTEMS ARE INSTALLED TO THIS SITE. THE CITY OF HUTTO ASSUMES NO OBLIGATIONS FOR INSTALLING ANY WATER AND WASTEWATER IMPROVEMENTS REQUIRED TO SERVE THIS SITE.
- 10) FLOODPLAIN NOTES:
 - A. ULTIMATE FLOODPLAIN
 - I. "NO PORTION OF THIS TRACT IS ENCRONCHED BY THE ULTIMATE 1% ANNUAL CHANCE FLOODPLAIN."
 - B. EXISTING FLOODPLAIN
 - I. NO PORTION OF THIS TRACT IS ENCRONCHED BY ANY SPECIAL FLOOD HAZARD AREAS INUNDATED BY THE 1% ANNUAL CHANCE FLOODPLAIN AS IDENTIFIED BY THE U.S. FEDERAL EMERGENCY MANAGEMENT AGENCY BOUNDARY MAP (FLOOD INSURANCE RATE MAP) COMMUNITY PANEL NUMBER 48491-C-0515 E, EFFECTIVE DATE SEPTEMBER 26, 2008, FOR WILLIAMSON COUNTY, TEXAS."
- 11) IN ORDER TO PROMOTE DRAINAGE AWAY FROM A STRUCTURE, THE SLAB ELEVATIONS SHALL BE BUILT AT LEAST ONE (1) FOOT ABOVE THE SURROUNDING GROUND AND SHOULD BE GRADED AWAY FROM THE STRUCTURE AT A SLOPE OF 1/4" PER FOOT FOR A DISTANCE OF AT LEAST TEN (10) FEET.
- 12) ALL SUBDIVISION CONSTRUCTION SHALL CONFORM TO THE CITY OF HUTTO UNIFIED DEVELOPMENT CODE, CONSTRUCTION STANDARDS, AND GENERALLY ACCEPTED ENGINEERING PRACTICES.
- 13) ON-SITE STORMWATER DETENTION FACILITIES WILL BE PROVIDED TO REDUCE POST-DEVELOPMENT PEAK RATES OF DISCHARGE OF THE 2, 10, 25 AND 100-YEAR STORM EVENTS.
- 14) ALL EASEMENTS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE PROPERTY OWNER OR HIS OR HER ASSIGNS.
- 15) ALL DRAINAGE LOTS SHALL BE OWNED AND MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- 16) THE MAXIMUM IMPERVIOUS COVER PER NON-RESIDENTIAL LOT IS 90%.
- 17) SUBJECT TO TERMS, CONDITIONS, AND STIPULATIONS OF RESTRICTIONS RECORDED IN WILLIAMSON COUNTY CLERK'S FILE NOS. 2002081259, 2007026606, 2007069946, 2011014847, AND 2013025290.
- 18) SUBJECT TO TERMS, CONDITIONS, AND STIPULATIONS RECORDED IN WILLIAMSON COUNTY CLERK'S FILE NOS. 2007026593, 2007026594, 2007026598, 2007026599, 2007069947, 2011014841, AND 2007026606.

We, JPMorgan Chase Bank, N.A., owner and holder of a lien against the property described in the plat known as TOWNWEST COMMONS SECTION SEVEN, in instruments of record in Williamson County Clerk's File No. 2012007750, do hereby in all things subordinate to said plat lien and we hereby confirm that we are the present owners of said lien and have not assigned the same nor any part thereof.

This ____ day of _____, 2018.

By: _____ Attest: _____

By: _____ (Print Name and Title) _____ (Print Name and Title)

STATE OF TEXAS: COUNTY OF _____:

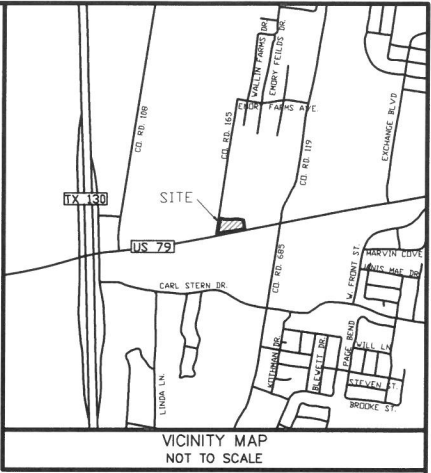
BEFORE ME, the undersigned authority, on this day personally appeared _____,

and _____, of JPMorgan Chase Bank, N.A., known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said banking association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 201____.

Notary Public in and for the State of Texas

My Commission Expires: _____ Notary



STATE OF TEXAS: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON:

I, Nancy E. Rister, Clerk of the County Court of said County, do hereby certify that the foregoing instrument in writing, with its certification of authentication, was filed for record in my office on the ____ day of _____, 20____, A.D., at ____ o'clock ____M. and duly recorded this ____ day of _____, 20____, A.D., at ____ o'clock ____M., in the Official Public Records of said County, in Document No. _____.

TO CERTIFY WHICH, WITNESS my hand and seal at the County Court of said County, at my office in Georgetown, Texas, the date last shown above written.

Nancy E. Rister, Clerk County Court
of Williamson County, Texas

By: _____, Deputy

Received 12/21/18



PRELIMINARY PLAT OF
TOWNWEST COMMONS
SECTION SEVEN

A SUBDIVISION OF A 3.8280 ACRE
TRACT OF LAND BEING
IN THE NATHANIEL EDWARDS SURVEY,
ABSTRACT NO. 225,
CITY OF HUTTO,
WILLIAMSON COUNTY, TEXAS

2 LOTS 1 BLOCK

~ OWNER ~
A-S 64 CR 119-HWY 79, L.P.

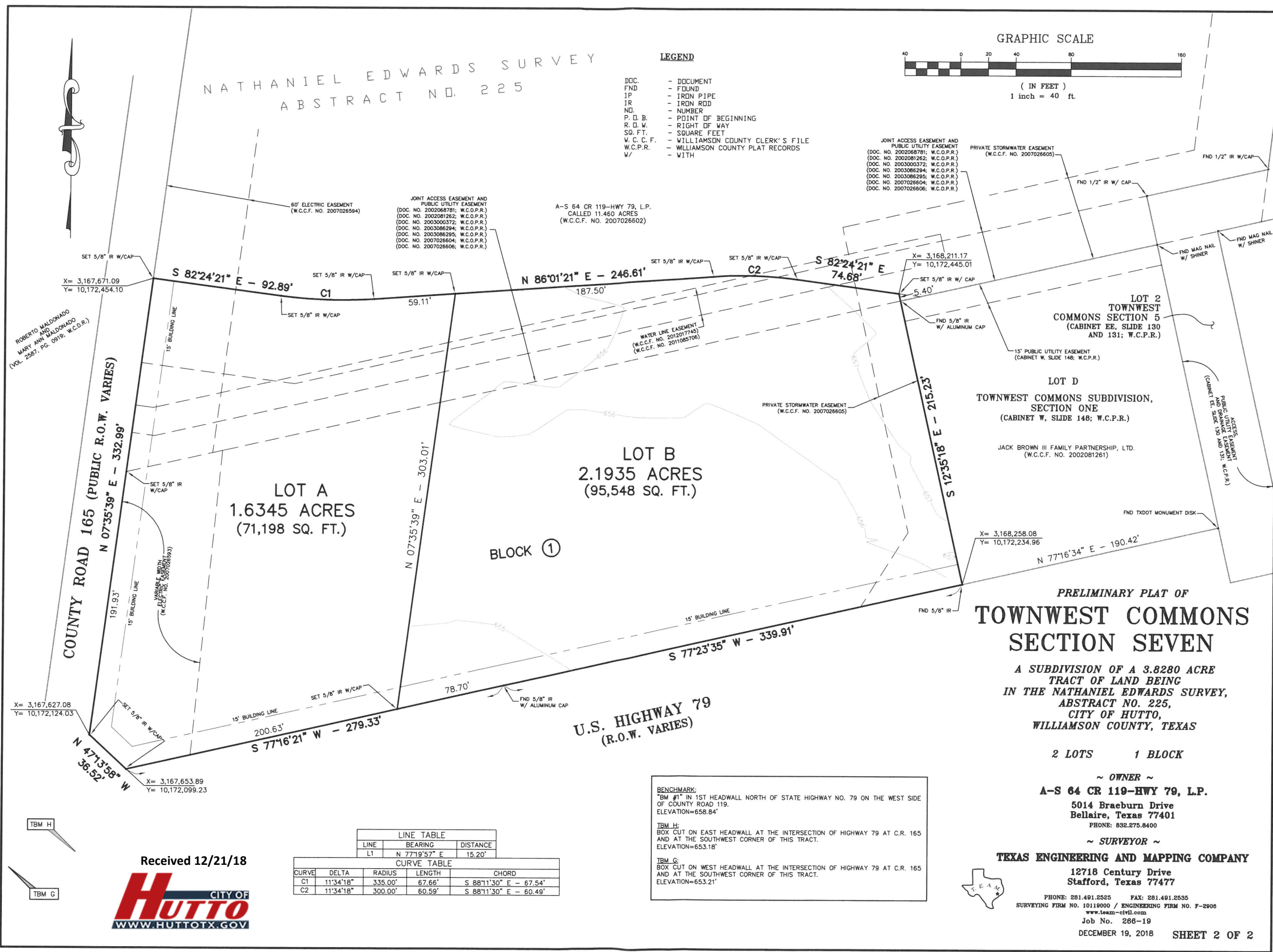
5014 Braeburn Drive
Bellaire, Texas 77401
PHONE: 832.275.8400

~ SURVEYOR ~
TEXAS ENGINEERING AND MAPPING COMPANY

12718 Century Drive
Stafford, Texas 77477

PHONE: 281.491.2525 FAX: 281.491.2535
SURVEYING FIRM NO. 10119000 / ENGINEERING FIRM NO. F-2906
www.team-civil.com
Job No. 266-19
DECEMBER 19, 2018

SHEET 1 OF 2



**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.:

8D.

AGENDA DATE: January 17, 2019

PRESENTED BY:

Ashley Lumpkin, AICP, Executive
Director, Business & Development
Services

ITEM:

Consideration and possible action on the second and final reading of an ordinance approving a specific use permit for the property located at 151 West Austin Avenue, 0.56 acres, more or less, of land, Lot 1 of the Austin Avenue Commercial Subdivision, allowing a warehouse and distribution facility in the SD-A zoning district. (Ashley Lumpkin)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

PROPERTY OWNER: William S. Yates

CURRENT LAND USE: Undeveloped

PROPOSED LAND USE: Warehouse and Distribution Facility Use (Air condition business)

FUTURE LAND USE DESIGNATION: Old Town (Proposed Map) **CURRENT ZONING:** Special District – Arterial (SD-A) **SURROUNDING LAND USE AND ZONING:**

NORTH: Special District – Arterial (SD-A)

SOUTH: Single-Family Standard Lot (SF-1)

EAST: Special District – Arterial (SD-A)

WEST: Single-Family Standard Lot (SF-1)

SUMMARY OF REQUEST

The property is approximately 0.56 acres of land, Lot 1, Austin Avenue Commercial, which is currently undeveloped. The area is located on West Austin Street, generally south of West Front Street and west of South Brushy Street.

The applicant is requesting a specific use permit (SUP) to allow for a warehouse and distribution facility use on the property for an air-conditioning and heating business. The hours of operation will be from 7 AM – 8 PM, with very low traffic.

A Specific Use Permit request is evaluated with the following criteria:

- The proposed use conforms to this code and is consistent with the comprehensive, neighborhood and other applicable land use and development plans.
- The current Future Land Use Map identifies this area as Old Town. The requested use is in compliance.
- The proposed use is compatible with existing and permitted uses in the surrounding area and would not adversely affect property near the site.
- The proposed use is permitted by SUP in the SD-A zoning district per UDC. The property would abut to backyards of residential homes in the Legends of Hutto subdivision.
- The property will be required to come into compliance with current development standards and the approved PUD.
- The site is a legal building lot.
- The property is a legally platted and appropriate for development.

Site plan, building plans and landscaping will be reviewed for code compliance during the permitting process. A specific use permit approval does not run with the land, and expires with the end of the approved use.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The Planning and Zoning Commission recommended approval to City Council on December 4, 2018.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends that the Council approve the second and final reading of the ordinance.

SUPPORTING MATERIAL:

1. [Ordinance](#)
2. [Site Map](#)
3. [Letter of Intent](#)
4. [Site Layout](#)
5. [BldgDimensions](#)
6. [Pic 1](#)
7. [Pic 2](#)
8. [Pic 3](#)
9. [Pic 4](#)

ORDINANCE NO.

AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW WAREHOUSE AND DISTRIBUTING FACILITY USE IN THE SD-A (SPECIAL DISTRICT-ARTERIAL) ZONING DISTRICT ON THE PROPERTY KNOWN AS 151 WEST AUSTIN AVENUE, 0.56 ACRES, MORE OR LESS, OF LAND, LOT 1 OF THE AUSTIN AVENUE COMMERCIAL SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO AND INCORPORATED HEREIN; PROVIDING FOR A PUBLICATION CLAUSE, SEVERABILITY CLAUSE, REPEALING CLAUSE, OPEN MEETING CLAUSE, PENALTY CLAUSE AND EFFECTIVE DATE.

WHEREAS, a request has been made to the City Council of the City of Hutto, Texas to grant a Specific Use Permit to allow warehouse and distribution facility use in the SD-A (Special District-Arterial) zoning district on the property known 151 West Austin Avenue, Lot 1 of the Austin Avenue Commercial Subdivision, described in Exhibit "A", being attached hereto and incorporated herein, and;

WHEREAS, on the 4th day of December, 2018, after proper notification, the Planning and Zoning Commission held a public hearing on the proposed Specific Use Permit request, and;

WHEREAS, the Planning and Zoning Commission recommended approval of the proposed Specific Use Permit request on the 4th day of December, 2018, and;

WHEREAS, on the 20th day of December, 2018, after proper notification, the City Council held a public hearing on the proposed Specific Use Permit request, and;

WHEREAS, the City Council determines that the regulations provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community, and;

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code, and Article 14.02.002, Code of Ordinances (2007 Edition), City of Hutto, Texas concerning public notices, hearings, and other procedural matters has been fully complied with, Now therefore

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

SECTION I.

1.

In accordance with the Unified Development Code Sections 10.203.18 and 10.204.2, the City Council has considered and made findings on the following matters regarding the proposed Specific Use Permit request:

10.203.18.3 Criteria

- The proposed use conforms to the Unified Development Code and is consistent with the comprehensive, neighborhood and other applicable land use and development plans.
- The proposed use is compatible with existing and permitted uses in the surrounding area and would not adversely affect property near the site.
- The site is a legal building lot.

10.203.18.5 Conditions

- The Planning and Zoning Commission and/or City Council may impose conditions on a specific use permit.
- Specific use permit approval does not run with the land, and expires with the end of the approved use.

10.203.18.6 Amendments

- Technical or engineering considerations during construction may call for minor deviations from approved specific use permits. Development Services staff may approve minor deviations if they conform to City regulations, and are consistent with the intent of the original specific use permit approval.
- Changes to approved specific use permits that Development Services staff finds are not minor deviations, including Planning and Zoning Commission imposed conditions, require approval through specific use permit review process, requiring a new application.

10.204.2 Effective date and expiration

- Specific use permits expire one (1) year from the date of approval by City Council.

2.

This Specific Use Permit request is subject to the conditions as identified by the City Council and incorporated herein. No permits shall be issued unless all of the following requirements are satisfied:

- Any future development, other than the use specified for this request, on the lot is required to obtain City Council approval prior to permitting.
- Any structure built on this site must be a minimum of 20 feet from the adjacent residential properties.
- Operating house are Monday through Friday from 7am to 8pm, and Saturday from 8am to 1pm.
- Include additional landscaping buffer.
- To confirm and secure access as applicable to the adjacent property to the south.

SECTION II. Publication Clause

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

SECTION III. Severability Clause

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

SECTION IV. Repealing Clause

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

SECTION V. Open Meeting Clause

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

SECTION VI. Effective Date

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

READ and **APPROVED** on first reading on this the **20th** day of **December, 2018** at a meeting of the Hutto, Texas City Council; there being a quorum present.

By motion duly made, seconded and passed with an affirmative vote of all the Councilmembers present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED and **ADOPTED** on first reading of ordinance this **20th** day of **December, 2018** at a meeting of the Hutto, Texas City Council; there being a quorum present.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

Attest:

Lisa L. Brown, City Secretary

151 W. Austin Avenue



- Letter of Intent -

I would like to open an air-conditioning and heating business at 151 W. Austin Ave in Hutto, Texas. We are very excited to be a part of the Hutto Community. The hours of operation will be 7am-8pm.

The Warehouse would consist of an office area and a warehouse for storage, materials and for days we need to build ductwork and stuff for jobs. The guys would be coming in each morning to load the equipment on the trucks and again at the end of the day to unload.

There will be no doors on the back of building. We will have cameras to monitor building. There will be very low traffic, we are not a retail shop. We will have a trailer stored outside of warehouse.

JOB NO: 17'56
DRAWN: RCG
F.C.: JG/GR

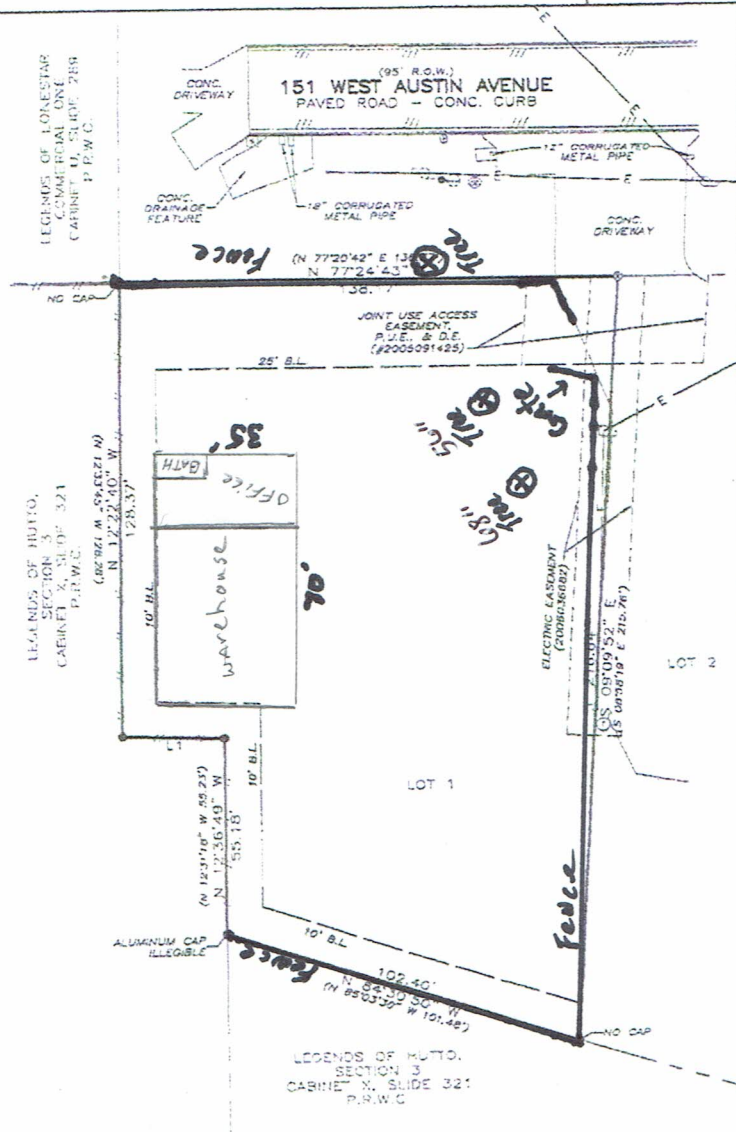
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LEGENDS OF LONESTAR
COMMERCIAL ONE
CABINET 0, SLIDE 259

LEGISLATIVE COUNCIL
SECTION 3
CABINET 2, ROOM 321
P.R.W.C.

4

Scale: 1" = 30'
BEARINGS CITED HEREON BASED ON
TEXAS STATE PLANE COORDINATE
SYSTEM, NORTH AMERICAN DATUM
1983/83, TEXAS CENTRAL ZONE.

[illegible]

LINE TABLE		
NUMBER	DIRECTION	DISTANCE
L1	S 79°18'58" W	28.34'

RECORD LINE TABLE		
NUMBER	DIRECTION	DISTANCE
L1	S 79°38'20" W	28.10'

William S. YS

NOTE:
ALL BUILDING SETBACK LINES SHOWN HEREON ARE PER THE PLAT OF RECORD - CASHEM RD. SLIDE 20. P.P.W.C.

CERTIFY TO: INDEPENDENCE TITLE / TITLE RESOURCES GUARANTY
1706028-KFO
STATE OF TEXAS
COUNTY OF WILLIAMSON

COUNTY OF WILLIAMSON, TEXAS, AND SURVEYING, INC., HAVE, ON THIS DATE CAUSED TO BE PERFORMED AN ON-THE-GROUND SURVEY UNDER MY SUPERVISION OF THE FOREGOING TRACT OF LAND AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THERE ARE NO DISCREPANCIES, CONFLICTS, ENCROACHMENTS, OR UTILITY LINES OR ROADS IN AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN HEREON.

Texas Land Surveying, Inc.

-A Land Surveying and Geosience Firm-
3613 Williams Drive, Suite 903 - Georgetown, Texas 78626
(512) 930-1600/(512) 930-9359 fax www.texas-is.com
TBPLS FIRM NO.10055200 GEOSCIENCE FIRM NO.30538

BY THESE LAWS SURVEYING, INC. THIS SURVEY PROVIDED SOLELY FOR THE USE OF THE CURRENT PARTIES AND NO LICENSE HAS BEEN GRANTED, EITHERED OR IMPLIED, TO ANY OTHER PARTY TO REPRODUCE OR TRANSMIT IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, ANY PART OF THIS DOCUMENT OR THE INFORMATION CONTAINED HEREIN WITHOUT THE WRITTEN PERMISSION OF LAWS SURVEYING, INC.

THIS AREA DOES NOT APPEAR TO BE IN
SPECIAL FLOOD HAZARD AREAS PER
FEMA'S FLOOD INSURANCE RATE MAP
#48481C0520C, DATED SEPT. 28, 2005.
THIS STATEMENT IS NOT MADE IN LIEU
OF AN ELEVATION CERTIFICATE.

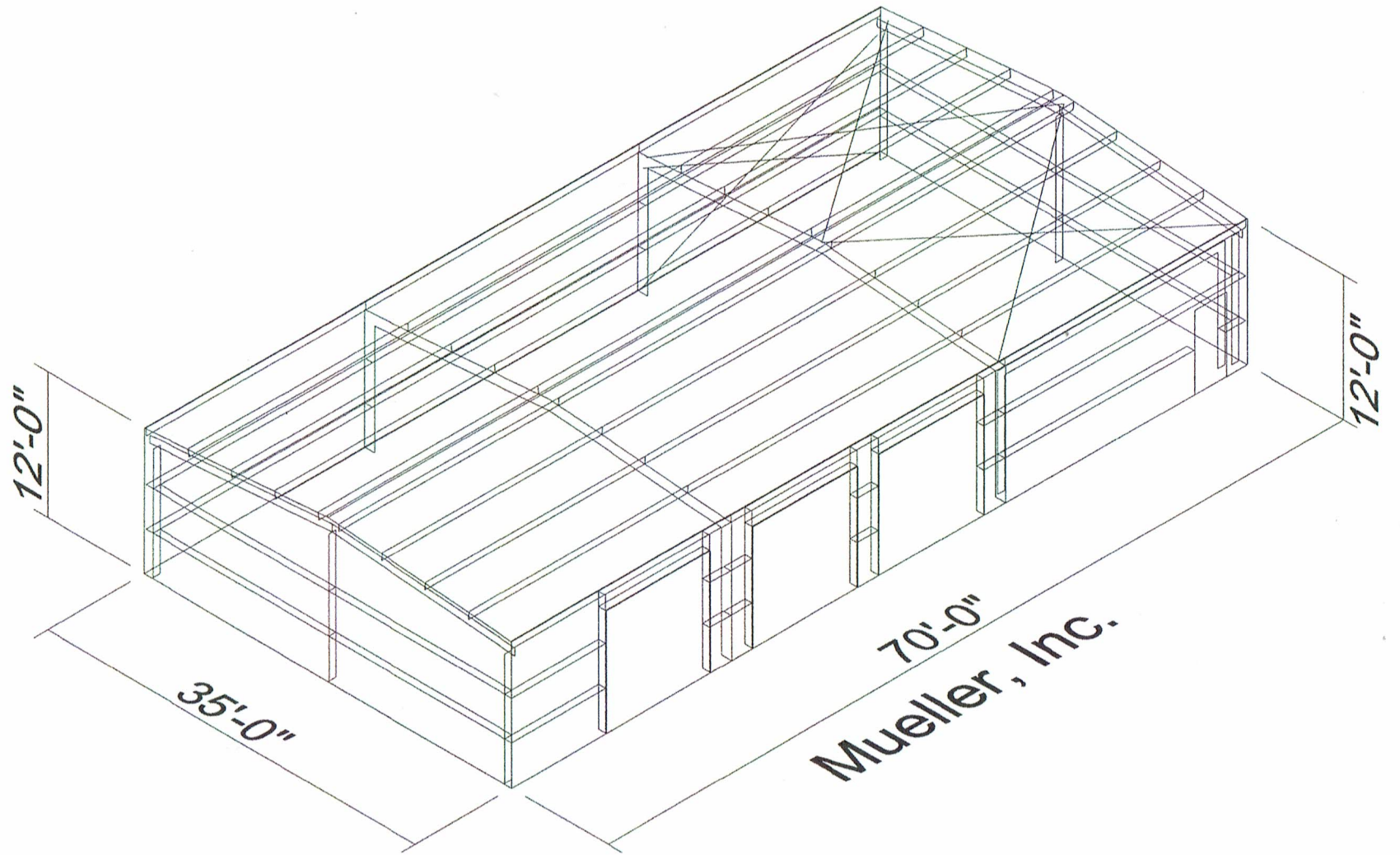


Witness my hand and seal this the
5th Day of March, 2017 A.D.

13.33' per γ_4 "

I. Site plan

A-F











131 Austin Ave
Hutto

* This
is the
neighbor to us

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.:

8E.

AGENDA DATE: January 17, 2019

PRESENTED BY:

Ashley Lumpkin, AICP, Executive
Director, Business & Development
Services

ITEM:

Consideration and possible action on the second and final reading of an ordinance amending the Code of Ordinances (2014 Edition), Chapter 16, Article 16.02 Unified Development Code (UDC) Chapter 10 Section 10.406.7: Industrial Building Design and Section 10.407.5: Required Landscaping. (Ashley Lumpkin)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

The following is a City initiated amendment of the Code of Ordinances (2018 edition), Chapter 16, Article 6.02 Unified Development Code (UDC), Chapter 4, Section 10.406, industrial design standards and 10.407 and required landscaping.

This is an amendment to the Industrial Design Standards section of the UDC. The proposed code changes allow for tilt wall construction and revise the landscaping required for industrial buildings. The requirements now apply to all industrial buildings, as opposed to only applying to buildings under 200,000 square feet currently.

The landscaping requirement proposed allows for the developer to only plant 50% of the requirement and pay \$150/inch for the difference. The other changes are general cleanup and clarification on requirements.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The Planning and Zoning Commission recommended approval to City Council on December 4, 2018. The motion passed unanimously.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends that the city council approve the second and final reading of the ordinance.

SUPPORTING MATERIAL:

1. [Ordinance](#)
2. [UDC](#)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS AMENDING THE CODE OF ORDINANCES (2014 EDITION), CHAPTER 16, ARTICLE 16.02 UNIFIED DEVELOPMENT CODE (UDC) CHAPTER 10, SECTION 10.406.7: INDUSTRIAL BUILDING DESIGN AND SECTION 10.407.5: REQUIRED LANDSCAPING; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an amendment has been presented to the City Council of the City of Hutto, Texas to amend the Code of Ordinances (2014 Edition), Chapter 16, Article 16.02 Unified Development Code (UDC), incorporating amendments into Chapter 10, Section 10.406.7 and 10.407.5, and;

WHEREAS, the Planning and Zoning Commission recommended approval of the proposed amendment on the 4th day of December, 2018, and;

WHEREAS, on the 20th day of December, 2018, after proper notification, the City Council held a public hearing on the proposed amendment, and;

WHEREAS, the City Council determines that the amendment provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community, and;

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code concerning public notices, hearings, and other procedural matters has been fully complied with, Now therefore

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

SECTION I.

1.

That the Code of Ordinances (2014 Edition), Chapter 16, Article 16.02 Hutto Unified Development Code (UDC), Chapter 10, Section 10.406.7 is hereby amended to include the changes described in **Exhibit "A"** attached hereto and incorporated herein.

2.

That the Code of Ordinances (2014 Edition), Chapter 16, Article 16.02 Hutto Unified Development Code (UDC), Chapter 10, Section 10.407.5 is hereby amended to include the changes described in **Exhibit "A"** attached hereto and incorporated herein.

SECTION II. Publication Clause

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

SECTION III. Severability Clause

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

SECTION IV. Repealing Clause

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

SECTION V. Open Meeting Clause

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

SECTION VI. Effective Date

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

READ and **APPROVED** on first reading on this the **20th** day of **December, 2018** at a meeting of the Hutto, Texas City Council; there being a quorum present.

READ, PASSED and **ADOPTED** on second reading of ordinance this **17th** day of **January, 2019** at a meeting of the Hutto, Texas City Council; there being a quorum present.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

Attest:

Lisa L. Brown, City Secretary



Unified Development Code

City of Hutto Code of Ordinances

Chapter 16

(amended: 03-2018)

10.406.7 Industrial building design

10.406.7.1 Intent

The public infrequently visits industrial sites. However, industrial areas are often quite visible to the city's residents and visitors. Quality architectural design creates a professional environment that reflects positively on Hutto and its businesses. ~~This section shall not apply to industrial structures over 200,000 sq. ft. in area.~~

10.406.7.2 Character and image

- In industrial parks, where there will be more than one building, each building must include predominant characteristics shared by all buildings in the development, so the development forms consistent architectural theme and creates a cohesive place.
- Distinct groups of buildings on a site must share a common, identifiable, complementary design or style. This includes accessory structures such as freestanding canopies, accessory and maintenance buildings, and dumpster enclosures.

10.406.7.3 Form and mass

A single, large, dominant building mass should be avoided in new buildings and, as much as possible, in projects involving changes to the mass of existing buildings. Changes in mass must be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect or architectural style.

10.406.7.4 Exterior walls and façades

10.406.7.4.1 Pattern

Façades and walls must include a repeating pattern with an expression of architectural or structural bays through a change in plane, such as an offset, reveal, pilaster, projecting ribs, fenestration patterns, or piers; and any of the following elements:

- color change
- texture change
- material module change

All elements must repeat at intervals of no more than 30 ft.

10.406.7.4.2 Four sided design

All façades and walls must include materials and design characteristics consistent with those on the front façade. Inferior or lesser quality materials for side or rear walls are prohibited.

10.406.7.4.3 Garage doors

Bay doors must be screened using an architecturally integrated wing walls, carefully placed berms on the site, or other effective screening and site planning techniques, or otherwise sited so visibility from the public right-of-way is minimized. Bay doors must be integrated into the overall design theme of the site with color, texture, and windows. Segmented garage bay doors with windows are preferred to roll-up garage doors.

10.46.7.4.4 Primary building entrances

Primary building entrances must be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico to provide shelter from the sun and inclement weather.

10.406.7.5 Building roofs

10.406.7.5.1 Green roofs

Green roofs and solar panels are strongly encouraged.

10.406.7.6 Materials and color

10.406.7.6.1 Building materials

- Durable, high quality building materials must be used. Brick, stone, split-face CMU, EIFS, detailed tilt-up/precast concrete panels, and building-integrated photovoltaics (BIPV) are examples of appropriate building materials.
- T-1-11 and other plywood-based siding materials are prohibited.
- Except for tilt-up/precast concrete panels, ~~P~~prefabricated and pre-engineered metal buildings and panels are prohibited.

10.406.7.6.2 Building colors

- Building colors must be low reflecting, muted and neutral or earth toned. Roof colors must be muted and compatible with the dominant building color.
- High intensity colors, metallic colors, black-~~or grey~~, fluorescent colors, single color schemes and groups of stripes are prohibited as the predominant building color or color scheme.
- Brighter high-intensity colors, and black-~~or grey~~, may only be used on building trim and accents.

10.406.7.6.3 Material or color changes

Material or color changes must occur only at a change of plane or reveal line. Piecemeal embellishment and frequent material changes are prohibited.



Industrial building design: appropriate



Industrial building design: appropriate



Industrial building design: appropriate



Industrial building design: appropriate

10.406.7.7 Mechanical equipment screening

- Rooftop mechanical equipment must be hidden or screened with architecturally integral elements at least as high as the equipment to be screened. Makeshift equipment screens, such as wooden or plastic fences, are prohibited.
- Ground mounted mechanical equipment must be hidden or screened with architecturally integral wing walls and/or landscaping.
- Solar panels are exempt from mechanical equipment screening standards.

10.406.7.8 Utility equipment screening

- Electrical meters, switch boxes, panels, conduit, and related utility equipment must be placed in the most inconspicuous location possible and screened with architecturally integral wing walls and/or landscaping.
- ~~Utility equipment must be painted or coated to match the color of the mounting surface.~~
- ~~Utility equipment located in an area that may be frequently seen by the general public must be screened with a wing wall architecturally integrated into the host structure.~~

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10.407 Landscaping

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10.407.5 Required landscaping-non-residential and 5+ household residential development

10.407.5.1 Minimum landscaped area

Parcels with a non-residential use or 5+ household residential structures must be landscaped as follows. Additional plants may be required per bufferyard standards in Section 10.403.6, and mechanical equipment screening requirements.

10.407.5.1.1 *Minimum percentage*

A minimum percentage of the total area being developed shall be landscaped in accordance with the following percentages:

- Commercial uses: 15%
- Multifamily dwellings: 20%
- Office and professional uses: 15%
- Institutional and civic uses: 15%
- Industrial or manufacturing uses: 10%

10.407.5.1.2 *Tree and shrub requirement* for commercial, multifamily, office and professional and institutional and civic uses.

For every 500 square feet of landscaping required, or portion thereof, at least two (2) large trees and four (4) shrubs are required. Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

10.407.5.1.3 *Tree and shrub requirements for industrial or manufacturing uses*

For every 500 square feet of landscaping required, or portion thereof, at least two (2) large trees and four (4) shrubs are required. Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

In cases where the property owner cannot plant the required 10% of landscaping, the Planning and Zoning Commission can authorize a 50% reduction in the required replacement with a fee in lieu. That fee will be \$150/line and will be paid in to the Park Improvement Fund.

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In some instances, site constraints make it impossible to plant the minimum required amount of trees. The Planning and Zoning Commission may authorize up to a 50% reduction in the required tree planting with a fee in lieu when tree planting is shown to not be feasible or practical. These fees will be paid to the City of Hutto and held in the Parks Improvement Fund.

10.407.5.1.43 *Detention areas*

Detention areas shall not be counted toward the required minimum landscaped area.

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**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.:

9A.

AGENDA DATE: January 17, 2019

PRESENTED BY:

City Attorney

ITEM:

Consideration and possible action on the second reading of an ordinance accepting and approving a Service and Assessment Plan and Assessment Roll for Cross Creek Public Improvement District; making a finding of Special Benefit to the Property in the District; levying special assessments against property within the District and establishing a lien on such property; providing for the method of assessment and the payment of the special assessments in accordance with Chapter 372, Texas Local Government Code, as amended, providing penalties and interest on delinquent assessments, providing for severability, and providing and effective date. (City Attorney)

STRATEGIC GUIDE POLICY:

Well Balanced & Diversified Economy

ITEM BACKGROUND:

On May 21, 2018, an amended petition for the creation of a Public Improvement District was submitted and filed with the City Secretary pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act"), requesting the creation of a public improvement district in the corporate limits of the City. The property contains approximately 167.39 acres planned for residential development including the associated rights of way, landscaping, and infrastructure necessary to provide roadways (i.e. Carl Stern Bridge and Road Improvements) and water and wastewater utilities to the Property.

The petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of Williamson Central Appraisal District and the signatures of the property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property within the District that is liable for assessment. On June 7, 2018, after due notice, the City Council of the City (the "City Council") held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Section 372.009 of the PID Act and on June 7, 2018 made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. R-2018-06-07-9A (the "Authorization Resolution") adopted by a majority of the members of the City Council, authorized and created the Cross Creek Public Improvement District (the "District") in accordance with its finding as to the advisability of the authorized improvements.

The City Council has convened the Levy and Assessment Hearing on November 15, 2018 at which all persons who appear, or request to appear, in person or by their attorney, are given the opportunity to contend for or contest the Assessment Roll, and the proposed Special Assessments, and to offer testimony pertinent to any issue presented on the amount of the Special Assessments, the allocation of the Costs of the Authorized Improvements to be undertaken for the benefit of all property to be assessed within the District (the "Area Improvements"), the purposes of the Special Assessments, the special benefits of the Special Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Special Assessments.

The City Council will consider all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, and determine the manner with which to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

BUDGETARY AND FINANCIAL SUMMARY:

The City Council is levying an assessment on each Parcel of property (excluding Non-Benefitted Property) located within the District, as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown on the Assessment Roll as a special assessment on the properties set forth in the Assessment Roll.

The method of apportioning the Costs of the Authorized Improvements and the allocation of such costs to the District and the Administrative Expenses are set forth in the Service and Assessment Plan

The Administrative Expenses for Assessed Property shall be calculated pursuant to the terms of the Service and Assessment Plan.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not Applicable.

CITY ATTORNEY REVIEW:

City Attorney has reviewed the Ordinance and the Service and Assessment Plan.

STAFF RECOMMENDATION:

Staff recommends approval.

SUPPORTING MATERIAL:

1. [Cross Creek Assessment Ordinance](#)
2. [Cross Creek Service and Assessment Plan](#)

ORDINANCE NO. O-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CROSS CREEK PUBLIC IMPROVEMENT DISTRICT; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE SPECIAL ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED, PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS, PROVIDING FOR SEVERABILITY, AUTHORIZING THE CITY MANAGER TO APPROVE CERTAIN AMENDMENTS TO AGREEMENTS APPROVED BY THE CITY COUNCIL, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 21, 2018, an amended petition for the creation of a Public Improvement District was submitted and filed with the City Secretary (the "City Secretary") of the City of Hutto, Texas (the "City") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act"), requesting the creation of a public improvement district in the corporate limits of the City; and

WHEREAS, the petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of Williamson Central Appraisal District and the signatures of the property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property within the District that is liable for assessment; and

WHEREAS, on June 7, 2018, after due notice, the City Council of the City (the "City Council") held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Section 372.009 of the PID Act and on June 7, 2018 made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. R-2018-06-07-9A (the "Authorization Resolution") adopted by a majority of the members of the City Council, authorized and created the Cross Creek Public Improvement District (the "District") in accordance with its finding as to the advisability of the authorized improvements; and

WHEREAS, the City published the Authorization Resolution as required by law; and

WHEREAS, no written protests regarding the creation of the District from any owners of record of property within the District were filed with the City Secretary; and

WHEREAS, on November 5, 2018, the City Secretary filed the Assessment Roll (defined below) and made the same available for public inspection; and

WHEREAS, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing in a newspaper of general circulation in the City; and

WHEREAS, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known address of the owners of the property liable for the Special Assessments; and

WHEREAS, the City Council convened the Levy and Assessment Hearing on November 15, 2018 at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Assessment Roll, and the proposed Special Assessments, and to offer testimony pertinent to any issue presented on the amount of the Special Assessments, the allocation of the Costs of the Authorized Improvements (defined below) to be undertaken for the benefit of all property to be assessed within the District (the “Area Improvements”), the purposes of the Special Assessments, the special benefits of the Special Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Special Assessments; and

WHEREAS, the City Council finds and determines that the Assessment Roll and the Cross Creek Public Improvement District Service and Assessment Plan, dated November 2, 2018, in a form substantially similar to Exhibit B shall be approved by the City Manager and the City’s land use attorney prior to execution (the “Service and Assessment Plan”), and which is incorporated herein for all purposes, should be approved and that the Special Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan and the Assessment Roll attached thereto as Appendix A (the “Assessment Roll”); and

WHEREAS, the City Council further finds that there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the Costs of the authorized improvements as described in the Service and Assessment Plan (the “Authorized Improvements”), the Assessment Roll, and the levy of the Special Assessments; and

WHEREAS, in connection with the levy the Special Assessments, the owners (the “Landowners” or the “Assessed Parties”), or their representatives, of the majority of the privately-owned and taxable property located within the District, and who are the persons to be assessed pursuant to this Ordinance, appeared at the public hearing and accepts the Service and Assessment Plan, approves the Assessment Roll, approves this Ordinance and approves the levy of the Special Assessments against their property located within District, agrees to pay the Special Assessments when due and payable and requested that the City file the Service and Assessment Plan and/or the assessment roll with the real property records of Williamson County; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

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

Section 1. Terms.

Terms not otherwise defined herein are defined in the Service and Assessment Plan.

Section 2. Findings.

The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The City Council hereby finds, determines, and ordains, as follows:

- (a) The apportionment of the Costs of the Authorized Improvements (as reflected in the Service and Assessment Plan, and the Administrative Expenses pursuant to the Service and

Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each Assessed Parcel will receive from the construction of the Authorized Improvements identified in the Service and Assessment Plan, and is hereby approved;

- (b) The Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Authorized Improvements;
- (c) The Service and Assessment Plan apportions the Cost(s) of Authorized Improvements to be assessed against the property in the District and such apportionment is made on the basis of special benefits accruing to the property because of the Authorized Improvements;
- (d) All of the real property in the District which is being assessed in the amounts shown in the Assessment Roll will be benefited by the Authorized Improvements proposed to be constructed as described in the Service and Assessment Plan, and each Assessed Parcel will receive special benefits in each year equal to or greater than each annual Special Assessment and will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;
- (e) The method of apportionment of the Costs of the Authorized Improvements, including the allocation of the Costs thereof to the District, and the Administrative Expenses set forth in the Service and Assessment Plan results in imposing equal shares of the Costs of the Authorized Improvements and Administrative Expenses on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Costs;
- (f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;
- (g) The Assessment Roll should be approved as the Assessment Roll for the District;
- (h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Special Assessments, interest on Annual Installments, interest and penalties on delinquent Special Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Special Assessments should be approved and will expedite collection of the Special Assessments in a timely manner in order to provide the services and improvements needed and required for the District; and
- (i) A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

Section 3. Service and Assessment Plan.

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

Section 4. Assessment Roll.

The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act

as the Assessment Roll of the District.

Section 5. Levy and Payment of Special Assessments for Costs of the Authorized Improvements.

- (a) The City Council hereby levies an assessment on each Parcel of property (excluding Non-Benefitted Property) located within the District, as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown on the Assessment Roll as a special assessment on the properties set forth in the Assessment Roll.
- (b) The levy of the Special Assessments shall be effective on the date of execution of this Ordinance levying Special Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.
- (c) The collection of the Special Assessments shall be as described in the Service and Assessment Plan and the PID Act.
- (d) Each Special Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.
- (e) Each Special Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.
- (f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.
- (g) The Administrative Expenses for Assessed Property shall be calculated pursuant to the terms of the Service and Assessment Plan.

Section 6. Method of Assessment.

The method of apportioning the Costs of the Authorized Improvements and the allocation of such costs to the District and the Administrative Expenses are set forth in the Service and Assessment Plan.

Section 7. Penalties and Interest on Delinquent Special Assessments.

Delinquent Special Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan and as allowed by law.

Section 8. Prepayments of Special Assessments.

As provided in the Service and Assessment Plan, the owner of any Assessed Property may prepay the Special Assessments levied by this Ordinance.

Section 9. Lien Priority.

The City Council and the Landowners intend for the obligations, covenants and burdens on the landowners of Assessed Property, including without limitation such Landowner's obligations related to payment of the Special Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Special Assessments and the Annual Installments thereof

which are levied hereby shall be binding upon the Assessed Parties, as the owners of Assessed Property, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. Special Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

Section 10. Appointment of Administrator and Collector of Assessments.

(a) Appointment of Administrator.

The City of Hutto will appoint and designate an initial Administrator of the Service and Assessment Plan and of Special Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan and in this Ordinance. The Administrator's and City related staff time, fees, charges and expenses for providing such service shall constitute an Administrative Expense.

(b) Appointment of Temporary Collector.

The City Administrator is hereby appointed and designated as the temporary collector of the Special Assessments (the "Collector"). The Collector shall serve in such capacity until such time as the City shall arrange for the Collector's duties to be performed by the Williamson County Tax Assessor and Collector, or another qualified collection agent selected by the City.

Section 11. Applicability of Tax Code.

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of Special Assessments by the City.

Section 12. Filing in Land Records.

The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan, to be recorded in the real property records of Williamson County. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council.

Section 13. Certain Amendments.

The City Manager is authorized to make editorial and nonmaterial changes, including changes in amounts and dates in agreements approved by the City Council.

Section 14. Severability.

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 15. Effective Date.

This Ordinance shall take effect, and the levy of the Special Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

Section 16. Publication.

This Ordinance or the caption shall be published on two days and become effective in accordance with the laws of the State of Texas on the date of the last publication.

READ, CONSIDERED, PASSED AND ADOPTED on first reading by the City Council of the City of Hutto at a regular meeting on the 15th day of November, 2018, at which a quorum was present and for which due notice was given pursuant to Section 551.00, et seq., of the Texas Government Code.

READ, CONSIDERED, PASSED AND ADOPTED on second and final reading by the City Council of the City of Hutto at a regular meeting on the 17th day of January, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et seq., of the Texas Government Code.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

Attest:

Lisa L. Brown, City Secretary

(SEAL)

EXHIBIT A

Service and Assessment Plan

Cross Creek Public Improvement District

Service and Assessment Plan

January 17, 2019

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SECTION I – PLAN DESCRIPTION AND DEFINED TERMS

SECTION I

PLAN DESCRIPTION AND DEFINED TERMS

A. Introduction

On June 7th, 2018 (the “**Creation Date**”), the City of Hutto City Council approved a Resolution which authorized the creation of the Cross Creek Public Improvement District (the “**PID**”) to purchase the Authorized Improvements Costs for the benefit of certain property in the PID, all of which is located within the City of Hutto, Texas (the “**City**”).

Chapter 372 of the Texas Local Government Code (as amended, the “**PID Act**”) governs the creation of public improvement districts within counties of the State of Texas. This Service and Assessment Plan (the “**SAP**”) was prepared pursuant to the PID Act. The PID Act requires that a service plan “cover a period of at least five years and ... define the annual indebtedness and the projected costs for improvements.” It also requires the plan “be reviewed and updated annually for the purpose of determining the annual budget for improvements.” The service plan for the PID is described in more detail in **Section V** herein.

The Assessment Roll for the PID is attached hereto as **Appendix A**, and is addressed in **Section IV** of this SAP. The Special Assessments as shown on the Assessment Roll are based on the method for establishing and levying the Special Assessment described in **Sections IV** and **VI** of this SAP.

B. Definitions

Capitalized terms shall have the meanings ascribed to them as follows:

“**Administrative Expenses**” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the PID, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the PID and preparing the Assessment Roll, (iii) computing, levying, collecting and transmitting the Special Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Special Assessments, (v) investing or depositing the Special Assessments or other monies, and (vi) administering the construction of the Authorized Improvements.

“**Administrator**” means an employee of the City or third party designee of the City who shall have the responsibilities provided for herein or in any other agreement approved by the City Council. The City has initially retained DPFG, Inc. to be the Administrator.

SECTION I – PLAN DESCRIPTION AND DEFINED TERMS

“Annual Installments” means, with respect to each Assessed Property, each annual payment of: (i) the Special Assessment (including the principal of and interest on), as shown on the Assessment Roll attached hereto as **Appendix A**, as applicable, or in an Annual Service Plan Update, and calculated as provided in **Section VI** of this SAP and (ii) Administrative Expenses.

“Annual Service Plan Update” has the meaning set forth in **Section V** of this SAP.

“Assessed Property” means property on which Special Assessments have been levied as shown on the Assessment Roll (as the same may be updated each year by the Annual Service Plan Update) and which includes any and all Parcels within the PID other than Non-Benefited Property.

“Assessment Order” means each order adopted by the City Council approving this SAP (or amendments or supplements to the SAP) and levying the Special Assessments.

“Assessment Roll” means, as applicable, the Assessment Roll included in this SAP as **Appendix A**, which may be updated, or modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with any Annual Service Plan Update.

“Authorized Improvements” means those improvements authorized under Section 372.003 of the PID Act.

“Authorized Improvements Cost” means the actual costs of design, engineering, construction, acquisition, and inspection of the Authorized Improvements and all costs related in any manner to the Authorized Improvements including (i) the costs of creating the PID, (ii) the costs incurred for the design, planning, financing, administration/ management, acquisition, installation, construction and/or implementation of such Authorized Improvement, (iii) the costs incurred in preparing the construction plans for such Authorized Improvement, (iv) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvement, (v) the project management costs, (vi) the costs incurred for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, appraisals, legal, accounting and similar professional services related to the Authorized Improvement, (vii) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and materialmen in connection with the acquisition, construction or implementation of the Authorized Improvement, (viii) the costs of all permitting, zoning and authorized approval expenses, architectural, engineering, legal and consulting fees, financing charges, taxes, governmental fees and charges, insurance premiums, and miscellaneous expenses related to the Authorized Improvement, but excluding oversizing costs.

“Budgeted Cost” means with respect to any given Authorized Improvement, the estimated cost of such Authorized Improvement as set forth in **Section III** herein.

SECTION I – PLAN DESCRIPTION AND DEFINED TERMS

“City” means the City of Hutto, Texas.

“City Council” means the City Council of Hutto, Texas.

“City and Corporation Interlocal Agreement” means the interlocal agreement between the City and the LGC to administer the PID and providing for the installment purchase by the City from the LGC of the Authorized Improvements to be funded by the Special Assessment Revenues.

“County” means Williamson County, Texas.

“Delinquent Collection Costs” mean interest, penalties, and expenses incurred or imposed with respect to any delinquent installment of a Special Assessment, or an Annual Installment thereof, in accordance with the PID Act, including the costs related to pursuing collection of such delinquent Special Assessment, or an Annual Installment thereof, and the costs related to foreclosing the lien against the Assessed Property, including attorney’s fees.

“Developer” means Meritage Homes of Texas, LLC, their successors and assignees.

“LGC” means the local government corporation created by the City pursuant to Chapter 431, Texas Transportation Code, as amended, for the purpose of administering the PID and to provide for the installment purchase of the Authorized Improvements, among other purposes.

“Lot” means (i) for any portion of the Property for which a subdivision plat has been recorded in the official public records of the County, a tract of land described as a “lot” in such subdivision plat, and (ii) for any portion of the Property for which a subdivision plat has not been recorded in the official public records of the County, a tract of land anticipated to be described as a “lot” in a final recorded subdivision plat.

“Lot Type” means a classification of final building Lots with similar characteristics (e.g. commercial, light industrial, multi-family, single family residential, etc.), as determined by the Administrator and confirmed by the City Council.

“Lot Type 1” means a Lot marketed by the Developer as 45’ lots.

“Lot Type 2” means a Lot marketed by the Developer as 50’ lots.

“Lot Type 3” means a Lot marketed by the Developer as 60’ lots.

“Mandatory Prepayment” has the meaning set forth in **Section VI.C** of this SAP.

“Non-Benefited Property” means Parcels within the boundaries of the PID that accrue no special benefit from the Authorized Improvements, including Owner Association Property, Public Property, and easements that create an exclusive use for a public utility provider. Property may be identified as Non-Benefited Property at the time the Special Assessments

SECTION I – PLAN DESCRIPTION AND DEFINED TERMS

(i) are levied or (ii) are reallocated pursuant to a subdivision of a Parcel. Assessed Property converted to Non-Benefited Property, if the Special Assessments may not be reallocated pursuant to **Section VI.B**, remains subject to the Special Assessments and requires the Special Assessments to be prepaid as provided for in **Section VI.C**.

“Owner’s Association” means a homeowner’s association or property owner’s association.

“Owner’s Association Property” means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, an Owner’s Association established for the benefit of a group of homeowners or property owners within the PID.

“Parcel” means a property identified by either a tax map identification number assigned by the Williamson Central Appraisal District for real property tax purposes, by metes and bounds description, by lot and block number in a final subdivision plat recorded in the official public records of the County, or by any other means determined by the County.

“PID” means the Cross Creek Public Improvement District created by the City pursuant to a Resolution approved June 7th, 2018.

“PID Act” means Chapter 372 of the Texas Local Government Code, as amended.

“Property” means the approximately 167.4 acres of property depicted and described by metes and bounds on Exhibit A to Resolution as adopted by the City June 7th, 2018.

“Public Property” means property, real property, right of way, and easements located within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, the City, a county, a school district, a public utility provider, or any other political subdivision or public agency, whether in fee simple, through an exclusive use easement, plat, or a public utility easement.

“Service and Assessment Plan” or **“SAP”** or **“Assessment Plan”** means this Cross Creek Public Improvement District Service and Assessment Plan (as such plan is amended and updated from time to time) adopted by the City in the first Assessment Order.

“Special Assessment” means the assessment(s) levied against a Parcel or Lot imposed pursuant to the Assessment Order and the provisions herein, as shown on the Assessment Roll, subject to reallocation upon the subdivision of such Parcel or Lot created by such subdivision or reduction according to the provisions hereof and the PID Act.

SECTION II –PROPERTY INCLUDED IN THE PID

Section II

PROPERTY INCLUDED IN THE PID

A. Property Included in the PID

The PID comprises the entire Property. The PID is located entirely within the City. It contains approximately 167.4 acres planned primarily for residential development including the associated rights of way, landscaping, and infrastructure necessary to provide roadways and water and wastewater utilities to the Property. A map of the property within the PID is shown in **Table II**. Legal descriptions for the Property within the PID are included in **Appendix B**.

TABLE II
Public Improvement District Boundaries



SECTION III –DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

Section III

DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

A. Authorized Improvement Overview

Section 372.003 of the PID Act identifies the authorized improvements that the City may choose to purchase with the establishment of a PID. The Authorized Improvements identified in the PID Act include:

- (i) landscaping;
- (ii) erection of fountains, distinctive lighting, and signs;
- (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of way;
- (iv) construction or improvement of pedestrian mall;
- (v) acquisition and installment of pieces of art;
- (vi) acquisition, construction or improvement of libraries;
- (vii) acquisition, construction or improvement of off-street parking facilities;
- (viii) acquisition, construction, improvement or rerouting of mass transportation facilities;
- (ix) acquisition, construction or improvement of water, wastewater, or drainage facilities or improvements;
- (x) the establishment or improvement of parks;
- (xi) projects similar to those listed in Subdivisions (i)-(x)
- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation and cultural enhancement;
- (xiv) the development, rehabilitation, or expansion of affordable housing; and,
- (xv) the payment of expenses incurred in the establishment, administration and operation of the district.

The City has determined that of the improvements authorized under the PID Act, it will purchase only those Authorized Improvements more particularly described in **Section III.B**. Any change to the list of Authorized Improvements will require the approval of the City.

SECTION III –DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

B. Descriptions and Estimated Costs of Improvements

The Authorized Improvements are described below and the costs of such improvements are shown in **Table III**. The Budgeted Cost of the Authorized Improvements is \$7,200,986. The Special Assessments will only be used to purchase Authorized Improvements that benefit the Assessed Property. The costs shown in **Table III** may be revised through Annual Service Plan Updates.

The Authorized Improvements Costs of the Authorized Improvements are to be funded from the Special Assessment reimbursements as described herein.

A description of the Authorized Improvements follows:

- **Carl Stern Extension Bridge and Road Improvements:** Carl Stern will be extended from its terminus across Cottonwood Creek and through the floodplain to the eastern boundary of the project, providing major transportation infrastructure that is on the City's future roads plan. The Carl Stern improvements are approximately 2,000 feet long, including a 450' aesthetic bridge over the creek, and will include two lanes with an 8' shared use path. Additionally, other road improvements include a 70' wide ROW for a 4,000 foot long North/South road that connects Carl Stern Blvd to CR 199, which will also improve connectivity within the city.
- **Cottonwood Creek and Other Drainage Improvements:** The development will provide improvements to Cottonwood Creek that will increase drainage capacity within the creek and floodplain. The improvements will consist of clearing, grading, shaping and channelizing of slopes along the creek and other floodway areas.
- **Landscaping and Perimeter Walls:** The project is being enhanced with boulevard landscaping, irrigation and hardscape improvements. Wood fencing with masonry columns will be constructed along both sides of the 4,000 foot North/South collector road, and will be between 6' and 8' in height. Primary entry monumentation will be constructed along Carl Stern to convey a "sense of arrival" and consist of a large masonry monument with metal accents and landscaping. A secondary entry monument will be placed at the community connection to CR 199.
- **Waterline Improvements:** Includes a 12" waterline extension down Carl Stern Blvd. The improvements also provide a loop system by connecting an 8" waterline between Carl Stern Blvd and CR 199.
- **Wastewater Improvements:** A 6,000 linear foot, 12" wastewater line between the community and the Glenwood Lift Station.
- **Parks, Open Space and Trails:** A large open space (approximately 49 acres) of riparian zone natural area, meadows, and play field to be dedicated to the City that includes an extensive 10' wide concrete meandering trail which connects to the neighborhood via greenlinks and an 8' sidepath along the collector, creating a looped trail system. Also, a 3.5-acre central park that is to include a public lawn, playground,

SECTION III –DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

pavilion, art, shaded trellis and landscaping. The central park is also to include two enhanced intersections with pedestrian refuges and striping across the collector.

- **Engineering and Planning Costs:** Engineering fees and other expenses associated with the Authorized Improvements described above.

Table III Authorized Improvements	
Description	Costs
<i>Authorized Improvements</i>	
Carl Stern Extension, Bridge and Road Improvements	\$ 2,702,630
Cottonwood Creek and Other Drainage Improvements	\$ 1,118,563
Landscaping and Perimeter Walls	\$ 1,179,250
Waterline Improvements	\$ 597,650
Wastewater Improvements	\$ 930,703
Parks, Open Space and Trails	\$ 458,000
Engineering and Planning Costs	\$ 214,190
Total Authorized Improvements	\$ 7,200,986
Source: Developer	
Note: The figures shown in Table III and the Budgeted Costs for the Authorized Improvements may be revised in Annual Service Plan Updates, and may be reallocated between line items so long as the total Authorized Improvements amount does not change.	

Section IV
ASSESSMENT PLAN

A. Introduction

The PID Act requires the City Council to apportion the cost of the Authorized Improvements based on the special benefits conferred to each lot or parcel by the Authorized Improvements. The PID Act provides that the Special Assessments and the costs of the Authorized Improvements may be allocated: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the City Council may establish the methods of assessing the special benefits for various classes of improvements. **Table IV-A** details the estimated allocation of costs of the Authorized Improvements between the Assessed Property and Non-Benefited Property.

This section of this Service and Assessment Plan is intended to describe the special benefit conferred to each Parcel within the PID as a result of the Authorized Improvements, to provide the basis and justification for the determination that this special benefit exceeds the amount of the Special Assessments, and to explain the methodologies by which the City Council allocates and reallocates the special benefit for Authorized Improvements to Parcels and Lots so that there is an equal share of the cost of the Authorized Improvements and Special Assessments being apportioned to Parcels and Lots similarly benefited. The determination by the City Council of the assessment methodology set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners of any Assessed Property.

B. Special Benefit

The Assessed Property must receive a direct and special benefit from the Authorized Improvements, which must be equal to or greater than the amount of the Special Assessments. The Authorized Improvements are provided for the benefit of the Assessed Property.

When the City Council approved this SAP, the Developer owned 100% of the Assessed Property. The Developer has acknowledged that the Authorized Improvements confer a special benefit on the Assessed Property and consented to the imposition of the Special Assessments to pay for the Authorized Improvements Cost associated therewith. The Developer has ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the City Council as to the special benefits described herein and the Assessment Order; (ii) the SAP and the Assessment Order, and (iii) the levying of Special Assessments on the Assessed Property.

SECTION IV- ASSESSMENT PLAN

The City Council determined that funding the Authorized Improvements Cost for the Authorized Improvements through the PID is beneficial to the City. Accordingly, these Authorized Improvements confer a special benefit to the Assessed Property, and such special benefit exceeds the amount of the Special Assessment levied on the Assessed Property. This conclusion is supported by the evidence, information, and testimony provided to the City.

C. Allocation of Authorized Improvements Costs

The Authorized Improvements will provide a special benefit only to the Assessed Property. The Budgeted Cost of the Authorized Improvements is, therefore, allocated entirely to Assessed Property, as shown in **Table IV-A**. The Budgeted Costs detailed in **Table IV-A** for the Authorized Improvements are subject to revision through the Annual Service Plan Updates, but may not result in increased Special Assessments except as authorized under this SAP or the PID Act.

Table IV-A		
Allocation of Authorized Improvements to Assessed Property		
Authorized Improvements	Total Cost	% Allocation [a]
Carl Stern Extension, Bridge and Road Improvements	\$ 2,702,630	100%
Cottonwood Creek and Other Drainage Improvements	\$ 1,118,563	100%
Landscaping and Perimeter Walls	\$ 1,179,250	100%
Waterline Improvements	\$ 597,650	100%
Wastewater Improvements	\$ 930,703	100%
Parks, Open Space and Trails	\$ 458,000	100%
Engineering and Planning Costs	\$ 214,190	100%
Total Authorized Improvements	\$ 7,200,986	100%
[a] 100% of the Budgeted Costs for the Authorized Improvements are being allocated to Assessed Property.		

D. Special Assessment Methodology

The City Council may assess all or a portion of the Budgeted Cost of the Authorized Improvements against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the Authorized Improvements equals or exceeds the amount of the Special Assessments. All or a portion of the Budgeted Cost of the Authorized Improvements may be assessed using any methodology that results in the imposition of equal shares of costs on Assessed Property similarly benefited.

SECTION IV- ASSESSMENT PLAN

For purpose of the Assessment Plan, the City Council has determined that the Budgeted Costs associated with the Authorized Improvements shall be allocated on the basis of estimated buildout value. The Budgeted Costs associated with the Authorized Improvements shall be allocated to the Assessed Property by spreading the entire Special Assessment across all benefitting Parcels and Lots within the PID based on the ratio of the estimated buildout value of such Parcel or Lot to the estimated buildout value for all Assessed Property within the PID. The results of this allocation methodology is presented in **Table IV-B**.

Based on the Budgeted Costs for the Authorized Improvements, the City Council has determined that the benefit to the Assessed Property from the Authorized Improvements is at least equal to the Special Assessments levied on the Assessed Property as subdivided into individual Parcels or Lots.

Table IV-B Special Assessment Allocation								
Lot Type	Units	% Allocation of Total Special Assessment	Buildout Value at Completion	Total Special Assessment	Average Annual Installment	Special Assessment Per Unit	Average Annual Installment Per Unit	Equivalent Tax Rate (per \$100/AV)
1	208	40.11%	\$ 58,674,148	\$ 2,671,018	\$ 208,020	\$ 12,841	\$ 1,000	\$ 0.35
2	202	43.21%	\$ 63,215,774	\$ 2,877,766	\$ 224,121	\$ 14,246	\$ 1,110	\$ 0.35
3	78	16.68%	\$ 24,410,052	\$ 1,111,216	\$ 86,542	\$ 14,246	\$ 1,110	\$ 0.35
Total	488	100.00%	\$ 146,299,974	\$ 6,660,000	\$ 518,683	\$ 13,648	\$ 1,063	\$ 0.35
Note: Although the actual unit counts and estimated buildout value may vary from the estimates shown above, the initial assessment allocation for each Unit will not change unless modified in a Service Plan Update approved by the City Council, subject to the terms of this SAP, the PID Act, the City and Corporation Interlocal Agreement and any other documents associated with the creation of the PID. The above estimate assumes a 35 year term for the PID.								

E. Special Assessment and Annual Installments

The Special Assessments for the PID will be levied on each Parcel and Lot according to the Assessment Roll. The Annual Installments for the PID will be collected on the dates and in the amounts shown on the Assessment Roll, subject to any revisions made during an Annual Service Plan Update.

F. Administrative Expenses

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Lot based on the amount of outstanding assessment remaining on the Lot. The Administrative Expenses shall be collected as part of and in the same manner as the Annual Installments in the amounts shown on the Assessment Roll shown on **Appendix A**, which are subject to revision through Annual Service Plan Updates.

Section V

SERVICE PLAN

The PID Act requires the SAP (i) cover a period of at least five years, and (ii) define the annual projected costs for the Authorized Improvements undertaken within the PID during the five year period. It is anticipated that it will take approximately 12 months for the Authorized Improvements to be constructed and purchased by the City.

The Budgeted Cost of the Authorized Improvements and payment of expenses incurred in the establishment, administration and operation of the PID is \$7,200,986 as shown in **Table V-A**. The SAP shall be reviewed and updated at least annually for purposes of determining the annual budget for Administrative Expenses, updating the Budgeted Costs of the Authorized Improvements, and updating the Assessment Roll shown on **Appendix A**. Any update to this SAP herein is referred to as an “**Annual Service Plan Update**.”

Table V-A summarizes the funds required to purchase the Authorized Improvements, and establish the PID. The funds shown in **Table V-A** shall be updated each year in the Annual Service Plan Update to reflect any revisions to the Budgeted Cost and/or Authorized Improvements Costs, if any.

Table V-A Sources and Uses of Funds		
Sources of Funds		
Special Assessment	\$	6,660,000
Owner Contribution		540,986
	\$	7,200,986
Uses of Funds		
Authorized Improvements (a)	\$	7,200,986
(a) See Table III and Table IV-A for details.		

SECTION V SERVICE PLAN

The Annual Installments for the first five years after the approval of this SAP are presented in **Table V-B**. The Annual Installments are subject to revision and shall be updated in the Annual Service Plan Update to reflect any change expected for each year.

Table V-B Projected Annual Installments					
Year	Principal Payments	Interest Expense	Administrative Expenses	Annual PID Installments	
2019	\$ -	\$ 278,012	\$ 35,000	\$	313,012
2020	\$ -	\$ 404,658	\$ 35,700	\$	440,358
2021	\$ 70,000	\$ 404,719	\$ 36,414	\$	511,133
2022	\$ 75,000	\$ 400,561	\$ 37,142	\$	512,703
2023	\$ 80,000	\$ 396,102	\$ 37,885	\$	513,987
Total	\$ 225,000	\$ 1,884,051	\$ 182,141	\$	2,291,193
Note: The Projected Annual Installments are the expenditures associated with the formation of the PID, the costs of formation and repayment of the PID Special Assessments as well as the administration of the PID. The estimates are based on a 35 year term for the PID.					

SECTION VI TERMS OF THE SPECIAL ASSESSMENTS

Section VI

TERMS OF THE SPECIAL ASSESSMENTS

A. Amount of Special Assessments and Annual Installments for Parcels

The Special Assessments and Annual Installments for each Assessed Property are shown on the Assessment Roll in **Appendix A-1**. The Special Assessments and Annual Installments shall not be changed except as authorized under the terms of this SAP and the PID Act. The Annual Installments shall be collected in an amount sufficient to cover the Administrative Expenses.

B. Reallocation of Special Assessments for Parcels

1. *Upon Division Prior to Recording of Subdivision Plat*

Upon the division of any Assessed Property (without the recording of a subdivision plat), the Administrator shall reallocate the Special Assessment for the Assessed Property prior to the division among the newly divided Assessed Properties according to the following formula:

$$A = B \times (C / D)$$

“A” means the Special Assessment for a Parcel or Lot created by a subdivision plat.

“B” means the Special Assessment for the subdivided Parcel or Lot prior to division.

“C” means the Special Assessment for the Lot Type applicable to a Parcel or Lot created by a subdivision plat determined by reference to **Table IV-B**.

“D” means the sum of the Special Assessments for all Assessed Property created by a subdivision plat based on the Lot Type applicable to each Parcel or Lot.

If the resulting Special Assessment for a Parcel or Lot created by a subdivision plat exceeds the Special Assessment for the Lot Type applicable to such Parcel or Lot as shown in **Table IV-B**, the excess amount shall be prepaid as a Mandatory Prepayment as provided under **Section VI.C** herein.

The increase or reallocation of a Special Assessment for an Assessed Parcel that is a homestead under Texas law may not exceed the Special Assessment prior to the increase or reallocation. Any increase or reallocation pursuant to this section shall be reflected in a Service and Assessment Plan Update approved by

SECTION VI TERMS OF THE SPECIAL ASSESSMENTS

the City. The division herein shall be considered an administrative action that will not require the City to issue notice and hold a public hearing.

2. *Upon Subdivision by a Recorded Subdivision Plat*

Once a Lot has a Special Assessment applied to it pursuant to **Section VI.B.1** above, and then proceeds to be subdivided again, the Special Assessments for each affected Lot will be allocated in accordance with the formula set forth in **Section VI.B.1** above. If the resulting Special Assessments for a Lot so subdivided exceeds the Special Assessment for the Lot Type applicable to such Lot as set forth in **Table IV-B**, the excess amount shall be prepaid as a Mandatory Prepayment as provided under **Section VI.C** herein.

Any reallocation pursuant to this section shall be calculated by the Administrator and reflected in an Annual Service Plan Update approved by the City Council. The reallocation of any Special Assessment as described herein shall be considered an administrative action and will not require any notice or public hearing by the City.

3. *Upon Consolidation*

Upon the consolidation of two or more Assessed Properties, the Special Assessment for the consolidated Assessed Property shall be the sum of the Special Assessments for the Assessed Properties prior to consolidation. The reallocation of a Special Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Special Assessment prior to the reallocation. Any reallocation pursuant to this section shall be calculated by the Administrator and reflected in an update to this SAP approved by the City. The consolidation of any Assessed Property as described herein shall be considered an administrative action and will not require any notice or public hearing by the City.

C. Mandatory Prepayment of Assessments

If (i) Assessed Property or a portion thereof is transferred to a party that is exempt from the payment of the Special Assessment under applicable law, (ii) an owner causes a Parcel or Lot or portion thereof to become Non-Benefited Property, or (iii) a prepayment of a portion of a Special Assessment that has been reallocated as a result of a subdivision plat is required pursuant to **Section VI.B** above, the owner of such Parcel or Lot or portion thereof shall pay to the City, as applicable, the portion of the Special Assessment to be prepaid or the full amount of the Special Assessment for such Parcel or Lot or portion thereof prior to any such transfer or act (a "Mandatory Prepayment").

SECTION VI TERMS OF THE SPECIAL ASSESSMENTS

D. Reduction of Special Assessments

1. If, after all Authorized Improvements to be funded have been purchased, the Authorized Improvements Cost is less than the Budgeted Cost used to calculate the Special Assessments, then the City will reduce the Special Assessment securing each Assessed Property pro rata such that the sum of the resulting reduced Special Assessments for all Assessed Properties equals the reduced Authorized Improvements Cost.

E. Payment of Special Assessments

1. Payment in Full and Partial Pre-Payment

- The Special Assessment for any Parcel may be paid in full at any time in accordance with the PID Act.
- If an Annual Installment has been billed prior to payment in full of a Special Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount upon payment.
- Upon payment in full of a Special Assessment, the City shall deposit the payment in accordance with the City and Corporation Interlocal Agreement; whereupon, the Special Assessment for the Lot shall be reduced to zero, and the Lot owner's obligation to pay the Special Assessment and Annual Installments thereof shall automatically terminate. The City shall provide the owner of the affected Assessed Property a recordable "**Notice of PID Assessment Termination.**"
- At the option of a Lot owner, the Special Assessment on any Lot may be paid in part in an amount equal to the amount of prepaid Special Assessments, with respect thereto. Upon the payment of such amount for a Lot, the City shall deposit the payment in accordance with the City and Corporation Interlocal Agreement, the Special Assessment for the Lot shall be reduced by the amount of such partial payment, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Lot shall be reduced to the extent the partial payment is made.

2. Payment of Annual Installments

- The PID Act provides that a Special Assessment for a Parcel may be paid in full at any time. If not paid in full, the PID Act authorizes the City to collect interest and collection costs on the outstanding Special Assessment. A Special Assessment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown in the Assessment Roll, which includes interest on the outstanding Special Assessment and Administrative Expenses. Pursuant to Section 372.018 of the PID Act, an Assessment bears

SECTION VI TERMS OF THE SPECIAL ASSESSMENTS

interest at the rate specified by the governing body of the municipality or City beginning at the time or times or on the occurrence of one or more events specified by the governing body. The City Council has determined that the Assessments shall be paid in Annual Installments over a thirty five (35) year period, as shown in the Assessment Roll, with an interest rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index approved by the City Council and reported in the month prior to the establishment of the Special Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Assessments are paid in full. The index approved by the City Council is the Bond Buyer 25 Year Revenue Bond Index for which the average rate on January 3rd, 2019 was 4.56 percent (4.56%).

- The Annual Installments as listed on the Assessment Roll have been calculated assuming an interest rate of approximately 6.11%. The Annual Installments may not exceed the amounts shown on the Assessment Roll except pursuant to any amendment or update to this SAP.
- The Annual Installments shall be reduced to equal the actual Administrative Expenses (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances.

F. Collection of Annual Installments

The Administrator shall, no less frequently than annually, prepare and submit to the City for its approval an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Assessed Property. Administrative Expenses shall be allocated among Assessed Properties in proportion to the amount of the Annual Installments for the Assessed Property. Each Annual Installment shall be reduced by any credits applied. Annual Installments may be collected by the City (or such entity to whom the City directs) in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies as set forth in the PID Act. The City may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the PID Act.

Any sale of Assessed Property for nonpayment of the delinquent Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such Assessed Property and such Assessed Property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such Assessed Property as they become due and payable.

SECTION VI TERMS OF THE SPECIAL ASSESSMENTS

Each Annual Installment, including the interest on the unpaid amount of a Special Assessment, shall be assessed annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year. Delinquent installments of the Special Assessments shall incur interest, penalties, Administrative Expenses, and attorney's fees in the same manner as delinquent ad valorem taxes. The initial Annual Installments will be due when billed, and will be delinquent if not paid prior to February 1, 2020.

G. Summary of City Responsibilities

The City's responsibility under the SAP shall be as follows:

1. The City shall have no responsibility for administration, assessment, collection or payment of any amounts except as specifically provided in the SAP.
2. The City's sole obligations are to:
 - Review and approve the Annual Service Plan Update including the Annual Installments due for the upcoming year;
 - Contract with the Williamson County Appraisal District or other third party to collect the Assessments;
 - Establish the assessment account ("Assessment Account") to receive the funds collected from Assessments;
 - Pay Administrative Expenses as provided herein;
 - Direct the Administrator to take all reasonable efforts to collect Assessments including foreclosure of any lien securing delinquent Assessments;
 - Deposit Assessments received, including funds received from foreclosure sales, into the Assessment Account; and,
 - Pay funds out of the Assessment Account as provided herein and in the City and Corporation Interlocal Agreement.

Section VII

THE ASSESSMENT ROLL

A. Assessment Roll

The City has evaluated each Lot (based on numerous factors such as the Public Property, the types of Authorized Improvements, and other development factors deemed relevant by the City) to determine the amount of Assessed Property within the PID.

The Assessed Property will be assessed for the special benefits conferred upon the property resulting from the Authorized Improvements. **Table VII** summarizes the \$7,200,986 in special benefit received by the Assessed Property from the Authorized Improvements and the costs of the PID formation. The expected amount of the planned Special Assessment is \$6,660,000, which is less than the benefit received by the Assessed Property. Accordingly, the total Special Assessment to be applied to all the Assessed Property is \$6,660,000 plus annual Administrative Expenses. The Special Assessment for each Assessed Property is calculated based on the allocation methodologies described in **Section IV-D**. The Assessment Roll is attached hereto as **Appendix A**.

Table VII Special Benefit Summary	
Special Benefit Summary	Total Cost
Total Public Improvements (a)	\$ 7,200,986
Total Special Benefit	\$ 7,200,986
<i>Special Benefit</i>	
Total Special Benefit	\$ 7,200,986
Projected PID Special Assessment	\$ 6,660,000
Excess Benefit	\$ 540,986
(a) See Table III for details.	

B. Annual Assessment Roll Updates

The Administrator shall prepare, and shall submit to the City for approval, updates to the Assessment Roll and the Annual Service Plan Update to reflect changes such as (i) the identification of each Parcel (ii) the Special Assessment for each Assessed Property, including any adjustments authorized by this Service and Assessment Plan or in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Special Assessment is payable in installments); and (iv) payments of the Special Assessment, if any, as provided by **Section VI.E.** of this Service and Assessment Plan.

SECTION VIII MISCELLANEOUS PROVISIONS

Section VIII

MISCELLANEOUS PROVISIONS

A. Administrative Review

The City may elect to designate a third party to serve as Administrator of the PID. The City shall notify the Developer in writing upon appointing a third party Administrator.

To the extent consistent with the PID Act, if an owner of the Assessed Property claims that a calculation error has been made in the Assessment Roll, including the calculation of the Annual Installment, that owner must send a written notice describing the error to the Administrator no later than thirty (30) days after the date the invoice or other bill for the Annual Installment is received. If the owner fails to give such notice, such owners shall be deemed to have accepted the calculation of the Assessment Roll (including the Annual Installments) and to have waived any objection to the calculation. The Administrator shall promptly review the notice, and, if necessary, meet with the Assessed Property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Property owner, such change or modification shall be presented to the City Manager for approval, to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Property (except for the final year during which the Assessment shall be collected), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to City for determination. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the PID Act.

B. Termination of Assessments

Each Special Assessment shall terminate on the date the Special Assessment is paid in full, including payment of any unpaid Annual Installments and Delinquent Collection Costs, if any. After the termination of the Special Assessment, and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the City shall provide the owner of the affected Assessed Property a recordable Notice of the PID Assessment Termination.

C. Amendments

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

SECTION VIII MISCELLANEOUS PROVISIONS

D. Administration and Interpretation of Provisions

The City shall administer (or cause the administration of) the PID, this SAP, and all Annual Service Plan Updates consistent with the PID Act.

E. Severability

If any provision, section, subsection, sentence, clause or phrase of this SAP, or the application of same to an Assessed Property or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Service and Assessment Plan that no part thereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose.

If any provision of this SAP is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this SAP and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.

Appendix A
Assessment Roll

Appendix A						
Special Assessment by Property Owner						
Parcel	Tax Parcel ID	Acres	Owner	Special Assessment	Equivalent Tax Rate	
A	R020580	162.1	Meritage Homes of Texas, LLC	\$ 6,449,904	\$ 0.35	
B	R330882	5.3	Meritage Homes of Texas, LLC	\$ 210,096	\$ 0.35	
		167.4		\$ 6,660,000	\$ 0.35	
Note: Preliminary and subject to change						

Appendix A-1

Annual Installments

Appendix A-1 Annual Installments					
Year Ending (a)	PID Reimbursement			Administrative Expenses (b)	Annual Installment (c)
	Principal	Interest	Net Debt Service		
2019	\$ -	\$ 278,012	\$ 278,012	\$ 35,000	\$ 313,012
2020	\$ -	\$ 404,658	\$ 404,658	\$ 35,700	\$ 440,358
2021	\$ 70,000	\$ 404,719	\$ 474,719	\$ 36,414	\$ 511,133
2022	\$ 75,000	\$ 400,561	\$ 475,561	\$ 37,142	\$ 512,703
2023	\$ 80,000	\$ 396,102	\$ 476,102	\$ 37,885	\$ 513,987
2024	\$ 85,000	\$ 391,343	\$ 476,343	\$ 38,643	\$ 514,986
2025	\$ 90,000	\$ 386,283	\$ 476,283	\$ 39,416	\$ 515,699
2026	\$ 95,000	\$ 380,924	\$ 475,924	\$ 40,204	\$ 516,128
2027	\$ 100,000	\$ 375,264	\$ 475,264	\$ 41,008	\$ 516,273
2028	\$ 105,000	\$ 369,305	\$ 474,305	\$ 41,828	\$ 516,133
2029	\$ 115,000	\$ 363,045	\$ 478,045	\$ 42,665	\$ 520,710
2030	\$ 120,000	\$ 356,184	\$ 476,184	\$ 43,518	\$ 519,702
2031	\$ 125,000	\$ 349,022	\$ 474,022	\$ 44,388	\$ 518,411
2032	\$ 135,000	\$ 341,561	\$ 476,561	\$ 45,276	\$ 521,837
2033	\$ 140,000	\$ 333,498	\$ 473,498	\$ 46,182	\$ 519,680
2034	\$ 150,000	\$ 325,135	\$ 475,135	\$ 47,105	\$ 522,241
2035	\$ 155,000	\$ 316,171	\$ 471,171	\$ 48,047	\$ 519,218
2036	\$ 165,000	\$ 306,907	\$ 471,907	\$ 49,008	\$ 520,915
2037	\$ 175,000	\$ 297,041	\$ 472,041	\$ 49,989	\$ 522,030
2038	\$ 185,000	\$ 286,574	\$ 471,574	\$ 50,988	\$ 522,563
2039	\$ 195,000	\$ 275,506	\$ 470,506	\$ 52,008	\$ 522,515
2040	\$ 210,000	\$ 263,837	\$ 473,837	\$ 53,048	\$ 526,885
2041	\$ 220,000	\$ 251,265	\$ 471,265	\$ 54,109	\$ 525,374
2042	\$ 235,000	\$ 238,092	\$ 473,092	\$ 55,191	\$ 528,283
2043	\$ 245,000	\$ 224,016	\$ 469,016	\$ 56,295	\$ 525,311
2044	\$ 260,000	\$ 209,339	\$ 469,339	\$ 57,421	\$ 526,760
2045	\$ 275,000	\$ 193,759	\$ 468,759	\$ 58,570	\$ 527,329
2046	\$ 290,000	\$ 177,277	\$ 467,277	\$ 59,741	\$ 527,018
2047	\$ 310,000	\$ 159,893	\$ 469,893	\$ 60,936	\$ 530,828
2048	\$ 325,000	\$ 141,304	\$ 466,304	\$ 62,155	\$ 528,459
2049	\$ 345,000	\$ 121,813	\$ 466,813	\$ 63,398	\$ 530,211
2050	\$ 365,000	\$ 101,118	\$ 466,118	\$ 64,666	\$ 530,784
2051	\$ 385,000	\$ 79,220	\$ 464,220	\$ 65,959	\$ 530,179
2052	\$ 405,000	\$ 56,117	\$ 461,117	\$ 67,278	\$ 528,395
2053	\$ 430,000	\$ 31,811	\$ 461,811	\$ 68,624	\$ 530,435
Totals	\$ 6,660,000	\$ 9,586,676	\$ 16,246,676	\$ 1,749,807	\$ 17,996,482

(a) The dates represent the fiscal year end for the PID.

(b) Preliminary Estimate. The Administrative Expenses will be revised in Annual Service Plan Updates based on actual costs.

(c) Annual Installments are calculated assuming an approximately 6.11 % interest rate for the 35 year term of the PID plus Administrative Expenses.

APPENDIX A

Appendix A-1 Annual Installments- Lot Type 1					
Year Ending (a)	PID Reimbursement			Administrative Expenses (b)	Annual Installment (c)
	Principal	Interest	Net Debt Service		
2019	\$ -	\$ 111,498	\$ 111,498	\$ 14,037	\$ 125,535
2020	\$ -	\$ 162,290	\$ 162,290	\$ 14,318	\$ 176,607
2021	\$ 28,074	\$ 162,314	\$ 190,388	\$ 14,604	\$ 204,992
2022	\$ 30,079	\$ 160,646	\$ 190,725	\$ 14,896	\$ 205,621
2023	\$ 32,084	\$ 158,858	\$ 190,942	\$ 15,194	\$ 206,136
2024	\$ 34,090	\$ 156,949	\$ 191,039	\$ 15,498	\$ 206,537
2025	\$ 36,095	\$ 154,920	\$ 191,015	\$ 15,808	\$ 206,823
2026	\$ 38,100	\$ 152,771	\$ 190,871	\$ 16,124	\$ 206,995
2027	\$ 40,105	\$ 150,501	\$ 190,607	\$ 16,446	\$ 207,053
2028	\$ 42,111	\$ 148,111	\$ 190,222	\$ 16,775	\$ 206,997
2029	\$ 46,121	\$ 145,601	\$ 191,722	\$ 17,111	\$ 208,833
2030	\$ 48,126	\$ 142,849	\$ 190,975	\$ 17,453	\$ 208,428
2031	\$ 50,132	\$ 139,977	\$ 190,108	\$ 17,802	\$ 207,911
2032	\$ 54,142	\$ 136,984	\$ 191,126	\$ 18,158	\$ 209,285
2033	\$ 56,148	\$ 133,751	\$ 189,898	\$ 18,521	\$ 208,419
2034	\$ 60,158	\$ 130,397	\$ 190,555	\$ 18,892	\$ 209,446
2035	\$ 62,163	\$ 126,801	\$ 188,965	\$ 19,270	\$ 208,234
2036	\$ 66,174	\$ 123,086	\$ 189,260	\$ 19,655	\$ 208,915
2037	\$ 70,184	\$ 119,129	\$ 189,314	\$ 20,048	\$ 209,362
2038	\$ 74,195	\$ 114,932	\$ 189,127	\$ 20,449	\$ 209,576
2039	\$ 78,205	\$ 110,493	\$ 188,698	\$ 20,858	\$ 209,556
2040	\$ 84,221	\$ 105,813	\$ 190,034	\$ 21,275	\$ 211,309
2041	\$ 88,232	\$ 100,771	\$ 189,003	\$ 21,701	\$ 210,703
2042	\$ 94,248	\$ 95,488	\$ 189,735	\$ 22,135	\$ 211,870
2043	\$ 98,258	\$ 89,842	\$ 188,101	\$ 22,577	\$ 210,678
2044	\$ 104,274	\$ 83,956	\$ 188,230	\$ 23,029	\$ 211,259
2045	\$ 110,290	\$ 77,708	\$ 187,998	\$ 23,490	\$ 211,487
2046	\$ 116,306	\$ 71,098	\$ 187,403	\$ 23,959	\$ 211,363
2047	\$ 124,327	\$ 64,126	\$ 188,452	\$ 24,439	\$ 212,891
2048	\$ 130,342	\$ 56,671	\$ 187,013	\$ 24,927	\$ 211,940
2049	\$ 138,364	\$ 48,854	\$ 187,217	\$ 25,426	\$ 212,643
2050	\$ 146,385	\$ 40,554	\$ 186,938	\$ 25,934	\$ 212,873
2051	\$ 154,406	\$ 31,771	\$ 186,177	\$ 26,453	\$ 212,630
2052	\$ 162,427	\$ 22,506	\$ 184,933	\$ 26,982	\$ 211,915
2053	\$ 172,453	\$ 12,758	\$ 185,211	\$ 27,522	\$ 212,733
Totals	\$ 2,671,018	\$ 3,844,772	\$ 6,515,790	\$ 701,766	\$ 7,217,556

(a) The dates represent the fiscal year end for the PID.

(b) Preliminary Estimate. The Administrative Expenses will be revised in Annual Service Plan Updates based on actual costs.

(c) Annual Installments are calculated assuming an approximately 6.11 % interest rate for the 35 year term of the PID plus Administrative Expenses.

APPENDIX A

Appendix A-1 Annual Installments- Lot Type 2					
Year Ending (a)	PID Reimbursement			Administrative Expenses (b)	Annual Installment (c)
	Principal	Interest	Net Debt Service		
2019	\$ -	\$ 120,128	\$ 120,128	\$ 15,123	\$ 135,251
2020	\$ -	\$ 174,851	\$ 174,851	\$ 15,426	\$ 190,277
2021	\$ 30,247	\$ 174,878	\$ 205,125	\$ 15,734	\$ 220,859
2022	\$ 32,407	\$ 173,081	\$ 205,488	\$ 16,049	\$ 221,537
2023	\$ 34,568	\$ 171,154	\$ 205,722	\$ 16,370	\$ 222,092
2024	\$ 36,728	\$ 169,098	\$ 205,826	\$ 16,697	\$ 222,524
2025	\$ 38,889	\$ 166,912	\$ 205,801	\$ 17,031	\$ 222,832
2026	\$ 41,049	\$ 164,596	\$ 205,645	\$ 17,372	\$ 223,017
2027	\$ 43,210	\$ 162,151	\$ 205,360	\$ 17,719	\$ 223,080
2028	\$ 45,370	\$ 159,575	\$ 204,946	\$ 18,074	\$ 223,020
2029	\$ 49,691	\$ 156,871	\$ 206,562	\$ 18,435	\$ 224,997
2030	\$ 51,852	\$ 153,906	\$ 205,757	\$ 18,804	\$ 224,562
2031	\$ 54,012	\$ 150,811	\$ 204,824	\$ 19,180	\$ 224,004
2032	\$ 58,333	\$ 147,587	\$ 205,920	\$ 19,564	\$ 225,484
2033	\$ 60,494	\$ 144,103	\$ 204,597	\$ 19,955	\$ 224,552
2034	\$ 64,815	\$ 140,490	\$ 205,304	\$ 20,354	\$ 225,659
2035	\$ 66,975	\$ 136,616	\$ 203,591	\$ 20,761	\$ 224,353
2036	\$ 71,296	\$ 132,613	\$ 203,909	\$ 21,176	\$ 225,086
2037	\$ 75,617	\$ 128,351	\$ 203,968	\$ 21,600	\$ 225,568
2038	\$ 79,938	\$ 123,828	\$ 203,766	\$ 22,032	\$ 225,798
2039	\$ 84,259	\$ 119,045	\$ 203,304	\$ 22,473	\$ 225,777
2040	\$ 90,740	\$ 114,003	\$ 204,744	\$ 22,922	\$ 227,666
2041	\$ 95,061	\$ 108,571	\$ 203,632	\$ 23,380	\$ 227,013
2042	\$ 101,543	\$ 102,879	\$ 204,421	\$ 23,848	\$ 228,270
2043	\$ 105,864	\$ 96,797	\$ 202,660	\$ 24,325	\$ 226,985
2044	\$ 112,345	\$ 90,455	\$ 202,800	\$ 24,812	\$ 227,611
2045	\$ 118,827	\$ 83,723	\$ 202,549	\$ 25,308	\$ 227,857
2046	\$ 125,308	\$ 76,601	\$ 201,909	\$ 25,814	\$ 227,723
2047	\$ 133,950	\$ 69,089	\$ 203,039	\$ 26,330	\$ 229,369
2048	\$ 140,432	\$ 61,057	\$ 201,489	\$ 26,857	\$ 228,345
2049	\$ 149,073	\$ 52,635	\$ 201,709	\$ 27,394	\$ 229,102
2050	\$ 157,715	\$ 43,693	\$ 201,408	\$ 27,942	\$ 229,350
2051	\$ 166,357	\$ 34,231	\$ 200,588	\$ 28,501	\$ 229,089
2052	\$ 174,999	\$ 24,248	\$ 199,247	\$ 29,071	\$ 228,318
2053	\$ 185,802	\$ 13,745	\$ 199,547	\$ 29,652	\$ 229,199
Totals	\$ 2,877,766	\$ 4,142,373	\$ 7,020,139	\$ 756,086	\$ 7,776,225

(a) The dates represent the fiscal year end for the PID.

(b) Preliminary Estimate. The Administrative Expenses will be revised in Annual Service Plan Updates based on actual costs.

(c) Annual Installments are calculated assuming an approximately 6.11 % interest rate for the 35 year term of the PID plus Administrative Expenses.

APPENDIX A

Appendix A-1 Annual Installments- Lot Type 3					
Year Ending (a)	PID Reimbursement			Administrative Expenses (b)	Annual Installment (c)
	Principal	Interest	Net Debt Service		
2019	\$ -	\$ 46,386	\$ 46,386	\$ 5,840	\$ 52,226
2020	\$ -	\$ 67,517	\$ 67,517	\$ 5,957	\$ 73,473
2021	\$ 11,679	\$ 67,527	\$ 79,207	\$ 6,076	\$ 85,282
2022	\$ 12,514	\$ 66,833	\$ 79,347	\$ 6,197	\$ 85,544
2023	\$ 13,348	\$ 66,089	\$ 79,437	\$ 6,321	\$ 85,758
2024	\$ 14,182	\$ 65,295	\$ 79,477	\$ 6,448	\$ 85,925
2025	\$ 15,016	\$ 64,451	\$ 79,468	\$ 6,576	\$ 86,044
2026	\$ 15,851	\$ 63,557	\$ 79,408	\$ 6,708	\$ 86,116
2027	\$ 16,685	\$ 62,613	\$ 79,298	\$ 6,842	\$ 86,140
2028	\$ 17,519	\$ 61,618	\$ 79,137	\$ 6,979	\$ 86,116
2029	\$ 19,188	\$ 60,574	\$ 79,761	\$ 7,119	\$ 86,880
2030	\$ 20,022	\$ 59,429	\$ 79,451	\$ 7,261	\$ 86,712
2031	\$ 20,856	\$ 58,234	\$ 79,090	\$ 7,406	\$ 86,496
2032	\$ 22,525	\$ 56,989	\$ 79,514	\$ 7,554	\$ 87,068
2033	\$ 23,359	\$ 55,644	\$ 79,003	\$ 7,705	\$ 86,708
2034	\$ 25,027	\$ 54,249	\$ 79,276	\$ 7,860	\$ 87,135
2035	\$ 25,862	\$ 52,753	\$ 78,615	\$ 8,017	\$ 86,631
2036	\$ 27,530	\$ 51,207	\$ 78,737	\$ 8,177	\$ 86,914
2037	\$ 29,199	\$ 49,561	\$ 78,760	\$ 8,341	\$ 87,100
2038	\$ 30,867	\$ 47,815	\$ 78,682	\$ 8,507	\$ 87,189
2039	\$ 32,536	\$ 45,968	\$ 78,504	\$ 8,678	\$ 87,181
2040	\$ 35,038	\$ 44,021	\$ 79,059	\$ 8,851	\$ 87,910
2041	\$ 36,707	\$ 41,923	\$ 78,630	\$ 9,028	\$ 87,658
2042	\$ 39,210	\$ 39,725	\$ 78,935	\$ 9,209	\$ 88,144
2043	\$ 40,878	\$ 37,377	\$ 78,255	\$ 9,393	\$ 87,648
2044	\$ 43,381	\$ 34,928	\$ 78,309	\$ 9,581	\$ 87,890
2045	\$ 45,884	\$ 32,329	\$ 78,212	\$ 9,772	\$ 87,984
2046	\$ 48,386	\$ 29,579	\$ 77,965	\$ 9,968	\$ 87,933
2047	\$ 51,723	\$ 26,678	\$ 78,401	\$ 10,167	\$ 88,568
2048	\$ 54,226	\$ 23,576	\$ 77,803	\$ 10,370	\$ 88,173
2049	\$ 57,563	\$ 20,324	\$ 77,887	\$ 10,578	\$ 88,465
2050	\$ 60,900	\$ 16,872	\$ 77,772	\$ 10,789	\$ 88,561
2051	\$ 64,237	\$ 13,218	\$ 77,455	\$ 11,005	\$ 88,460
2052	\$ 67,574	\$ 9,363	\$ 76,937	\$ 11,225	\$ 88,162
2053	\$ 71,745	\$ 5,308	\$ 77,053	\$ 11,450	\$ 88,503
Totals	\$ 1,111,216	\$ 1,599,530	\$ 2,710,747	\$ 291,954	\$ 3,002,701

(a) The dates represent the fiscal year end for the PID.

(b) Preliminary Estimate. The Administrative Expenses will be revised in Annual Service Plan Updates based on actual costs.

(c) Annual Installments are calculated assuming an approximately 6.11 % interest rate for the 35 year term of the PID plus Administrative Expenses.

Appendix B

Legal Description

BEING A 167.461 ACRES TRACT, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NUMBER 271, WILLIAMSON COUNTY, TEXAS AND BEING ALL OF A CALLED 167.375 ACRES TRACT DESCRIBED IN A WARRANT DEED TO ROBERT DERRELL NEAL, TRUSTEE AND RECORDED IN VOLUME 2481, PAGE 383 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS (D.R.W.C.T.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in the south right-of-way line of County Road 199 (CR 199), a variable width right-of-way (no recording info found), for the northeast corner of said 167.375 acres tract, same being the northwest corner of a called 46.14 acres tract described in a Special Warranty Deed to Leschber Investments, LP and recorded in Document Number 2010007503 of the Official Public Records of Williamson County, Texas (O.P.R.W.C.T.);

THENCE leaving said south right-of-way line of CR 199, with the east line of said 167.375 acres tract, same being the west line of said 46.14 acres tract and the west line of the remainder of a called 367.15 acres tract described in a Warranty Deed to Hutto 372, LTD and recorded in Document Number 2003097297 of said O.P.R.W.C.T., S07°45'44"W a distance of 4,157.28 feet to 5/8-inch iron rod found for an angle point in said east line of the 167.375 acres tract and said west line of the remainder of the 367.15 acres tract;

CONTINUING with said east line of the 167.375 acres tract and the west line of the remainder of the said 367.15 acres tract, S07°34'46"W passing at a distance of 643.67 feet a 1/2-inch iron rod with plastic cap stamped "DIAMOND SURVEYING" found for the northeast corner of Lot 32, Block L, Glenwood, Phase 5, a legal subdivision according to the plat of record in Document Number 2015064417 of said O.P.R.W.C.T., continuing in all a distance of 854.99 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found for the southeast corner of said 167.375 acres tract, same being the southwest corner of said Lot 32, Glenwood Phase 5, the northwest corner of Lot 26, Block L, said Glenwood Phase 5, and the northeast corner of Lot 25, Block L, Glenwood Phase 6A, a legal subdivision according to the plat of record in Document Number 2014095379 of said O.P.R.W.C.T.;

THENCE with the south line of said 167.375 acres tract, same being the north line of said Glenwood Phase 6A and the north line of Glenwood Phase 6B, a legal subdivision according to the plat of record in Document Number 2015069954 of said O.P.R.W.C.T., N82°12'11"W a distance of 791.37 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found in the north line of Lot 13, Block L, said Glenwood Phase 6B for the southwest corner of said 167.375 acres tract, same being the southeast corner of a 20-foot wide roadway as described in a Dedication Deed to the Public in Volume 271, Page 110 of said O.P.R.W.C.T.;

THENCE leaving said north line of Lot 13, Block L, Glenwood Phase 6B with the west line of said 167.375 acres tract, same being the east line of said 20-foot wide roadway, and the east line of Creek Bend, Section 2, a legal subdivision according to the plat of record in Document Number 2003111865 of said O.P.R.W.C.T., N07°49'29"E a distance of 578.72 feet to a 1-inch (inside diameter) iron pipe found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend, Section 2;

APPENDIX B

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Creek Bend, Section 2, the east line of a called 1.77 acres tract described in a Dedication Special Warranty Deed to the City of Hutto and recorded in Document Number 2007055773 of said O.P.R.W.C.T., and the east line of Creek Bend Section 5, a legal subdivision according to the plat of record in Document Number 2007058323 of said O.P.R.W.C.T., N30°06'10"W a distance of 499.87 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend Section 5;

CONTINUING with said west line of the 167.375 acres tract and said east line of Creek Bend Section 5 the following nine (9) courses and distances:

1. N01°48'18"E a distance of 187.76 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found,
2. N06°10'04"E a distance of 175.64 feet to a 1/2-inch iron rod found,
3. N18°52'15"W a distance of 226.14 feet to a 1/2-inch iron rod found,
4. N05°32'37"W a distance of 296.97 feet to a 1/2-inch iron rod with plastic cap stamped "STANLEY CONSULTANTS INC" found,
5. N57°21'53"W a distance of 73.20 feet to a 1/2-inch iron rod with (cap illegible)found,
6. N62°30'06"W a distance of 172.87 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found,
7. N62°02'30"W a distance of 132.78 feet to a 1/2-inch iron rod found,
8. N59°56'34"W a distance of 94.51 feet to a 1/2-inch iron rod found, and
9. N46°24'31"W a distance of 133.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being the northwest corner of Lot 28, Block B, said Creek Bend Section 5, same being the most easterly corner of Lot 16, Block B, Creek Bend Section 4, a legal subdivision according to the plat of record in Document Number 2005093870 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, same being the east line of Lot 16, Block B, Creek Bend Section 4, the following two (2) courses and distances:

1. N10°19'27"W a distance of 73.59 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found, and
2. N37°39'42"W a distance of 5.18 feet to a 1/2-inch iron rod found for the northeast corner of Lot 16, Creek Bend Section 4, same being the southeast corner of Lot 21, Block B, Creekside Estates Section 1, a legal subdivision according to the plat of record in Document Number 1999084644 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, N19°24'00"W a distance of 73.21 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in said west line of the 167.375 acres tract;

APPENDIX B

THENCE with said west line of the 167.375 acres tract, N12°26'12"W passing at a distance of 102.48 feet the east line of Lot 22, Block B, said Creekside Estates Section 1, and continuing in all a distance of 120.20 feet to a 1/2-inch iron rod stamped "BASELINE INC." for an angle point in said west line of the 167.375 acres tract, and from which a 1/2-inch iron rod found for an angle point in said east line of Lot 22 bears S42°10'33"E a distance of 6.50 feet;

CONTINUING across said Lot 22 with said west line of the 167.735 acres tract, N60°46'25"E a distance of 96.22 feet to 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, and said east line of said Lot 22, Creekside Estates Section 1;

THENCE leaving said east line of Lot 22, Creekside Estates Section 1, continuing with said west line of the 167.375 acres tract, the following two (2) courses and distances:

1. N23°37'10"E a distance of 95.09 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF" set, and
2. N07°18'37"E a distance of 701.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being an angle point in said east line of Lot 22, Creekside Estates Section 1;

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Lot 22, Creekside Estates Section 1 the following two (2) courses and distances:

1. N59°31'53"W a distance of 79.81 feet to a 1/2-inch iron rod found, and
2. N02°12'28"E a distance of 69.49 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract and said east line of Lot 22, Creekside Estates Section 1, for the southwest corner of a called 14.463 acres tract described in a Special Warranty Deed and Quitclaim to the City of Hutto and recorded in Document Number 2010009249 of said O.P.R.W.C.T.;

THENCE with said west line of the 167.375 acres tract, same being the south line of said 14.463 acres tract and the south line of a called 15.52 acres tract described in a Warranty Deed to the City of Hutto and recorded in Volume 875, Page 443 of said D.R.W.C.T., N44°58'37"E a distance of 678.88 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract for the southeast corner of said 15.52 acres tract;

THENCE with said west line of the 167.375 acres tract, same being the east line of said 15.52 acres tract the following two (2) courses and distances:

1. N16°42'52"E a distance of 35.17 feet to a 1/2-inch iron rod found,
2. N03°26'59"W a distance of 217.96 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC", and
3. N77°01'16"W a distance of 65.76 feet to a 1/2-inch iron rod found for an angle point in said east line of the 15.52 acres tract, same being the southeast corner of a called 4.4485 acres tract described in a General Warranty Deed to the City of Hutto and recorded in Document Number 2003018508 of said O.P.R.W.C.T.;

THENCE leaving said east line of the 15.52 acres tract, continuing with said west line of the 167.375 acres

APPENDIX B

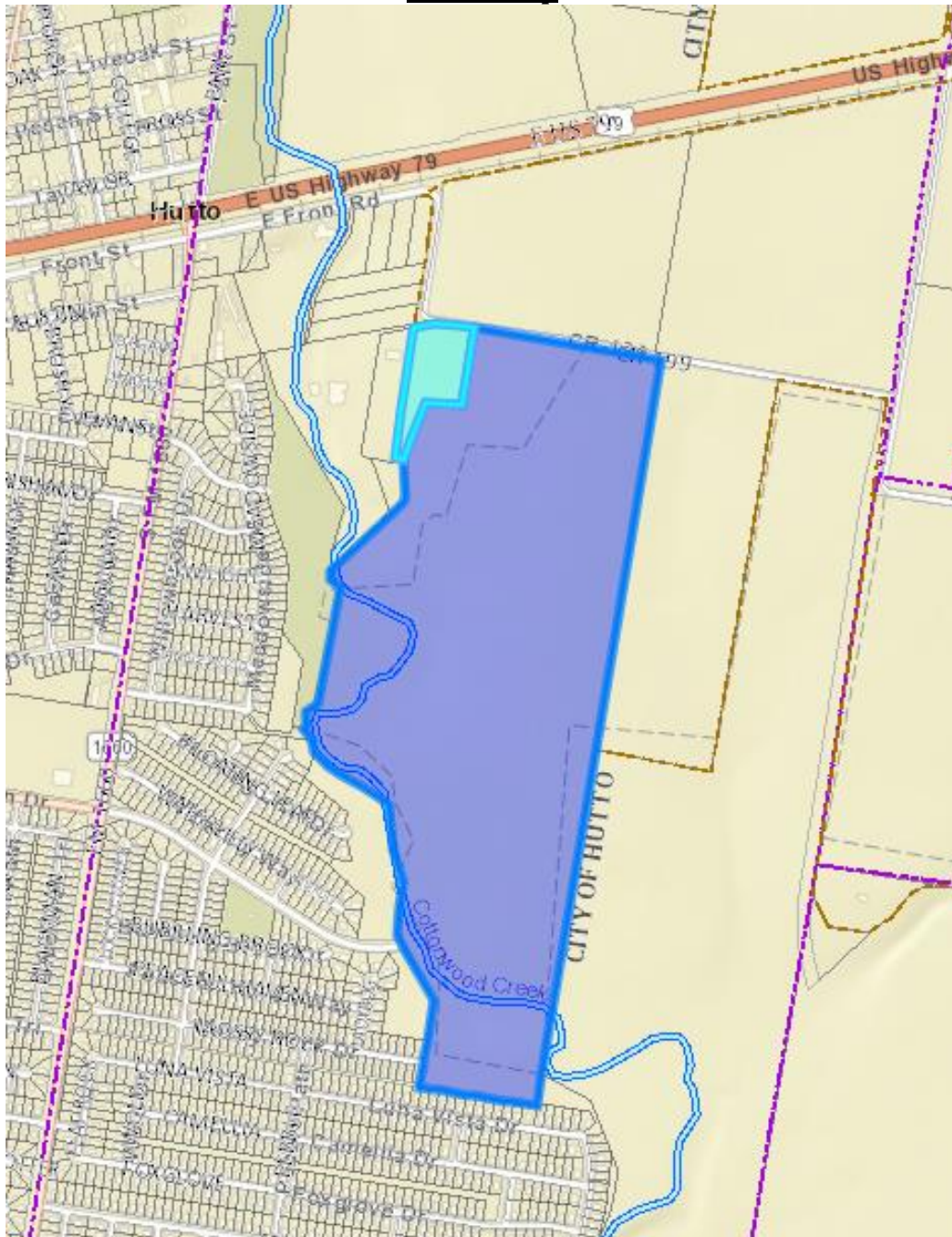
tract, same being the east line of said 4.4485 acres tract, N06°31'24"E a distance of 890.75 feet to a 1/2-inch iron rod found in the east line of said 14.463 acres tract, for the northwest corner of said 167.375 acres tract, same being the northeast corner of said 4.4485 acres tract;

THENCE with the north line of said 167.375 acres tract, same being said east line of the 14.463 acres tract, N77°09'39"E a distance of 105.46 feet to a fence corner post found in said east line of the 14.463 acres tract, for an angle point in said north line of the 167.375 acres tract;

THENCE leaving said east line of the 14.463 acres tract, with said north line of the 167.375 acres tract, same being the south right-off-way line of said CR199, S82°37'57"E a distance of 1,535.39 feet to said **POINT OF BEGINNING** and containing 167.461 acres.

Appendix C

Parcel Map



CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.:

9B.

AGENDA DATE: January 17, 2019

PRESENTED BY:

Edena Atmore, Assistant City Manager

ITEM:

Consideration and possible action of an ordinance authorizing the issuance and sale of one or more series of City of Hutto, Texas General Obligation Bonds, Series 2019; authorizing the levy of an ad valorem tax in support of said bonds; approving an official statement, the form of a paying agent/registrar agreement and related agreements; establishing procedures for selling and delivering of one or more series of bonds; and other matters relating to the issuance of the bonds. (Edena Atmore)

STRATEGIC GUIDE POLICY: Fiscal Responsibility

ITEM BACKGROUND:

The General Obligation bond ordinance will be backed by the City's property tax levy and is the first of the potential bond issuances for projects approved by voters in the 2018 Bond Election as follows:

- Proposition A- Street and Drainage Improvements: \$70,000,000.00
- Proposition B- Public Safety and Communication Facility Improvements: \$5,000,000.00
- Proposition C- Park and Recreation Improvements: \$50,000,000.00

The Series 2019 bonds will be issued in the amount of approximately \$25,000,000.00 in accordance with the recommendations from the Input Committee, Planning and Zoning Commission and the Parks Advisory Board.

BUDGETARY AND FINANCIAL SUMMARY:

The debt service for these bonds will be supported by the City's ad valorem tax levy.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable

CITY ATTORNEY REVIEW:

The City's Bond Counsel, McCall Parkhurst, and Horton LLP, prepared the bond ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the ordinance authorizing the issuance of City of Hutto, Texas General Obligation Bonds, Series 2019. Only one reading of the ordinance is required per Section 1201.028 of the Texas Government Code and Article 10.01E of the City Charter.

SUPPORTING MATERIAL:

1. [Ordinance Cert](#)
2. [GO Ordinance](#)

CERTIFICATE FOR ORDINANCE NO. _____

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

CITY OF HUTTO

We, the undersigned officers and members of the City Council of the City of Hutto, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in REGULAR MEETING ON THE 17TH DAY OF JANUARY, 2019, at Council Chambers, 401 W. Front Street, Hutto, Texas (the "Meeting"), and the roll was called of the duly constituted officers and members of the City, to-wit:

Doug Gaul, Mayor
Scott Rose, Place 1
Tom Hines, Place 2
Nate Killough, Place 3
Tim Jordan, Place 4
Patti Turner, Place 5
Terri Grimm, Place 6

and all of the persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF ONE OR MORE SERIES OF CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2019; AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID BONDS; APPROVING AN OFFICIAL STATEMENT, THE FORM OF A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER RELATED AGREEMENTS; ESTABLISHING PROCEDURES FOR SELLING AND DELIVERING ONE OR MORE SERIES OF THE BONDS; AND OTHER MATTERS RELATING TO THE ISSUANCE OF THE BONDS

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be passed on first reading; and, after due discussion, said motion carrying with it the passage of the Ordinance, prevailed and carried by the following vote:

AYES: _____ NOES: _____ ABSTENTIONS: _____

2. A true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and

sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Ordinance would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

SIGNED AND SEALED this _____, 2019.

City Secretary

Mayor

(CITY SEAL)

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF ONE OR MORE
SERIES OF CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES
2019; AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF SAID
BONDS; APPROVING AN OFFICIAL STATEMENT, THE FORM OF A PAYING
AGENT/REGISTRAR AGREEMENT AND OTHER RELATED AGREEMENTS;
ESTABLISHING PROCEDURES FOR SELLING AND DELIVERING ONE OR MORE
SERIES OF THE BONDS; AND OTHER MATTERS RELATING TO THE ISSUANCE
OF THE BONDS**

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SERIES OF CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES
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OF THE BONDS**

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Exhibit A - Definitions

Exhibit B - Description of Annual Financial Information

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF ONE OR MORE
SERIES OF CITY OF HUTTO, TEXAS GENERAL OBLIGATION BONDS, SERIES
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SERIES OF THE BONDS; AND OTHER MATTERS RELATING TO THE ISSUANCE
OF THE BONDS**

THE STATE OF TEXAS
COUNTY OF WILLIAMSON
CITY OF HUTTO

WHEREAS, at an election held within the City of Hutto, Texas (the "City") on November 6, 2018 the voters of the City authorized the City Council of the City (the "City Council") to issue in one or more series of the bonds set forth in the Propositions set forth below:

PROPOSITION A

"Shall the City Council of the City of Hutto, Texas, be authorized to issue the bonds of the City, in one or more series or issues, in the aggregate principal amount of \$70,000,000 for the purpose of constructing, improving, extending, expanding upgrading and/or developing streets, roads and intersections at FM 1660 North and Limmer Loop, FM 1660 at U.S. 79, FM 1660 South and Front Street and other roads in the City if unissued bonds or unspent proceeds of bonds sold remain after completing the improvements at FM 1660 North and Limmer Loop, FM 1660 at U.S. 79, FM 1660 South and Front Street, including utility relocation, drainage improvements, sidewalks, traffic safety and operational improvements, the purchase of any necessary rights-of-way and other related costs therefor with said bonds to mature not more than 40 years from their date of issuance, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall said City Council be authorized to levy and cause to be assessed and collected annual ad valorem taxes on all taxable property in the City in an amount sufficient to pay the annual interest on said bonds and provide a sinking fund to pay the bonds at maturity?"

PROPOSITION B

"Shall the City Council of the City of Hutto, Texas, be authorized to issue the bonds of the City, in one or more series or issues, in the aggregate principal amount of

\$5,000,000 for the purpose of planning, designing, constructing, purchasing, renovating, repairing, replacing, improving, expanding and equipping public safety and communication facilities for the City police department, including audio and visual technology and related software or hardware in connection with such facilities and other related costs therefor with said bonds to mature not more than 40 years from their date of issuance, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall said City Council be authorized to levy and cause to be assessed and collected annual ad valorem taxes on all taxable property in the City in an amount sufficient to pay the annual interest on said bonds and provide a sinking fund to pay the bonds at maturity?"

PROPOSITION C

"Shall the City Council of the City of Hutto, Texas, be authorized to issue the bonds of the City, in one or more series or issues, in the aggregate principal amount of \$50,000,000 for the purpose of constructing, acquiring, improving, renovating, developing and equipping, land, buildings and supporting infrastructure for parks and recreational purposes, including renovation of existing parks and recreational facilities, extensions of roadways, trails, parking, and/or drainage improvements at or integrated into parks, the purchase of any necessary rights-of-way and related infrastructure and other costs therefor with said bonds to mature not more than 40 years from their date of issuance, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall said City Council be authorized to levy and cause to be assessed and collected annual ad valorem taxes on all taxable property in the City in an amount sufficient to pay the annual interest on said bonds and provide a sinking fund to pay the bonds at maturity?"

WHEREAS, the City Council has not previously issued bonds pursuant to the November 6, 2018 election (the "Election"); and

WHEREAS, the City Council deems it to be in the best interest of the City to issue bonds from the authorization approved at the Election, as more further described in the Pricing Certificate (as defined herein); and

WHEREAS, the City Council hereby reserves and retains the right to issue the balance of unissued authorization approved at said Election in one or more installments when, in the judgment of the City Council, funds are needed to accomplish the purposes for which such bonds were voted; and

AND WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code.

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in Exhibit "A" to this Ordinance have the meanings assigned to them in Exhibit "A".

Section 3. AMOUNT AND PURPOSE OF THE BONDS. The Bond or Bonds of the City are hereby authorized to be issued pursuant to the November 6, 2018 election and Chapter 1331, Texas Government Code, as amended and delivered in the maximum aggregate principal amount not to exceed \$25,000,000 (the "Bonds"), for the purposes set forth in the Proposition A, Proposition B and Proposition C authorizations set forth above including related costs of issuance, all as further set out in the Pricing Certificate.

Section 4. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) Terms of Bonds. There shall be issued, sold and delivered under this Ordinance fully registered bonds, without interest coupons, in one or more series, numbered consecutively from R-1 upward (except the Initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1) payable to the initial registered owner(s), or to the registered assignee or assignees of said Bonds or any portion or portions thereof (in each case, the "Registered Owner" or the "Owner"), in the denomination of \$5,000 or any integral multiple thereof (each an "Authorized Denomination"), maturing not later than forty years from their date, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, all as set forth in the Pricing Certificate to be executed and delivered by the Pricing Officer pursuant to Subsection (b) of this Section. The Pricing Certificate is hereby incorporated in and made a part of this Ordinance. The Bonds shall be designated by the year in which they are awarded. The authority of the Pricing Officer to execute a Pricing Certificate shall expire at 5:00 p.m. C.T. on July 17, 2019. Bonds priced on or before July 17, 2019 may be delivered to the initial purchaser after such date.

(b) Selling and Delivering the Bonds. As authorized by Chapter 1371, Texas Government Code, as amended, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering one or more series of the Bonds and carrying out the other procedures specified in this Ordinance, including determining the date of the Bonds, any additional or different designation or title by which a series of the Bonds shall be known, the price at which each series of the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of the Bonds, the rate or rates of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, obtaining a rating on the Bonds, procuring municipal bond insurance, if any, and all other matters relating to the issuance, sale, and delivery of the Bonds, all of which shall be specified in the Pricing Certificate; provided that (i) the price to be paid for each series of the Bonds shall not be less than 90% of the aggregate original principal amount thereof plus

accrued interest thereon from its date to its delivery and (ii) none of the Bonds of a series shall bear interest at a rate greater than the maximum authorized by law. In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not to exceed the amount authorized in Section 3 thereof, which shall be sufficient to provide for the purposes for which the Bonds are authorized and to pay the costs of issuing the Bonds.

(c) Determinations of Pricing Officer. To achieve advantageous borrowing costs for the City, the Bonds shall be sold on a negotiated, placement or competitive basis as determined by the Pricing Officer in the Pricing Certificate. In determining whether to sell the Bonds by negotiated, placement or competitive sale, the Pricing Officer shall take into account any material disclosure issues which might exist at the time, the market conditions expected at the time of the sale and any other matters which, in the judgment of the Pricing Officer, might affect the net borrowing costs on the Bonds.

If the Pricing Officer determines that a series of the Bonds should be sold at a competitive sale, the Pricing Officer shall cause to be prepared a notice of sale and official statement in such manner as the Pricing Officer deems appropriate, to make the notice of sale and official statement available to those institutions and firms wishing to submit a bid for the Bonds, to receive such bids, and to award the sale of the Bonds to the bidder submitting the best bid in accordance with the provisions of the notice of sale.

If the Pricing Officer determines that a series of the Bonds should be sold by a negotiated sale or placement, the Pricing Officer shall designate the placement purchaser or the senior managing underwriter for the Bonds and such additional investment banking firms as the Pricing Officer deems appropriate to assure that the Bonds are sold on the most advantageous terms to the City. The Pricing Officer, acting for and on behalf of the City, is authorized to enter into and carry out a Purchase Agreement or other agreement for the Bonds to be sold by negotiated sale or placement, with the underwriters or placement purchasers at such price, with and subject to such terms as determined by the Pricing Officer pursuant to subsection (b) above. Each Purchase Agreement or other agreement shall be substantially in the form and substance previously approved by the City in connection with the authorization of debt with such changes as are acceptable to the Pricing Officer.

The Pricing Officer is expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the sale and delivery of each series of Bonds and fixing all details in connection therewith, including to approve an official statement, or supplements thereto, in connection with each series of Bonds .

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City hereby determines that the delegation of the authority to the Pricing Officer to approve the method of sale and final terms and conditions of each series of the Bonds as set forth in this Ordinance and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated in each

Pricing Certificate will be, in the best interests and shall have the same force and effect as if such determination were made by the City and the Pricing Officer is hereby authorized to make and include in each Pricing Certificate an appropriate finding to that effect.

Section 5. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum as set forth in the Pricing Certificate. Interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Ordinance and the Pricing Certificate.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer and Exchange; Authentication. The Pricing Officer shall designate the Paying Agent/Registrar ("Paying Agent/Registrar") for each series of the Bonds in the Pricing Certificate. The Paying Agent/ Registrar shall keep the books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the Paying Agent/Registrar shall serve as the City's registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BONDS set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or Outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of

said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas.

(b) Payment of Bonds and Interest. The Paying Agent/Registrar shall further act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bonds, and of all exchanges of Bonds, and all replacements of Bonds, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date), (iii) may be converted and exchanged for other Bonds, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance and with such changes and additions as required to be consistent with the provisions contained in the Pricing Certificate relating to the Bonds. The Bonds initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in exchange for any Bond or Bonds issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Bonds that at all times while the Bonds are Outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or Interest Payment Date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise

cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Bonds issued in exchange for the Bonds initially issued as provided in Section 6(a) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bonds, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in the Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to the

Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bonds, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owner transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Blanket Representation of the City to DTC.

(h) Initial Bonds. The Bonds herein authorized shall be initially issued as fully registered Bonds, being one Bond for each maturity in the denomination of the applicable principal amount and the Initial Bond shall be registered in the name of the senior manager as set forth in the Pricing Certificate. The Initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Underwriters. Immediately after the delivery of the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond delivered hereunder and exchange therefor Bonds in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and except as provided in Section 4(a), all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

Section 7. FORM OF BOND. The form of the Bond, including the FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance and the Pricing Certificate.

FORM OF BOND

R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF HUTTO, TEXAS GENERAL OBLIGATION BOND, SERIES 20__ *	PRINCIPAL AMOUNT \$ _____
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INTEREST RATE	MATURITY DATE	DATE OF BONDS	DATE OF DELIVERY	CUSIP NO.
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REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the City of Hutto, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from _____, the initial date of delivery of the Bonds, on _____, and semiannually on each _____ and _____* thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at _____*, which is the "Paying Agent/Registrar" for this Bond at their office in _____* (the "Designated Payment/Transfer

*As determined in the Pricing Certificate.

Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the _____* day of the month preceding such interest payment date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close;

and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a Series of Bonds dated _____, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$ _____* (the "Bonds"), **COMPRISED OF [(I) \$ _____* FOR THE PURPOSES SET FORTH IN THE PROPOSITION A AUTHORIZATION INCLUDING RELATED COSTS OF ISSUANCE;] * [(II) \$ _____* FOR THE PURPOSES SET FORTH IN THE PROPOSITION B AUTHORIZATION INCLUDING THE RELATED COSTS OF ISSUANCE] * AND [(III) \$ _____* FOR THE PURPOSES SET FORTH IN THE PROPOSITION C AUTHORIZATION INCLUDING THE RELATED COSTS OF ISSUANCE.] ***

[Redemption provisions as provided in the Pricing Certificate.*]

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

*As determined in the Pricing Certificate.

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

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Bond.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Hutto, Texas
(SEAL)

Mayor, City of Hutto, Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

BOKF, N.A.

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT
ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints
_____, attorney, to register the transfer of the within
Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed
by a member firm of the New York Stock
Exchange or a commercial bank or trust
company.

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears upon the front of this
Bond in every particular, without alteration or
enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

- A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.
- B. the first paragraph shall be deleted and the following will be inserted with all blanks to be completed with information contained in the Pricing Certificate.

"ON THE MATURITY DATE SPECIFIED ABOVE, the City of Hutto, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on _____* in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
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(Information from the Pricing Certificate to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from _____*, the initial date of delivery of the Bonds, at the respective Interest Rate per annum specified above. Interest is payable on _____* and semiannually on each _____* and _____* thereafter to the date of payment of the principal installment specified above; except, that if this Bond is

*As determined in the Pricing Certificate.

required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The Initial Bond shall be numbered "T-1."

Section 8. TAX LEVY. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

Section 9. ESTABLISHMENT OF PROJECT FUND. (a) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with the Bond proceeds for the purpose for which the Bonds are issued as set forth in Section 3 hereof or to pay principal or interest payments on the Bonds; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 13 hereof in order to prevent the Tax-Exempt Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

(b) Project Fund. The Project Fund, and any subaccount necessary within such Project Fund to complete the purpose for which the Bonds are issued as set forth in Section 3 hereof, is hereby created and shall be established and maintained by the City at an official depository bank of the City. Proceeds from the sale of the Bonds remaining after the deposit of accrued interest, if any, in the

Interest and Sinking Fund shall be deposited in the Project Fund and shall be used to accomplish the purpose of such proposition.

(c) Investment of Funds. The City hereby covenants that the proceeds of the sale of the Bonds will be used as soon as practicable for the purposes for which the Bonds are issued. Obligations purchased as an investment of money in any fund shall be deemed to be a part of such fund. Any money in any fund created by this Ordinance may be invested as permitted by the Public Funds Investment Act, as amended ("Permitted Investments"), and the City's investment policy.

(d) Security for Funds. All funds created by this Ordinance shall be secured in the manner and to the fullest extent required by law for the security of funds of the City.

(e) Maintenance of Funds. Any funds created pursuant to this Ordinance may be created as separate funds or accounts or as subaccounts of the City's General Fund held by the City's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute a commingling of the monies in such funds or of such funds and the City shall keep full and complete records indicating the monies and investments credited to each such fund.

Section 10. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities and thereafter the City will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank

or trust company as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

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

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the Registered Owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bond. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a Replacement Bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their

satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any Replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every Replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Chapter 1201, Texas Government Code, this Section 12 of this Ordinance shall constitute authority for the issuance of any such Replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 6(a) of this Ordinance for Bonds issued in exchange for other Bonds.

Section 12. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINIONS; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinions of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

Section 13. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE TAX-EXEMPT BONDS. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Tax-Exempt

Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

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

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

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

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

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

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

(A) proceeds of the Tax-Exempt Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Tax-Exempt Bonds are issued,

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

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Tax-Exempt Bonds;

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

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

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

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Tax-Exempt Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Tax-Exempt Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Tax-Exempt Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Tax-Exempt Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Assistant City Manager to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Tax-Exempt Bonds. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings of Tax-Exempt Bonds to be

used for the purposes described in Section 3 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Tax-Exempt Bonds, or (2) the date the Tax-Exempt Bonds are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Tax-Exempt Bonds. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) **Disposition of Project.** The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Tax-Exempt Bonds. For purposes of this subsection, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 14. BOND PROCEEDS ALLOCATION. The proceeds of the Bonds, including the par amount of the Bonds and any net premium derived from the sale of the Bonds, shall be allocated as set forth in the Pricing Certificate.

Section 15. DEFAULT AND REMEDIES. (a) **Events of Default.** Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

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

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

(c) Remedies not Exclusive.

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

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

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

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

Section 16. INTEREST EARNINGS ON BOND PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with other bond proceeds for the purpose for which the Bonds are issued set forth in Section 1 and 3 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 13 hereof in order to prevent the Tax-Exempt Bonds from being

arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 17. APPROVAL OF THE FORM OF PAYING AGENT/REGISTRAR AGREEMENT, LETTER OF REPRESENTATIONS AND OFFICIAL STATEMENT. The Paying Agent/Registrar Agreement is hereby approved in substantially the form previously used by the City on other financings. The Pricing Officer is hereby authorized to amend, complete or modify the Paying Agent/Registrar Agreement as necessary and is further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

The City hereby approves the form and content of the Official Statement relating to the Bonds and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Bonds by the Underwriters in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement, prior to the date hereof is ratified and confirmed. The City Council of the City hereby finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" (as that term is defined in 17 C.F.R. Section 240.15c-12) as of their respective dates.

Section 18. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds by a Rating Agency, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then Outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then Outstanding Bonds,

nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any Outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on Outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each Registered Owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then Outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then Outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 19. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports.

The City shall provide annually to the MSRB, (1) within six months after the end of each Fiscal Year of the City ending in or after 2019, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 19 of this Ordinance as set forth in the Pricing Certificate by the Pricing Officer, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit "B" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such Fiscal Year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal Year, when and if the audit report on such statements becomes available.

If the City changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Certain Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701–

TEB) or other material notices or determinations with respect to the tax status of the Tax-Exempt Bonds, or other material events affecting the tax status of the Tax-Exempt Bonds;

G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws, and tender offers;

H. Bond calls, if material within the meaning of the federal securities laws;

I. Defeasances;

J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;

K. Rating changes;

L. Bankruptcy, insolvency, receivership or similar event of the City; (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws;

N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws;

O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All

documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 10 that causes the Bonds no longer to be Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any

other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 20. BOND INSURANCE PROVISIONS. In connection with the sale of any series of Bonds, the City may obtain municipal bond insurance policies from one or more recognized municipal bond insurance organizations (the “Bond Insurer” or “Bond Insurers”) to guarantee the full and complete payment required to be made by or on behalf of the City on the Bonds as determined by the Pricing Officer. The Pricing Officer is hereby authorized to designate the Bond Insurer and to sign a commitment letter or insurance agreement with the Bond Insurer or Bond Insurers and to pay the premium for the bond insurance policies at the time of the delivery of the Bonds to the initial purchaser out of the proceeds of sale of the Bonds or from other available funds and to execute such other documents and certificates as necessary in connection with the bond insurance policies as the Pricing Officer may deem appropriate. Printing on the Bonds covered by the bond insurance policies a statement describing such insurance, in form and substance satisfactory to the Bond Insurer and the Pricing Officer, is hereby approved and authorized. The Pricing Certificate may contain provisions related to the bond insurance policies, including payment provisions thereunder, and the rights of the Bond Insurer or Insurers, and any such provisions shall be read and interpreted as an integral part of this Ordinance.

Section 21. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 22. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or Insurance Policy and the Official Statement. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 23. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the pledged revenues to secure the payment of the Bonds.

Section 24. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 25. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the

City and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owners of the Bonds.

Section 26. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 27. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 28. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 29. EFFECTIVE DATE. This Ordinance shall become effective immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 30. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Bonds and the pledge of ad valorem taxes granted by the City under this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding and unpaid such that the pledge of ad valorem taxes granted by the City under this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 31. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Pricing Officer is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

READ and APPROVED on first reading this the 17th day of January, 2019.

READ, APPROVED and ADOPTED on second reading this the __th day of _____, 2019.

THE CITY OF HUTTO, TEXAS

By: Mayor
City of Hutto, Texas

ATTEST:

City Secretary
City of Hutto, Texas

APPROVED AS TO FORM:

City Attorney
City of Hutto, Texas

Signature Page

EXHIBIT "A"

DEFINITIONS

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

"Assistant City Manager(s)" means the assistant city manager(s) of the City or any individual appointed to serve in such capacity for the City.

"Authorized Denomination" means the denomination of \$5,000 or any integral multiple thereof with respect to the Bonds.

"Bond Insurer" or *"Insurer"* means the provider of a municipal bond insurance policy for the Bonds as determined by the Pricing Officer in the Pricing Certificate or any other entity that insures or guarantees the payment of principal and interest on any Bonds.

"Book-Entry-Only System" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"Cede & Co." means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"City" means the City of Hutto, Texas, and where appropriate, the City Council.

"City Council" means the governing body of the City.

"City Manager" means the city manager of the City or any individual appointed to serve in such capacity for the City.

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

"DTC" means The Depository Trust Company, New York, New York and its successors and assigns.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

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

"Initial Bond(s)" means the Bond(s) authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"Insurance Policy" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"Interest and Sinking Fund" means the special fund maintained by the provisions of Section 8 of this Ordinance.

"Interest Payment Date" means a date on which interest on the Bonds is due and payable.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this ordinance finally adopted by the City Council on the date of the City Council's second reading of this Ordinance.

"Outstanding", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds deemed paid pursuant to the provisions of Section 10 of this Ordinance;
- (3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance; or
- (4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Permitted Investments*" means any security or obligation or combination thereof permitted under the Public Funds Investments Act, Chapter 2256, Texas Government Code, as amended or other applicable law.

"*Pricing Certificate*" means the Pricing Certificate of the City's Pricing Officer to be executed and delivered pursuant to Section 4 hereof in connection with the issuance of one or more series of Bonds.

"*Pricing Officer*" means the City Manager of the City, acting as the designated pricing officer of the City to execute the Pricing Certificate but in his absence, the Assistant City Manager may act as the designated pricing officer of the City to execute the Pricing Certificate.

"*Purchase Agreement*" means the Purchase Agreement between the City and Mesirow Financial, Inc., as representative, acting on behalf of itself and the other underwriters named therein.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in the Pricing Certificate.

"*Register*" or "*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Bond.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bond as provided in Section 11 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

"*Taxable Bonds*" means any Bonds designated by the Pricing Officer in the Pricing Certificate as a Taxable Bond, the interest on which is not excludable from the gross income of the owner thereof for federal income tax purposes.

"*Tax-Exempt Bonds*" means any Bonds designated by the Pricing Officer in the Pricing Certificate as a Tax-Exempt Bond, the interest on which is excludable from the gross income of the owner thereof for federal income tax purposes.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 19 of this Ordinance.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 10A. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Lisa Brown, City Secretary

ITEM:

Consideration and possible action on a resolution ordering the May 4, 2019 General Election for the purpose of electing City Council, Place 3, City Council, Place 6 and Mayor. (Lisa Brown)

Consideración y posible acción sobre una resolución ordenando la Elección General del 4 de mayo de 2019 con el propósito de elegir el Concejo de la Ciudad, el Lugar 3 y el Consejo de la Ciudad, Lugar 6 y la oficina de Alcalde. (Lisa Brown)

STRATEGIC GUIDE POLICY: Leadership

ITEM BACKGROUND:

This resolution calls for a General Election on Saturday, May 4, 2019, to elect Councilmember, Place 3 and Councilmember, Place 6 and Mayor. Early Voting will begin Monday, April 22, 2019, and ends Tuesday, April 30, 2019. The first day to file for a place on the ballot was Wednesday, January 16, 2019, and the last day to file for a place on the ballot is 5 p.m., February 15, 2019. A City Council Candidate Orientation will be held on February 2, 2019.

BUDGETARY AND FINANCIAL SUMMARY:

The City of Hutto participates in a joint election with participating jurisdictions of Williamson County. The cost of the election is based on its percentage share of the number of registered voters for the jurisdictions. Staff has budgeted \$15,000 to cover costs associated with the election.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable.

STAFF RECOMMENDATION:

Staff recommends approval of the resolution.

SUPPORTING MATERIAL:

1. [Resolution - Calling the Election - SPA](#)
2. [Resolution Calling the Election](#)

RESOLUCIÓN NRO.

UNA RESOLUCIÓN DE LA CIUDAD DE HUTTO, TEXAS, QUE ORDENA UNA ELECCIÓN A CELEBRARSE EL 4 DE MAYO DE 2019 CON EL FIN DE ELEGIR LUGAR 3 Y LUGAR 6 PARA Y LA OFICINA DEL ALCALDE EL CONSEJO MUNICIPAL; DESIGNA PRECINTOS Y LUGARES DE VOTACIÓN DEL DÍA DE ELECCIÓN; DISPONE LA VOTACIÓN ANTICIPADA Y LA VOTACIÓN EL DÍA DE ELECCIÓN; DISPONE EL DESEMPEÑO DE LAS FUNCIONES ADMINISTRATIVAS REQUERIDAS; ENUNCIA DISPOSICIONES PARA LA CELEBRACIÓN DE DICHA ELECCIÓN; CERTIFICA LA PROVISIÓN DE SISTEMAS DE VOTACIÓN DE FÁCIL ACCESO REQUERIDOS; Y DISPONE OTROS ASUNTOS RELACIONADOS CON DICHA ELECCIÓN.

EL ESTADO DE TEXAS

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CONDADO DE WILLIAMSON

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CIUDAD DE HUTTO

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**MEDIANTE LA PRESENTE SE
INFORMA A TODOS:**

EN VISTA DE QUE en conformidad con las disposiciones del Código Electoral de Texas (y sus enmiendas), otras leyes relacionadas y su Carta Orgánica de Gobierno Autónomo, el Consejo Municipal de la Ciudad de Hutto, Texas, está autorizado a ordenar una Elección General con el fin de elegir un Concejal Lugar 3 y un Concejal Lugar 6 y la oficina del Alcalde; y

EN VISTA DE QUE el Consejo Municipal ha determinado que el sábado 4 de mayo de 2019 es la fecha adecuada para celebrar dicha elección y que la fecha permite tiempo suficiente para cumplir con los requisitos que exige la ley; y

EN VISTA DE QUE el Consejo Municipal desea animar a todos los votantes registrados de la Ciudad de Hutto a votar en esta elección; y

EN VISTA DE QUE, por la presente, se halla y determina oficialmente que se colocó el aviso público escrito de la fecha, hora, lugar, objetivo y asunto de la asamblea en la cual se adoptó esta Resolución y que dicha asamblea estuvo abierta al público de acuerdo a lo que exige la ley en todo momento durante el cual se debatió, consideró y obró formalmente sobre esta Resolución y el asunto de la misma, todo esto de acuerdo a lo que exige la Ley de Asambleas Públicas, Capítulo 551 del Código de Gobierno de Texas (y sus enmiendas);

AHORA, POR LO TANTO, EL CONSEJO MUNICIPAL DE LA CIUDAD DE HUTTO, TEXAS, RESUELVE QUE:

SECCIÓN 1

DÍA DE ELECCIÓN

Funcionarios electorales. Por la presente el Consejo Municipal designa al

Administrador de Elecciones del Condado de Williamson y al Secretario de la Ciudad de Hutto como los Funcionarios el Día de Elección para la Ciudad de Hutto.

Fecha de la elección. Se celebrará una Elección General en forma conjunta con entidades o subdivisiones políticas participantes del Condado de Williamson el sábado 4 de mayo de 2019.

Precintos y Lugares de Votación. Por la presente la Ciudad acepta los precintos electorales y lugares de votación designados por el Administrador de Elecciones del Condado de Williamson y aprobados por el Tribunal de Comisionados del Condado de Williamson para tal votación anticipada. Los lugares de votación designados para el mencionado Día de Elección abrirán de 7:00 a.m. a 7:00 p.m. Dichos lugares se enumeran en el Anexo “A” de esta resolución.

Jueces de la Elección. El Administrador de Elecciones del Condado de Williamson llevará a cabo dicha elección para la Ciudad en conformidad con los términos de un Contrato para Servicios Electorales aprobado. Por la presente el Consejo Municipal designa para el término de dicha elección, al o a los jueces presidentes y al o a los jueces alternos a aquellas personas designadas por el Administrador de Elecciones del Condado de Williamson y aprobadas por el Tribunal de Comisionados del Condado de Williamson.

Por la presente se autoriza al Administrador de Elecciones del Condado de Williamson a designar la cantidad de funcionarios electorales necesarios para asistir en la celebración correcta de la elección. La designación de dichos funcionarios deberá incluir una persona con fluidez en el idioma español para actuar como funcionario que asista verbalmente en español a cualquier votante que requiera dicha asistencia en las casillas electorales el día de la elección.

SECCIÓN 2 **VOTACIÓN ANTICIPADA**

Oficial de Votación Anticipada. Por la presente el Consejo Municipal designa al Administrador de Elecciones del Condado de Williamson como el Oficial de Votación Anticipada para la Ciudad de Hutto. El Administrador de Elecciones del Condado de Williamson designará al o a los jueces presidentes para cada uno de los lugares de votación temporal y votación anticipada y por la presente además queda autorizado a designar funcionarios electorales adicionales (no menos de dos ni más de seis) para asistir en la celebración de dicha elección.

Horarios de Votación Anticipada. Durante el periodo en el que se requiere o permite por ley la votación anticipada, es decir, del 22 de abril de 2019 al 30 de abril de 2019 inclusive, las fechas y los horarios designados para la votación anticipada en persona serán designados por el Administrador de Elecciones del Condado de Williamson. Dichos lugares, fechas y horarios para votación anticipada se enumeran en el Anexo “A” de esta resolución.

Lugares de Votación Anticipada. La votación anticipada se realizará en persona en los lugares de votación anticipada designados por el Administrador de Elecciones del

Condado de Williamson y aprobados por el Tribunal de Comisionados del Condado de Williamson. Dichos lugares para votación anticipada se enumeran en el Anexo "A" de esta resolución.

Después de que el Administrador de Elecciones del Condado de Williamson finalice contratos con todas las potenciales entidades o subdivisiones políticas que quieran participar en la elección del 4 de mayo de 2019 el Secretario de la Ciudad colocará un Aviso de Elección en español y en inglés

Enumerando lugares, fechas y horarios de votación anticipada aprobados en el tablero de anuncios que se utiliza para colocar avisos de las asambleas del Consejo Municipal, y el mismo se colocará no antes del vigésimo primer (21.^{er}) día antes de la fecha de la elección y permanecerá colocado hasta el Día de Elección inclusive.

Solicitudes de boletas de votación por correo: Las solicitudes de boletas de votación por correo deben ser recibidas, en la oficina del Administrador de Elecciones del Condado de Williamson, antes de las 5:00 p.m. del martes 23 de abril de 2019. La dirección postal del Oficial de Votación Anticipada a la cual se pueden enviar las solicitudes de boletas y las boletas para votar por correo es la siguiente:

Early Voting Clerk
Williamson County Elections Office
Post Office Box 209
Georgetown, TX 78627-0209

SECCIÓN 3 **CONSEJO DE BOLETAS DE VOTACIÓN ANTICIPADA**

Por la presente se crea el Consejo de Boletas de Votación Anticipada para procesar los resultados de la votación anticipada, y por la presente la Ciudad designa al juez presidente del Consejo de Boletas de Votación Anticipada según lo designado por el Administrador de Elecciones del Condado de Williamson. Dicho juez presidente designará un mínimo de otros dos (2) miembros habilitados para fungir en dicho Consejo.

SECCIÓN 4 **CUSTODIO DE LOS REGISTROS DE LA ELECCIÓN**

En conformidad con el Código Electoral de Texas y el Contrato para Servicios Electorales pertinente, el Administrador de Elecciones del Condado de Williamson será designado como custodio de las boletas de votación emitidas, y el Secretario de la Ciudad de Hutto actuará como custodio de todos los demás registros electorales.

SECCIÓN 5 **PERÍODO DE PRESENTACIÓN DE CANDIDATURA**

En conformidad con la Sección 143.007 del Código Electoral de Texas, por la presente se designa la fecha límite de presentación de solicitud de un lugar en la boleta de votación, al Secretario de la Ciudad, como el viernes 17 de febrero de 2017 a las 5:00 p.m.

SECCIÓN 6 **VOTANTES**

Todos los votantes habilitados residentes de la Ciudad tendrán derecho a votar en las

elecciones.

SECCIÓN 7 **AVISO**

Colocación. El aviso de esta elección, incluida una traducción al español del mismo, se colocará en el tablero de anuncios utilizado para colocar avisos de las asambleas del Consejo Municipal, y el mismo se colocará no después del vigésimo primer (21.^{er}) día anterior a la fecha de la elección y permanecerá colocado hasta el Día de Elección inclusive.

Publicación. El aviso de esta elección, incluida una traducción al español del mismo, se publicará al menos una vez en un periódico de circulación general en la Ciudad, y la publicación debe aparecer no antes del trigésimo (30.^{mo}) día antes o no después del décimo (10.^{mo}) día anterior a la fecha de la elección y permanecerá colocado hasta el Día de Elección inclusive.

Autorización al Secretario de la Ciudad. Por la presente, se autoriza e instruye al Secretario de la Ciudad a publicar y colocar los avisos requeridos de la manera y durante los períodos de tiempo que exige la ley.

SECCIÓN 8 **APARATOS DE VOTACIÓN**

En conformidad con el Código Electoral y el Contrato para Servicios Electorales pertinente, el Administrador de Elecciones del Condado de Williamson puede utilizar sistemas de votación electrónica y equipos y aparatos de votación que correspondan para celebrar la elección. El mencionado equipo electoral ha sido certificado por el Secretario del Estado de Texas.

El Administrador de Elecciones del Condado de Williamson utilizará una estación central de conteo de acuerdo a lo dispuesto por la Sección 127.000 y siguientes, y sus enmiendas, del Código Electoral de Texas, el Día de Elección.

SECCIÓN 9 **CONDUCCIÓN DE ACUERDO CON LAS LEYES**

En todos los aspectos sustanciales, las elecciones se llevarán a cabo en conformidad con las disposiciones pertinentes del Código Electoral de Texas y cualquier otra ley correspondiente, y la Carta Orgánica de Gobierno Autónomo de la Ciudad de Hutto.

SECCIÓN 10 **RESULTADOS DE LA ELECCIÓN**

El Administrador de Elecciones del Condado de Williamson llevará a cabo una tabulación no oficial de los resultados al cierre de las casillas electorales el 4 de mayo de 2019. El Consejo Municipal realizará el escrutinio oficial, la tabulación y la declaración de los resultados de las elecciones en una asamblea ordinaria o extraordinaria que se realice en conformidad con las disposiciones del Código Electoral de Texas.

SECCIÓN 11 **DISPOSICIONES VARIAS**

Las disposiciones de esta Resolución son divisibles y, en caso de que alguna o más de las disposiciones de esta Resolución o la aplicación de las mismas a alguna persona o circunstancia se determinen inválidas, inconstitucionales o inefectivas para alguna persona o circunstancia, entonces el resto de esta Resolución será de todas formas válido y la aplicación de dicha disposición inválida a cualquiera de dichas personas o circunstancias distinta de aquellas para las que se determine inválida no se verá afectada por esto.

Por la presente, el Consejo Municipal determina y declara que se publicó el aviso de la fecha, horario, lugar y asunto de la asamblea en la cual se adoptó esta Resolución y que dicha asamblea estuvo abierta al público de acuerdo a lo que exige la ley en todo momento, durante la cual se debatió, consideró y obró formalmente sobre esta Resolución, todo esto de acuerdo a lo que exige la Ley de Asambleas Públicas, Capítulo 551 del Código de Gobierno de Texas, y sus enmiendas, y la Ley.

RESUELTA el 17 de enero de 2019.

CIUDAD DE HUTTO, TEXAS

Doug Gaul, Alcalde

ATESTIGUA:

Lisa L. Brown, Secretario de la Ciudad

Anexo A

El Administrador de Elecciones del Condado de Williamson proveerá los lugares y horarios de votación.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF HUTTO, TEXAS, ORDERING AN ELECTION TO BE HELD ON MAY 4, 2019, FOR THE PURPOSE OF ELECTING CITY COUNCIL PLACE 3 AND PLACE 6, AND OFFICE OF THE MAYOR; DESIGNATING ELECTION DAY PRECINCTS AND POLLING PLACES; PROVIDING FOR EARLY VOTING AND ELECTION DAY VOTING; PROVIDING FOR PERFORMANCE OF REQUIRED ADMINISTRATIVE DUTIES; MAKING PROVISIONS FOR THE CONDUCT OF SUCH ELECTION; CERTIFYING PROVISION OF REQUIRED ACCESSIBLE VOTING SYSTEMS; AND PROVIDING FOR OTHER MATTERS RELATED TO SUCH ELECTION.

THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

KNOW ALL BY THESE PRESENTS:

§

CITY OF HUTTO

§

WHEREAS, pursuant to the provisions of the Texas Election Code (as amended), other related statutes, and its Home Rule Charter, the City Council of the City of Hutto, Texas, is authorized to order a General Election for the purpose of electing City Council members to Place 3 and Place 6, and Office of the Mayor; and

WHEREAS, the City Council has determined that Saturday, May 4, 2019, is the appropriate date for holding such election, and that date allows sufficient time to comply with requirements of law; and

WHEREAS, the City Council wishes to encourage all registered voters in the City of Hutto to vote in this election; and

WHEREAS, it is hereby officially found and determined that the written public notice of the date, hour, place, purpose 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 of the Texas Government Code (as amended);

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

SECTION 1

ELECTION DAY

Election Officers. The City Council hereby appoints the Williamson County Elections Administrator and the Hutto City Secretary as the Election Day Officers for the City of Hutto.

Election Date. A General Election shall be held jointly, with participating Williamson County political entities/subdivisions, on Saturday, May 4, 2019.

Precincts and Polling Places. The City hereby accepts the election precincts and polling places designated by the Williamson County Elections Administrator, and approved by the Williamson County Commissioners Court, for such early voting. The designated polling places for said Election Day shall be open from 7:00 am until 7:00 pm. Said locations are listed in Exhibit “A” of this resolution.

Election Judges. The Williamson County Elections Administrator will conduct said election for the City pursuant to the terms of an approved Election Services Contract. The City Council hereby appoints, for the term of such election, the presiding election judge(s) and alternate election judge(s) as being those designated by the Williamson County Elections Administrator and approved by the Williamson County Commissioners Court.

The Williamson County Elections Administrator is hereby authorized to appoint the number of election clerks necessary to assist in the proper conduct of the election. The appointment of such clerks shall include a person fluent in the Spanish language to serve as a clerk to render oral aid in the Spanish language to any voter desiring such aid at the polls on the day of the election.

SECTION 2 **EARLY VOTING**

Early Voting Clerk. The City Council hereby appoints the Williamson County Elections Administrator as the Early Voting Clerk for the City of Hutto. The Williamson County Elections Administrator shall appoint the presiding judge(s) for each of said Early Voting and Temporary polling places and is hereby further authorized to appoint additional election clerks (not less than two and not more than six) to assist in conducting said election.

Times for Early Voting. During the period in which early voting is required or permitted by law, that being April 22, 2019 through April 30, 2019, the dates and times designated for early voting by personal appearance shall be designated by the Williamson County Elections Administrator. Said locations, dates and times for early voting are listed in Exhibit “A” of this resolution.

Places for Early Voting. Early voting shall be conducted by personal appearance at the early voting polling places designated by the Williamson County Elections Administrator, and approved by the Williamson County Commissioners Court. Said locations for early voting are listed in Exhibit “A” of this resolution.

After the Williamson County Elections Administrator finalizes contracts with all of the potential political entities/subdivisions wanting to participate in the May 4, 2019 election a Notice of Election will be posted in Spanish and English by the City Secretary

Listing the approved early voting locations, dates and times on the bulletin board used for posting notices of City Council meetings, and same shall be posted not later than the twenty-first (21st) day before the date of the election and shall remain posted through Election Day.

Applications for Ballots by Mail: Applications for ballots by mail must be received, in the office of the Williamson County Elections Administrator, not later than 5:00 p.m. on Tuesday, April 23, 2019. The Early Voting Clerk's mailing address to which ballot applications and ballots to be voted by mail may be sent is as follows:

Early Voting Clerk
Williamson County Elections Office
Post Office Box 209
Georgetown, TX 78627-0209

SECTION 3 **EARLY VOTING BALLOT BOARD**

An Early Voting Ballot Board is hereby created to process early voting results, and the City hereby appoints the presiding judge of the Early Voting Ballot Board as appointed by the Williamson County Elections Administrator. Such presiding judge shall appoint not less than two (2) other qualified members to serve on such Board.

SECTION 4 **CUSTODIAN OF ELECTION RECORDS**

Pursuant to the Texas Election Code and the applicable Election Services Contract, the Williamson County Elections Administrator shall be appointed as custodian of voted ballots and the City Secretary of the City of Hutto will serve as the custodian of all other election records.

SECTION 5 **CANDIDATE FILING PERIOD**

In accordance with Section 143.007 of the Texas Election Code the deadline for filing an application for a place on the ballot, with the City Secretary, is hereby designated as 5:00 p.m. Friday, February 15, 2019.

SECTION 6 **VOTERS**

All resident, qualified voters of the City shall be entitled to vote at the elections.

SECTION 7 **NOTICE**

Posting. Notice of this election, including a Spanish translation hereof, shall be posted the on the bulletin board used for posting notices of City Council meetings, and same shall be posted not later than the twenty-first (21st) day prior to the date of the election and shall remain posted through Election Day.

Publication. Notice of this election, including a Spanish translation hereof, shall be published at least once in a newspaper of general circulation in the City, the publication

to appear not earlier than the thirtieth (30th) day before or not later than the tenth (10th) day prior to the date of the election and shall remain posted through Election Day.

Authorization to City Secretary. The City Secretary is hereby authorized and directed to publish and post the required notices in the manner and for the time periods required by law.

SECTION 8 **VOTING DEVICES**

Pursuant to the Election Code and the applicable Election Services Contract, the Williamson County Elections Administrator may use electronic voting systems and corresponding voting devices and equipment in conducting the election. Said election equipment has been certified by the Texas Secretary of State.

The Williamson County Elections Administrator will utilize a central counting station, as provided by Texas Election Code § 127.000 *et seq.*, as amended, on Election Day.

SECTION 9 **CONDUCT ACCORDING TO STATUTES**

In all substantive respects, the elections shall be conducted in accordance with applicable provisions of the Texas Election Code, any other applicable statutes, and the City of Hutto's Home Rule Charter.

SECTION 10 **ELECTION RESULTS**

The Williamson County Elections Administrator shall conduct an unofficial tabulation of results after the closing of the polls on May 4, 2019. The official canvass, tabulation and declaration of the results of the elections shall be conducted by the City Council at a regular or special council meeting held in accordance with provisions of the Texas Election Code.

SECTION 11 **MISCELLANEOUS**

The provisions of this Resolution are severable, and in case any one or more of the provisions of this Resolution or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, then the remainder of this Resolution nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

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 in accordance with and as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act.

RESOLVED on this the **17th** day of **January 2019**.

CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Lisa L. Brown, City Secretary

Exhibit A

Voting locations and times will be provided by the Williamson County Elections Administrator.

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 10B.

AGENDA DATE: January 17, 2019

PRESENTED BY: Matt Rector

ITEM:

Consideration and possible action on a resolution authorizing the City Manager to execute a contract with HNTB Corporation for the engineering services related to the improvements to the intersection at FM 1660 N and Limmer Loop, FM 1660 N and US 79, FM 1660 and US 79/Front Street, pedestrian grade separation crossing of US 79 near the Co-Op, and the traffic grade separation of US 79 east of Cottonwood Creek. (Matt Rector)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

The purpose of this item is to award a master services agreement to HNTB Corporation to perform engineering services related to several projects that are recommended as part of the Bond Election. The specific projects are:

- Intersection of FM 1660 N and Limmer Loop
- Intersection of FM 1660 N and US 79
- Intersection of FM 1660 S and US 79/Front Street
- Pedestrian grade separation across US 79 near the Co-Op
- Traffic grade separation across US 79 east of Cottonwood Creek

These projects are all being combined into one master agreement to increase efficiency in starting the project in an efficient and expedient manner.

BUDGETARY AND FINANCIAL SUMMARY:

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The overall list of projects was reviewed and approved by the Planning and Zoning commission. Their recommendation was presented to City Council on January 3, 2019.

CITY ATTORNEY REVIEW:

The City Attorney has reviewed the agreements for legal compliance.

STAFF RECOMMENDATION:

Staff recommends awarding the contract.

SUPPORTING MATERIAL:

1. [Resolution](#)

RESOLUTION NO. R

A RESOLUTION AUTHORIZING THE CITY MANGER TO EXECUTE AN AGREEMENT WITH HNTB CORPORATION FOR PROFESSIONAL SERVICES RELATED TO PROJECTS RELATED TO PROPOSITION A. SPECIFICALLY INTERSECTION IMPROVEMENTS OF FM 1660 N AND LIMMER LOOP, INTERSECTION IMPROVEMENTS OF FM 1660 N AND US 79, INTERSECTION IMPROVEMENTS OF FM 1660 S AND FRONT STREET AND US 79, GRADE SEPARATED CROSSING OF US 79 BETWEEN CR 132 AND CR 134, AND PEDESTRIAN GRADE SEPARATED CROSSING OF US 79.

WHEREAS, the Citizens of Hutto approved Proposition A, and;

WHEREAS, the City desires to begin executing the professional services on certain project, and;

WHEREAS, the city continues to experience rapid growth, and;

WHEREAS, time is of the essence to begin moving toward the ability to award construction contracts for these projects requiring professional services be diligently executed.

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

The City Council hereby authorizes the City Manager to enter into a contract not to exceed \$6,500,000 with HNTB Corporation to provide professional services for the Intersection Improvements of FM 1660 N and Limmer Loop, Intersection Improvements of FM 1660 N and US 79, Intersection Improvements of FM 1660 S and Front Street and US 79, Grade Separated Crossing of US 79 between CR 132 and CR 134, and Pedestrian Grade Separated Crossing of US 79.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the 17th day of January, 2019.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Lisa L. Brown, City Secretary

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 10C.

AGENDA DATE: January 17, 2019

PRESENTED BY: Matt Rector

ITEM:

Consideration and possible action on a resolution authorizing the City Manager to execute a contract with Hejl, Lee & Associates Inc. for the engineering services related to the improvements to the Cottonwood Creek, Old Town Streets, CR 137, and certain Legends of Hutto Drainage facilities. (Matt Rector)

STRATEGIC GUIDE POLICY: Infrastructure & Growth

ITEM BACKGROUND:

The purpose of this item is to award a master services agreement to Hejl, Lee & Associates Inc. to perform engineering services related to several projects that are recommended as part of the Bond Election. The specific projects are:

- Cottonwood Creek Drainage Improvements
- Old Town Street Improvements
- CR 137 Improvements
- Legends of Hutto Drainage Improvements

These projects are all being combined into one master agreement to increase efficiency in starting the project in an efficient and expedient manner.

BUDGETARY AND FINANCIAL SUMMARY:

The contract is not to exceed \$4,000,000.00.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The overall list of projects was reviewed and approved by the Planning and Zoning Commission. Their recommendation was presented to City Council on January 3, 2019.

CITY ATTORNEY REVIEW:

The City Attorney has reviewed the agreements for legal compliance.

STAFF RECOMMENDATION:

Staff recommends awarding the contract.

SUPPORTING MATERIAL:

1. [Resolution](#)

RESOLUTION NO. R

A RESOLUTION AUTHORIZING THE CITY MANGER TO EXECUTE AN AGREEMENT WITH HEJL, LEE & ASSOCIATES INC. FOR PROFESSIONAL SERVICES RELATED TO PROJECTS RELATED TO PROPOSITION A. SPECIFICALLY COTTONWOOD CREEK DRAINAGE IMPROVEMENTS, OLD TOWN STREETS IMPROVEMENTS, CR 137 IMPROVEMENTS, AND LEGENDS OF HUTTO DRAINAGE IMPROVEMENTS.

WHEREAS, the Citizens of Hutto approved Proposition A, and;

WHEREAS, the City desires to begin executing the professional services on certain project, and;

WHEREAS, the city continues to experience rapid growth, and;

WHEREAS, time is of the essence to begin moving toward the ability to award construction contracts for these projects requiring professional services be diligently executed. Now therefore,

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

The City Council hereby authorizes the City Manager to enter into a contract not to exceed \$4,000,000 with Hejl, Lee & Associates Inc. to provide professional services for the Cottonwood Creek Drainage Improvements project, Old Town Streets Improvements project, CR 137 Improvements project, and Legends of Hutto Drainage Improvements project.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the 17th day of **January, 2019.**

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Lisa L. Brown, City Secretary

**CITY OF HUTTO
CITY COUNCIL AGENDA**

AGENDA ITEM NO.: 10D.

AGENDA DATE: January 17, 2019

PRESENTED BY: City Attorney

ITEM:

Consideration and possible action on a resolution regarding Cross Creek Public Improvement District (Meritage Homes) approving certain agreements including an interlocal agreement, continuing disclosure agreement, landowner agreement and Public Finance Authority consent letter and further approving certain actions by the River Creek Development Corporation. (City Attorney)

STRATEGIC GUIDE POLICY: Well Balanced & Diversified Economy

ITEM BACKGROUND:

On June 7, 2018, the City Council of the City of Hutto, Texas (the "City") passed and approved Resolution No. R-18-06-07-9D authorizing the creation of the Hutto Co-Op Public Improvement District (the "District") pursuant to Chapter 372, Texas Local Government Code, as amended (the "PID Act").

The District was created, in part, to undertake and finance the certain Public Improvements as defined in the District Service and Assessment Plan and Assessment Roll approved by the City Council of the City dated January 17, 2019, as amended from time to time (the "Service and Assessment Plan").

The City desires to use the assessments collected by the District to purchase the Public Improvements (the "Project"). The City has created the River Creek Development Corporation (the Corporation").

The City and the Corporation desire to enter into that certain Interlocal Agreement dated January 17, 2019 for the purchase and sale of the Public Improvements (the "Project") pursuant Chapter 372.023(a) of the PID Act (the "Interlocal Agreement"). The Public Finance Authority (the "Authority") is authorized pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, commonly known as the "Joint Exercise of Powers Law" (the "PFA Act"), and the terms of an Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the "Joint Exercise Agreement"), to issue revenue bonds in accordance with the PFA Act for the purpose of financing various types of projects within or outside of the State of Wisconsin.

The Authority has been requested to issue bonds in one or more series (the "Bonds") to provide some or all of the financing provided to the Corporation by the Authority under the Loan Agreement; and the City, on its own behalf or through the Corporation, has determined not to issue bonds at this time and prefers that the Authority issue any Bonds associated with the Loan Agreement. The Authority has agreed to issue bonds to fund the Loan Agreement on behalf of and as agent of the City and/or Corporation.

BUDGETARY AND FINANCIAL SUMMARY:

The Authority has been requested to issue bonds in one or more series (the "Bonds") to provide some or all of the financing provided to the Corporation by the Authority under the Loan Agreement; and the City, on its own behalf or through the Corporation, has determined not to issue bonds at this time and prefers that the Authority issue any Bonds associated with the Loan Agreement. The Authority has agreed to issue bonds to fund the Loan Agreement on behalf of and as agent of the City and/or Corporation. The principal sum of the loan amount is \$6,660,000.00 (Six Million Six Hundred Sixty Thousand 00/100 Dollars).

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The City and the River Creek Development Corporation have entered into a certain Interlocal Agreement dated January 17, 2019 for the purchase and sale of the Public Improvements (the "Project") pursuant Chapter 372.023(a) of the PID Act (the "Interlocal Agreement")..

CITY ATTORNEY REVIEW:

City Attorney has reviewed all documents.

STAFF RECOMMENDATION:

Staff recommends approval.

SUPPORTING MATERIAL:

1. [CrossCreek PID ConstructionContract](#)
2. [CrossCreek PID Loan Agreement](#)
3. [CrossCreek PID Landowner Agreement](#)
4. [CrossCreek PID ContinuingDisclosureAgreement](#)
5. [CrossCreek PFA Approval letter](#)
6. [CrossCreek Interlocal Agreement CityandLGC](#)
7. [Resolution CrossCreek PID](#)

CONSTRUCTION CONTRACT

BETWEEN

RIVER CREEK DEVELOPMENT CORPORATION

AND

MERITAGE HOMES OF TEXAS, LLC

CONSTRUCTION CONTRACT

This Construction Contract (this “**Agreement**”), dated as of January 17, 2019, (the “**Effective Date**”), is entered into between **RIVER CREEK DEVELOPMENT CORPORATION** (the “**Corporation**”), and **MERITAGE HOMES OF TEXAS, LLC** (the “**Construction Manager**”), an Arizona limited liability company acting by and through its duly authorized representative. Capitalized terms shall have the meanings assigned thereto in the attached “**Exhibit A**” and in the Service and Assessment Plan (defined below).

Recitals:

WHEREAS, Construction Manager owns and intends to build a master planned community upon approximately 167.39 acres of land located within the City of Hutto, Texas (the “**City**”) generally described on “**Exhibit B**”, attached hereto (the “**Property**”); and

WHEREAS, on June 7, 2018, the City Council passed and approved Resolution No. R-18-06-07-9A authorizing the creation of the Cross Creek Public Improvement District (the “**District**”) pursuant to Chapter 372, Texas Local Government Code (the “**PID Act**”); and

WHEREAS, the District was created, in part, to undertake and finance those certain Public Improvements as provided in the District Service and Assessment Plan and Assessment Roll, dated January 17, 2019, as such may be amended from time to time (the “**Service and Assessment Plan**”) attached hereto as “**Exhibit C**” and the Public Improvements listed in “**Exhibit D**”, attached hereto, as approved by the City Manager; and

WHEREAS, on January 17, 2019, the City Council passed and approved Ordinance No. [] (the “**Assessment Ordinance**”) that, among other things, approved the Service and Assessment Plan, which identified the amount of certain assessments on the benefitted property within the District (“**Assessments**”), and established the dates upon which interest on Assessments will begin to accrue and collection of Assessments will begin; and

WHEREAS, in addition to approving the Service and Assessment Plan, the Assessment Ordinance levied the Assessments against certain parcels within the boundaries of the District for the Public Improvements in accordance with the Service and Assessment Plan; and

WHEREAS, Assessments are reflected in the Service and Assessment Plan as approved by the City Council, as amended and updated annually as provided in the PID Act; and

WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, in part, that an Assessment or Assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments (as defined in the Service and Assessment Plan) plus interest for a period of not more than 35 years or until the Assessment is paid in full; and

WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, pursuant to Section 372.018(f) of the PID Act, that if an Annual Installment of an Assessment becomes delinquent, such Annual Installment shall be due and payable plus interest, penalties,

and expenses incurred or imposed with respect to any delinquent installments for a period of not more than 35 years or until the Assessment is paid in full; and

WHEREAS, the Service and Assessment Plan allocated the cost of the Public Improvements to the Assessed Parcels proportionally based on the special benefits conferred to each lot or parcel by the Public Improvements; and

WHEREAS, all revenue received and collected by the City from the collection of the Assessments and Annual Installments (excluding Delinquent Collection Costs, and Administrative Expenses) (the “**Assessment Revenues**”) shall be deposited as required by the PID Act into an assessment fund created pursuant to the PID Act (the “**Assessment Fund**”); and

WHEREAS, the City and the Corporation entered into that certain Interlocal Agreement dated January 17, 2019 for the purchase and sale of the Public Improvements, which are components of a master planned community to be designed and constructed on the Property (the “**Project**”) pursuant Chapter 372.023(a) of the PID Act (the “**Corporation Interlocal Agreement**”); and

WHEREAS, to construct and finance the Project, the Corporation shall enter into a Loan Agreement (the “**Loan Agreement**”) with the Public Finance Authority (the “**Authority**”); and

WHEREAS, in connection with the Loan Agreement, the Authority shall issue its Public Improvement Revenue Bonds (Hutto Cross Creek Public Improvement District Project), Series 2019 (the “**Bonds**”) to (1) finance a loan with the Corporation, which will use the funds to finance the Contract Amount pursuant to this Agreement, which Contract Amount is the Actual Costs (as defined herein) of the Public Improvements to be constructed in the District, (2) fund the capitalized interest, (3) fund the reserve fund for payment of principal and interest on the Bonds, (4) fund the prepayment and delinquency reserve account, (5) fund other funds under the Trust Agreement (as defined herein), and (6) pay certain costs of issuance of the Bonds; and

WHEREAS, the Corporation and the Construction Manager desire to enter into this contract whereby the Construction Manager will construct the Public Improvements to be sold to the City under the Corporation Interlocal Agreement; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement; and

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. INCORPORATION OF RECITALS

The Recitals set forth in the Preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Article I.

ARTICLE II. SCOPE OF AGREEMENT

This Agreement establishes provisions for the construction of Public Improvements to be acquired by the City (Article IV), the acquisition and maintenance of Public Improvements within the District (Article IV), construction and payment for the Public Improvements (Article V), and the acceptance of certain Public Improvements (Article VI).

ARTICLE III. ASSESSMENTS

Section 3.01 Assessments

(a) Notwithstanding anything to the contrary contained herein or in the Service and Assessment Plan, the Construction Manager shall not be entitled to receive payment of any Assessment Revenues collected annually from the Property.

(b) The Construction Manager hereby agrees, as to any property owned by the Construction Manager in the PID, that the Assessments are covenants running with the land that (i) bind any and all current and successor owners of the applicable Property to the Assessments, including applicable penalties and interest thereon, as and when due and payable thereunder and (ii) provide that subsequent purchasers of such land take their title subject to and expressly assume the terms and provisions of the Assessments; and

(c) The liens created by the levy of the Assessments are a first and prior lien on the Property, subject only to liens for ad valorem taxes of the City, Williamson County, school district, special district or other political subdivision, or a lien of the Department of Treasury of the United States of America.

(d) The Construction Manager shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the County) any party who purchases any Assessed Parcel owned by such Construction Manager, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to comply with, the Homebuyer Education Program described on **Exhibit "G"** attached to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "**Builder**") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder. The Construction Manager shall contractually obligate each Builder who purchases any Assessed Parcel owned by the Construction Manager, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to provide individual home buyers written notice, at or before closing, that the home buyer may ask the home buyer's mortgage company to include the Annual Installments in the home buyer's

monthly escrow payment. The notice that must be provided to individual home buyers is attached as **Exhibit “G-1”**.

ARTICLE IV. CONSTRUCTION

Section 4.01 Designation of Construction Manager, Construction Engineers

(a) The Corporation hereby designates the Construction Manager, or its assignees, as the “**Construction Manager**” with full responsibility for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Public Improvements in accordance with the provisions of this Agreement, subject to certification by a certified public engineer licensed in the State of Texas hired by the Construction Manager to oversee construction of the Public Improvements, and in accordance with applicable City regulations relating to the review, approval, inspection and acceptance of infrastructure.

(b) Except as otherwise provided herein, inspection and acceptance of a Public Improvement being conveyed to the City will be in accordance with City Rules. Inspection and acceptance of the construction of all Public Improvements shall be performed by the City Construction Representative or its designees.

(c) The Corporation shall not be entitled to a separate construction management fee under this Agreement.

(d) The Corporation and the City Manager shall review and approve the consulting engineers for the Public Improvements and such consulting engineer shall be compensated as specified by the Construction Manager. If Construction Manager replaces the consulting engineer, the Construction Manager shall provide written notice to the Corporation and the City Manager of the replacement of the consulting engineer ten (10) days prior to the effective date of any such replacement. All consulting engineers shall be a public engineer licensed in the State of Texas.

Section 4.02 Designation of Construction Manager Subcontractor

The Corporation acknowledges and agrees that the Construction Manager may subcontract out all or some of the duties of Construction Manager to a third party. The Construction Manager may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for the Public Improvements thereof provided that such designee has the technical capacity, experience and expertise to perform such construction management duties or obligations. Any contract to subcontract Construction Manager duties under this Agreement shall be provided to the City and shall be substantially in the form of this Agreement. The City shall be notified within ten (10) business days of any

contract to subcontract Construction Manager duties under this Agreement. The Construction Manager may choose to bid or not to bid subcontractors in its sole discretion.

Section 4.03 Maintenance of Project, Warranties

Unless otherwise provided for, the Construction Manager shall cause each Public Improvement (or Segment thereof) to be maintained in good and safe condition until such Public Improvement (or Segment thereof) is accepted by the City. The City's certification and approval of Public Improvements shall be in accordance with the City's standard rules and procedures for the type of improvements being constructed. Prior to such acceptance, the Construction Manager shall be responsible for causing the performance of any required maintenance on such Public Improvement. Upon acceptance by the City, the Construction Manager assigns to the City, as the designee of the Corporation, all of the Construction Manager's rights in any warranties, guarantees, maintenance obligations, or other evidences of contingent obligations of third persons with respect to such Public Improvement (or Segment thereof). Upon completion of a Public Improvement, the Construction Manager shall cause a two (2) year warranty bond for 100% of the Public Improvements to be provided as directed by the Corporation, with the starting date of such warranty bond to occur upon the final completion and acceptance by the City of all Public Improvements under this Agreement.

Section 4.04 Sales and Use Tax Exemptions

(a) The Corporation shall cause the City to provide certifications to the Construction Manager and/or to suppliers and contractors as may be required to assure the exemptions from sales and use taxes under Texas Tax Code Section 151.309.

(b) The Construction Manager shall cooperate in structuring the construction contracts for the Public Improvements to comply with requirements (including those set forth in Texas Tax Code Section 151.309) for exemption from sales and use taxes.

Section 4.05 Public Bidding Requirements/City Cooperation in Plan Review

The Public Improvements within the District will be exempt from public bidding or other City purchasing and procurement policies pursuant to Texas Local Government Code Section 252.022(a)(9), to the extent applicable, which states that a project is exempt from such policies for "paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through Assessments levied on property that will benefit from the improvements."

Section 4.06 Permitting; Consent of City to File Development Applications

The Corporation shall cause the City to authorize the Construction Manager, and any subcontractor, to file platting, permitting, and other types of development applications for all or a portion of the Property from time to time, and, only as may be required to complete such applications, the Corporation shall cause the City to agree to process such applications; provided that such applications shall be subject to the City's review and approval, which approval may be

done pursuant to City Code, and which approval shall not be unreasonably withheld, conditioned or delayed. The City shall cooperate with the Corporation, and any subcontractor, in connection with obtaining the necessary permits for the Project, but it shall be the Corporation's, and any subcontractor's, responsibility to obtain the necessary permits for the Project.

Section 4.07 Right of Way and Easements.

The Construction Manager agrees and understands that it may become necessary or convenient to install and/or construct the Public Improvements on, over, across, and/or under the Property. The Corporation shall cause the City to provide use of all City owned land, rights-of-way and easements within the Property (as appropriate and necessary for construction of the Public Improvements and any other subdivision or infrastructure improvements for the Project) and upon the Construction Manager's, and any subcontractor's, request, to provide further required permissions, easements or right-of-way as may be necessary as determined by the City for construction of Public Improvements or other subdivision or infrastructure improvements at such time as needed for a given portion of the Project to the extent possible.

ARTICLE V. CONSTRUCTION OF THE PUBLIC IMPROVEMENTS

Section 5.01 Construction of the Project

The Construction Manager hereby agrees to construct the Public Improvements described in "**Exhibit D**" hereto in accordance with the provisions of this Agreement. "**Exhibit D**" hereto shall be approved in advance by the City Manager. The Construction Manager will dedicate the applicable Public Improvements to the City upon completion of said Public Improvements, and the Corporation shall cause the City to review, inspect and accept dedication of such Public Improvements after confirming that the Public Improvements have been completed in accordance with this Agreement. The City Rules shall govern the procedure for inspection, dedication, and acceptance of the Public Improvements being conveyed to the City. Any contractor constructing the Public Improvements shall furnish payment and performance bonds as required by the City's ordinances. It is hereby acknowledged that all Public Improvements will be dedicated to the City; provided, however, some Public Improvements may be located within a perpetual easement in favor of the City, and some or all of the Public Improvements may be maintained by a third party, including an Owner's Association. The Construction Manager shall provide a two (2) year warranty bond, approved by the City, providing for maintenance of the Public Improvements.

Section 5.02 Payments

(a) The Corporation shall not be obligated to provide funds for any Public Improvement except from the proceeds of the Bonds deposited in the Construction Account (as defined in that certain Trust Agreement dated January 17, 2019 between the Authority and U.S. Bank National Association related to the Bonds (the "**Trust Agreement**"). The Construction Manager is entitled to be paid Actual Costs of the Public Improvements in an amount not to exceed \$4,827,602.00 (the "**Contract Amount**").

(b) Upon signed Certification and Approval of Construction by the City of a Public Improvement, and subject to any applicable two (2) year warranty-bond period, the Corporation shall cause the City to be responsible for all operation and maintenance of such Public Improvement, including all costs thereof and relating thereto (subject to the requirement for the 100% warranty bond by the subcontractor under Section 4.03); provided, however, the City shall have the unilateral right in its sole discretion to contract for the maintenance and operation of all or any portion of the Public Improvements.

(c) The Public Improvements will be funded by submitting a Certification and Approval of Construction signed by the City to the U.S. Bank National Association at 13737 Noel Rd., Suite 800, Dallas, TX 75240.

(d) The Corporation shall be obligated to direct the Trustee under the Trust Agreement to disburse funds from the Trust Agreement to pay the Construction Manager provided that (a) the Construction Manager has met all requirements as required under this Construction Contract for the construction of the Public Improvements for which payment is sought, (b) the City has approved the construction of the Public Improvements for which disbursement the disbursement of funds in accordance with the terms of this Agreement and (c) the provisions for disbursement under the Trust Agreement have been fully satisfied, including the City's approval thereof.

(e) So long as the Corporation is not in default under this Agreement, the Construction Manager shall be obligated to cause the construction of the Public Improvements consistent with the terms of this Agreement.

(f) Neither the faith and credit nor the taxing power of the City, the Corporation, or the State, or any political subdivision or agency thereof, is pledged to the payment of the Contract Amount or other payments required to be made by the Corporation pursuant to this Agreement.

(g) The obligation of Corporation to pay the Contract Amount and other payments required to be made by it pursuant hereto, is solely from the proceeds of the Bonds and in the manner provided herein.

ARTICLE VI. CERTIFICATION AND APPROVAL OF PUBLIC IMPROVEMENTS

Section 6.01 Overall Requirements

Upon signed Certification and Approval of Construction by the City of a Public Improvement, and subject to any applicable two (2) year warranty-bond period, the Corporation shall cause the City to be responsible for all operation and maintenance of such Public Improvement, including all costs thereof and relating thereto (subject to the requirement for the warranty bond by the subcontractor under Section 4.03).

Section 6.02 Certification and Approval of Public Improvements

(a) With respect to the Public Improvements, the Construction Manager shall deliver the Public Improvements (or any Segment thereof) and submit materials to the designated City

representative in accordance with the terms hereafter. The Corporation shall cause the City to agree that the City Construction Representative or its designee shall deliver to the City Manager their concurrence to approve pursuant to a completed Certification and Approval of Construction within fifteen (15) business days after its receipt of the required submittal items pursuant to either subpart (b) or (c) below, as applicable, and the City Manager shall then have up to ten (10) business days to sign and return such Certification and Approval of Construction to the Corporation, or any subcontractor. If the City disapproves any Certification and Approval of Construction, the Corporation shall cause the City to provide a written explanation of the reasons for such disapproval so that if the Certification and Approval of Construction is revised in accordance with the City's comments, the Certification and Approval of Construction can be approved.

(b) During the design phase for any Public Improvement, the necessary items for a design approval are as follows (not to exceed one formal (1) submission per month exclusive of requests for clarification on submittals):

(1) A Certification and Approval of Construction executed by the Project Engineer and Construction Manager specifying the percentage of design that has been completed on the applicable Public Improvement;

(2) A Bills Paid Affidavit from the contractor;

(3) Percentage of completion in relation to updated project construction schedule;

(4) Copies of all supporting invoices with respect to such design costs; and

(5) Evidence of City acceptance of design phase documents (for the percentage of design that has been completed).

(c) During the construction phase for any Public Improvement, the items required for approval are as follows (not to exceed one formal (1) submission per month exclusive of requests for clarification on submittals):

(1) A Certification and Approval of Construction executed by the Project Engineer and Construction Manager specifying the amount of work that has been performed and the cost thereof;

(2) A Bills Paid Affidavit from the contractor pertaining to the work described in the Certification and Approval of Construction;

(3) Percentage of completion in relation to updated project construction schedule;

(4) Copies of all supporting invoices with respect to such costs; and

(5) Waivers of liens for work on the applicable Public Improvements through the previous Certification and Approval of Construction and receipts for payment from the contractor and, if requested by the City, any subcontractors for the current Certification and Approval of Construction.

(d) In addition to the submitted items required in Section 6.02(c) above, in order to obtain the final approval for a Public Improvement pursuant to this Section 6.02, the following are required:

(1) The Corporation, or any subcontractor, shall have provided to the City an assignment of the warranties and guaranties, if applicable, for the Public Improvements; and

(2) Before the final Certification and Approval of Construction is submitted to the City, the Project Engineer shall conduct a review for the City to confirm that such Public Improvement was constructed in accordance with the plans therefor and the Project Engineer will verify and approve the costs of such Public Improvement specified in such Certification and Approval of Construction. Upon confirmation by the Project Engineer to the City Construction Representative and the submission of the final Certification and Approval of Construction indicating that such Public Improvement has been constructed in accordance with the plans therefor, and verification and approval of the costs of such Public Improvement, the City Construction Representative will use best efforts within thirty (30) calendar days thereafter to approve such Public Improvement and the City Construction Representative shall sign the Certification and Approval of Construction and forward the same to the City Manager and the PID Administrator. The City Manager shall then have up to ten (10) business days to forward the executed Certification and Approval of Construction to the Authority, or any subcontractor. The Corporation shall cause the City to request the Project Engineer to conduct each such review in an expeditious manner not to exceed thirty (30) calendar days after the Certification and Approval of Construction is submitted to the City.

(e) The Corporation shall cause the City to confirm that the cost for construction of such Public Improvement is generally consistent with the estimated cost provided in the Service and Assessment Plan, as amended from time to time. If the total cost of a Public Improvement exceeds the total amount of the budgeted cost for that Public Improvement (the “**Cost Overrun**”), the Construction Manager shall be solely responsible for the remainder of the costs of that Public Improvement, except as provided in subsection (c) hereof. The Construction Manager is only entitled to the Contract Amount hereunder regardless of Actual Costs, including any Cost Overruns.

(f) Upon the completion of a Public Improvement (or Segment or phase thereof) and payment of all outstanding invoices for such Public Improvement, if the Actual Cost(s) of such Public Improvement is less than the budgeted costs (a “**Cost Underrun**”), any remaining budgeted costs will be available to pay Cost Overruns on any applicable other Public Improvement. Any Cost Underrun for any Public Improvement is available to pay Cost Overruns on any other applicable Public Improvement as reviewed and approved by the City.

ARTICLE VII. REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION

Section 7.01 Representations of the Corporation

The Corporation makes the following covenants and representations for the benefit of the Construction Manager:

(a) The Corporation represents and warrants that the Corporation has the authority and is authorized to conduct business in Texas, and has the power and authority to carry on its business as now being conducted and as now contemplated.

(b) The Corporation represents and warrants that the Corporation has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Corporation.

Section 7.02 Covenants, Representation, and Warranties of the Construction Manager

The Construction Manager makes the following representations, warranties and covenants for the benefit of the Corporation and the City:

(a) The Construction Manager represents that it is a limited liability company duly organized and validly existing under the laws of the State of Arizona, has the ability to conduct business in Texas, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(b) The Construction Manager represents that the Construction Manager has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Construction Manager. The Construction Manager shall retain a Texas Licensed Professional Engineer reasonably acceptable to the City Manager and the engineer shall certify to the City that the Public Improvements are constructed pursuant to plans and specifications in accordance with the City's ordinances. Public Improvements not requiring an engineer certification at the time of issuance of a permit shall be certified as completed in accordance with plans and specifications by a qualified designer.

(c) The Construction Manager represents that this Agreement is a valid and enforceable obligation of the Construction Manager and is enforceable against the Construction Manager in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) The Construction Manager covenants that once it commences construction of a Segment it will use its reasonable and diligent efforts to do all things which may be lawfully required of it in order to cause such Segment of the Public Improvements to be completed in accordance with this Agreement.

(e) The Construction Manager covenants that it will not commit or knowingly permit any act in, upon or to the Property or the Project in violation of any law, ordinance, rule, regulation, or order of any governmental authority or any covenant, condition or restriction now or hereafter materially affecting the Property or the Project.

(f) Until the final Acceptance Date of each applicable Public Improvement, the Construction Manager covenants to maintain or cause to be maintained proper books of record and account for the Public Improvements and all costs related thereto. The Construction Manager covenants that such accounting books will be maintained or caused to be maintained in accordance with sound accounting practices, and will be available for inspection by the Corporation or its agent and the City or its agent at any reasonable time during regular business hours upon at least 72 hours' notice.

All representations, covenants and warranties of the Construction Manager under this Agreement survive the issuance of the Bonds.

ARTICLE VIII. DEFAULT AND REMEDIES

Section 8.01 Event of Default

The occurrence, from time to time, of any one or more of the following events shall constitute an “**Event of Default**” under this Agreement:

(a) Subject to Force Majeure, a failure by the Construction Manager to complete the Public Improvements by July 1, 2020. Regardless of the existence or non-existence or occurrence or non-occurrence of Force Majeure, a failure by the Construction Manager to complete the Public Improvements by December 31, 2021. The Construction Manager will submit a construction schedule to the Corporation and the City Manager.

(b) A Party shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

Section 8.02 Remedies

(a) If an Event of Default shall have occurred and be continuing, the Corporation, shall have the right:

(1) by suit, action or proceeding, to compel the Construction Manager and its officers, agents or employees to perform each and every term, provision and covenant contained in this Agreement, and to require the carrying out of any or all such covenants and agreements of the Construction Manager and the fulfillment of all duties imposed upon it by this Agreement; and

(2) to bring any suit, action or proceeding to enforce the rights created by contract or by law hereunder, including, without limitation, any proceeding in equity.

(b) If an Event of Default shall have occurred and be continuing, the Construction Manager, shall have the right to bring any suit, action or proceeding to enforce the rights created by contract or by law hereunder, including, without limitation, any proceeding in mandamus or in equity.

Section 8.03 Remedies Not Exclusive

No remedy herein conferred upon or reserved to the Corporation or Construction Manager is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 8.04 Termination of Proceedings

In case any proceedings taken by the Corporation on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Corporation, then in every such case the Construction Manager and the Corporation, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Construction Manager and the Corporation shall continue as though no such proceedings had been taken.

Section 8.05 No Waiver of Default

No delay or omission of the Corporation or Construction Manager to exercise any right or power arising upon the occurrence of any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein, and every power and remedy given by this Agreement to the Corporation may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IX. GENERAL PROVISIONS

Section 9.01 Notices

Any notice, communication, or disbursement required to be given or made hereunder shall be in writing and shall be given or made by e-mail, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as any be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent, and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

If to the City: City of Hutto, Texas
Attention: Odis Jones, City Manager
401 W. Front St.
Hutto, Texas 78634
E-mail: odis.jones@huttotx.gov

If to the Construction Manager: Meritage Homes of Texas, LLC
Attention: Elliot Jones
8920 Business Park Dr., Suite 350
Austin, Texas 78759
E-Mail: Elliot.Jones@meritagehomes.com

If to the Corporation: RIVER CREEK DEVELOPMENT CORPORATION
Attention: Odis Jones, City Manager
401 W. Front St.
Hutto, Texas 78634
E-mail: odis.jones@huttotx.gov

If to the Trustee: U.S. Bank National Association
Attention: Brian Jensen
13737 Noel Rd., Suite 800
Dallas, Texas 75240
E-Mail: brian.jensen@usbank.com

With a copy to: Metcalfe Wolff Stuart & Williams, LLP
Attention: Steve Metcalfe
221 W. 6th, Suite 1300
Austin, Texas 78701
E-Mail: SMetcalfe@mwswtexas.com

McGinnis Lochridge
Attention: Bill Bingham
600 Congress Ave., Suite 2100
Austin, Texas 78701
E-Mail: bbingham@mcginnislaw.com

Section 9.01 Administration of District

Pursuant to a separate agreement, the Corporation may cause the City to contract with a third party to serve as the PID Administrator and to administer the District after the date hereof. The Administrative Expenses shall be collected as part of and in the same manner as the Assessments in the amounts set forth in the Service and Assessment Plan.

Section 9.02 Assignment

(a) Subject to subparagraph (b) below, the Construction Manager may, in its sole and absolute discretion, assign this Agreement with respect to all or part of the Project from time to time to (i) any party so long as the assignee has demonstrated to the City's reasonable satisfaction that the assignee has the financial, technical, and managerial capacity, the experience, and expertise to perform any duties or obligations so assigned and the assignee is not delinquent in payment of City taxes nor is the assignee in default of any written agreement with the City, (ii) any entity which is the successor by merger or otherwise to all or substantially all of the Construction Manager's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital, or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of the Construction Manager. The assignee shall assume all of the Construction Manager's rights and obligations to this Agreement without modification. The Construction Manager shall provide the City and the Corporation thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, the Construction Manager shall be fully released from any and all obligations under this Agreement and shall have no further liability with respect to this Agreement for the part of the Project as long as the all conditions to the subsection have been met.

(b) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(c) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a transfer.

(d) The Construction Manager may, in its sole and absolute discretion, assign this Agreement with respect to all or part of the Project from time to time to an affiliate of Construction Manager with ten (10) business days prior written notice to the City and the Corporation.

Section 9.03 Term of Agreement

This Agreement shall terminate on the date on which the Construction Manager and the Corporation discharge all of their obligations hereunder. Notwithstanding any provision herein to the contrary, completion of the Public Improvements shall not serve to terminate the obligation to provide the maintenance bond as described in Section 4.03 hereof.

Section 9.04 Construction of Certain Terms

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

(a) Words importing a gender include either gender.

- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.
- (d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.
- (e) A reference to any Party includes, with respect to the Corporation, its Designated Successors and Assigns, and reference to any Party in a particular capacity excludes such Party in any other capacity or individually.
- (f) All references in this Agreement to designated “Articles,” “Sections,” and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to “Exhibits” are to the designated Exhibits to this Agreement.
- (g) The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder,” and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.
- (h) The words “including” and “includes,” and words of similar import, are deemed to be followed by the phrase “without limitation.”
- (i) Unless the context otherwise requires, a reference to the “Property,” the “Public Improvements,” or the “District” is deemed to be followed by the phrase “or a portion thereof.”
- (j) Every “request,” “order,” “demand,” “direction,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” “approval,” “waiver,” “identification,” or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.
- (k) The Parties hereto acknowledge that each such Party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting Party shall not apply in the interpretation of this Agreement.

Section 9.05 Titles and Headings

The titles of the Articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 9.06 Amendments.

This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties. Approval of amendments on behalf of the City have been delegated to and may be made by the City Manager.

Section 9.07 Time

In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

Section 9.08 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 9.09 Entire Agreement

This Agreement contains the entire agreement of the Parties.

Section 9.10 Severability; Waiver

If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 9.11 Third Party Beneficiary

The City is a third party beneficiary of this Agreement and is entitled to the rights and benefits hereunder and may enforce the provisions hereof as if they were parties hereto.

Section 9.12 Exhibits

The following exhibits are attached to and incorporated into this Agreement for all purposes:

- | | | |
|-----------|---|----------------------------------|
| Exhibit A | – | Definitions |
| Exhibit B | – | Property Description for Project |
| Exhibit C | – | Service and Assessment Plan |
| Exhibit D | – | Public Improvements |

- Exhibit E — Form of Certification and Approval of Construction
- Exhibit F — Form of Final Approval Request
- Exhibit G - Homebuyer Disclosure Program
- Exhibit G-1 - Homebuyer Disclosure

[Signature Pages to Follow]

MERITAGE HOMES OF TEXAS, LLC

By: _____
Name: Elliot Jones
Title: Vice President of Land Acquisition

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2019 by,
Elliot Jones, Vice President of Land Acquisition - Austin of Meritage Homes of Texas, LLC, an
Arizona limited liability company, on behalf of said company.

(SEAL)

Notary Public, State of Texas

Name printed or typed
Commission Expires: _____

[Signatures Continue on Next Page]

RIVER CREEK DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

STATE OF TEXAS

§
§
§

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on the ____ day of _____, 2019 by,
Odis Jones of the River Creed Development Corporation, on behalf of said corporation.

Notary Public, State of Texas

(SEAL)

Name printed or typed
Commission Expires:_____

EXHIBIT A

DEFINITIONS

Unless the context requires otherwise, and in addition to the terms defined above, each of the following terms and phrases used in this Agreement has the meaning ascribed thereto below:

“Acceptance Date” means the date that the Certification and Approval of Construction has been accepted, approved and signed by the City for any Public Improvements.

“Actual Costs” means, with respect to an Public Improvements, the demonstrated, reasonable, allocable, and allowable costs of constructing such Public Improvements, as specified in a Certification and Approval of Construction or payments that have been reviewed and approved by the City. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Public Improvements, including general contractor construction management fees, if any, (b) the costs of preparing the construction plans for such Authorized Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Public Improvements, (d) the costs for external professional costs associated with such Public Improvements, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Public Improvements, (f) the construction management fee listed in Section 5.02(h) hereof, and (g) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Administrative Expenses.

“Administrative Expenses” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the District, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the District and preparing the assessment roll, (iii) computing, levying, collecting and transmitting the Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Assessments, (v) investing or depositing the Assessments, (vi) paying the paying agent/registrar’s and trustee’s fees and expenses (including the fees and expenses of its legal counsel), and (vii) administering the construction of the Public Improvements, in accordance with the terms of this Agreement.

“Agreement” has the meaning given in the recitals to this Agreement.

“Annual Installment” has the meaning given in the Service and Assessment Plan.

“Assessed Parcel” means any Parcel within the District against which an Assessment is levied (Assessed Parcel does not include Non-Benefited Property).

“Assessments” means the assessments levied against properties in the District, as provided for in the Assessment Ordinance and in the Service and Assessment Plan, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“Assessment Fund” has the meaning given in the recitals of this Agreement.

“Assessment Revenues” means all revenue received and collected by the City from the collection of the Assessments and Annual Installments (excluding Delinquent Collection Costs, and Administrative Expenses).

“Assessment Ordinance” has the meaning given in the recitals of this Agreement.

“Authority” has the meaning given in the recitals of this Agreement.

“Bills Paid Affidavit” means the bills paid affidavit attached to a Certification and Approval of Construction.

“Bonds” has the meaning given in the recitals of this Agreement.

“Certification and Approval of Construction” means the certificate (whether one or more) in substantially the same form as **“Exhibit E”** attached hereto.

“City” means the City of Hutto, Texas.

“City Construction Representative” means the Director of Engineering or such other person selected by the City to oversee the construction of the Public Improvements on behalf of the City.

“City Council” means the governing body of the City of Hutto, Texas.

“City Manager” means the City Manager of the City of Hutto, Texas or his/ her designee or successor.

“City Rules” means the rules and regulations that govern the development of the Project, as may be amended or adjusted pursuant to the terms of this Agreement.

“Construction Manager” means the entity responsible for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Public Improvements.

“Corporation” has the meaning given in the recitals of this Agreement.

“Corporation Interlocal Agreement” has the meaning given in the recitals of this Agreement.

“Delinquent Collection Costs” has the meaning set forth in the Service and Assessment Plan.

“Designated Successors and Assigns” means an entity to which the Corporation assigns a portion of (in writing) its rights and obligations contained in this Agreement.

“District” has the meaning given in the recitals to this Agreement.

“Effective Date” has the meaning given in the recitals to this Agreement.

“Event of Default” has the meaning given in Section 8.01 of this Agreement.

“Final Approval Request” means the request (whether one or more) in substantially the same form as **“Exhibit F”** attached hereto.

“Force Majeure” means strikes, lock-outs, war, civil disturbance, natural disaster, acts of terrorism, or acts of God that cause a delay in the Construction Manager’s performance of this Agreement.

“Interlocal Agreement” has the meaning given in the recitals of this Agreement.

“Loan Agreement” has the meaning given in the recitals of this Agreement.

“Non-Benefited Property” means Parcels within the boundaries of the District that accrue no special benefit from the Public Improvements, including Owner’s Association Property and Public Property.

“Notice” means any notice, writing, or other communication given under this Agreement.

“Owner’s Association” means a homeowner’s association or property owner’s association.

“Owner’s Association Property” means property within the boundaries of the District that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, an Owner’s Association established for the benefit of a group of homeowners or property owners within the District.

“Parcel” means a property identified by either a tax map identification number assigned by the Williamson Central Appraisal District for real property tax purpose, by metes and bounds description, by lot and block number in a final subdivision plat recorded in the Official Public Records of Williamson County, or by any other means determined by the City.

“Party” means the Corporation or the Construction Manager, as parties to this Agreement, and **“Parties”** means collectively, the Corporation and the Construction Manager.

“PID Act” has the meaning given in the recitals to this Agreement.

“PID Administrator” means the person or independent firm designated by the City Council who shall have the responsibilities provided for herein or in any other agreement approved by the City Council.

“Plan” has the meaning given in the recitals of this Agreement.

“Project” has the meaning given in the recitals to this Agreement.

“Project Engineer” means the civil engineer or firm of civil engineers selected by the Corporation to perform the duties set forth in this Agreement and registered in the State of Texas.

“Property” has the meaning given in the recitals to this Agreement.

“Public Improvements” means the Public Improvements described in **“Exhibit D”** together with any and all of the improvements which are included in the Service and Assessment Plan as such plan is amended and updated from time to time.

“Public Property” means property, real property, right of way and easements located within the boundaries of the District that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, Williamson County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an easement, or by plat.

“Segment” or “Segments” means the portions of the Public Improvements identified as such.

“Service and Assessment Plan” has the meaning given in the recitals to this Agreement.

“State” means the State of Texas.

“Trust Agreement” has the meaning given in Section 5.02 hereof.

EXHIBIT B

PROPERTY DESCRIPTION FOR PROJECT

BEING A 167.461 ACRES TRACT, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NUMBER 271, WILLIAMSON COUNTY, TEXAS AND BEING ALL OF A CALLED 167.375 ACRES TRACT DESCRIBED IN A WARRANTY DEED TO ROBERT DERRELL NEAL, TRUSTEE AND RECORDED IN VOLUME 2481, PAGE 383 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS (D.R.W.C.T.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in the south right-of-way line of County Road 199 (CR 199), a variable width right-of-way (no recording info found), for the northeast corner of said 167.375 acres tract, same being the northwest corner of a called 46.14 acres tract described in a Special Warranty Deed to Leschber Investments, LP and recorded in Document Number 2010007503 of the Official Public Records of Williamson County, Texas (O.P.R.W.C.T.);

THENCE leaving said south right-of-way line of CR 199, with the east line of said 167.375 acres tract, same being the west line of said 46.14 acres tract and the west line of the remainder of a called 367.15 acres tract described in a Warranty Deed to Hutto 372, LTD and recorded in Document Number 2003097297 of said O.P.R.W.C.T., S07°45'44"W a distance of 4,157.28 feet to 5/8-inch iron rod found for an angle point in said east line of the 167.375 acres tract and said west line of the remainder of the 367.15 acres tract;

CONTINUING with said east line of the 167.375 acres tract and the west line of the remainder of the said 367.15 acres tract, S07°34'46"W passing at a distance of 643.67 feet a 1/2-inch iron rod with plastic cap stamped "DIAMOND SURVEYING" found for the northeast corner of Lot 32, Block L, Glenwood, Phase 5, a legal subdivision according to the plat of record in Document Number 2015064417 of said O.P.R.W.C.T., continuing in all a distance of 854.99 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found for the southeast corner of said 167.375 acres tract, same being the southwest corner of said Lot 32, Glenwood Phase 5, the northwest corner of Lot 26, Block L, said Glenwood Phase 5, and the northeast corner of Lot 25, Block L, Glenwood Phase 6A, a legal subdivision according to the plat of record in Document Number 2014095379 of said O.P.R.W.C.T.;

THENCE with the south line of said 167.375 acres tract, same being the north line of said Glenwood Phase 6A and the north line of Glenwood Phase 6B, a legal subdivision according to the plat of record in Document Number 2015069954 of said O.P.R.W.C.T., N82°12'11"W a distance of 791.37 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found in the north line of Lot 13, Block L, said Glenwood Phase 6B for the southwest corner of said 167.375 acres tract, same being the southeast corner of a 20-foot wide roadway as described in a Dedication Deed to the Public in Volume 271, Page 110 of said O.P.R.W.C.T.;

THENCE leaving said north line of Lot 13, Block L, Glenwood Phase 6B with the west line of said 167.375 acres tract, same being the east line of said 20-foot wide roadway, and the east line of Creek Bend, Section 2, a legal subdivision according to the plat of record in Document Number 2003111865 of said O.P.R.W.C.T., N07°49'29"E a distance of 578.72 feet to a 1-inch (inside diameter) iron pipe found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend, Section 2;

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Creek Bend, Section 2, the east line of a called 1.77 acres tract described in a Dedication Special Warranty Deed to the City of Hutto and recorded in Document Number 2007055773 of said O.P.R.W.C.T., and the east line of

Creek Bend Section 5, a legal subdivision according to the plat of record in Document Number 2007058323 of said O.P.R.W.C.T., N30°06'10"W a distance of 499.87 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend Section 5;

CONTINUING with said west line of the 167.375 acres tract and said east line of Creek Bend Section 5 the following nine (9) courses and distances:

1. N01°48'18"E a distance of 187.76 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found,
2. N06°10'04"E a distance of 175.64 feet to a 1/2-inch iron rod found,
3. N18°52'15"W a distance of 226.14 feet to a 1/2-inch iron rod found,
4. N05°32'37"W a distance of 296.97 feet to a 1/2-inch iron rod with plastic cap stamped "STANLEY CONSULTANTS INC" found,
5. N57°21'53"W a distance of 73.20 feet to a 1/2-inch iron rod with (cap illegible)found,
6. N62°30'06"W a distance of 172.87 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found,
7. N62°02'30"W a distance of 132.78 feet to a 1/2-inch iron rod found,
8. N59°56'34"W a distance of 94.51 feet to a 1/2-inch iron rod found, and
9. N46°24'31"W a distance of 133.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being the northwest corner of Lot 28, Block B, said Creek Bend Section 5, same being the most easterly corner of Lot 16, Block B, Creek Bend Section 4, a legal subdivision according to the plat of record in Document Number 2005093870 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, same being the east line of Lot 16, Block B, Creek Bend Section 4, the following two (2) courses and distances:

1. N10°19'27"W a distance of 73.59 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found, and
2. N37°39'42"W a distance of 5.18 feet to a 1/2-inch iron rod found for the northeast corner of Lot 16, Creek Bend Section 4, same being the southeast corner of Lot 21, Block B, Creekside Estates Section 1, a legal subdivision according to the plat of record in Document Number 1999084644 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, N19°24'00"W a distance of 73.21 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in said west line of the 167.375 acres tract;

THENCE with said west line of the 167.375 acres tract, N12°26'12"W passing at a distance of 102.48 feet the east line of Lot 22, Block B, said Creekside Estates Section 1, and continuing in all a distance of

120.20 feet to a 1/2-inch iron rod stamped "BASELINE INC." for an angle point in said west line of the 167.375 acres tract, and from which a 1/2-inch iron rod found for an angle point in said east line of Lot 22 bears S42°10'33"E a distance of 6.50 feet;

CONTINUING across said Lot 22 with said west line of the 167.735 acres tract, N60°46'25"E a distance of 96.22 feet to 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, and said east line of said Lot 22, Creekside Estates Section 1;

THENCE leaving said east line of Lot 22, Creekside Estates Section 1, continuing with said west line of the 167.375 acres tract, the following two (2) courses and distances:

1. N23°37'10"E a distance of 95.09 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF" set, and
2. N07°18'37"E a distance of 701.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being an angle point in said east line of Lot 22, Creekside Estates Section 1;

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Lot 22, Creekside Estates Section 1 the following two (2) courses and distances:

1. N59°31'53"W a distance of 79.81 feet to a 1/2-inch iron rod found, and
2. N02°12'28"E a distance of 69.49 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract and said east line of Lot 22, Creekside Estates Section 1, for the southwest corner of a called 14.463 acres tract described in a Special Warranty Deed and Quitclaim to the City of Hutto and recorded in Document Number 2010009249 of said O.P.R.W.C.T.;

THENCE with said west line of the 167.375 acres tract, same being the south line of said 14.463 acres tract and the south line of a called 15.52 acres tract described in a Warranty Deed to the City of Hutto and recorded in Volume 875, Page 443 of said D.R.W.C.T., N44°58'37"E a distance of 678.88 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract for the southeast corner of said 15.52 acres tract;

THENCE with said west line of the 167.375 acres tract, same being the east line of said 15.52 acres tract the following two (2) courses and distances:

1. N16°42'52"E a distance of 35.17 feet to a 1/2-inch iron rod found,
2. N03°26'59"W a distance of 217.96 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC", and
3. N77°01'16"W a distance of 65.76 feet to a 1/2-inch iron rod found for an angle point in said east line of the 15.52 acres tract, same being the southeast corner of a called 4.4485 acres tract described in a General Warranty Deed to the City of Hutto and recorded in Document Number 2003018508 of said O.P.R.W.C.T.;

THENCE leaving said east line of the 15.52 acres tract, continuing with said west line of the 167.375 acres tract, same being the east line of said 4.4485 acres tract, N06°31'24"E a distance of 890.75 feet to a

1/2-inch iron rod found in the east line of said 14.463 acres tract, for the northwest corner of said 167.375 acres tract, same being the northeast corner of said 4.4485 acres tract;

THENCE with the north line of said 167.375 acres tract, same being said east line of the 14.463 acres tract, N77°09'39"E a distance of 105.46 feet to a fence corner post found in said east line of the 14.463 acres tract, for an angle point in said north line of the 167.375 acres tract;

THENCE leaving said east line of the 14.463 acres tract, with said north line of the 167.375 acres tract, same being the south right-off-way line of said CR199, S82°37'57"E a distance of 1,535.39 feet to said **POINT OF BEGINNING** and containing 167.461 acres.

EXHIBIT C

SERVICE AND ASSESSMENT PLAN

EXHIBIT D

PUBLIC IMPROVEMENTS

- **Carl Stern Extension Bridge and Road Improvements:** Carl Stern will be extended from its terminus across Cottonwood Creek and through the floodplain to the eastern boundary of the project, providing major transportation infrastructure that is on the City's future roads plan. The Carl Stern improvements are approximately 2,000 feet long, including a 450' aesthetic bridge over the creek, and will include two lanes with an 8' shared use path. Additionally, other road improvements include a 70' wide ROW for a 4,000 foot long North/South road that connects Carl Stern Blvd to CR 199, which will also improve connectivity within the city.
- **Cottonwood Creek and Other Drainage Improvements:** The development will provide improvements to Cottonwood Creek that will increase drainage capacity within the creek and floodplain. The improvements will consist of clearing, grading, shaping and channelizing of slopes along the creek and other floodway areas.
- **Landscaping and Perimeter Walls:** The project is being enhanced with boulevard landscaping, irrigation and hardscape improvements. Wood fencing with masonry columns will be constructed along both sides of the 4,000 foot North/South collector road, and will be between 6' and 8' in height. Primary entry monumentation will be constructed along Carl Stern to convey a "sense of arrival" and consist of a large masonry monument with metal accents and landscaping. A secondary entry monument will be placed at the community connection to CR 199.
- **Waterline Improvements:** Includes a 12" waterline extension down Carl Stern Blvd. The improvements also provide a loop system by connecting an 8" waterline between Carl Stern Blvd and CR 199.
- **Wastewater Improvements:** A 6,000 linear foot, 12" wastewater line between the community and the Glenwood Lift Station.
- **Parks, Open Space and Trails:** A large open space (approximately 49 acres) of riparian zone natural area, meadows, and play field to be dedicated to the City that includes an extensive 10' wide concrete meandering trail which connects to the neighborhood via greenlinks and an 8' sidepath along the collector, creating a looped trail system. Also, a 3.5-acre central park that is to include a public lawn, playground, pavilion, art, shaded trellis and landscaping. The central park is also to include two enhanced intersections with pedestrian refuges and striping across the collector.

EXHIBIT E

FORM OF CERTIFICATION AND APPROVAL OF CONSTRUCTION (Design – Cross Creek)

_____ (“**Construction Manager**”) hereby requests approval for the percentage of design completed and the cost associated therewith (the “**Completed Design**”) described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Construction Contract between RIVER CREEK DEVELOPMENT CORPORATION, and the Construction Manager, dated as of January 17, 2019 (the “**Agreement**”). In connection with this Certification and Approval of the Construction, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City of Hutto, Texas (the “**City**”) as follows:

1. He (she) is a duly authorized representative of the Construction Manager, qualified to execute this request on behalf of the Construction Manager and knowledgeable as to the matters forth herein.
2. The design work described in Attachment A has been completed in the percentages as shown in relation to the updated construction schedule as attached.
3. The true and correct design costs for which approval is requested is set forth in Attachment A and has not been subject to any previously submitted request for approval.
4. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed design work described in Attachment A has been paid in full for all work completed through the previous Certification and Approval of Construction.
5. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Completed Design.

[Signature Page Follows]

SIGNATURE PAGE TO
FORM OF CERTIFICATION AND APPROVAL OF CONSTRUCTION

Date : _____

[Construction Manager Signature Block to be
added]

APPROVAL BY THE CITY

The Design described in Attachment A has been reviewed, verified and approved by the City Construction Representative. Payment of the Completed Design is hereby approved.

Date: _____

CITY OF HUTTO, TEXAS

By: _____

Name: _____

Title: _____

ATTACHMENT A TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(DESIGN)

<u>Description of Design Work</u>	<u>Percentage of Design Work Completed under this Certification and Approval of Construction</u>	<u>Design Costs</u>	<u>Total Percentage of Design Work Completed</u>
---------------------------------------	--	---------------------	--

ATTACHMENT B TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(DESIGN)

[attached – bills paid affidavit]

ATTACHMENT C TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(DESIGN)

[attached – receipts]

FORM OF CERTIFICATION AND APPROVAL OF CONSTRUCTION
(Construction – Cross Creek)

_____ (“**Construction Manager**”)
hereby requests approval of the Public Improvements and associated cost of the work described in Attachment A attached hereto (the “**Completed Public Improvements**”). Capitalized undefined terms shall have the meanings ascribed thereto in the Construction Contract between RIVER CREEK DEVELOPMENT CORPORATION and the Construction Manager, dated as of _____, 20____. In connection with this Certification and Approval of Construction, the undersigned, in his or her capacity as the _____ of the Construction Manager, to his or her knowledge, hereby represents and warrants to the City of Hutto, Texas (the “**City**”) as follows:

1. He (she) is a duly authorized representative of the Construction Manager, qualified to execute this request for payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The true and correct costs for the Completed Public Improvements is set forth in Attachment A and has not been subject to any previously submitted request for approval.

3. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on a Segment described in Attachment A has been paid in full for all work completed through the previous Certification and Approval of Construction.

4. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Completed Public Improvements of each Segment.

[Signature Page Follows]

SIGNATURE PAGE TO
FORM OF CERTIFICATION AND APPROVAL OF CONSTRUCTION

Date : _____

[Construction Manager Signature Block to
Be inserted]

JOINDER OF PROJECT ENGINEER

The undersigned Project Engineer joins this Certification and Approval of Construction solely for the purposes of certifying that the representations made by the Construction Manager in Paragraph 2 above are true and correct in all material respects.

Project Engineer

APPROVAL BY THE CITY

The Completed Public Improvements of each Segment described in Attachment A has been reviewed, verified and approved by the City Construction Representative of the City. The Completed Public Improvements of each such Segment is hereby approved.

Date: _____

CITY OF HUTTO, TEXAS

By: _____

Name: _____

Title: _____

ATTACHMENT A TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(CONSTRUCTION)

<u>Segment</u>	<u>Description of Work Completed under this Certification and Approval of Construction</u>	<u>Costs of Completed Public Improvements</u>
----------------	--	---

ATTACHMENT B TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(CONSTRUCTION)

[bills paid affidavit – attached]

ATTACHMENT C TO CERTIFICATION AND APPROVAL OF CONSTRUCTION
(CONSTRUCTION)

[receipts – attached]

EXHIBIT F

FORM OF FINAL APPROVAL REQUEST

The undersigned is a lawfully authorized representative for _____ (the “**Construction Manager**”) and requests approval of the completed Public Improvements and associated costs, as follows. Capitalized undefined terms shall have the meanings ascribed thereto in the Construction Contract between RIVER CREEK DEVELOPMENT CORPORATION and the Construction Manager, dated as of _____, 20____.

In connection to the above referenced payment, the Construction Manager represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Construction Manager, is qualified to execute this Final Approval Request on behalf of the Construction Manager, and is knowledgeable as to the matters set forth herein.

2. The Public Improvements and the amount listed for the below itemized costs is a true and accurate representation of the costs incurred by the Construction Manager and such costs are in compliance with the Service and Assessment Plan and have not been previously has not been subject to any previously submitted request for approval. The itemized costs are as follows:

[insert itemized list of costs here]

TOTAL REQUESTED: \$_____

3. The Construction Manager is in compliance with the terms and provisions of the Service and Assessment Plan.

4. All conditions of the Construction Manager set forth in the Construction Contract for the payment hereby requested have been satisfied.

5. The Construction Manager agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete its review.

I hereby declare that the above representations and warranties are true and correct.

_____, **Construction Manager**

By: _____

Name: _____

Title: _____

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Final Approval Request. After reviewing the Final Approval Request, the City approves the Final Approval Request.

CITY OF HUTTO, TEXAS

By: _____
Name: _____
Title: _____

EXHIBIT G
CROSS CREEK PUBLIC IMPROVEMENT DISTRICT
HOMEBUYER DISCLOSURE

HOME BUYER DISCLOSURE PROGRAM

1. A Builder¹ for an Assessed Parcel shall provide each residential homebuyer with the “Notice of Obligation to Pay Public Improvement District Assessment to Hutto”, the form of which is attached hereto as Exhibit “G-1”.
2. A Builder for an Assessed Parcel shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the City upon receipt of written request by the City or the Builder which sets forth the City’s mailing address and other contact information.
3. A Builder for an Assessed Parcel shall prominently display signage provided by the Construction Manager or the PID Administrator in the Builder’s model homes, if any, located within the Property.
4. If prepared and provided by the City and approved by Construction Manager (such approval not to be unreasonably withheld), a Builder for an Assessed Parcel shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. A Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers for an Assessed Parcel.
6. The Construction Manager must post signage along the main entry/exits located at the boundaries of the District that identifies the area as a public improvement district. All signage shall be clearly visible to all motorist entering and exiting the District.

¹ “Builder” means a commercial builder who is in the business of constructing and/or selling residences to individual home buyers.

Exhibit G-1

CROSS CREEK PID – LOT TYPE []: HOMEBUYER DISCLOSURE

**NOTICE OF OBLIGATION TO PAY
PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS
TO HUTTO, TEXAS**

CONCERNING THE PROPERTY AT:

STREET ADDRESS

OUTSTANDING PRINCIPAL OF ASSESSMENT FOR AUTHORIZED IMPROVEMENT: \$[]

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to the City of Hutto, Texas, for the costs of a portion of public improvements (the “*Authorized Improvements*”), undertaken for the benefit of the property within the “*Cross Creek Public Improvement District*” (the “*District*”), created under Subchapter A, Chapter 372, Local Government Code.

THE OUTSTANDING PRINCIPAL OF THE ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS [\$], WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH MAY VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change.** The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council of Hutto, Texas in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City of Hutto.

You may ask your mortgage company to include the Annual Installments in your monthly escrow payment.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.

IN WITNESS WHEREOF, I have signed this certificate this _____, 20__.

PURCHASER:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

STATE OF TEXAS

§

§

WILLIAMSON COUNTY

§

The foregoing instrument was acknowledged before me by _____,
known to me to be the person whose name is subscribed to the foregoing instrument, and
acknowledged to me that he or she executed the same for the purposes therein expressed, in
the capacity stated and as the act and deed of the above-referenced entities as an authorized
signatory of said entities.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas

STATE OF TEXAS

§

§

WILLIAMSON COUNTY

§

The foregoing instrument was acknowledged before me by _____,
known to me to be the person whose name is subscribed to the foregoing instrument, and
acknowledged to me that he or she executed the same for the purposes therein expressed, in
the capacity stated and as the act and deed of the above-referenced entities as an authorized
signatory of said entities.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas

PROJECTED ANNUAL INSTALLMENTS – LOT TYPE []

[WILL INSERT SCHEDULE OF PROJECTED ANNUAL INSTALLMENTS ONCE FINALIZED]

LOAN AGREEMENT
(Cross Creek Public Improvement District Project)

This **LOAN AGREEMENT** (the “**Loan Agreement**” or “**Agreement**”), dated as of January 17, 2019, is between the **PUBLIC FINANCE AUTHORITY**, a unit of government and a body corporate and politic of the State of Wisconsin, including its designated successors and assigns (the “**Authority**”), and **RIVER CREEK DEVELOPMENT CORPORATION**, a public nonprofit corporation created by and acting on behalf of the City of Hutto, Texas (the “**Corporation**”) pursuant to Chapter 431, Texas Transportation Code, as amended (the “**Act**”).

W I T N E S S E T H:

A. WHEREAS, on June 7, 2018, the City Council of the City of Hutto, Texas (the “**City**”) passed and approved Resolution No. R-18-06-07-9A authorizing the creation of the Cross Creek Public Improvement District (the “**District**”) pursuant to Chapter 372, Texas Local Government Code, as amended (the “**PID Act**”); and

B. WHEREAS, the District was created, in part, to undertake and finance those certain Public Improvements as defined in the Service and Assessment Plan and Assessment Roll approved by the City Council of the City dated January 17, 2019, as amended from time to time (the “**Service and Assessment Plan**”) and the Public Improvements (defined therein) as approved by the City Manager (the “**Public Improvements**”); and

C. WHEREAS, on January 17, 2019, the City Council passed and approved Ordinance No. [_____] (the “**Assessment Ordinance**”) which, among other things, approved the Service and Assessment Plan which identified the amount of certain assessments on the benefitted property within the District (“**Assessments**”), and established the dates upon which interest on assessments will begin to accrue and collection of Assessments will begin; and

D. WHEREAS, in addition to approving the Service and Assessment Plan, the Assessment Ordinance levied the Assessments against certain parcels within the boundaries of the District for the Public Improvements (as defined herein) in accordance with the Service and Assessment Plan; and

E. WHEREAS, Assessments are reflected in the Service and Assessment Plan as approved by the City Council, as amended and updated annually as provided in the PID Act; and

F. WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, in part, that an Assessment or Assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments (as defined in the SAP) plus interest for a period of not more than 35 years or until the Assessment is paid in full; and

G. WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, pursuant to Chapter 372.018(f) of the PID Act, that if an Annual Installment of an Assessment becomes delinquent, such Annual Installment shall be due and payable plus interest, penalties, and expenses incurred or imposed with respect to any delinquent installments for a period of not more than 35 years or until the Assessment is paid in full; and

H. WHEREAS, the Service and Assessment Plan allocated the cost of the Public Improvements to the Assessed Parcels proportionally based on the special benefits conferred to each lot or parcel by the Public Improvements; and

I. WHEREAS, all revenue received and collected by the City from the collection of the Assessments and Annual Installments (excluding Delinquent Collection Costs, and Administrative Expenses) (the “**Assessment Revenues**”) shall be deposited as required by the PID Act into an assessment fund created pursuant to the PID Act (the “**Assessment Fund**”); and

J. WHEREAS, the City and the Corporation have entered into the Interlocal Agreement dated January 17, 2019 to administer certain matters related to the Corporation and for the purchase and sale of the Public Improvements (the “**Project**”) pursuant Chapter 372.023(a) of the PID Act; and

K. WHEREAS, in order to construct and finance the Project, the Corporation is entering into this Loan Agreement with the Authority; and

L. WHEREAS, the City has authorized the Corporation to enter into this Loan Agreement; and

M. WHEREAS, in connection with this Loan Agreement, the Authority shall issue its Public Improvement Revenue Bonds (Cross Creek Public Improvement District Project), Series 2019 (the “**Bonds**”) to (1) finance a loan with the Corporation which will use the funds to finance the “Contract Amount” pursuant to the Construction Contract, which Contract Amount is the Actual Costs (as defined in the Construction Contract) of the Public Improvements to be constructed in the District, (2) fund the capitalized interest, (3) fund the reserve fund for payment of principal and interest on the Bonds, (4) fund the prepayment and delinquency reserve account, (5) fund other funds under the Trust Agreement, and (6) pay the Costs of Issuance; and

N. WHEREAS, the Corporation and the Construction Manager (as defined herein) have entered into a Construction Contract dated as of January 17, 2019, whereby the Construction Manager will construct the Public Improvements to be sold to the City by the Corporation pursuant to the Interlocal Agreement; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement;

provided, that the factual statements and information, summaries, descriptions, and legal conclusions appearing or referred to Paragraphs A. through J. and N. are based solely upon the representations of the Corporation upon which the Authority has relied without independent investigation or inquiry.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Definitions. The capitalized terms used in this Agreement shall have the following respective meanings unless the context otherwise requires:

“Act” shall have the meaning ascribed for such term in the opening paragraph hereof.

“Agreement” shall mean this Loan Agreement and any amendments hereto.

“Annual Fee” means the Authority’s annual administration fee determined and payable in the amounts and at the times specified in the “Authority Annual Fee” definition of 1.01 of the Trust Agreement.

“Authority Indemnified Person” means, collectively, (i) the Sponsors, (ii) the Members and (iii) each and all of the Authority, the Sponsors’ and the Members’ respective past, present and future directors, board members, governing members, trustees, commissioners, elected or appointed officials, officers, employees, Authorized Signatories, attorneys, contractors, subcontractors, agents and advisers (including counsel and financial advisers) and each of their respective heirs, successors and assigns.

“Authorized Signatory” means any officer, director or other person designated by resolution of the Board of Directors of the Authority (whether such resolution is adopted in connection with the issuance of the Bonds or otherwise) or by the Authority’s Bylaws as an ‘Authorized Signatory’ empowered to, among other things, execute and deliver on behalf of the Authority, this Agreement, the Trust Agreement, the other Loan Documents, and the Bonds.

“Bonds” shall have the meaning ascribed in the RECITALS hereof.

“Business Day” shall mean any day, other than a Saturday, Sunday, or legal holiday, on which the offices of the Authority are not required or authorized by law or executive order to be closed.

“Closing” shall mean the delivery of the Note to the Authority.

“Closing Date” shall mean the date of the Closing.

“Code” shall mean the Internal Revenue Service Code of 1986, as amended, and all applicable regulations and any official rulings and regulations under the above.

“Continuing Disclosure Agreement” shall mean the Continuing Disclosure Agreement of the City and of the Corporation, dated as of January 17, 2019, relating to the Bonds.

“Costs of Issuance” shall mean the costs and expenses incurred by the Corporation and the Authority in connection with the formation and creation of the District and with respect to the authorization, execution, and delivery of the Corporation Documents, the Bonds, and all documentation related thereto.

“City” shall mean the City of Hutto, Texas.

“City Council” shall mean the governing body of the City.

“Construction Manager” shall mean Meritage Homes of Texas, LLC, an Arizona limited liability company.

“Corporation Documents” shall mean, collectively, this Agreement, the Note, and the Resolution.

“Dissemination Agent” shall initially mean U.S. Bank National Association.

“Event of Default” shall mean unless waived in writing by the Authority, the occurrence of any of the following, which is not cured by the Corporation within thirty (30) days following written notice by the Authority of such Event of Default (except for clause (a) below which shall have no cure period):

(a) the failure of the Corporation to make any of the Note Payments when due and in the amounts provided herein; or

(b) the failure of the Corporation to comply with any other covenant, condition, or agreement under this Agreement or other agreements or obligations entered into by the Corporation for the borrowing of funds; or

(c) the failure of the Corporation to provide the Authority with an enforceable lien on the Pledged Revenues; or

(d) the bankruptcy, insolvency, appointment of a receiver for the Corporation.

“Interlocal Agreement” shall mean the Interlocal Agreement, dated as of January 17, 2019, by and between the City and the Corporation.

“Installment Payments” shall mean the payments from the City to the Corporation for the purchase of the Public Improvements as described in the Interlocal Agreement.

“Joint Exercise Agreement” means the Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated September 28, 2010 by and among Adams County, Wisconsin, Bayfield County, Wisconsin, Marathon County, Wisconsin, Waupaca County, Wisconsin and the City of Lancaster, Wisconsin, as such agreement may be amended from time to time.

“Loan” shall mean the loan from the Authority to the Corporation made pursuant to this Agreement.

“Loan Documents” shall mean, collectively, this Agreement and the Note.

“Maximum Interest Rate” shall mean the lesser of (a) the maximum rate of interest allowed under Chapter 1204, Texas Government Code, as amended, or other applicable law in effect and (b) the maximum interest rate set forth in the Authority’s resolution authorizing the issuance of the Bonds and the making of the Loan.

“Member” and **“Members”** means a party, or the parties, to the Joint Exercise Agreement and any political subdivision that has been designated in the past, or from time to time in the future is designated, as a member of the Authority pursuant to the Joint Exercise Agreement.

“Note” shall mean the promissory note of even date herewith (such promissory note, as the same may be renewed, extended, amended, or otherwise modified from time to time) delivered pursuant to this Agreement in substantially the form attached hereto as Exhibit A, and any promissory note executed and delivered by the Corporation in replacement thereof.

“Note Payments” shall mean the payments required by Section 2.4 to be made by the Corporation in payment of the principal of and interest on the Note.

“Outstanding” shall mean, with respect to the Note, the unpaid principal thereof and interest thereon, and, with respect to the Principal Amount, the unpaid portion thereof.

“PID Act” shall mean Chapter 372, Texas Local Government Code, as amended.

“Pledged Revenues” shall mean the Installment Payments paid by the City to the Corporation pursuant to the Interlocal Agreement.

“Principal Amount” shall mean \$6,660,000.00.

“Project” shall have the meaning ascribed in the RECITALS hereof.

“Unassigned Rights” means the rights of the Authority under Sections 2.9, 3.3, 5.2, 7.1, 8.9, 8.10, 8.12 and 8.13 of the Agreement and, to the extent not expressly provided in said sections (or in any other sections hereof or thereof) the Authority’s rights hereunder to (i) inspect books and records; (ii) give or receive notices, approvals, consents, requests, and other communications; (iii) receive payment or reimbursement for expenses, including, without limitation, “Authority Administrative Expenses” as defined in the Trust Agreement; (iv) immunity from and limitation of liability; (v) indemnification by the Construction Manager or any other Person; and (vi) to enforce, in its own name and on its own behalf, those provisions hereof and of the Agreement and any other document, instrument or agreement entered into with respect to the Bonds that provides generally for the foregoing enumerated rights or any similar rights of the Authority or any Authority Indemnified Person. For avoidance of doubt, the “Unassigned Rights” referenced in clauses (iv), (v), and (vi), above, shall include (but not be limited to) the rights of the Authority Indemnified Persons to immunity from and limitation of liability and indemnification by the Construction Manager as provided in the Trust Agreement and the right of any such Authority Indemnified Person to enforce such rights in his, her or its own name.

“**Resolution**” shall mean the resolution of the Board of Directors of the Corporation authorizing the execution and delivery of this Agreement and the Note and the pledge of the Pledged Revenues to the payment of the principal of and interest on the Note, and any amendments or supplements thereto.

“**Sponsor**” means the National League of Cities, the National Association of Counties, the Wisconsin Counties Association, the League of Wisconsin Municipalities, and any other Person that holds itself out, or is identified by the Authority, as an organization sponsoring the Authority.

“**State**” shall mean the State of Texas.

“**Trust Agreement**” shall mean the Trust Agreement, dated as of January 17, 2019 by and between the Authority and U.S. Bank National Association, as trustee, relating to the issuance of the Bonds.

“**Trustee**” shall mean U.S. Bank National Association and its successors and assigns.

Section 1.2 Interpretive Matters.

(a) Whenever the context requires:

(i) references in this Agreement of the singular number shall include the plural and vice versa; and

(ii) words denoting gender shall be construed to include the masculine, feminine, and neuter.

(b) The table of contents and the titles given to any article or section of this Agreement are for convenience of reference only and are not intended to modify the meaning of the article or section.

(c) Capitalized terms used but not defined in this Loan Agreement shall have the meanings assigned to them in the Trust Agreement.

ARTICLE II

THE LOAN; REPAYMENT OF THE LOAN

Section 2.1 The Loan. Subject to the terms and conditions set forth in this Agreement, including without limitation the conditions set forth in Section 2.2, and for and in consideration of the payment by the Corporation of its obligations under this Agreement and the Note and the covenants and agreements herein contained, the Authority will loan to, for the sole use and benefit of, the Corporation the proceeds of the Bonds to be used for the payment by the Corporation of the costs of the Project.

Section 2.2 Conditions to Closing. The obligation of the Authority to loan the proceeds of the Bonds to the Corporation as described in Section 2.1 hereof shall be subject to the following conditions:

(a) The representations of the Corporation herein shall be true, complete, and correct in all material respects on the date hereof and on and as of the Closing Date as if made on the Closing Date;

(b) At the time of Closing, the Corporation Documents shall be in full force and effect, assuming due authorization and execution by the other parties thereto, and shall not have been amended or supplemented except as may have been agreed to in writing by the Authority;

(c) At or prior to the Closing, the Authority shall have received each of the following documents:

(i) The Note executed by the authorized officers of the Corporation;

(ii) This Loan Agreement executed by the authorized officers of the Corporation, with such changes or amendments as may have been approved by the Authority and the Corporation;

(iii) Certified copies of the Resolution of the Corporation authorizing execution, delivery, and performance of all of the Loan Documents and authorizing the borrowing hereunder, along with such certificates of existence, certificates of good standing, and other certificates or documents as the Authority may reasonably require to evidence the Corporation's authority to enter into the Loan Documents;

(iv) An opinion of counsel for the Corporation, addressed to the Authority, to the effect that the Loan Documents and Corporation Documents have been duly authorized, executed and delivered by the Corporation and are legal, valid and binding agreements of the Corporation enforceable against the Corporation in accordance with their terms;

(v) True copies of all organization documents of the Corporation, including all amendments or supplements thereto;

(vi) The Continuing Disclosure Agreement, executed by the authorized officers and officials of the Corporation and the City; and

(vii) A completed IRS Form 8038-G of the Corporation and executed Tax Certificate.

(d) In addition to and without in any way limiting the Corporation's obligations to pay the Authority and the Authority Indemnified Persons' fees, costs and charges arising out of or in connection with, among other things, this Agreement, the other Corporation Documents, the Bonds or the Trust Agreement, the Corporation also shall pay or cause to be paid upon the closing of the issuance of the Bonds and as a condition thereto: (i) to the Authority, the Authority's issuance fee of \$15,000 (less, if applicable, any application fee heretofore paid by the Corporation to the Authority); and (ii) attorney's fees of \$15,000 incurred by the Authority in connection with the issuance of the Bonds.

Section 2.3 Note Terms.

(a) The Corporation agrees to execute and deliver the Note to the Authority on the Closing Date.

(b) The Note shall be dated as of the Closing Date, shall be in an aggregate principal amount equal to the Principal Amount, and shall be payable in installments on the dates and in the amounts specified in the Note.

(c) Interest on the Note shall bear interest at the interest rate borne on the Bonds (calculated on the per annum basis of a 360 day year consisting of twelve 30-day months).

In no event shall the interest rate on the Note exceed the Maximum Interest Rate.

Section 2.4 Note Payments. All Note Payments shall be made to the Trustee as set forth in Schedule I to the Note; provided, however, such payments shall be adjusted to reflect any changes to the Service and Assessment Plan.

Section 2.5 Note Payments Due on Business Days. If the regularly scheduled due date for a Note Payment is not a Business Day, the due date for such payment shall be the next succeeding Business Day, and payment made on such succeeding Business Day shall have the same force and effect as if made on the regularly scheduled due date.

Section 2.6 Optional Prepayment of Note. The Corporation shall have the right to prepay the Note in whole or in part on a pro rata basis in the same manner as the optional redemption of the Bonds pursuant to Section 2.03(a) of the Trust Agreement.

Section 2.7 Mandatory Prepayment of Note. The Corporation shall prepay the Note in an amount and on such dates as required for the mandatory redemption of the Bonds pursuant to Section 2.03(b) of the Trust Agreement.

Section 2.8 Pledge of Pledged Revenues. Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, in accordance with the provisions of this Agreement and the PID Act, the Corporation hereby pledges to the Trustee, and grants thereto a lien on and a security interest in, all of the Pledged Revenues.

Section 2.9 Assignment. The Corporation hereby transfers, assigns and conveys to the Trustee, its successors and assigns, forever, all of the Corporation's right, title and interest in, to and under the Interlocal Agreement.

ARTICLE III

SPECIAL AGREEMENTS

Section 3.1 Obligations of Corporation Unconditional.

(a) The obligation of the Corporation to make the payments required hereunder shall be a special limited obligation payable solely from the Pledged Revenues. The Corporation shall

pay all such amounts without abatement, diminution, or deduction (whether for taxes or otherwise) regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment, or counterclaim that the Corporation may have or assert against the Authority or any other person. Notwithstanding the foregoing, the Corporation's obligation to make the payments required hereunder shall be a special limited obligation payable solely from the Pledged Revenues, and shall never be a charge against the general credit or taxing powers of the Authority, Authority Indemnified Persons, any Member, any Sponsor, the State of Wisconsin, the City, the State of Texas, any political subdivision or agency of the States of Wisconsin or Texas, or any political subdivision approving the issuance of the Bonds.

(b) Until such time as the Note is fully paid the Corporation:

(i) will not suspend or discontinue, or permit the suspension or discontinuance of any Note Payment;

(ii) will perform and observe all of its other agreements contained in this Agreement;

(iii) except by full payment and retirement of the Note will not terminate this Agreement for any cause other than default by the Authority; and

(iv) will not pledge, bargain, sell, convey, or place or allow any lien to be placed on the assets pledged pursuant to Section 2.8.

Section 3.2 Agreement as Security Agreement.

(a) An executed copy of this Agreement shall constitute a security agreement pursuant to applicable law with the Trustee as the secured party. The lien, pledge, and security interest of the Authority created in this Agreement shall become effective immediately upon the Closing, and the same shall be continuously effective for so long as the Note is outstanding.

(b) A fully executed copy of this Agreement and the proceedings authorizing it shall be filed as a security agreement among the permanent records of the Corporation. Such records shall be open for inspection to any member of the general public and to any person proposing to do or doing business with, or asserting claims against, the Corporation, at all times during regular business hours.

(c) Chapter 1208, Texas Government Code, as amended, applies to the issuance of the Note and the pledge of the Pledged Revenues granted by the Corporation under Section 2.8 of this Agreement, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Note is outstanding and unpaid such that the pledge of the Pledged Revenues granted by the Corporation hereunder is to be subject to the filing requirements of Chapter 9, Texas Business and Commerce Code, then in order to preserve to the Authority the perfection of the security interest in said pledge, the Corporation agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business and Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 3.3 Financial Statements and Reports. For so long as any amounts remain outstanding under the Note, the Corporation agrees to comply with the requirements of the Continuing Disclosure Agreement.

Section 3.4 Notice of Certain Events.

(a) In order to assist the Corporation with its obligations under that certain Continuing Disclosure Agreement among the City, Corporation, Dissemination Agent, and Development Planning & Financing Group, Inc. dated January 17, 2019 (the “Corporation Continuing Disclosure Agreement”), the Authority agrees to provide notice to the Corporation and the Dissemination Agent, of the following events as promptly as possible after the Authority has actual knowledge thereof: (i) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds; (ii) bankruptcy, insolvency, receivership, or similar event of the Authority, which shall occur as described below; or (iii) the consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(b) Nothing in this Section 3.5 shall (i) obligate the Authority to make or cause to be made any filing (on EMMA or otherwise) with respect to any of the foregoing events, which filing shall be the Corporation’s responsibility, or (ii) be construed as an acknowledgement or admission by the Authority that Rule15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) is applicable to the Bonds, or that it is an “obligated person” (within the meaning of the Rule) with respect to the Bonds.

(c) The Authority agrees to appoint a successor Dissemination Agent if a dissemination agent is needed under the Corporation Continuing Disclosure Agreement or that certain Continuing Disclosure Agreement among the Construction Manager, the Dissemination Agent and Development Planning & Financing Group, Inc. dated January 17, 2019.

Section 3.5 Existence. While this Agreement is in effect, the Corporation shall maintain its governmental existence and qualification to do business in the State of Texas, and may not liquidate, dissolve, or voluntarily suspend business.

REPRESENTATIONS

Section 4.1 Representations of Authority. The Authority represents to the Corporation the following:

(a) The Authority has all necessary power and authority to enter into and perform under this Agreement.

(b) The Authority has taken all actions required to authorize and execute this Agreement and to perform its obligations hereunder and the execution, delivery, and performance by the Authority of and compliance with the provisions of this Agreement will not conflict with

any existing law, regulation, rule, decree, or order or any agreement or other instrument by which the Authority is bound.

Section 4.2 Representations by the Corporation. To the knowledge of the undersigned officers of the Corporation, the Corporation represents, warrants, and covenants to the Authority as follows:

(a) The Corporation is a nonprofit governmental corporation created by the City under the Act; has all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas, except as otherwise provided in the Act; and is authorized by the Act to borrow money and to execute and to enter into this Agreement and to undertake the transactions contemplated herein and to carry out its obligations hereunder with the approval of the City.

(b) The Corporation has all requisite power, authority, and legal right to execute and deliver the Loan Documents and all other instruments and documents to be executed and delivered by the Corporation pursuant thereto and to perform and observe the provisions thereof and to carry out the transactions contemplated by the Loan Documents. All action on the part of the Corporation which is required for the execution, delivery, performance, and observance by the Corporation of the Loan Documents has been duly authorized and effectively taken, and such execution, delivery, performance, and observation by the Corporation do not contravene applicable law or any contractual restriction binding on or affecting the Corporation.

(c) By resolution the Corporation has duly approved the borrowing of funds from the Authority, and such resolution has not been repealed, rescinded, or revoked; no other authorization or approval or other action by, and no notice to or filing with any governmental authority or regulatory body is required as a condition to the performance by the Corporation of its obligations under any of the Loan Documents.

(d) This Agreement and the Note are legally valid and binding obligations of the Corporation enforceable against the Corporation in accordance with their respective terms.

(e) There is no default of the Corporation in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of the Loan Documents or the ability of the Corporation to perform its obligations thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(f) There is no pending or threatened action or proceeding before any court, governmental agency, department, or arbitrator (i) to restrain or enjoin the execution or delivery of this Agreement and the Note or the collection of any of the Corporation's Pledged Revenues to pay the Note, (ii) in any way contesting or affecting the authority for the execution and delivery or the validity of the Loan Documents, or (iii) in any way contesting the levy of the Pledged Revenues or the existence of the Corporation or the title or powers of the officers of the Corporation.

(g) In connection with the authorization, execution, and delivery of this Agreement and the Note, the Corporation has complied with all provisions of the laws of the State, including the Act.

(h) The execution and delivery of the documents contemplated hereunder do not violate any provision of any instrument or agreement to which the Corporation is a party or by which it is bound.

(i) The Corporation has, by proper action, duly authorized the execution and delivery of this Agreement.

(j) The Corporation is not in default under or in violation of the Constitution or any of the laws of the State relevant to the issuance of the Note or the consummation of the transactions contemplated hereby or in connection with such issuance, and has duly authorized the issuance of the Note and the execution and delivery of this Agreement. The Corporation agrees that it will do or cause to be done in a timely manner all things necessary to preserve and keep in full force and effect its existence, and to carry out the terms of this Agreement and the Note.

(k) The Corporation shall not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of interest on this Agreement under Section 103 of the Code. Without limiting the generality of the foregoing, the Corporation shall comply with the requirements of the Tax Certificate, to be provided by the Corporation to the Authority shall provide to the Authority and file with the Internal Revenue System an executed Form 8038-G related to this Agreement.

(l) This Agreement, the other Corporation Documents, and all other documents to which the Corporation is a party and contemplated hereby or thereby have been duly authorized, executed and delivered by the Corporation and, when assigned to the Trustee pursuant to the Trust Agreement, constitute the legal, valid and binding obligations of the Corporation, enforceable against the Corporation in accordance with their respective terms, including by the Trustee for the benefit of the owners, and the Unassigned Rights constitute the legal, valid and binding agreements of the Corporation enforceable against the Corporation (1) by the Authority in its own right or (2) in the case of the rights of any Authority Indemnified Person, including, without limitation, the right of any Authority Indemnified Person to indemnification and immunity from liability by such Authority Indemnified Person in his, her or its own right, in accordance with their terms.

(m) No written information, exhibit or report furnished to the Authority by the Corporation in its application for financing or by the Corporation or its representatives in connection with the negotiation of this Agreement or any other document relating to the Bonds, regardless of whether the Authority is a party thereto (including any financial statements, whether audited or unaudited, and any other financial information provided in connection therewith) contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, that the representation in this subsection is made only to the Authority and may not be relied upon by any other Person.

(n) The Corporation's representations and warranties (i) are made as of the date of this Agreement and as of the date of the delivery of the Bonds to the initial purchasers, (ii) survive the issuance of the Bonds, and (iii) remain operative and in full force and effect regardless of the issuance of the Bonds, and regardless of any investigations by or on behalf of the Authority or the results thereof.

Section 4.1 Permits or Licenses. In the event that it may be necessary for the proper performance of this Agreement on the part of the Corporation that any application or applications for any permit or license to do or to perform certain things be made to any governmental or other agency by the Corporation, the Corporation shall execute such application or applications and shall otherwise comply with regulatory requirements, as applicable.

REMEDIES

Section 5.1 Remedies Available.

(a) Upon the occurrence of any Event of Default and at any time thereafter for so long as the Event of Default has not been cured, the Authority may take any action at law or in equity to collect all amounts then due under this Agreement and the enforcing of compliance with any other obligation of the Corporation under this Agreement.

(b) Upon the occurrence of any Event of Default and at any time thereafter for so long as the Event of Default has not been cured, the Authority may proceed against the Corporation for the purposes of protecting and enforcing the rights of the Authority under this Agreement and the Interlocal Agreement, by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby enjoin any action or thing that may be unlawful or in violation of any right of the Authority hereunder or any combination of such remedies.

(c) In addition to the remedies provided in subsection (a) of this Section, the Authority shall, to the extent permitted by law, be entitled to recover the costs and expenses, including attorney's fees and court costs, incurred by the Authority in the proceedings authorized under subsection (a) of this Section.

Section 5.2 Application of Money Collected. Any money collected as a result of the taking of remedial action pursuant to this Article V, including money collected as a result of foreclosing the liens of this Agreement, shall be applied by the Trustee in accordance with Section 2.13(a) of the Trust Agreement.

Section 5.3 Restoration of Rights. If any action taken as a result of an Event of Default is discontinued or abandoned for any reason, or is determined adversely to the interests of the Authority, or if an Event of Default is cured, all parties shall be deemed to be restored to their respective positions and rights under the Loan Documents as if such Event of Default had not occurred; provided, that the foregoing shall not operate to extinguish any rights that accrue to the Authority either as a result of such action or during the pendency thereof.

Section 5.4 Non-Exclusive Remedies. No remedy conferred upon or reserved to the Authority by this Agreement is intended to be exclusive of any other available remedy, and each such remedy shall be in addition to any other remedy given under this Agreement or the other Loan Documents or now or hereafter existing at law or in equity.

Section 5.5 Delays. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or be construed to be a waiver thereof, and all such rights and powers may be exercised as often as may be deemed expedient.

Section 5.6 Limitation on Waivers. If an Event of Default is waived, such waiver shall be limited to the particular Event of Default so waived and shall not be deemed a waiver of any other Event of Default; provided, that no waiver of an Event of Default shall be effective unless such waiver is made in writing.

ARTICLE VI

DISCHARGE

Section 6.1 Discharge by Payment. When the Note has been paid in full or when the Corporation has made payment to the Authority of the whole amount due or to become due under the Note (including all interest that has accrued thereon or that may accrue to the date of maturity or prepayment, as applicable), and all other amounts payable by the Corporation under this Agreement have been paid, the liens of this Agreement shall be discharged and released, and the Authority, upon receipt of a written request by the Corporation and the payment by the Corporation of all expenses with respect thereto, shall discharge and release the lien of this Agreement and execute and deliver to the Corporation such releases or other instruments as shall be requisite to release the lien hereof.

Section 6.2 Termination. If the Corporation shall pay or cause to be paid or there shall otherwise be paid to the Authority all Pledged Revenues at the times and in the manner stipulated herein, then the Authority shall cease to be entitled to the pledge of the Pledged Revenues provided herein, and all agreements, covenants and other obligations of the Corporation hereunder shall thereupon cease, terminate and become void and this Agreement shall be discharged and satisfied. In such event, the Authority, subject to Section 8.13, shall execute and deliver to the Corporation all such instruments as may be necessary or desirable to evidence such discharge and satisfaction.

ARTICLE VII

MODIFICATION OF DOCUMENTS

Section 7.1 Amendments Require Consent of Authority. The Corporation may not amend, or agree or consent to amendment of, the Corporation Documents without the prior written consent of the Authority. The Authority may not amend, or agree or consent to amendment of, the Corporation Documents without the prior written consent of the Corporation.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Term of Agreement. This Agreement shall become effective upon the Closing Date and shall continue in full force and effect until all obligations of the Corporation under this Agreement and the Note have been fully paid.

Section 8.2 Notices.

(a) All notices, certificates, or other communications required by or made pursuant to this Note Agreement shall be in writing and given by certified or registered United States Mail, return receipt requested, addressed as follows and including an email copy:

(i) if to the Authority:

Public Finance Authority
Attention: Scott Carper and Michael LaPierre
22 E. Mifflin Street, Suite 900
Madison, Wisconsin 53703
E-mail: scaper@pfauthority.org
mlapierre@pfauthority.org

(ii) if to the Corporation:

River Creek Development Corporation
Attention: Chair
401 W. Front St.
Hutto, Texas 78634
E-mail: odis.jones@huttotx.gov
bbingham@mcginnislaw.com

(b) The Corporation and the Authority may designate any further or different addresses to which subsequent notices shall be sent.

(c) Except as otherwise provided by this Agreement, any communication delivered by mail in compliance with this section is deemed to have been given as of the date of deposit in the mail.

(d) A provision of this Agreement that provides for a specific method of giving notice or otherwise conflicts with this section supersedes this section to the extent of the conflict.

Section 8.3 Binding Effect, Assignment. This Agreement shall (i) be binding upon the Corporation, its successors and assigns, and (ii) inure to the benefit of and be enforceable by the Authority and its successors, transferees and assigns; provided that the Corporation may not assign all or any part of this Agreement without the prior written consent of the Authority. The Note is not negotiable and not registered. The Authority may assign, transfer, or grant participations in all or any portion of this Agreement, the Note, or any of its rights or security hereunder, including without limitation, the instruments securing the Corporation's obligations under this Agreement; provided that any such assignment, transfer, or grant shall be made only to a financial institution whose primary business is the lending of money and the Authority shall give written notice to the Corporation of such assignment, transfer or grant prior to such assignment, transfer or grant

becoming effective. Notwithstanding the foregoing, it is specifically acknowledged and agreed that, to the extent of their rights hereunder (including, without limitation, their rights to immunity and exculpation from pecuniary liability) each Authority Indemnified Person is a third-party beneficiary of this Agreement entitled to enforce such rights in his, her, its or their own name.

Section 8.4 Entire Agreement. The Corporation Documents contain the entire agreement between the parties, and there are no other representations, endorsements, promises, agreements, or understandings, oral or written, express or implied, between the Corporation and the Authority.

Section 8.5 Severability. If any part of this Agreement is ruled invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability thereof shall not affect the remainder of this Agreement.

Section 8.6 Survival of Provisions. The provisions of this Agreement and the Trust Agreement and any other document in connection with the issuance of the Bonds to which the Authority is a party concerning (i) the tax-exempt status of the Bonds (including, but not limited to provisions concerning rebate); (ii) the interpretation of this Agreement; (iii) governing law, jurisdiction and venue; (iv) the Authority's right to rely on written representations of others contained herein or in any other document or instrument entered into or issued in connection with the Bonds, regardless of whether the Authority is a party thereto; (v) the immunity, right to indemnification and lack of pecuniary liability of the Authority and the Authority Indemnified Persons; and (vi) any other provision of this Agreement not described or enumerated above that expressly provides for its survival, shall survive and remain in full force and effect notwithstanding the payment or redemption in full, or defeasance of the Bonds, the discharge of the Trust Agreement, and the termination or expiration of this Agreement.

Section 8.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same document.

Section 8.8 Governing Law and Venue.

(a) Except as and to the extent provided in Subsection (b) this Agreement and all disputes, claims, defenses, controversies or causes of action (whether in contract or tort) that may be based upon, arise out of or relate hereto, including as to any representation or warranty made by the Corporation in or in connection with this Agreement or as an inducement to enter into this Agreement, shall be governed by and construed in accordance with the laws of the State, without regard to any conflicts of laws principles.

(b) Notwithstanding Subsection (a), any disputes, claims, defenses, controversies or causes of action based upon, arising out of or relating to the following enumerated matters shall be governed by the laws of the State of Wisconsin, excluding conflicts of law principles: (i) the Authority's organization, existence, statutory and corporate powers, and legal and contractual capacity; (ii) the Authority's right to the payment of its fees, costs and expenses, including, but not limited to, attorneys' fees, costs of investigation and the expenses of other professionals retained by the Authority and the reasonableness of such fees, costs, and expenses; (iii) the Authority's and the Authority Indemnified Persons' rights to indemnification from the Construction Manager (and

the Construction Manager's corresponding obligation to provide such indemnification); (iv) the Corporation's release of the Authority and the Authority Indemnified Persons from liability; (v) exculpation of the Authority and the Authority Indemnified Persons from pecuniary liability; and (vi) the Authority's governmental rights, privileges and immunities.

(c) All claims of whatever character arising out of this Agreement shall be commenced in any state or federal court of competent jurisdiction located in Williamson County, Texas, *provided* that to the extent that a dispute, claim, controversy or cause of action enumerated in Section 8.8(b) can be separated, from other disputes under this Agreement ("Separate Dispute"), such Separate Dispute shall be adjudicated by a state or federal court of competent jurisdiction located in Dane County, Wisconsin. By executing and delivering this Agreement, each party hereto irrevocably: (i) accepts generally and unconditionally the exclusive jurisdiction and venue of such courts; (ii) waives any defense of *forum non conveniens*; (iii) agrees not to seek removal of such proceedings to any court or forum other than as specified above. The foregoing shall not be deemed or construed to constitute a waiver by the Authority of any prior notice or procedural requirements applicable to actions or claims against or involving joint powers commissions or governmental units of the State of Wisconsin that may exist at the time of and in connection with such matter.

Section 8.9 Waiver of Personal Liability. No Authority Indemnified Person, Corporation Director, or City Council Member shall be individually or personally liable for the payment of any principal of, premium, if any, or interest on the Bonds or any costs incidental thereto or any amount under this Agreement or the Trust Agreement or be subject to personal liability or accountability by reason of the execution and delivery of this Agreement or the Trust Agreement. No Authority Indemnified Person (including any Authority Indemnified Person who executes any certificate in connection with the Note or the Bonds that restates or certifies as to the truth and accuracy thereof) Corporation Director, or City Council Member shall be individually liable for the breach of any representation, warranty or agreement contained herein.

Section 8.10 Non-Liability of the Authority. The Authority shall not be obligated to pay the principal of, premium, if any, or interest on the Bonds or any costs incidental thereto, except from the Pledged Revenues. Neither the faith and credit nor the taxing power of any Sponsor, any Member, the State of Wisconsin or any other political subdivision or agency thereof or any political subdivision approving the issuance of the Bonds, nor the faith and credit of the Authority, is pledged to the payment of the principal of, premium, if any, or interest on the Bonds or any costs incidental thereto. The Authority has no taxing power. The Authority shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Agreement, the Bonds or the Trust Agreement, except only to the extent amounts are received for the payment thereof from the Corporation under this Agreement.

The Corporation hereby acknowledges that the Authority's sole source of moneys to repay the Bonds is the Pledged Revenues, and hereby agrees that if the payments to be made under this Agreement shall ever prove insufficient to pay all principal, premium, if any, and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Corporation shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal, premium, if any,

or interest when due, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Authority, the Corporation or any third party, subject to any right of reimbursement from the Trustee, the Authority or any such third party, as the case may be, therefor. Notwithstanding the foregoing, the Corporation's obligation to make the payments required hereunder shall be a special limited obligation payable solely from the Pledged Revenues, and shall never be a charge against the general credit or taxing powers, if any, of the Authority, Authority Indemnified Persons, any Member, any Sponsor, the State of Wisconsin, the City, the State of Texas, any political subdivision or agency of the States of Wisconsin or Texas, or any political subdivision approving the issuance of the Bonds.

Section 8.11 No Obligation to Enforce Assigned Rights. Notwithstanding anything to the contrary in this Loan Agreement or the Trust Agreement, the Authority shall have no obligation to and instead the Trustee, in accordance with this Agreement or the Trust Agreement, shall have the right, without any direction from or action by the Authority, to take any and all steps, actions and proceedings, to enforce any or all rights of the Authority under this Agreement or the Trust Agreement (other than the Unassigned Rights), including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Corporation under the Agreement.

Section 8.12 No Impairment of Rights. Nothing herein shall be deemed or construed to limit, impair or affect in any way the Authority's (or any Authority Indemnified Person's) right to enforce the Unassigned Rights, regardless of whether there is then existing an Event of Default (including, without limitation, a payment default), or any action based thereon or occasioned by an Event of Default or alleged Event of Default, and regardless of any waiver or forbearance granted by the Trustee or any holder in respect thereof. Any default or Event of Default in respect of the Unassigned Rights may only be waived with the Authority's written consent.

Section 8.13 Authority's Performance. None of the provisions of this Agreement shall require the Authority to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the Pledged Revenues, or unless Authority shall first have been adequately indemnified to its satisfaction against the cost, expense, and liability which may be incurred thereby. The Authority shall not be under any obligation hereunder to perform any administrative service with respect to the Bonds or the Project (including, without limitation, record keeping and legal services), it being understood that such services shall be performed or provided by the Trustee or the Corporation. The Authority covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions expressly contained in this Agreement, the Trust Agreement, and any and every Bond executed, authenticated and delivered under the Trust Agreement; provided, however, that the Authority shall not be obligated to take any action or execute any instrument pursuant to any provision hereof unless and until it shall have (i) been directed to do so in writing by the Corporation, the Trustee, or the holders having the authority to so direct; (ii) received from the Person requesting such action or execution assurance satisfactory to the Authority that the Authority's expenses incurred or to be incurred in connection with taking such action or executing such instrument have been or will be paid or reimbursed to the Authority; and (iii) if applicable, received in a timely manner the instrument or document to be executed, in form and substance satisfactory to the Authority.

In complying with any provision herein or in the Agreement, including but not limited to any provision requiring the Authority to “cause” another Person to take or omit any action, the Authority shall be entitled to rely conclusively (and without independent investigation or verification) (i) on the faithful performance by the Trustee or the Corporation, as the case may be, of their respective obligations hereunder and under the Loan Agreement and (ii) upon any written certification or opinion furnished to the Authority by the Trustee or the Corporation, as the case may be. In acting, or in refraining from acting, under this Agreement, the Authority may conclusively rely on the advice of its counsel. The Authority shall not be required to take any action hereunder or under the Trust Agreement that it reasonably believes to be unlawful or in contravention hereof or thereof.

Section 8.14 Liability of the Corporation. The Corporation shall not be liable for any costs, expenses, losses, damages, claims or actions under or by reason of or in connection with this Agreement, except as set forth herein.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective duly authorized officers as of the date first above written.

PUBLIC FINANCE AUTHORITY

By: _____
Name: _____
Assistant Secretary

**RIVER CREEK DEVELOPMENT
CORPORATION**

By _____
Chair

ATTEST:

By _____
Secretary

EXHIBIT A

Principal Amount
\$6,660,000.00

January 17, 2019

Form of Note

PROMISSORY NOTE

RIVER CREEK DEVELOPMENT CORPORATION (the “*Corporation*”) for value received, hereby promises to pay to the order of the **PUBLIC FINANCE AUTHORITY** its successor or assigns (the “*Authority*”), at its offices located at 22 E. Mifflin Street, Suite 900, Madison, Wisconsin 53703 in lawful money of the United States of America, the principal sum of SIX MILLION SIX HUNDRED SIXTY THOUSAND 00/100 DOLLARS.

All capitalized terms which are used but not defined in this Note shall have the same meanings as in the Loan Agreement dated January 17, 2019, between the Corporation and the Authority (such Loan Agreement, together with all amendments or supplements thereto, being the “*Loan Agreement*”).

In addition to the principal sum referred to in the first paragraph of this Note, the Corporation also agrees to pay interest on the outstanding principal balance at the interest rate borne on the Bonds (calculated on the per annum basis of a 360 day year consisting of twelve 30-day months).

Notwithstanding any other provisions of this Note, interest payable on this Note, together with any other costs, consideration, or payments in the nature of and constituting interest under applicable law (whether denominated as interest or as any other type of payment hereunder or thereunder, respectively) shall not exceed, and shall automatically be reduced to, the Maximum Interest Rate; and all such costs, consideration, and payments constituting interest shall be pro-rated, spread, and allocated, to the fullest extent permitted by law, to such periods and loan amounts as will cause the money so paid or received to conform to and comply with applicable law and the Maximum Interest Rate.

The principal and interest of this Note are due and payable in the amounts and on the dates set forth in Schedule I attached hereto.

This Note is authorized under the Loan Agreement and is subject to, and is executed in accordance with, all of the terms, conditions, and provisions thereof. A fully executed copy of the Loan Agreement is on file in the permanent records of the Corporation and is open for inspection to any member of the general public and to any person proposing to do business with, or asserting claims against, the Corporation, at all times during regular business hours.

The principal of and interest on this Note are payable from the Corporation’s Pledged Revenues, as described in and subject to the limitations contained in the Loan Agreement.

Except as otherwise provided in the Loan Agreement, the Corporation waives all demands for payment, presentations for payment, protests, notices of protests, and all other demands and notices, to the extent permitted by law.

All agreements between the Corporation and holder hereof, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand, prepayment, or otherwise, shall the interest contracted for, charged, received, paid, or agreed to be paid to the holder hereof, exceed the maximum permissible by applicable law. If, from any circumstances whatsoever, interest would otherwise be payable to the holder hereof in excess of the Maximum Interest Rate, then the interest payable to the holder hereof shall be reduced to the maximum amount permitted under applicable law; and if from any circumstances the holder hereof shall ever receive anything of value deemed interest by applicable law in excess of the Maximum Interest Rate, an amount equal to any excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to the Corporation. All interest paid or agreed to be paid to the holder hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period of the subject loan until payment in full of the principal so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Corporation and the holder hereof.

THIS NOTE AND THE LOAN AGREEMENT REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

NEITHER THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, THE STATE OF WISCONSIN NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATES OF TEXAS OR WISCONSIN SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON THIS NOTE, EXCEPT TO THE EXTENT THAT THE CORPORATION IS OBLIGATED TO MAKE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS NOTE. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, THE STATE OF WISCONSIN OR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATES OF TEXAS OR WISCONSIN IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS NOTE, EXCEPT TO THE EXTENT THE CORPORATION HAS PLEDGED THE PLEDGED REVENUES DESCRIBED ABOVE TO MAKE THE NOTE PAYMENTS.

Principal due on this Note may be voluntarily prepaid pursuant to the provisions of Section 2.6 of the Loan Agreement. Principal due on this Note shall be mandatorily prepaid in accordance with Section 2.7 of the Loan Agreement.

If a date for the payment of the principal of or interest on the Note is a Saturday, Sunday, legal holiday, or a day on which the Authority is authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday,

legal holiday, or day on which such banking institution is authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Note shall be governed in all respects by the laws of the State of Texas as described in the Loan Agreement and of the United States of America.

IN WITNESS WHEREOF, this Note has been duly executed in accordance with law as of January 17, 2019.

**RIVER CREEK DEVELOPMENT
CORPORATION**

By: _____
Chair

ATTEST:

By: _____
Secretary

ENDORSEMENT

FOR VALUE RECEIVED, the Public Finance Authority (the "Authority") hereby irrevocably assigns and transfers the foregoing Note, without recourse or warranty, except warranty of good title and warranty that the Authority has not assigned the foregoing Note to a person other than the hereinafter defined Trustee, to the order of U.S. Bank National Association and its successors and assigns (the "Trustee"), trustee under a Trust Indenture, dated as of January 17, 2019, between the Authority and the Trustee. The Authority hereby directs the maker of the Note, to make all payments with respect to principal of, premium, if any, and interest on the Note and all other payments required thereby directly to the order of the Trustee for the account of the Authority at the Trustee's corporate trust office in Dallas, Texas, or such other place as the Trustee, or its successor in trust, may designate in writing.

Dated and executed on _____, 2019.

PUBLIC FINANCE AUTHORITY

By: _____
Name: _____
Title: Assistant Secretary

SCHEDULE I

Loan Payments

Closing Date: January 30, 2019

Note Payment Date	Semi-Annual Total
4/1/2019	-
10/1/2019	-
4/1/2020	\$12,384.00
10/1/2020	9,324.00
4/1/2021	77,333.95
10/1/2021	270,799.00
4/1/2022	201,872.12
10/1/2022	273,688.50
4/1/2023	199,674.55
10/1/2023	276,427.25
4/1/2024	197,327.49
10/1/2024	279,015.25
4/1/2025	194,830.99
10/1/2025	281,452.50
4/1/2026	192,185.06
10/1/2026	283,739.00
4/1/2027	189,389.73
10/1/2027	285,874.75
4/1/2028	186,445.03
10/1/2028	287,859.75
4/1/2029	183,350.98
10/1/2029	294,694.00
4/1/2030	179,956.87
10/1/2030	296,226.75
4/1/2031	176,413.48
10/1/2031	297,608.75
4/1/2032	172,720.82
10/1/2032	303,840.00
4/1/2033	168,728.19
10/1/2033	304,769.75
4/1/2034	164,586.36
10/1/2034	310,548.75
4/1/2035	160,144.61

Schedule I

10/1/2035	311,026.25
4/1/2036	155,553.72
10/1/2036	316,353.00
4/1/2037	150,662.99
10/1/2037	321,378.25
4/1/2038	145,472.43
10/1/2038	326,102.00
4/1/2039	139,982.09
10/1/2039	330,524.25
4/1/2040	134,192.00
10/1/2040	339,645.00
4/1/2041	127,951.44
10/1/2041	343,313.50
4/1/2042	121,411.20
10/1/2042	351,680.50
4/1/2043	114,420.56
10/1/2043	354,595.25
4/1/2044	107,130.32
10/1/2044	362,208.50
4/1/2045	99,389.75
10/1/2045	369,369.50
4/1/2046	91,198.91
10/1/2046	376,078.25
4/1/2047	82,557.82
10/1/2047	387,334.75
4/1/2048	73,315.78
10/1/2048	392,988.25
4/1/2049	63,623.58
10/1/2049	403,189.50
4/1/2050	53,330.52
10/1/2050	412,787.75
4/1/2051	42,436.62
10/1/2051	421,783.00
4/1/2052	30,941.94
10/1/2052	430,175.25
4/1/2053	18,846.53
10/1/2053	442,964.50

Schedule I

CROSS CREEK PUBLIC IMPROVEMENT DISTRICT

**LANDOWNER AGREEMENT
AND NOTICE OF SPECIAL ASSESSMENTS**

between

THE CITY OF HUTTO, TEXAS

and

MERITAGE HOMES OF TEXAS, LLC

Dated as of:

January 17, 2019

LANDOWNER AGREEMENT AND NOTICE OF SPECIAL ASSESSMENTS
(Cross Creek Public Improvement District)

This **LANDOWNER AGREEMENT AND NOTICE OF SPECIAL ASSESSMENTS** (the “Agreement”) is entered into among the CITY OF HUTTO, TEXAS, a home-rule municipal corporation of the State of Texas (the “City”), MERITAGE HOMES OF TEXAS, LLC, an Arizona limited liability company (the “Landowner”) (individually “Party” or collectively “Parties”). This Agreement shall be effective on the latest date it is executed by all the Parties (the “Effective Date”).

RECITALS

WHEREAS, the Landowner owns approximately 167.461 acres of land located in Hutto, Williamson County, Texas which is more particularly described in **Exhibit “A”** attached hereto (the “Land”).

WHEREAS, the Land constitutes taxable, privately-owned land located within the Cross Creek Public Improvement District (the “District”) created pursuant to the authority of Chapter 372, Texas Local Government Code (the “PID Act”);

WHEREAS, the City created the River Creek Development Corporation (the “Corporation”) pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code and the Chapter 22 of the Texas Business Organizations Code, which Corporation is authorized to assist and act on behalf of the City;

WHEREAS, the Landowner and the Corporation have entered into that certain Construction Contract, dated January 17, 2019 (the “Construction Contract”);

WHEREAS, the Corporation and the Public Finance Authority, a unit of government and a body corporate and politic of the State of Wisconsin, have entered into that certain Loan Agreement, dated January 17, 2019 (the “Loan Agreement”) (the Construction Contract and the Loan agreement shall be collectively referenced to herein as the “PID Documents”), relating to, among other matters, the levy of assessments on the Land, the issuance of revenue bonds secured by such assessments, and the construction of the “Public Improvements” as defined therein;

WHEREAS, the City Council of the City (the “City Council”) has contemporaneously herewith adopted an assessment ordinance (Ordinance No. _____) (including all exhibits, the “Assessment Ordinance”) that levied a “Special Assessment” (as that term is defined in the Service and Assessment Plan, defined herein) on each parcel within the Cross Creek Public Improvement District (the “District”), which Special Assessments will be pledged as security for the payment of bonds (the “PID Bonds”) to be issued by the City to pay for, among other things, the costs of constructing the Public Improvements that will confer a special benefit on the property in the District;

WHEREAS, a copy of the Assessment Ordinance is attached hereto as **Exhibit “B”**;

WHEREAS, the Assessment Ordinance includes a “Service and Assessment Plan”;

WHEREAS, the Service and Assessment Plan includes an “Assessment Roll” setting forth the amount of the Special Assessment for each parcel subject to Special Assessment (an “Assessed Parcel”), including the amount of the “Annual Installment” (as that term is defined in the Service and Assessment Plan) for each Special Assessment paid in installments; and

NOW THEREFORE, for and in consideration of the mutual promises, covenants, obligations, and benefits hereinafter set forth, the Parties agree as follows:

ARTICLE I **APPROVAL OF AGREEMENTS**

Affirmation of Recitals. The matters set forth in the Recitals of this Agreement are true and correct and are incorporated in this Agreement as official findings of the City Council.

ARTICLE II **AGREEMENT OF LANDOWNER**

A. Landowner ratifies, confirms, accepts, agrees to, and approves:

- (i) the creation of the District, the boundaries of the District, and the boundaries of the Assessed Parcels;
- (ii) the location and construction of the Public Improvements;
- (iii) the determinations and findings of special benefit to the Assessed Parcels made by the City Council in the Assessment Ordinance and Service and Assessment Plan; and
- (iv) the Assessment Ordinance and the Service and Assessment Plan.

B. Landowner consents, acknowledges, accepts, and agrees:

- (i) to the Special Assessments to be levied against the applicable Assessed Parcels as shown on the Assessment Roll, as the Assessment Roll may be amended from time to time;
- (ii) that the Public Improvements and administration and operation of the District confer a special benefit on the Assessed Parcels in an amount that exceeds the Special Assessments against the Assessed Parcels as shown on the Assessment Roll;
- (iii) that the Special Assessments against the Assessed Parcels are final, conclusive, and binding upon the Landowner and its successors and assigns;
- (iv) to pay the Special Assessments and Annual Installments against the Assessed Parcels when due and in the amounts stated in the Assessment Ordinance, Service and Assessment Plan, and Assessment Roll;

(v) that each Special Assessment or reassessment against the Assessed Parcels, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Assessed Parcels, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Assessed Parcels regardless of whether the owner is named;

(vi) that the Special Assessment liens on the Assessed Parcels are liens and covenants that run with the land and are effective from the date of the Assessment Ordinance and continue until the Special Assessments are paid in full and may be enforced by the governing body of the City in the same manner that ad valorem tax liens against real property may be enforced;

(vii) that delinquent installments of Special Assessments against the Assessed Parcels shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) that the owner of an Assessed Parcel may pay at any time the entire Assessment against the Assessed Parcel, with interest that has accrued on the Assessment to the date of such payment;

(ix) that Annual Installments may be adjusted, decreased, and extended and that owners of the Assessed Parcels shall be obligated to pay such Annual Installments as adjusted, decreased, or extended, when due and without the necessity of further action, assessments, or reassessments by the City Council;

(x) that the Landowner has received, or hereby waives, all notices required by State law (including, but not limited to the PID Act) in connection with the creation of the District and the adoption and approval by the City Council of the Assessment Ordinance, the Service and Assessment Plan, and the Assessment Roll; and

(xi) that this Agreement may be recorded in the real property records of Williamson County (the contents of which shall be consistent with the Assessment Ordinance, the Service and Assessment Plan, and this Agreement) that evidence the lien and encumbrance created upon the Landowner's Assessed Parcels by the Assessment Ordinance.

C. Landowner hereby waives:

(i) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District, defining the Assessed Parcels, adopting the Assessment Ordinance, Service and Assessment Plan, and Assessment Roll, levying of the Special Assessments, and determining the amount of the Annual Installments of the Special Assessments;

(ii) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the approval of the Assessment Ordinance, Service and Assessment Plan, and

Assessment Roll and regarding the levying of the Special Assessments and determining the amount of the Annual Installments of the Special Assessments;

(iii) any and all actions and defenses against the adoption or amendment of the Assessment Ordinance, Service and Assessment Plan, and Assessment Roll;

(iv) any and all actions and defenses against the City's finding of "special benefit" pursuant to the PID Act and as set forth in the Service and Assessment Plan and the levying of the Special Assessments and determining the amount of the Annual Installment of the Special Assessments; and

(v) any right to object to the legality of the Assessment Ordinance, Service and Assessment Plan, Assessment Roll, or Special Assessments or to any proceedings connected therewith.

ARTICLE III

TEXAS PROPERTY CODE SECTION 5.014 NOTICE

The following notice is required to be given by any seller of any Assessed Parcel that is "residential real property" as defined in Section 5.014 of the Texas Property Code to the purchaser of such residential real property:

NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF HUTTO, WILLIAMSON COUNTY, TEXAS, CONCERNING ASSESSED PARCELS.

As the purchaser of a parcel of residential real property located in a public improvement district, you are obligated to pay a Special Assessment for improvement projects undertaken by the District under Chapter 372, Local Government Code which Special Assessment will be collected by the City or the City's designee. Information about the Special Assessment (such as its due date or how it is paid) may be obtained by contacting the City. The Assessment against your parcel may be paid in full at any time together with interest through the date of payment. If you do not elect to pay the Assessment in full, it will be due and payable in annual payments, including interest and collection costs. Your failure to pay the Special Assessment or any annual payment could result in a lien on and the foreclosure of your Parcel.

ARTICLE IV

DEDICATION OF PUBLIC IMPROVEMENTS

Landowner acknowledges that the Public Improvements, together with the land, easements, or other rights-of-way needed for the Public Improvements, shall be dedicated to the City or the applicable owner's association as provided in the PID Documents. Landowner will execute such conveyances and/or dedications as may be reasonably required to evidence the same.

ARTICLE V
MISCELLANEOUS

A. Notices. Any notice or other communication (a “Notice”) required or contemplated by this Agreement shall be given at the addresses set forth below. Notices as to one or more Assessed Parcels shall only be given to the Landowner that owns the applicable Assessed Parcels. Notices as to all of the Land shall be given to all Landowners. Notices shall be in writing and shall be deemed given: (i) five business days after being deposited in the United States Mail, Registered or Certified Mail, Return Receipt Requested; or (ii) when delivered by a nationally recognized private delivery service (e.g., FedEx or UPS) with evidence of delivery signed by any person at the delivery address. Each Party may change its address by written notice to the other Parties in accordance with this section.

If to Landowner:

Meritage Homes of Texas, LLC
Attention: Elliot Jones
8920 Business Park Dr., Suite 350
Austin, Texas 78759
E-Mail: Elliot.Jones@meritagehomes.com

With a copy to:
Metcalf Wolff Stuart & Williams, LLP
Attn: Steven C. Metcalfe
221 W. 6th St., Suite 1300
Austin, Texas 78701
Facsimile: (512) 404-2244

If to City:

City of Hutto
Attn: City Manager
401 W. Front St.
Hutto, Texas 78634

With a copy to:
McGinnis Lochridge
Attn: Bill Bingham
600 Congress Ave., Suite 2100
Austin, Texas 78701
E-Mail: bbingham@mcginnislaw.com

B. Parties in Interest. In the event of the sale or transfer of an Assessed Parcel or any portion thereof, the purchaser or transferee shall be deemed to have assumed the obligations of the Landowner with respect to such Assessed Parcel or such portion thereof, and the seller or transferor shall be released with respect to such Assessed Parcel or portion thereof. Notwithstanding the foregoing, the holders of PID Bonds are express beneficiaries of this

Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the Parties, subject to the limitations set forth in the Indenture.

C. Amendments. This Agreement may be amended only by a written instrument executed by all the Parties. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the Land and recorded in the Official Public Records of Williamson County, Texas.

D. Estoppels. Within 10 days after written request from any Party, the other Parties shall provide a written certification indicating whether this Agreement remains in effect as to an Assessed Parcel and whether any Party is then in default hereunder.

E. Termination. This Agreement shall terminate as to each Assessed Parcel upon payment in full of the Special Assessment against the Assessed Parcel.

[SIGNATURE PAGES TO FOLLOW]

EXECUTED by the Parties on the dates stated below.

THE CITY OF HUTTO, TEXAS

By: _____
Odis Jones, City Manager

STATE OF TEXAS

§

§

COUNTY OF WILLIAMSON

§

BEFORE ME, a Notary Public, on this day personally appeared Odis Jones, City Manager of the City of Hutto, a Texas home-rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed on behalf of that municipal corporation.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, 2019

(SEAL)

Notary Public, State of Texas

LANDOWNER:

MERITAGE HOMES OF TEXAS, LLC,
an Arizona limited liability company

By: _____
Elliot Jones, Vice President of Land Acquisition

STATE OF TEXAS

§
§
§

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____, 2019 by, Elliot Jones, Vice President of Land Acquisition of Meritage Homes of Texas, LLC, an Arizona limited liability company, on behalf of said company.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, 2019

(SEAL)

Notary Public, State of Texas

EXHIBIT A to LANDOWNER AGREEMENT

Legal Description

BEING A 167.461 ACRES TRACT, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NUMBER 271, WILLIAMSON COUNTY, TEXAS AND BEING ALL OF A CALLED 167.375 ACRES TRACT DESCRIBED IN A WARRANTNY DEED TO ROBERT DERRELL NEAL, TRUSTEE AND RECORDED IN VOLUME 2481, PAGE 383 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS (D.R.W.C.T.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in the south right-of-way line of County Road 199 (CR 199), a variable width right-of-way (no recording info found), for the northeast corner of said 167.375 acres tract, same being the northwest corner of a called 46.14 acres tract described in a Special Warranty Deed to Leschber Investments, LP and recorded in Document Number 2010007503 of the Official Public Records of Williamson County, Texas (O.P.R.W.C.T.);

THENCE leaving said south right-of-way line of CR 199, with the east line of said 167.375 acres tract, same being the west line of said 46.14 acres tract and the west line of the remainder of a called 367.15 acres tract described in a Warranty Deed to Hutto 372, LTD and recorded in Document Number 2003097297 of said O.P.R.W.C.T., S07°45'44"W a distance of 4,157.28 feet to 5/8-inch iron rod found for an angle point in said east line of the 167.375 acres tract and said west line of the remainder of the 367.15 acres tract;

CONTINUING with said east line of the 167.375 acres tract and the west line of the remainder of the said 367.15 acres tract, S07°34'46"W passing at a distance of 643.67 feet a 1/2-inch iron rod with plastic cap stamped "DIAMOND SURVEYING" found for the northeast corner of Lot 32, Block L, Glenwood, Phase 5, a legal subdivision according to the plat of record in Document Number 2015064417 of said O.P.R.W.C.T., continuing in all a distance of 854.99 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found for the southeast corner of said 167.375 acres tract, same being the southwest corner of said Lot 32, Glenwood Phase 5, the northwest corner of Lot 26, Block L, said Glenwood Phase 5, and the northeast corner of Lot 25, Block L, Glenwood Phase 6A, a legal subdivision according to the plat of record in Document Number 2014095379 of said O.P.R.W.C.T.;

THENCE with the south line of said 167.375 acres tract, same being the north line of said Glenwood Phase 6A and the north line of Glenwood Phase 6B, a legal subdivision according to the plat of record in Document Number 2015069954 of said O.P.R.W.C.T., N82°12'11"W a distance of 791.37 feet to a 1/2-inch iron rod with plastic cap stamped "RJ SURVEYING" found in the north line of Lot 13, Block L, said Glenwood Phase 6B for the southwest corner of said 167.375 acres tract, same being the southeast corner of a 20-foot wide roadway as described in a Dedication Deed to the Public in Volume 271, Page 110 of said O.P.R.W.C.T.;

THENCE leaving said north line of Lot 13, Block L, Glenwood Phase 6B with the west line of said 167.375 acres tract, same being the east line of said 20-foot wide roadway, and the east line of Creek Bend, Section 2, a legal subdivision according to the plat of record in Document Number 2003111865 of said O.P.R.W.C.T., N07°49'29"E a distance of 578.72 feet to a 1-inch (inside diameter) iron pipe found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend, Section 2;

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Creek Bend, Section 2, the east line of a called 1.77 acres tract described in a Dedication Special Warranty Deed to the City of Hutto and recorded in Document Number 2007055773 of said O.P.R.W.C.T., and the east line of

Creek Bend Section 5, a legal subdivision according to the plat of record in Document Number 2007058323 of said O.P.R.W.C.T., N30°06'10"W a distance of 499.87 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract and said east line of Creek Bend Section 5;

CONTINUING with said west line of the 167.375 acres tract and said east line of Creek Bend Section 5 the following nine (9) courses and distances:

1. N01°48'18"E a distance of 187.76 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found,
2. N06°10'04"E a distance of 175.64 feet to a 1/2-inch iron rod found,
3. N18°52'15"W a distance of 226.14 feet to a 1/2-inch iron rod found,
4. N05°32'37"W a distance of 296.97 feet to a 1/2-inch iron rod with plastic cap stamped "STANLEY CONSULTANTS INC" found,
5. N57°21'53"W a distance of 73.20 feet to a 1/2-inch iron rod with (cap illegible)found,
6. N62°30'06"W a distance of 172.87 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found,
7. N62°02'30"W a distance of 132.78 feet to a 1/2-inch iron rod found,
8. N59°56'34"W a distance of 94.51 feet to a 1/2-inch iron rod found, and
9. N46°24'31"W a distance of 133.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being the northwest corner of Lot 28, Block B, said Creek Bend Section 5, same being the most easterly corner of Lot 16, Block B, Creek Bend Section 4, a legal subdivision according to the plat of record in Document Number 2005093870 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, same being the east line of Lot 16, Block B, Creek Bend Section 4, the following two (2) courses and distances:

1. N10°19'27"W a distance of 73.59 feet to a 1/2-inch iron rod with plastic cap stamped "M. MEADOR RPLS 1966" found, and
2. N37°39'42"W a distance of 5.18 feet to a 1/2-inch iron rod found for the northeast corner of Lot 16, Creek Bend Section 4, same being the southeast corner of Lot 21, Block B, Creekside Estates Section 1, a legal subdivision according to the plat of record in Document Number 1999084644 of said O.P.R.W.C.T.;

CONTINUING with said west line of the 167.375 acres tract, N19°24'00"W a distance of 73.21 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found in said west line of the 167.375 acres tract;

THENCE with said west line of the 167.375 acres tract, N12°26'12"W passing at a distance of 102.48 feet the east line of Lot 22, Block B, said Creekside Estates Section 1, and continuing in all a distance of

120.20 feet to a 1/2-inch iron rod stamped "BASELINE INC." for an angle point in said west line of the 167.375 acres tract, and from which a 1/2-inch iron rod found for an angle point in said east line of Lot 22 bears S42°10'33"E a distance of 6.50 feet;

CONTINUING across said Lot 22 with said west line of the 167.735 acres tract, N60°46'25"E a distance of 96.22 feet to 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, and said east line of said Lot 22, Creekside Estates Section 1;

THENCE leaving said east line of Lot 22, Creekside Estates Section 1, continuing with said west line of the 167.375 acres tract, the following two (2) courses and distances:

1. N23°37'10"E a distance of 95.09 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF" set, and
2. N07°18'37"E a distance of 701.65 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract, same being an angle point in said east line of Lot 22, Creekside Estates Section 1;

CONTINUING with said west line of the 167.375 acres tract, same being said east line of Lot 22, Creekside Estates Section 1 the following two (2) courses and distances:

1. N59°31'53"W a distance of 79.81 feet to a 1/2-inch iron rod found, and
2. N02°12'28"E a distance of 69.49 feet to a 1/2-inch iron rod found for an angle point in said west line of the 167.375 acres tract and said east line of Lot 22, Creekside Estates Section 1, for the southwest corner of a called 14.463 acres tract described in a Special Warranty Deed and Quitclaim to the City of Hutto and recorded in Document Number 2010009249 of said O.P.R.W.C.T.;

THENCE with said west line of the 167.375 acres tract, same being the south line of said 14.463 acres tract and the south line of a called 15.52 acres tract described in a Warranty Deed to the City of Hutto and recorded in Volume 875, Page 443 of said D.R.W.C.T., N44°58'37"E a distance of 678.88 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC" found for an angle point in said west line of the 167.375 acres tract for the southeast corner of said 15.52 acres tract;

THENCE with said west line of the 167.375 acres tract, same being the east line of said 15.52 acres tract the following two (2) courses and distances:

1. N16°42'52"E a distance of 35.17 feet to a 1/2-inch iron rod found,
2. N03°26'59"W a distance of 217.96 feet to a 1/2-inch iron rod with plastic cap stamped "BASELINE INC", and
3. N77°01'16"W a distance of 65.76 feet to a 1/2-inch iron rod found for an angle point in said east line of the 15.52 acres tract, same being the southeast corner of a called 4.4485 acres tract described in a General Warranty Deed to the City of Hutto and recorded in Document Number 2003018508 of said O.P.R.W.C.T.;

THENCE leaving said east line of the 15.52 acres tract, continuing with said west line of the 167.375 acres tract, same being the east line of said 4.4485 acres tract, N06°31'24"E a distance of 890.75 feet to a

1/2-inch iron rod found in the east line of said 14.463 acres tract, for the northwest corner of said 167.375 acres tract, same being the northeast corner of said 4.4485 acres tract;

THENCE with the north line of said 167.375 acres tract, same being said east line of the 14.463 acres tract, N77°09'39"E a distance of 105.46 feet to a fence corner post found in said east line of the 14.463 acres tract, for an angle point in said north line of the 167.375 acres tract;

THENCE leaving said east line of the 14.463 acres tract, with said north line of the 167.375 acres tract, same being the south right-off-way line of said CR199, S82°37'57"E a distance of 1,535.39 feet to said **POINT OF BEGINNING** and containing 167.461 acres.

EXHIBIT B to LANDOWNER AGREEMENT

Assessment Ordinance

**PUBLIC FINANCE AUTHORITY
PUBLIC IMPROVEMENT REVENUE BONDS, SERIES 2019
(CROSS CREEK PUBLIC IMPROVEMENT DISTRICT PROJECT)**

CONTINUING DISCLOSURE AGREEMENT OF THE DEVELOPER

This Continuing Disclosure Agreement of the Developer dated as of January 17, 2019 (this “Disclosure Agreement”) is executed and delivered by and among Meritage Homes of Texas, LLC, an Arizona limited liability company (the “Developer”), Development Planning & Financing Group, Inc., as Administrator (the “Administrator”), and U.S. Bank National Association, as Dissemination Agent (the “Dissemination Agent”) with respect to the “Public Finance Authority Public Improvement Revenue Bonds, Series 2019 (Cross Creek Public Improvement District Project)” (the “Bonds”). The Developer, the Administrator, and the Dissemination Agent agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered for the benefit of the Owners (defined below) and beneficial owners of the Bonds. Unless and until a different filing location is designated by the MSRB (defined below) or the SEC (defined below), all filings made by the Dissemination Agent pursuant to this Disclosure Agreement shall be filed with the MSRB through EMMA (defined below).

SECTION 2. Definitions. In addition to the definitions set forth above and in the Trust Agreement dated as of January 17, 2019, relating to the Bonds (the “Trust Agreement”), which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Administrative Expenses” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Administrator” shall mean the designated firm or person engaged to administer the Service and Assessment Plan for the District. Development Planning & Financing Group, Inc. has been selected as the initial Administrator.

“Affiliate” shall mean an entity that owns property within the District and is controlled by, controls, or is under common control with the Developer or any Subsequent Third Party Owner.

“Annual Installment(s)” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Business Day” shall mean any day other than a Saturday, Sunday or legal holiday in the State of Texas.

“City” means the City of Hutto, Texas.

“Construction Contract” shall have the meaning assigned to such term in the Interlocal Agreement.

“Corporation” shall mean the River Creek Development Corporation.

“Developer” shall mean Meritage Homes of Texas, LLC, an Arizona limited liability company, including any Affiliate of the Developer, and its successors and assigns.

“Dissemination Agent” shall mean U.S. Bank National Association, or any successor Dissemination Agent designated in writing by the Developer to the Issuer and the Trustee.

“District” shall mean the Cross Creek Public Improvement District.

“EMMA” shall mean the Electronic Municipal Market Access System available on the internet at <http://emma.msrb.org>.

“Fiscal Year” shall mean January 1 to December 31.

“Interlocal Agreement” shall have the meaning assigned to such term in the Trust Agreement.

“Issuer” shall mean the Public Finance Authority of Wisconsin.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule.

“Owner” shall mean the registered owner of any Bonds.

“Public Improvements” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Quarterly Improvement Implementation Report” shall mean any Quarterly Improvement Implementation Report prepared by the Administrator pursuant to, and as described in, Section 3 of this Disclosure Agreement.

“Quarterly Reporting Date” means each March 30, June 30, September 30, and December 30, beginning June 30, 2019.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Service and Assessment Plan” means the Service and Assessment Plan adopted for the District, as amended or updated from time to time.

“Special Assessments” shall have the meaning assigned to it in the Service and Assessment Plan.

“Subsequent Third Party Owner” shall have the meaning assigned to such term in Section 5 of this Disclosure Agreement.

“Trustee” shall mean U.S. Bank National Association, or any successor trustee pursuant to the Trust Agreement.

SECTION 3. Quarterly Improvement Implementation Reports.

(a) The Developer shall provide, or cause to be provided, to the Administrator, at its cost and expense, at least fifteen (15) Business Days prior to each Quarterly Reporting Date, any information in its knowledge or possession or that will enable the Administrator to complete each Quarterly Improvement Implementation Report containing the information described in this Section 3. The Developer shall provide, or cause to be provided, such information required for the preparation of each Quarterly Improvement Implementation Report during the period from the delivery of the Bonds until such time as the Developer’s obligation to provide such information has terminated pursuant to Section 3(e) hereof.

(b) The Administrator shall provide to the Dissemination Agent, on or before five (5) Business Days before each Quarterly Reporting Date, each Quarterly Improvement Implementation Report containing the information described in Sections 3(c)-3(e). The Dissemination Agent shall provide such information to the MSRB within three (3) Business Days of the Dissemination Agent’s receipt thereof pursuant to this subsection 3(b), but in no event later than the respective Quarterly Reporting Date provided that the Dissemination Agent has received such Quarterly Improvement Implementation Report in a timely manner. The Dissemination Agent has no duty or obligation to confirm that any Quarterly Improvement Implementation Report provided to it under this Section 3(b) contains the required information.

(c) Such Quarterly Improvement Implementation Report shall include:

(i) Statement from the Developer as to the status of acquisition loans, development loans and any permanent financing, if any, with respect to any development undertaken by the Developer in the District not financed with Bond proceeds, including loan balance, existence of deeds of trust or other similar encumbrances against the property in the District existence of any default and remaining term;

(ii) Statement as to available funds to complete the development in the District currently under construction (both Bond financed and non-Bond financed development currently under construction by the Developer);

(iii) Status of parcel and/or lot sales from the Developer to any other party by type and average pricing, as well as anticipated future absorption projections;

(iv) A statement as to material changes, if any, in the form, organization or controlling ownership of the Developer;

(v) The status of any governmental approvals (other than customary home building permits required after delivery of a finished lot) required for completion of the Public Improvements;

(vi) Any information regarding the Public Improvements or other information as may be reasonably requested by the Issuer relating to the ability of the Developer to fulfill its obligations under the Construction Contract or the Service and Assessment Plan;

(vii) Written notification of any significant zoning or land use entitlement changes within the District, or any other changes initiated by the Developer that affect: (1) the development within the District as described in the Service and Assessment Plan, or (2) the likelihood of the timely payment of the Special Assessments levied on land or parcels owned by the Developer; and

(viii) Any changes to the land use designation for the property in the District initiated by the Developer that affect its development for those purposes identified in the final Service and Assessment Plan, as the same may be amended and supplemented from time to time.

(d) Additionally, the Developer shall provide or cause to be provided the following information to the Administrator for inclusion in each Quarterly Improvement Implementation Report:

(i) With respect to any land owned by the Developer in the District, the number, dollar amount, and property type (e.g., developed lots, undeveloped pads, parcels, raw land) under contract with wholesale purchasers and the name of each such purchaser;

(ii) A listing of any Subsequent Third Party Owners (defined below) of land owned by the Developer in the District liable for payment of at least twenty percent (20%) of the Special Assessments, the amount of the levy of Special Assessments against the property owned by such Subsequent Third Party Owner, and the percentage of such Special Assessments relative to the entire levy of Special Assessments;

(iii) On a per quarter and running total basis, (A) the number of residential units for which construction has begun on land or lots in the District owned by the Developer, (B) the number of residential units for which construction has been completed on land or lots in the District owned by the Developer, (C) the number of residential units which have been sold to end users and the average sales price therefor on land or lots in the District owned by the Developer and (D) the estimated date of completion for all residential units expected to be constructed on land or lots in the District owned by the Developer;

(e) With respect to the Public Improvements, the Developer will establish an accounting and budgeting system and shall provide or cause to be provided the following information to the Administrator for inclusion in each Quarterly Improvement Implementation Report:

- (i) Total expected costs for design and engineering to be completed after delivery of the Bonds;
- (ii) Total expected construction budget;
- (iii) Construction budget allocated to each progress milestone;
- (iv) Forecast construction milestones by date;
- (v) Forecast completion date; and

- (vi) Forecast City acceptance date of the Public Improvements.

Quarterly progress reports, reflecting the points listed above, will be summarized by the Developer to reflect the progress and conformance with the overall project budget. These quarterly summaries will be filed with the Administrator for assembly into the Quarterly Improvement Implementation Report and delivered to the Issuer and the Dissemination Agent. Budget overruns in excess of \$250,000 per quarter or delays of greater than sixty (60) days will be highlighted and explained and the Developer shall include a plan to remedy the situation.

(f) Notwithstanding anything contained herein, the Developer's filings under Section 3(e) will terminate after the City accepts the final segment of the Public Improvements and Developer provides a final summary report covering the period from the date of its last preceding quarterly progress report to the date of the City's acceptance of the final segment of the Public Improvements. The Developer shall provide the Administrator and the Dissemination Agent with written notice, which written notice shall be acknowledged and signed by the City, of the completion of such Public Improvements. Within five (5) Business Days of receipt of notice pursuant to this Subsection 3(f), the Dissemination Agent shall file a notice of termination in the form attached hereto as Exhibit A of obligation to provide Quarterly Improvement Implementation Reports (the "Quarterly Report Termination") to the MSRB within ten (10) Business Days of its receipt thereof

SECTION 4. Event Reporting Obligations of Developer.

(a) Each of the following is a "Listed Event" with respect to the Bonds:

(i) Failure to pay any real property taxes or Special Assessments levied within the District on a parcel owned by the Developer;

(ii) Material damage to or destruction of any development or improvements, including the Public Improvements within the District;

(iii) Material default by the Developer on any loan with respect to the development or permanent financing of the Public Improvements undertaken by the Developer;

(iv) Material default by the Developer on any loan secured by property within the District owned by the Developer;

(v) The bankruptcy filing of the Developer or any determination that the Developer is unable to pay its debts as they become due;

(vi) The consummation of a merger, consolidation, or acquisition of the Developer, or the sale of all or substantially all of the assets of the Developer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(vii) The filing of any lawsuit with claim for damage, in excess of \$1,000,000 against the Developer which may adversely affect the completion of development in the District or litigation which would materially adversely affect the financial condition of the Developer; and

(viii) Any change in the legal structure, chief executive officer or controlling ownership of the Developer.

Whenever the Developer obtains knowledge of the occurrence of a Listed Event, the Developer shall promptly notify the Issuer and the Dissemination Agent in writing and the Dissemination Agent shall promptly file a notice of such occurrence with the MSRB.

Any notice to the Dissemination Agent delivered by the Developer under the preceding paragraph shall be accompanied with the text of the disclosure that the Developer desires to make, if any, and such notice shall be deemed to be the written authorization of the Developer for the Dissemination Agent to disseminate such information as provided herein.

(b) If the Dissemination Agent has been instructed by the Developer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the MSRB within one (1) Business Day of its receipt of such written instructions from the Developer.

SECTION 5. Subsequent Third Party Owners; Termination of Reporting Obligations.

(a) If the Developer sells, assigns or otherwise transfers ownership of real property in the District to a third party, which results in such third party, including any Affiliate of such third party, owning property representing at least twenty percent (20%) of the total Annual Installments of the Special Assessments first coming due after such transfer of ownership (a "Subsequent Third Party Owner"), the Developer shall require such Subsequent Third Party Owner to assume and comply with the Developer's disclosure obligations in Sections 3, 4 and 5(a)-(b) hereunder with respect to such acquired real property for so long as such Subsequent Third Party Owner is the owner of property representing at least twenty percent (20%) of the total of Annual Installments of the Special Assessments next coming due; provided that information relating to the construction and status of the Public Improvements required to be provided under Sections 3 and 4 shall only be required of such Subsequent Third Party Owner to the extent such Subsequent Third Party Owner has assumed the obligation to construct any Public Improvements. The Developer shall deliver to the Dissemination Agent and the Issuer a written acknowledgement from each Subsequent Third Party Owner acknowledging and assuming its obligations under this Disclosure Agreement. Upon any such transfer to a Subsequent Third Party Owner, and such Subsequent Third Party Owner's assumption of Developer's obligations under Sections 3 and Section 4 of this Disclosure Agreement as to the property transferred, Developer shall have no further obligation or liability for disclosures or other responsibilities under this Disclosure Agreement as to the property transferred.

(b) The reporting obligations of the Developer or a Subsequent Third Party Owner, if any, pursuant to Section 4 of this Disclosure Agreement shall terminate (i) upon the legal defeasance, prior redemption or payment in full of all of the Bonds or (ii) when the Developer or a Subsequent Third Party Owner, if any, is no longer responsible for the payment of Annual Installments of Special Assessments equal to at least 20% of the total Annual Installment of Special Assessments for any year.

(c) At such time that the Developer or a Subsequent Third Party Owner, if any, is no longer responsible for the payment of Annual Installments of Special Assessments equal to at least 20% of the total Annual Installment of Special Assessments for any year, the Administrator shall provide written notice to the Developer, any Subsequent Third Party Owner, if applicable, the Issuer and the Dissemination Agent that such party is no longer responsible for the payment of Annual Installments of

Special Assessments equal to at least 20% of the total Annual Installment of Special Assessments for any year, thereby, terminating such party's reporting obligations under this Disclosure Agreement (the "Termination Notice"). If such termination notice with respect to the Developer or a Subsequent Third Party Owner occurs prior to the legal defeasance, prior redemption or payment in full of all of the Bonds, the Administrator shall immediately provide, or cause to be provided, the Termination Notice to the Dissemination Agent, and the Dissemination Agent shall provide such Termination Notice to the MSRB within ten (10) Business Days of its receipt thereof.

(d) The reporting obligations of the Administrator and the Dissemination Agent under this Disclosure agreement shall terminate (i) upon the legal defeasance, prior redemption or payment in full of all of the Bonds or (ii) when the Developer and any Subsequent Third Party Owner, if any, are no longer responsible for the payment of Annual Installments of Special Assessments equal to at least 20% of the total Annual Installment of Special Assessments for any year and any Termination Notice required by subsection (b) of this Section 6 has been provided to the MSRB.

SECTION 6. Dissemination Agent. The Developer may, from time to time, appoint or engage a Dissemination Agent or successor Dissemination Agent to assist it in carrying out the Developer's obligations under this Disclosure Agreement, and may discharge such Dissemination Agent, with or without appointing a successor Dissemination Agent, provided that in the event that the Developer discharges the Dissemination Agent without appointing a successor Dissemination Agent, the Developer shall give notice to the Issuer within 5 business days of (i) the discharge of the Dissemination Agent and (ii) that no successor Dissemination Agent has been appointed. If at any time there is not any other designated Dissemination Agent engaged by the Developer, a new Dissemination Agent shall be appointed by the Issuer pursuant to the provisions of the Loan Agreement. The initial Dissemination Agent appointed hereunder shall be U.S. Bank National Association.

SECTION 7. Amendment; Waiver. Notwithstanding any other provisions of this Disclosure Agreement, the Developer, the Administrator and the Dissemination Agent may jointly amend this Disclosure Agreement (and the Dissemination Agent shall not unreasonably withhold its consent to any amendment so requested by the Developer or Administrator), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3 or 4, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Developer, or the type of business conducted; and

(b) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Trust Agreement for amendments to the Trust Agreement with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel selected by the Issuer, materially impair the interests of the Owners or beneficial owners of the Bonds. No amendment which adversely affects the Dissemination Agent may be made without the respective party's prior written consent (which consent will not be unreasonably withheld or delayed).

(c) In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Administrator shall describe such amendment in the next related Quarterly Improvement Implementation Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on

the presentation) of financial information or operating data being presented by the Developer. The Developer shall provide, or cause to be provided, at its cost and expense, an executed copy of any amendment or waiver entered into under this Section 7 to the Issuer.

SECTION 8. Identifying Information to be Included; Additional Information

(a) All documents provided to the MSRB pursuant to this Disclosure Agreement shall be accompanied by identifying information as prescribed by the MSRB.

(b) Nothing in this Disclosure Agreement shall be deemed to prevent the Developer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in addition to that which is required by this Disclosure Agreement. If the Developer chooses to include any information in any Quarterly Improvement Implementation Report or notice of occurrence of a Listed Event or a Material Event in addition to that which is specifically required by this Disclosure Agreement, the Developer shall have no obligation under this Disclosure Agreement to update such information or include it in any future notice of occurrence of a Listed Event or a Material Event.

SECTION 9. Default. In the event of a failure of the Developer or Administrator to comply with any provision of this Disclosure Agreement, the Trustee may (and, at the request of the Owners of at least 25% aggregate principal amount of Outstanding Bonds, shall, upon being indemnified to its satisfaction as provided in the Trust Agreement), or any Owner or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to cause the Developer and/or Administrator to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Trust Agreement with respect to the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the Developer or Administrator to comply with this Disclosure Agreement shall be an action to mandamus or specific performance.

SECTION 10. Duties, Immunities and Liabilities of Dissemination Agent

(a) The Dissemination Agent shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Dissemination Agent. To the extent permitted by law, the Developer agrees to hold harmless the Dissemination Agent, its officers, directors, employees and agents, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Developer under this Section shall survive resignation or removal of the Dissemination Agent and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Dissemination Agent is an "obligated person" under the Rule. The Dissemination Agent is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The Dissemination Agent shall not in any event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any question relating to duties and responsibilities of the Dissemination Agent hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Dissemination Agent and believed

to be genuine and to have been signed or presented by the proper party or parties. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the Issuer, the Developer or the Administrator apart from the relationship created hereunder shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition except as may be provided by written notice from the appropriate party. Nothing in this Disclosure Agreement shall be construed to require the Dissemination Agent to interpret or provide an opinion concerning any information made public. If the Dissemination Agent receives a request for an interpretation or opinion, the Dissemination Agent may refer such request to the Developer for response. To the extent the Dissemination Agent is provided with information required to be disclosed under the terms of this Disclosure Agreement the Dissemination Agent shall provide such information to the MSRB as soon as practicable after receipt. It being understood that any information received on a day other than a Business Day or after noon C.D.T. on any Business Day is not required to be provided on the date of receipt.

(b) Except as otherwise provided herein, the Administrator shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Administrator shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Administrator. To the extent permitted by law, the Developer agrees to hold harmless the Administrator, its officers, directors, employees and agents, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Administrator's negligence or willful misconduct. The obligations of the Developer under this Section shall survive resignation or removal of the Administrator and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Administrator is an "obligated person" under the Rule. The Administrator is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The Administrator shall not in any event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any question relating to duties and responsibilities of the Administrator hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Administrator and believed to be genuine and to have been signed or presented by the proper party or parties.

(c) The Dissemination Agent or the Administrator may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or their respective duties hereunder, and the Dissemination Agent and Administrator shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. UNDER NO CIRCUMSTANCES SHALL THE DISSEMINATION AGENT, THE ADMINISTRATOR, THE DEVELOPER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE DEVELOPER, THE DISSEMINATION AGENT OR THE ADMINISTRATOR, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS DISCLOSURE AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC

PERFORMANCE. THE DISSEMINATION AGENT AND THE ADMINISTRATOR ARE UNDER NO OBLIGATION NOR ARE THEY REQUIRED TO BRING SUCH AN ACTION.

SECTION 11. No Personal Liability. No covenant, stipulation, obligation or agreement of the Developer, the Administrator or the Dissemination Agent contained in this Disclosure Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future officer, agent or employee of the Developer, the Administrator or Dissemination Agent in other than that person's official capacity.

SECTION 12. Severability. In case any section or provision of this Disclosure Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reasons held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision thereof or any other covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder (except to the extent that such remainder or section or provision or other covenant, stipulation, obligation, agreement, act or action, or part thereof is wholly dependent for its operation on the provision determined to be invalid), which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Developer, the Administrator, the Dissemination Agent, the Issuer and the Owners and the beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity. Nothing in this Disclosure Agreement is intended or shall act to disclaim, waive or otherwise limit the duties of the Issuer under federal and state securities laws.

SECTION 14. Administrator and Dissemination Agent Compensation. The fees and expenses incurred by the Administrator and Dissemination Agent for their services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Administrator has entered into a separate agreement with the City, which agreement governs the administration of the District, including the payment of the fees and expenses of the Administrator for its services render in accordance with this Disclosure Agreement.

SECTION 15. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

SECTION 16. Applicability of the Rule. Notwithstanding anything contained herein, the parties hereto acknowledge and agree that the Bonds are exempt from the Rule pursuant to the provisions of paragraph (d)(1) thereof.

SECTION 17. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature Pages to Follow]

U.S. BANK NATIONAL ASSOCIATION,
as Dissemination Agent

By: _____
Authorized Officer

**DEVELOPMENT PLANNING & FINANCING
GROUP, INC.,**
as Administrator

By: _____
Authorized Officer

MERITAGE HOMES OF TEXAS, LLC

By: _____
Name: _____
Its: _____

EXHIBIT A

NOTICE OF TERMINATION

Name of Issuer: Public Finance Authority
Name of Bond Issue: Contract Special Assessment Revenue Bonds, Series 2019
(Cross Creek Public Improvement District Project)
Date of Delivery: _____, 20__

NOTICE IS HEREBY GIVEN that the Developer is no longer obligated to provide Quarterly Improvement Implementation Reports with respect to the Public Improvements funded by the above-named bonds as required by the Developer's Continuing Disclosure Agreement dated January 17, 2019, entered into in connection with the above-captioned Bonds issued by the Public Finance Authority.

Dated: _____

U.S. Bank National Association.
(as Dissemination Agent)

By: _____

Title: _____

January 17, 2019

Public Finance Authority
22 E. Mifflin Street, Suite 900
Madison, Wisconsin 53703

Re: Cross Creek Public Improvement District

You have informed me of the following facts:

1. The Public Finance Authority (the "Authority") is authorized pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, commonly known as the "Joint Exercise of Powers Law" (the "Act"), and the terms of an Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the "Joint Exercise Agreement"), to issue revenue bonds in accordance with the Act for the purpose of financing various types of projects within or outside of the State of Wisconsin.

2. The Authority has been requested to issue up to \$10,000,000 of Bonds in one or more series (the "Bonds") to provide for the construction and financing of various public improvements (the "Project") in the Cross Creek Public Improvement District in the City of Hutto, Texas (the "City") more particularly described or referred to in the Cross Creek Public Improvement District Service and Assessment Plan.

3. Section 66.0304(11)(a) of the Act provides:

[The Authority] may not issue bonds to finance a capital improvement project in any state or territory of the United States unless a political subdivision within whose boundaries the project is to be located has approved the financing of the project. . . . An approval under this paragraph may be made by the governing body of the political subdivision or . . . by the highest ranking executive or administrator of the political subdivision.

4. Compliance by the City with Section 66.0304(11)(a) of the Act does not constitute an endorsement of the Bonds or the Project, or a commitment by the City, or any other governmental body, to provide any other approvals that may be required in connection with the Project, or an undertaking of any responsibility of any kind with respect to the Bonds.

I am the highest ranking executive or administrator of the City of Hutto, Texas, within whose boundaries the Project is located. In conformity with and solely for purposes of satisfying the requirements of Section 66.0304(11)(a) of the Act, I hereby provide this letter as evidence of approval of the financing by the Authority of the Project in compliance with Section 66.0304(11)(a) of the Act, but in no other way provide any opinion or endorsement with respect to the issuance of the Bonds. This letter shall not be referred to in connection with the marketing and sale of the Bonds, and the City shall have no responsibility or liability of any kind, direct or

indirect, with respect to the terms, sale, issuance, security or payment of the Bonds, which shall be the sole responsibility of the Authority.

Sincerely,

City Manager
City of Hutto, Texas

INTERLOCAL AGREEMENT
(Cross Creek Public Improvement District Project)

THIS INTERLOCAL AGREEMENT (this “**Agreement**”), entered into this 17th day of January, 2019, is made by and between the **CITY OF HUTTO, TEXAS**, a municipal corporation and a home-rule city in the State of Texas (the “**City**”) and **RIVER CREEK DEVELOPMENT CORPORATION**, a public nonprofit corporation created by the City and organized under Chapter 431, Texas Transportation Code, as amended (the “**Corporation**”).

RECITALS

WHEREAS, on June 7, 2018, the City Council of the City of Hutto, Texas (the “**City**”) passed and approved Resolution No. R-18-06-07-9A authorizing the creation of the Cross Creek Public Improvement District (the “**District**”) pursuant to Chapter 372, Texas Local Government Code, as amended (the “**PID Act**”);

WHEREAS, the District was created, in part, to undertake and finance the certain Public Improvements as defined in the District’s Service and Assessment Plan and Assessment Roll approved by the City Council of the City dated January 17, 2019, as amended from time to time (the “**Service and Assessment Plan**”) and the Public Improvements (defined therein) as approved by the City Manager (the “**Public Improvements**”);

WHEREAS, on January 17, 2019, the City Council passed and approved Ordinance No. [_____] (the “**Assessment Ordinance**”) which, among other things, approved the Service and Assessment Plan which identified the amount of certain assessments on the benefitted property within the District (“**Assessments**”), and established the dates upon which interest on assessments will begin to accrue and collection of Assessments will begin; and

WHEREAS, in addition to approving the Service and Assessment Plan, the Assessment Ordinance levied the Assessments against certain parcels within the boundaries of the District for the Public Improvements (as defined herein) in accordance with the Service and Assessment Plan; and

WHEREAS, Assessments are reflected in the Service and Assessment Plan as approved by the City Council, as amended and updated annually as provided in the PID Act; and

WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, in part, that an Assessment or Assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments (as defined in the SAP) plus interest for a period of not more than 35 years or until the Assessment is paid in full; and

WHEREAS, the Service and Assessment Plan and the Assessment Ordinance provide, pursuant to Chapter 372.018(f) of the PID Act, that if an Annual Installment of an Assessment becomes delinquent, such Annual Installment shall be due and payable plus interest, penalties, and expenses incurred or imposed with respect to any delinquent installments for a period of not more than 35 years or until the Assessment is paid in full; and

WHEREAS, the Service and Assessment Plan allocated the cost of the Public Improvements to the Assessed Parcels proportionally based on the special benefits conferred to each lot or parcel by the Public Improvements; and

WHEREAS, all revenue received and collected by the City from the collection of the Assessments and Annual Installments (excluding Delinquent Collection Costs, and Administrative Expenses) (the “**Assessment Revenues**”) shall be deposited as required by the PID Act into an assessment fund created pursuant to the PID Act (the “**Assessment Fund**”);

WHEREAS, the City and the Corporation are entering into this Agreement (1) to administer certain matters related to the District, (2) for the purchase and sale by the City from the Corporation of the Public Improvements (the “**Project**”) pursuant Chapter 372.023(a) of the PID Act, (3) to authorize the Corporation to finance the costs of the Project, and (4) to authorize the Corporation to enter into a contract for the construction of the Public Improvements;

WHEREAS, in order to finance the Project, the Corporation shall enter into a Loan Agreement (the “**Loan Agreement**”) with the Public Finance Authority (the “**Authority**”);

WHEREAS, this Agreement shall be considered an installment sale contract under Chapter 372 of the PID Act;

WHEREAS, in connection with the Loan Agreement, the Authority shall issue its Public Improvement Revenue Bonds (Cross Creek Public Improvement District Project), Series 2019 (the “**Bonds**”) to (1) finance a loan with the Corporation which will use the funds to finance the Contract Amount pursuant to the Construction Contract, which Contract Amount is the Actual Costs of the Public Improvements to be constructed in the District, (2) fund the capitalized interest, (3) fund the reserve fund for payment of principal and interest on the Bonds, (4) fund the prepayment and delinquency reserve account, (5) fund other funds under the Trust Agreement (as defined herein), and (6) pay certain costs of issuance of the Bonds;

WHEREAS, the Corporation and the Construction Manager (as defined herein) shall enter into a Construction Contract dated as of January 17, 2019 (“**Construction Contract**”), whereby the Construction Manager will construct the Public Improvements to be sold to the City by the Corporation under this Agreement; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

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

“Administrative Expenses” shall mean the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the District, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the District and preparing the assessment roll, (iii) computing, levying, collecting and transmitting the Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Assessments, (v) investing or depositing the Assessments, (vi) paying the paying agent/registrar’s and trustee’s fees and expenses (including the fees and expenses of its legal counsel), and (vii) administering the construction of the Public Improvements.

“Administrator” shall mean any entity that the City contracts with to administer the Service and Assessment Plan.

“Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements supplemental hereto entered into pursuant to the applicable provisions hereof.

“Annual Installment” shall have the meaning ascribed for such term in the Service and Assessment Plan.

“Assessed Parcel” shall mean any Parcel within the District against which an Assessment is levied (Assessed Parcel does not include Non-Benefited Property).

“Assessment Fund” shall mean the fund to which Assessment Revenues shall be deposited pursuant to the PID Act.

“Assessment Ordinance” shall mean Ordinance No. [_____] passed and approved by the City Council on January 17, 2019.

“Assessment Revenues” shall mean all revenue received and collected by the City from the collection of the Assessments and Annual Installments, including foreclosure proceeds as described in Section 5.06(b) hereof (but excluding Delinquent Collection Costs, and Administrative Expenses).

“Assessments” shall mean the assessments levied against properties in the District, as provided for in the Assessment Ordinance and in the Service and Assessment Plan, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“Authority” shall mean the Public Finance Authority.

“Bonds” shall mean the Authority’s Public Improvement Revenue Bonds (Cross Creek Public Improvement District Project), Series 2019.

“Construction Manager” shall mean Meritage Homes of Texas, LLC, an Arizona limited liability company, and their successors or permitted assigns.

“Continuing Disclosure Agreement” shall mean the Continuing Disclosure Agreement of the City and of the Corporation, dated as of January 17, 2019, relating to the Bonds.

“Corporation” shall mean the River Creek Development Corporation.

“Debt” shall mean any bond, note, or other evidence of indebtedness incurred, entered into, or issued by the City or the Corporation related exclusively to the District.

“Delinquent Collection Costs” shall have the meaning set forth in the Service and Assessment Plan.

“District” shall mean Cross Creek Public Improvement District.

“Installment Payment Date” shall mean each March 15 and September 15 beginning March 15, 2019.

“Installment Payments” shall mean the payments from the City to the Corporation for the purchase of the Public Improvements as described in Section 6.02 and **“Exhibit C”** hereof; provided, however, such payments shall be adjusted to reflect any changes to the Service and Assessment Plan.

“Loan Agreement” shall mean the Loan Agreement between the Corporation and the Authority.

“Non-Benefited Property” shall mean Parcels within the boundaries of the District that accrue no special benefit from the Public Improvements, including Owner Association Property, Public Property.

“Obligations” shall mean bonds, notes, loan agreements, installment sale contracts, lease purchase agreements, or other evidence of debt obligations.

“Owner’s Association” shall mean a homeowner’s association or property owner’s association.

“Owner Association Property” shall mean property within the boundaries of the District that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, an Owner’s Association established for the benefit of property owners within the District.

“Parcel” shall mean a property identified by either a tax map identification number assigned by the Williamson Central Appraisal District for real property tax purpose, by metes and

bounds description, by lot and block number in a final subdivision plat recorded in the Official Public Records of Williamson County, or by any other means determined by the City.

“PID Act” shall mean Chapter 372, Texas Local Government Code, as amended.

“Project” shall mean the purchase and sale by the City from the Corporation of the Public Improvements.

“Public Improvements” shall have the meaning given in the recitals to this Agreement.

“Public Property” shall mean property, real property, right of way and easements located within the boundaries of the District that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, the County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an easement, or by plat.

“Purchase Price” shall mean the sum of all Installment Payments to be paid by the City to the Corporation for the Project.

“Segment” or **“Segments”** shall mean the portions of the Public Improvements identified as such.

“Service and Assessment Plan” shall mean that certain Public Improvements as defined in the District Service and Assessment Plan and Assessment Roll approved by the City Council of the City dated January 17, 2019, as amended from time to time.

“Trust Agreement” shall mean the Trust Agreement, dated as of January 17, 2019 by and between the Authority and U.S. Bank National Association, as trustee, relating to the issuance of the Bonds.

“Trustee” shall mean U.S. Bank National Association, in its role as Trustee for the Bonds, and its successors and assigns.

All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Agreement and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

INCORPORATION OF RECITALS

The RECITALS set forth in the Preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Article.

ARTICLE III

SCOPE OF AGREEMENT

This Agreement establishes provisions for the Corporation to act on behalf of the City in the financing of, and contracting for the construction of, the Public Improvements pursuant to the Loan Agreement and the Construction Contract, respectively (Article IV), the apportionment, levying, collection of Assessments on the Assessed Parcels (Article V), and the installment sale and purchase of the Public Improvements (Article VI).

ARTICLE IV

POWERS AND DUTIES OF THE CORPORATION

Section 4.01 Construction Contract and Loan Agreement. The City authorizes the Corporation to enter into the Construction Contract and the Loan Agreement. The Corporation will request, and the City agrees that it shall assist the Corporation in complying with any applicable requirements of the Corporation set forth in the Construction Contract and the Loan Agreement.

Section 4.02 Power to Incur Other Obligations. Subject to the provisions of this Agreement, the Corporation shall have the power from time to time to incur other Obligations and enter into contracts with consultants upon such terms and conditions as the Corporation shall determine to be necessary or desirable, subject to the approval of the City.

ARTICLE V

ASSESSMENTS

Section 5.01 Preliminary Matters.

(a) The Service and Assessment Plan will be updated and amended by the City or its Administrator at least once per year, and submitted for the City Council's review and approval.

(b) Assessments on any portion of the Assessed Parcels will bear a direct proportional relationship to and be less than or equal to the special benefit of the Public Improvements within the District.

(c) Assessments on any portion of the Assessed Parcels may be increased so long as the Assessments are determined in accordance with the Service and Assessment Plan approved by the City in compliance with applicable laws, including applicable public hearing requirements.

(d) The Assessed Parcels may also be subject to an Owner's Association assessment, which shall not be set forth in the Service and Assessment Plan and is not pledged to the Installment Payments.

(e) The City, through its City Manager, may request any additions to the Project or any component thereof whenever the City deems such changes to be necessary and appropriate; provided, however, that no such change shall (a) impair the ability of the City to make the Installment Payments, (b) increase or reduce the amount of the Installment Payments, (c) cause to be included in the Project any property not constituting property useful in the performance of the City's powers, projects and purposes, (d) cause the Public Improvements or any such component thereof to have an estimated useful life materially shorter than the estimated useful life of the Public Improvements or such component prior to such change, or (e) include any property or improvement not authorized by the PID Act. Any such change shall be implemented by City's filing with the Corporation and the Authority a description of such change and the adoption of an updated Service and Assessment Plan. Upon such filing, the description of the Public Improvements contained in "**Exhibit B**" shall be deemed to have been modified in accordance therewith. No such change shall constitute an amendment, change, modification or alteration of this Agreement.

Section 5.02 Construction of Public Improvements. The Corporation shall cause the construction of the Public Improvements consistent with the terms of the Construction Contract. Nothing contained in this Agreement, however, shall be construed as creating a contractual obligation that controls, waives, or supplants the City Council's legislative discretion or functions.

Section 5.03 Collection of Assessments.

(a) The City, as authorized by the PID Act and other applicable law, shall continuously collect or cause to be collected Assessments levied pursuant to the Service and Assessment Plan during the terms of this Agreement and the Loan Agreement in the manner and to the extent permitted or required by the PID Act and any applicable law. The City will not permit a reduction, abatement, or exemption in the Assessments due on any portion of the Assessed Parcels until the Assessments related to that particular portion of the Assessed Parcels are no longer outstanding, other than as provided in Section 5.06 and Section 6.06 hereto, whether as a result of payment in full, defeasance, or otherwise. The City shall collect the Assessments consistent with the requirements of the PID Act and the City's policies and standard practices applicable to the collection of City taxes and assessments, as required by law. All Administrative Expenses incurred by the City shall be paid from the Administrative Expense portion of the Annual Installment of the Assessments.

(b) Notwithstanding anything to the contrary contained herein or in the Service and Assessment Plan and the Assessment Revenues collected annually will be deposited in the Assessment Fund and used thereafter to pay the Installment Payments.

(c) Further notwithstanding anything to the contrary contained herein, the City agrees to use best efforts to contract with Williamson County Tax Collector for the collection of the Assessments such that the Assessments will be included on the ad valorem tax bill(s) for the Assessed Parcels and will be collected as part of and in the same manner as ad valorem taxes. All

Administrative Expenses incurred by the City and the County shall be paid from the administrative portion of the Annual Installments of the Assessments.

Section 5.04 Approval and Recordation of Assessments through Landowner Agreement. Concurrent with the levy of Assessments on the Assessed Parcels, the owners of the Assessed Parcels (“**Owners**”) executed one or more Landowner Agreement(s) (herein so called) in which the Owners approved and accepted the apportionment of Assessments in the Service and Assessment Plan and the levy of the Assessments by the City. The Landowner Agreement further (a) evidences that the Assessments are covenants running with the land that will bind any and all current and successor owners of the applicable Assessed Parcels to the Assessments, including applicable penalties and interest thereon, as and when due and payable thereunder, (b) provides that subsequent purchasers of such land take their title subject to and expressly assume the terms and provisions of the Assessments; and (c) provides that the lien created by the levy of the Assessments is a first and prior lien on the Assessed Parcels, subject only to liens for ad valorem taxes of the City, County, school district, special district or other political subdivision, or a lien of the Department of Treasury of the United States of America.

Section 5.05 Transfer. The Corporation’s right, title and interest to the payments of Purchase Price shall be the sole and exclusive property of Corporation (or its Transferee) and no other third party shall have any claim or right to such funds unless the Corporation transfers its rights to its Purchase Price to a Transferee in writing and otherwise in accordance with the requirements set forth herein. The Corporation has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of the Corporation’s right, title, or interest under this Agreement including, but not limited to, any right, title or interest of the Corporation in and to payment of its Purchase Price (a “**Transfer**,” and the person or entity to whom the transfer is made, a “**Transferee**”). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City shall review and approve the transfer.

Section 5.06 Summary of City Responsibilities. Notwithstanding any other provision of this Agreement, the City’s responsibility under this Agreement shall be limited as follows:

(a) The City shall have no responsibility for administration, assessment, collection or payment of any amounts except as specifically provided in this Agreement and the Service and Assessment Plan.

(b) The City’s sole obligations with respect to the Assessments are to:

(i) Contract with the Williamson County Appraisal District or other third party to collect the Assessments;

(ii) Establish the assessment account provided in the Service and Assessment Plan (referred to herein as the Assessment Fund) to receive the funds collected from Assessments;

(iii) Collect and pay Administrative Expenses as provided herein;

(iv) Direct the Administrator to take all reasonable efforts to collect Annual Installments and Assessments including foreclosure of any lien securing delinquent Assessment or Annual Installment thereof as provided in Section 7.01;

(v) Deposit Annual Installments and Assessment Revenues received, including funds received from foreclosure sales and prepayment of Assessments, into the Assessment Fund;

(vi) Purchase the Public Improvements with funds from the Assessment Fund;

(vii) Transfer funds out of the Assessment Fund to the Trustee as provided in this Agreement;

(viii) Provide and comply with the provisions of the Tax Certificate, attached as **“Exhibit D”**; and

(ix) Provide the IRS 8038-G form related to the City’s obligations under Article VI hereof, attached as **“Exhibit E.”**

(c) The City liability for payment of any funds under this Agreement is limited to payment of funds in the Assessment Fund. The City shall have no obligation to pay funds from any other source including the City’s general operating funds.

ARTICLE VI

PURCHASE AND SALE OF THE PUBLIC IMPROVEMENTS

Section 6.01 Purchase and Sale of Public Improvements. The City hereby purchases from the Corporation, and the Corporation hereby sells to the City, the Public Improvements in accordance with the provisions of this Agreement. Upon acceptance by the City of Public Improvements or Segment thereof, all right, title and interest in such Public Improvements or Segment thereof shall vest in the City without further action on the part of the City or the Corporation. Completion of the Public Improvements, shall not serve to terminate the obligation to provide the 100% warranty bond as described in the Construction Contract. The City hereby approves and accepts an initial acquisition cost of \$1,832,398 of the Public Improvements and such initial acquisition cost shall not need any further approvals by the City.

Section 6.02 Installment Payments.

(a) The purchase price to be paid by the City to the Corporation for the purchase of the Project shall be the sum of all Installment Payments (the “Purchase Price”). The City shall pay to the Corporation the Purchase Price in Installment Payments, as provided herein. A portion of the Installment Payments shall constitute principal components and a portion of the Installment Payments shall constitute interest components. The interest components of the Installment Payments shall be paid by the City as and constitute interest paid on the principal components of the Installment Payments as provided in Section 372.023(e) of the PID Act. Subject to prepayment as provided in Section 5.03(a) and Section 6.06 hereof, the Installment Payments shall be due and

payable on the Installment Payment dates in the amounts set forth in “**Exhibit C**” attached hereto and by this reference incorporated herein.

(b) The Installment Payments shall be special obligations of the City, payable, as provided herein, solely from Assessment Revenues.

(c) Each Installment Payment shall be paid in lawful money of the United States of America, in immediately available funds.

(d) Unless otherwise so requested by the Corporation, the Corporation hereby directs the City to deposit each Installment Payment and the City agrees to deposit each Installment Payment and any other payment under this agreement with U.S. Bank National Association in account no. _____.

(e) So long as no Event of Default has occurred, the Corporation shall be obligated to cause the construction of the Public Improvements consistent with the terms of the Construction Contract.

Section 6.03 Obligation Absolute.

(a) Neither the faith and credit nor the taxing power of the City, the Corporation, the State of Texas nor any political subdivision or agency thereof is pledged to the payment of the Installment Payments or other payments required to be made by the City pursuant hereto.

(b) The obligation of the City to make the Installment Payments and other payments required to be made by it pursuant hereto, solely from the sources and in the manner provided herein, is absolute and unconditional, and until such time as the Installment Payments and such other payments shall have been paid in full, the City shall not discontinue or suspend any Installment Payment or other payment required to be made by it pursuant hereto when due, or dissolve the Corporation.

Section 6.04 Pledge. Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, in order to secure the payment of the Purchase Price in accordance with the provisions of this Agreement and the PID Act, the City hereby pledges to the Corporation, and grants thereto a lien on and a security interest in all of the Assessment Revenues. Said pledge shall constitute a first lien on and security interest in such assets, which shall immediately attach to such assets and be effective, binding and enforceable against the City, its successors, purchasers of any of such assets, creditors and all others asserting rights therein, to the extent set forth in, and in accordance with, this Agreement, irrespective of whether those parties have notice of the pledge of, lien on and security interest in such assets and without the need for any physical delivery, recordation, filing or further act.

Section 6.05 Assessment Fund.

(a) The City shall establish the Assessment Fund. The Assessment Fund shall be maintained, administered and controlled (including signatory authority) by the City and shall not be commingled with any other funds of the City except as provided herein. The funds in the Assessment Fund shall be dedicated solely to the payment of Installment Payments, Delinquent

Collection Costs, and Administrative Expenses. Funds in the Assessment Fund shall be deposited and disbursed in accordance with this Agreement, the Loan Agreement, the Construction Contract and the Trust Agreement.

(b) On or before each Installment Payment Date, the City shall withdraw from the Assessment Fund in an amount equal to the Installment Payment payable on such Installment Payment Date and shall pay such amount to the Corporation in the manner set forth in Section 6.02(d) hereof.

(c) On September 16 of each year, the City shall transfer any remaining amounts in the Assessment Fund (excluding any Delinquent Collection Costs, and Administrative Expenses) to the Trustee as a prepayment under Section 6.06 hereof

Section 6.06 Mandatory Prepayment from Assessments Prepayments.

(a) The Installment Payments shall be subject to mandatory prepayment from any prepaid Assessment to be applied to such prepayment, in whole or in part, within 30 days of the receipt of such prepaid Assessment by the City, at a prepayment price equal to 100% of the principal component of the Installment Payments to be prepaid, plus the accrued but unpaid interest component of such Installment Payments to be prepaid to the date of such prepayment.

(b) If less than all of the Installment Payments are prepaid pursuant to this Section, the Installment Payments shall be prepaid on a pro rata basis based on the principal components thereof and interest from the immediately preceding April 1 or October 1 interest payment on the Bonds, to the extent practicable.

(c) The City shall give the Corporation and the Trustee written notice of the receipt by the City of prepaid Assessments within ten business days of such receipt and shall specify in such written notice the date on which the Installment Payments to be prepaid from such prepaid Assessment will be so prepaid, which date, as provided in subsection (a) of this Section, shall be within 30 days of such receipt.

ARTICLE VII

REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 7.01 Representations and Warranties of the City. The City makes the following covenants, representations and warranties for the benefit of the Corporation:

(a) The City is a municipal corporation and political subdivision of the State of Texas, duly incorporated, organized and existing under the Constitution and general laws of the State, and has full legal right, power and authority under the PID Act and other applicable law (i) to enter into, execute and deliver this Agreement, (ii) to adopt the Assessment Ordinance, and (iii) to carry out and consummate the transactions contemplated by this Agreement.

(b) The City shall approve all necessary documents and orders required to effectuate the Service and Assessment Plan and Assessment Ordinance.

(c) The City shall comply with all requirements of the PID Act so as to assure the timely collection of Assessments and the Annual Installments thereof.

(d) The City shall determine or cause to be determined, no later than August 15 of each year, whether or not any owners of property within the City are delinquent in the payment of Assessment and, if such delinquencies exist, City shall order and cause to be commenced no later than 45 days after the determination of such delinquency, and thereafter diligently cause to be prosecuted pursuant to any then-existing contract with the County Tax Assessor/Collector or, if no contract, pursuant to Texas law, for the enforcement of the City's assessment liens, an action in court to foreclose the lien of any Assessment or Annual Installment thereof not paid when due.

(e) The City shall not issue or incur any Debt payable from the Assessments.

(f) The City shall not initiate proceedings under the PID Act to modify the amount of the Assessments if such modification would adversely affect the security for the Installment Payments.

(g) The City and the Corporation shall enter into and comply with the Continuing Disclosure Agreement as set forth hereto as "**Exhibit F**".

(h) The City shall not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of interest on this Agreement under Section 103 of the Code. Without limiting the generality of the foregoing, the City shall comply with the requirements of the Tax Certificate, to be provided by the City to the Authority, in substantially the form set forth in "**Exhibit D**." In addition, The City shall provide to the Authority and file with the Internal Revenue System an executed Form 8038-G related to this Agreement in the form set forth in "**Exhibit E**" hereto.

All representations, covenants and warranties of the City under this Agreement survive the issuance of the Bonds.

Section 7.02 Covenants and Representations of Corporation. The Corporation makes the following representations and covenants for the benefit of the City:

(b) The Corporation represents that the Corporation is a public nonprofit corporation created by the City and organized under Chapter 431, Texas Transportation Code, as amended, has the ability to conduct business in Texas, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(c) The Corporation represents that the Corporation has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Corporation.

(d) The Corporation represents that this Agreement is a valid and enforceable obligation of the Corporation and is enforceable against the Corporation in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(e) The Corporation covenants that it will not commit or knowingly permit any act in, upon or to the Assessed Parcels or the Project in violation of any law, ordinance, rule, regulation, or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the Assessed Parcels or the Project.

(f) Until the final acceptance of each applicable Public Improvement, the Corporation covenants to maintain or cause to be maintained proper books of record and account for the Public Improvements and all costs related thereto. The Corporation covenants that such accounting books will be maintained or caused to be maintained in accordance with City policies and sound accounting practices, and will be available for inspection by the City or its agent at any reasonable time during regular business hours upon at least 72 hours' notice.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01 Event of Default. The occurrence, from time to time, of any one or more of the following events shall constitute an "Event of Default" under this Agreement:

(a) A failure by City to pay any Installment Payment when and as the same shall become due and payable.

(b) Either of the City or the Corporation (a "Party") shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

Section 8.02 No Acceleration. The Installment Payments shall not be subject to acceleration hereunder.

Section 8.03 Corporation Remedies. If an Event of Default shall have occurred and be continuing, Corporation or any Transferee, shall have the right:

(a) by mandamus, suit, action or proceeding, to compel City and its officers, agents or employees to perform each and every term, provision and covenant contained in this Agreement, and to require the carrying out of any or all such covenants and agreements of City and the fulfillment of all duties imposed upon it by this Agreement;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the rights of the Corporation or any Transferee; or

(c) by suit, action or proceeding in any court of competent jurisdiction in Williamson County, Texas, to require City and its officers and employees to account as if it and they were the trustees of an express trust.

Section 8.04 City Remedies. If an Event of Default shall have occurred and be continuing, City, shall have the right to bring a suit, action or proceeding in any court of competent jurisdiction, to require Corporation to exercise its rights under any available payment and performance bond and warranty bond for the construction of the Public Improvements as provided in the Construction Contract.

Section 8.05 Remedies Not Exclusive. No remedy herein conferred upon or reserved to City or the Corporation is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 8.06 Termination of Proceedings. In case any proceedings taken by Corporation or any Transferee on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to Corporation, then in every such case City and Corporation, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of City and Corporation shall continue as though no such proceedings had been taken.

Section 8.07 No Waiver of Default. No delay or omission of the City or the Corporation to exercise any right or power arising upon the occurrence of any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein, and every power and remedy given by this Agreement to the City or the Corporation may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01 Notices. Any notice, communication, or disbursement required to be given or made hereunder shall be in writing and shall be given or made by e-mail, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as any be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent, and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

If to the City:

City of Hutto, Texas
Attention: Odis Jones, City Manager
401 W. Front St.
Hutto, Texas 78634
E-mail: odis.jones@huttotx.gov

If to the Construction Manager:

Meritage Homes of Texas, LLC
Attention: Elliot Jones

8920 Business Park Dr., Suite 350
Austin, TX 78759
E-Mail: Elliot.Jones@meritagehomes.com

If to the Corporation:

River Creek Development Corporation
Attention: Chair
401 W. Front St.
Hutto, Texas 78634
E-mail: odis.jones@huttotx.gov

If to the Trustee:

U.S. Bank National Association
Attention: Brian Jensen
13737 Noel Rd., Suite 800
Dallas, Texas 75240
E-Mail: brian.jensen@usbank.com

With a copy to:

Metcalf Wolff Stuart & Williams, LLP
Attention: Steve Metcalfe
221 W. 6th, Suite 1300
Austin, Texas 78701
E-Mail: SMetcalf@mwswtexas.com

McGinnis Lochridge
Attention: Bill Bingham
600 Congress Ave., Suite 2100
Austin, Texas 78701
E-Mail: bbingham@mcginnislaw.com

Section 9.01 Administration of District. Pursuant to a separate agreement, the Corporation may contract with a third party to serve as the Administrator and to administer the District after the date hereof. The Administrative Expenses shall be collected as part of and in the same manner as the Annual Installments and the Assessments in the amounts set forth in the Service and Assessment Plan.

Section 9.02 Construction of Certain Terms. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

- (a) Words importing a gender include either gender.
- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.

(d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.

(e) A reference to any Party includes, with respect to the Corporation, its Transferees, and reference to any Party in a particular capacity excludes such Party in any other capacity or individually.

(f) All references in this Agreement to designated “Articles,” “Sections,” and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to “Exhibits” are to the designated Exhibits to this Agreement.

(g) The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder,” and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.

(h) The words “including” and “includes,” and words of similar import, are deemed to be followed by the phrase “without limitation.”

(i) Unless the context otherwise requires, a reference to the “Assessed Parcels,” the “Public Improvements,” or the “District” is deemed to be followed by the phrase “or a portion thereof.”

(j) Every “request,” “order,” “demand,” “direction,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” “approval,” “waiver,” “identification,” or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.

(k) The Parties hereto acknowledge that each such Party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting Party shall not apply in the interpretation of this Agreement.

Section 9.03 Titles and Headings. The titles of the Articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 9.04 Amendments. This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties. Approval of amendments on behalf of the City have been delegated to and may be made by the City Manager.

Section 9.05 Time. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

Section 9.06 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 9.07 Entire Agreement. This Agreement contains the entire agreement of the Parties.

Section 9.08 Severability; Waiver. If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 9.9 Third Party Beneficiary. Any Transferee of the Corporation is a third party beneficiary of this Agreement and is entitled to the rights and benefits hereunder and may enforce the provisions hereof as if such Transferee was a party hereto.

Section 9.10 Exhibits. The following exhibits are attached to and incorporated into this Agreement for all purposes:

- | | | |
|-----------|---|---------------------------------|
| Exhibit A | – | Service and Assessment Plan |
| Exhibit B | – | Public Improvements |
| Exhibit C | – | Installment Payments |
| Exhibit D | – | Tax Certificate |
| Exhibit E | – | IRS 8038-G |
| Exhibit F | – | Continuing Disclosure Agreement |

[EXECUTION PAGES FOLLOW]

IN TESTIMONY OF WHICH this Agreement has been executed on behalf of the Corporation and the City.

CITY OF HUTTO, TEXAS

City Manager

ATTEST/SEAL:

City Secretary

**RIVER CREEK DEVELOPMENT
CORPORATION**

Chair, Board of Directors

ATTEST:

Secretary, Board of Directors

EXHIBIT A
SERVICE AND ASSESSMENT PLAN

Exhibit A

EXHIBIT B

PUBLIC IMPROVEMENTS

- **Carl Stern Extension Bridge and Road Improvements:** Carl Stern will be extended from its terminus across Cottonwood Creek and through the floodplain to the eastern boundary of the project, providing major transportation infrastructure that is on the City's future roads plan. The Carl Stern improvements are approximately 2,000 feet long, including a 450' aesthetic bridge over the creek, and will include two lanes with an 8' shared use path. Additionally, other road improvements include a 70' wide ROW for a 4,000 foot long North/South road that connects Carl Stern Blvd to CR 199, which will also improve connectivity within the city.
- **Cottonwood Creek and Other Drainage Improvements:** The development will provide improvements to Cottonwood Creek that will increase drainage capacity within the creek and floodplain. The improvements will consist of clearing, grading, shaping and channelizing of slopes along the creek and other floodway areas.
- **Landscaping and Perimeter Walls:** The project is being enhanced with boulevard landscaping, irrigation and hardscape improvements. Wood fencing with masonry columns will be constructed along both sides of the 4,000 foot North/South collector road, and will be between 6' and 8' in height. Primary entry monumentation will be constructed along Carl Stern to convey a "sense of arrival" and consist of a large masonry monument with metal accents and landscaping. A secondary entry monument will be placed at the community connection to CR 199.
- **Waterline Improvements:** Includes a 12" waterline extension down Carl Stern Blvd. The improvements also provide a loop system by connecting an 8" waterline between Carl Stern Blvd and CR 199.
- **Wastewater Improvements:** A 6,000 linear foot, 12" wastewater line between the community and the Glenwood Lift Station.
- **Parks, Open Space and Trails:** A large open space (approximately 49 acres) of riparian zone natural area, meadows, and play field to be dedicated to the City that includes an extensive 10' wide concrete meandering trail which connects to the neighborhood via greenlinks and an 8' sidepath along the collector, creating a looped trail system. Also, a 3.5-acre central park that is to include a public lawn, playground, pavilion, art, shaded trellis and landscaping. The central park is also to include two enhanced intersections with pedestrian refuges and striping across the collector.
- **Soft Costs:** Engineering, fees and other expenses typically accepted as "soft costs" and related to the authorized improvements.

EXHIBIT C

INSTALLMENT PAYMENTS

Installment Payment Date	Payment Amount
3/15/2019	-
9/15/2019	-
3/15/2020	\$12,384.00
9/15/2020	9,324.00
3/15/2021	77,333.95
9/15/2021	270,799.00
3/15/2022	201,872.12
9/15/2022	273,688.50
3/15/2023	199,674.55
9/15/2023	276,427.25
3/15/2024	197,327.49
9/15/2024	279,015.25
3/15/2025	194,830.99
9/15/2025	281,452.50
3/15/2026	192,185.06
9/15/2026	283,739.00
3/15/2027	189,389.73
9/15/2027	285,874.75
3/15/2028	186,445.03
9/15/2028	287,859.75
3/15/2029	183,350.98
9/15/2029	294,694.00
3/15/2030	179,956.87
9/15/2030	296,226.75
3/15/2031	176,413.48
9/15/2031	297,608.75
3/15/2032	172,720.82
9/15/2032	303,840.00
3/15/2033	168,728.19
9/15/2033	304,769.75
3/15/2034	164,586.36
9/15/2034	310,548.75
3/15/2035	160,144.61
9/15/2035	311,026.25
3/15/2036	155,553.72

9/15/2036	316,353.00
3/15/2037	150,662.99
9/15/2037	321,378.25
3/15/2038	145,472.43
9/15/2038	326,102.00
3/15/2039	139,982.09
9/15/2039	330,524.25
3/15/2040	134,192.00
9/15/2040	339,645.00
3/15/2041	127,951.44
9/15/2041	343,313.50
3/15/2042	121,411.20
9/15/2042	351,680.50
3/15/2043	114,420.56
9/15/2043	354,595.25
3/15/2044	107,130.32
9/15/2044	362,208.50
3/15/2045	99,389.75
9/15/2045	369,369.50
3/15/2046	91,198.91
9/15/2046	376,078.25
3/15/2047	82,557.82
9/15/2047	387,334.75
3/15/2048	73,315.78
9/15/2048	392,988.25
3/15/2049	63,623.58
9/15/2049	403,189.50
3/15/2050	53,330.52
9/15/2050	412,787.75
3/15/2051	42,436.62
9/15/2051	421,783.00
3/15/2052	30,941.94
9/15/2052	430,175.25
3/15/2053	18,846.53
9/15/2053	442,964.50

EXHIBIT D

FORM OF TAX CERTIFICATE

This Tax Certificate is executed and delivered by the City of Hutto, Texas, a municipal corporation and a home-rule city in the State of Texas (the “City”) in connection with the execution and delivery of the Interlocal Agreement, dated as of January 17, 2019 (the “Agreement”), entered into between the City and the River Creek Development Corporation, a governmental nonprofit corporation created by the City (the “Corporation”). Pursuant to the Agreement, the City is purchasing the Public Improvements under an installment sale. Simultaneously, the Public Finance Authority, a unit of government and a body corporate and politic of the State of Wisconsin (the “Authority”) will loan the Corporation the proceeds of tax-exempt bonds (the “Bonds”) issued by the Authority, to finance the construction of the Purchased Improvements (defined below). The representations of facts and circumstances and covenants of the City made herein are in furtherance of the covenants of the City set forth in Section 7.01(h) of the Agreement.

ARTICLE 1

IN GENERAL

1.1 **The Corporation.** The City created the Cross Creek Public Improvement District (the “District”) pursuant to Chapter 372, Texas Local Government Code, as amended (the “PID Act”) and is authorized under the PID Act to levy and collect Assessments during the term of the Agreement in the manner and to the extent permitted or required by the PID Act and any applicable law to pay for Public Improvements within the District. The Corporation is authorized to enter into the Agreement pursuant to Chapter 372.023(a) and (d) of the PID Act.

1.2 **Delivery of the Agreement.** On the date hereof, the Corporation and the City have executed and delivered the Agreement.

1.3 **Purpose of Tax Certificate.** The City is delivering this Tax Certificate to Orrick, Herrington & Sutcliffe LLP, as bond counsel (“Bond Counsel”) to the Authority, with the understanding that Bond Counsel will rely in part upon this Tax Certificate in rendering its opinion that interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. Bond Counsel has relied on this Tax Certificate in advising that the Agreement is a “tax-exempt bond” within the meaning of Section 148(b)(3)(A) in the Code the interest on which is excluded from gross income for federal income tax purposes and which is not subject to the federal alternative minimum tax.

1.4 **Purpose of Financing.** The Agreement is being executed and delivered to finance, construct and acquire certain Public Improvements (the “Purchased Improvements”), as further described in Exhibit B of the Agreement.

1.5 **Single Issue; Separate Issue.** No other governmental obligations which are expected to be paid out of substantially the same source of funds as in the Agreement have

been or will be sold within the 31-day period beginning 15 days before the Sale Date of the Bonds pursuant to the same plan of financing as the Agreement.

1.6 **Definitions.** Capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in the Agreement. Unless the context otherwise requires, the following capitalized terms have the following meanings:

“Bona Fide Debt Service Funds” means those funds and accounts identified in Section 3.4.3 of this Tax Certificate.

“Bond Year” means the twelve-month period beginning on _____ in each year and extending to the next succeeding _____, both dates inclusive, except that the first Bond Year shall begin on the Closing Date and end on _____, 2019 (or on an earlier date selected by the City in accordance with Treasury Regulations Section 1.148-1(b)).

“Closing Date” means the date of this Tax Certificate.

“Code” means the Internal Revenue Code of 1986 (including amendments thereto).

“Governmental Unit” means any state, or political subdivision of a state, but excludes the United States and its agencies or instrumentalities.

“Gross Proceeds” has the meaning used in Section 1.148-1(b) of the Treasury Regulations, and generally means all proceeds derived from or relating to the Agreement, including Installment Payments and other amounts expected to be used to pay the Installment Payments.

“Investment Proceeds” means earnings received from investing and reinvesting Installment Payments and from investing and reinvesting such earnings.

“Investment Property” means any security or obligation, any annuity contract, or any other investment type property, but does not include any Tax-Exempt Bond unless such obligation is a “specified private activity bond” within the meaning of Section 57(a)(5)(C) of the Code.

“Nongovernmental Person” means any person or entity other than a Governmental Unit.

“Nonpurpose Investment” means any Investment Property in which Gross Proceeds are invested.

“Opinion of Counsel” means a written opinion of nationally recognized bond counsel, delivered to the Trustee, to the effect that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected.

“Rebate Requirement” means the amount of rebatable arbitrage computed as of the last day of any Bond Year pursuant to Section 1.148-3 of the Treasury Regulations.

“Tax-Exempt Bond” means any obligation the interest on which is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code or Section 103 of the Internal Revenue Code of 1954, as amended (the “1954 Code”), and Title XIII of the Tax Reform Act of 1986, as amended, as well as stock in a regulated investment company to the extent at least 95 percent of income to the stockholder is treated as interest that is excludable from gross income under Section 103 of the Code.

“Yield” means that discount rate described in Section 4.1 of this Tax Certificate.

ARTICLE 2

GENERAL TAX LIMITATIONS

2.1 Governmental Bond Status.

2.1.1 **No Private Loan.** Absent an Opinion of Counsel, the City will not loan more than 5% of the Gross Proceeds to one or more Nongovernmental Persons other than in their roles as members of the general public and will not loan more than 5% of the Gross Proceeds to any Nongovernmental Persons unless such loan enables the City to finance a specific essential governmental function, such as the Purchased Improvements, and such loan is paid with the proceeds of a governmental assessment of general application.

2.1.2 **Compliance with Certain Federal Tax Rules Relating to Assessment Districts.** The City certifies that the Assessments which are being levied in connection with the Agreement and the Bonds is an enforced contribution that is being imposed and collected for the purpose of raising revenue to pay for the capital costs of the Public Improvements that comprise the Purchased Improvements. The Assessments are being imposed and collected pursuant to a state law of general application that is applicable equally to natural persons not acting in a trade or business and to persons acting in a trade or business. Owners of both business and nonbusiness property benefiting from Purchased Improvements are eligible (or required) to make deferred payments of the Assessments, through the payment of an allocable portion of debt service on the Agreement, on an equal basis, and such deferred payments of the Assessments are payable pursuant to the same terms for all persons subject to the Assessments.

2.1.3 **No Private Activity Bonds.** Absent an Opinion of Counsel, the City will not allow more than 10% of the Gross Proceeds or of the Purchased Improvements to be used directly or indirectly by any Nongovernmental Person in any trade or business, other than as a member of the general public. For purposes of the preceding sentence, “10%” is reduced to “5%” for nongovernmental use of any facilities financed from proceeds of the Bonds which are disproportionate to or not related to the governmental purposes of the Agreement. Absent an Opinion of Counsel, for purposes of this Section 2.1.3, the term “use” means any activity or activities which constitute a trade or business or group of trades or businesses, including any unrelated trade or business of a Nongovernmental Person. The term “use” shall include any contract for the management or operation of any portion of the Purchased Improvements unless such contract meets the requirements of Revenue Procedure 97-13, as modified, including by Revenue Procedure 2017-13.

2.2 **Change in Use.** The City reasonably expects to own and use the Public Improvements that are financed by the Agreement as set forth in Section 2.1 of this Tax Certificate for the entire stated term of the Agreement. Absent an Opinion of Counsel, the City in fact will not sell or otherwise transfer ownership of the Public Improvements or fail to use the Public Improvements financed by the Agreement as set forth in Section 2.1 of this Tax Certificate.

2.3 **Registered Form.** The Agreement is being issued to the Authority and it is not transferable.

2.4 **Federal Guarantee.** The City will not directly or indirectly use or permit the use of the Purchased Improvements or any other funds of the City or any related party or take or omit to take any action that would cause the Agreement to be an obligation that is “federally guaranteed” within the meaning of Section 149(b) of the Code. In furtherance of this covenant, the City will not allow the payment of the Installment Payments to be guaranteed (directly or indirectly) in whole or in part by the United States or any agency or instrumentality thereof.

2.5 **Information Reporting.** The City will cause a properly completed and executed IRS Form 8038-G to be filed with respect to the Bonds no later than February 15, 2019.

2.6 **Retention of Records.** The City covenants to maintain all records relating to the requirements of the Code and the representations, certifications and covenants set forth in this Tax Certificate until the date three years after the termination of the Agreement, which may be extended or modified from time to time. The records that must be retained include, but are not limited to:

(a) Basic records and documents relating to the Purchased Improvements (including the Agreement, this Tax Certificate and the opinions of Bond Counsel relating to the Agreement and Bonds);

(b) Documentation evidencing acquisition of the Purchased Improvements;

(c) Documentation evidencing the use of the Purchased Improvements by public and private sources (i.e., copies of management contracts, research agreements, leases, etc.);

(d) Documentation evidencing all sources of payment or security for the Installment Payments; and

2.7 **Allocation of Proceeds.** For purposes of governmental use, the City will allocate amounts that are not proceeds of a tax-exempt borrowing to portions of the Purchased Improvements expected to have private business use (if any) using a reasonable and consistently applied accounting method, including allocating such amounts to discrete portions of the Purchased Improvements (for example, based on actual costs, total space, or fair market value), or on the basis of an undivided portion allocation, or other reasonable method.

ARTICLE 3

ARBITRAGE GENERAL

3.1 **Reasonable Expectations.** This Article 3 states the City's reasonable expectations with respect to the Agreement and the Installment Payments and certain other moneys.

3.2 **Funds and Accounts.** Pursuant to the Agreement, the City will cause the Assessment Fund to be established and maintained with respect to the Installment Payments.

The City does not expect that either it or any other person benefiting from the execution and delivery of the Agreement will use any moneys in any fund or account, other than the Bona Fide Debt Service Funds, to pay principal of or interest on the Installment Payments; nor is any other fund or account,[except the Reserve Fund,] however established, so pledged as security for the Bonds that there is a reasonable assurance that amounts held in such other fund or account will be available if needed to pay debt service on the Bonds.

3.3 **Debt Service Funds.**

3.3.1 **Payment of the Installment Payments.** The Installment Payments are special obligations of the City payable from Assessment Revenues, which are revenues received and collected by the City from the collection of Annual Installments of Assessments (excluding Delinquent Collection Costs, and Administrative Expenses).

3.3.2 **Revenues.** All Assessment Revenues are to be collected and deposited to the Assessment Fund and applied as provided in the Agreement. Installment Payments are expected to be derived from Assessments levied pursuant to the Service and Assessment Plan during the term of this Agreement. Current Assessment Revenues are expected to equal or exceed the Installment Payments during each payment period. Therefore, all amounts transferred to and from the Assessment Fund in respect of the Installment Payments are expected to be derived from current revenues.

3.3.3 **Match Between Revenues and Debt Service.** The Assessment Fund (and the accounts therein) (the "Bona Fide Debt Service Funds") will be used primarily to achieve a proper matching of revenues and debt service within each Bond Year. Such funds in the aggregate will be depleted at least once a year except for a carryover amount not to exceed the greater of the earnings on such funds for the immediately preceding Bond Year or 1/12th of the principal and interest payments on the Bonds for the immediately preceding Bond Year. Amounts contributed to such funds will be spent within thirteen months after the date of such contribution, and any amounts received from the investment or reinvestment of monies held in such funds will be expended within one year after the date of accumulation thereof in any such fund. To the extent the provisions of this Section 3.4.3 are satisfied, amounts in the Bona Fide Debt Service Funds will be invested without regard to yield.

3.4 **No Other Replacement Proceeds.** None of the Bond Proceeds, which will be used to finance the Purchased Improvements being acquired pursuant to the Agreement, will be

used directly or indirectly to replace funds of the City or any related person, which funds are or will be used directly or indirectly to acquire Investment Property reasonably expected to produce a yield that is materially higher than the yield on the Bonds. The weighted average maturity of the Bonds [____ years] does not exceed 120% of the expected weighted average economic useful life of the Purchased Improvements.

3.5 **No Abusive Arbitrage Device.** The Agreement is not and will not be part of a transaction or series of transactions that (a) enables the City or any related person to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage and (b) overburdens the market for tax exempt obligations in any manner, including, without limitation, by selling bonds that would not otherwise be sold, or selling more bonds, or issuing bonds sooner, or allowing bonds to remain outstanding longer, than otherwise would be necessary.

3.6 **No Expected Sale.** It is not expected that the Purchased Improvements or any part thereof financed in whole or in part by the Bonds will be sold, transferred, or otherwise disposed of before _____, the last scheduled Installment Payment date.

ARTICLE 4

ARBITRAGE – YIELD AND YIELD RESTRICTION

4.1 **Yield.** Yield on the Installment Payments has not been computed at this time. If yield is required at a future time, the City will consult with Bond Counsel.

ARTICLE 5

REBATE

5.1 **Undertakings.** Pursuant to the Agreement, the City has covenanted to comply with certain requirements of the Code. The City acknowledges that the United States Department of the Treasury has issued regulations with respect to certain of these undertakings, including the proper method for computing whether any rebate amount is due the federal government under Section 148(f) of the Code. (Treasury Regulations Sections 1.148-1 through 1.148-11, 1.150-1 and 1.150-2.) The City further acknowledges that the United States Department of the Treasury may yet issue additional regulations with respect to certain other of these undertakings. The City covenants that it will undertake to determine what is required with respect to the rebate provisions contained in Section 148(f) of the Code and said regulations from time to time and will comply with any requirements that may apply to the Agreement. The City will cooperate with the Authority so as to allow the Authority to comply with its rebate obligation.

5.2 **Recordkeeping.** The City shall maintain or cause to be maintained detailed records with respect to each Nonpurpose Investment attributable to Gross Proceeds, including: (a) purchase date; (b) purchase price; (c) information establishing fair market value on the date such investment became a Nonpurpose Investment; (d) any accrued interest paid; (e) face amount; (f) coupon rate; (g) periodicity of interest payments; (h) disposition price; (i) any accrued interest received; and (j) disposition date. Such detailed recordkeeping is required to facilitate the calculation of the Rebate Requirement.

5.3 **Rebate Requirement Calculation and Payment.** In the event the City is required to prepare or cause to be prepared a calculation of Rebate Requirement, the City will consult with Bond Counsel.

5.4 **Filing Requirements.** The City will file or cause to be filed such reports or other documents with the Internal Revenue Service as are required by the Code.

5.5 **Retention of Firm.** The City has decided to undertake its rebate obligations as follows:

_____ The City initially has retained the firm of Bond Logistix LLC to perform rebate calculations that may be required to be made from time to time with respect to the Agreement.

_____ The City initially has retained the firm of _____ to perform rebate calculations that may be required to be made from time to time with respect to the Agreement.

_____ The _____ of the City has undertaken full responsibility for performing rebate calculations that may be required to be made from time to time with respect to the Agreement.

 X The City has decided not, at this time, to designate a party responsible for performing rebate calculations that may be required to be made from time to time with respect to the Agreement and as a result undertakes and assumes full responsibility for rebate compliance and acknowledges that neither bond counsel nor the Trustee has any such responsibility (unless later engaged in writing for such purpose).

_____ The City has determined that under no circumstances will it earn any arbitrage subject to rebate with respect to the Agreement.

ARTICLE 6

OTHER MATTERS

6.1 **Expectations.** The undersigned is an authorized representative of the City acting for and on behalf of the City in executing this Tax Certificate. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that would materially change the expectations as set forth herein, and said expectations are reasonable.

6.2 **Amendments.** Notwithstanding any other provision of this Tax Certificate, the City may amend this Tax Certificate and thereby alter any actions allowed or required by this Tax Certificate if such amendment is signed by an authorized officer and is supported by an opinion of counsel to the effect that such action (or inaction) will not adversely affect the exclusion of interest on the Installment Payments from gross income for purposes of federal income taxation.

6.3 **Post-Issuance Compliance Procedures.** The City hereby covenants to comply with certain requirements of the Code relating to the Rebate Requirement as discussed in

Article 5 herein, and relating to private use of the Purchased Improvements. The City intends to comply with these requirements, including, if necessary, the retention of a qualified rebate analyst or other experts. The City hereby adopts Tax Compliance procedures which are attached hereto as Exhibit A and hereby affirms the applicability of these procedures to the Agreement.

6.4 **Survival of Defeasance.** Notwithstanding any provision in this Tax Certificate or the Agreement to the contrary, the obligation to remit the Rebate Requirement, if any, to the United States Department of the Treasury and to comply with all other requirements contained in this Tax Certificate shall survive defeasance of the Bonds.

Dated: _____, 2019.

CITY OF HUTTO, TEXAS

By: _____
City Manager

EXHIBIT A

POST-ISSUANCE COMPLIANCE PROCEDURES

_____, 2019

The purpose of these Post-Issuance Tax Compliance Procedures is to establish policies and procedures in connection with tax-exempt obligations (“Obligations”) issued by the City of Hutto, Texas (the “City”) so as to ensure that the City complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Obligations.

GENERAL

Ultimate responsibility for all matters relating to the City’s financings and re-financings rests with the City’s City Manager.

POST-ISSUANCE COMPLIANCE REQUIREMENTS

External Advisors / Documentation

The City Manager and other appropriate City personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Obligation issuance process to identify requirements and to establish procedures necessary or appropriate so that the Obligations will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in City resolution(s), Tax Certificate(s) and / or other documents finalized at or before issuance of the Obligations. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Obligations.

The City Manager and other appropriate City personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Obligations to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Obligation-financed assets and future contracts with respect to the use of output or throughput of Obligation-financed assets.

Whenever necessary or appropriate, the City shall engage expert advisors (each a “Rebate Service Provider”) to assist in the calculation of arbitrage rebate payable in respect of the investment of Obligation proceeds.

Role of the City as Borrower

Unless otherwise provided by City resolutions, unexpended Obligation proceeds shall be held by the City, and the investment of Obligation proceeds shall be managed by the City Manager or his or her appointee. The City Manager or appointee shall maintain records and shall

prepare regular, periodic statements to the Authority regarding the investments and transactions involving Obligation proceeds.

If a City resolution provides for Obligation proceeds to be administered by a trustee, the trustee shall provide regular, periodic (monthly) statements regarding the investments and transactions involving Obligation proceeds.

Arbitrage Rebate and Yield

Unless a Tax Certificate documents that bond counsel has advised that arbitrage rebate will not be applicable to an issue of Obligations:

- the City shall engage the services of a Rebate Service Provider, and the City or the Bond trustee shall deliver periodic statements concerning the investment of Obligation proceeds to the Rebate Service Provider on a prompt basis;
- upon request, the City Manager and other appropriate City personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- the City Manager and other appropriate City personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Obligations, and no later than 60 days after the last Obligation of each issue is redeemed; and
- during the construction period of each capital project financed in whole or in part by Obligations, the City Manager and other appropriate City personnel shall monitor the investment and expenditure of Obligation proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Obligations.

The City shall retain copies of all arbitrage reports and trustee statements as described below under “Record Keeping Requirements”.

Use of Obligation Proceeds

The City Manager and other appropriate City personnel shall:

- monitor the use of Obligation proceeds, the use of Obligation-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of Obligation-financed assets throughout the term of the Obligations (and in some cases beyond the term of the Obligations) to ensure compliance with covenants and restrictions set forth in applicable City resolutions and Tax Certificates;

- maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Obligations;
- consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements involving use of Obligation-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates;
- maintain records for any contracts or arrangements involving the use of Obligation-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates;
- meet at least annually with personnel responsible for Obligation-financed assets to identify and discuss any existing or planned use of Obligation-financed assets or output or throughput of Obligation-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates.

All relevant records and contracts shall be maintained as described below.

RECORD KEEPING REQUIREMENTS

Unless otherwise specified in applicable City resolutions or Tax Certificates, the City shall maintain the following documents for the term of each issue of Obligations (including refunding Obligations, if any) plus at least three years:

- a copy of the Obligation closing transcript(s) and other relevant documentation delivered to the City at or in connection with closing of the issue of Obligations;
- a copy of all material documents relating to capital expenditures financed or refinanced by Obligation proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Obligation proceeds and records identifying the assets or portion of assets that are financed or refinanced with Obligation proceeds;
- a copy of all contracts and arrangements involving private use of Obligation-financed assets or for the private use of output or throughput of Obligation-financed assets; and
- copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.

EXHIBIT E
FORM OF IRS FORM 8038-G

Exhibit E

EXHIBIT F
FORM OF CONTINUING DISCLOSURE AGREEMENT

Exhibit F

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HUTTO,
TEXAS, AUTHORIZING AND APPROVING AN INTERLOCAL
AGREEMENT WITH THE RIVER CREEK DEVELOPMENT
CORPORATION; A CONSENT LETTER WITH THE PUBLIC FINANCE
AUTHORITY; A CONTINUING DISCLOSURE AGREEMENT;
APPROVING CERTAIN ACTIONS BY RIVER CREEK DEVELOPMENT
CORPORATION AND CONTAINING OTHER MATTERS RELATED
THERETO**

RECITALS

WHEREAS, on June 7, 2018, the City Council of the City of Hutto, Texas (the “City”) passed and approved Resolution No. R-18-06-07-9D authorizing the creation of the Hutto Co-Op Public Improvement District (the “District”) pursuant to Chapter 372, Texas Local Government Code, as amended (the “PID Act”); and

WHEREAS, the District was created, in part, to undertake and finance the certain Public Improvements as defined in the District Service and Assessment Plan and Assessment Roll approved by the City Council of the City dated January 17, 2019, as amended from time to time (the “Service and Assessment Plan”); and

WHEREAS, the City desires to use the assessments collected by the District to purchase the Public Improvements (the “Project”); and

WHEREAS, the City has created the River Creek Development Corporation (the Corporation”); and

WHEREAS, the City and the Corporation desire to enter into that certain Interlocal Agreement dated January 17, 2019 for the purchase and sale of the Public Improvements (the “Project”) pursuant Chapter 372.023(a) of the PID Act (the “Interlocal Agreement”); and

WHEREAS, the Public Finance Authority (the “Authority”) is authorized pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, commonly known as the “Joint Exercise of Powers Law” (the “PFA Act”), and the terms of an Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the “Joint Exercise Agreement”), to issue revenue bonds in accordance with the PFA Act for the purpose of financing various types of projects within or outside of the State of Wisconsin; and

WHEREAS, the Authority has been requested to issue bonds in one or more series (the “Bonds”) to provide some or all of the financing provided to the Corporation by the Authority under the Loan Agreement; and

WHEREAS, the City, on its own behalf or through the Corporation, has determined not to issue bonds at this time and prefers that the Authority issue any Bonds associated with the Loan Agreement; and

WHEREAS, the Authority has agreed to issue bonds to fund the Loan Agreement on behalf of and as agent of the City and/or Corporation; and

WHEREAS, Section 66.0304(11)(a) of the Wisconsin Statutes provides that the Authority may not issue bonds to finance a capital improvement project in any state or territory of the United States unless a political subdivision within whose boundaries the project is to be located has approved the financing of the project, and the City desires to provide such approval; and

WHEREAS, compliance by the City and the Corporation with Section 66.0304(11)(a) of the Wisconsin Statutes does not constitute an endorsement of the Bonds or the Project, or a commitment by the City, Corporation or any other governmental body, to provide any other approvals that may be required in connection with the Project, or an undertaking of any responsibility of any kind with respect to the Bonds; and

WHEREAS, the City has approved and directed the Corporation to take all of the actions and enter such agreements as described herein.

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

Section 1. Recitals Incorporated. The findings, determinations and actions described in the recitals of this Resolution are true and correct, and are hereby incorporated and adopted as part of this Resolution for all purposes.

Section 2. Authorization to Enter Interlocal Agreement. The City hereby authorizes and approves the Interlocal Agreement with the Corporation, substantially in the form attached hereto as Exhibit A, the terms and provisions of which are hereby approved, and the Mayor and City Secretary and such other appropriate officers are hereby authorized to execute and deliver such Interlocal Agreement on behalf of the City.

Section 3. Approval of Consent Letter. The City hereby authorizes and approves the Consent Letter for the Public Finance Authority, substantially in the form attached hereto as Exhibit B, the terms and provisions of which are hereby approved, and the Mayor and such other appropriate officers are hereby authorized to execute and deliver such Consent Letter on behalf of the City.

Section 4. Approval of Continuing Disclosure Agreement. The City hereby authorizes and approves the Continuing Disclosure Agreement, substantially in the form attached hereto as Exhibit C, the terms and provisions of which are hereby approved and the Mayor and City Secretary and such other appropriate officers are hereby authorized to execute and deliver such agreement on behalf of the City.

Section 5. Approval of Certain River Creek Development Corporation Actions. The City approves of actions of River Creek Development Corporation agreeing to a construction contract with Meritage Homes of Texas, LLC, a loan agreement with the Public Finance Authority, a Continuing Disclosure Agreement and a Consent Letter for the Public Finance Authority.

Section 6. Further Proceedings. The City and all officers and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or

convenient to carry out the terms of this Resolution and the agreements and instruments authorized herein.

Section 7. Notice. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject to the meeting of the City Council of the City at which this Resolution was adopted was posted at a place convenient and readily accessible at all times to the general public at the regular meeting place of the City for the time required by law preceding this meeting, as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that the meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof have been discussed, considered and formally acted upon. The City Council of the City further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 8. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[signature page follows]

PASSED AND ADOPTED this January 17, 2019.

CITY OF HUTTO, TEXAS

Mayor

ATTEST:

City Secretary

EXHIBIT A

INTERLOCAL AGREEMENT

EXHIBIT B

CONSENT LETTER

EXHIBIT C

CONTINUING DISCLOSURE AGREEMENT

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 10E.

AGENDA DATE: January 17, 2019

PRESENTED BY: City Attorney

ITEM:

Consider adoption of a resolution approving the Hutto Economic Development Corporation Type A "resolution authorizing Hutto Economic Development Corporation Type A Revenue Bond (Peripheral Investments, L.P. Project), Series 2019; the execution of an indenture of trust, a loan agreement and a purchase letter; and other matters in connection therewith." (City Attorney)

STRATEGIC GUIDE POLICY: Well Balanced & Diversified Economy

ITEM BACKGROUND:

The Hutto Economic Development Corporation (the "Issuer") was created by the City of Hutto, Texas and proposes to issue bonds for the purpose of making a loan to Peripheral Investments, L.P. (the "Company") in order to finance projects (as defined in the Act), at the Titan Innovation Industrial Park located at U.S. HWY 79 and S.H. 130, Hutto, Texas, as further set forth in the hereinafter described Loan Agreement (the "Project"), in a maximum principal amount not to exceed \$10,000,000.00.

A public hearing on the Bonds and the Project was held as required by Section 147 of the Internal Revenue Code of 1986, as amended (the "Code") after publishing notice in a newspaper of general circulation in the Governmental Unit at least 14 days prior to such public hearing.

Section 501.204, Texas Local Government Code, as amended, requires that the Governmental Unit approve the resolution of the Issuer providing for the issuance of the Bonds within 60 days prior to the date of delivery of the Bonds.

It is deemed necessary and advisable that this Resolution be adopted to evidence the approval by the Governmental Unit as of the date of adoption hereof of the Issuer's resolution authorizing the issuance of the Bonds.

The Resolution Authorizing The Hutto Economic Development Corporation Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019; The Execution of an Indenture of Trust, a Loan Agreement and a Purchase Letter; and Other Matters in Connection Therewith" in substantially the form and substance attached is hereby specifically approved, and the Bonds may be issued as provided for therein.

BUDGETARY AND FINANCIAL SUMMARY:

The Bonds total a maximum principal amount not to exceed \$10,000,000.00.

The approvals contained herein are solely for the purposes of Section 501.204, Texas Local Government Code, as amended, and for the purposes of Section 147 of the Code and the Governmental Unit shall have no liability for the payment of the Bonds nor shall any of its assets be pledged to the payment of the Bonds.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

The Hutto Economic Development Corporation is the Issuer.

CITY ATTORNEY REVIEW:

City Attorney and Bond Counsel has reviewed the documents.

STAFF RECOMMENDATION:

Staff recommends approval.

SUPPORTING MATERIAL:

1. [Loan Agreement](#)
2. [Indenture](#)

LOAN AGREEMENT

by and between

HUTTO ECONOMIC DEVELOPMENT CORPORATION

and

PERIPHERAL INVESTMENTS, L.P.

Dated as of January 1, 2019

Relating to

[\$10,000,000]

**HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

CERTAIN RIGHTS OF THE ISSUER UNDER THIS LOAN AGREEMENT HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE UNDER AN INDENTURE OF TRUST, DATED AS OF THE DATE FIRST ABOVE WRITTEN, AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME. INFORMATION CONCERNING SUCH SECURITY INTEREST MAY BE OBTAINED FROM THE TRUSTEE AT [1445 ROSS AVE., STE. 4300, DALLAS, TX 75202].

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of January 1, 2019, is made and entered into by and between **HUTTO ECONOMIC DEVELOPMENT CORPORATION** and **PERIPHERAL INVESTMENTS, L.P.** Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 1.01.

WITNESSETH:

WHEREAS, the Issuer is empowered pursuant to the Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the “Act”) to issue revenue bonds for the purpose of paying all or part of the costs of a “project,” as defined in the Act, and to loan the proceeds of the bonds to others to finance all or part of the costs of the project; and

WHEREAS, in furtherance of the public purpose for which the Issuer was created and contemporaneously with the execution and delivery hereof, the Issuer is issuing its \$[10,000,000] Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 pursuant to the Indenture to finance the acquisition, construction, installation and equipping of the project described on Exhibit A (the “Project”) to be used by the Borrower; and

WHEREAS, the Issuer proposes to loan the Bond Proceeds to the Borrower to acquire, construct, install and equip the Project upon the terms and conditions hereinafter set forth and to pay certain costs incurred in connection with the issuance of the Bonds.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions. In addition to the words and terms defined elsewhere in this Agreement, the following words and terms as used in this Agreement and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:

“*Acquisition*” means, when used with reference to the Project, the acquisition, construction, installation and equipping of the Project.

“*Act*” shall have the meaning assigned to such term in the recitals hereto.

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under common control with such Person. Without limiting the foregoing, the definition of “Affiliate” of any Person shall include any subsidiary of such Person.

“*Agreement*” means this Loan Agreement.

“Applicable Law” means (a) all applicable common law and principles of equity and (b) all applicable provisions of all (i) constitutions, statutes, rules, regulations and orders of all Governmental Authorities, (ii) Governmental Approvals and (iii) orders, decisions judgments, writs, injunctions and decrees of all courts (whether at law or in equity) and arbitrators.

“Bond Proceeds” means the principal of the Bonds and any investment earnings thereon.

“Borrower” means Peripheral Investments, L.P., a limited partnership duly organized and validly existing under the laws of the State of Texas, and its permitted successors and assigns.

“Borrower Documents” shall have the meaning assigned to such term in Section 9.03.

“Borrower Representative” means any one of the persons at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee containing the specimen signatures of such persons and signed on behalf of the Borrower by the [] of the Borrower.

“Completion Date” means, with respect to the Project, the earliest of (a) three (3) years after the Issue Date, (b) the expenditure of all Advances, and (c) the date on which the Borrower Representative delivers a completion certificate to the Trustee pursuant to Section 3.03.

“Consolidated Tangible Net Worth” means the difference obtained by subtracting total consolidated liabilities (not including as a liability any capital or surplus item) from total consolidated tangible assets of the Borrower and all of its consolidated Affiliates, computed in accordance with GAAP.

“Continuing Covenant Agreement” means the Continuing Covenant Agreement dated January __, 2019, by and between the Borrower and the Purchaser relating to the Bonds.

“control,” “controlled by” or “under common control with” means, when used with respect to any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting rights, the power to appoint officers, members, trustees or directors, by contract, statute or otherwise.

“Cost(s) of the Project” means all costs and allowances which the Issuer or the Borrower may properly pay or accrue as a “Cost” for the Project in accordance with Section 501.152 of the Act and which, under GAAP, are chargeable to the capital account of the Project or could be so charged either with a proper election to capitalize such costs or, but for a proper election, to expense such costs, including (without limitation) the following costs:

- (a) the cost of acquiring all land, rights-of-way, property rights, easements, and interests;
- (b) the cost of all machinery and equipment;
- (c) financing charges;
- (d) the cost of inventory, raw materials, and other supplies;

- (e) research and development costs;
- (f) interest accruing before and during construction and until the first anniversary of the date the construction is completed, regardless of whether capitalized;
- (g) necessary reserve funds;
- (h) the cost of estimates, including estimates of cost and revenue;
- (i) the cost of engineering or legal services;
- (j) the cost of plans, specifications, or surveys;
- (k) other expenses necessary or incident to determining the feasibility and practicability of acquiring, cleaning, constructing, reconstructing, improving, and expanding the Project;
- (l) administrative expenses; and
- (m) other expenditures necessary or incident to:
 - (i) acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;
 - (ii) placing the project in operation;
 - (iii) financing or refinancing the project, including refunding any outstanding obligations, mortgages, or advances issued, made, or given by a person for a cost described by this section; and
- (n) any other costs and expenses relating to the Project which could constitute costs or expenses for which the Issuer may expend Bond Proceeds under the Act.

“*Eminent Domain*” means the taking of title to, or the temporary use of, the Mortgaged Property or any part thereof pursuant to eminent domain or condemnation proceedings, or by any settlement or compromise of such proceedings, or any voluntary conveyance of the Mortgaged Property or any part thereof during the pendency of, or as a result of a threat of, such proceedings.

“*Event of Default*” shall have the meaning assigned to such term in Section 10.01.

“*Fiscal Year*” means the period of twelve (12) consecutive calendar months for which financial statements of the respective entity have been examined by its independent certified public accountants; currently for the Borrower, a year ending on December 31st.

“*GAAP*” means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a

significant segment of the accounting profession in the United States of America, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governing Body” means the board, commission, council or other body in which the general legislative powers of the Issuer are vested.

“Governmental Approvals” means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

“Governmental Authority” means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

“Indenture” means the Indenture of Trust dated as of January 1, 2019, between the Issuer and the Trustee.

“Insurance Proceeds” means the insurance claims under and the proceeds of any and all policies of insurance covering the Mortgaged Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Mortgaged Property, in each case whether now or hereafter existing or arising.

“Issuer” means Hutto Economic Development Corporation, a non-profit corporation duly organized and existing under the Constitution and laws of the State, including the Act, or any successor to its rights and obligations under the Agreement and this Indenture.

“Issuer Representative” means any one of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Borrower and the Trustee containing the specimen signatures of such persons and signed on behalf of the Issuer by its Chairman or Vice Chairman.

“Land” shall have the meaning assigned to such term in the Mortgage.

“Loan” means the loan from the Issuer to the Borrower of the proceeds of the Bonds, the repayment obligation of which is evidenced by this Agreement and the Note.

“Mortgage” shall have the meaning assigned to such term in the Indenture.

“Mortgaged Property” shall have the meaning assigned to the term “Property” in the Mortgage.

“*Net Proceeds*” means, when used with respect to any Insurance Proceeds or proceeds resulting from Eminent Domain, the gross proceeds therefrom less all expenses (including attorneys’ fees) incurred in the realization thereof.

“*Note*” shall have the meaning assigned to such term in the Indenture.

“*Plans and Specifications*” means the plans and specifications used in the Acquisition of the Project, as the same may be revised from time to time by the Borrower in accordance with Section 3.07.

“*Project*” shall have the meaning assigned to such term in the recitals to this Agreement.

“*Property*” means, when used in connection with any Person, any and all rights, title and interests of such Person in and to any and all property (including cash) whether real, personal or mixed, or tangible or intangible, and wherever situated.

“*Reserved Rights*” means (a) the rights of, and amounts payable to, the Issuer pursuant to (i) Section 3.07 of the Indenture and (ii) Section 5.02(b), Section 5.02(c), Section 8.01, Section 8.06, Section 8.07, Section 10.05, Section 12.04, Section 12.05 of this Agreement, and (b) the rights of the Issuer under this Agreement to receive notices, reports and other statements be given to the Issuer and that consents be obtained from the Issuer.

“*Requisition*” shall have the meaning assigned to such term in Section 3.02.

“*Rule*” shall have the meaning assigned to such term in Section 8.16.

“*State*” means the State of Texas.

“*Trustee*” means Wells Fargo Bank, National Association, as trustee under the Indenture, and any successor trustee appointed under the Indenture.

Section 1.02. Incorporation of Certain Definitions by Reference. Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Indenture, unless the context otherwise requires.

Section 1.03. Computation of Time Periods. In this Agreement, in the computation of a period of time from a specified date to a later specified date, unless otherwise specified herein, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and the word “through” means “to and including.”

Section 1.04. Relation to Other Documents; Incorporation By Reference.

(a) Nothing in this Agreement shall be deemed to amend, or relieve the Issuer or the Borrower of any of its obligations under, any Bond Document to which it is a party. Conversely, to the extent that the provisions of any Bond Document allow the parties hereto to take or not take certain actions, the parties hereto nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) below, all references to this Agreement or any other documents, including, without limitation, the Bond Documents, shall be deemed to include all amendments, restatements, modifications and supplements thereto to the extent such amendment, restatement, modification or supplement is made in accordance with the provisions of such document and the Indenture.

(c) All provisions of this Agreement making reference to specific Sections of any Bond Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Agreement notwithstanding payment of the Bonds and all amounts due under or secured by the Bond Documents, the termination or defeasance thereof or any modification thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until all amounts due and owing under this Agreement, the Indenture, the Bonds and the other Bond Documents are paid in full.

Section 1.05. Construction. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Article, section, subsection, exhibit, schedule and annex references are to this Agreement unless otherwise specified. Any exhibit, schedule or annex attached hereto is incorporated by reference herein and is a constituent part of this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations by the Issuer. The Issuer represents and warrants as follows:

(a) The Issuer is a non-profit corporation duly organized and existing under and pursuant to the Constitution and laws of the State, including the Act, and is authorized by the Act to execute and to enter into this Agreement and the other Bond Documents to which it is a party and to undertake the transactions contemplated herein and therein and to carry out its obligations hereunder and thereunder.

(b) The Issuer has all requisite power, authority and legal right to execute and deliver the Bond Documents to which it is a party and all other instruments and documents to be executed and delivered by the Issuer pursuant thereto, to perform and observe the provisions thereof and to carry out the transactions contemplated by the Bond Documents. All corporate action on the part of the Issuer which is required for the execution, delivery, performance and observance by the Issuer of the Bond Documents

has been duly authorized and effectively taken, and such execution, delivery, performance and observation by the Issuer do not contravene Applicable Law or any contractual restriction binding on or affecting the Issuer.

(c) The Issuer has duly approved the issuance of the Bonds and the Loan of the proceeds thereof to the Borrower for the Acquisition of the Project; no other authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required as a condition to the performance by the Issuer of its obligations under any Bond Documents.

(d) This Agreement is, and each other Bond Document to which the Issuer is a party when delivered will be, legal, valid and binding special obligations of the Issuer enforceable against the Issuer in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

(e) There is no default of the Issuer in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of the Bond Documents or the ability of the Issuer to perform its obligations hereunder or thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(f) With respect to the Bonds, there are no other obligations of the Issuer that have been, are being or will be (i) sold at substantially the same time, (ii) sold pursuant to the same plan of financing, and (iii) reasonably expected to be paid from substantially the same source of funds.

(g) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds and the Bond Documents to which it is a party or (ii) the tax-exempt status of interest on the Bonds, if applicable.

(h) In connection with the authorization, issuance and sale of the Bonds, the Issuer has complied with all provisions of the Constitution and laws of the State, including the Act.

(i) The Issuer has not assigned or pledged and will not assign or pledge its interest in this Agreement and the Note for any purpose other than to secure the Bonds under the Indenture. The Bonds constitute the only bonds or other obligations of the Issuer in any manner payable from the revenues to be derived from this Agreement, and except for the Bonds, no bonds or other obligations have been or will be issued on the basis of this Agreement.

(j) The Issuer is not in default under any of the provisions of the laws of the State, where any such default would affect the issuance, validity or enforceability of the Bonds or the transactions contemplated by the Bond Documents to which it is a party.

(k) No representation is made herein as to compliance with the securities or “blue sky” laws of any jurisdiction.

(l) The Issuer shall not be required to consent to service of process in any jurisdiction or be required to submit to the general jurisdiction of any state.

Section 2.02. Representations, Warranties and Covenants of the Borrower. The Borrower represents, warrants and covenants as follows:

(a) The Borrower (i) is a limited partnership organized and existing under the laws of the State, (ii) has organizational and other legal power and authority to enter into and to perform the agreements and covenants on its part contained in the Bond Documents to which it is a party, and (iii) has duly authorized the execution, delivery and performance of the Bond Documents to which it is a party and has duly approved the Bond Documents.

(b) This Agreement and each of the other Bond Documents to which it is a party have been duly executed and delivered by the duly authorized officers of the Borrower, and each such document constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms, except as such enforceability may be limited by (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors’ rights generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) The execution and delivery by the Borrower of the Bond Documents to which it is a party and the performance by the Borrower of its obligations thereunder (i) do not violate provisions of statutory laws or regulations applicable to the Borrower, (ii) do not violate its [articles of incorporation or bylaws], (iii) do not breach or result in a default under any other agreement to which it is a party and (iv) do not violate the terms of any judicial or administrative judgment, order, decree or arbitral decision that names the Borrower and is specifically directed to it or its assets.

(d) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any Governmental Authority pending, or, to the best knowledge of the Borrower, threatened against or affecting the Borrower wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bond Documents or (ii) the tax-exempt status of interest on the Bonds.

(e) No further authorizations, consents or approvals of Governmental Authorities or agencies are required in connection with the execution and delivery by the Borrower of this Agreement or the other Bond Documents to which the Borrower is a

party or in connection with the carrying out by the Borrower of its obligations under this Agreement or the other Bond Documents to which the Borrower is a party.

(f) The financing of the Project as provided under this Agreement and commitments therefor made by the Issuer have induced the Borrower to expand or locate its operations in the jurisdiction of the Issuer.

(g) The Borrower anticipates that upon completion of the Acquisition of the Project, the Borrower will operate the Project as a “project” within the meaning of the Act until the Bonds have been paid in full.

(h) The Project is of the type authorized and permitted by the Act and the Project is substantially the same in all material respects to that described in the notice of public hearing published on January __, 2019.

(i) The Project will be acquired, constructed, installed and equipped and will be operated by the Borrower in such manner as to conform with all applicable zoning, planning, building, environmental and other regulations of the Governmental Authorities having jurisdiction over the Project.

(j) The Borrower will cause all of the proceeds of the Bonds to be applied solely to the payment of Costs of the Project, and not more than 5% of the Project financed with the proceeds of the Bonds shall be used in any “unrelated trade or business” of the Borrower within the meaning of Section 513(a) of the Code.

(k) The Borrower has taken no action, and has not omitted to take any action, which action or omission would in any way affect or impair the excludability of interest on the Bonds from gross income of the Owners thereof for federal income tax purposes.

(l) All of the representations, warranties and covenants of the Borrower contained in the Tax Certificate are hereby reaffirmed and incorporated herein by reference.

(m) The Borrower presently in good faith estimates the Costs of the Project to equal or exceed the original principal amount of the Bonds.

(n) The Project will be located wholly within Williamson County, Texas.

All of the above representations and warranties shall survive the execution of this Agreement.

ARTICLE III

ACQUISITION OF THE PROJECT

Section 3.01. Agreement to Undertake and Complete the Project. The Borrower covenants and agrees to undertake and complete the Acquisition of the Project. Upon written request of the Issuer, the Trustee, or the Purchaser, if any, the Borrower agrees to make available

(for review and copying) all the then current Plans and Specifications for the Project. The Borrower shall obtain or cause to be obtained all necessary permits and approvals for the Acquisition, operation and maintenance of the Project.

The Borrower agrees to cause the Project to be completed as soon as may be practicable and to cause all Bond Proceeds to be expended no later than three (3) years from the Issue Date. For Costs of the Project incurred prior to receipt by the Issuer of the proceeds of the Bonds, the Borrower agrees to advance all funds necessary to reimburse the Issuer for such purpose. Such advances may be reimbursed to the extent permitted by the Code and Section 3.02.

Section 3.02. Disbursements from the Project Fund. In the Indenture, the Issuer has authorized and directed the Trustee to use the moneys in the Project Fund for payment or reimbursement to the Borrower of the Costs of the Project.

Each Advance for a Cost of the Project shall be made only upon the receipt by the Trustee of a requisition and certificate, substantially in the form attached hereto as Exhibit B (a "Requisition") and signed by the Borrower Representative and, during a Direct Purchase Period, approved by the Purchaser and otherwise meeting the requirements and conditions of the Continuing Covenant Agreement.

The Borrower further agrees that it will not request any Advance hereunder which, if paid, would result in (i) less than substantially all (at least ninety-five percent (95%)) of the Bond Proceeds being used to provide land or property subject to the allowance for depreciation under Section 167 of the Code, (ii) less than all of the Bond Proceeds being used to provide for the Acquisition of the Project as contemplated by the Act, or (iii) the inclusion of the interest on any of the Bonds in the gross income of any Owner for purposes of federal income taxation. Notwithstanding the foregoing, the Borrower may request an Advance to pay costs of issuance with respect to the Bonds not to exceed in total 2% of the Bond Proceeds expected to be available to pay Costs of the Project.

Section 3.03. Establishment of Completion Date and Certificate as to Completion. Within thirty (30) days following the completion of the Acquisition of the Project, the Borrower Representative shall sign and deliver to the Issuer, the Trustee and the Purchaser, if any, a certificate stating that, except for amounts retained by the Trustee in the Project Fund for Costs of the Project not then due and payable, or the liability for which the Borrower is, in good faith, contesting or disputing, (a) the Project has been completed to the satisfaction of the Borrower, and all labor, services, materials and supplies used in such Acquisition have been paid for, and (b) the Project is suitable and sufficient for the efficient operation as a "project" (as defined in the Act). Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 3.04. Closeout of Project Fund; Disposition of Balance in Project Fund. All Surplus Bond Proceeds shall, on the Completion Date, be transferred to and deposited in the Surplus Fund as described in Section 4.03 of the Indenture. The Trustee shall, at the direction of the Borrower Representative, retain moneys in the Project Fund for payment of Costs of the

Project not then due and payable or which are being disputed or contested by the Borrower in good faith.

Section 3.05. Borrower Required to Pay Costs of the Project in Event Project Fund Insufficient. If the moneys in the Project Fund available for payment of the Costs of the Project should not be sufficient to make such payments in full, the Borrower agrees to pay directly (or to deposit moneys in the Borrower's deposit account as provided in the Continuing Covenant Agreement for the payment of) such costs of completing the Project as may be in excess of the moneys available therefor in the Project Fund. THE ISSUER DOES NOT MAKE ANY WARRANTY OR REPRESENTATION (EITHER EXPRESS OR IMPLIED) THAT THE MONEYS DEPOSITED INTO THE PROJECT FUND AND AVAILABLE FOR PAYMENT OF THE COSTS OF THE PROJECT UNDER THE PROVISIONS OF THIS AGREEMENT WILL BE SUFFICIENT TO PAY ALL OF THE COSTS OF THE PROJECT OR THAT THE PROJECT WILL BE SUITABLE FOR THE PURPOSES OF THE BORROWER. If, after exhausting the moneys in the Project Fund for any reason (including, without limitation, losses on investments made by the Trustee under the Indenture), the Borrower pays, or deposits moneys in the Borrower's deposit account for the payment of, any portion of the Costs of the Project pursuant to the provisions of this Section 3.05, the Borrower shall not be entitled to any reimbursement therefor from the Issuer or from the Trustee, nor shall it be entitled to any diminution of the amounts payable under Section 5.02.

Section 3.06. Borrower and Issuer Representatives and Successors. At or prior to the initial sale of the Bonds, the Borrower and the Issuer shall appoint a Borrower Representative and an Issuer Representative, respectively, for the purpose of taking all actions and delivering all certificates required to be taken and delivered by the Borrower Representative and the Issuer Representative under the provisions of this Agreement. The Borrower and the Issuer, respectively, may appoint alternate Borrower Representatives and alternate Issuer Representatives to take any such action or make any such certification if the same is not taken or made by the incumbent Borrower Representative or the incumbent Issuer Representative. In the event any of such Persons, or any successor appointed pursuant to the provisions of this Section 3.06, should resign or become unavailable or unable to take any action or deliver any certificate provided for in this Agreement, another Borrower Representative or alternate Borrower Representative, or another Issuer Representative or alternate Issuer Representative, shall thereupon be appointed by the Borrower or the Issuer, respectively. If the Borrower or the Issuer fails to make such designation within ten (10) days following the date when the then incumbent Borrower Representative or Issuer Representative resigns or becomes unavailable or unable to take any such actions, the [President or General Counsel] of the Borrower, or the [Chairman or the Vice Chairman] of the Issuer, shall serve as the Borrower Representative or the Issuer Representative, respectively.

Whenever the provisions of this Agreement require the Borrower's approval, require the Borrower to take some action at the request of the Issuer or require the Issuer or the Trustee to take some action at the request or direction of the Borrower, the Borrower Representative shall make such approval, request or direction in writing unless otherwise specified in this Agreement. Any action so taken with the written approval of or at the written direction of the Borrower Representative shall be binding upon the Borrower and the Issuer, the Calculation Agent, the

Market Agent, if any, Remarketing Agent, if any, the Paying Agent and the Trustee shall be authorized to rely on any such approval or action.

Whenever the provisions of this Agreement require the Issuer's approval or require the Issuer to take some action at the request of the Borrower, such approval shall be made or such action shall be taken by the Issuer Representative and the Borrower, the Calculation Agent, the Market Agent, if any, the Remarketing Agent, if any, the Paying Agent and the Trustee shall be authorized to rely on any such approval or action.

Section 3.07. Plans and Specifications. The Borrower shall maintain a set of Plans and Specifications at the Project which shall be available to the Issuer, the Trustee and the Purchaser, if any, for inspection and examination during the Borrower's regular business hours. The Issuer and the Borrower agree that the Borrower may supplement, amend and add to the Plans and Specifications, and the Borrower may omit or make substitutions for components of the Project, without the approval of the Issuer, but subject to the requirements of any Continuing Covenant Agreement, including any required consent of the Purchaser, and, provided that no such change shall be made which, after giving effect to such change, would cause any of the representations and warranties set forth in Section 2.02 to be false or misleading in any material respect, or would result in a violation of the covenant set forth in Section 8.05. If any such change would render materially incorrect or inaccurate the description of the initial components of the Project as previously described in writing by the Borrower to the Purchaser, if any, the Borrower shall deliver to the Issuer, the Purchaser and the Trustee an Approving Opinion and thereafter, the Borrower and the Issuer shall amend Exhibit A to reflect such change. No approvals of the Issuer or the Trustee shall be required for the Acquisition of the Project or for the solicitation, negotiation, award or execution of contracts relating thereto.

ARTICLE IV

ISSUANCE OF THE BONDS

Section 4.01. Agreement to Issue the Bonds. To provide funds for the Acquisition of the Project, the Issuer agrees that it will sell, issue and deliver the Bonds in the aggregate principal amount not to exceed [\$10,000,000] to the Purchaser and will cause the proceeds of the Bonds to be applied as provided in Section 4.02 of the Indenture.

Section 4.02. Third-Party Beneficiaries. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to establish in favor of the public or any member thereof, other than as expressly provided herein or as contemplated in the Indenture, the rights of a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law. Notwithstanding the foregoing, it is specifically agreed between the parties that during any Direct Purchase Period, the Purchaser, and while any Reimbursement Agreement is in effect, the Credit Provider, is an express third party beneficiary of this Agreement, entitled, but not obligated, to enforce each of the covenants and provisions of this Agreement.

ARTICLE V

LOAN; PAYMENT PROVISIONS

Section 5.01. Loan of Proceeds. The Issuer agrees, upon the terms and conditions contained in this Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. [The Loan shall be made by depositing the proceeds from the initial sale of the Bonds into the Project Fund in accordance with Section [4.05] of the Indenture.] Such proceeds shall be disbursed to or on behalf of the Borrower as provided in Section 3.02. The Borrower's obligation to repay the Loan shall be evidenced by the Note.

Section 5.02. Amounts Payable. The Borrower hereby agrees to repay the Loan by making the following payments:

(a) Subject to Sections 5.05 and 5.09, and the final paragraph of Section 2.02 of the Indenture, the Borrower shall pay or cause to be paid to the Trustee in immediately available funds for the account of the Issuer for deposit into the Bond Fund on or before any Interest Payment Date for the Bonds or any other date that any payment of interest, redemption premium, if any, or principal is required to be made in respect of the Bonds pursuant to the Indenture or pursuant to Section 3.01(b) of the Continuing Covenant Agreement, until the principal of, redemption premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, a sum which, together with any Eligible Funds available for such payment in the Bond Fund, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or upon redemption or acceleration or otherwise), redemption premium, if any, and interest on the Bonds as provided in the Indenture.

It is understood and agreed that the Note and all payments payable by the Borrower under this Section 5.02(a) are assigned by the Issuer to the Trustee for the benefit of the Owners. The Borrower assents to such assignment. Subject to the final paragraph of Section 2.02 of the Indenture, the Issuer hereby directs the Borrower and the Borrower hereby agrees to pay to the Trustee at the designated corporate trust office of the Trustee all payments payable by the Borrower pursuant to this Section 5.02(a).

(b) The Borrower also shall pay or cause to be paid the reasonable fees and expenses of the Issuer, the Trustee, the Paying Agent and the Registrar under the Indenture and all other amounts which may be payable to the Trustee, the Paying Agent, the Calculation Agent, the Market Agent or the Registrar under Section 7.02 of the Indenture, and the reasonable fees and expenses of any Remarketing Agent and all other amounts which may be payable to such Remarketing Agent under the Remarketing Agreement, such fees and expenses to be paid when due and payable by the Borrower directly to the Issuer, the Trustee, the Paying Agent, the Calculation Agent, the Market Agent, the Registrar and the Remarketing Agent, respectively, for their own account. The Borrower also shall pay (i) to the Purchaser, any amounts owed to the Purchaser under any Continuing Covenant Agreement and (ii) to the Credit Provider, any amounts owed to the Credit Provider under any Reimbursement Agreement.

(c) The Borrower also shall pay or cause to be paid when due and payable the reasonable fees and expenses of the Issuer related to the Project and the issuance of the Bonds, including without limitation, attorneys' fees and expenses.

(d) Subject to Section 5.05, the Borrower also shall pay or cause to be paid, when due to the Paying Agent, such amounts as shall be necessary to enable the Paying Agent to pay the Purchase Price of Bonds delivered to it for purchase, all as more particularly described in Section 2.06 of the Indenture.

(e) In the event the Borrower shall fail to make any of the payments required in this Section 5.02, the item or installment so in default shall continue as an obligation of the Borrower and shall bear interest at the Default Rate until the amount in default shall have been fully paid.

Section 5.03. Unconditional Obligations. The obligation of the Borrower to make the payments required by Section 5.02 shall be absolute and unconditional. Except as expressly provided for herein, the Borrower shall pay all such amounts without abatement, diminution or deduction (whether for taxes or otherwise) regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Borrower may have or assert against the Issuer, the Trustee, the Paying Agent, the Purchaser, if any, or any other Person.

Section 5.04. Prepayments. The Borrower may prepay all or any part of the amounts required to be paid by it under Section 5.02, at the times and in the amounts provided in Article XI for redemption of the Bonds, and in any such case, the Borrower shall cause to be furnished to the Issuer, subject to the final paragraph of Section 2.02 of the Indenture, such amounts on or prior to the applicable redemption dates. Subject to the final paragraph of Section 2.02 of the Indenture, prepayment of amounts due hereunder pursuant to this Section 5.04 shall be deposited in the Bond Fund.

Section 5.05. Credits Against Payments. To the extent that principal or Purchase Price of, redemption premium, if any, or interest on the Bonds shall be paid with moneys available under the Credit Facility, if any, from remarketing proceeds (with respect to Purchase Price) or other sources available under the Indenture, the obligation of the Borrower to make payments required by Section 5.02 shall be satisfied and discharged to the extent of the principal or Purchase Price of, redemption premium, if any, or interest on the Bonds so paid. If the principal of, redemption premium, if any, and interest on the Bonds shall have been paid sufficiently that payment of the Bonds shall have occurred in accordance with Article V of the Indenture, then the obligations of the Borrower pursuant to Section 5.02, ipso facto, shall be deemed to have been paid in full, and the Borrower's obligations under Section 5.02 and this Agreement shall be discharged. Notwithstanding anything to the contrary herein, during any Direct Purchase Period, the obligation of the Borrower to make any payment hereunder or under the Note of principal, redemption premium, if any, or interest on the Bonds shall be deemed satisfied and discharged to the extent a corresponding payment is made by the Borrower directly to the Purchaser pursuant to Section 2.02 of the Indenture.

Section 5.06. Initial Credit Facility and Alternate Credit Facility. The Borrower shall be entitled to provide an Initial Credit Facility and an Alternate Credit Facility under certain circumstances as provided in the Indenture.

Section 5.07. Interest Rate Determination Method. The Borrower is hereby granted the right to designate from time to time changes in the Interest Rate Determination Method (as defined in the Indenture) in the manner and to the extent set forth in Section 2.04 of the Indenture, subject to any limitations set forth in any Continuing Covenant Agreement.

Section 5.08. Covenant Regarding Short-Term Rate Period and Medium-Term Rate Period. The Borrower acknowledges and agrees that the Bonds initially shall not be rated by any Rating Agency. Further, the Borrower acknowledges that in the event that it shall select a Short-Term Rate Period as the Rate Period, it shall be required to provide a Credit Facility in accordance with Section 3.08 of the Indenture. The Borrower covenants that, in the event that it shall select a Short-Term Rate Period or a Medium-Term Rate Period (that is not a Direct Purchase Period), it shall amend or cause the amendment of, this Agreement and the Indenture, respectively, such that the Bonds shall be rated at least investment grade by Moody's, Fitch or S&P, as the case may be.

Section 5.09. Swaps. The Borrower may enter into a Swap relative to its obligation to pay interest under Section 5.02. The Borrower shall timely make to the Swap Provider all payments required by the Swap. The Borrower hereby grants a security interest in and to its interest in any Swap and all payments made thereunder, together with any proceeds thereof, to the Trustee for the benefit of the Purchaser, if any, the Owners and the Swap Provider and such security interest shall constitute part of the Trust Estate. To the extent a Periodic Swap Payment made by the Swap Provider is actually received by the Trustee, the Borrower shall receive a credit on that amount against its obligation to make an interest payment as required by Section 5.02.

ARTICLE VI

MAINTENANCE AND TAXES

Section 6.01. Borrower's Obligations to Maintain and Repair. The Borrower agrees that during the term of this Agreement it will keep and maintain all of its material properties and equipment (including the Mortgaged Property) necessary to the operation of its business in good condition, repair and working order, ordinary wear and tear excepted, at its own cost, and will make or cause to be made from time to time all repairs thereto (including external and structural repairs) and renewals and replacements thereto necessary for the operation thereof.

Section 6.02. Taxes and Other Charges. The Borrower will promptly pay and discharge or cause to be promptly paid and discharged, as the same become due, all taxes, assessments, governmental charges or levies and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Mortgaged Property imposed upon it or in respect of the Mortgaged Property before the same shall become in default, as well as all lawful claims which, if unpaid, might become a lien or charge upon such property and assets or any part thereof, except such that are contested in good faith by the Borrower for which the

Borrower has maintained adequate reserves satisfactory to the Credit Provider or the Purchaser, in each case, as applicable, or in the absence of any Credit Provider or Purchaser, satisfactory to the Issuer.

ARTICLE VII

INSURANCE, EMINENT DOMAIN AND DAMAGE AND DESTRUCTION

Section 7.01. Insurance. The Borrower will during the term of this Agreement and at all times while any Bonds are outstanding continuously maintain casualty and liability insurance on the Mortgaged Property in amounts and covering such risks as are customarily insured against by businesses of like size and type as required by the Mortgage, paying as the same become due all premiums in respect thereof. In addition the Borrower shall comply, or cause compliance, with all applicable worker's compensation laws of the State.

Section 7.02. Provisions Respecting Eminent Domain; Damage; Destruction. In case of a taking or proposed taking of all or any part of the Mortgaged Property or any right therein by Eminent Domain, the party hereto upon which notice of such taking is served shall give prompt written notice to the other party and to the Trustee, the Credit Provider, if any, and the Purchaser, if any. Each such notice shall describe generally the nature and extent of the taking or proposed taking and any proceedings or negotiations related thereto. If at any time while any of the Bonds are Outstanding, the Mortgaged Property, or any portion thereof, shall be damaged or destroyed by fire, flood, windstorm or other casualty, or title to, or the temporary use of, the Mortgaged Property, or any portion thereof, shall have been taken by the power of Eminent Domain, the Borrower (unless it shall have exercised its option to prepay all of the Bonds) shall cause the Net Proceeds or an amount equal thereto to be used for the repair, reconstruction, restoration or improvement of the Mortgaged Property or the redemption of the Bonds, or any combination thereof as provided in the Mortgage. In case of any damage to or destruction of all or any part of the Mortgaged Property exceeding \$50,000, the Borrower shall give prompt written notice thereof to the Issuer, the Purchaser, if any, the Credit Provider, if any, and the Trustee, and as required by the Mortgage. Notwithstanding the above, (a) so long as a Credit Facility is outstanding, the Borrower shall comply with the terms of the Reimbursement Agreement relating to the use of Net Proceeds and (b) during any Direct Purchase Period, the Borrower shall comply with the terms of the Continuing Covenant Agreement and the Mortgage relating to the use of Net Proceeds.

ARTICLE VIII

SPECIAL COVENANTS

Section 8.01. Access to the Mortgaged Property and Inspection. The Issuer and the Trustee, and their respective agents and employees, shall have the right, at all reasonable times during normal business hours of the Borrower upon the furnishing of reasonable notice to the Borrower under the circumstances, to enter upon and examine and inspect the Project and to examine and copy the books and records of the Borrower insofar as such books and records relate to Costs of the Mortgaged Property or the Bond Documents.

Upon the taking of possession of all or any portion of the Mortgaged Property by the Trustee pursuant to this Agreement or the Mortgage upon the occurrence of any Event of Default, the Borrower shall give to the Trustee or an agent designated by the Trustee possession of the Mortgaged Property in proper condition, ordinary wear and tear excepted. While the Trustee is in possession of the Mortgaged Property, to the extent that funds are available to the Trustee for such purpose, the Trustee shall maintain the Mortgaged Property in good condition, ordinary wear and tear excepted.

Section 8.02. Financial Statements. The Borrower shall, upon request, deliver to the Trustee and the Issuer as soon as practicable and in any event within one hundred twenty (120) days after the end of each Fiscal Year, the audited financial statements of the Borrower for such Fiscal Year.

Section 8.03. Further Assurances and Corrective Instruments. Subject to the provisions of the Indenture, the Issuer and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement or the transactions contemplated hereby.

Section 8.04. Recording and Filing; Other Instruments. The Borrower shall cause this Agreement, the Security Documents and all necessary Financing Statements (including continuation statements) to be recorded and filed in such manner and in such places as may be required by law to fully preserve and protect the security of the Owners and the rights of the Trustee and to perfect the Security Interest created by the Indenture. The Borrower covenants that it will cause continuation statements to be filed as required by law in order fully to preserve and to protect the rights of the Trustee or the Issuer in the assignment of certain rights of the Issuer under this Agreement and otherwise under the Indenture and the Security Documents. The Borrower and the Issuer shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary or advisable in order to enable the Borrower to fulfill its obligations as provided in this Section 8.04. The Borrower shall file and re-file and record and re-record or shall cause to be filed and re-filed and recorded and re-recorded all instruments required to be filed and re-filed and recorded or re-recorded and shall continue or cause to be continued the liens of such instruments for so long as any of the Bonds shall be Outstanding and any other amounts remain due and payable under any Continuing Covenant Agreement or any Reimbursement Agreement.

Section 8.05. Tax-Exempt Status. The Borrower covenants and agrees that it has not taken and will not take or cause to be taken, and has not omitted and will not omit or cause to be omitted, any action which will result in interest paid on the Bonds being included in gross income of the Owners of the Bonds for the purposes of federal income taxation.

The Borrower covenants and agrees that it will take or cause to be taken all required actions necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; and the Issuer covenants and agrees that it will take or cause to be taken all required actions to preserve the exclusion from gross income for federal income tax purposes

of interest on the Bonds; provided that the Issuer has no obligation or responsibility to direct or cause the Borrower to take any action.

Section 8.06. Indemnity Against Claims. The Borrower will pay and discharge and will indemnify and hold harmless the Issuer and the Trustee, and their respective directors, members, officers, employees and agents, from any taxes, assessments, impositions and other charges in respect of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Issuer or the Trustee, as the case may be, will give prompt written notice to the Borrower; provided, however, that the failure to provide such notice will not relieve the Borrower of the Borrower's obligations and liability under this Section 8.06 and will not give rise to any claim against or liability of the Issuer or the Trustee. The Borrower shall have the sole right and duty to assume, and shall assume, the defense thereof, with counsel acceptable to the Person on behalf of whom the Borrower undertakes a defense, with full power to litigate, compromise or settle the same in its sole discretion.

Section 8.07. Release and Indemnification. The Borrower shall at all times protect, indemnify and hold the Issuer, the Governing Body and the Trustee, and their respective members, directors, officers, employees, attorneys and agents, harmless against any and all liability, losses, damages, costs, expenses, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with the Acquisition of the Project or the use or occupancy of the Mortgaged Property, including, without limitation, all claims or liability resulting from, arising out of or in connection with the acceptance or administration of the Bond Documents or the trusts thereunder or the performance of duties under the Bond Documents or any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any lease thereof or assignment of any interest in this Agreement, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by the Issuer, the Governing Body and the Trustee, and their respective members, directors, officers, employees, attorneys and agents, in connection therewith, provided that the benefits of this Section 8.07 shall not inure to any Person other than the Issuer, the Governing Body, the Trustee, their respective members, directors, officers, employees, attorneys and agents, and provided further that such loss, damage, death, injury, claims, demands or causes shall not have resulted from the gross negligence or willful misconduct of, the Issuer, the Governing Body, the Trustee or such members, directors, officers, employees, attorneys and agents. The obligations of the Borrower under this Section 8.07 shall survive the termination of this Agreement and the Indenture and the resignation or removal of the Trustee. Notwithstanding any other provision of this Agreement or the Indenture to the contrary, the Borrower agrees (i) not to assert any claim or institute any action or suit against the Trustee or its employees arising from or in connection with any investment of funds made by the Trustee in good faith in accordance with the provisions of the Indenture as directed by a Borrower Representative, and (ii) to indemnify and hold the Trustee and its employees harmless against any liability, losses, damages, costs, expenses, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any such investment.

Section 8.08. Compliance with Laws. The Borrower shall comply with all Applicable Laws.

Section 8.09. Non-Arbitrage Covenant.

(a) The Borrower and the Issuer covenant that they will (i) not take, or fail to take, any action or make any investment or use of Bond Proceeds that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and (ii) comply with the requirements of Section 148 of the Code.

(b) In the event that all of the Bond Proceeds are not expended by the date which is six (6) months following the Issue Date, or if for any other reason a rebate is payable to the United States of America pursuant to Section 148 of the Code, the Borrower shall calculate, or cause to be calculated, the Rebate Amount. The Borrower agrees to pay the amount so calculated, together with supporting documentation, to the Trustee so as to permit the Trustee to pay such rebate to the United States of America as directed by the Borrower at the times required by the Code. The amount paid by the Borrower to the Trustee shall be deposited into the Rebate Fund. The Borrower shall maintain or cause to be maintained records of the determinations of the rebate, if any, pursuant to this Section 8.09(b) until six (6) years after the retirement of the Bonds. This Section 8.09(b) shall be construed in accordance with Section 148(f) of the Code, including, without limitation, any applicable tax regulations promulgated under the Code. Nothing contained in this Agreement or in the Indenture shall be interpreted or construed to require the Issuer to pay any applicable rebate, such obligation being the sole responsibility of the Borrower. The Borrower shall pay all fees, costs and expenses associated with calculation of the Rebate Amount and upon request from the Issuer provide the Issuer with a copy of such calculation. The Issuer covenants that, if so requested by the Borrower, it shall execute any form required to be signed by an issuer of tax-exempt bonds in connection with the payment of any rebate or the recovery of overpayment of any rebate amount under the Code (including Internal Revenue Service Form 8038-T and Internal Revenue Service Form 8038-R). The Borrower shall supply all information required to be stated in such form and shall prepare such form. Except for the execution and delivery of such form upon timely presentation by the Borrower, the Issuer shall have no responsibility for such form or the information stated thereon.

Section 8.10. Notice of Determination of Taxability. Promptly after the Borrower first becomes aware of the occurrence of a Determination of Taxability or an event that could trigger the occurrence of a Determination of Taxability, the Borrower shall give written notice thereof to the Issuer, the Remarketing Agent, if any, the Calculation Agent, the Trustee, the Credit Provider, if any, and the Purchaser, if any.

Section 8.11. No Purchase of Bonds by Borrower or Issuer. During the time a Credit Facility is in effect none of the Borrower, the Issuer and any Affiliates of any of them shall purchase any of the Bonds from the Remarketing Agent except under the circumstances under which the Remarketing Agent may remarket Bonds to the Borrower or the Issuer as provided in Section 2.07(d) of the Indenture.

Section 8.12. Maintenance of Existence. The Borrower agrees that it will maintain its organizational existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, except in strict compliance with the terms of Applicable Law and any Reimbursement Agreement or Continuing Covenant Agreement. If no Credit Facility or Continuing Covenant Agreement is in effect, the Borrower agrees that it will continue to be a limited partnership either organized under the laws of the State or duly qualified to do business as a foreign organization in the State, will maintain its organizational existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another Person or permit one or more Persons to consolidate with or merge into it; provided, that the Borrower may, without violating the foregoing, consolidate with or merge into another Person, or permit one or more Persons to consolidate with or merge into it, or transfer all or substantially all of its assets to another such Person (and thereafter dissolve or not dissolve, as the Borrower may elect) if no Event of Default has occurred and is continuing hereunder and the Person surviving such merger or resulting from such consolidation, or the Person to which all or substantially all of the assets of the Borrower are transferred, as the case may be:

(a) is a nonprofit corporation, limited liability company or other business entity organized under the laws of the United States of America, or any state, district or territory thereof, and qualified to do business in the State;

(b) shall expressly in writing assume all of the obligations of the Borrower contained in this Agreement; and

(c) has a Consolidated Tangible Net Worth (after giving effect to such consolidation, merger or transfer) of not less than the Consolidated Tangible Net Worth of the Borrower and its consolidated subsidiaries immediately prior to such consolidation, merger or transfer.

Prior to any such consolidation, merger or transfer, the Trustee shall be furnished with a certificate from the chief financial officer of the Borrower or his/her deputy stating that in the opinion of such officer none of the covenants in this Agreement or in any of the other Bond Documents will be violated as a result of said consolidation, merger or transfer.

Section 8.13. Borrower Approval of Indenture. The Borrower understands that the Issuer will, pursuant to the Indenture and as security for the payment of the principal of, redemption premium, if any, and the interest on the Bonds, assign and pledge to the Trustee, and create a Security Interest in favor of the Trustee in certain of its rights, title and interest in and to this Agreement (including all payments hereunder) reserving, however, the Reserved Rights; and the Borrower hereby agrees and consents to such assignment and pledge. The Borrower acknowledges that it has received a copy of the Indenture for its examination and review. By its execution of this Agreement, the Borrower acknowledges that it has approved, has agreed to and is bound by the provisions of the Indenture. The Borrower agrees that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Agreement that relate to it notwithstanding the fact that it is not a signatory hereto.

Section 8.14. Duties and Obligations. The Borrower covenants and agrees that it will fully and faithfully perform all the duties and obligations that the Issuer has covenanted and agreed in the Indenture to cause the Borrower to perform and any duties and obligations that the Borrower is required in the Indenture to perform. The foregoing shall not apply to any duty or undertaking of the Issuer that by its nature cannot be delegated or assigned.

Section 8.15. Notice of Certain Acquisitions of Control. The Borrower hereby covenants to provide or cause to be provided written notice to the Trustee, the Remarketing Agent, and the Owners thirty (30) days prior, where reasonable, and not more than thirty (30) days subsequent to the consummation of any transaction that would result in the Borrower controlling or being controlled by the Credit Provider, if any. The Borrower acknowledges that the foregoing sentence supersedes any exemptions from the continuing disclosure requirement pursuant to the Rule.

Section 8.16. Continuing Disclosure. The Borrower hereby covenants and agrees that on or before any conversion of the Interest Rate Determination Method (except for a conversion of the Interest Rate Determination Method that will result in the Bonds being subject to a Direct Purchase Period immediately following such conversion), the Borrower shall provide to the Trustee, the Issuer, the Remarketing Agent and, during a Direct Purchase Period, the Purchaser, at least two (2) Business Days prior to the proposed Conversion Date, either (a) a copy of a continuing disclosure agreement imposing obligations upon the Borrower or any other responsible party to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”), with respect to the Bonds, together with such disclosure documents as the Remarketing Agent shall require in order to comply with the Rule, if the Rule will be applicable upon such conversion, or (b) an opinion of counsel that, notwithstanding such conversion, the Rule will not be applicable to the Bonds as of and after the Conversion Date.

ARTICLE IX

ASSIGNMENT, LEASE AND SALE

Section 9.01. Restrictions on Transfer of Issuer’s Rights. The Issuer agrees that, except for the assignment of certain of its rights, title and interests under this Agreement and the Note to the Trustee pursuant to the Indenture, it will not during the term of this Agreement sell, assign, transfer or convey its rights, title and interests in this Agreement and the Note except as provided in Section 9.02.

Section 9.02. Assignment by the Issuer. It is understood, agreed and acknowledged that the Issuer, as security for payment of the principal of and redemption premium, if any, and interest on the Bonds, will assign to the Trustee pursuant to the Indenture, among other things, all of its rights, title and interests in and to this Agreement and the Note (reserving, however, the Reserved Rights). The Borrower consents to such assignment and agrees that the Trustee shall be entitled to enforce this Agreement and the Note directly against the Borrower as a third party beneficiary hereof.

Section 9.03. Assignment of Agreement by the Borrower or Lease or Sale of Mortgaged Property. All or a portion of the rights, duties and obligations of the Borrower under this Agreement and the Note may be assigned by the Borrower and the Mortgaged Property may be leased or sold as a whole or in part by the Borrower, without having to obtain the consent of the Issuer or the Trustee, provided that unless permitted in the immediately succeeding sentence, the Borrower shall not be released from its obligations hereunder in connection with any such assignment, lease or sale. Upon the assignment of all of the Borrower's rights, duties and obligations under this Agreement and the Note or the lease or sale of the Mortgaged Property as a whole, the Trustee may execute a release of the Borrower from its obligations hereunder, under the Note, under the Mortgage and the other Security Documents (collectively, the "Borrower Documents") and all references to the "Borrower" in this Agreement, and under the other Borrower Documents, the Indenture and the Bonds shall mean the assignee, lessee or purchaser if (i) such assignee, lessee or purchaser assumes the Borrower's obligations hereunder in writing, (ii) such assignee, lessee or purchaser has a Consolidated Tangible Net Worth (after giving effect to such assignment, lease or sale) of not less than the consolidated tangible net worth of the Borrower and its consolidated Affiliates immediately prior to such assignment, lease or sale; (iii) no Event of Default has occurred and is continuing hereunder, and (iv) the Credit Provider, if any, and the Purchaser, if any, have consented in writing to such release. Prior to any assignment, lease or sale pursuant to this Section, the Borrower shall have caused to be delivered to the Issuer, the Trustee, the Credit Provider, if any, and the Purchaser, if any, an Approving Opinion, satisfactory in form and substance to the Issuer, the Credit Provider, if any, and the Purchaser, if any.

Section 9.04. Assumption of Agreement by Purchaser of Mortgaged Property Upon Foreclosure. With the prior written consent of the Issuer, the Credit Provider, if any, and the Purchaser, if any, any Person who purchases the Mortgaged Property upon foreclosure by the Trustee, the Credit Provider or the Purchaser may assume the Borrower's rights, duties and obligations hereunder and under the Note by delivering to the Issuer, the Credit Provider, if any, the Purchaser, if any, and the Trustee, (a) a written assumption of such rights, duties and obligations satisfactory in form and substance to the Issuer, the Credit Provider, if any, the Purchaser, if any, and the Trustee, and (b) an Approving Opinion, satisfactory in form and substance to the Issuer, the Credit Provider, if any, the Purchaser, if any, and the Trustee. From and after the date of such assumption, the Borrower shall be deemed to be released from its rights, duties and obligations hereunder and all references to the "Borrower" in this Agreement, the Indenture, the other Borrower Documents and the Bonds shall mean the Person who purchased the Mortgaged Property upon foreclosure.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01. Events of Default Defined. The term "Event of Default" shall mean any one or more of the following events:

- (a) Failure by the Borrower to make any payment required to be paid pursuant to Section 5.02;

(b) The occurrence of an Event of Default under the Indenture, any Continuing Covenant Agreement, any Reimbursement Agreement, the Mortgage or the other Security Documents;

(c) Any representation by or on behalf of the Borrower contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement or the Indenture proves false or misleading in any material respect as of the date of the making or furnishing thereof;

(d) Failure by the Borrower to observe or perform any of its other covenants, conditions, payments or agreements under this Agreement (other than as described in Sections 10.01(a) or 10.01(b)) for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the Issuer, the Credit Provider, if any, the Purchaser, if any, or the Trustee;

(e) The Borrower shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, assignee, sequestrator, trustee, liquidator or similar official of the Borrower of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other federal or state law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the Borrower in an involuntary case under the Bankruptcy Code, or (vii) take any corporate action for the purpose of effecting any of the foregoing; or

(f) A proceeding or case shall be commenced, without the application or consent of the Borrower, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, arrangement, dissolution, winding-up, composition or adjustment of debts of the Borrower, (ii) the appointment of a trustee, receiver, custodian, assignee, sequestrator, liquidator or similar official of the Borrower or of all or any substantial part of its assets, or (iii) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up, composition or adjustment of debts and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days from the commencement of such proceeding or case or the date of such order, judgment or decree, or an order for relief against the Borrower shall be entered in an involuntary case under the Bankruptcy Code.

Section 10.02. Remedies on Default. Upon the occurrence of an Event of Default under this Agreement, the Trustee may, with the consent of the Credit Provider, if any, and the Purchaser, if any, and shall, if acceleration of the principal amount of the Bonds has been declared pursuant to Section 6.02 of the Indenture, take any one or more of the following actions:

(a) By written notice declare all payments hereunder and under the Note immediately due and payable, whereupon the same shall become immediately due and payable without presentment, demand, protest or any other notice whatsoever, all of which are hereby expressly waived by the Borrower.

(b) Foreclose on the Mortgaged Property pursuant to the Security Documents. Upon foreclosure, the Trustee shall sell the Mortgaged Property upon such terms as shall be satisfactory to the Trustee and receive the proceeds of the sale thereof, and the Borrower shall thereupon have no right to repossess the Mortgaged Property. For the purpose of sale, the Trustee shall be authorized to make such repairs or alterations in or to the Mortgaged Property as may be necessary to place the same in good order and condition. The Borrower shall be liable to the Trustee for the cost of such repairs or alterations and all expenses of any sale. Moneys realized upon any such sale shall be delivered to the Trustee for deposit in the Bond Fund for payment as provided in the Indenture. Such foreclosure and sale by the Trustee shall not operate to release the Borrower from any payments to be made or covenants to be performed under this Agreement during the full term of this Agreement.

(c) Take whatever other action at law or in equity may appear necessary or desirable to collect the amounts payable pursuant hereto and under the Note then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, including the making of any drawing under the Credit Facility, if any.

In the enforcement of the remedies provided in this Section 10.02, the Issuer and the Trustee may treat all reasonable expenses of enforcement, including, without limitation, legal, accounting and advertising fees and expenses, as additional amounts payable by the Borrower then due and owing. The determination to take, or not to take, any action or other remedial measure or to exercise any remedy or commence any proceeding or forego, waive or rescind any of the foregoing shall be made pursuant to and in accordance with the provisions of Section 6.04 of the Indenture and any applicable provisions of any Reimbursement Agreement or Continuing Covenant Agreement.

Section 10.03. Application of Amounts Realized in Enforcement of Remedies. Any amounts collected pursuant to action taken under Section 10.02 shall be paid to the Trustee and applied in accordance with Section 6.07 of the Indenture.

Section 10.04. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default under this Agreement shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 10.05. Agreement to Pay Attorneys' Fees and Expenses. Upon the occurrence of an Event of Default under this Agreement, if the Issuer or the Trustee employs attorneys or incurs other expenses for the collection of amounts payable hereunder or for the enforcement of the performance or observance of any covenants or agreements on the part of the Borrower herein contained, whether or not suit is commenced, the Borrower agrees that it will on demand therefor pay to the Issuer or the Trustee or any combination thereof, as the case may be, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Issuer or the Trustee.

Section 10.06. Issuer and Borrower to Give Notice of Default. The Issuer and the Borrower severally covenant that they will, at the expense of the Borrower, promptly give to the Trustee, the Remarketing Agent, the Calculation Agent, the Market Agent, if any, the Paying Agent, the Credit Provider, if any, the Purchaser, if any, and to each other, written notice of any Event of Default under this Agreement of which they shall have actual knowledge or written notice, but the Issuer shall not be liable for failing to give such notice.

ARTICLE XI

PREPAYMENTS; PURCHASE OF BONDS

Section 11.01. Optional Prepayments.

(a) The Borrower shall have, and is hereby granted, the option to prepay the unpaid principal amount hereunder and under the Note in whole, together with interest thereon to the date of the corresponding redemption of the Bonds, at any time by taking, or causing the Issuer to take, the actions required by the Indenture to discharge the lien thereof through the redemption of all Bonds then outstanding, upon the occurrence of any of the events set forth in Section 2.18(b) of the Indenture, but subject to the provisions of the Continuing Covenant Agreement during any Direct Purchase Period.

(b) The Borrower shall have, and is hereby granted, the option to prepay all or any portion of the unpaid principal amount hereunder and under the Note, together with interest thereon to the date of the corresponding redemption of the Bonds, at any time by taking, or causing the Issuer to take, the actions required by the Indenture (i) to discharge the lien thereof through the redemption, or provision for payment of redemption of all Bonds then outstanding or (ii) to effect the redemption, or provision for payment or redemption, of less than all Bonds then Outstanding, in each case, pursuant to Section 2.18(a) of the Indenture.

(c) To make a prepayment pursuant to this Section 11.01, the Borrower shall give written notice as provided in Section 2.19 of the Indenture, which shall specify therein the principal amount to be prepaid and the date or dates on which the prepayment is to occur. All such prepayments shall be in the amount of the unpaid amount hereunder and under the Note if made pursuant to Section 11.01(a) or in the amount of an Authorized Denomination if made pursuant to Section 11.01(b) and the Borrower shall furnish additional funds, if necessary, to make such prepayments in such amounts. In

addition, the Borrower shall make such additional payments as shall be necessary to pay any redemption premium on the Bonds in connection with such redemption.

Section 11.02. Optional Purchase of Bonds. Subject to the terms of the Indenture regarding the use of Eligible Funds, the Borrower may at any time, and from time to time, furnish moneys to the Remarketing Agent accompanied by a notice directing such moneys to be applied to the purchase of Bonds delivered for purchase pursuant to the terms thereof, which Bonds shall be delivered to the Trustee for cancellation or for registration of transfer to the Borrower in accordance with Section 2.08 of the Indenture. The Borrower shall deliver to the Credit Provider, if any, and the Purchaser, if any, a copy of any such notice.

Section 11.03. Prepayment to Include Fees and Expenses. Any prepayment under this Article shall also include any expenses of prepayment, as well as all expenses and costs provided for herein.

Section 11.04. Purchase of Bonds.

(a) In consideration of the issuance of the Bonds by the Issuer, but for the benefit of the Owners, the Borrower has agreed, and does hereby covenant, to cause the necessary arrangements to be made and to be thereafter continued whereby the registered owners of the Bonds from time to time may deliver, or may be required to deliver Bonds for purchase and whereby such Bonds shall be so purchased. In furtherance of the foregoing covenant of the Borrower, the Issuer, at the request of the Borrower, has set forth in the Bonds the terms and conditions relating to the delivery of Bonds by the registered owners thereof for purchase, has set forth in the Indenture the duties and responsibilities of the Remarketing Agent with respect to the purchase and remarketing of Bonds and has therein provided for the appointment of the Remarketing Agent when required.

Without limiting the generality of the foregoing covenant of the Borrower, and in consideration of the Issuer's having set forth in the Bonds and the Indenture the aforesaid provisions, the Borrower covenants, for the benefit of the Owners, to pay, or cause to be paid, such amounts as shall be necessary to effect the payment of the Purchase Price of Bonds delivered for purchase, all as more particularly described in the Indenture.

(b) Notwithstanding the provisions of Section 11.04(a), the obligations of the Borrower under Section 11.04(a) with respect to the purchase of Bonds shall be terminated on the date the Bonds begin to bear interest at the Fixed Rate in accordance with the Indenture.

(c) In furtherance of its obligations under Section 11.04(a), the Borrower may provide for the payment of its obligations under such Section 11.04(a) by the delivery of a Credit Facility simultaneously with the conversion of the Interest Rate Determination Method for Bonds to a Rate requiring or permitting a Credit Facility under the terms of the Indenture. In order to implement such undertaking of the Borrower, the Issuer, at the direction of the Borrower, has set forth in the Indenture the terms and conditions relating to drawings under the Credit Facility to provide moneys for the purchase of Bonds. The

Borrower hereby authorizes and directs the Trustee to draw moneys under the Credit Facility, if any, in accordance with the provisions of the Indenture to the extent necessary to provide moneys payable under Section 2.06 of the Indenture if and when due.

(d) The Issuer shall have no obligation or responsibility, financial or otherwise, with respect to the purchase of Bonds or the making or continuation of arrangements therefor other than as expressly set forth in Section 11.04(a), except that the Issuer shall generally cooperate with the Borrower and the Remarketing Agent as contemplated in Section 2.07 of the Indenture.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Amounts Remaining in Funds. Subject to the provisions of Article V of the Indenture and as provided in Article IV of the Indenture, it is agreed by the parties hereto that amounts remaining in the Bond Fund, the Project Fund, the Surplus Fund or the Bond Purchase Fund upon expiration or earlier termination of this Agreement, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and all other amounts owing hereunder and under the Indenture, shall be paid (a) first, (i) during any Direct Purchase Period, to the Purchaser if there is any amount then owing from the Borrower to the Purchaser or (ii) to the Credit Provider, if a Credit Facility is in effect and there is any amount then owing by the Borrower to the Credit Provider and (b) second, after all amounts payable under clause (a) have been paid, to the Borrower by the Trustee.

Section 12.02. No Implied Waiver. In the event any provision of this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach thereunder or hereunder.

Section 12.03. Notices. Notices under this Agreement shall be given in accordance with Section 9.04 of the Indenture.

Section 12.04. Issuer, Governing Body, Members, Commissioners, Directors, Officers, Agents and Employees of Issuer and Governing Body Not Liable. To the extent permitted by law, no recourse shall be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein or in the other Bond Documents to which the Issuer is a party or for any claim based hereon or thereon or otherwise in respect hereof or thereof against the Issuer, the Governing Body, any member, commissioner, director, officer, agent, attorney or employee, as such, in his/her individual capacity, past, present or future, of the Issuer, the Governing Body, or of any successor entity, either directly or through the Issuer, the Governing Body or any successor entity, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. No personal liability whatsoever shall attach to, or be incurred by, any member, commissioner, director, officer, agent, attorney or employee, as such, in his/her individual capacity, past, present or future, of the Issuer, the Governing Body, or of any successor entity, either directly or through the Issuer, the

Governing Body or any successor entity, under or by reason of any of the obligations, promises or agreements entered into between the Issuer and the Borrower, whether herein contained or to be implied herefrom as being supplemental hereto; and all personal liability of that character against every such member, commissioner, director, officer, agent, attorney or employee is, by the execution of this Agreement and as a condition of, and as part of the consideration for, the execution of this Agreement, expressly waived and released.

Notwithstanding any other provision of this Agreement, the Issuer shall not be liable to the Borrower or the Trustee or any other person for any failure of the Issuer to take action under this Agreement unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action. In acting under this Agreement, or in refraining from acting under this Agreement, the Issuer may conclusively rely on the advice of its counsel.

Section 12.05. No Liability of Issuer; No Charge Against Issuer's Credit. Any obligation of the Issuer created by, arising out of, or entered into in contemplation of this Agreement, including the Bonds, shall not impose a debt or pecuniary liability upon the Issuer, the State or any political subdivision thereof or constitute a charge upon the general credit or taxing powers of any of the foregoing. The Issuer has no taxing power. Any such obligation and the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds shall be payable solely out of the Trust Estate, including revenues and any other moneys derived hereunder and under the Indenture and the Credit Facility, except (as provided in the Indenture and in this Agreement) to the extent it shall be paid out of the Bond Proceeds.

Section 12.06. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 12.07. If Performance Date Not a Business Day. If the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day.

Section 12.08. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower, and their respective successors and assigns and shall inure to the benefit of the Credit Provider, if any, and the Purchaser, if any, as provided in Section 4.02, and their respective successors and assigns. No assignment of this Agreement by the Borrower shall relieve the Borrower of its obligations hereunder, except in accordance with Sections 9.03 and 9.04.

Section 12.09. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.10. Amendments, Changes and Modifications. This Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the Indenture.

Section 12.11. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which, taken together, shall be an original and all of which shall constitute but one and the same instrument.

Section 12.12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 12.13. Certain References Ineffective Except during a Period in which a Credit Facility is in Effect. Except during any period in which a Credit Facility is in effect and during the period immediately succeeding such a period until receipt by the Trustee of a certificate from the Credit Provider stating that all amounts payable to the Credit Provider under the Reimbursement Agreement have been paid in full, all references to the Credit Provider and the Reimbursement Agreement shall be ineffective.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Agreement to be executed in their respective legal names and their respective corporate seals to be hereunto affixed, and the signatures of duly authorized persons to be attested, all as of the date first above written.

HUTTO ECONOMIC DEVELOPMENT
CORPORATION

By _____

Name _____

Title _____

[SEAL]

ATTEST:

By _____

Name _____

Title _____

[Signatures Continued on Next Page]

[Signature Page to Loan Agreement]

PERIPHERAL INVESTMENTS, L.P.

By _____

Name _____

Title _____

[SEAL]

ATTEST:

By _____

Name _____

Title _____

EXHIBIT A

DESCRIPTION OF THE PROJECT

Purchase of real property and construction of an approximately 100,000 square-foot manufacturing facility to provide precision machining and sheet metal fabrication to be located on approximately 8.793 acres located at the northwest corner of Titan Innovation Industrial Park, U.S. HWY 79 and S.H. 130, Hutto, Texas.

EXHIBIT B
FORM OF REQUISITION

\$ _____

Requisition No. _____

REQUISITION AND CERTIFICATE

[DATE]

Wells Fargo Bank, National Association
[ADDRESS]

Ladies and Gentlemen:

On behalf of **PERIPHERAL INVESTMENTS, L.P.** (the "Borrower"), I hereby requisition from the funds representing the proceeds of the sale of the Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the "Bonds"), issued by **HUTTO ECONOMIC DEVELOPMENT CORPORATION** (the "Issuer"), and dated January __, 2019, which funds have been or are to be deposited in the [Project Fund created in accordance with] [Borrower's account as described in Section ____ of] the Indenture of Trust, dated as of January 1, 2019 (the "Indenture") between the Issuer and Wells Fargo Bank, National Association, as trustee (the "Trustee"), the sum of \$ _____ to be paid to the person or persons indicated below [on Exhibit A attached hereto]:

(1) \$ _____ for _____

_____ payable to _____, and

(2) \$ _____ for _____

_____ payable to _____.

I hereby certify that (a) the obligation to make such payment was incurred by the Issuer or the Borrower in connection with the Acquisition (as defined in the Loan Agreement, of even date with the Indenture, between the Issuer and the Borrower, hereinafter referred to as the "Agreement") of the Project, is a proper charge against the Costs of the Project, and has not been the basis for any prior requisition which has been paid; (b) neither the Borrower nor, to the best of the Borrower's knowledge, the Issuer has received written notice of any lien, right to lien or attachment upon, or claim affecting the right of such payee to receive payment of, any of the money payable under this requisition to any of the persons, firms or corporations named herein, or if any notice of any such lien, attachment or claim has been received such lien, attachment or

claim has been released or discharged or will be released or discharged upon payment of this requisition; (c) this requisition contains no items representing payment on account of any retained percentages which the Issuer or the Borrower is entitled to retain at this date; (d) subject to the last sentence of this paragraph, the payment of this requisition will not result in (i) less than substantially all (95% or more) of the proceeds of the Bonds to be expended under this requisition and under all prior requisitions having been used for the acquisition and installation of real property or property of a character subject to the allowance for depreciation under the Internal Revenue Code of 1986, as amended (the "Code") or (ii) more than 2% of the proceeds of the Bonds having been used to pay for issuance costs within the meaning of Section 147(g)(1) of the Code; (e) no "Event of Default," or event which after notice or lapse of time or both would constitute such an "Event of Default" has occurred and not been waived; and (f) the Advance Termination Date has not occurred. Notwithstanding the foregoing, the undersigned may requisition Costs of the Project to pay issuance costs with respect to the Bonds at any time and from time to time, so long as such requisition, together with all prior requisitions, do not include amounts to pay issuance costs that exceed in total 2% of the Bond Proceeds expected to be available to pay Costs of the Project.

Capitalized terms used in this requisition and certificate and not defined herein shall have the meanings assigned thereto in the Agreement.

The following paragraph is to be completed when any requisition and certificate includes any item for payment for labor or to contractors, builders or materialmen.

I hereby certify that insofar as the amount covered by the above requisition includes payments to be made for labor or to contractors, builders or materialmen, including materials or supplies, in connection with the Acquisition of the Project, (i) all obligations to make such payment have been properly incurred, (ii) any such labor was actually performed and any such materials or supplies were actually furnished or installed in or about the Project and are a proper charge against the Costs of the Project, and (iii) such materials or supplies either are not subject to any lien or security interest or, if the same are so subject, such lien or security interest will be released or discharged upon payment of this requisition.

Borrower Representative

APPROVED this ____ day of _____, ____.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Purchaser

By: _____

Name: _____

Title: _____

EXHIBIT C

FORM OF NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS NOTE, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH REFERRED TO HEREIN.

[\$10,000,000]

January __, 2019

PROMISSORY NOTE

FOR VALUE RECEIVED, PERIPHERAL INVESTMENTS, L.P., a limited partnership duly formed and existing under the laws of the Texas (the “Borrower”), by this promissory note hereby promises to pay to the order of **HUTTO ECONOMIC DEVELOPMENT CORPORATION** (the “Issuer”) the principal sum of [Ten Million] Dollars (\$[10,000,000]), together with interest on the unpaid principal amount hereof, from the Issue Date (as defined in the Indenture referenced below) until paid in full, at a rate per annum equal to the rate of interest borne by the Bonds (as hereinafter defined), and redemption premium, if any, on the Bonds and Purchase Price (as defined in the Indenture). All such payments of principal and Purchase Price, redemption premium, if any, and interest shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America at the corporate trust office of Wells Fargo Bank, National Association, or its successor as trustee under the Indenture (the “Trustee”), or during a Purchaser Direct Payment Period (as defined in the Indenture) as may be directed by the Purchaser (as defined in the Indenture) pursuant to Section 2.02 of the Indenture.

The principal and Purchase Price, redemption premium, if any, and interest shall be payable on the dates and in the amount, that principal and Purchase Price of, redemption premium, if any, and interest on the Bonds are payable, subject to prepayment as hereinafter provided.

The Borrower shall receive a credit for the amounts due and payable hereunder to the extent that payments are made by the Credit Provider (as defined in the Indenture), if any, pursuant to drawings under the Credit Facility (as defined in the Indenture), if any, and, with respect to Purchase Price, to the extent that remarketing proceeds are available therefor as provided in the Indenture.

This promissory note is the “Note” referred to in the Loan Agreement, dated as of January 1, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”) between the Borrower and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture of Trust, dated as of January 1, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “Indenture”), by and between the Issuer and the Trustee, and such payments will be made directly to the Trustee (except during a Purchaser Direct Payment Period as described in Section 2.02 of the Indenture) for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of \$[10,000,000] in aggregate principal amount of Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the “Bonds”), issued by the Issuer pursuant to the Indenture. All the terms, conditions and provisions of the Indenture and the Bonds are hereby incorporated as a part of this Note.

The Borrower may at its option, and may under certain circumstances be required to, prepay together with accrued interest, all or any part of the amount due on this Note, as provided in the Agreement.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay reasonable costs of collection and reasonable attorneys' fees in case of default on this Note.

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

PERIPHERAL INVESTMENTS, L.P.

By: _____

Name: _____

Title: _____

[SEAL]

[Signature Page to Note]

ENDORSEMENT

Pay to the order of Wells Fargo Bank, National Association, without recourse, as Trustee under the Indenture referred to in the within mentioned Agreement, as security for such Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**HUTTO ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Name: _____
Title: _____

Dated: January __, 2019

INDENTURE OF TRUST

by and between

HUTTO ECONOMIC DEVELOPMENT CORPORATION

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee

Dated as of January 1, 2019

Relating to the Issuance of:

**[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of January 1, 2019, is made and entered into by and between **HUTTO ECONOMIC DEVELOPMENT CORPORATION** and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as trustee. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Section 1.01.

WITNESSETH:

WHEREAS, the Issuer is empowered pursuant to the Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the “Act”) to issue revenue bonds for the purpose of paying all or part of the costs of a “project,” as defined in the Act, and to loan the proceeds of the bonds to others to finance all or part of the costs of the project;

WHEREAS, in furtherance of the public purpose for which the Issuer was created, the Issuer proposes to issue its \$[10,000,000] in principal amount Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the “Bond” or “Bonds”) pursuant to this Indenture, to finance the Project to be used by the Borrower;

WHEREAS, contemporaneously with the execution and delivery hereof, the Issuer and the Borrower will enter into the Agreement pursuant to which the Issuer will loan the Bond Proceeds to the Borrower;

WHEREAS, the Borrower intends to use the Bond Proceeds for the acquisition, construction, installation and equipping of the Project and to pay certain costs incurred in connection with the issuance of the Bonds; and

WHEREAS, all things necessary to make the Bonds, when issued, executed and delivered by the Issuer and authenticated by the Trustee, to the extent required pursuant to this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the payments under the Agreement and the Note (except for Reserved Rights) for payment of the principal or Purchase Price of, redemption premium, if any, and interest on the Bonds, and to constitute this Indenture a valid assignment of the rights of the Issuer under the Agreement and the Note except as otherwise stated herein, have been done and performed, and the creation, execution and delivery of this Indenture, and the issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of principal and Purchase Price of, redemption premium, if any, and interest on the Bonds and any other cost or pecuniary liability of the Issuer relating to the Bonds or any proceeding, document or certification incidental to the issuance of the Bonds according to their true intent and meaning, and all other amounts due from time to time under this Indenture, including those due to the Trustee, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained in the Bonds, this Indenture and the other Bond Documents, and to declare the terms and conditions upon and subject to which the Bonds are and are

intended to be issued, held, secured and enforced, and as collateral for each payee and obligee thereunder, to secure the payment of all amounts due from time to time by the Borrower under any Swap, under any Continuing Covenant Agreement, under any Reimbursement Agreement and under any other Bond Document, and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Owners and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely and irrevocably pledges and assigns to the Trustee and to its successors in trust, and grants a Security Interest in, on the basis set forth herein, and its and their assigns, all right, title and interest of the Issuer in and to the Trust Estate;

TO HAVE AND TO HOLD unto the Trustee and its successors in trust and its and their assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

(a) for the equal and proportionate benefit, security and protection of all Bonds;

(b) for the enforcement of the payment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds, and all other amounts due from time to time under this Indenture, including those due to the Trustee, when payable, according to the true intent and meaning thereof and of this Indenture;

(c) for the enforcement of the payment of any Periodic Swap Payments and Swap Termination Payments required to be made by the Borrower pursuant to any Swap; provided that Subordinated Periodic Swap Payments and Subordinated Swap Termination Payments shall be subordinated to the payment of the Bonds and amounts payable under any Continuing Covenant Agreement or any Reimbursement Agreement; and provided, further, that Parity Periodic Swap Payments shall be secured on a parity, equally and ratably, with the interest on the Bonds and Parity Swap Termination Payments shall be secured on a parity, equally and ratably, with the principal of the Bonds, and amounts payable under any Continuing Covenant Agreement or any Reimbursement Agreement;

(d) for the enforcement of the payment by the Borrower of all principal, interest, fees and other amounts payable from time to time under any Continuing Covenant Agreement or any Reimbursement Agreement, when payable, according to the true intent and meaning thereof; and

(e) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture and the other Bond Documents;

provided, however, that payments required to be made shall be made, in each case, without preference, priority or distinction, as to lien or otherwise except as provided herein, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each

Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and proportionately by this Indenture, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that, upon satisfaction of and in accordance with the provisions of Article V, the rights assigned hereby shall cease, determine and be void to the extent described therein; otherwise, such rights shall be and remain in full force and effect;

IT IS DECLARED that all Bonds issued under and secured by this Indenture are to be issued, authenticated and delivered, and that all moneys assigned or pledged hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture; and the Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Owners, as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Defined Terms. In addition to terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

“*Act*” has the meaning assigned to such term in the recitals hereto.

“*Act of Bankruptcy*” means any of the following events:

(a) The Borrower (or any other Person obligated, as guarantor or otherwise, to make payments on the Bonds or under the Agreement, the Note, any Continuing Covenant Agreement or any Reimbursement Agreement) or an “affiliate” of the Borrower or such other Person as defined in Bankruptcy Code § 101(2) or the Issuer shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Borrower (or such other Person) or the Issuer or of all or any substantial part of their respective property, (ii) commence a voluntary case under the Bankruptcy Code, (iii) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts or (iv) take any corporate or official action to authorize any of the foregoing; or

(b) A proceeding or case shall be commenced, without the application or consent of the Borrower (or any other Person obligated, as guarantor or otherwise, to make payments on the Bonds or under the Agreement, the Note, any Continuing Covenant Agreement or any Reimbursement Agreement) or an “affiliate” of the Borrower or such other Person as defined in Bankruptcy Code § 101(2) or the Issuer in any court of competent jurisdiction, seeking (i) the liquidation, reorganization,

dissolution, winding-up, or composition or adjustment of debts, of the Borrower (or any such other Person) or the Issuer, (ii) the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Borrower (or any such other Person) or the Issuer or of all or any substantial part of their respective property or (iii) similar relief in respect of the Borrower (or any such other Person) or the Issuer under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts.

“*Advances*” means all advances of the purchase price of the Bonds made by the Purchaser pursuant to the Continuing Covenant Agreement prior to the Advance Termination Date.

“*Advance Termination Date*” has the meaning assigned to such term in Section 2.05.

“*Agreement*” means the Loan Agreement dated as of January 1, 2019, between the Issuer and the Borrower.

“*Alternate Credit Facility*” means a Credit Facility delivered to, and accepted by, the Trustee pursuant to Section 3.08(e) in substitution for the Credit Facility then in effect; provided, however, that any amendment, extension, renewal or substitution of the Credit Facility then in effect for the purpose of extending the expiration date of such Credit Facility shall not be deemed to be an Alternate Credit Facility for purposes of this Indenture.

“*Alternate Weekly Index*” means, for any Computation Date, (a) if the Bonds are (or were) bearing interest at a Weekly Rate during the Weekly Interest Period ending on or immediately after such Computation Date that was determined by the Remarketing Agent without applying the Alternate Weekly Index, the Weekly Rate for such Weekly Interest Period, and (b) if the Weekly Rate for the Weekly Interest Period ending on or immediately after such Computation Date was determined by applying the Alternate Weekly Index or if such Computation Date is the first Computation Date that occurs in connection with any change or deemed change in the Interest Rate Determination Method to a Weekly Rate pursuant to Section 2.03(c) or (d), the SIFMA Index plus 0.10%.

“*Applicable Factor*” means:

(a) during the initial Direct Purchase Period, 80.4%; and

(b) during any other Direct Purchase Period,

(i) 80.4%, or

(ii) with an Approving Opinion, such other percentage as may be designated in writing by the Borrower as the Applicable Factor for such LIBOR Index Rate Period pursuant to Section 2.04(a) or 2.04(b); provided that the Applicable Factor shall not be less than 70%.

“*Applicable Spread*” means, with respect to each Index Interest Rate Period, the following:

(a) During the initial Direct Purchase Period, 129 basis points (1.29%).

(b) During any Index Interest Rate Period other than the initial Rate Period, the number of basis points determined by the Market Agent, having due regard for prevailing market conditions for bonds or other securities comparable as to tax treatment, credit and maturity to the Bonds, on the Conversion Date and designated by the Borrower in accordance with Section 2.04(a) or 2.04(b), as applicable, which when added to the SIFMA Index or the product of the LIBOR Index multiplied by the Applicable Factor, as applicable, would equal the minimum interest rate per annum that would enable the Bonds to be sold on such Conversion Date at a price equal to par (without regard to accrued interest, if any, thereon).

“Approving Opinion” means, with respect to any action relating to the Bonds, the occurrence of which requires an Opinion of Counsel, an Opinion of Counsel delivered by Bond Counsel to the effect that such action (a) is permitted by this Indenture and the Act, and (b) will not adversely affect the exclusion of interest on the Bonds from gross income of the Owners for purposes of federal income taxation.

“Assignment of Construction Documents” means the Assignment of Construction Documents, Plans and Specifications dated January __, 2019, by the Borrower in favor of the Trustee.

“Authorized Denomination” means (a) during any Short-Term Rate Period or any Medium-Term Rate Period, \$100,000 and multiples of \$5,000 in excess thereof, (b) during any Fixed Rate Period, \$5,000 and integral multiples thereof, (c) during any Index Interest Rate Period, \$100,000 and multiples of \$5,000 in excess thereof and (d) during any Direct Purchase Period, regardless of the Rate Period, \$250,000 and multiples of \$0.01 in excess thereof or, if less, the Principal Amount.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“Beneficial Owner” means the Person in whose name a Bond is recorded as beneficial owner of such Bond by the Securities Depository or a Participant or an Indirect Participant on the records of such Securities Depository, Participant or Indirect Participant, as the case may be, or such Person’s subrogee.

“Bond” or *“Bonds”* has the meaning assigned to such term in the recitals hereto.

“Bond Counsel” means Naman, Howell, Smith & Lee, PLLC, or any other attorney or firm of attorneys, which is admitted to practice law before the highest court of any state in the United States of America or the District of Columbia and nationally recognized and experienced in legal work relating to the issuance of tax-exempt bonds.

“Bond Documents” means, collectively, this Indenture, the Agreement, the Note, the Bonds, any Continuing Covenant Agreement, any Reimbursement Agreement, the Security Documents, any Swap, any Remarketing Agreement, any Market Agent Agreement and the Tax Certificate.

“*Bond Fund*” means the fund of that name created pursuant to Section 4.01.

“*Bond Interest is Taxable*” means that interest paid or to be paid on a Bond is or will be includable for federal income tax purposes in the gross income of the Purchaser or any other Owner thereof, but excluding the inclusion of interest on such Bond as an item of tax preference for purposes of the calculation of an alternative minimum tax imposed on the Purchaser or such other Owner.

“*Bond Proceeds*” has the meaning assigned to such term in the Agreement.

“*Bond Purchase Fund*” means the fund of that name created pursuant to Section 4.04.

“*Book Entry System*” means a book entry system established and operated for the recordation of Beneficial Owners of the Bonds pursuant to Section 2.20.

“*Borrower*” means Peripheral Investments, L.P., a limited partnership duly organized and validly existing under the laws of the State of Texas, and its permitted successors and assigns.

“*Borrower Agent*” has the meaning assigned to such term in Section 7.02.

“*Borrower Representative*” has the meaning assigned to such term in the Agreement.

“*Business Day*” means any day on which (a) the offices of the Credit Provider at which drawings on the Credit Facility are made (if a Credit Facility is in effect), the Trustee, the Paying Agent, the Registrar, the Calculation Agent, the Market Agent and the Remarketing Agent, if any, are each open for business, (b) the Federal Reserve System is in operation, (c) the New York Stock Exchange is not closed and (d) banks in the State and in the State of New York are open for business.

“*Calculation Agent*” means, during any Direct Purchase Period, Wells Fargo, and if Wells Fargo shall decline to act as Calculation Agent, means any other Person appointed by the Borrower, with the consent of the Purchaser in its sole discretion, to serve as calculation agent for the Bonds.

“*Ceiling Rate*” means, (a) with respect to all Bonds other than Credit Provider Bonds and Bonds subject to a Direct Purchase Period, the lesser of (i) [18]% per annum and (ii) the Maximum Lawful Rate; and (b) with respect to Credit Provider Bonds and Bonds subject to a Direct Purchase Period, the Maximum Lawful Rate.

“*City*” means the city of Hutto, Texas.

“*Closing Memorandum*” means the closing memorandum executed by the Borrower describing the disbursement of Bond Proceeds on the Issue Date.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder, or any successor statute thereto.

“Completion Date” has the meaning assigned to such term in the Agreement.

“Computation Date” means (a) during each Weekly Interest Period, the Business Day immediately preceding the first day of such period, (b) during each Flexible Term Rate Period, the first Business Day of such period, (c) during each SIFMA Index Rate Period, the first day of such period and thereafter Wednesday of each week (or if Wednesday is not a Business Day, the immediately succeeding Business Day), (d) during each LIBOR Index Rate Period, the second London Business Day preceding the first day of such period and thereafter the second London Business Day preceding each LIBOR Index Reset Date and (e) with respect to a conversion to a Fixed Rate or a Medium-Term Rate, a Business Day determined by the Remarketing Agent that is not more than twenty (20) nor less than two (2) days prior to the Conversion Date relating to such conversion.

“Continuing Covenant Agreement” means, during the initial Direct Purchase Period, the Continuing Covenant Agreement dated January __, 2019, between the Borrower and the Purchaser, and during any subsequent Direct Purchase Period, means any agreement between the Borrower and the Purchaser which may be designated as the Continuing Covenant Agreement.

“Conversion Date” means each date on which (a) the Interest Rate Determination Method then in effect is changed to another Interest Rate Determination Method, (b) the Medium-Term Rate Period then in effect is changed to a new Medium-Term Rate Period and (c) the Index Interest Rate Period then in effect is changed to a new Index Interest Rate Period; provided, however, that Conversion Date shall not include deemed conversions under Sections 2.03(c) or (d).

“Conversion Notice” has the meaning assigned to such term in Section 2.04(a).

“Cost(s) of the Project” has the meaning assigned to such term in the Agreement.

“Counsel” means an attorney or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia, including any Bond Counsel.

“Credit Facility” means an irrevocable, direct-pay letter of credit delivered to, and accepted by, the Trustee pursuant to the terms hereof which permits the Trustee to draw amounts thereunder sufficient to pay the principal and Purchase Price of and interest on the Bonds when due and shall include the Initial Credit Facility and any Alternate Credit Facility.

“Credit Facility Effective Date” has the meaning assigned to such term in Section 3.08(e).

“Credit Modification Date” means the earliest of (a) two (2) Business Days prior to the date on which a Credit Facility then in effect is stated to expire (unless extended), (b) two (2) Business Days prior to the date on which a Credit Facility then in effect is to be terminated or (c) the proposed Credit Facility Effective Date.

“Credit Provider” means the issuer of any Credit Facility, and its successors and assigns; provided, however, that in connection with a Mandatory Purchase Date occurring as a result of

the acceptance of an Alternate Credit Facility, until the occurrence of such Mandatory Purchase Date, “Credit Provider” shall mean the issuer of the Credit Facility in effect immediately prior to acceptance of such Alternate Credit Facility.

“*Credit Provider Bond*” means any Bond purchased with moneys advanced under a Credit Facility until remarketed.

“*Current Account*” means the account of that name within the Bond Fund established pursuant to Section 4.01.

“*Current Purchase Account*” means the account of that name within the Bond Purchase Fund established pursuant to Section 4.04.

“*Default Rate*” has the meaning assigned to such term in the Continuing Covenant Agreement.

“*Determination of Taxability*” means (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that Bond Interest is Taxable, or (b) the delivery to the Purchaser, any Owner or the Trustee of an Opinion of Counsel, delivered by Bond Counsel, to the effect that Bond Interest is Taxable. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following:

- (i) the date when the Borrower files any statement, supplemental statement, or other tax schedule, return or document, which discloses that Bond Interest is Taxable;
- (ii) the effective date of any federal legislation enacted or federal rule or regulation promulgated after the date of this Indenture which has the effect that Bond Interest is Taxable; or
- (iii) if upon sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141-2(d), the failure to receive an Approving Opinion.

“*Direct Purchase Period*” means any Rate Period, other than a Weekly Rate Period or Flexible Term Rate Period, during which the Bonds have been purchased pursuant to a direct purchase of the Bonds pursuant to a Continuing Covenant Agreement by the Purchaser.

“*Direct Purchase Period Purchase Date*” means (a) for the initial Direct Purchase Period, January __, 2030, and (b) during any subsequent Direct Purchase Period, the date designated by the Borrower pursuant to Section 2.04(a) or (b), as applicable.

“*Eligible Account*” means an account that is either (a) maintained with a federal or state-chartered depository institution or trust company that has a short-term debt rating issued by S&P of at least “A-2” (or, if no short-term debt rating has been issued, a long-term debt rating issued by S&P of at least “BBB+”); or (b) maintained with the corporate trust department of a federal depository institution or state-chartered depository institution subject to regulations regarding fiduciary funds on deposit, which, in either case, has corporate trust powers and is acting in its fiduciary capacity.

“*Eligible Funds*” means moneys held by the Trustee or the Paying Agent under this Indenture which consist of any of the following:

(c) any moneys if, in the written Opinion of Counsel experienced in bankruptcy law matters (which opinion shall be delivered to the Trustee and each Rating Agency, if any, rating the Bonds at or prior to the time of the deposit of such moneys with the Trustee and shall be in form and substance satisfactory to each Rating Agency, if any, rating the Bonds), the deposit and use of such moneys will not constitute an avoidable preferential payment pursuant to Section 547 of the Bankruptcy Code, or an avoidable post-petition transfer pursuant to Section 549 of the Bankruptcy Code, recoverable from Owners of the Bonds pursuant to Section 550 of the Bankruptcy Code in the event of an Act of Bankruptcy; or

(d) moneys paid by the Credit Provider to the Trustee under the Credit Facility which are not commingled with any other moneys.

If no Credit Facility is in effect, except for purposes of Article V, any moneys held by the Trustee or the Paying Agent under this Indenture shall constitute “Eligible Funds.”

“*Environmental Agreement*” means that certain Environmental Compliance and Indemnification Agreement dated January __, 2019, by the Borrower in favor of the Trustee.

“*Event of Default*” means any of the events specified in Section 6.01.

“*Excluded Person*” means any Person to whom Bonds may not be remarketed pursuant to Section 2.07(d).

“*Financing Statements*” means any and all financing statements (including continuation statements) or other instruments filed or recorded to perfect the Security Interests created in this Indenture and in the Security Documents (or any of them).

“*Fitch*” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower with the approval of the Remarketing Agent, if any, and the Purchaser, if any, by notice to the Issuer and the Trustee.

“*Fixed Rate*” means the Fixed Rate established in accordance with Section 2.03(e), and shall be subject to adjustment as provided in Section 2.03(l).

“*Fixed Rate Conversion Date*” means the day on which the Interest Rate Determination Method shall be converted to the Fixed Rate.

“*Fixed Rate Period*” means the period from and including the Fixed Rate Conversion Date to and including the date of payment in full of the Bonds.

“*Flexible Term Rate*” means the Flexible Term Rate established for each of the Bonds in accordance with Section 2.03(c).

“*Flexible Term Rate Bond*” means any Bond bearing interest at a Flexible Term Rate.

“*Flexible Term Rate Period*” means any period during which the Bonds bear interest at a Flexible Term Rate.

“*Full Funding Date*” has the meaning assigned to such term in the Continuing Covenant Agreement.

“*Government Obligations*” means (a) direct obligations of the United States of America, the full and timely payment of which the full faith and credit of the United States of America is pledged, and (b) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity.

“*Indenture*” means this Indenture of Trust.

“*Index Interest Rate*” means each of the LIBOR Index Rate and the SIFMA Index Rate.

“*Index Interest Rate Period*” means any period during which the Bonds bear interest at an Index Interest Rate.

“*Indirect Participant*” means a broker-dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository through a Participant.

“*Initial Credit Facility*” means the initial Credit Facility delivered to, and accepted by, the Trustee pursuant to Section 3.08(e).

“*Initial Swap*” means the [International Swap Dealers Association, Inc. Master Agreement dated as of [January __, 2019], between Wells Fargo Bank, National Association and the Borrower; Schedule to the Master Agreement dated as of [January __, 2019], between Wells Fargo Bank, National Association and the Borrower; and Confirmation to the Schedule to the Master Agreement dated as of [January __, 2019], between Wells Fargo Bank, National Association and the Borrower], which is in effect on the Issue Date.

“*Interest Payment Date*” means (a) during any Weekly Rate Period or Index Interest Rate Period, each Monthly Interest Payment Date, (b) during any Flexible Term Rate Period, the first Business Day immediately succeeding the last day of each Flexible Term Rate Period, but only as to Bonds for which such Flexible Term Rate Period is applicable, (c) during any Fixed Rate Period or Medium-Term Rate Period, each Semiannual Interest Payment Date, (d) each Conversion Date, (e) with respect to Unremarketed Bonds, the dates set forth in the Continuing Covenant Agreement for the payment of interest on Unremarketed Bonds, (f) with respect to Credit Provider Bonds, the dates set forth in the Reimbursement Agreement for the payment of

interest on Credit Provider Bonds, (g) for Bonds subject to redemption in whole or in part on any date, the date of such redemption and (h) the Maturity Date.

“Interest Rate Determination Method” means any of the methods of determining the interest rate on the Bonds described in Section 2.03.

“Issue Date” means the date on which the Bonds are delivered to the purchaser or purchasers thereof upon original issuance.

“Issuer” means Hutto Economic Development Corporation, a non-profit corporation duly organized and existing under the Constitution and laws of the State, including the Act, or any successor to its rights and obligations under the Agreement and this Indenture.

“Issuer Representative” has the meaning assigned to such term in the Agreement.

“LIBOR Index” means, for any date of determination, the per annum rate of interest determined on the basis of the rate on deposits in United States dollars of amounts equal to or comparable to the Principal Amount, offered for a term of one month, which rate appears on the display designated as Reuters Screen LIBOR01 Page (or any successor page), determined as of approximately 11:00 a.m., London time, on each Computation Date for effect on the immediately succeeding LIBOR Index Reset Date, or if such rate is not available, another rate determined by the Calculation Agent of which the Borrower has received written notice. Notwithstanding anything herein to the contrary, during any period of time while the LIBOR Index, determined as provided above, would be less than zero percent (0.0%), the LIBOR Index shall be deemed to be zero percent (0.0%).

“LIBOR Index Rate” means a per annum rate of interest established on each Computation Date equal to the sum of (a) the Applicable Spread plus (b) the product of (i) the LIBOR Index multiplied by (ii) the Applicable Factor and shall be subject to adjustment as provided in Section 2.03(l). The LIBOR Index Rate shall be rounded [CONFIRM WITH SWAP DESK: upwards] to the fifth decimal place.

“LIBOR Index Rate Conversion Date” means (a) the date on which the Bonds begin to bear interest at the LIBOR Index Rate or (b) if the Bonds currently bear interest at a LIBOR Index Rate, the Mandatory Purchase Date occurring at the end of such LIBOR Index Rate Period.

“LIBOR Index Rate Period” means (a) the initial Direct Purchase Period and (b) each period thereafter from and including a LIBOR Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Mandatory Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date.

“LIBOR Index Reset Date” means the first Business Day of each month.

“Local Time” means Eastern Time (daylight savings or standard, as applicable) in New York, New York.

“*London Business Day*” means any day that is a day for trading by and between banks in Dollar deposits in the London interbank market.

“*Mandatory Purchase Date*” means (a) a Conversion Date (except to the extent provided in Section 2.04(f) or with respect to a conversion described in Section 2.04(b)), (b) a Credit Modification Date, (c) with respect to each Bond then bearing interest at a Flexible Term Rate, the first Business Day immediately succeeding the last day of the Flexible Term Rate Period applicable to such Bond, (d) while the Bonds bear interest at the Weekly Rate, any Business Day designated by the Borrower with the consent of the Remarketing Agent and the Credit Provider, provided that such designation and consent are made in writing and delivered to the Trustee at least twenty-five (25) days (or such shorter period of time acceptable to the Trustee) prior to such Mandatory Purchase Date, (e) each Direct Purchase Period Purchase Date, (f) while the Bonds bear interest at the Medium-Term Rate, the first Business Day immediately succeeding the last day of the Medium-Term Rate Period, (g) the fourth Business Day after receipt by the Trustee of a written notice from the Credit Provider that an event of default under the Reimbursement Agreement has occurred and is continuing and a written request from the Credit Provider that all of the Bonds be required to be tendered for mandatory purchase, and (h) the fourth Business Day after receipt by the Trustee of a written notice from the Purchaser that an event of default under the Continuing Covenant Agreement has occurred and is continuing and a written request from the Purchaser that all of the Bonds be required to be tendered for mandatory purchase.

“*Margin Rate Factor*” means the greater of (a) 1.0, and (b) the product of (i) one minus the then current Maximum Federal Corporate Tax Rate in effect on the date of calculation multiplied by (ii) the quotient of (A) one divided by (B) one minus the Maximum Federal Corporate Tax Rate on the Issue Date. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change. As of the Issue Date, the Margin Rate Factor equals 1.0.

“*Market Agent*” means the Person appointed by the Borrower, with the consent of the Purchaser, to act as Market Agent hereunder and the successors thereof.

“*Market Agent Agreement*” means any agreement between the Borrower and the Market Agent, relating to the obligations of the Market Agent under this Indenture.

“*Maturity Date*” means [DATE].

“*Maximum Federal Corporate Tax Rate*” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time or, if as a result of a change in the Code the rate of income taxation imposed on corporations generally shall not be applicable to the Purchaser, the maximum statutory rate of federal income taxation which could apply to the Purchaser. As of the Issue Date, the Maximum Federal Corporate Tax Rate is 21%.

“*Maximum Lawful Rate*” means the maximum, non-usurious, lawful rate of interest that may be contracted for, charged or received in connection with the relevant obligation under

applicable law without regard to any filing made by a lender with respect to notice of rates in excess of any statutory or regulatory threshold interest rate.

“*Medium-Term Rate*” means the interest rate on the Bonds established from time to time pursuant to Section 2.03(d), and shall be subject to adjustment as provided in Section 2.03(l).

“*Medium-Term Rate Period*” means any period during which the Bonds bear interest at a Medium-Term Rate.

“*Monthly Interest Payment Date*” means the first Business Day of each calendar month.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower with the approval of the Remarketing Agent, if any, and the Purchaser, if any, by notice to the Issuer and the Trustee.

“*Mortgage*” means the Deed of Trust and Assignment of Rents and Leases dated January __, 2019, made by the Borrower in favor of Wells Fargo Financial National Bank, as trustee, for the benefit of the Trustee to be recorded and executed and deemed part of the Trust Estate.

“*Note*” means the promissory note of the Borrower dated the Issue Date, in the form attached as Exhibit C to the Agreement.

“*Operating Lease*” means that [Operating Lease] dated [January __, 2019], between the Borrower, as landlord, and Paradigm Metals, Inc., as tenant.

“*Opinion of Counsel*” means any opinion of Counsel delivered pursuant to this Indenture. Each such opinion shall be addressed to the Trustee, the Remarketing Agent, if any, the Borrower, the Issuer, the Paying Agent, the Purchaser, if any, and the Credit Provider, if any.

“*Optional Tender Date*” means, during any Weekly Rate Period, any Business Day.

“*Outstanding*” means, for any date of determination, all Bonds that have been authenticated and delivered by the Trustee hereunder, except:

- (a) Bonds cancelled or delivered for cancellation at or prior to such date;
- (b) Bonds deemed to be paid in accordance with Section 5.02;
- (c) Bonds in lieu of which others have been authenticated under Sections 2.13, 2.14 and 2.15;
- (d) Untendered Bonds to the extent that there shall be on deposit with the Paying Agent on the date the purchase thereof is required as provided herein an amount to pay the Purchase Price thereof; and

(e) For purposes of any consent, request, demand, authorization, direction, notice, waiver or other action to be taken by the Owners of a specified percentage of Outstanding Bonds hereunder, all Bonds held by or for the account of the Issuer, the Borrower or any affiliate of the Borrower or the Issuer; provided, however, that for purposes of any such consent, request, demand, authorization, direction, notice, waiver or action the Trustee shall be obligated to consider as not being Outstanding only Bonds known by the Trustee by actual notice thereof to be so held; provided, further, that if all of the Bonds are at any time held by or for the account of the Borrower or the Issuer or any affiliate of the Borrower or the Issuer, then such Bonds shall be deemed to be Outstanding at such time for the purposes of this subparagraph (e).

“*Owner*” means, if the Bonds are not subject to the Book Entry System, the registered owner of a Bond or, if the Bonds are subject to the Book Entry System, the Beneficial Owner of such Bond.

“*Parity Periodic Swap Payments*” means Periodic Swap Payments which are designated, with the prior written consent of the Purchaser, if any, and the Credit Provider, if any, as having a Security Interest in the Trust Estate on a parity, equally and ratably, with the Security Interest therein of the Owners of Bonds. Periodic Swap Payments under the Initial Swap shall be Parity Periodic Swap Payments.

“*Parity Swap Termination Payments*” means Swap Termination Payments which are designated, with the prior written consent of the Purchaser, if any, and the Credit Provider, if any, as having a Security Interest in the Trust Estate on a parity, equally and ratably, with the Security Interest therein of the Owners of Bonds. Swap Termination Payments under the Initial Swap shall be Parity Swap Termination Payments.

“*Participant*” means a broker-dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository.

“*Paying Agent*” means Wells Fargo Bank, National Association, and its successors appointed and serving under this Indenture.

“*Periodic Swap Payments*” means the net amount payable by the Borrower from time to time under a Swap to the Swap Provider prior to the termination of such Swap.

“*Permitted Investments*” means any of the following which at the time of investment are (i) legal investments under the laws of the State for the moneys proposed to be invested therein and (ii) during any Direct Purchase Period are not prohibited under the provisions of the Continuing Covenant Agreement:

(a) bonds or obligations of the State, or of any county, municipality or political subdivision of the State;

(b) bonds or other obligations of the United States of America or subsidiary corporations of the United States government which are fully guaranteed by such government;

(c) obligations of agencies of the United States government issued by the Federal Land Bank, the Federal Home Loan Bank, the Federal Intermediate Credit Bank and the Central Bank for Cooperatives;

(d) bonds or other obligations issued by any public housing agency or municipality in the United States of America, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States government, or project notes issued by any public housing agency, urban renewal agency, or municipality in the United States of America and secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the United States government;

(e) certificates of deposit of national or state banks located within the State which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan or savings and loan associations located within the State which have deposits insured by the Federal Savings and Loan Insurance Corporation (including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as custodian or trustee for any proceeds of the Bonds); provided, however, that the portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, if any, shall be secured by deposit with the Federal Reserve Bank of Houston, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within the State, of one or more of the following securities in an aggregate principal amount equal at least to the amount of such excess: direct and general obligations of the State, or of any county, municipality corporation in the State, or obligations included in subsections (b), (c), or (d) above;

(f) securities of or other interests in any no-load, open-end management type investment company or investment trust registered under the investment company act of 1940, as from time to time amended, or any common trust fund maintained by any bank or trust company which holds such proceeds as trustee or by an affiliate thereof so long as:

(1) the portfolio of such investment company or investment trust or common trust fund is limited to the obligations referenced in subsection (b) above and repurchase agreements fully collateralized by any such obligations;

(2) such investment company or investment trust or common trust fund takes delivery of such collateral either directly or through an authorized custodian;

(3) such investment company or investment trust or common trust fund is managed so as to maintain its shares at a constant net asset value; and

(4) securities of or other interests in such investment company or investment trust or common trust fund are purchased and redeemed only through the use of national or state banks having corporate trust powers and located within the State;

(g) any other investments to the extent at the time permitted by then applicable law for the investment of public funds approved in writing by the Purchaser, if any, and the Credit Provider, if any.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, a business trust, a limited liability company or any other entity or organization, including a governmental or political subdivision or an agency or instrumentality thereof.

“*Principal Amount*” or “*principal amount*” means the Outstanding principal amount of the Bonds; provided, that during the initial Direct Purchase Period the term “Principal Amount” shall mean the sum of all Advances as reflected on the Table of Advances attached to the Bonds, less any redemptions of Bonds as reflected on the Table of Partial Redemptions attached to the Bonds.

“*Project*” has the meaning assigned to such term in the Agreement.

“*Project Fund*” means the fund of that name created pursuant to Section 4.02.

“*Purchase Price*” means, for any date of determination, an amount equal to 100% of the principal amount of any Bond tendered or deemed tendered for purchase pursuant to Section 2.06, plus accrued and unpaid interest thereon to the date of purchase.

“*Purchaser*” means, during any Direct Purchase Period, the following:

(a) if the Bonds are not held under the Book Entry System and there is a single Owner of all of the Bonds, the Owner of the Bonds;

(b) if the Bonds are not held under the Book Entry System and there is more than one Owner of the Bonds, the Owners owning a majority of the aggregate Principal Amount of the Bonds;

(c) if the Bonds are held under the Book Entry System and there is a single Beneficial Owner of all of the Bonds, the Beneficial Owner of the Bonds; and

(d) if the Bonds are held under the Book Entry System and there is more than one Beneficial Owner of the Bonds, the Beneficial Owners of a majority of the aggregate Principal Amount of the Bonds.

On the Issue Date, the initial Purchaser of the Bonds is Wells Fargo Bank, National Association.

“*Rate*” means any SIFMA Index Rate, LIBOR Index Rate, Weekly Rate, Flexible Term Rate, Fixed Rate or Medium-Term Rate.

“*Rate Period*” means any SIFMA Index Rate Period, LIBOR Index Rate Period, Weekly Rate Period, Flexible Term Rate Period, Medium-Term Rate Period or Fixed Rate Period.

“*Rating Agency*” means Fitch when the Bonds are rated by Fitch, Moody’s when the Bonds are rated by Moody’s, and S&P when the Bonds are rated by S&P.

“*Rebate Amount*” has the meaning set forth in Section 4.09.

“*Rebate Fund*” means the fund of that name created pursuant to Section 4.09.

“*Record Date*” means with respect to each Interest Payment Date (a) during any Short-Term Rate Period or Index Interest Rate Period, the Trustee’s close of business on the Business Day immediately preceding such Interest Payment Date, and (b) during any Medium-Term Rate Period or Fixed Rate Period, the Trustee’s close of business on the fifteenth (15th) day of the calendar month immediately preceding the calendar month during which such Interest Payment Date occurs, regardless of whether such day is a Business Day; provided, however, that, with respect to each Interest Payment Date, during any Direct Purchase Period, the Record Date shall be the Trustee’s close of business on the Business Day immediately preceding such Interest Payment Date.

“*Register*” means the register of the record owners of Bonds maintained by the Registrar.

“*Registrar*” means the Trustee.

“*Reimbursement Agreement*” means any agreement between the Borrower and a Credit Provider relating to a Credit Facility.

“*Remarketing Agent*” means any Person appointed and serving in such capacity pursuant to Section 7.12 and the successors thereof.

“*Remarketing Agreement*” means any agreement between the Borrower and a Remarketing Agent relating to the Bonds.

“*Repayments*” means all amounts required to be paid by or on behalf of the Borrower to the Issuer (and the Trustee, as the assignee of the Issuer) pursuant to Section 5.02 of the Agreement.

“*Replacement Bonds*” means Bonds issued pursuant to Section 2.15, which Bonds shall contain the terms and provisions specified herein as being applicable to the Bonds following a Mandatory Purchase Date and have excised therefrom the terms and provisions that are not so applicable and added thereto terms that have become applicable.

“*Requisition*” has the meaning assigned to such term in the Agreement.

“*Reserved Rights*” has the meaning assigned to such term in the Agreement.

“*S&P*” means Standard & Poor’s Global Ratings, a division of Standard & Poor’s Financial Services LLC, a limited liability company organized and existing under the laws of the

State of New York, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower with the approval of the Remarketing Agent, if any, and the Purchaser, if any, by notice to the Issuer and the Trustee.

“*S&P Weekly High Grade Index*” means, for any date of determination, the level of the “S&P Weekly High Grade Index” (formerly known as the J.J. Kenny Index) maintained by Standard and Poor’s Securities Evaluations Inc. for a one-week maturity as published each Wednesday, or if any Wednesday is not a Business Day, on the immediately succeeding Business Day.

“*Securities Depository*” means The Depository Trust Company and any substitute for or successor to such securities depository that shall maintain a Book Entry System with respect to the Bonds.

“*Securities Depository Nominee*” means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Register the Bonds to be delivered to such Securities Depository during the continuation with such Securities Depository of participation in its Book Entry System.

“*Security Agreement*” means the Security Agreement dated as of January __, 2019, by the Borrower in favor of the Trustee.

“*Security Documents*” means, collectively, the Mortgage, the Operating Lease, the Security Agreement, the Environmental Agreement, and the Assignment of Construction Documents.

“*Security Interest*” or “*Security Interests*” means the security interests created by this Indenture and in the Security Documents (or any of them) and has the meanings set forth in the U.C.C.

“*Semiannual Interest Payment Date*” means each January 1st and July 1st.

“*Short-Term Rate*” means either the Weekly Rate or the Flexible Term Rate.

“*Short-Term Rate Period*” means any period during which the Bonds bear interest at a Short-Term Rate.

“*SIFMA Index*” means, for any date of determination, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by the Securities Industry and Financial Markets Association and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the immediately succeeding Business Day. If the SIFMA Index is no longer published, then “SIFMA Index” shall mean the S&P Weekly High Grade Index. If the S&P Weekly High Grade Index is no longer published, then “SIFMA Index” shall mean the prevailing rate determined by the Calculation Agent for tax-exempt state and local government bonds meeting criteria

determined in good faith by the Calculation Agent to be comparable under the circumstances to the criteria used by the Securities Industry and Financial Markets Association to determine the SIFMA Index immediately prior to the date on which the Securities Industry and Financial Markets Association ceased publication of the SIFMA Index. Notwithstanding anything herein to the contrary, during any period of time while the SIFMA Index, determined as provided above, would be less than zero percent (0.0%), the SIFMA Index shall be deemed to be zero percent (0.0%).

“*SIFMA Index Rate*” means a per annum rate of interest established on each Computation Date equal to the sum of the Applicable Spread plus the SIFMA Index and shall be subject to adjustment as provided in Section 2.03(l). The SIFMA Index Rate shall be rounded to the second decimal place.

“*SIFMA Index Rate Conversion Date*” means (a) the date on which the Bonds begin to bear interest at the SIFMA Index Rate or (b) if the Bonds currently bear interest at a SIFMA Index Rate, the Mandatory Purchase Date occurring at the end of such SIFMA Index Rate Period.

“*SIFMA Index Rate Period*” means each period from and including a SIFMA Index Rate Conversion Date to but excluding the earliest of (a) the immediately succeeding Mandatory Purchase Date, (b) the immediately succeeding Conversion Date and (c) the Maturity Date.

“*SIFMA Rate Reset Date*” means Thursday of each week.

“*State*” means the State of Texas.

“*Stated Principal Amount*” has the meaning assigned to such term in Section 2.05.

“*Subordinated Periodic Swap Payments*” means all Periodic Swap Payments other than Parity Periodic Swap Payments.

“*Subordinated Swap Termination Payments*” means all Swap Termination Payments other than Parity Swap Termination Payments.

“*Surplus Bond Proceeds*” means all moneys and any unliquidated investments remaining in the Project Fund on the Completion Date and after payment in full of the Costs of the Project (except for costs not then due and payable for which the Trustee shall have retained amounts pursuant to the Agreement).

“*Surplus Fund*” means the fund of that name created pursuant to Section 4.03.

“*Swap*” means any agreement or arrangement (contractual or otherwise) between the Borrower and a Swap Provider related to the Borrower’s obligations to make payments pursuant to Section 5.02 of the Agreement which functions as an interest rate swap, interest rate cap, interest rate floor, interest rate collar or which otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt, or any agreement or other arrangement to enter into any of the above on a future date or upon or after the occurrence of one or more future events.

“*Swap Provider*” means any counterparty to the Borrower with respect to any Swap.

“*Swap Termination Payment*” means all amounts payable by the Borrower under any Swap that are not Periodic Swap Payments.

“*Tax Certificate*” means the tax certificate of the Borrower dated the Issue Date.

“*Taxable Date*” means the date on which interest on the Bonds is first includable in gross income of an Owner (including, without limitation, any previous Owner) thereof as a result of a Determination of Taxability.

“*Taxable Rate*” means, for any date of determination, the rate of interest per annum equal to the product of the interest rate on the Bonds then in effect multiplied by the quotient of (a) one divided by (b) one minus the then current Maximum Federal Corporate Tax Rate in effect on the date of calculation.

“*Trustee*” means Wells Fargo Bank, National Association, as trustee hereunder, and any successor trustee appointed under this Indenture.

“*Trust Estate*” means all of the Trustee’s right, title and interest in, to and under the Swap, the Mortgage and the other Security Documents and all collateral pledged or hypothecated thereunder, all products and proceeds thereof, and all cash, funds and other property (real and personal) realized, collected or obtained upon the exercise of the Trustee’s rights and remedies hereunder and thereunder, and all right, title and interest of the Issuer, as assigned to the Trustee hereunder, in and to:

(a) the Note and all Repayments received by the Issuer under the Agreement and the Note, which Repayments, subject to the final paragraph of Section 2.02, are to be paid directly by the Borrower to the Trustee and deposited in the Bond Fund or the Bond Purchase Fund in accordance with this Indenture;

(b) all moneys in the Surplus Fund, the Project Fund, the Bond Fund and the Bond Purchase Fund, including Bond Proceeds pending disbursement thereof;

(c) all of the Issuer’s rights, title and interest in the Agreement and the Note, except Reserved Rights;

(d) all moneys available to be drawn by the Trustee under any Credit Facility that may be in effect from time to time to support payments due on or with respect to the Bonds;

(e) all of the proceeds of the foregoing (except the amounts payable to or on behalf of the Issuer on account of the Reserved Rights), including without limitation investments thereof; and

(f) all other property of every name and nature from time to time hereafter by delivery or by writing mortgaged, pledged, delivered or hypothecated as and for

additional security under this Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee.

“*U.C.C.*” means the Uniform Commercial Code of the State as now in effect or hereafter amended.

“*Unremarketed Bonds*” means, during a Direct Purchase Period, Bonds which, on the applicable Mandatory Purchase Date, have not been successfully converted to another Rate Period or remarketed to a Person other than the Purchaser.

“*Untendered Bond*” means any Untendered Bond as defined in Section 2.06(f).

“*Weekly Interest Period*” means, with respect to the Bonds bearing interest at a Weekly Rate, the period from and including the first day on which the Interest Rate Determination Method is changed to the Weekly Rate to and including the next Wednesday and, in each case, each succeeding period from and including each Thursday to and including the following Wednesday.

“*Weekly Rate*” means the interest rate on the Bonds established pursuant to Section 2.03(b).

“*Weekly Rate Period*” means any period during which the Bonds bear interest at a Weekly Rate.

“*Wells Fargo*” means Wells Fargo Bank, National Association, and its successors and assigns.

Section 1.02. Incorporation of Certain Definitions by Reference. Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Agreement, unless the context otherwise requires.

Section 1.03. Computation of Time Periods. In this Indenture, in the computation of a period of time from a specified date to a later specified date, unless otherwise specified herein, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and the word “through” means “to and including.”

Section 1.04. Relation to Other Documents; Incorporation By Reference.

(a) Nothing in this Indenture shall be deemed to amend, or relieve the Issuer or the Trustee of any of its obligations under any Bond Document to which it is a party. Conversely, to the extent that the provisions of any Bond Document allow the parties hereto to take or not take certain actions, the parties hereto nevertheless shall be fully bound by the provisions of this Indenture.

(b) Except as provided in subsection (c) below, all references to this Indenture or any other documents, including, without limitation, the Bond Documents, shall be deemed to include all amendments, restatements, modifications and supplements thereto

to the extent such amendment, restatement, modification or supplement is made in accordance with the provisions of such document and this Indenture.

(c) All provisions of this Indenture making reference to specific Sections of any Bond Document shall be deemed to incorporate such Sections into this Indenture by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Indenture notwithstanding payment of the Bonds and all amounts due under or secured by the Bond Documents, the termination or defeasance thereof or any modification thereto or any waiver given in connection therewith, so long as this Indenture is in effect and until all amounts due and owing under this Indenture, the Bonds and the other Bond Documents are paid in full.

Section 1.05. Construction. Unless the context of this Indenture otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Indenture refer to this Indenture as a whole and not to any particular provision of this Indenture. The Section headings contained in this Indenture and the table of contents preceding this Indenture are for reference purposes only and shall not control or affect the construction of this Indenture or the interpretation thereof in any respect. Article, section, subsection, exhibit, schedule and annex references are to this Indenture unless otherwise specified. Any exhibit, schedule or annex attached hereto is incorporated by reference herein and is a constituent part of this Indenture.

ARTICLE II

THE BONDS

Section 2.01. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total maximum principal amount of Bonds that may be issued and Outstanding hereunder is expressly limited to \$[10,000,000]. The Bonds shall be designated “[10,000,000] Hutto Economic Development Corporation Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019.” While the Bonds bear interest at a Short-Term Rate, the Bonds shall be in substantially the form of Exhibit A. While the Bonds are subject to a Direct Purchase Period and do not bear interest at a Fixed Rate, the Bonds shall be in substantially the form of Exhibit B. While the Bonds bear interest at a Medium-Term Rate not subject to a Direct Purchase Period or a Fixed Rate, the Bonds shall be in substantially the form of Exhibit C.

Section 2.02. Issuance of Bonds. The Bonds shall bear interest from the Issue Date, until paid, at the rates set forth in Section 2.03 (computed on the basis of (a) a 365-day year (366 days in a leap year) for the actual days elapsed during any Weekly Rate Period or SIFMA Index Rate Period, (b) a 360-day year of twelve 30-day months during any Medium-Term Rate Period or Fixed Rate Period and (c) a 360-day year for the actual days elapsed during any Flexible Term Rate Period or LIBOR Index Rate Period), and shall mature, unless sooner paid, on the Maturity

Date on which date all unpaid principal, redemption premium, if any, and interest on the Bonds shall be due and payable.

The Bonds shall be issued as fully registered bonds without coupons in Authorized Denominations. Except for the Bond initially issued and registered by the Texas Comptroller of Public Accounts (the “Initial Bond”) which shall be numbered T-1, the Bonds shall be numbered from R-1 upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Registrar.

The Bonds shall be dated the Issue Date. All Bonds shall bear interest (i) from the Issue Date, if authenticated prior to the first Interest Payment Date, or (ii) otherwise from the Interest Payment Date that is, or that immediately precedes, the date on which such Bond is authenticated (unless payment of interest is in default, in which case such Bond shall bear interest from the date to which interest has been paid).

The principal and Purchase Price of, redemption premium, if any, and the interest on the Bonds shall be payable in lawful currency of the United States of America. Except as provided in the immediately succeeding paragraph, the principal and Purchase Price of and redemption premium, if any, on the Bonds shall be payable at the designated office of the Paying Agent upon presentation and surrender of the Bonds. Notwithstanding the immediately preceding sentence, while the Bonds are subject to a Direct Purchase Period and are not subject to the Book Entry System, in lieu of presentation and surrender of the Bonds at the designated office of the Paying Agent, the Purchaser may record partial payments of principal of the Bonds on the Table of Partial Redemptions attached to the Bonds. Payments of interest on the Bonds will be mailed to the persons in whose names the Bonds are registered on the Register at the close of business on the Record Date immediately preceding each Interest Payment Date; provided that, prior to the Fixed Rate Conversion Date, any Owner of a Bond or Bonds in an aggregate principal amount of not less than \$1,000,000 may, by prior written instructions filed with the Paying Agent (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period prior to the Fixed Rate Conversion Date be made by wire transfer to an account in the continental United States of America or other means acceptable to the Paying Agent.

Notwithstanding anything herein to the contrary, for so long as all of the Bonds are held by the Purchaser and are not held under the Book Entry System, the Issuer and the Trustee agree that all amounts payable to the Purchaser with respect to any Bonds held by the Purchaser may be made by the Borrower to the Purchaser, upon the Purchaser’s written notice to the Trustee and the Borrower (without any presentment thereof, except upon the payment of the final installment of principal, and without any notation of such payment being made thereon), in such manner or at such address in the United States of America as may be designated by the Purchaser in writing to the Trustee and the Borrower (the “Purchaser Direct Payment Period”), by the Purchaser debiting an account of the Borrower, as may be provided in any Continuing Covenant Agreement. The Purchaser shall record each such payment of principal on the Bond on the Table of Partial Redemptions attached to the Bond and shall use its best efforts to provide written notice to the Trustee of such payment of principal; provided, however, that the Purchaser shall not have any liability for failure to provide such notice. During any Purchaser Direct Payment Period, (A) any payment made shall be accompanied by sufficient information to identify the

source and proper application of such payment, (B) the Purchaser shall notify the Trustee in writing of any failure of the Borrower to make any payment of the principal of or interest on the Bonds when due, and the Trustee shall not be deemed to have any notice of such failure unless it has received such notice in writing, and (C) if any Bonds are sold or transferred, the Purchaser shall notify the Trustee and the Borrower in writing of the name and address of the transferee, the effective date of the transfer, the principal amount of the Bonds transferred and the payment information notated on the Bonds as hereinafter described, and it will, prior to delivery of such Bonds, make a notation on such Bonds of the date to which interest has been paid thereon and of the amount of any prepayments made on account of the principal thereof. Furthermore, to the extent that the Borrower has made the required payments to the Purchaser during any Purchaser Direct Payment Period, the Paying Agent shall have no obligations to make payments of the principal of or interest on the Bonds, nor shall the Trustee be obligated to collect Repayments pursuant to the Agreement, to act as Registrar or to take any other action in respect thereof, except at the express written direction of the Purchaser or the Issuer.

Section 2.03. Interest Rates on Bonds.

(a) ***Initial Rate - General.*** The Bonds shall bear interest as provided herein from the Issue Date to the date of payment in full of the Bonds. Interest accrued on the Bonds (or the applicable portion of the Bonds if the Bonds then bear interest at a Flexible Term Rate) shall be paid on each Interest Payment Date (or, if such day is not a Business Day, the immediately succeeding Business Day) for the period from and including the immediately preceding Interest Payment Date or Issue Date, as applicable, to but not including the applicable Interest Payment Date, commencing on the earlier of the first Monthly Interest Payment Date following the Issue Date or the first Conversion Date. The interest rate on the Bonds will be determined as provided in this Section except that no rate shall exceed the Ceiling Rate. The Bonds shall initially bear interest at a LIBOR Index Rate from the Issue Date until the date on which the Interest Rate Determination Method is changed as described in Section 2.04 and interest on the Bonds shall be calculated on the Principal Amount. Notwithstanding anything herein to the contrary, each Interest Rate Determination Method in effect from time to time shall continue in effect until the date on which such Interest Rate Determination Method is changed as described in Sections 2.03(c) or (d) or Section 2.04. The same Interest Rate Determination Method shall apply to all Bonds.

(b) ***Weekly Rate.*** During any Weekly Rate Period, the Bonds will bear interest at the Weekly Rate. During any Weekly Rate Period, the Remarketing Agent will determine the Weekly Rate for the applicable Weekly Interest Period by 4:00 p.m., Local Time, on the applicable Computation Date. Each Weekly Rate shall be the rate of interest which, if borne by the Bonds, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes of the same general nature as the Bonds or securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes that are comparable as to credit and maturity (or comparable with respect to optional tender provisions) with the credit and maturity or the optional tender provisions of the Bonds, be

the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place the Bonds at a price of par (plus accrued interest, if any) on the first Business Day of such Weekly Interest Period; provided, that, if for any reason the Weekly Rate for any Weekly Interest Period is not established as aforesaid by the Remarketing Agent, no Remarketing Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable with respect to any Weekly Interest Period, then the Weekly Rate for such Weekly Interest Period shall be equal to the Alternate Weekly Index on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent (or if no Remarketing Agent is serving as such hereunder, the Trustee) shall notify the Borrower immediately by telephone if the Alternate Weekly Index is applicable, with written notice to follow promptly. In connection with any change or deemed change in the Interest Rate Determination Method to a Weekly Rate pursuant to Section 2.03(c) or (d) or Section 2.04(a), the initial Weekly Rate shall be determined as provided above on the applicable Computation Date.

(c) ***Flexible Term Rate.*** During any Flexible Term Rate Period, each of the Bonds will bear interest at a Flexible Term Rate. With respect to any Flexible Term Rate Period, the Borrower shall determine the Flexible Term Rate Period, and the Remarketing Agent shall determine the Flexible Term Rate to be applicable to each Bond by 1:00 p.m., Local Time, on the applicable Computation Date. No Flexible Term Rate Period applicable to any Bond may (A) be less than one or more than 270 days in length, (B) extend beyond any scheduled Mandatory Purchase Date or the Maturity Date, or (C) end on a day preceding a non-Business Day. The Borrower may assign different Flexible Term Rate Periods to different Flexible Term Rate Bonds. For each Flexible Term Rate Bond, the Flexible Term Rate shall be the rate of interest which, if borne by such Bond for its applicable Flexible Term Rate Period, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes of the same general nature as such Bond or securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes which are comparable as to credit and maturity (or period for tender) with the credit and maturity of such Bond, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place such Bond at a price of par on the first Business Day of such Flexible Term Rate Period. If for any reason the applicable rate is not established as aforesaid by the Remarketing Agent, no Remarketing Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable, then the Interest Rate Determination Method shall be deemed to have converted to the Weekly Rate on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent (or if no Remarketing Agent is serving as such hereunder, the Trustee) shall notify the Borrower, the Trustee and the Paying Agent immediately by telephone if such a conversion is deemed to have occurred, with written notice to follow promptly. In connection with any change in the Interest Rate Determination Method to a Flexible Term Rate pursuant to Section 2.04, the initial Flexible Term Rate and Flexible Term Rate Period for each Bond shall be determined as provided above on the applicable Computation Date.

(d) **Medium-Term Rate.** During any Direct Purchase Period where the Bonds bear the Medium-Term Rate the Market Agent shall determine the Medium-Term Rate and during any other Medium-Term Rate Period the Remarketing Agent shall determine the Medium-Term Rate. During any Medium-Term Rate Period, the Bonds shall bear interest at the Medium-Term Rate. The interest rate to be borne by the Bonds from the applicable Conversion Date to the last day of the applicable Medium-Term Rate Period shall be the rate determined by the Remarketing Agent or Market Agent, as applicable, on the applicable Computation Date to be the rate which, if borne by the Bonds would, in the judgment of the Remarketing Agent or Market Agent, as applicable, having due regard for prevailing market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes and that are comparable as to credit and maturity to the Bonds, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent or Market Agent, as applicable, to place the Bonds at a price of par on the applicable Conversion Date. If for any reason the applicable rate is not established as aforesaid by the Remarketing Agent or Market Agent, as applicable, no Remarketing Agent or Market Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable, then the Interest Rate Determination Method shall be deemed to have converted to the Weekly Rate on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent or Market Agent, as applicable, (or if no Remarketing Agent or Market Agent is serving as such hereunder, the Trustee) shall notify the Borrower, the Trustee and the Paying Agent immediately by telephone if such a conversion is deemed to have occurred, with written notice to follow promptly.

On the Computation Date with respect to a Medium-Term Rate, the Borrower shall determine the Medium-Term Rate Period. No Medium-Term Rate Period may be (A) less than 271 days, (B) extend beyond any scheduled Mandatory Purchase Date or the Maturity Date or, (C) end on a day preceding a non-Business Day. If the Borrower fails to determine the Medium-Term Rate Period or the Medium-Term Rate Period so established is held to be invalid or unenforceable, the Medium-Term Rate Period shall be (i) if the Interest Rate Determination Method in effect immediately prior to such Conversion Date was a Medium-Term Rate, the shorter of (a) the period equal to the Medium-Term Rate Period for such Medium-Term Rate (provided, however, that if the last day of such period would not be a day immediately preceding a Business Day, such period shall be extended to the immediately succeeding day that is a day immediately preceding a Business Day) and (b) the remaining maturity of the Bonds, or (ii) if the Interest Rate Determination Method in effect immediately prior to such Conversion Date was not a Medium-Term Rate, the shorter of (a) the period ending on the first date that is a day immediately preceding a Business Day and is at least 271 days after the Conversion Date and (b) the remaining maturity of the Bonds.

If requested in the Conversion Notice by the Borrower, the Remarketing Agent or Market Agent, as applicable, may also determine on the Computation Date redemption premiums different from those set forth in Section 2.18 for optional redemption of the Bonds during the Medium-Term Rate Period. These redemption premiums shall be consistent with the prevailing market conditions in the reasonable judgment of the

Remarketing Agent or Market Agent, as applicable. The Remarketing Agent or Market Agent, as applicable, shall not, however, establish redemption premiums different from those set forth in Section 2.18 unless an Approving Opinion shall be furnished.

(e) ***Fixed Rate.*** The Bonds shall bear interest at the Fixed Rate during the Fixed Rate Period. If the Fixed Rate Period is a Direct Purchase Period the Market Agent shall determine the Fixed Rate and if the Fixed Rate Period is not a Direct Purchase Period, the Remarketing Agent shall determine the Fixed Rate. The interest rate to be borne by the Bonds from the Fixed Rate Conversion Date to the date of payment in full of the Bonds shall be the rate determined by the Remarketing Agent or the Market Agent, as applicable, on the applicable Computation Date to be the rate which, if borne by the Bonds would, in the judgment of the Remarketing Agent or the Market Agent, as applicable, having due regard for the prevailing market conditions for revenue bonds or other securities the interest on which is included or excluded, as applicable, from gross income of the holders thereof for federal income tax purposes and that are comparable as to credit and maturity to the Bonds, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent or the Market Agent, as applicable, to place the Bonds at a price of par on the Fixed Rate Conversion Date. If for any reason the Fixed Rate is not established as aforesaid by the Remarketing Agent or the Market Agent, as applicable, or no Remarketing Agent or Market Agent shall be serving as such hereunder, then the provisions of the last paragraph of Section 2.04(f) shall apply; if the Fixed Rate established by the Remarketing Agent or the Market Agent, as applicable, is held to be invalid or unenforceable, the interest rate to be borne by the Bonds from the Fixed Rate Conversion Date to the date of payment in full of the Bonds shall be determined by the Remarketing Agent or the Market Agent, as applicable, based on the criteria in the preceding sentence and avoiding the cause of invalidity or unenforceability.

If requested in the Conversion Notice by the Borrower, the Remarketing Agent or the Market Agent, as applicable, may also determine on the Computation Date redemption premiums different from those set forth in Section 2.18 for optional redemption of the Bonds during the Fixed Rate Period. These redemption premiums shall be consistent with the prevailing market conditions in the reasonable judgment of the Remarketing Agent or the Market Agent, as applicable. The Remarketing Agent or the Market Agent, as applicable, shall not, however, establish redemption premiums different from those set forth in Section 2.18 unless an Approving Opinion shall be furnished.

(f) ***Index Interest Rates.***

(i) During each SIFMA Index Rate Period, the Bonds shall bear interest at the SIFMA Index Rate. The Calculation Agent shall determine the SIFMA Index Rate on each Computation Date during the SIFMA Index Rate Period, and such rate shall become effective on the SIFMA Rate Reset Date immediately succeeding such Computation Date. If the SIFMA Index Rate is not determined by the Calculation Agent on the Computation Date, the Bonds shall continue to bear interest at the SIFMA Index Rate in effect on the immediately

preceding SIFMA Rate Reset Date until the Calculation Agent next determines the SIFMA Index Rate as required hereunder.

(ii) During each LIBOR Index Rate Period, the Bonds shall bear interest at the LIBOR Index Rate. The Calculation Agent shall determine the LIBOR Index Rate on each Computation Date during the LIBOR Index Rate Period, and such rate shall become effective on the LIBOR Index Reset Date immediately succeeding such Computation Date and interest at such rate shall accrue each day during such LIBOR Index Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. If the LIBOR Index Rate is not determined by the Calculation Agent on the Computation Date, the Bonds shall continue to bear interest at the LIBOR Index Rate in effect on the immediately preceding LIBOR Index Reset Date until the Calculation Agent next determines the LIBOR Index Rate as required hereunder. The LIBOR Index Rate for the period commencing on and including the Issue Date until but excluding _____, shall be equal to _____%.

(g) ***Notice of Rates and Deemed Conversions.*** Promptly following the determination of any Rate, the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable, shall give notice thereof to the Trustee, the Issuer, the Borrower, the Purchaser, if any, and the Paying Agent. Promptly upon receipt from the Remarketing Agent or the Market Agent of any Medium-Term Rate or Fixed Rate, the Paying Agent shall give each Owner notice of the new Rate. The Borrower and any Owner may obtain any Rate on or after the applicable Computation Date upon request to the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable. Promptly upon receipt from the Remarketing Agent or the Trustee of notice of any deemed conversion to the Weekly Rate under this Section, the Paying Agent shall give each Owner, the Credit Provider, if any, and the Rating Agency, if any, then rating the Bonds notice of the deemed conversion.

(h) ***Determination of Rate Conclusive.*** The determination of any Rate by the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable, shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Paying Agent, the Remarketing Agent, if any, the Market Agent, if any, the Calculation Agent, the Credit Provider, if any, and the Owners absent manifest error.

(i) ***No Liability.*** In determining the interest rate or rates that the Bonds shall bear as provided in this Section, neither the Remarketing Agent, the Market Agent nor the Calculation Agent, as applicable, shall have any liability to the Issuer, the Borrower, the Trustee, the Paying Agent, the Registrar, the Credit Provider, if any, or any Owner except for its gross negligence or willful misconduct.

(j) ***Credit Provider Bonds.*** Notwithstanding anything herein to the contrary, interest on Credit Provider Bonds shall be payable at the rates, on the dates and in the manner provided in the Reimbursement Agreement.

(k) ***Unremarketed Bonds.*** Notwithstanding anything herein to the contrary, interest on Unremarketed Bonds shall be payable at the rates, on the dates and in the manner provided in the Continuing Covenant Agreement.

(l) ***Adjustments to Interest Rates.*** Notwithstanding anything to the contrary herein, with respect to Bonds subject to a Direct Purchase Period:

(i) from and after any Taxable Date, the interest rate on the Bonds shall be established at a rate equal to the Taxable Rate;

(ii) subject to the interest rate limitations of Section 2.03(a), upon the occurrence and continuation of any Event of Default, from and after the effective date of such Event of Default, the interest rate on the Bonds shall be established at a rate equal to the Default Rate; and

(iii) from and after any change to the Maximum Federal Corporate Tax Rate, the interest rate on the Bonds subject to a Direct Purchase Period shall equal the product of the interest rate borne by such Bonds multiplied by the Margin Rate Factor.

In the event that a Taxable Date and an Event of Default have occurred, the interest rate on the Bonds shall be established at a rate equal to the greatest of (A) the Default Rate, if any Event of Default has occurred, (B) the Taxable Rate, if a Taxable Date has occurred, and (C) the interest rate that otherwise would be applicable to the Bonds but for the provisions of this paragraph.

(m) ***Excess Interest.*** Notwithstanding anything in this Indenture to the contrary, if with respect to Bonds subject to a Direct Purchase Period or Credit Provider Bonds, the rate of interest on the Bonds exceeds the Maximum Lawful Rate for such Bonds, then (i) such Bonds shall bear interest at the Maximum Lawful Rate and (ii) interest calculated at the rate equal to the difference between (A) the rate of interest for such Bonds as calculated pursuant to this Indenture and (B) the Maximum Lawful Rate (the “Excess Interest”) shall be deferred until such date as the Bonds bear interest at an interest rate below the Maximum Lawful Rate, as calculated pursuant to Section 2.03, at which time Excess Interest shall be payable with respect to such Bonds in amounts that, when combined with the then-current interest due on the Bonds, do not exceed payment at the Maximum Lawful Rate. Payments of deferred Excess Interest shall no longer be due and payable upon the earlier to occur of the date on which the Bonds are tendered for purchase in accordance with the terms hereof and are so paid or such Bonds are paid in full.

Section 2.04. Conversion of Interest Rate Determination Method.

(a) ***Conversion Notice.*** Except as otherwise provided in Section 2.04(b), the Interest Rate Determination Method for the Bonds may be changed under this Section from any Short-Term Rate, Index Interest Rate or Medium-Term Rate to any other Interest Rate Determination Method, from an Index Interest Rate to a new Index Interest Rate or from a Medium-Term Rate to a new Medium-Term Rate, on any Conversion

Date by the Borrower giving written notice of such change (a “Conversion Notice”) to the Remarketing Agent, if any, the Market Agent, if any, the Calculation Agent, the Trustee and during a Direct Purchase Period, the Purchaser, with a copy to the Issuer, the Paying Agent, the Rating Agency, if any, rating the Bonds and the Credit Provider, if any; provided, however, that during a Direct Purchase Period the Interest Rate Determination Method may not be changed to another Interest Rate Determination Method or from an Index Interest Rate Period to a new Index Interest Rate Period without the prior written consent of the Purchaser. During a period other than a Direct Purchase Period, the Conversion Notice must be received by the Remarketing Agent or the Calculation Agent, as applicable, and the Trustee at least twenty-five (25) days prior to the proposed Conversion Date, and, except as otherwise provided in Section 2.04(b), during a Direct Purchase Period, the Conversion Notice must be received by the Remarketing Agent, if any, the Market Agent, if any, the Calculation Agent, the Trustee and the Purchaser at least sixty (60) days prior to the proposed Conversion Date.

Except as otherwise provided in Section 2.04(b), each Conversion Notice shall state (i) that the Borrower elects to change the Interest Rate Determination Method to a new Interest Rate Determination Method, or from the interest rate applicable during a Medium-Term Rate Period to a new interest rate during a new Medium-Term Rate Period, or from an Index Interest Rate Period to a new Index Interest Rate Period, (ii) the proposed Conversion Date, (iii) the Interest Rate Determination Method to be in effect from and after such Conversion Date, (iv) whether a Credit Facility is to be in effect from and after such Conversion Date, and, if so, the terms of such Credit Facility, and (v) if a Fixed Rate is to be in effect from and after such Conversion Date, and if redemption premiums different from those set forth in Section 2.18 are to be applicable as described in Section 2.03(d) and Section 2.03(e), the redemption premiums to be applicable during such Fixed Rate Period. In addition, if an Index Interest Rate is to be in effect immediately following such Conversion Date, such Conversion Notice shall state (1) whether such Index Interest Rate shall be a SIFMA Index Rate or a LIBOR Index Rate, (2) the new Direct Purchase Period Purchase Date, (3) the new Applicable Spread and (4) if such Index Interest Rate shall be a LIBOR Index Rate, the new Applicable Factor. If the Bonds are converted to an Index Interest Rate Period, the new Applicable Spread shall be the number of basis points determined by the Market Agent, having due regard for prevailing market conditions for bonds or other securities comparable as to tax treatment, credit and maturity to the Bonds, which when added to the SIFMA Index or the product of the LIBOR Index multiplied by the Applicable Factor, as applicable, would equal the minimum interest rate per annum that would enable the Bonds to be sold on the Conversion Date at a price of par (without regard to accrued interest, if any, thereon). In the event that the Bonds are converted to any other Direct Purchase Period, the new interest rate shall be, in the judgment of the Market Agent, having due regard for prevailing market conditions for bonds or other securities similar to the Bonds, the interest rate necessary, but not to exceed the interest rate necessary to enable the Bonds to be placed at a price of par on the Conversion Date.

In the case of a conversion to a Weekly Rate Period, each Conversion Notice shall be accompanied by evidence that a Remarketing Agent shall have been appointed and accepted such appointment.

The Issuer, at the direction of the Borrower, shall, by notice given to the Trustee at the same time and in the same manner as the Conversion Notice is given (which notice may be contained in such Conversion Notice), elect that after the Fixed Rate Conversion Date (A) the Bonds may be converted to have one or more Stated Maturities (as defined below), maturing sequentially in consecutive years, or (B) all or a portion of the Bonds may be converted to one or more term bonds subject to mandatory sinking fund redemption, with principal installments due sequentially in consecutive years; provided, however, that the principal amount of any Bond due either at a Stated Maturity or on a mandatory sinking fund payment date shall be in an Authorized Denomination; provided, further, that prior to electing any combination of (A) and (B) above the Issuer shall obtain an Approving Opinion. For purposes of this paragraph “Stated Maturity” shall mean, when used with respect to any Bond or any installment of interest thereon, the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

(b) ***Certain Conversions between Direct Purchase Periods.*** Notwithstanding anything to the contrary in Section 2.04(a), in the event that (i) the Bonds are subject to a Direct Purchase Period, (ii) a single Purchaser is the Owner of all the Bonds and (iii) such Purchaser and the Borrower wish to convert the Bonds to new Rate Period which is a Direct Purchase Period where such Purchaser shall continue to be the Owner of all of the Bonds, all in accordance with the terms of the Continuing Covenant Agreement, such Purchaser and the Borrower may cause the Bonds to be converted to such new Rate Period by delivering to the Trustee a notice in the form of Exhibit H (a “Direct Purchase Period Conversion Notice”) properly completed and executed by the Borrower, such Purchaser and the Market Agent not less than five (5) Business Days prior to the Conversion Date on which the change in the Interest Rate Determination Method of the Bonds is to be effective, as specified in such notice. The Direct Purchase Period Conversion Notice shall contain that information described in the second paragraph of Section 2.04(a) which relates to conversion of the Bonds to a Direct Purchase Period.

(c) ***Opinions With Respect to Conversions.*** Except for a conversion of the Interest Rate Determination Method pursuant to Section 2.04(b) (for which no Approving Opinion shall be required), the Borrower shall deliver an Approving Opinion to the Remarketing Agent, if any, the Market Agent, if any, the Calculation Agent, if any, the Purchaser, if any, and the Trustee, by 10:00 a.m., Local Time, on the proposed Conversion Date under this Section.

(d) ***Conversion Date.*** If the Interest Rate Determination Method in effect prior to the proposed Conversion Date under this Section is:

(i) a Weekly Rate, the Conversion Date may be any Business Day;

(ii) a Flexible Term Rate, the Conversion Date must be the day that would otherwise be an Interest Payment Date for all of the Bonds, such Interest Payment Date to be determined at the time the Conversion Notice is received by the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable;

(iii) an Index Interest Rate, the Conversion Date (A) must be a day that would otherwise be an Interest Payment Date and (B) shall be subject to any conditions set forth in a Continuing Covenant Agreement; or

(iv) a Medium-Term Rate, the Conversion Date must be the Business Day immediately succeeding the last day of the Medium-Term Rate Period.

(e) **Notice of Conversions.** The Trustee shall give written notice to the registered owners of the Bonds of a proposed Conversion Date (except with respect to a Conversion Date occurring solely due to an event described in clause (c) of the definition thereof), which notice shall be in substantially the form attached to this Indenture as Exhibit D appropriately completed, and shall be sent by first-class mail, postage prepaid, at least fifteen (15) days prior to the proposed Conversion Date.

(f) **Failure or Revocation of Conversion.** If (i) the Borrower fails to deliver the Approving Opinion, if any, required by Section 2.04(c) to the Trustee, the Purchaser, if applicable, and the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable, by 10:00 a.m., Local Time, on the proposed Conversion Date, or (ii) an Event of Default shall have occurred and be continuing hereunder, the Interest Rate Determination Method for the Bonds shall not be changed on the proposed Conversion Date and the Trustee shall immediately notify by telephone the Credit Provider, if any, the Remarketing Agent, if any, the Market Agent, if any, the Issuer, the Calculation Agent, the Purchaser, if any, and the Paying Agent that the Interest Rate Determination Method for the Bonds shall not be changed on the proposed Conversion Date.

Notwithstanding any other provision in this Indenture to the contrary, no conversion of the Interest Rate Determination Method to the Fixed Rate shall occur if the Borrower, not later than 10:00 a.m., Local Time, on the Business Day immediately preceding the applicable Computation Date, directs the Remarketing Agent or the Market Agent, as applicable, not to change the Interest Rate Determination Method to the Fixed Rate by written notice, with a copy to the Trustee, the Issuer, the Paying Agent, the Remarketing Agent, if any, the Market Agent, if any, the Calculation Agent, the Purchaser, if any, and the Credit Provider, if any.

If a proposed conversion of the Interest Rate Determination Method is cancelled pursuant to the provisions of the two preceding paragraphs, all Bonds (other than Bonds subject to a Direct Purchase Period) shall nevertheless be tendered for purchase on the proposed Conversion Date and shall be purchased by the Issuer on the proposed Conversion Date. If the Issuer shall fail to so purchase the Bonds subject to tender on such proposed Conversion Date, such failure shall constitute an Event of Default and, except as otherwise provided in Section 2.03(l), the Bonds shall continue to bear interest in accordance with the Interest Rate Determination Method in effect prior to the proposed Conversion Date and, in the case of a proposed change from a Medium-Term Rate, for a Medium-Term Rate Period ending on the first day that is a day immediately preceding a Business Day and that occurs on or after the day that is the same number of days after the proposed Conversion Date as the number of days in the immediately preceding Medium-Term Rate Period (but in no event later than the maturity of the Bonds);

provided, however, that the rate of interest that the Bonds will bear shall be determined on the proposed Conversion Date. Notwithstanding the foregoing, if a proposed conversion of the Interest Rate Determination Method is cancelled pursuant to the provisions of the two preceding paragraphs, any Bonds then subject to a Direct Purchase Period shall not be subject to tender for purchase and shall continue to bear interest at the Interest Rate Determination Method in effect prior to the failed proposed conversion.

(g) ***Failure to Mail Certain Notices.*** Failure to mail the notice described in Section 2.04(e), or any defect therein, shall not affect the validity of any interest rate or change in the Interest Rate Determination Method on any of the Bonds or the requirement that the Bonds shall be tendered pursuant to Section 2.06(e) or extend the period for tendering any of the Bonds for purchase, and the Trustee shall not be liable to any Owner by reason of its failure to mail such notice or any defect therein.

(h) ***Compliance with Rule 15c2-12.*** Notwithstanding any provision in this Indenture to the contrary, no conversion of the Interest Rate Determination Method (except for Bonds subject to a Direct Purchase Period immediately succeeding such conversion) shall be permitted unless the Trustee, the Issuer and the Remarketing Agent, if any, shall have received, at least two (2) Business Days prior to the proposed Conversion Date, either (i) a copy of a continuing disclosure agreement imposing obligations upon the Borrower or any other responsible party to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”), with respect to the Bonds, together with such disclosure documents as the Remarketing Agent, if any, shall require in order to comply with the Rule, if the Rule will be applicable upon such conversion or (ii) an Opinion of Counsel that, notwithstanding such conversion, the Rule will not be applicable to the Bonds as of and after the Conversion Date.

(i) ***Conversion to Flexible Term Rate.*** The Interest Rate Determination Method may not be converted to a Flexible Term Rate unless the interest component of the Credit Facility to be in effect immediately following such conversion, if any, provides for payment of at least 271 days of interest on the Bonds at the Ceiling Rate. If a rating for the Bonds is to be maintained after any such conversion, the Trustee and the Remarketing Agent, if any, must receive, prior to the effective date of such conversion, written confirmation from each Rating Agency rating the Bonds that such rating will not be reduced or withdrawn.

The following additional conditions must be satisfied before a conversion to a Flexible Term Rate shall become effective:

(A) The Borrower must engage, at its expense, an issuing and paying agent having access to the Securities Depository’s electronic money market issuing and payment system and otherwise eligible to serve as an issuing and paying agent under the Securities Depository’s policies and procedures for the issuance and payment of Flexible Term Rate;

(B) The Remarketing Agent, the Market Agent or the Calculation Agent, as applicable, must arrange for the provision of any necessary CUSIP numbers; and

(C) The Issuer and the Borrower shall take all other action needed to comply with the Securities Depository's requirements applicable to the issuance and payment of the Bonds while in the Flexible Term Rate.

(j) ***Exchange of Bonds.*** Upon conversion of the Bonds to a Rate subject to a Direct Purchase Period from a Rate not subject to a Direct Purchase Period, or from a Rate not subject to a Direct Purchase Period to a different Rate not subject to a Direct Purchase Period, the Issuer shall execute at the written request and sole expense of the Borrower, and the Trustee shall authenticate and deliver, new Bonds of like dates and denominations and in the form of Exhibit A when converting to a Short-Term Rate, Exhibit B when converting to a Rate subject to a Direct Purchase Period (other than a Fixed Rate), and Exhibit C when converting to a Medium-Term Rate not subject to a Direct Purchase Period or a Fixed Rate, all in accordance with Section 2.20.

Section 2.05. Advance of Bond Proceeds. The Issuer and the Trustee acknowledge and agree that prior to the earliest to occur of (a) the date when the sum of the aggregate Advances made hereunder equals \$[10,000,000] (the "Stated Principal Amount"), (b) the Completion Date, (c) the Full Funding Date, or (d) a Determination of Taxability (the "Advance Termination Date"), the Bond Proceeds will be disbursed in installments through the making of Advances by the Purchaser in accordance with the Continuing Covenant Agreement. The date and amount of each Advance shall be noted on the Table of Advances attached to the Bond; provided that the failure to record any such Advance on the Table of Advances shall not affect the Principal Amount due. In no event may the total amount of all Advances exceed the Stated Principal Amount. Notwithstanding anything else herein contained, interest payable on the Bonds shall be determined based on the Principal Amount of the Bonds. Following the Advance Termination Date, no additional Advances may be made and to the extent that, on the Advance Termination Date, the Stated Principal Amount is higher than the Principal Amount (excluding for this purpose any partial redemptions of principal), then the difference between the Stated Principal Amount and the Principal Amount shall be deemed to have been redeemed automatically and without any further notice or act by the Trustee, the Issuer or any other Person. Any such automatic redemption of principal shall not be taken into consideration in determining the Principal Amount of the Bonds and shall not be recorded on the Table of Partial Redemptions attached to the Bonds.

Section 2.06. Tender of Bonds for Purchase.

(a) ***Optional Tender During Weekly Rate Period.*** During any Weekly Rate Period, the Owners of the Bonds shall have the right to tender any such Bond (or portion thereof in an Authorized Denomination, provided that any Bond or portion thereof remaining is also in an Authorized Denomination), for purchase by the Issuer on any Optional Tender Date, but only upon:

(i) delivery to the Remarketing Agent at its designated office, not later than 4:00 p.m., Local Time, on or before the seventh (7th) day (or on the immediately preceding Business Day, if such seventh (7th) day is not a Business Day) immediately preceding such Optional Tender Date, of an irrevocable written, telephonic (followed by written or facsimile confirmation delivered to the Remarketing Agent no later than the close of business on the immediately succeeding Business Day) or facsimile notice (with a written or facsimile copy to the Trustee) stating (1) that such Owner will tender for purchase all or any portion of his/her Bonds in an Authorized Denomination and the amount of Bonds to be tendered and (2) the Optional Tender Date on which such Bonds will be tendered; and

(ii) delivery of such Bond (with an appropriate instrument of transfer duly executed in blank) to the Trustee at its designated office at or prior to 10:00 a.m., Local Time, on such Optional Tender Date; provided, however, that no Bond (or portion thereof) shall be purchased unless such Bond as delivered to the Trustee shall conform in all respects to the description thereof in the aforesaid notice.

(b) ***Optional Tender by Beneficial Owners.*** If the Bonds are held in a Book Entry System, a purchase notice pursuant to Section 2.06(a)(i) may be delivered by a Beneficial Owner. Such purchase notice must be delivered as set forth in Section 2.06(a)(i) and must state that such Beneficial Owner will cause its beneficial interest (or portion thereof in an Authorized Denomination) to be tendered, the amount of such interest to be tendered, the Optional Tender Date on which such interest will be tendered and the identity of the Participant through which the Beneficial Owner maintains its interest. Upon delivery of such notice, the Beneficial Owner must make arrangements to have its beneficial ownership interest in the Bonds being tendered transferred to the Trustee at or prior to 10:00 a.m., Local Time, on the Optional Tender Date, but need not otherwise comply with Section 2.06(a)(ii).

(c) ***Election to Tender Irrevocable.*** Any election of an Owner to tender Bonds for purchase on an Optional Tender Date in accordance with Section 2.06(a) shall be irrevocable and shall be binding on the Owner making such election and on any transferee of such Owner.

(d) ***Notices.*** The Remarketing Agent shall give prompt notice by telephone of receipt of any tender notice received by it in accordance with Section 2.06(a)(i) to the Trustee, the Paying Agent and the Credit Provider, if any.

(e) ***Mandatory Purchase on Mandatory Purchase Date.*** The Bonds (or the applicable portion of the Bonds during any Flexible Term Rate Period) shall be subject to mandatory tender for purchase on each Mandatory Purchase Date at the Purchase Price thereof. Owners of Bonds subject to mandatory tender for purchase shall tender such Bonds to the Trustee by 10:00 a.m., Local Time, on each Mandatory Purchase Date.

(f) ***Bonds Deemed Tendered.*** If (i) with respect to a Mandatory Purchase Date, an Owner fails to deliver such Bond to the Trustee on or before the Mandatory Purchase Date, or (ii) with respect to an Optional Tender Date, an Owner gives notice pursuant to Section 2.06(a) to the Remarketing Agent and thereafter fails to deliver such Bonds (or portion thereof) to the Trustee, as required, then such Bond (or portion thereof) that is not delivered to the Trustee shall be deemed to have been properly tendered (such Bond being hereinafter referred to as an “Untendered Bond”) and, to the extent that there shall be on deposit with the Paying Agent on the date purchase thereof is required as provided herein Eligible Funds sufficient to pay the Purchase Price thereof, such Untendered Bond shall cease to constitute or represent a right to payment of principal or interest thereon and shall constitute and represent only the right to the payment of the Purchase Price payable on such date.

(g) ***Source of Funds for Purchase of Bonds.*** On each Optional Tender Date and each Mandatory Purchase Date the Issuer shall purchase (but solely from funds set forth below) the Bonds (or portions thereof), tendered (or deemed tendered) to the Trustee for purchase in accordance with this Section at the applicable Purchase Price. Funds for the payment of the Purchase Price for such Bonds (or, in the case of an Optional Tender Date, portions thereof), shall be paid by the Paying Agent solely from the following sources and in the following order of priority:

- (i) proceeds of the remarketing of such Bonds (or portions thereof) pursuant to Section 2.07 that have been transferred to the Paying Agent pursuant to such Section;
- (ii) if a Credit Facility is then in effect, moneys drawn under such Credit Facility pursuant to Section 2.07(b) and Section 3.08(a)(ii);
- (iii) moneys from the Bond Purchase Fund constituting Eligible Funds, if any, that have been transferred to the Paying Agent pursuant to Section 4.04; and
- (iv) any other moneys furnished to the Trustee and available for such purpose.

Bonds (or portions thereof) purchased as provided above shall be registered for transfer as provided in Section 2.08.

(h) ***Notice of Mandatory Purchase Date.*** Not less than fifteen (15) days prior to each Mandatory Purchase Date occurring as a result of a Credit Modification Date, a Direct Purchase Period Purchase Date or at the Borrower’s direction, and not less than three (3) days prior to each Mandatory Purchase Date occurring at the Credit Provider’s or the Purchaser’s direction, the Trustee shall give written notice of such Mandatory Purchase Date to the Remarketing Agent, the Market Agent or the Calculation Agent, as applicable, the Paying Agent and, by first-class mail, postage prepaid, the Owners, which notice shall be in substantially the form of Exhibit E or F, as applicable, appropriately completed. Failure to mail such notice or any defect therein shall not affect the rights or

obligations of Owners and the Trustee shall not be liable to any Owner by reason of its failure to mail such notice or any defect therein. With respect to a Mandatory Purchase Date that is a Conversion Date, the Trustee shall provide notice to the Owners as set forth in Section 2.04(e). With respect to a Mandatory Purchase Date that is a Credit Facility Effective Date, the Trustee shall provide notice to the Owners as set forth in Section 3.08(e). With respect to a Mandatory Purchase Date that is the first Business Day immediately succeeding the last day of each Flexible Term Rate Period applicable to a Bond, no notice of such Mandatory Purchase Date shall be sent to the Owner of such Bond.

(i) ***Mandatory Purchase on Direct Purchase Period Purchase Date.*** Notwithstanding anything in this Indenture to the contrary, in the event the Bonds are not purchased or remarketed on a Direct Purchase Period Purchase Date, such Bonds shall constitute Unremarketed Bonds and such Unremarketed Bonds shall bear interest at the rates and shall be payable and redeemed on the dates and in the amounts set forth in the Continuing Covenant Agreement.

Section 2.07. Remarketing of Bonds.

(a) ***Best Efforts to Place Bonds.*** The Remarketing Agent shall use its best efforts to place Bonds (or portions thereof) at a price of par plus accrued interest, if any, on each date that such Bonds (or portions thereof) are required to be purchased pursuant to Section 2.06 and if such Bonds are not placed on such date, the Remarketing Agent shall continue to use its best efforts to place such unremarketed Bonds at a price of par plus accrued interest, if any. By 12:00 noon, Local Time, on the Business Day prior to each date that the Bonds (or portions thereof) are required to be purchased pursuant to Section 2.06, the Remarketing Agent shall give initial notice by telephone (promptly confirmed in writing) of the principal amount of the Bonds for which it has arranged placement, together with the principal amount of the Bonds, if any (and such other particulars with respect thereto as the Trustee may deem necessary), for which it has not arranged placement, to the Trustee, the Borrower, the Credit Provider, if any, and the Paying Agent.

Such initial notice shall be confirmed by telephone notice by 9:00 a.m., Local Time, on the date that such Bonds are to be purchased (such notice to be promptly confirmed in writing) specifying the amount of Bonds not remarketed and the information necessary to enable the Trustee to prepare new Bond certificates with respect to the Bonds that were remarketed. By 9:30 a.m., Local Time, the Remarketing Agent shall transfer to the Paying Agent the proceeds of the remarketing of such Bonds. By 10:30 a.m., Local Time, the Paying Agent shall notify the Trustee of the amount of remarketing proceeds it received from the Remarketing Agent.

Notwithstanding anything herein to the contrary, Bonds may be remarketed only at a price of par plus accrued interest, if any.

(b) ***Draws on Credit Facility.*** In the event that moneys from the source described in Section 2.06(g)(i) are insufficient to pay the Purchase Price of Bonds

tendered or deemed tendered on an Optional Tender Date or a Mandatory Purchase Date, if a Credit Facility is then in effect, the Trustee shall, by 11:00 a.m., Local Time, on such Optional Tender Date or Mandatory Purchase Date, take all action required to cause the Purchase Price of such Bonds, to the extent not available from the source described in Section 2.06(g)(i), to be paid from the Credit Facility. In the event the Purchase Price of Bonds is paid from the Credit Facility as described herein, and the Borrower does not reimburse the Credit Provider for such Purchase Price, upon the remarketing of such Bonds as described in Section 2.07(a), the Paying Agent shall deliver the proceeds of the remarketing of such Bonds to the Credit Provider.

(c) ***No Remarketing During Default.*** The Remarketing Agent shall not be required to remarket any Bonds pursuant to this Section if it has actual knowledge that an Event of Default shall have occurred and be continuing hereunder or if the Remarketing Agent determines, in its sole discretion, that the remarketing of the Bonds would be unlawful or would be likely to result in the imposition of liability or damages against the Issuer, the Remarketing Agent, the Paying Agent, the Trustee, the Credit Provider, if any, the Purchaser, if any, or the Borrower.

(d) ***Remarketing to Borrower or Issuer.*** If a Credit Facility is then in effect, the Remarketing Agent shall not remarket any Bonds to (i) the Borrower, (ii) any other Person obligated (as guarantor or otherwise) to make payments on the Bonds or under the Agreement or the Reimbursement Agreement, (iii) an “affiliate” of the Borrower as defined in Bankruptcy Code Section 101(2) (if the Remarketing Agent has actual knowledge that such Person is an “affiliate” at the time of such remarketing), or (iv) the Issuer, pursuant to this Section prior to the expiration or earlier termination of the Credit Facility unless, prior to such remarketing, the Trustee, the Rating Agency, if any, the Purchaser, if any, the Credit Provider and the Remarketing Agent shall have received an unqualified Opinion of Counsel experienced in bankruptcy law matters to the effect that such remarketing would not result in a preferential payment pursuant to the provisions of Section 547 of the Bankruptcy Code recoverable from Owners of the Bonds pursuant to Section 550 of the Bankruptcy Code in the event of an Act of Bankruptcy, and if a Rating Agency is rating the Bonds, such Rating Agency has confirmed to the Trustee in writing that its rating will not be withdrawn or reduced as a result of such remarketing.

(e) ***Notice to Proposed Purchasers of Bonds.*** The Remarketing Agent will give any Person to whom Bonds are proposed to be remarketed written notice of any Mandatory Purchase Date, acceleration of maturity of Bonds or redemption of Bonds, notice of which has been given to Owners, prior to remarketing Bonds to such Person.

(f) ***No Remarketing Under Certain Conditions.*** Notwithstanding anything to the contrary herein provided, the Bonds shall not be remarketed unless (i) a Credit Facility providing for the payment of the principal of and interest on, and Purchase Price of, the Bonds will be in effect following the remarketing of such Bonds, (ii) no such Credit Facility will be in effect, but at the time of such remarketing, the Bonds are rated by a Rating Agency and such long-term and/or short-term rating is satisfactory to the Remarketing Agent in its sole discretion, or (iii) no such Credit Facility will be in effect, but following the remarketing of such Bonds, the Bonds will bear interest at a

Medium-Term Rate, a Fixed Rate or be subject to a Direct Purchase Period. Notwithstanding anything to the contrary herein provided, the Bonds shall not be remarketed following a Mandatory Purchase Date occurring at the Credit Provider's direction unless and until the Remarketing Agent has received the consent of the Credit Provider to such remarketing.

Section 2.08. Delivery of Purchased Bonds. Bonds (or portions thereof) purchased pursuant to Section 2.06 shall be delivered as follows:

(a) ***Bonds Purchased from Remarketing Proceeds.*** Bonds purchased with moneys described in Section 2.06(g)(i) shall be delivered to the purchasers thereof upon receipt of payment therefor. Prior to such delivery the Registrar shall provide for registration of transfer to the Owners, as provided in a written notice from the Remarketing Agent.

(b) ***Bonds Purchased from Draws Under Credit Facility.*** Credit Provider Bonds shall be surrendered to the Trustee for registration of transfer in the name of the Credit Provider, and no such Bond shall be released, pledged or otherwise transferred or disposed of until the Trustee shall have received written notice from the Credit Provider that amounts so drawn under the Credit Facility for the purchase of such Credit Provider Bonds, together with interest thereon, if any, due pursuant to any Reimbursement Agreement, have been reimbursed to the Credit Provider and that the amount so drawn under the Credit Facility with respect to such Bonds has been, or upon such release will be correspondingly and fully reinstated.

(c) ***Bonds Purchased with Other Moneys.*** Bonds (or portions thereof) purchased with any moneys pursuant to Section 2.06(g)(iii) or (iv) shall be delivered to the Trustee (i) for cancellation and shall be cancelled, or (ii) if the Borrower requests, for registration of transfer to the Borrower.

(d) ***During Book Entry System.*** Notwithstanding anything herein to the contrary, so long as the Bonds are held under the Book Entry System, Bonds will not be delivered as set forth in Section 2.08(a) through (c) (except as set forth in Section 2.08(b)); rather, transfers of beneficial ownership and pledges of the Bonds to the Persons indicated above will be effected on the books of the Securities Depository and its Participants pursuant to the rules and procedures of the Securities Depository.

Section 2.09. Execution; Limited Obligation. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the [President or Vice President] of the Issuer and attested by the manual or facsimile signature of the [Secretary or Assistant Secretary] of the Issuer and shall have impressed or imprinted thereon the seal (or a facsimile thereof), if any, of the Issuer. In case any officer whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signatures shall nevertheless be valid and sufficient for all purposes.

The Bonds shall be limited obligations of the Issuer. The principal and Purchase Price of, redemption premium, if any, and interest on the Bonds shall not be deemed to constitute or create

an indebtedness, liability or obligation of the Issuer, the City, the State or any political subdivision or agency thereof within the meaning of any State constitutional provision or statutory limitation or a pledge of the faith and credit or the taxing power of the State or any such political subdivision or agency, including the Issuer and the City. The principal and Purchase Price of, redemption premium, if any, and interest on the Bonds are payable solely from and secured by the Trust Estate, including the moneys available to be drawn by the Trustee under any Credit Facility that may be in effect from time to time to support payments due on or with respect to the Bonds, all as described in and subject to limitations set forth in this Indenture, for the equal and ratable benefit of the Owners, from time to time, of the Bonds.

THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE CITY OF HUTTO, TEXAS NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE OBLIGATED TO PAY PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR OTHER COSTS INCIDENT THERETO. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OF HUTTO, TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR OF THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS OR OTHER COSTS INCIDENT THERETO. THE ISSUER HAS NO TAXING POWER.

Section 2.10. Certificate of Authentication. Except for the Initial Bond, which shall be registered by the Texas Comptroller of Public Accounts, no Bonds shall be secured hereby or entitled to the benefit hereof or shall be or become valid or obligatory for any purpose unless there shall be endorsed thereon a certificate of authentication, substantially in the form as set forth in the respective forms of Bond referred to in Section 2.11, as applicable, executed by an authorized representative of the Trustee; and such certificate on any Bond issued by the Issuer shall be conclusive evidence and the only competent evidence that it has been duly authenticated and delivered hereunder.

Section 2.11. Form of Bonds.

(a) The Bonds, the Trustee's certificate of authentication and the form of assignment shall be in substantially the forms set forth as Exhibit A, Exhibit B or Exhibit C, as applicable, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or are required by law and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations.

(b) The Bonds shall be in either typewritten or printed form, as the Borrower shall direct, on behalf of the Issuer; provided that any expenses, including but not limited to expenses of printing, incurred in connection therewith shall be paid by the Borrower.

(c) On and after any Mandatory Purchase Date, Bonds authenticated and delivered hereunder shall have omitted from the text thereof such provisions contained in the forms of the Bonds set forth as Exhibit A, Exhibit B or Exhibit C, as applicable, as are not applicable to the Bonds on and after such date or shall include such provisions as will become applicable after such date including, without limitation, any reference to entitlement to any benefit of the Credit Facility, if then in effect, and any redemption provisions made applicable as a result of the occurrence of a Conversion Date relating to a conversion to a Medium-Term Rate or a Fixed Rate.

Section 2.12. Delivery of Bonds. Upon the execution and delivery hereof, the Issuer shall execute the Bonds and deliver them to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to such purchaser or purchasers as shall be directed in writing by the Issuer as hereinafter provided in this Section.

Prior to the authentication of and delivery by the Trustee of any of the Bonds, there shall be filed with the Trustee:

(a) A certified copy of all resolutions adopted and proceedings had by the Issuer authorizing execution of this Indenture and the Agreement and the issuance of the Bonds;

(b) An original executed counterpart of this Indenture, the Agreement, the Continuing Covenant Agreement, the Tax Certificate, the Note (endorsed without recourse by the Issuer to the Trustee), and each of the Security Documents;

(c) Copies of any Financing Statements filed to perfect the Security Interests;

(d) An Opinion of Counsel to the Issuer to the effect that this Indenture, the Agreement and the other Bond Documents to which the Issuer is a party have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their terms;

(e) An Opinion of Counsel given by Bond Counsel to the effect that the Bonds have been duly authorized and validly issued, that the Indenture creates a valid lien on the Trust Estate and that interest on the Bonds will not be included in gross income of the Owners thereof for federal income tax purposes;

(f) An Opinion of Counsel for the Borrower to the effect that the Agreement, the Note, the Security Documents, the Continuing Covenant Agreement and the other Bond Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms;

(g) A request and authorization to the Trustee on behalf of the Issuer and signed by a duly authorized officer of the Issuer directing the Trustee to authenticate and deliver the Bonds in such specified denominations as permitted herein to the initial purchaser or purchasers upon payment to the Trustee, but for the account of the Issuer, of a specified sum of money; and

- (h) An investor letter signed by a duly authorized officer of the Purchaser.

Upon receipt of the foregoing, the Trustee shall authenticate and deliver the Bonds as provided above.

Section 2.13. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate and deliver a new Bond of the same maturity, interest rate, principal amount and tenor in lieu of and in substitution for the Bond mutilated, lost, stolen or destroyed; provided, that there shall be first furnished to the Trustee and the Issuer evidence satisfactory to them of the ownership of such Bond and of such loss, theft or destruction (or, in the case of a mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee), together with indemnity satisfactory to the Trustee and the Issuer and compliance with such other reasonable regulations as the Issuer and the Trustee may prescribe. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond the Issuer may pay the same without surrender thereof, upon receipt of such evidence, indemnification and payment of fees and expenses as described herein. The Issuer and the Trustee may charge the Owner of such Bond with their reasonable fees and expenses incurred in connection with this Section.

Section 2.14. Exchangeability and Transfer of Bonds; Persons Treated as Owners. Books for the registration of the Bonds and for the registration of transfer of the Bonds as provided herein shall be kept by the Registrar.

Any Owner of a Bond, in person or by such Owner's duly authorized attorney, may transfer title to such Owner's Bond, in whole or in part, on the Register upon surrender thereof at an office designated by the Trustee, and by providing the Registrar with a written instrument of transfer (in substantially the form of assignment attached to the Bond) executed by the Owner or such Owner's duly authorized attorney, and thereupon, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same aggregate principal amount and tenor as the Bond surrendered (or for which transfer of registration has been effected) and of any Authorized Denomination or Authorized Denominations.

Bonds may be exchanged upon surrender thereof at the designated office of the Registrar with a written instrument of transfer satisfactory to the Registrar executed by the Owner or such Owner's attorney duly authorized in writing, for an equal aggregate principal amount of Bonds of the same tenor as the Bonds being exchanged and of any Authorized Denomination or Authorized Denominations. The Issuer shall execute and the Trustee shall authenticate and deliver Bonds that the Owner making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

Such registrations of transfer or exchanges of Bonds shall be without charge to the Owners of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Owner of the Bond requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Any service charge made by the Registrar for any such registration of transfer or exchange and all reasonable expenses of the Issuer and the Trustee shall be paid by the Borrower.

After notice calling any Bond for redemption has been given and prior to such redemption, the Registrar shall only register the transfer of such Bond pursuant to a tender of such Bond on an Optional Tender Date or a Mandatory Purchase Date. In the case of any Bond to be redeemed in part, the portion thereof to be redeemed shall be subject to the provisions of the immediately preceding sentence. In connection with any such transfer pursuant to a tender of Bonds on an Optional Tender Date or a Mandatory Purchase Date, the Registrar shall deliver to the transferee a copy of the applicable notice of redemption.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest shall be made only to or upon the order of the registered owner thereof or such Owner's duly authorized attorney, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

All Bonds issued upon any registration of transfer or exchange of Bonds shall be legal, valid and binding limited obligations of the Issuer, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Bonds surrendered upon such registration of transfer or exchange.

Notwithstanding the foregoing, (i) for so long as the Bonds are held under the Book Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository, and (ii) during the Direct Purchase Period the Bonds may only be transferred in Authorized Denominations to (x) an affiliate of an Owner of the Bonds, (y) a trust or custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of the beneficial interests in which are limited to qualified institutional buyers, as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (z) to a Person that is a qualified institutional buyer that is a commercial bank having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of \$5,000,000,000 or more that has executed and delivered to the Trustee, the Issuer and the Borrower an Investor Letter in the form of Exhibit G.

Section 2.15. Replacement Bonds. Except when the Bonds are held in the Book Entry System, the Issuer shall execute and the Trustee shall authenticate and deliver Replacement Bonds to replace Untendered Bonds. Any such Replacement Bond shall be executed and authenticated as provided in this Indenture. The Borrower shall bear all expenses in connection with the preparation and delivery of the Replacement Bonds.

Section 2.16. Cancellation. All Bonds that have been surrendered to the Registrar pursuant to Sections 2.13, 2.14 or 2.15 or for the purpose of purchase upon an Optional Tender Date or a Mandatory Purchase Date, or for payment upon maturity or redemption prior to maturity, shall be cancelled and destroyed by the Registrar in accordance with its retention policy then in effect.

Section 2.17. Ratably Secured. All Bonds issued hereunder are and are to be, to the extent provided in this Indenture, equally and ratably secured by this Indenture without preference, priority or distinction on account of the actual time or times of the authentication,

delivery or maturity of the Bonds so that subject as aforesaid, all Bonds at any time Outstanding shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them, shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date. Notwithstanding the foregoing, any Credit Provider Bond or Bonds held by or registered in the name of any Excluded Person shall not be entitled to any benefit of the Credit Facility, if any.

Section 2.18. Redemption of Bonds; Partial Redemption of Bonds.

(a) ***Optional Redemption.*** The Bonds may be optionally redeemed in Authorized Denominations as follows:

(i) During any Weekly Rate Period, the Bonds are subject to redemption, at the direction of the Borrower, on behalf of the Issuer, in whole on any Business Day or in part on any Interest Payment Date at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date.

(ii) Subject to any limitations set forth in a Continuing Covenant Agreement, during any Direct Purchase Period, the Bonds are subject to redemption on any Interest Payment Date at the direction of the Borrower, on behalf of the Issuer, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date.

(iii) During any Flexible Term Rate Period, the Bonds are subject to redemption, at the direction of the Borrower, on behalf of the Issuer, in whole or in part on any Interest Payment Date applicable to such Bond to be redeemed, at a redemption price equal to the principal amount of such Bond plus accrued interest thereon to, but not including, the redemption date.

(iv) During any Fixed Rate Period, the Bonds are subject to redemption, at the direction of the Borrower, on behalf of the Issuer, in whole or in part on any Interest Payment Date occurring on or after the First Day of Redemption Period as described below, at the principal amount thereof, plus a redemption premium (expressed as a percentage of the principal amount) plus accrued interest thereon to, but not including, the redemption date as follows; provided, however, if a Credit Facility is then in effect, such redemption premium shall be paid only from Eligible Funds described in clause (a) of the definition of Eligible Funds on deposit in the Bond Fund, unless such Credit Facility provides for payment of such redemption premium:

Length of Fixed Rate Period From Conversion Date Until End of Rate Period (Expressed in Years)	First Day of Redemption Period	Redemption Premium as a Percentage of Principal Amount of Bonds
More than 15	10th anniversary of Conversion Date	3% declining by 1% every year after the 10th anniversary of the Conversion Date until reaching 0%, and thereafter 0%
More than 10 but not more than 15	7th anniversary of Conversion Date	3% declining by 1% every year after the 7th anniversary of the Conversion Date until reaching 0%, and thereafter 0%
More than 5 but not more than 10	4th anniversary of Conversion Date	2% declining by 1% every year after the 4th anniversary of the Conversion Date until reaching 0%, and thereafter 0%
5 or less	Bonds not redeemable pursuant to this paragraph	N/A

The above redemption premiums may be changed upon the conversion to a Fixed Rate upon the receipt of an Approving Opinion subject to and in accordance with the provisions of Sections 2.03(d) and (e).

(b) ***Extraordinary Optional Redemption.*** The Bonds are subject to redemption in whole, at the direction of the Borrower, on behalf of the Issuer, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date, on any date for which the requisite notice of redemption can be given, within one hundred eighty (180) days of the occurrence of any of the following events:

(i) the Project shall have been damaged or destroyed to such an extent that in the judgment of the Borrower (A) it cannot reasonably be restored within a period of three (3) consecutive months to the condition thereof immediately preceding such damage or destruction, (B) the Borrower is thereby prevented from carrying on its normal operations at the Project for a period of three (3) consecutive months, or (C) it would not be economically feasible for the Borrower to replace, repair, rebuild or restore the same;

(ii) title in and to, or the temporary use of, all or substantially all of the Project shall have been taken under the exercise of the power of eminent domain by any governmental authority or any Person acting under governmental authority (including such a taking as, in the judgment of the Borrower, results in the Borrower being prevented thereby from carrying on its normal operations at the Project for a period of three (3) consecutive months);

(iii) as a result of any changes in the Constitution of the State, or the Constitution of the United States of America or by legislative or administrative action (whether state or federal) or by final decree, judgment, decision or order of any court or administrative body (whether state or federal), the Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein;

(iv) unreasonable burdens or excessive liabilities shall have been imposed on the Borrower with respect to the operations of the Project, including, without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Indenture that, in the judgment of the Borrower, render the continued operation of the Project uneconomical;

(v) changes which the Borrower cannot reasonably control or overcome in the economic availability of materials, supplies, labor, equipment and other properties and things necessary for the efficient operation of the Project for the purposes contemplated by the Agreement shall have occurred or technological changes that the Borrower cannot reasonably overcome shall have occurred that, in the judgment of the Borrower, render the continued operation of the Project uneconomical;

(vi) legal curtailment of the Borrower's use and occupancy of all or substantially all of the Project for any reason other than that set forth in (ii) above, which curtailment shall, in the judgment of the Borrower, prevent the Borrower from carrying on its normal operations at the Project for a period of three (3) consecutive months; or

(vii) the Agreement is terminated prior to its expiration for any reason other than the occurrence of an Event of Default under the Agreement.

Notwithstanding the foregoing provisions of this paragraph (b), during any Direct Purchase Period, any redemption under this paragraph (b) shall be subject to the provisions of the Continuing Covenant Agreement and the written direction or consent of the Purchaser.

(c) ***Mandatory Sinking Fund Redemptions.*** The Bonds are not subject to mandatory sinking fund redemption.

(d) ***Redemption of Unremarketed Bonds.*** Unremarketed Bonds are subject to special mandatory redemption by the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to but not including the date of such redemption, on the dates, in the amounts and in the manner set forth in the Continuing Covenant Agreement.

(e) ***Redemption of Credit Provider Bonds.*** Credit Provider Bonds are subject to special mandatory redemption by the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to but

not including the date of such redemption, on the dates, in the amounts and in the manner set forth in any Reimbursement Agreement.

(f) ***Selection of Bonds to be Redeemed.*** If less than all the Outstanding Bonds shall be called for redemption, the Registrar or, if the Bonds are held in the Book Entry System, the Securities Depository, shall first select and call for redemption Credit Provider Bonds. If, following such selection, additional Bonds must be selected and called for redemption, the Registrar or, if the Bonds are held in the Book Entry System, the Securities Depository, shall select or arrange for the selection, in such manner as it shall deem fair and equitable and pursuant to its rules and procedures, of the Bonds, in Authorized Denominations, provided that any Bond or portion thereof remaining Outstanding shall be in an Authorized Denomination. If there shall be called for redemption less than the principal amount of a Bond, (i) the Issuer shall execute and the Trustee shall authenticate and deliver, upon surrender of such Bond, without charge to the Owner thereof in exchange for the unredeemed principal amount of such Bond at the option of such Owner, Bonds in any of the Authorized Denominations, (ii) if the Bonds are held in the Book Entry System, the Securities Depository shall, acting pursuant to its rules and procedures, reflect in said system the partial redemption and the Trustee shall (A) either exchange the Bond or Bonds held by the Securities Depository for a new Bond or Bonds in the appropriate principal amount, if such Bond is presented to the Trustee by the Securities Depository, or (B) obtain from the Securities Depository a written confirmation of the reduction in the principal amount of the Bonds held by such Securities Depository or (iii) to the extent provided in the form of the Bond, the Trustee or the Owner may reflect the amount of the Bonds being redeemed in the Table of Partial Redemptions without further action.

Section 2.19. Notice of Redemption. The Borrower may exercise its option to prepay Repayments and thereby cause a redemption of Bonds pursuant to Section 2.18(a) or (b) by giving written notice to the Issuer, the Remarketing Agent, the Trustee, the Paying Agent, the Credit Provider, if a Credit Facility is then in effect, and during a Direct Purchase Period, the Purchaser, not less than forty-five (45) days prior to the date selected for redemption; provided, however, that, if such redemption is pursuant to Section 2.18(a) or (b), the Borrower shall also deliver a certificate of a Borrower Representative certifying that the conditions precedent to such redemption have been met, and during any Direct Purchase Period, that any conditions to such redemption set forth in a Continuing Covenant Agreement have been met. Notwithstanding the foregoing, during any Direct Purchase Period, the Borrower is not required to provide any notice of redemptions pursuant to Section 2.18(a)(ii) which are effected as required by Section 3.01(b) of the Continuing Covenant Agreement.

Notice of redemption shall be mailed by the Trustee by first-class mail, postage prepaid, at least thirty (30) days before the redemption date to each Owner of the Bonds to be redeemed in whole or in part at such Owner's last address appearing on the Register, but no defect in or failure to give such notice of redemption shall affect the redemption or the validity of the proceedings for the redemption of the Bonds. A notice of optional redemption shall describe whether and the conditions under which the call for redemption shall be revoked. All Bonds properly called for redemption will cease to bear interest on the date fixed for redemption, provided Eligible Funds for their redemption have been duly deposited with the Trustee and,

thereafter, the Owners of such Bonds called for redemption shall have no rights in respect thereof except to receive payment of the redemption price from the Trustee and a new Bond for any portion not redeemed. On a date no later than the date fixed for redemption in such notice, the Borrower shall pay, on behalf of the Issuer, to the Owner moneys in an amount sufficient, together with other moneys, if any, held by the Owner and available for the redemption of the Bonds, to redeem the Bonds at the redemption price set forth above.

To exercise any optional redemption pursuant to Section 2.18(a) while a Credit Facility is in effect, at least one day before the Trustee is to give notice of such redemption, the Trustee must have received written consent from the Credit Provider to a drawing on the Credit Facility in the amount of such redemption price if moneys in the Bond Fund constituting Eligible Funds under clause (a) of the definition of Eligible Funds will not be available to reimburse the Credit Provider for such drawing on the date of such redemption. If the Credit Provider does not consent to a drawing for such optional redemption of Bonds pursuant to Section 2.18(a) and/or a redemption premium the payment of which is not provided for in the Credit Facility will be payable in connection with such optional redemption of Bonds pursuant to Section 2.18(a), the Trustee shall condition such call for redemption upon the deposit with the Trustee of sufficient moneys constituting Eligible Funds under clause (a) of the definition of Eligible Funds on or prior to the date selected for redemption to reimburse the Credit Provider for such drawing and/or to pay such redemption premium, and if sufficient moneys constituting Eligible Funds under clause (a) of the definition of Eligible Funds are not so available on the date selected for redemption, such call for redemption shall be revoked.

Section 2.20. Book Entry System. Upon the initial issuance of the Bonds, the Trustee shall authenticate and deliver the Bonds to the Purchaser, as the registered owner and the Bonds shall not be subject to the Book Entry System. At the direction of the Purchaser, if the Bonds are subject to a Direct Purchase Period, or at the direction of the Borrower, upon conversion of the Interest Rate Determination Method of the Bonds, the Bonds may be issued or converted to and held pursuant to the Book Entry System. Upon conversion of the Bonds to the Book Entry System, the Borrower shall arrange for the execution and delivery to the Securities Depository of the required Securities Depository letter of representation for eligibility of the Bonds in the Securities Depository's book entry system (the "Letter of Representations") and the provision of any necessary CUSIP numbers. Any provision of this Indenture or the Bonds requiring physical delivery of the Bonds shall, with respect to any Bonds held under the Book Entry System, be deemed to be satisfied by a notation on the Register that such Bonds are subject to the Book Entry System.

So long as a Book Entry System is being used, one Bond in the Principal Amount and registered in the name of the Securities Depository Nominee will be issued and deposited with the Securities Depository and held in its custody. The Book Entry System will be maintained by the Securities Depository and the Participants and Indirect Participants and will evidence beneficial ownership of the Bonds in Authorized Denominations, with registration of transfers of ownership effected on the records of the Securities Depository, the Participants and the Indirect Participants pursuant to rules and procedures established by the Securities Depository, the Participants and the Indirect Participants. All payments of principal of, redemption premium, if any, and interest on Bonds subject to the Book Entry System and all notices with respect thereto, including notices of full or partial redemption, shall be made and given at the times and in the

manner set out in the Letter of Representations. So long as a Book Entry System is being used, the principal of, interest and any redemption premium on each Bond shall be payable to the Securities Depository Nominee or any other person appearing on the Register as the registered owner of such Bond or such registered owner's registered assigns or legal representative at the office of the Registrar designated in accordance with Section 9.04. So long as the Book Entry System is in effect, the Securities Depository will be recognized as the registered owner of the Bonds for all purposes (except as provided in Section 2.06(b)). Transfer of principal, interest and any redemption premium payments or notices to Participants and Indirect Participants will be the responsibility of the Securities Depository, and transfer of principal, interest and any redemption premium payments or notices to Beneficial Owners will be the responsibility of the Participants and the Indirect Participants. No other party will be responsible or liable for such transfers of payments or notices or for maintaining, supervising or reviewing such records maintained by the Securities Depository, the Participants or the Indirect Participants. While the Securities Depository Nominee or the Securities Depository, as the case may be, is the registered owner of the Bonds, notwithstanding any other provisions set forth herein, payments of principal of, redemption premium, if any, and interest on the Bonds shall be made to the Securities Depository Nominee or the Securities Depository, as the case may be, by wire transfer in immediately available funds to the account of said Owner as may be specified in the Register or by such other method of payment as the Securities Depository may reasonably determine.

If (a) the Securities Depository determines not to continue to administer a Book Entry System for the Bonds, or (b) the Remarketing Agent, with the consent of the Borrower, elects to remove the Securities Depository, then the Remarketing Agent, with the consent of the Borrower, may appoint a new Securities Depository. The Remarketing Agent may elect to remove the Securities Depository at any time.

If (i) the Securities Depository determines not to continue to administer a Book Entry System for the Bonds or has been removed and the Remarketing Agent fails to appoint a new Securities Depository, or (ii) the Remarketing Agent, with the consent of the Borrower, determines that continuation of a Book Entry System of evidence and transfer of ownership of the Bonds would adversely affect the interests of the Beneficial Owners, the Book Entry System will be discontinued, in which case the Trustee will deliver replacement Bonds in the form of fully registered certificates in Authorized Denominations in exchange for the Outstanding Bonds as required by the Trustee and the Beneficial Owners.

ARTICLE III

SECURITY

Section 3.01. Security. The principal and Purchase Price of, redemption premium, if any, and interest on the Bonds shall be a limited obligation of the Issuer as provided in Section 2.09, and the Bonds and all other obligations payable under the Bond Documents shall be secured by and payable from the Trust Estate. The Issuer and Trustee agree that the Security Documents shall name the Trustee as beneficiary thereunder and that the Trustee shall act in such capacity on behalf and for the benefit of the Owners and any Swap Provider and each other payee or obligee secured by the Trust Estate.

Section 3.02. Payment of Bonds and Performance of Covenants. The Issuer shall promptly pay, but only out of the Trust Estate, the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds at the place, on the dates and in the manner provided in the Bonds. The Issuer shall promptly perform and observe all covenants, undertakings and obligations set forth herein, in the Agreement or in the Bonds on its part to be performed or observed. The Issuer shall fully cooperate with the Trustee in the enforcement by the Trustee of any such rights granted to the Issuer under the Agreement.

Section 3.03. Authority. The Issuer represents and warrants that (i) it is duly authorized under the Constitution and laws of the State to issue the Bonds, and to execute, deliver and perform the terms of the Agreement and this Indenture; (ii) all action on its part for the issuance of the Bonds and execution and delivery of the Agreement and this Indenture has been duly taken; (iii) the Bonds, upon issuance and authentication, and the Agreement and this Indenture upon delivery, assuming that they are the respective legal, valid, binding and enforceable obligations of the other parties thereto, shall be valid and enforceable obligations of the Issuer in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles; (iv) it has not heretofore conveyed, assigned, pledged, granted a Security Interest in or otherwise disposed of the Trust Estate; (v) it has not received any payments under the Agreement or the Note; (vi) without making any independent investigation, it has no knowledge of any right of set-off, defense or counterclaim to payment or performance of the terms or conditions of the Agreement or the Note; and (vii) the execution, delivery and performance of the Agreement and this Indenture and issuance of the Bonds are not in contravention of law or any agreement, instrument, indenture or other undertaking to which it is a party or by which it is bound and no other approval, consent or notice from any governmental agency is required on the part of the Issuer.

Section 3.04. No Litigation. The Issuer represents and warrants that there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds, this Indenture or the Agreement or (ii) the tax-exempt status of interest on the Bonds.

Section 3.05. Further Assurances. The Issuer covenants that it will cooperate to the extent necessary with the Borrower, the Trustee, the Purchaser, if any, and any Credit Provider in their defenses of the Trust Estate against the claims and demands of all Persons and, upon payment or provision for payment of the fees and expenses to be incurred by the Issuer in connection therewith, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee, the Purchaser, if any, or any Credit Provider may reasonably require for the better pledging of the Trust Estate. The Issuer shall not cause or permit to exist any amendment, modification, supplement, waiver or consent with respect to the Agreement or the Note without the prior written consent of the Trustee, which consent shall be governed by Article VIII.

Section 3.06. No Other Encumbrances. The Issuer covenants that, except as otherwise provided herein and in the Agreement, it will not sell, convey, mortgage, encumber or otherwise dispose of any portion of the Trust Estate.

Section 3.07. No Personal Liability. No recourse shall be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein or in the Bonds or the other Bond Documents to which the Issuer is a party or for any claim based hereon or thereon or otherwise in respect hereof or thereof against any director, member, officer, agent, attorney or employee, as such, in his or her individual capacity, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. No personal liability whatsoever shall attach to, or be incurred by, any director, member, officer, agent, attorney or employee as such, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity, under or by reason of any of the obligations, promises or agreements entered into in the Bonds or between the Issuer and the Trustee, whether herein contained or to be implied herefrom as being supplemental hereto; and all personal liability of that character against every such director, member, officer, agent, attorney and employee is, by the execution of this Indenture and as a condition of, and as part of the consideration for, the execution of this Indenture, expressly waived and released.

Section 3.08. Credit Facility.

(a) ***Draws on Credit Facility.*** Except with respect to Bonds registered in the name of any Excluded Person and Credit Provider Bonds (which Bonds shall not be entitled to any benefit of any Credit Facility) at any time a Credit Facility is in effect (i) the Trustee shall draw moneys under such Credit Facility in accordance with the terms of the Credit Facility to the extent necessary to make timely payments of principal, redemption premium, if any (if such Credit Facility provides for payment of such premium), and interest on the Bonds, in accordance with Section 4.01, (ii) the Trustee shall draw moneys, in accordance with Section 2.07(b), under such Credit Facility in accordance with the terms of the Credit Facility to the extent available in order to effect the purchase of Bonds (or portions thereof in Authorized Denominations) on a Mandatory Purchase Date or an Optional Tender Date, and (iii) upon declaration of acceleration of the Bonds pursuant to Section 6.02, the Trustee shall draw on the Credit Facility in accordance with the terms of the Credit Facility to the extent available in an amount equal to the full unpaid principal of and accrued interest on the Bonds. The Paying Agent shall promptly provide notice to the Trustee of any failure to pay principal of, redemption premium, if any, or interest on the Bonds or the Purchase Price thereof.

(b) ***Reduction of Credit Facility.*** Upon any redemption or defeasance of any Bonds or upon cancellation of any Bonds upon purchase thereof as contemplated by Section 2.08, the Trustee shall send notice to the Credit Provider to reduce the amount available to be drawn on the Credit Facility (with written notice of the same to the Borrower) and the Trustee shall, upon request, confirm to the Credit Provider and the Borrower the principal amount of Bonds redeemed, cancelled or defeased.

(c) ***Extensions of Credit Facility.*** In the event that the term of the Credit Facility is extended, unless it is automatically extended by its terms or is extended by amendment, the Trustee shall surrender the instrument evidencing the Credit Facility to the Credit Provider in exchange for a new instrument conforming, in the opinion of Counsel, in all material respects to the instrument evidencing the Credit Facility being surrendered, except that the term thereof shall reflect the new term of the Credit Facility. The Trustee shall promptly surrender the instrument evidencing the Credit Facility to the Credit Provider for cancellation upon discharge of the Indenture pursuant to Section 5.01, subject to Section 3.08(d), or following a Credit Modification Date. If the Bonds are rated by a Rating Agency, notice of any extension of the Credit Facility (unless automatically extended by its terms) shall be furnished to such Rating Agency by the Trustee.

(d) ***Expiration or Termination of Credit Facility.*** If the Credit Facility provides that its term will be extended automatically unless the Credit Provider notifies the Trustee that the term will not be extended, then if the Trustee receives notice from the Credit Provider that the term of the Credit Facility will not be extended the Trustee shall mail a copy of such notice to the Borrower, the Remarketing Agent, if any, the Paying Agent and any Rating Agency then rating the Bonds no later than the Business Day after the Trustee receives such notice. The Trustee shall give notice to the Remarketing Agent and the Paying Agent, in the name of the Credit Provider, of the expiration or earlier termination of any Credit Facility then in effect, which notice shall specify the date of such expiration or earlier termination of the Credit Facility. If the Bonds are rated by a Rating Agency, notice of any such expiration or termination of the Credit Facility shall be furnished to such Rating Agency by the Trustee. On any Credit Modification Date, the Trustee shall not surrender any evidence of the Credit Facility that is expiring or being terminated until the Trustee shall have made such drawings, if any, and taken such other actions, if any, thereunder as shall be required under this Indenture in order to provide sufficient money for payment of the Purchase Price of Bonds tendered or deemed tendered on such Credit Modification Date to the extent necessary pursuant to Section 2.06(g), and shall have received the proceeds of such drawing from the Credit Provider. Notwithstanding any provision hereof to the contrary, the Borrower may not cause any Credit Facility to be terminated (whether in connection with the delivery of an Alternate Credit Facility or otherwise) during a Flexible Term Rate Period.

(e) ***Delivery of Initial Credit Facility and Alternate Credit Facility.*** At any time, upon at least twenty-five (25) days prior written notice to the Trustee, the Paying Agent, the Rating Agency, if any, rating the Bonds, the Remarketing Agent, if any, the Market Agent, if any, and the Calculation Agent, the Borrower may, with the consent of the Remarketing Agent, if any, provide for delivery to the Trustee of an Initial Credit Facility or an Alternate Credit Facility, as the case may be, in accordance with the terms and conditions contained in this Section. Not less than fifteen (15) days prior to the proposed Credit Facility Effective Date (as defined below), which shall be a Credit Modification Date, the Trustee shall give each Owner notice of such Credit Modification Date by first-class mail, postage prepaid, which notice shall be in substantially the form of Exhibit E appropriately completed; provided, however, that if the proposed Credit

Facility Effective Date is also a Conversion Date, the notice provisions of Section 2.04(e) shall apply.

If the terms and conditions contained in this Section are satisfied, the Trustee shall accept an Initial Credit Facility or an Alternate Credit Facility, and such Initial Credit Facility or Alternate Credit Facility shall become effective on the date such Initial Credit Facility or Alternate Credit Facility, as applicable, is delivered to the Trustee (the “Credit Facility Effective Date”). During any Weekly Rate Period, the Credit Facility Effective Date may be any Business Day. During any Flexible Term Rate Period, the Credit Facility Effective Date must be a day that would otherwise be an Interest Payment Date for all of the Bonds. The Trustee may accept an Initial Credit Facility or an Alternate Credit Facility on the first day of any Medium-Term Rate Period.

An Initial Credit Facility and any Alternate Credit Facility shall be an irrevocable direct-pay letter of credit issued by a commercial bank organized and doing business in the United States of America or a branch or agency of a foreign commercial bank located in the United States of America and subject to regulation by state or federal banking regulatory authorities. On or before the date of the delivery of an Initial Credit Facility or any Alternate Credit Facility to the Trustee, as a condition to the acceptance of such Initial Credit Facility or Alternate Credit Facility by the Trustee, the Borrower shall furnish to the Issuer and the Trustee (i) written evidence that the issuer of such Initial Credit Facility or Alternate Credit Facility is a commercial bank organized and doing business in the United States of America or a branch or agency of a foreign commercial bank located and doing business in the United States of America and subject to regulation by state or federal banking regulatory authorities, (ii) an Approving Opinion, (iii) an Opinion of Counsel satisfactory to the Rating Agency, if any, rating the Bonds, the Issuer, and the Remarketing Agent, if any, to the effect that the Initial Credit Facility or Alternate Credit Facility has been duly executed, issued and delivered by, and is the legal, valid and binding obligation of, the Credit Provider (or, in the case of a branch or agency of a foreign commercial bank, the branch or agency) issuing the same, enforceable in accordance with its terms, that the Initial Credit Facility or Alternate Credit Facility is not subject to the registration requirements of the Securities Act of 1933, as amended, and if required by the Rating Agency, if any, rating the Bonds, that payments of principal, redemption premium, if any, or Purchase Price of or interest on the Bonds from the proceeds of a drawing on the Initial Credit Facility or Alternate Credit Facility will not constitute avoidable preferences under the Bankruptcy Code, and (iv) evidence of the written consent of the Remarketing Agent, if any. In the case of an Initial Credit Facility or Alternate Credit Facility issued by a branch or agency of a foreign commercial bank, there shall also be delivered an Opinion of counsel licensed to practice law in the jurisdiction in which the head office of such bank is located, satisfactory to the Rating Agency, if any, rating the Bonds, the Issuer and the Remarketing Agent, if any, to the effect that the Initial Credit Facility or Alternate Credit Facility has been duly executed, issued and delivered by and is the legal, valid and binding obligation of such bank enforceable in accordance with its terms. The Trustee shall accept any such Initial Credit Facility or Alternate Credit Facility only in accordance with the terms, and upon the satisfaction of the conditions, contained in this

Section and any other provisions applicable to acceptance of an Initial Credit Facility or Alternate Credit Facility under this Indenture.

(f) **Subrogation.** The Credit Provider shall be subrogated to all of the rights possessed hereunder by the Trustee and the owners of the Bonds against the Issuer and the Borrower to the extent that funds are drawn pursuant to the Credit Facility and used to pay the principal of or interest on the Bonds. For purposes of the subrogation rights of the Credit Provider hereunder, (i) any reference herein to the owners or registered owners of the Bonds, the principal of and interest on which have been paid with moneys collected pursuant to the Credit Facility, shall be deemed to be a reference to the Credit Provider, and (ii) any principal or Purchase Price of, or interest on, the Bonds paid with moneys collected pursuant to the Credit Facility shall be deemed to be unpaid hereunder. The subrogation rights granted to the Credit Provider hereunder are not intended to be exclusive of any other remedy or remedies available to the Credit Provider, and such subrogation rights shall be cumulative and shall be in addition to every other remedy given hereunder or under the Reimbursement Agreement, or any other instrument or agreement with respect to the reimbursement of moneys paid by the Credit Provider pursuant to the Credit Facility, and every other remedy now or hereafter existing at law or in equity or by statute.

Section 3.09. Swaps. If the Borrower enters into a Swap pursuant to Section 5.09 of the Agreement with any Swap Provider other than Wells Fargo, or any of its affiliates, the Borrower shall immediately submit the executed Swap documents to the Purchaser, if any, or the Credit Provider, if any. Upon receipt of such executed Swap documents, the Purchaser, if any, or the Credit Provider, if any, shall promptly by notice to the Trustee (i) designate the periodic payments on the Swap to be either Parity Periodic Swap Payments or Subordinated Periodic Swap Payments and (ii) designate the termination payments on the Swap to be either Parity Swap Termination Payments or Subordinated Swap Termination Payments. If the Purchaser or the Credit Provider, as applicable, fails to make such designation, the periodic and termination payments on the Swap shall be deemed to be Subordinated Periodic Swap Payments and Subordinated Swap Termination Payments, respectively. The payments on any Swap between the Borrower and Wells Fargo, or any of its affiliates, including without limitation the Initial Swap, shall be Parity Periodic Swap Payments and Parity Swap Termination Payments.

ARTICLE IV

FUNDS

Section 4.01. Establishment and Use of Bond Fund and Current Account. There is hereby created and established with the Trustee the Bond Fund and, while a Credit Facility is in effect, within such fund a special account designated the "Current Account." The Trustee shall establish with the Paying Agent a separate subaccount of the Bond Fund that, while a Credit Facility is in effect, shall be used for depositing moneys drawn by the Trustee under the Credit Facility for the payment of principal, redemption premium, if any, and interest on the Bonds. Neither the Trustee nor the Paying Agent shall commingle proceeds of a drawing under the Credit Facility with any other funds. Subject to the final paragraph of Section 2.02, there shall be deposited in the Bond Fund (a) all Repayments specified in the Agreement to be deposited in

the Bond Fund, including all proceeds resulting from the enforcement of the Trust Estate or its realization as collateral, (b) all other moneys received by the Trustee under the Agreement for deposit by it in the Bond Fund, and (c) all moneys drawn under any Credit Facility to pay principal, redemption premium, if any (if the Credit Facility provides for the payment of such premiums), or interest on the Bonds.

While a Credit Facility is in effect, each deposit into the Bond Fund not constituting Eligible Funds described in clause (a) of the definition thereof shall be placed in the Current Account within the Bond Fund and shall not be commingled with other moneys in the Bond Fund. The Trustee shall establish separate subaccounts within the Current Account for each deposit (including any investment income thereon) made into the Bond Fund so that the Trustee may at all times ascertain the date of deposit of the moneys in each subaccount.

Moneys in the Bond Fund shall be held in trust for the Owners and, except as otherwise expressly provided herein, shall be used solely for the payment of the interest on the Bonds and for the payment of principal of and redemption premium, if any, on the Bonds upon maturity, whether stated or accelerated, or upon mandatory or optional redemption.

The Issuer hereby authorizes and directs the Trustee, and the Trustee hereby agrees, to withdraw and make available at the designated office of the Paying Agent sufficient funds from the Bond Fund to pay the principal of, redemption premium, if any, and interest on the Bonds as the same become due and payable, but only in the following order of priority:

FIRST: Amounts drawn by the Trustee under a Credit Facility then in effect (provided, however, that such amounts shall not be used to pay any amounts with respect to any Bonds owned by or for the benefit of any Excluded Person, or any redemption premium on the Bonds unless such Credit Facility provides for the payment of such premium);

SECOND: If a Credit Facility is then in effect, from the moneys constituting Eligible Funds described in clause (a) of the definition thereof; and

THIRD: Any other amounts (whether or not Eligible Funds) in the Bond Fund.

If moneys in the Bond Fund available pursuant to items FIRST and SECOND above are insufficient to make any payment of principal of, redemption premium, if any or interest on the Bonds, whether due by maturity, acceleration, redemption or otherwise, or if the Credit Provider has dishonored its obligations under the Credit Facility, the Trustee, on or after the date such payment is to be made, shall apply any moneys described in item THIRD above.

To the extent that a Credit Facility is drawn on to make a payment of principal, interest or redemption premium on Bonds to any Owner, the Trustee shall use any moneys in the Bond Fund not then needed to make payments to Owners, regardless of whether such moneys constitute Eligible Funds, to reimburse the Credit Provider subject to the parity interests of any Swap Providers to such moneys as provided herein.

If the Trustee shall receive notice from a Swap Provider (a copy of which notice shall be delivered to the Borrower by the Trustee) that any Parity Periodic Swap Payments or Parity

Swap Termination Payments remain due and unpaid after the passage of all grace periods applicable to such payments under the terms of the Swap, the Trustee shall pay to the Swap Provider from the Bond Fund such overdue payments in the amounts identified in such notice within two (2) Business Days after receipt thereof. If the amount available in the Bond Fund shall not be sufficient to pay in full the interest due on any Bond plus any sinking fund payments then due together with the overdue payments as set forth in the notice, then the amounts available in the Bond Fund shall be applied to the ratable payment of all such amounts due on such date.

After payment in full of the Bonds, or provision for the payment of the Bonds having been made pursuant to Section 5.02, the termination and payment in full of all Swap obligations (as evidenced by receipt of a certificate from the Borrower, signed by a Borrower Representative) and the payment of all other amounts payable hereunder, any amounts remaining in the Bond Fund shall be paid (a) first (i) to the Credit Provider, if any, if there is then any amount payable by the Borrower to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or (ii) to the Purchaser, if any, to the extent of any indebtedness of the Borrower to the Purchaser pursuant to this Indenture, the Agreement, or the Continuing Covenant Agreement, and (b) second to the Borrower. In making any payment to the Credit Provider or to the Purchaser under this Section, the Trustee may rely conclusively upon a written statement provided by the Credit Provider or the Purchaser, as the case may be, as to the amount payable to the Credit Provider hereunder or under the Reimbursement Agreement or to the Purchaser under this Indenture, the Agreement or the Continuing Covenant Agreement, as applicable.

Each of the Bond Fund, Current Account and its sub-accounts shall at all times constitute an Eligible Account. In the event that an account required to be an Eligible Account no longer complies with the requirement, the Trustee shall promptly (and, in any case, within not more than 30 calendar days) move such account to another financial institution such that the Eligible Account requirement will again be satisfied.

Section 4.02. Establishment and Use of Project Fund. There is hereby created and established with the Trustee the Project Fund. The proceeds of the Bonds shall be delivered to the Trustee for deposit into the Project Fund.

The Trustee is hereby authorized and directed to use moneys in the Project Fund for payment or reimbursement to the Borrower of the Costs of the Project in accordance with the terms and conditions of the Agreement and any Continuing Covenant Agreement pursuant to a Requisition; provided, however, after payment in full of the Bonds, or provision for the payment of the Bonds having been made pursuant to Section 5.02, and the payment of all other amounts payable hereunder, any amounts remaining in the Project Fund shall be paid (a) first (i) to the Credit Provider, if any, if there is then any amount payable by the Borrower to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or (ii) to the Purchaser, if any, to the extent of any indebtedness of the Borrower to the Purchaser pursuant to this Indenture, the Agreement or the Continuing Covenant Agreement, and (b) second to the Borrower. In making any payment to the Credit Provider or to the Purchaser under this Section, the Trustee may rely conclusively upon a written statement provided by the Credit Provider or the Purchaser, as the case may be, as to the amount payable to the Credit Provider pursuant to

this Indenture or the Reimbursement Agreement or to the Purchaser pursuant to this Indenture, the Agreement or the Continuing Covenant Agreement, as applicable. Notwithstanding anything herein to the contrary, the Trustee shall not use moneys in the Project Fund for payment or reimbursement to the Borrower unless the Purchaser, if any, shall have approved the applicable Requisition in writing.

Section 4.03. Establishment and Use of Surplus Fund. There is hereby established and created with the Trustee the Surplus Fund. The Trustee shall deposit all Surplus Bond Proceeds in the Surplus Fund on the Completion Date. The deposit of Surplus Bond Proceeds in the Surplus Fund shall be deemed to be a direction by the Borrower to the Trustee to redeem the greatest principal amount of the Bonds possible to be redeemed from such deposit pursuant to Section 2.18(a) on the earliest redemption date on which the Bonds may be redeemed, and on such redemption date an amount equal to the principal amount of Bonds to be redeemed plus interest and redemption premium, if any, accrued thereon to the redemption date shall be transferred from the Surplus Fund to the Bond Fund and used for such redemption. After such transfer, if and to the extent that there are moneys in the Surplus Fund on the date on which (i) the Bonds are scheduled to mature or (ii) the Bonds are subject to redemption, such moneys in the Surplus Fund shall be transferred to the Bond Fund and shall be used for such payment or redemption. Notwithstanding the foregoing, if while a Credit Facility is in effect there shall be any moneys on deposit in the Surplus Fund and there shall occur a drawing on the Credit Facility to pay principal of the Bonds (but not the Purchase Price of tendered Bonds) the Trustee shall use any moneys in the Surplus Fund to reimburse the Credit Provider for such drawing; provided, further, if any of the events described in clauses (i) or (ii) above shall occur while a Credit Facility is in effect, the Trustee shall draw on the Credit Facility to the extent otherwise provided in this Indenture and shall immediately apply any moneys in the Surplus Fund (whether or not such moneys are Eligible Funds) to reimburse the Credit Provider therefor in whole or in part.

Section 4.04. Establishment and Use of Bond Purchase Fund and Current Purchase Account. There is hereby established and created with the Trustee the Bond Purchase Fund and, while a Credit Facility is in effect, within such fund a special account designated the “Current Purchase Account.” There shall be deposited in the Bond Purchase Fund all moneys required to be paid by the Borrower to provide for the payment of the Purchase Price of Bonds pursuant to this Indenture, together with any other moneys received by the Trustee pursuant to this Indenture, the Agreement or otherwise (including draws under the Credit Facility pursuant to Section 3.08(a)(ii)) that are required or directed to be paid into the Bond Purchase Fund. The Trustee shall establish with the Paying Agent a separate subaccount of the Bond Purchase Fund into which the proceeds of the remarketing of Bonds to purchasers (other than the Issuer, the Borrower, any other Person obligated (as guarantor or otherwise) to make payments on the Bonds or under the Agreement or under the Reimbursement Agreement or the Continuing Covenant Agreement or any “affiliate” of the Borrower as defined in Bankruptcy Code § 101(2)) will be deposited and a separate subaccount of the Bond Purchase Fund into which all amounts drawn under the Credit Facility pursuant to Section 3.08(a)(ii) will be deposited. Neither the Trustee nor the Paying Agent shall commingle amounts in either of such subaccounts with any other funds.

While a Credit Facility is in effect, each deposit into the Bond Purchase Fund not constituting Eligible Funds shall be placed in the Current Purchase Account within the Bond Purchase Fund and shall not be commingled with other moneys in the Bond Purchase Fund.

Moneys in the Bond Purchase Fund shall be held in trust for the Owners and, except as otherwise expressly provided herein, shall be used solely for the payment of the Purchase Price of the Bonds required to be purchased as set forth in Section 2.06(g).

The Trustee is hereby authorized and directed, and the Trustee hereby agrees, to withdraw and to transfer to the Paying Agent funds from the Bond Purchase Fund as contemplated by Section 2.06(g) by 1:30 p.m., Local Time, on each date that Bonds are to be purchased pursuant to Section 2.06 from the Bond Purchase Fund to pay the Purchase Price of Bonds tendered (or deemed tendered) for purchase pursuant to Section 2.06. The Trustee shall give the Remarketing Agent prompt telephonic notice of each such transfer.

To the extent that a Credit Facility is drawn on to make a payment of Purchase Price to any Owner, the Trustee shall use any moneys in the Bond Purchase Fund not then needed to make payments to Owners, regardless of whether such moneys constitute Eligible Funds, to reimburse the Credit Provider.

After payment in full of the Bonds, or provision having been made for payment of the Bonds pursuant to Section 5.02, and payment of all other amounts required to be paid under this Indenture, any amounts remaining in the Bond Purchase Fund shall be paid (a) first (i) to the Credit Provider, if any, if there is then any amount payable by the Borrower to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or (ii) to the Purchaser to the extent of any indebtedness of the Borrower to the Purchaser pursuant to this Indenture, the Agreement or the Continuing Covenant Agreement, and (b) second to the Borrower. In making any payment to the Credit Provider or to the Purchaser under this Section, the Trustee may rely conclusively upon a written statement provided by the Credit Provider or the Purchaser, as the case may be, as to the amount payable to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or to the Purchaser pursuant to this Indenture, the Agreement or the Continuing Covenant Agreement, as applicable.

Section 4.05. Reserved.

Section 4.06. Deposit of Bond Proceeds. [The Bond Proceeds shall be deposited in the Project Fund on the Issue Date.] [On the Issue Date, \$[_____] of the Bond Proceeds shall be deposited into the Project Fund.] In accordance with the provisions of the Continuing Covenant Agreement and Section 2.05, the proceeds from the sale of the Bonds shall be made through the making of Advances by the Purchaser. All such Advances shall be deposited in the [Project Fund] [an account of the Borrower with the Purchaser].

Section 4.07. Records. The Trustee shall cause to be kept and maintained records pertaining to the Project Fund, the Surplus Fund, the Bond Fund and the Bond Purchase Fund and all disbursements therefrom and shall periodically deliver to the Borrower statements of activity and statements indicating the investments, if applicable, made with moneys in all such funds during the applicable period. Upon written request, the Trustee shall provide the

Borrower, within a reasonable period of time, with a report stating the Principal Amount and a list of the registered owners of the Bonds as of the date specified by the Borrower in its request.

The Trustee shall provide the Borrower with a written report, on a monthly basis through the calendar month in which the last obligation of the Bonds is retired, identifying the Permitted Investments in which the moneys held as part of the Project Fund, the Surplus Fund, the Bond Fund and the Bond Purchase Fund were invested during the preceding period and the dates of such investments, together with such other information as the Trustee ordinarily provides to Persons such as the Borrower in its regular monthly investment reports.

Section 4.08. Investment of Project Fund, Surplus Fund, Bond Fund and Bond Purchase Fund Moneys. Moneys held by the Trustee as part of the Project Fund, the Surplus Fund and the Bond Fund shall be invested and reinvested in Permitted Investments as instructed by a Borrower Representative; provided, however, that (i) any moneys held in the Bond Purchase Fund shall not be invested and (ii) the Paying Agent shall not invest any moneys it receives under this Indenture. All Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times to be a part of the fund and account which was used to purchase the same. All interest accruing thereon and any profit realized from Permitted Investments shall be credited to the respective fund or account and any loss resulting from Permitted Investments shall be similarly charged. The Trustee is authorized to cause to be sold and reduced to cash a sufficient amount of Permitted Investments whenever the cash balance in any fund or account hereunder is or will be insufficient to make a requested or required disbursement. The Trustee may make any and all such investments through its own bond department or trust investment department. For purposes of this Section, any interest-bearing deposits, including certificates of deposit issued by or on deposit with the Trustee shall be deemed to be investments and not deposits. The Trustee shall not be responsible for any depreciation in the value of any Permitted Investment or for any loss resulting from such sale, so long as the Trustee performs its obligations hereunder in accordance with the provisions of Section 7.01(e). Absent specific instructions from the Borrower to invest cash balances in Permitted Investments hereunder, the Trustee shall invest any moneys hereunder in Permitted Investments constituting obligations of the United States of America or its agencies having a term to maturity of not more than thirty (30) days or any money market fund or similar investment fund that purchases and holds exclusively obligations of the United States of America or its agencies that have a term to maturity of not more than thirty (30) days in the Wells Fargo Advantage Government Money Market Fund or a successor money market fund offered by the Trustee. Notwithstanding anything to the contrary herein provided, the Borrower shall not direct the Trustee to invest moneys deposited in the Surplus Fund pursuant to Section 3.04 of the Agreement at a yield exceeding the yield on the Bonds. The Issuer shall not be liable for any loss resulting from any investment.

Section 4.09. Arbitrage; Rebate Fund. The Issuer recognizes that investment of the Bond Proceeds will be at the written direction of the Borrower but agrees that it will commit no act, or omit any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the applicable regulations thereunder. There is hereby established with the Trustee a Rebate Fund (the “Rebate Fund”). Any provisions in this Indenture to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

The Trustee shall deposit in the Rebate Fund the amount paid to the Trustee by the Borrower pursuant to Section 8.09(b) of the Agreement. Within sixty (60) days after each date on which rebate is required to be computed by the Code, the Trustee, at the direction of the Borrower and acting on behalf of the Issuer, shall pay to the United States of America in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 90% (or such greater percentage not in excess of 100% as the Borrower may direct the Trustee to pay) of the amount certified by the Borrower to be the required rebate to the United States of America as calculated under Section 148(f)(2) of the Code (hereinafter called the "Rebate Amount"). The Borrower shall direct the Trustee to pay, within sixty (60) days after the payment in full of all Outstanding Bonds, to the United States of America, from the moneys then on deposit in the Rebate Fund, an amount determined in accordance with Section 148(f) of the Code to be equal to 100% of the Rebate Amount and any moneys remaining in the Rebate Fund following such payment shall be paid to the Borrower.

The Trustee shall be entitled to rely on the calculations made pursuant to this Section and neither the Issuer nor the Trustee shall be responsible for any loss or damage resulting from any good faith action taken or omitted to be taken in reliance upon such calculations.

The Trustee shall keep those records of the computations made pursuant to this Section that are furnished by the Borrower or the Issuer to the Trustee until six (6) years after the retirement of the Bonds, provided that nothing in this Indenture shall impose any obligation on the Trustee with respect to requesting, preparing, obtaining or verifying any such records or any computations therein.

Moneys in the Rebate Fund may be invested as provided in Section 4.08 for the investment of the Project Fund, the Surplus Fund and the Bond Fund.

Section 4.10. Non-presentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, if funds sufficient to pay the principal of, redemption premium, if any, and interest on such Bond shall have been made available to the Trustee for the benefit of the Owner or Owners thereof, payment of such Bond or portion thereof as the case may be, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee, subject to any applicable escheat laws, to hold such fund or funds uninvested in the Bond Fund, without liability to the Owner of such Bond for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his/her part on, or with respect to, said Bond, or portion thereof, or redemption premium, if any.

ARTICLE V

DISCHARGE OF LIEN

Section 5.01. Discharge of Lien and Security Interest. Upon payment in full of all of the Bonds and the payment by or on behalf of the Borrower of all amounts outstanding under the Continuing Covenant Agreement or the Reimbursement Agreement, as applicable, and termination and payment of all amounts due under all Swaps, these presents and the Security

Interests shall cease, determine and be discharged, and thereupon the Trustee shall (a) cancel and discharge this Indenture, the lien upon the Trust Estate and the Security Interests; (b) execute and deliver to the Issuer and the Borrower, at the Borrower's expense, such instruments in writing as shall be required to cancel and discharge this Indenture and the Security Interests and reconvey to the Issuer and the Borrower the Trust Estate, and assign and deliver to the Issuer and the Borrower so much of the Trust Estate as may be in its possession or subject to its control, except for moneys and Government Obligations held in the Bond Fund for the purpose of paying Bonds and except for moneys held in the Bond Purchase Fund for the purpose of paying the Purchase Price of the Bonds which have been purchased pursuant to Section 2.06(g); and (c) release the Note and return any Credit Facility to the Credit Provider; provided, however, that the cancellation and discharge of this Indenture pursuant to this Section 5.01, (i) shall be subject to and qualified by the provisions of Section 5.03, (ii) shall not terminate the powers and rights granted to the Trustee, the Registrar and the Paying Agent with respect to the payment, registration of transfer and exchange of the Bonds and (iii) shall not impair or limit the rights of the Issuer, the Trustee, the Registrar and the Paying Agent to indemnify, non-liability and payment of all reasonable fees and expenses, which rights shall survive the cancellation and discharge of this Indenture pursuant to this Section or Section 5.02. If the Bonds are rated by a Rating Agency, notice of payment in full of the Bonds shall be furnished by the Trustee to such Rating Agency.

Section 5.02. Provision for Payment of Bonds. Bonds shall be deemed to have been paid within the meaning of Section 5.01 if:

- (a) there shall have been irrevocably deposited in the Bond Fund:
 - (i) if the Bonds do not bear interest at the Fixed Rate, sufficient Eligible Funds, or
 - (ii) if the Bonds bear interest at the Fixed Rate, either (1) sufficient Eligible Funds, or (2) Government Obligations purchased with Eligible Funds of such maturities and interest payment dates and bearing such interest as will, in the opinion of a nationally recognized firm of certified public accountants, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings also to be held in trust), be sufficient together with any moneys referred to in clause (1) above,

for the payment at their respective maturities or redemption or tender dates prior to maturity of the principal thereof and the redemption premium, if any, and interest to accrue thereon at such maturity or redemption or tender dates, as the case may be (except during a Direct Purchase Period, assuming that the Bonds bear interest at the Ceiling Rate during any period during which the interest rate on the Bonds may change);

- (b) there shall have been paid or provision duly made for the payment of all fees and expenses of the Issuer, the Trustee, the Registrar, the Calculation Agent, the Paying Agent, the Market Agent and the Remarketing Agent, if any, due or to become due; and

(c) if any Bonds are to be redeemed on any date prior to their maturity, the Trustee shall have received in form satisfactory to it irrevocable instructions from a Borrower Representative to redeem such Bonds on such date and either evidence satisfactory to the Trustee that all redemption notices required by this Indenture have been given or irrevocable power authorizing the Trustee to give such redemption notices has been granted to the Trustee.

Limitations set forth elsewhere herein regarding the investment of moneys held by the Trustee in the Bond Fund shall not be construed to prevent the depositing and holding in the Bond Fund of the obligations described in Section 5.02(a)(ii) for the purpose of defeasing the lien of this Indenture as to Bonds which have not yet become due and payable. Notwithstanding any other provision of this Indenture to the contrary, all Eligible Funds deposited with the Trustee as provided in this Section may be invested and reinvested, at the direction of the Borrower, in Government Obligations (or, in the case of a deposit of Eligible Funds under Section 5.02(a), in a money market fund that invests solely in Government Obligations and is rated in the highest category by one of Fitch, Moody's or S&P and, if more than one of such rating agencies then rates such money market fund, is rated no less than the highest rating category by each of such rating agencies then rating such money market fund) maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations (or the money market fund) in the hands of the Trustee pursuant to this Section which is not required for the payment of the Bonds and interest and redemption premium, if any, thereon with respect to which such moneys shall have been so deposited shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund. Notwithstanding the foregoing provisions of this paragraph, if the Bonds are rated by S&P at the time a deposit of Eligible Funds is made under Section 5.02(a), such Eligible Funds may be invested solely in Government Obligations maturing or to be available to be withdrawn at par no later than the earlier of the Maturity Date, a Mandatory Purchase Date, redemption date or, if the Bonds are in a Weekly Rate Period, the next possible Optional Tender Date.

Notwithstanding any other provision of this Indenture to the contrary, if a Bond has been deemed to be paid under this Section and the Owner of such Bond delivers a tender notice with respect to such Bond that would result in the occurrence of an Optional Tender Date for such Bond prior to its maturity or redemption date: (1) the Remarketing Agent shall not remarket such Bond; (2) the Remarketing Agent shall notify the Trustee and the Paying Agent by the third Business Day prior to such Optional Tender Date for such Bond that it has received a tender notice with respect to such Bond; (3) the Trustee shall transfer to the Paying Agent, not later than 9:30 a.m., Local Time, on such Optional Tender Date for such Bond, Eligible Funds from the deposit made into the Bond Fund under Section 5.02(a)(i) sufficient to pay the Purchase Price of such Bond; (4) the Paying Agent shall purchase such Bond on such Optional Tender Date applicable to such Bond; and (5) such Bond shall be delivered to the Trustee for cancellation and shall be cancelled.

Notwithstanding any other provision of this Indenture to the contrary, during any Rate Period during which a Credit Facility is in effect, if all Bonds have been deemed to be paid because a deposit of Eligible Funds has been made under Section 5.02(a)(i), and if such deposit is made with proceeds of one or more drawings under the Credit Facility, then any excess funds

remaining in the Bond Fund after payment of all of the Bonds at their respective maturities or redemption or tender dates shall be returned to the Credit Provider.

Notwithstanding any other provision of this Indenture to the contrary, if all Bonds have been deemed to be paid because a deposit has been made under Section 5.02(a), the Interest Rate Determination Method may not thereafter be changed by the Borrower.

If all Bonds have been deemed to be paid because a deposit has been made under Section 5.02(a)(i) with proceeds of one or more drawings under the Credit Facility, then the surrender by the Trustee of the Credit Facility to the Credit Provider for cancellation prior to the maturity or redemption date of the Bonds shall not constitute a Credit Modification Date.

At or immediately prior to the time provision for payment shall be made there shall be delivered to the Trustee and any Rating Agency then maintaining a rating on the Bonds (A) in the case of a defeasance with Government Obligations, the opinion of nationally recognized certified public accountants referred to in Section 5.02(a)(ii), (B) in the case of any defeasance, a written Opinion of Counsel experienced in bankruptcy law matters and in form satisfactory to the Trustee and any Rating Agency that such provision for payment will not constitute or be (w) an avoidable preferential payment pursuant to Section 547 of the Bankruptcy Code, (x) an avoidable post-petition transfer pursuant to Section 549 of the Bankruptcy Code, (y) recoverable from Owners of the Bonds pursuant to Section 550 of the Bankruptcy Code and (z) subject to the automatic stay under Section 362 of the Bankruptcy Code in the event of an Act of Bankruptcy and (C) in the case of any defeasance, an Opinion of Counsel stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with.

Section 5.03. Discharge of this Indenture. This Indenture, the lien upon the Trust Estate, the Security Interests and the rights granted and duties imposed hereby, shall continue and subsist after payment in full of the Bonds under Section 5.01 or the deemed payment in full of the Bonds in accordance with Section 5.02 and payment of all Swap obligations until the Trustee shall have paid to the Purchaser, if any, or the Credit Provider, if any, as the case may be, or returned to the Borrower, all funds held by the Trustee which the Purchaser or the Credit Provider, as the case may be, or the Borrower, is entitled to receive pursuant to this Indenture or the other Bond Documents after all Bonds have been paid at maturity or redeemed.

ARTICLE VI

DEFAULT PROVISIONS AND REMEDIES

Section 6.01. Events of Default. Any one of the following shall constitute an Event of Default hereunder:

- (a) Failure to pay interest on any Bond when and as the same shall have become due;
- (b) Failure to pay the principal of or any redemption premium on any Bond when and as the same shall become due, whether at the stated maturity or redemption date thereof or by acceleration;

(c) Failure to pay the Purchase Price of any Bond required to be purchased hereunder on a Mandatory Purchase Date other than a Mandatory Purchase Date which is solely caused by the occurrence of a Direct Purchase Period Purchase Date when and as the same shall become due;

(d) Failure to observe or perform any other of the covenants, agreements or conditions on the part of the Issuer included in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer, the Purchaser, if any, the Credit Provider, if a Credit Facility is then in effect, and the Borrower has been given by the Trustee, provided that the Credit Provider, if any, or the Purchaser, if any, shall have consented to the same constituting an Event of Default;

(e) The occurrence of an Event of Default under the Agreement;

(f) The Trustee shall have received a written notice from the Credit Provider that an event of default under any Reimbursement Agreement has occurred and is continuing and a written request from the Credit Provider that the Bonds be accelerated;

(g) The Trustee shall receive a written notice from the Purchaser that an event of default has occurred under any Continuing Covenant Agreement, which notice may in addition instruct the Trustee to accelerate the Bonds; or

(h) The Trustee shall receive a written notice from a Swap Provider that any Parity Periodic Swap Payment or Parity Swap Termination Payment is due and has not been paid after taking into account all grace periods applicable thereto under any Swap.

Section 6.02. Acceleration. Subject to the requirement that the consent of the Credit Provider, if any, and the Purchaser, if any, to any acceleration must be obtained, and further subject to the provisions of Section 6.04, upon the occurrence of any Event of Default hereunder the Trustee may, and upon the written request of the Credit Provider, if any, or the Purchaser, if any, and otherwise upon the written request of the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding, the Trustee immediately shall, by notice in writing sent to the Issuer, the Borrower, the Paying Agent, the Remarketing Agent, the Credit Provider, if any, and the Purchaser, if any, declare the principal of all Bonds then Outstanding (if not then due and payable) and the interest accrued thereon to be due and payable immediately, and, upon said declaration, such principal and interest shall become and be immediately due and payable. Upon any declaration of acceleration hereunder, the Trustee shall immediately exercise such rights as it may have under the Agreement to declare all payments thereunder to be immediately due and payable and, if a Credit Facility is in effect, the Trustee shall immediately draw upon the Credit Facility as provided in Section 3.08(a)(iii). If the Credit Provider honors the drawing under the Credit Facility upon a declaration of acceleration of the Bonds, interest on the Bonds shall accrue only to the date of such declaration and the Trustee shall pay the principal of and interest on the Bonds to the Owners immediately following the receipt of funds from such drawing. If no Credit Facility is in effect or the Credit Provider fails to honor a properly presented and conforming drawing under the Credit Facility upon acceleration of the Bonds, interest on the Bonds shall cease to accrue as provided in Section 6.07.

Immediately following any such declaration of acceleration, the Trustee shall cause to be mailed notice of such declaration by first-class mail, postage prepaid, to each Owner of a Bond at his/her last address appearing on the Register. Any defect in or failure to give such notice of such declaration shall not affect the validity of such declaration.

Section 6.03. Other Remedies; Rights of Owners. Upon the happening and continuance of an Event of Default hereunder the Trustee may, only with the prior written consent of the Credit Provider, if any, and the Purchaser, if any, with or without taking action under Section 6.02, pursue any available remedy to enforce the performance of or compliance with any other obligation or requirement of this Indenture, any of the Security Documents or the Agreement.

Subject to the requirement that the consent of the Credit Provider, if any, and the Purchaser, if any, to the exercise by the Trustee of any such available remedy must be obtained, and further subject to the provisions of Section 6.04, upon the happening and continuance of an Event of Default, and if requested to do so by Credit Provider, if any, or the Purchaser, if any, and otherwise by the Owners of at least twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding and if the Trustee is indemnified as provided in Section 7.01(h), the Trustee shall exercise such of the rights and powers conferred by this Section and by Section 6.02 as the Trustee, being advised by Counsel, shall deem most effective to enforce and protect the interests of the Owners and any Swap Provider and, except to the extent inconsistent with the interests of the Owners, the Credit Provider, if any, and the Purchaser, if any.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Owners, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

The Trustee, as the assignee of substantially all right, title and interest of the Issuer in and to the Agreement, shall be empowered to enforce each and every right granted to the Issuer under the Agreement other than Reserved Rights.

Section 6.04. Right of Owners and Credit Provider to Direct Proceedings. Subject, if a Credit Facility is then in effect, to the rights of the Credit Provider and to the rights of the Purchaser, if any, as provided in Sections 6.02 and 6.03, the Owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture and the Security Documents, or any other proceedings hereunder or

thereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law, this Indenture and the Security Documents, and provided that the Trustee shall be indemnified to its satisfaction and the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Notwithstanding the foregoing or any other provision of this Indenture, during any Direct Purchase Period, the Purchaser shall be entitled to exercise all of the powers, consents, rights and remedies to which the Owners of a majority in aggregate principal amount of Bonds then Outstanding are entitled hereunder, including the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all remedial proceedings on behalf of the Owners available to the Trustee under this Indenture to be taken in connection with the enforcement of the terms of this Indenture or exercising any trust or power conferred on the Trustee by this Indenture.

No Owner shall have the right to institute any proceeding for the enforcement of this Indenture unless such Owner (or the Purchaser during any Direct Purchase Period) has given the Trustee and the Borrower written notice of an Event of Default, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (or the Purchaser during any Direct Purchase Period) shall have requested the Trustee in writing to institute such proceeding, the Trustee shall have been afforded a reasonable opportunity to exercise its powers or to institute such proceeding, there shall have been offered to the Trustee indemnity satisfactory to it against the cost, expense and liability to be incurred in connection with such request and the Trustee shall have thereafter failed or refused to exercise such powers or to institute such proceeding within sixty (60) days after receipt of notice with no inconsistent direction given during such sixty (60) days by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (or by the Purchaser during any Direct Purchase Period). Nothing in this Indenture shall affect or impair any right of enforcement conferred on any Owner by the Act to enforce (i) the payment of the principal of and redemption premium, if any, and interest on Bonds at and after the maturity thereof, or (ii) the obligation of the Issuer to pay the principal of, redemption premium, if any, and interest on Bonds to such Owner at the time, place, from the sources and in the manner as provided in this Indenture. No Owner shall individually have the right to present a draft to, or otherwise make a demand on, the Credit Provider to collect amounts available under the Credit Facility.

Section 6.05. Discontinuance of Default Proceedings. Prior to the drawing on a Credit Facility, if any, pursuant to Section 3.08(a)(iii), in case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Credit Provider, if any, the Purchaser, if any, and the Trustee shall be restored to their former positions and rights hereunder and all rights, remedies and powers of the Issuer, the Trustee, the Purchaser and the Credit Provider shall continue as if no such proceedings had been taken subject to the limits of any adverse determination.

Section 6.06. Waiver. The Trustee, with the consent of the Credit Provider, if any, and the Purchaser, if any, may waive any default or Event of Default hereunder and its consequences and rescind any declaration of acceleration of maturity of principal, and shall do so upon the written request of the Credit Provider, if any, or the Purchaser, if any; provided, however, that the Trustee shall not cause such a waiver or rescission (a) during a Direct Purchase Period,

unless and until the Purchaser has provided to the Trustee its prior written consent and (b) unless and until the Purchase Price and all principal, redemption premium, if any, and interest on the Bonds in arrears, together with interest thereon (to the extent permitted by law) at the applicable rate of interest borne by the Bonds, all Parity Periodic Swap Payments and Parity Swap Termination Payments in arrears and all fees and expenses of the Trustee and the Issuer shall have been paid or provided for. The Trustee may not waive any default or Event of Default until the Trustee has received notice in writing from the Credit Provider that the amount available to be drawn under any Credit Facility then in effect in respect of the principal and Purchase Price of and interest on the Bonds has been reinstated in full and the notice of the Event of Default has been rescinded by the Credit Provider.

Section 6.07. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Indenture or under any of the other Bond Documents, including any proceeding at law or in equity to enforce the provisions of and foreclose, realize, levy or execute upon all items of collateral thereunder, shall be deposited in the Bond Fund and, after payment (out of moneys derived from a source other than the Credit Facility, moneys held for the purchase of Untendered Bonds, moneys held for the redemption of Bonds and proceeds from the remarketing of Bonds) of (i) the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, including reasonable attorneys' fees, and all other outstanding fees and expenses of the Trustee, and thereafter any fees, expenses, liabilities and advances due to, or incurred or made by, the Paying Agent and the Registrar and (ii) any sums due to the Issuer under the Agreement (other than Repayments), such moneys shall be applied in the order set forth below:

(a) Unless the principal of all Bonds shall have become or been declared due and payable, all such moneys shall be applied:

First: To the ratable payment of (i) all installments of interest then due on the Bonds, and (ii) all Parity Periodic Swap Payments then due, if any, and, if the amount available shall not be sufficient to pay in full all such amounts described in clauses (i) and (ii) of this paragraph, then to the ratable payment of all such amounts so due and the portion thereof allocable to the installments of interest shall be applied in order of priority first to installments past due for the greatest period; and

Second: To the ratable payment of (i) the unpaid principal of and redemption premium, if any, and the Purchase Price of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), (ii) any Parity Swap Termination Payments then due, if any, and (iii) to the payment of any Obligations payable to the Purchaser under the Continuing Covenant Agreement during any Direct Purchase Period (to the extent not required to be paid at a higher level of priority) and to the payment of any fees and expenses of a Credit Provider due and payable under any Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full all such amounts described in clauses (i), (ii) and (iii) of this paragraph due on any particular date, then to the ratable payment of all such amounts due on such date; and

Third: To the payment of Subordinated Periodic Swap Payments and Subordinated Swap Termination Payments then payable, if any, and if the amount available shall not be sufficient to pay all such amounts due on any particular date, then to the ratable payment of the amounts due on such date.

(b) If the principal of all the Bonds shall have become or been declared due and payable, all such moneys shall be applied:

First: To the payment of the principal, redemption premium, if any, and interest then due and unpaid upon the Bonds, any Parity Swap Termination Payment then due and any Parity Periodic Swap Payments then due, without preference or priority as between principal, redemption premium, interest, installments of interest or Bonds, ratably according to the amounts due to the persons entitled thereto; and

Second: To the payment of any Obligations payable to the Purchaser under the Continuing Covenant Agreement during any Direct Purchase Period (to the extent not required to be paid at a higher level of priority) and to the payment of any fees and expenses of a Credit Provider due and payable under any Reimbursement Agreement; and

Third: To the payment of Subordinated Periodic Swap Payments and Subordinated Swap Termination Payments then payable, if any, ratably according to the amounts due to the persons entitled thereto.

(c) If the principal on all Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded under this Article then, subject to Section 6.07(b) in the event that the principal of all the Bonds shall again become or be declared due and payable, the moneys shall be applied in accordance with Section 6.07(a).

Notwithstanding the foregoing, unless the Credit Facility permits drawings to pay redemption premium with respect to Bonds, the Trustee shall be obligated to apply moneys received under a Credit Facility then in effect only to principal and Purchase Price of, and interest on the Bonds (except Bonds that are not entitled to any benefit of the Credit Facility as provided in Section 3.08). Whenever moneys (other than moneys received under a Credit Facility) are to be applied pursuant to this Section, the Trustee shall fix the date which shall be not more than seven (7) calendar days after such acceleration upon which such application is to be made and upon such date interest on the principal amount of Bonds to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date. As provided in Section 6.02, moneys received under a Credit Facility upon declaration of acceleration are to be applied as soon as is practicable following receipt to pay the principal of and interest on the Bonds to the Owners.

Whenever all of the Bonds and interest thereon have been paid under the provisions of this Section, the termination and payment in full of all Swap obligations and the payment of all other amounts payable hereunder, under any Continuing Covenant Agreement, any

Reimbursement Agreement or any Swap, any balance remaining in the Bond Fund, the Project Fund and the Surplus Fund shall be paid as provided in Article IV.

Section 6.08. Rights of a Credit Provider. All rights of any Credit Provider under this Indenture to consent to certain extensions, remedies, waivers, actions and amendments hereunder shall be suspended (i) for so long as the Credit Provider wrongfully dishonors any draft (or other appropriate form of demand) presented in strict conformity with the requirements of the Credit Facility and has not honored a subsequent draft (or other appropriate form of demand), if any, thereunder or (ii) if no Credit Facility is in effect or any Credit Facility terminates in accordance with its terms.

Section 6.09. Right of Sole Owner to Require Assignment by Trustee. At any time during a Direct Purchase Period, upon the occurrence and during the continuance of an Event of Default, the Purchaser, if it is then the sole Owner of all of the Bonds then Outstanding, shall have the right, at its option, exercised by delivery of a written instrument to the Trustee with a copy to the Borrower, to require the Trustee to assign to the Purchaser all of the rights, powers, and prerogatives of the Trustee under the Indenture to enforce the provisions of this Indenture, exercise any remedies and otherwise take actions and institute proceedings for the benefit of and on behalf of the Owners and any Swap Provider, and the Trustee covenants and agrees that upon its release and indemnification with respect to any action or failure to act of the Purchaser subsequent to the aforesaid assignment, it shall execute and deliver all such documents as are necessary to accomplish the foregoing and vest such rights, remedies and title in the Purchaser.

ARTICLE VII

THE TRUSTEE; THE PAYING AGENT; THE REGISTRAR; THE REMARKETING AGENT

Section 7.01. Appointment of Trustee. The Trustee is hereby appointed and does hereby agree to act in such capacity and to perform the duties of the Trustee under this Indenture, but only upon and subject to the following express terms and conditions (and no implied covenants or other obligations shall be read into this Indenture against the Trustee):

(a) The Trustee may execute any of its trusts or powers hereunder and perform any of its duties by or through attorneys, agents, receivers or employees and shall not be held liable for their actions if such agents are selected with reasonable care. The Trustee shall be entitled to advice of Counsel concerning all matters hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees. The Trustee may act upon the opinion or advice of Counsel, accountants, engineers or surveyors selected by it in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein or in the Bonds, or for the recording, re-recording, filing or re-filing of this Indenture or the Security Documents or for insuring the Trust Estate or the Project or collecting any insurance moneys, or for the validity of this Indenture or of any supplements hereto or instruments

of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of or title to the Project or otherwise as to the maintenance of the Trust Estate. The Trustee shall have no obligation to perform any of the duties of the Issuer under the Agreement. The Trustee shall not be liable to the Borrower, any Owner or any other Person for any loss suffered in connection with any investment of funds made by it in accordance with Section 4.08. The Trustee shall not be liable to the Borrower for any loss suffered as a result of or in connection with any investment of funds made by the Trustee as instructed by a Borrower Representative. The Trustee shall have no duty or responsibility to examine or review and shall have no liability for the contents of any documents submitted to or delivered to any Owner in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder after such Bonds shall have been delivered in accordance with instructions of the Issuer or for the use by the Borrower of the proceeds of the Bonds or for the use or application of any moneys received by the Paying Agent. The Trustee may become the owner of Bonds secured hereby with the same rights as any other Owner.

(d) The Trustee shall be protected in acting upon Opinions of Counsel and upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee may conclusively rely upon a certificate furnished by a Credit Provider as to amounts payable under the Reimbursement Agreement.

(e) The permissive right of the Trustee to do things enumerated in this Indenture or the Agreement shall not be construed as duties. The Trustee shall only be responsible for the performance of the duties expressly set forth herein and shall not be answerable for other than its gross negligence or willful misconduct in the performance of those express duties.

(f) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts, relating to the Project.

(g) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trust and powers or otherwise in respect of this Indenture.

(h) Before taking any action requested hereunder by the Owners (except for acceleration of the Bonds as required by Section 6.02, drawing on the Credit Facility as required by Section 3.08(a) and the payment of principal, interest, redemption premium

and Purchase Price to Owners), the Trustee may require satisfactory security or indemnity bond for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its own gross negligence or willful misconduct by reason of any action so taken.

(i) All moneys received by the Trustee or the Paying Agent, until used or applied or invested as herein provided, shall be held as special trust funds for the purposes specified in this Indenture and for the benefit and security of the Owners of the Bonds and the Credit Provider as herein provided. Such moneys need not be segregated from other funds except to the extent required by law or herein provided, and neither the Trustee nor the Paying Agent shall otherwise be under any liability for interest on any moneys received hereunder except such as may be agreed upon. In accepting the trust hereby created, the Trustee acts solely as Trustee for the Owners of the Bonds and not in its individual capacity and all Persons, including, without limitation, the Owners of the Bonds, the Issuer or the Borrower, having any claim against the Trustee arising from this Indenture shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

(j) The Trustee shall not be bound to ascertain or inquire as to the performance of the obligations of the Borrower or the Issuer under the Agreement or this Indenture, and shall not be deemed to have, or be required to take, notice of default under this Indenture (other than under Section 6.01(a), (b) or (c) if notice thereof has been received from the Paying Agent or under Section 6.01(f), (g) or (h)) except (i) if no Credit Facility is in effect, in the event the Borrower fails to pay any Repayment when due, (ii) in the event of an insufficient amount in the Bond Fund (or any account therein) to make a principal or interest or redemption premium, if any, payment on the Bonds, (iii) written notification of such default by any Owner or Swap Provider, or (iv) written notification from the Credit Provider pursuant to Section 6.01(f). The Trustee may nevertheless require the Issuer and the Borrower to furnish information regarding performance of their obligations under the Agreement and this Indenture, but is not obligated to do so.

(k) The Trustee shall, prior to any Event of Default and after the curing of all Events of Default which may have occurred, perform such duties and only such duties of the Trustee as are specifically set forth in this Indenture. The Trustee shall, during the existence of any Event of Default which has not been cured, exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his/her own affairs. The foregoing shall not limit the Trustee's obligations under Section 3.08(a) or Section 6.02.

(l) The Paying Agent and the Registrar shall each be entitled to the same rights and immunities with respect to their respective duties under this Indenture as the Trustee is under this Section 7.01 with respect to its duties hereunder.

(m) In addition to the Trustee's other duties hereunder, the Trustee shall authenticate and cancel Bonds as provided herein, keep such books and records relating

to such duties as shall be consistent with prudent industry practice and make such books and records available for inspection by the Issuer and the Borrower at all reasonable times. All Bonds shall be made available for authentication, exchange and registration of transfer at the designated office of the Trustee.

(n) The Trustee shall have no duty to inspect or oversee the construction or completion of the Project or to verify the truthfulness or accuracy of the certifications made by the Borrower with respect to the Trustee's disbursements for Costs of the Project in accordance with the Bond Documents.

(o) Without limiting the duties of the Trustee expressly set forth herein, the Trustee shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax-exempt status of the Bonds or the interest thereon; (ii) the consequences of the investment or non-investment of any funds or accounts relating to the Bonds or the Credit Facility under Section 148 of the Code, (iii) the calculation of any amount required to be rebated to the United States of America under Section 148 of the Code or (iv) compliance by the Borrower with the Tax Certificate.

(p) No provision of this Indenture, the Agreement or the Bonds shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds.

(q) Whenever in the administration of this Indenture the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee may rely upon a written certificate of a Borrower Representative or an Issuer Representative.

(r) Except as provided in Section 7.09, in the event that the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Owners of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, pursuant to the provisions of this Indenture, then the Trustee, in its sole discretion, may determine what action or actions, if any, shall be taken or not taken.

(s) The Trustee's immunities and protections from liability and its rights to indemnification in connection with the performance of its duties under this Indenture shall likewise extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Trustee's rights to compensation, shall survive the Trustee's resignation or removal, the discharge of this Indenture and the final payment of the Bonds.

(t) The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold or deal in any of the Bonds and may join in any action that any Owner may be entitled to take with like effect as if it were not the Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Borrower, including Swaps, and

may act as depository, trustee or agent for any committee of Owners secured hereby or other obligations of the Borrower, as freely as if it were not the Trustee hereunder. The provisions of this paragraph shall extend to the affiliates of the Trustee.

(u) Neither Section 2.04(h) nor any other provision of this Indenture shall require the Trustee to enter into any continuing disclosure agreement or other undertaking or to take any other action as may be required to cause compliance with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended.

(v) The Trustee shall have no responsibility or obligation to Participants, to Indirect Participants, or to the Persons for whom they act as nominees with respect to the Bonds, or to any Beneficial Owner of Bonds in respect of the accuracy of any records maintained by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant, the payment by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant of any amount in respect of the principal or Purchase Price of or interest on the Bonds, any notice which is permitted or required to be given under this Indenture, the selection by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant of any Person to receive payment in the event of a partial redemption of the Bonds, or any consent given or other action taken by the Securities Depository or the Securities Depository Nominee as registered owner of the Bonds.

(w) Whether or not expressly so provided, each and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 7.01.

Section 7.02. Compensation and Indemnification of Trustee, Paying Agent, Remarketing Agent, Calculation Agent, Market Agent and Registrar; Trustee's Prior Claim. The Agreement provides that the Borrower will pay the reasonable fees and expenses of the Issuer, the Trustee, the Paying Agent, the Remarketing Agent, the Calculation Agent, the Market Agent and the Registrar under this Indenture and all other amounts which may be payable to the Trustee, Paying Agent, the Calculation Agent, the Market Agent or Registrar under this Section, and the reasonable fees and expenses of the Remarketing Agent and all other amounts which may be payable to the Remarketing Agent under the Remarketing Agreement, such fees and expenses to be paid when due and payable by the Borrower directly to the Trustee, the Paying Agent, the Calculation Agent, the Market Agent, the Registrar and the Remarketing Agent, respectively, for their own accounts.

The Borrower shall (a) pay the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), (b) pay the Paying Agent, the Calculation Agent, the Market Agent, the Registrar and any other agent of the Issuer or the Borrower acting hereunder or under the Agreement (the Paying Agent, the Calculation Agent, the Market Agent, the Registrar and any other agent of the Issuer being herein referred to as a "Borrower Agent") reasonable compensation, (c) pay or reimburse each of the Trustee and any Borrower Agent upon request for all reasonable expenses, disbursements and advances incurred or made, in accordance with any of the provisions of this Indenture and the Agreement

(including the reasonable compensation and the reasonable expenses and disbursements of its Counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is due to such party's own gross negligence or willful misconduct, and (d) indemnify each of the Trustee and any Borrower Agent for, and to hold it harmless against, any loss, liability or expense incurred by it, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder or the performance of its duties hereunder or under the Agreement, including the reasonable costs and expenses of defending itself against or investigating any claim of liability in the premises, except to the extent that any such loss, liability, damage, cost or expense was due to such party's own gross negligence or willful misconduct. The obligations of the Borrower under the Agreement referred to in this Section shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and any resignation or removal of the Trustee. Such additional indebtedness shall be a senior claim to that of the Bonds upon all property and funds held or collected by the Trustee as such, except funds held with respect to Untendered Bonds and unredeemed Bonds for which notice of redemption has been given, and except for any arbitrage rebate fund or account established pursuant hereto or pursuant to any arbitrage regulatory agreement. Notwithstanding the foregoing, neither the Trustee nor any Borrower Agent shall have any claim upon or shall be paid, prior to any Owner, from any Credit Facility or proceeds from the remarketing of Bonds, or the proceeds thereof, with respect to any such compensation, payment, reimbursement or indemnity. "Trustee," "Borrower Agent," "Paying Agent," "Calculation Agent," "Market Agent" and "Registrar" for purposes of this Section shall include any predecessor Trustee, Borrower Agent, Paying Agent, Calculation Agent, Market Agent and Registrar but the gross negligence or willful misconduct of any Trustee, Borrower Agent, Paying Agent, Calculation Agent, Market Agent or Registrar shall not affect the indemnification of any other Person. The obligations of the Borrower under this Section shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Section 7.03. Intervention in Litigation. In any judicial proceedings to which the Issuer is a party, the Trustee may intervene on behalf of Owners, and shall intervene if requested in writing by the Credit Provider or the Owners of at least twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding and indemnified as provided in Section 7.01(h).

Section 7.04. Resignation; Successor Trustees. The Trustee and any successor Trustee may resign only upon giving sixty (60) days prior written notice to the Issuer, the Credit Provider, if any, the Borrower and each Owner of Bonds then Outstanding as shown on the Register. Such resignation shall take effect only upon the appointment of a successor Trustee by the Issuer with the written consent of the Borrower, the Purchaser, if any, and the Credit Provider, if any, and the acceptance of such appointment by the successor Trustee. If no successor is appointed within sixty (60) days after the notice of resignation, the resigning party may appoint a successor or petition any court of competent jurisdiction to appoint a successor. Upon appointment of a successor Trustee, the resigning Trustee shall assign all of its right, title and interest in this Indenture and the Trust Estate (including any Credit Facility then in effect) to the successor Trustee. The successor Trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States of America, or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000. Any successor Trustee shall accept in writing its duties

and responsibilities hereunder and such writing shall be filed with the Issuer, the Credit Provider, if any, the Borrower and the Purchaser, if any.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or any material part of the corporate trust business of the Trustee that includes this Indenture, shall be the successor of the Trustee hereunder, without the execution or filing of any instrument or any further act on the part of any Person, anything herein to the contrary notwithstanding, provided that such successor Trustee shall be eligible to serve as Trustee under the provisions of this Indenture. If the Trustee is not the successor corporation in any such merger or consolidation, the Trustee shall give notice of such event to the Borrower and shall take such action as may be required to effect a transfer of the trust included in this Indenture to such successor corporation.

Section 7.05. Removal of Trustee. The Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Trustee, the Credit Provider, if any, the Purchaser, if any, the Issuer and the Borrower and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, but only with the prior consent of the Credit Provider, if any, and the Purchaser, if any. During such time that no Event of Default has occurred and is continuing under this Indenture, the Trustee may also be removed by an instrument in writing delivered to the Trustee, the Credit Provider, if any, the Issuer and the Purchaser, if any, and signed by a Borrower Representative. Such removal shall take effect only upon the appointment of a successor Trustee by the Issuer with the written consent of the Borrower, the Purchaser, if any, and the Credit Provider, if any, and the acceptance of such appointment by the successor Trustee. Upon such removal, the Trustee shall assign to the successor Trustee all of its right, title and interest in this Indenture and the Trust Estate (including any Credit Facility then in effect) in the same manner as provided in Section 7.04. If the Bonds are rated by a Rating Agency, notice concerning any change in the Trustee shall be furnished by the successor Trustee to such Rating Agency.

Section 7.06. Paying Agent. The Trustee is hereby appointed by the Issuer as the initial Paying Agent. The Issuer, at the direction of the Borrower and with the approval of the Remarketing Agent, if any, and the Credit Provider, if any, shall appoint any successor Paying Agent for the Bonds, subject to the conditions set forth in Section 7.07. The Paying Agent shall designate to the Issuer and the Trustee its designated office for all purposes hereof and signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Trustee under which the Paying Agent shall agree, particularly:

- (a) to hold all sums held by it for the payment of the principal and Purchase Price of, redemption premium, if any, or interest on the Bonds in trust for the benefit of the Owners of the Bonds until such sums shall be paid to such Owners of the Bonds or otherwise disposed of as herein provided;
- (b) to perform its obligations under this Indenture; and
- (c) to keep such books and records relating to its duties as Paying Agent as shall be consistent with prudent industry practice and to make such books and records

available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times.

The Issuer shall cooperate with the Trustee, the Paying Agent and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby:

(i) funds derived from the sources specified in this Indenture will be made available at the designated office of the Paying Agent for the timely payment of principal and Purchase Price of, redemption premium, if any, and interest on the Bonds; and

(ii) the Paying Agent shall be furnished such records and other information, at such times, as shall be required to enable the Paying Agent to perform the duties and obligations imposed upon it hereunder.

In carrying out its responsibilities hereunder the Paying Agent will act for the benefit of the Owners. Notwithstanding anything to the contrary in this Indenture, the Paying Agent shall not invest any moneys it receives from a draw on the Credit Facility, if any.

No purchase of Bonds by the Paying Agent shall constitute a redemption of Bonds or any extinguishment of the debt represented thereby or cause the Paying Agent to be recognized as the owner of such Bonds for any purpose whatsoever. No delivery of Bonds to the Trustee shall constitute a redemption of Bonds or any extinguishment of the debt represented thereby or cause the Trustee to be recognized as the owner of such Bonds for any purpose whatsoever unless the Trustee has purchased such Bonds for its own account.

Section 7.07. Qualifications of Paying Agent. The Paying Agent shall be a bank or trust company with trust powers duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$15,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The designated office of the Paying Agent for all purposes hereof shall be the office of the Paying Agent at which all deliveries to it hereunder shall be made and any and all notices and other communications in connection herewith shall be delivered. The Paying Agent may at any time resign and be discharged of its duties and obligations created by this Indenture by giving at least sixty (60) days' notice to the Issuer, the Borrower and the Trustee. The Paying Agent may be removed at any time, at the direction of the Borrower, by an instrument, signed by the Issuer, filed with such Paying Agent and with the Trustee.

Section 7.08. Resignation of Paying Agent; Removal; Successors.

(a) In the event of the resignation or removal of the Paying Agent, the Paying Agent shall deliver any moneys and any related books and records held by it in such capacity to its successor or, if there be no successor, to the Trustee.

(b) In the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Issuer shall not have appointed a successor

Paying Agent (any appointment by the Issuer shall be with the prior written consent of the Borrower), the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Issuer and acceptance of a successor Paying Agent.

Section 7.09. Instruments of Owners. Any instrument required by this Indenture to be executed by Owners may be in any number of writings of similar tenor and may be executed by Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds given in any of the following forms shall be sufficient for any of the purposes of this Indenture:

(a) A certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him/her the execution thereof;

(b) A certificate executed by any trust company or bank stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank, as the property of such party, the Bonds therein mentioned.

The Trustee may rely on such an instrument of Owners unless and until the Trustee receives notice in the form specified in (a) or (b) above that the original such instrument is no longer reliable. In the event that the Trustee shall receive conflicting directions from two (2) or more groups of Owners, each with combined holdings of not less than twenty-five percent (25%) of the principal amount of Outstanding Bonds, the directions given by the group of Owners which holds the largest percentage of Bonds shall be controlling and the Trustee shall follow such directions to the extent required herein.

Section 7.10. Power to Appoint Co-Trustees. At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Project may at the time be located, the Issuer and the Trustee shall have power to appoint and, upon the request of the Trustee or of the Owners of a majority of the aggregate principal amount of the Bonds then Outstanding, the Issuer shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more persons approved by the Trustee and the Borrower either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the Project, or to act as separate trustee or separate co-trustees of all or any part of the Project, and to vest in such person or persons, in such capacity, such title to the Project or any part thereof, and such rights, powers, duties, trusts or obligations as the Issuer and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

Any co-trustee or separate trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States of America or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000.

The Trustee and co-trustee, if any, may by written instrument between them designate and assign either the Trustee or the co-trustee or both of them to perform all or any part of the responsibilities and duties of the Trustee under this Indenture.

If the Issuer shall not have joined in such appointment within thirty (30) days after the receipt by it of a written request to do so, or in case an Event of Default shall have occurred and be continuing, the Trustee and the Borrower shall have the power to make such appointment.

The Issuer shall execute, acknowledge and deliver all such instruments as may be required by any such co-trustee or separate trustee for more fully confirming such title, rights, powers, trusts, duties and obligations to such co-trustee or separate trustee.

Every co-trustee or separate trustee appointed pursuant to this Section, to the extent permitted by law or any applicable contract, shall be subject to the following terms, namely:

(a) This Indenture shall become effective at the time the Bonds shall be authenticated and delivered, and thereupon such co-trustee or separate trustee shall have all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of moneys, papers, securities and other personal property.

(b) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees, or separate trustee or separate trustees, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(c) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee.

(d) Any co-trustee or separate trustee, to the extent permitted by law, may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(e) The Trustee at any time, by an instrument in writing, with the concurrence of the Borrower and the Issuer evidenced by a resolution, may accept the resignation of any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Issuer and the Borrower. Upon the request of the Trustee, the Issuer and the Borrower shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or

removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(f) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(g) Any moneys, paper, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested with the Security Interest in the Trust Estate and with such rights, powers, duties, trusts or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as applicable law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the Security Interest in the Trust Estate and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the same manner as provided for with respect to the appointment of a successor Trustee pursuant to Section 7.04.

Section 7.11. Filing of Financing Statements. The Borrower shall file or record or cause to be filed or recorded all Financing Statements that are required in order fully to protect and preserve the Security Interests and the priority thereof and the rights and powers of the Trustee in connection therewith. The Borrower shall file or record or cause to be filed or recorded all continuation statements for the purpose of continuing without lapse the effectiveness of (i) those Financing Statements which shall have been filed at or prior to the issuance of the Bonds in connection with the security for the Bonds pursuant to the authority of the U.C.C., and (ii) any previously filed continuation statements that shall have been filed as required herein. The Issuer and the Trustee shall sign, if necessary, and the Trustee shall deliver to the Borrower or its designee, all such Financing Statements as may be required for the purposes specified in the preceding sentence. Upon the filing of any such Financing Statement the Borrower shall immediately notify the Issuer and the Trustee that the same has been accomplished.

Section 7.12. Remarketing Agent. At the request of the Borrower, a Remarketing Agent may, and prior to any Conversion Date converting the Bonds to a Weekly Rate Period or a Flexible Term Rate Period, shall, be appointed with the prior written approval of the Issuer, the Purchaser, if any, and the Credit Provider, if any. The Borrower shall give written notice to the Trustee of such an appointment, and the Trustee, in turn, shall cause written notice of such appointment to be given to the Owners of the Bonds. The Issuer, at the direction of the Borrower, and with the consent of the Credit Provider, if any and the Purchaser, if any, shall appoint any successor Remarketing Agent for the Bonds (except for assignees permitted under the following sentence), subject to the conditions set forth in Section 7.13. To the extent permitted by any Remarketing Agreement then in effect, the Remarketing Agent may at any time transfer all of its

duties and obligations as Remarketing Agent hereunder to an affiliate of such Remarketing Agent that satisfies the conditions set forth in Section 7.13 and, upon such transfer, such affiliate shall automatically become the Remarketing Agent hereunder without any further action.

Any Remarketing Agent shall designate to the Issuer and the Trustee its designated office for purposes hereof, which shall be the office of such Remarketing Agent at which all notices and other communications in connection herewith may be delivered to it, and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower, the Trustee, the Purchaser, if any, and the Credit Provider, if any, under which such Remarketing Agent shall agree particularly (i) to hold all Bonds delivered to it hereunder in trust for the benefit of the respective Owners of Bonds that delivered such Bonds until moneys representing the Purchase Price of such Bonds are delivered to or for the account of or to the order of such Owners of Bonds; (ii) to hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the benefit of the person or entity that has delivered such moneys until the Bonds purchased with such moneys are delivered to or for the account of such person or entity; and (iii) to keep books and records with respect to its activities hereunder available for inspection by the Issuer, the Trustee, the Borrower, the Purchaser, if any, and the Credit Provider, if any, at all reasonable times.

Section 7.13. Qualifications of Remarketing Agent; Resignation; Removal. The Remarketing Agent shall be a financial institution or registered broker/dealer authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent may at any time resign and be discharged of its duties and obligations created by this Indenture by giving at least thirty (30) days' notice to the Issuer, the Borrower, the Paying Agent, the Trustee, the Purchaser, if any, and the Credit Provider, if any; provided, however, that if no successor Remarketing Agent has been appointed in accordance with Section 7.12 and this Section on or prior to the effective date of such resignation, (i) the resigning Remarketing Agent shall give written notice to Owners on the effective date of such resignation that all optional tender notices under Section 2.06(a) should be delivered to the Trustee until a successor Remarketing Agent has been appointed and (ii) until a successor Remarketing Agent has been appointed, the Trustee shall have no duty to remarket the Bonds, but shall provide the funds described in clauses (ii), (iii) and (iv) of Section 2.06(g) to the Paying Agent in that order on each Optional Tender Date specified in such notices to pay the Purchase Price of all Bonds tendered. The Remarketing Agent may be removed at any time, upon not less than thirty (30) days' notice, at the direction of the Borrower, by an instrument signed by the Issuer and the Borrower and filed with the Remarketing Agent, the Trustee, the Paying Agent, the Purchaser, if any, and the Credit Provider, if any; provided that no such removal shall be effective until a successor Remarketing Agent has been appointed in accordance with Section 7.12 and this Section and such successor Remarketing Agent has accepted such appointment.

Section 7.14. Several Capacities. Anything in this Indenture to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Credit Provider, the Paying Agent, the Registrar, the Purchaser, the Calculation Agent, the Market Agent and the Remarketing Agent and in any other combination of such capacities, to the extent permitted by law.

Section 7.15. Trustee Not Responsible for Duties of Remarketing Agent, Registrar, Calculation Agent, Market Agent and Paying Agent. Notwithstanding anything to the contrary in this Indenture, the Trustee shall not be liable or responsible for any of the duties or obligations of the Remarketing Agent, the Registrar, the Calculation Agent, the Market Agent or the Paying Agent under this Indenture (or be liable or responsible for the acts or omissions of the Paying Agent, the Registrar, the Calculation Agent, the Market Agent or the Remarketing Agent or any action taken by the Trustee or failure to act in reasonable reliance upon any action or failure to act by the Paying Agent, the Registrar, the Calculation Agent, the Market Agent or the Remarketing Agent) except for the duties imposed upon, or the acts and omissions of, (i) the Trustee while deemed to be the Paying Agent pursuant to Section 7.08(b) because a successor Paying Agent has not been appointed by the Issuer and (ii) the Trustee as recipient of optional tender notices after the written notice provided for in Section 7.13 has been given by the resigning Remarketing Agent to Owners to the effect that no successor Remarketing Agent has been appointed. The Trustee shall not be bound to ascertain or inquire as to the truth or accuracy of any information provided to it by the Paying Agent, the Registrar, the Calculation Agent, the Market Agent or the Remarketing Agent but may for any purpose conclusively rely upon any information given to the Trustee by the Paying Agent, the Registrar, the Calculation Agent, the Market Agent or the Remarketing Agent.

Section 7.16. Cooperation of the Issuer. The Issuer shall cooperate with the Trustee, the Paying Agent, the Registrar, the Calculation Agent, the Market Agent, the Remarketing Agent, if any, and the Borrower, if requested to do so by the Trustee or the Borrower and to the extent it may lawfully do so, to cause the necessary arrangements to be made and to be thereafter continued whereby funds from the sources specified in Section 4.04 will be made available to pay the Purchase Price of Bonds presented to the Trustee.

Section 7.17. Cooperation of the Trustee, the Remarketing Agent, the Calculation Agent, the Market Agent, the Registrar and the Paying Agent. The Trustee, the Remarketing Agent, if any, the Calculation Agent, the Market Agent, the Registrar and the Paying Agent shall cooperate in all respects and shall provide to the other in a timely fashion the information and knowledge each possesses so that the Trustee and each of such parties may faithfully exercise their respective obligations hereunder.

Section 7.18. Calculation Agent.

(a) During the Direct Purchase Period, the Calculation Agent shall be Wells Fargo, and thereafter shall be such other person as the Borrower may appoint meeting the requirements of Section 7.18(b). The Borrower shall appoint any successor Calculation Agent for the Bonds, subject to the conditions set forth in Section 7.18(b). Any Calculation Agent which is not Wells Fargo or the Trustee shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Borrower and the Trustee in which the Calculation Agent will agree to perform all calculations and provide all notices required of the Calculation Agent under this Indenture.

(b) The Calculation Agent shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof and shall be

authorized by law to perform all the duties imposed upon it by this Indenture and may be the Trustee, Wells Fargo, the Credit Provider, the Purchaser or any other Person, but may not be the Borrower or an affiliate of the Borrower. The Calculation Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' written notice to the Borrower, the Trustee, the Tender Agent, the Remarketing Agent, if any, and the Purchaser, if any. Upon receipt of such notice, during any Rate Period in which the services of a Calculation Agent are required under this Indenture, the Borrower will diligently seek to appoint a successor Calculation Agent to assume the duties of the Calculation Agent on the effective date of the prior Calculation Agent's resignation. In the event that the Borrower shall fail to appoint a successor Calculation Agent in a timely manner when required under this Indenture, the Trustee shall either (i) appoint a Calculation Agent to act as such or (ii) petition any court of competent jurisdiction for the appointment of a successor Calculation Agent, and such court may thereupon, after such notice, if any, as it may deem proper, appoint such successor Calculation Agent; provided however, that during the pendency of any such petition, the Trustee shall itself act as Calculation Agent, service in any such case shall commence on the effective date of the resignation of the prior Calculation Agent and shall remain in effect until a successor Calculation Agent assumes such position in accordance with the provisions hereof. The Calculation Agent may be removed at any time by written notice from the Borrower to the Trustee, the Tender Agent, the Purchaser, if any, and the Remarketing Agent, if any, provided that such removal shall not be effective until a successor Calculation Agent assumes such position in accordance with the provisions of this Section.

(c) The Trustee shall, within thirty (30) days of the resignation or removal of the Calculation Agent or the appointment of a successor Calculation Agent, give notice thereof to the registered owners of the Bonds.

Section 7.19. Market Agent.

(a) At the request of the Borrower, a Market Agent meeting the requirements of Section 7.19(b) may, and prior to any conversion of the Bonds to any Rate Period requiring the services of a Market Agent, shall, be appointed with the prior written approval of the Purchaser, if any. The Borrower shall appoint any successor Market Agent, subject to the conditions set forth in Section 7.19(b). Any Market Agent which is not Wells Fargo or the Trustee shall designate its principal office and signify its acceptance of the duties and obligations imposed on it hereunder by a written instrument of acceptance delivered to the Borrower and the Trustee in which the Market Agent will agree to perform all calculations and provide all notices required of the Market Agent under this Indenture.

(b) The Market Agent shall be a financial institution or registered broker/dealer authorized by law to perform all the duties imposed upon it by this Indenture and may be the Trustee or Wells Fargo, but may not be the Borrower or an affiliate of the Borrower. The Market Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' written notice to the Borrower, the Trustee, the Tender Agent, the Remarketing Agent, if

any, and the Purchaser, if any. Upon receipt of such notice, during any Rate Period in which the services of a Market Agent are required under this Indenture, the Borrower will diligently seek to appoint a successor Market Agent to assume the duties of the Market Agent on the effective date of the prior Market Agent's resignation. In the event that the Borrower shall fail to appoint a successor Market Agent in a timely manner when required under this Indenture, the Trustee shall either (i) appoint a Market Agent to act as such or (ii) petition any court of competent jurisdiction for the appointment of a successor Market Agent, and such court may thereupon, after such notice, if any, may deem proper, appoint such successor Market Agent; provided, however that during the pendency of any such petition, the Trustee shall itself act as Market Agent, services in any such case shall commence on the effective date of the resignation of the prior Market Agent and shall remain in effect until a successor Market Agent assumes such position in accordance with the provisions hereof. The Market Agent may be removed at any time by written notice from the Borrower to the Trustee, the Tender Agent, the Purchaser, if any, and the Remarketing Agent, if any, provided that such removal shall not be effective until a successor Market Agent assumes such position in accordance with the provisions of this Section.

(c) The Trustee shall, within thirty (30) days of the resignation or removal of the Market Agent or the appointment of a successor Market Agent, give notice thereof to the registered owners of the Bonds.

ARTICLE VIII

AMENDMENTS, SUPPLEMENTAL INDENTURES

Section 8.01. Supplemental Indentures. The Issuer and the Trustee, with the consent of the Credit Provider, if any, and the Purchaser, if any, but without the consent of or notice to any Owners during any Short-Term Rate Period, Medium-Term Rate Period or Fixed Rate Period may enter into an indenture or indentures supplemental to this Indenture that do not materially adversely affect the interest of the Owners for one or more of the following purposes:

(a) to grant to or confer upon the Trustee for the benefit of the Owners and such Credit Provider, if any, any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee;

(b) to grant or pledge to the Trustee for the benefit of Owners and such Credit Provider, if any, any additional security other than that granted or pledged under this Indenture; provided that no additional security shall be granted or pledged to the Trustee for the benefit of such Credit Provider unless such Credit Provider agrees that the Trustee shall hold such security in trust for the equal or ratable benefit of such Credit Provider, on the one hand, and the Holders, on the other hand;

(c) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939 or any similar federal statute then in effect or to permit the

qualification of the Bonds for sale under the securities laws of any of the states of the United States of America;

(d) to appoint a successor Trustee, separate trustees or co-trustees in the manner provided in Article VII;

(e) to modify, amend or supplement this Indenture for the purpose of obtaining or retaining a rating on the Bonds from a Rating Agency;

(f) to modify, amend or supplement this Indenture to permit a transfer of Bonds from one Securities Depository to another or the discontinuance of the Book Entry System and issuance of replacement Bonds to the Beneficial Owners;

(g) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture that may be defective or inconsistent with any provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture which shall not materially adversely affect the interest of the Owners or such Credit Provider, if any;

(h) to modify, amend or supplement this Indenture to permit the Paying Agent or the Registrar to assume any administrative duties of the Trustee hereunder (except any duties of the Trustee with respect to the acceptance, modification, reduction or release of or drawing on, any Credit Facility) or for the Trustee to assume any administrative duties of the Paying Agent or the Registrar hereunder;

(i) to make any change herein necessary, in the opinion of Bond Counsel, to maintain the exclusion of the interest on any Outstanding Bonds from gross income of the Owners thereof for federal income tax purposes; and

(j) to make any change to the administrative provisions hereof, to accommodate the provisions of an Initial Credit Facility, Alternate Credit Facility, bond insurance or a liquidity facility.

When requested by the Issuer, and if all conditions precedent under this Indenture have been met, the Trustee shall join the Issuer in the execution of any such supplemental indenture unless it imposes additional obligations on the Trustee or adversely affects the Trustee's rights and immunities under this Indenture or otherwise. A copy of all such supplemental indentures shall be promptly furnished to the Credit Provider, if any, and the Paying Agent, and the Registrar shall be promptly advised of any modifications of its rights, duties and obligations hereunder.

The Trustee shall file copies of all such supplemental indentures with the Borrower, the Purchaser, if any, and the Credit Provider, if any, and, if the Bonds are rated by a Rating Agency, shall forward copies of all such supplemental indentures to such Rating Agency.

Section 8.02. Amendments to Indenture; Consent of Owners, the Credit Provider and the Borrower. Exclusive of supplemental indentures covered by Section 8.01 and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of a

majority in aggregate principal amount of the Bonds then Outstanding and affected by such indenture or indentures supplemental hereto, with the consent of the Credit Provider, if any, shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and direct the execution by the Trustee of such other indenture or indentures supplemental hereto as shall be consented to by the Issuer in its sole discretion for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the Owners of all Outstanding Bonds, (a) an extension of the maturity of the principal of, or the mandatory redemption date of, or interest on, any Bond, (b) a reduction in the principal amount of, or the redemption premium or the rate of interest on, any Bond, (c) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (d) the creation of a lien on the Trust Estate prior to or on parity with the lien of this Indenture, or (e) a reduction in the aggregate principal amount of the Bonds required for any consent to any supplemental indenture; provided further, however, that without the written consent of the Trustee, the Trustee shall not be required to join in the execution of any supplemental indenture that affects the rights, duties, obligations or immunities of the Trustee or that imposes additional obligations on the Trustee. The giving of notice to and consent of the Owners to any such proposed supplemental indenture shall be obtained pursuant to Section 8.06.

Anything herein to the contrary notwithstanding, a supplemental indenture, amendment or other document described under this Article that affects any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented to the execution of such supplemental indenture, amendment or other document.

The Trustee shall file copies of all such supplemental indentures with the Borrower and, if the Bonds are rated by a Rating Agency, shall furnish copies of all such supplemental indentures to such Rating Agency.

Section 8.03. Amendments to the Security Documents, the Agreement or the Note Not Requiring Consent of Owners. The Issuer shall not cause or permit to exist, nor shall the Trustee consent to, any amendment, modification, supplement, waiver or consent with respect to any of the Security Documents, the Note or the Agreement without the prior written consent of the Credit Provider, if any, and during any Direct Purchase Period, the prior written consent of the Purchaser, but without any other requirement of the consent of or notice to any of the Owners; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the Owners of all Outstanding Bonds, (a) an extension of the maturity of the principal of, or the mandatory redemption date of, or interest on, any Bond, (b) a reduction in the principal amount of, or the redemption premium or the rate of interest on, any Bond, (c) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (d) the creation of a lien on the Trust Estate prior to or on parity with the lien of this Indenture, or (e) a reduction in the aggregate principal amount of the Bonds required for any consent to any supplemental indenture; provided further, however, that without the written consent of the Trustee, the Trustee shall not be required to join in the execution of any supplemental indenture that affects the rights, duties, obligations or immunities of the Trustee or that imposes additional obligations on the Trustee. With the consent of the Credit Provider or the Purchaser as aforesaid, the Issuer and the Trustee, as the case may be, may enter into or permit (and the Trustee shall

consent to) any amendment of the Agreement, the Note or any of the Security Documents acceptable to the Borrower as may be required (i) for the purpose of curing any ambiguity or formal defect or omission that shall not adversely affect the interest of the Owners, (ii) to grant or pledge to the Issuer or Trustee, for the benefit of the Owners or the Credit Provider, if any, any additional security, (iii) to modify, amend or supplement the Agreement, the Note, or any of the Security Documents for the purpose of obtaining or retaining a rating on the Bonds from a Rating Agency, (iv) to make any change therein necessary, in the opinion of Bond Counsel, to maintain the exclusion of interest on any Outstanding Bonds from gross income of the Owners thereof for federal income tax purposes or (v) in connection with any other change therein which, in the judgment of the Trustee acting in reliance upon an Opinion of Counsel, is not materially prejudicial to the interests of the Trustee and the Owners of the Bonds; provided, however, that without the written consent of the Trustee, the Trustee shall not be required to join in the execution of any such amendment that affects the rights, duties, obligations or immunities of the Trustee or that imposes additional obligations on the Trustee.

The Trustee and the Borrower shall file copies of any such amendments to the Agreement, the Note, the Security Documents with the Issuer, the Credit Provider, if any, the Purchaser, and, if the Bonds are rated by a Rating Agency, the Trustee shall furnish copies of such amendments to such Rating Agency.

Section 8.04. Other Amendment Provisions. The Issuer shall not enter into, and the Trustee shall not consent to, any modification or amendment of the Agreement, any of the Security Documents or the Note, nor shall any such modification or amendment become effective, without the consent of the Credit Provider, if any, and during any Direct Purchase Period, the consent of the Purchaser, and (except as permitted by Section 8.03) the consent of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding, such consent to be obtained in accordance with Section 8.06. No such amendment may, without the consent of the Owners of all the Outstanding Bonds, reduce the amounts or delay the times of payment of Repayments under the Agreement or the Note.

Except as provided in this paragraph, the Issuer shall not enter into, and the Trustee shall not consent to, any modification or amendment of this Indenture, the Agreement or the Security Documents, nor shall any such modification or amendment become effective, without the consent of any Swap Provider for which either Parity Periodic Swap Payments or Parity Swap Termination Payments are payable, if such modification or amendment affects (a) the timing or amount of any payment or payments under such Swap, (b) a preference or priority of any payment with respect to any Bonds or Swap over any Swap, (c) the creation of a lien on the Trust Estate prior to or on a parity with the lien of this Indenture or (d) this paragraph.

The Trustee and the Borrower shall file copies of all such amendments to the Agreement, the Security Documents, the Note with the Issuer, the Credit Provider, if any, the Purchaser, if any, and, if the Bonds are rated by a Rating Agency, the Trustee shall furnish copies of such amendments to such Rating Agency.

Section 8.05. Amendments, Changes and Modifications to the Credit Facility. Except as otherwise provided in the Agreement or in this Indenture, subsequent to the initial issuance of the Bonds and prior to payment of the Bonds in full (or provision for the payment

thereof having been made in accordance with the provisions of this Indenture), no Credit Facility may be effectively amended, changed or modified without the prior written consent of the Trustee and the Paying Agent. The Trustee may, without the consent of the Owners of the Bonds, consent to any amendment of the Credit Facility as may be required to extend the term thereof or for purposes of curing any ambiguity, formal defect or omission or obtaining or retaining a rating on the Bonds from a Rating Agency that, in the Trustee's and the Paying Agent's judgment, does not prejudice in any material respect the interests of the Owners. Except for such amendments, and as otherwise provided herein, the Credit Facility may be amended only with the consent of the Issuer, the Trustee and the Owners of a majority in aggregate principal amount of Outstanding Bonds, except that no such amendment may be made that would reduce the amounts required to be paid thereunder, change the time for payment of such amounts or accelerate the expiration date of the Credit Facility without the written consent of the Owners of all Outstanding Bonds. The foregoing shall not limit the Trustee's obligation to send notice to the Credit Provider to reduce amounts available to be drawn under a currently effective Credit Facility under the circumstances set forth therein.

The Trustee shall file copies of all such amendments, changes or modifications with the Rating Agency, if any, rating the Bonds.

Section 8.06. Notice to and Consent of Owners. If consent of the Owners is required under the terms of this Indenture for the amendment of this Indenture or any of the other Bond Documents or the Credit Facility or for any other similar purpose, the Trustee shall cause notice of the proposed execution of the amendment or supplemental indenture to be given by first-class mail, postage prepaid, to the Owners of the Outstanding Bonds then shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment, supplemental indenture or other action and shall state that copies of any such amendment, supplemental indenture or other document are on file at the office of the Trustee designated in accordance with Section 9.04 for inspection by all Owners. If, within sixty (60) days or such longer period as shall be prescribed by the Issuer following the mailing of such notice, the Owners of a majority or all, as the case may be, of the principal amount of the Bonds Outstanding (or, during any Direct Purchase Period, the Purchaser) by instruments filed with the Trustee shall have consented to the amendment, supplemental indenture or other proposed action, then the Trustee shall execute such amendment, supplemental indenture or other document or take such proposed action and the consent of the Owners shall thereby be conclusively presumed. Notwithstanding the foregoing provisions of this Section, the Remarketing Agent shall be deemed to be the Owner of the Outstanding Bonds on any Mandatory Purchase Date for the purpose of giving any consent required under the terms of this Indenture for the amendment of this Indenture, the Agreement, the Security Documents, the Note or the Credit Facility, if notice of such amendment has been given to the Persons to whom the Bonds are proposed to be remarketed.

Section 8.07. Approving Opinion Required. No indenture supplemental or amendment to this Indenture shall become effective without the delivery of an Approving Opinion.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon any part of the Project is not paid as required, the Trustee may, subject to any indemnity required pursuant to Section 7.01(h), pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Trustee hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment until paid at the greater of the rate of interest borne by the Bonds or the per annum rate of interest announced from time to time by the bank serving as Trustee as its “prime rate” shall become so much additional indebtedness secured by this Indenture, shall be given a preference in payment over the Bonds, and shall be paid out of the Trust Estate (other than from funds obtained from the Credit Facility).

Section 9.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Owners, the Credit Provider, the Purchaser, if any, the Paying Agent, the Remarketing Agent, if any, and the Borrower any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions herein being intended to be and being for the sole and exclusive benefit of the parties hereto, the Owners, the Credit Provider, the Purchaser, if any, the Paying Agent, the Remarketing Agent, if any, and the Borrower as herein provided.

Section 9.03. Severability. If any provision of this Indenture is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or Sections of this Indenture shall not affect the remaining portions of this Indenture or any part thereof.

Section 9.04. Notices. Except as otherwise provided herein, all notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or facsimile transmitter (with confirmed receipt) to the address or facsimile number set forth below and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth below. Where required herein, notice shall be given by telephone, and promptly confirmed in writing, and shall be deemed given when given by telephone to the telephone numbers set forth below. The Issuer, the Borrower, the Purchaser, any Credit Provider, the Trustee, the Remarketing Agent, if any, the Registrar, the Calculation Agent, the Market Agent, if any, and the Paying Agent may, by written notice given hereunder, designate any different addresses, phone numbers and facsimile numbers to which subsequent notices, certificates, approvals, consents, requests or other communications shall be sent.

To the Issuer:

Hutto Economic Development Corporation
[STREET ADDRESS]
[CITY, STATE ZIP]
Attention: []
Telephone: []
Facsimile: []

To the Trustee, Registrar
or Paying Agent:

Wells Fargo Bank, National Association
1445 Ross Ave., Ste. 4300
Dallas, TX 75202
Attention: []
Telephone: []
Facsimile: []

To the Borrower:

Peripheral Investments, L.P.
c/o Paradigm Metals, Inc.
15811 Vision Dr.
Pflugerville, TX 78660
Attention: Daniel Chew, CFO & President
Telephone: (512) 255-2622
Facsimile: []

To the Purchaser:

Wells Fargo Bank, National Association
10900 Research Blvd, Floor 02
Austin, TX 78759-5724
Attention: Monica Medina
Telephone: 512-344-3178

To the Calculation Agent:

Wells Fargo Bank, National Association
[ADDRESS]
[CITY, STATE, ZIP]
Attention: []
Telephone: []
Facsimile: []

Section 9.05. Payments Due on Non-Business Days. Unless otherwise provided in a Continuing Covenant Agreement during a Direct Purchase Period, in any case where the date of maturity of interest on or redemption premium, if any, or principal of the Bonds or the date fixed for redemption or purchase of any Bonds shall not be a Business Day, then payment of such Purchase Price, interest, redemption premium or principal, unless otherwise provided herein, need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

Section 9.06. Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained in this Indenture.

Section 9.07. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Indenture.

Section 9.08. Governing Law. This Indenture shall be governed by and interpreted in accordance with the laws of the State.

Section 9.09. Notices to Rating Agency. If the Bonds are rated by a Rating Agency, the Trustee shall provide written notice to such Rating Agency with respect to (i) the appointment of any successor Trustee, Remarketing Agent or Paying Agent, (ii) the appointment of any agent by the Trustee to perform any material duties of the Trustee under this Indenture, (iii) the expiration, termination, extension or substitution of any Credit Facility, (iv) any Fixed Rate Conversion Date or any conversion to a Flexible Term Rate or a Medium-Term Rate, (v) any Mandatory Purchase Date (except Conversion Dates), (vi) any amendment or supplement to this Indenture, the Credit Facility, the Reimbursement Agreement or the Remarketing Agreement, and (vii) the payment in full of all of the Bonds (whether at stated maturity or upon redemption, acceleration or defeasance). Failure of the Trustee to provide any such notice shall not have any effect on the occurrence of such event.

Section 9.10. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.11. Attorney's Fees. Except as may be otherwise set forth herein, attorney's fees shall not necessarily be recoverable by the prevailing party in the event this Indenture is subject to litigation.

Section 9.12. Patriot Act Compliance. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will ask for documentation to verify its formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification, and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Section 9.13. Certain References Ineffective Except during a Period in which a Credit Facility is in Effect. Except during any period in which a Credit Facility is in effect and during the period immediately succeeding such a period until receipt by the Trustee of a certificate from the Credit Provider stating that all amounts payable to the Credit Provider under the Reimbursement Agreement have been paid in full, all references to the Credit Provider, the Reimbursement Agreement (as defined herein) and the Bonds shall be ineffective.

Section 9.14. Electronic Signatures. The parties agree that the electronic signature of a party to this Indenture shall be as valid as an original signature of such party and shall be

effective to bind such party to this Indenture. The parties agree that any electronically signed document (including this Indenture) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 9.15. Third Party Beneficiaries. To the extent any of the Purchaser, any Credit Provider or any Swap Provider is determined not to be a direct beneficiary under this Indenture, such entity shall be a direct third party beneficiary in interest under this Indenture.

Section 9.16. . Limited Liability of Issuer. Notwithstanding anything in this Indenture or the Agreement to the contrary, any liability for payment of money or any other liability or obligation which the Issuer may incur under the Bonds, this Indenture, the Note or the Agreement shall not constitute a general obligation of the Issuer but shall constitute limited obligations of the Issuer payable solely from and enforced only against the Trust Estate.

[The remainder of this page is left blank intentionally.]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed, sealed and delivered in their names and on their behalf by their respective duly authorized representatives, all as of the day and year first above written.

HUTTO ECONOMIC DEVELOPMENT
CORPORATION

By: _____
Name: _____
Title: _____

(SEAL)

ATTEST:

[Secretary]

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Name: _____
Title: _____

[Signature Page to Indenture]

EXHIBIT A

[BOND FORM – SHORT-TERM AND FLEXIBLE TERM RATE]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”) to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

United States of America

**[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Issue Date</u>	<u>CUSIP</u>
AS STATED BELOW	_____	January __, 2019	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: [DOLLAR AMOUNT] (\$_____)

FOR VALUE RECEIVED, HUTTO ECONOMIC DEVELOPMENT CORPORATION, a non-profit corporation duly organized and existing under the Constitution and laws of the State of Texas (the “Issuer”), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an “Owner”), upon surrender hereof at a designated office of Wells Fargo Bank, National Association, as registrar (the “Registrar”), on the Maturity Date specified above, unless redeemed prior thereto, the Principal Amount specified above, together with interest thereon at the rates determined as set forth in the Indenture (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Indenture on [the first Business Day of each calendar month during any Weekly Rate Period] [each January 1 and July 1 during any Medium-Term Rate Period] [the first Business Day immediately succeeding the last day of each Flexible Term Rate Period (but only as to Bonds for which such Flexible Term Rate Period is applicable)] and on each Conversion Date (each, an “Interest Payment Date”) until the principal hereof is paid or duly provided for upon redemption or maturity. Payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of

America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. Unless other arrangements are made pursuant to the Indenture, interest is payable by check or draft drawn upon Wells Fargo Bank, National Association, as Paying Agent (the "Paying Agent"), mailed on the Interest Payment Date (or, if such day is not a Business Day, the immediately succeeding Business Day) to the Owner hereof at the close of business on the Record Date immediately preceding each Interest Payment Date at the address of such Owner as it appears on the Register. In any case where the date of maturity of the principal of, redemption premium, if any and interest on this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, Purchase Price, redemption premium, if any, or interest need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

This Bond shall be a limited obligation of the Issuer, the principal and Purchase Price of, redemption premium, if any, and interest on which are payable solely from and secured by the Trust Estate described in the Indenture, including the moneys available to be drawn by the Trustee under any Credit Facility (as defined in the Indenture) that may be in effect from time to time to support payments due on or with respect to this Bond, all as described in and subject to limitations set forth in the Indenture, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE CITY OF HUTTO, TEXAS NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE OBLIGATED TO PAY PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OF HUTTO, TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR OF THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. THE ISSUER HAS NO TAXING POWER.

This Bond is one of the Bonds of a duly authorized issue of revenue bonds of the Issuer in the aggregate principal amount of \$[10,000,000] known as Hutto Economic Development Corporation Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the "Bonds"), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to the Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the "Act"), and an Indenture of Trust (as amended, restated, supplemented or otherwise modified from time to time, the "Indenture"), dated as of January 1, 2019, between the Issuer and Wells Fargo Bank, National Association, as Trustee (the "Trustee"). Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds,

the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the Trustee and the rights of the Owners of the Bonds. By the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Indenture. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Indenture.

The Bonds have been issued for the purpose of (a) the purchase of real property and construction of an approximately 100,000 square-foot manufacturing facility to provide precision machining and sheet metal fabrication to be located on approximately 8.793 acres located at the northwest corner of Titan Innovation Industrial Park, U.S. HWY 79 and S.H. 130, Hutto, Texas. (the “Project”) and (b) payment of certain costs incurred in connection with the issuance of the Bonds. The Issuer and Peripheral Investments, L.P. (the “Borrower”) have entered into a Loan Agreement, dated as of January 1, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”), pursuant to which the Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, Purchase Price of and due dates of the Bonds. To evidence its obligation to make such payments, the Borrower has delivered to the Issuer its Promissory Note (the “Note”) dated the Issue Date, which has been endorsed without recourse to the Trustee.

This Bond is further secured by that certain Deed of Trust and Assignment of Rents and Leases dated January __, 2019, made by the Borrower in favor of Wells Fargo Financial National Bank, as trustee, for the benefit of the Trustee.

[The Bonds are additionally secured by an irrevocable, direct-pay letter of credit (the “Initial Credit Facility”) from [_____] (the “Credit Provider”), in the amount of the aggregate principal amount of the Bonds Outstanding from time to time, plus [_____] days interest computed at an assumed interest rate of [_____] % per annum, which Initial Credit Facility will expire on [EXPIRATION DATE], unless extended or earlier terminated in accordance with its terms. Under certain circumstances described in the Indenture, the Borrower may substitute an Alternate Credit Facility for the Initial Credit Facility.]

The Bonds are issuable as fully registered Bonds in the principal amount of \$250,000 and multiples of \$5,000 in excess thereof (an “Authorized Denomination”). This Bond, upon surrender hereof at the designated office of the Registrar with a written instrument of transfer satisfactory to the Registrar executed by the Owner hereof or such Owner’s attorney duly authorized in writing, may, at the option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination. This Bond may be registered as transferred as provided in the Indenture, subject to certain limitations therein contained, only upon the Register, and only upon surrender of this Bond for registration of transfer to the Registrar accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

1. **Tender of Bonds for Purchase.** The Bonds are subject to optional tender and mandatory tender for purchase prior to the Maturity Date as set forth in the Indenture.

2. **Conversion of the Interest Rate Determination Method for the Bonds.** The Indenture provides that the Borrower may change the Interest Rate Determination Method for the Bonds, subject to the terms and conditions set forth therein.

3. **Issuance of an Initial Credit Facility or Alternate Credit Facility.** The Indenture provides that the Borrower may arrange for the issuance of an Initial Credit Facility or an Alternate Credit Facility, subject to the terms and conditions set forth therein.

4. **Redemption of Bonds.** The Bonds are subject to mandatory redemption, optional redemption, extraordinary optional redemption and mandatory sinking fund redemption as set forth in the Indenture. Notice of redemption shall be given as provided in the Indenture.

5. **Miscellaneous.** Under certain circumstances as described in the Indenture, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Indenture.

Modifications or alterations to the Indenture, the Agreement or the Credit Facility may be made only to the extent and in the circumstances permitted by the Indenture and the Agreement.

The Owner of this Bond shall have no right to enforce the provisions of the Indenture or the Agreement, or to institute action to enforce the covenants therein, or to take any action with respect to a default under the Indenture or the Agreement, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided under certain limited circumstances described in the Indenture and the Agreement; provided, however, that nothing contained in the Indenture shall affect or impair any right of enforcement conferred on the Owner hereof by the Act to enforce (i) the payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond at and after the maturity hereof, or (ii) the obligation of the Issuer to pay the principal and Purchase Price of, redemption premium, if any, and interest on this Bond to the Owner hereof at the time, place, from the source and in the manner as provided in the Indenture.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Texas and under the Indenture precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature of one of its authorized signers, this Bond shall not be entitled to any benefit under the Indenture, or be valid or obligatory for any purpose.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, HUTTO ECONOMIC DEVELOPMENT CORPORATION has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the [President] of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual or facsimile signature of the [Secretary] of the Issuer, all as of the Issue Date referenced above.

HUTTO ECONOMIC DEVELOPMENT CORPORATION

(SEAL)

By: _____
Name: _____
Title: [President]

ATTEST:

[Secretary]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within-mentioned Indenture.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: _____
Authorized Representative

Dated: _____, 20__

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

By: _____

NOTICE: Signature(s) must be guaranteed by a member firm of the STAMP, SEMP or MSP signature guaranty medallion program.

EXHIBIT B

[BOND FORM - DIRECT PURCHASE PERIOD]

**THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH
SECTION 2.14 OF THE INDENTURE AND AS PROVIDED HEREIN**

United States of America

[\$10,000,000]

**HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

No. [FOR INITIAL BOND ONLY: T-1] [FOR ALL OTHER BONDS: R-__]

Interest Rate

Maturity Date

Issue Date

AS STATED BELOW

[_____]

January __, 2019

REGISTERED OWNER: WELLS FARGO BANK, NATIONAL ASSOCIATION

FOR VALUE RECEIVED, Hutto Economic Development Corporation, a non-profit corporation duly organized and existing under the Constitution and laws of the State of Texas (the “Issuer”), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an “Owner”), upon surrender hereof at a designated office of Wells Fargo Bank, National Association, as registrar (the “Registrar”), on the Maturity Date specified above, unless redeemed prior thereto, an aggregate principal amount equal to \$[10,000,000] (the “Stated Principal Amount”) or the Principal Amount (as herein defined), whichever is less, together with interest thereon at the rates determined as set forth in the Indenture (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Indenture on the first Business Day of each calendar month and on each Conversion Date (each, an “Interest Payment Date”) until the principal hereof is paid or duly provided for upon redemption or maturity; provided, however, that interest on this Bond shall be calculated on the sum of the Advances made by the Purchaser as described in Section 2.05 of the Indenture and as reflected in the “Table of Advances” attached hereto (the “Principal Amount”). On the Completion Date (as defined in the hereinafter described Agreement), the difference between the Stated Principal Amount and the Principal Amount (calculated without reduction for any prior partial redemptions) shall be deemed to have been redeemed automatically; provided that such redemption shall not be taken into account in determining the Principal Amount reflected on the Table of Partial Redemptions attached hereto. This Bond shall initial bear interest at the Index Interest Rate, calculated as provided in the Indenture. Payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal

tender for the payment of public and private debts. The Issuer and the Trustee have agreed that all amounts payable to the Owner with respect to any Bond held by the Owner shall be made to the Owner (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Owner in writing to the Trustee and the Issuer. Partial payments of the principal on this Bond may be noted on the Table of Partial Redemptions attached herein in lieu of surrendering this Bond in connection with such payment. In any case where the date of maturity of the principal or Purchase Price of, redemption premium, if any, or interest of this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, Purchase Price, redemption premium or interest need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, interest shall accrue as provided in the Indenture (as hereinafter defined).

This Bond shall be a limited obligation of the Issuer, the principal and Purchase Price of, redemption premium, if any, and interest on which are payable solely from and secured by the Trust Estate described in the Indenture, all as described in and subject to limitations set forth in the Indenture, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE CITY OF HUTTO, TEXAS NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE OBLIGATED TO PAY PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OF HUTTO, TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR OF THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. THE ISSUER HAS NO TAXING POWER.

This Bond is one of the Bonds of a duly authorized issue of revenue bonds of the Issuer in the aggregate principal amount of \$[10,000,000] known as Hutto Economic Development Corporation Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the "Bonds"), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to the Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the "Act"), and an Indenture of Trust (as amended, restated, supplemented or otherwise modified from time to time, the "Indenture"), dated as of January 1, 2019, between the Issuer and Wells Fargo Bank, National Association, as Trustee (the "Trustee"). Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the Trustee and the rights of the Owners of the Bonds. By the

acceptance of this Bond, the Owner hereof assents to all of the provisions of the Indenture. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Indenture.

The Bonds have been issued for the purpose of (a) the purchase of real property and construction of an approximately 100,000 square-foot manufacturing facility to provide precision machining and sheet metal fabrication to be located on approximately 8.793 acres located at the northwest corner of Titan Innovation Industrial Park, U.S. HWY 79 and S.H. 130, Hutto, Texas (the “Project”) and (b) payment of certain costs incurred in connection with the issuance of the Bonds. The Issuer and Peripheral Investments, L.P. (the “Borrower”) have entered into a Loan Agreement, dated as of January 1, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”), pursuant to which the Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, Purchase Price of and due dates of the Bonds. To evidence its obligation to make such payments, the Borrower has delivered to the Issuer its Promissory Note (the “Note”) dated the Issue Date, which has been endorsed without recourse to the Trustee.

This Bond is further secured by that certain Deed of Trust and Assignment of Rents and Leases dated January __, 2019, made by the Borrower in favor of Wells Fargo Financial National Bank, as trustee, for the benefit of the Trustee.

The Bonds are issuable as fully registered Bonds in the principal amount of \$250,000 and multiples of \$0.01 in excess thereof (an “Authorized Denomination”). This Bond, upon surrender hereof at the designated office of the Registrar with a written instrument of transfer satisfactory to the Registrar executed by the Owner hereof or such Owner’s attorney duly authorized in writing, may, at the option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination. This Bond may be registered as transferred as provided in the Indenture, subject to certain limitations therein contained, only upon the Register, and only upon surrender of this Bond for registration of transfer to the Registrar accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

1. Tender of Bonds for Purchase. The Bonds are subject to mandatory tender for purchase prior to the Maturity Date as set forth in the Indenture.

2. Conversion of the Interest Rate Determination Method for the Bonds. The Indenture provides that the Borrower may change the Interest Rate Determination Method for the Bonds, subject to the terms and conditions set forth therein.

3. Redemption of Bonds. Subject to any limitations set forth in the Continuing Covenant Agreement, the Bonds are subject to mandatory redemption, optional redemption, extraordinary optional redemption and mandatory sinking fund redemption as set forth in the

Indenture. Notice of redemption shall be given as provided in the Indenture.

4. **Miscellaneous.** Under certain circumstances as described in the Indenture, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Indenture.

Modifications or alterations to the Indenture or the Agreement may be made only to the extent and in the circumstances permitted by the Indenture and the Agreement.

The Owner of this Bond shall have no right to enforce the provisions of the Indenture or the Agreement, or to institute action to enforce the covenants therein, or to take any action with respect to a default under the Indenture or the Agreement, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided under certain limited circumstances described in the Indenture and the Agreement; provided, however, that nothing contained in the Indenture shall affect or impair any right of enforcement conferred on the Owner hereof by the Act to enforce (i) the payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond at and after the maturity hereof, or (ii) the obligation of the Issuer to pay the principal and Purchase Price of, redemption premium, if any, and interest on this Bond to the Owner hereof at the time, place, from the source and in the manner as provided in the Indenture.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Texas and under the Indenture precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature of one of its authorized signers, this Bond shall not be entitled to any benefit under the Indenture, or be valid or obligatory for any purpose.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, **Hutto Economic Development Corporation** has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the [President] of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual or facsimile signature of the [Secretary] of the Issuer, all as of the Issue Date referenced above.

**HUTTO ECONOMIC DEVELOPMENT
CORPORATION**

(SEAL)

By: _____

Name: _____

Title: [President]

ATTEST:

[Secretary]

[FOR INITIAL BOND ONLY:

COMPTROLLER'S REGISTRATION CERTIFICATE:

REGISTER NO. _____

I hereby certify that this bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____.

Comptroller of Public Accounts
of the State of Texas

[COMPTROLLER'S SEAL]]

[FOR ALL OTHER BONDS:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within-mentioned Indenture.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: _____

Authorized Representative

Dated: [DATE]]

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

By: _____

NOTICE: Signature(s) must be guaranteed by a member firm of the STAMP, SEMP or MSP signature guaranty medallion program.

TABLE OF ADVANCES

Upon receipt of any Advance described in Section 2.05 of the Indenture, the Owner of this Bond (or the Trustee, if the Trustee is holding this Bond on behalf of the Bondholder) shall make the appropriate notation on the table below:

<u>Date</u>	<u>Installment Amount Paid</u>	<u>Total Principal Payments</u>	<u>Signature of Bondholder or Trustee</u>

TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions (whether optional, mandatory or otherwise) the above Bond may be surrendered to the Trustee for the appropriate notation by it on the table below or the Owner may make such notation itself. The Trustee's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Redeemed</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Bondholder or Trustee</u>

[End of Form of Bond]

EXHIBIT C

[BOND FORM - MEDIUM-TERM OR FIXED RATE]

[BOOK-ENTRY BONDS:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

United States of America

**[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Issue Date</u>	<u>CUSIP</u>
AS STATED BELOW	_____	January __, 2019	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: [DOLLAR AMOUNT] (\$_____)]

[PHYSICAL DELIVERY:

**THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH
SECTION 2.14 OF THE INDENTURE AND AS PROVIDED HEREIN**

United States of America

**[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019**

[No. R-__]

Interest Rate

Maturity Date

Issue Date

AS STATED BELOW

[_____]

January __, 2019

REGISTERED OWNER: [PURCHASER]

PRINCIPAL AMOUNT: [DOLLAR AMOUNT] (\$_____)]

FOR VALUE RECEIVED, Hutto Economic Development Corporation, a non-profit corporation duly organized and existing under the Constitution and laws of the State of Texas (the “Issuer”), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an “Owner”), upon surrender hereof at a designated office of Wells Fargo Bank, National Association, as registrar (the “Registrar”), on the Maturity Date specified above, unless redeemed prior thereto, the Principal Amount specified above, together with interest thereon at the rates determined as set forth in the Indenture (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Indenture on each January 1 and July 1 [and on each Conversion Date] (each, an “Interest Payment Date”) until the principal hereof is paid or duly provided for upon redemption or maturity. Payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. [DIRECT PURCHASE FIXED RATE BOND: The Issuer and the Trustee have agreed that all amounts payable to the Owner with respect to any Bond held by the Owner shall be made to the Owner (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Owner in writing to the Trustee and the Issuer. While this Bond is subject to a Direct Purchase Period, partial payments of the principal on this Bond may be noted on the Table of Partial Redemptions attached herein in lieu of surrendering this Bond in connection with such payment.] [NON-DIRECT PURCHASE BOND: Unless other arrangements are made pursuant to the Indenture (as hereinafter defined), interest is payable by check or draft drawn upon Wells Fargo Bank, National Association, as Paying Agent (the “Paying Agent”), mailed on the Interest Payment Date (or, if such day is not a Business Day, the immediately succeeding Business Day) to the Owner hereof at the close of business on the Record Date immediately preceding each Interest Payment Date at the address of such Owner as it appears on the Register.] In any case where the date of maturity of principal or Purchase Price of, redemption premium, if any, or interest on this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, Purchase Price, redemption premium or interest need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, interest shall accrue as provided in the Indenture (as hereinafter defined).

This Bond shall be a limited obligation of the Issuer, the principal and Purchase Price of, redemption premium, if any, and interest on which are payable solely from and secured by the Trust Estate described in the Indenture, all as described in and subject to limitations set forth in the Indenture, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE CITY OF HUTTO, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE CITY OF HUTTO, TEXAS NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE OBLIGATED TO PAY PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OF HUTTO, TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR OF THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO. THE ISSUER HAS NO TAXING POWER.

This Bond is one of the Bonds of a duly authorized issue of revenue bonds of the Issuer in the aggregate principal amount of \$[10,000,000] known as Hutto Economic Development Corporation Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the “Bonds”), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to the Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the “Act”), and an Indenture of Trust (as amended, restated, supplemented or otherwise modified from time to time, the “Indenture”), dated as of January 1, 2019, between the Issuer and Wells Fargo Bank, National Association, as Trustee (the “Trustee”). Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the Trustee and the rights of the Owners of the Bonds. By the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Indenture. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Indenture.

The Bonds have been issued for the purpose of (a) the purchase of real property and construction of an approximately 100,000 square-foot manufacturing facility to provide precision machining and sheet metal fabrication to be located on approximately 8.793 acres located at the northwest corner of Titan Innovation Industrial Park, U.S. HWY 79 and S.H. 130, Hutto, Texas (the “Project”), and (b) payment of certain costs incurred in connection with the issuance of the Bonds. The Issuer and Peripheral Investments, L.P. (the “Borrower”) have entered into a Loan Agreement, dated as of January 1, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”), pursuant to which the Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, Purchase Price of and due dates of the Bonds. To evidence its obligation to make such payments, the Borrower has delivered to the Issuer its Promissory Note (the “Note”) dated the Issue Date, which has been endorsed without recourse to the Trustee.

This Bond is further secured by that certain Deed of Trust and Assignment of Rents and Leases dated January __, 2019, made by the Borrower in favor of Wells Fargo Financial National Bank, as trustee, for the benefit of the Trustee.

[The Bonds are additionally secured by an irrevocable, direct-pay letter of credit (the “Initial Credit Facility”) from [] (the “Credit Provider”), in the amount of the aggregate principal amount of the Bonds Outstanding from time to time, plus [] days interest computed at an assumed interest rate of []% per annum, which Initial Credit Facility will expire on [EXPIRATION DATE], unless extended or earlier terminated in accordance with its terms. Under certain circumstances described in the Indenture, the Borrower may substitute an Alternate Credit Facility for the Initial Credit Facility.]

The Bonds are issuable as fully registered Bonds in the principal amount of \$250,000 and multiples of \$5,000 in excess thereof (an “Authorized Denomination”). This Bond, upon surrender hereof at the designated office of the Registrar with a written instrument of transfer satisfactory to the Registrar executed by the Owner hereof or such Owner’s attorney duly authorized in writing, may, at the option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination. This Bond may be registered as transferred as provided in the Indenture, subject to certain limitations therein contained, only upon the Register, and only upon surrender of this Bond for registration of transfer to the Registrar accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

1. **Tender of Bonds for Purchase.** The Bonds are subject to mandatory tender for purchase prior to the Maturity Date as set forth in the Indenture.

2. [MEDIUM-TERM RATE BOND: **Conversion of the Interest Rate Determination Method for the Bonds.** The Indenture provides that the Borrower may change the Interest Rate Determination Method for the Bonds, subject to the terms and conditions set forth therein.]

3. **Issuance of an Initial Credit Facility or Alternate Credit Facility.** The Indenture provides that the Borrower may arrange for the issuance of an Initial Credit Facility or an Alternate Credit Facility, subject to the terms and conditions set forth therein.

4. **Redemption of Bonds.** [DIRECT PURCHASE FIXED RATE BOND: Subject to any limitations set forth in the Continuing Covenant Agreement, the] [The] Bonds are subject to mandatory redemption, optional redemption, extraordinary optional redemption and mandatory sinking fund redemption as set forth in the Indenture. Notice of redemption shall be given as provided in the Indenture.

5. Miscellaneous. Under certain circumstances as described in the Indenture, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Indenture.

Modifications or alterations to the Indenture or the Agreement may be made only to the extent and in the circumstances permitted by the Indenture and the Agreement.

The Owner of this Bond shall have no right to enforce the provisions of the Indenture or the Agreement, or to institute action to enforce the covenants therein, or to take any action with respect to a default under the Indenture or the Agreement, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided under certain limited circumstances described in the Indenture and the Agreement; provided, however, that nothing contained in the Indenture shall affect or impair any right of enforcement conferred on the Owner hereof by the Act to enforce (i) the payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond at and after the maturity hereof, or (ii) the obligation of the Issuer to pay the principal and Purchase Price of, redemption premium, if any, and interest on this Bond to the Owner hereof at the time, place, from the source and in the manner as provided in the Indenture.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Texas and under the Indenture precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature of one of its authorized signers, this Bond shall not be entitled to any benefit under the Indenture, or be valid or obligatory for any purpose.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, HUTTO ECONOMIC DEVELOPMENT CORPORATION has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the [President] of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual or facsimile signature of the [Secretary] of the Issuer, all as of the Issue Date referenced above.

HUTTO ECONOMIC DEVELOPMENT CORPORATION

(SEAL)

By: _____

Name: _____

Title: [President]

ATTEST:

[Secretary]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within-mentioned Indenture.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: _____
Authorized Representative

Dated: [DATE]

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

By: _____

NOTICE: Signature(s) must be guaranteed by a member firm of the STAMP, SEMP or MSP signature guaranty medallion program.

[USE FOR DIRECT PURCHASE FIXED RATE BOND]

TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions (whether optional, mandatory or otherwise) the above Bond may be surrendered to the Trustee for the appropriate notation by it on the table below or the Owner may make such notation itself. The Trustee's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

[illegible]

[End of Form of Bond]

EXHIBIT D

NOTICE OF CONVERSION DATE

[Name and Address of Owner]

This Notice of Conversion Date is delivered pursuant to that certain Indenture of Trust dated as of January 1, 2019 (the "Indenture"), between Wells Fargo Bank, National Association, as trustee (the "Trustee"), and Hutto Economic Development Corporation (the "Issuer"), relating to the Issuer's Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the "Bonds"). You are hereby notified that:

1. Peripheral Investments, L.P. (the "Borrower") has elected to change the Interest Rate Determination Method pertaining to the Bonds to a new Interest Rate Determination Method (or the interest rate applicable during a Medium-Term Rate Period to a new interest rate during a new Medium-Term Rate Period, or from an Index Interest Rate Period to a new Index Interest Rate Period).
2. The consent of the Purchaser, if applicable, required by the Indenture is attached hereto as Exhibit 1.
3. The proposed Conversion Date shall be _____.
4. As a result of the proposed conversion, a Mandatory Purchase Date, as defined in the Indenture, shall occur and the Bonds shall be subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture.
5. If certain conditions set forth in the Indenture are not satisfied or if the conversion is revoked, the Interest Rate Determination Method shall not be changed.
6. All Bonds should be presented to the Trustee at [_____].
7. Owners have no right to retain Bonds subject to mandatory tender. [The Bonds will be remarketed by [_____] as Remarketing Agent. Owners interested in repurchasing Bonds on the Conversion Date may contact the Remarketing Agent at [_____].]
8. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____

EXHIBIT E

NOTICE OF CREDIT MODIFICATION DATE

[Name and Address of Owner]

This Notice of Credit Modification Date is delivered pursuant to that certain Indenture of Trust dated as of January 1, 2019 (the "Indenture"), between Wells Fargo Bank, National Association, as trustee (the "Trustee"), and Hutto Economic Development Corporation (the "Issuer"), relating to the Issuer's Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 issued in the original principal amount of [\$10,000,000] (the "Bonds"). You are hereby notified that:

1. The undersigned Trustee is Trustee under the Indenture.
2. A Credit Modification Date, as defined in the Indenture, shall occur on _____ and Bonds shall be subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture.
3. [The Borrower intends to deliver an Initial Credit Facility/Alternate Credit Facility issued by _____ on the Credit Modification Date. Upon acceptance by the Trustee of the Initial Credit Facility/Alternate Credit Facility, [the ratings on the Bonds from _____ are anticipated to be _____/the Bonds are not expected to be rated]. If certain conditions set forth in the Indenture are not satisfied, the Trustee shall not accept the Initial Credit Facility/Alternate Credit Facility.]
4. All Bonds should be presented to the Trustee at [_____].
5. Owners have no right to retain Bonds subject to mandatory tender. [The Bonds will be remarketed by [_____] as Remarketing Agent. Owners interested in repurchasing Bonds on the Credit Modification Date may contact the Remarketing Agent at [_____].]
6. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____

EXHIBIT F

NOTICE OF MANDATORY PURCHASE DATE

[Name and Address of Owner]

This Notice of Mandatory Purchase Date is delivered pursuant to that certain Indenture of Trust dated as of January 1, 2019 (the "Indenture"), between Wells Fargo Bank, National Association, as trustee (the "Trustee"), and Hutto Economic Development Corporation (the "Issuer"), relating to the Issuer's Revenue Bonds (Peripheral Investments, L.P. Project) Series 2019 (the "Bonds"). You are hereby notified that:

1. The undersigned Trustee is Trustee under the Indenture.
2. [The Borrower, with the consent of the [Remarketing Agent and the] Credit Provider, if any, has designated _____ as a Mandatory Purchase Date.] [The Purchaser has notified the Borrower that the Borrower is required to purchase the Bonds at the Purchase Price on a Direct Purchase Period Purchase Date. Under the terms of the Indenture, _____ has been designated as a Mandatory Purchase Date and Direct Purchase Period Purchase Date.] [The Credit Provider has notified the Trustee that an event of default under the Reimbursement Agreement has occurred and is continuing and has requested that the Bonds be required to be tendered for purchase. Under the terms of the Indenture, _____ has been designated as a Mandatory Purchase Date.] [The Purchaser has notified the Trustee that an event of default under the Continuing Covenant Agreement has occurred and is continuing and has requested that the Bonds be required to be tendered for purchase. Under the terms of the Indenture, _____ has been designated as a Mandatory Purchase Date.] The Bonds are subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture, on such date.
3. All Bonds should be presented to the Trustee at [_____].
4. Owners have no right to retain Bonds subject to mandatory tender. [The Bonds will be remarketed by [_____] as Remarketing Agent. Owners interested in repurchasing Bonds on the Mandatory Purchase Date may contact the Remarketing Agent at [_____].]
5. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By:_____

EXHIBIT G
FORM OF INVESTOR LETTER

[Date of Purchase]

[ADDRESSEES]

[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019

Ladies and Gentlemen:

[NAME OF PURCHASER] (“Purchaser”) has agreed to purchase the above-referenced bonds (the “Bonds”) in the amount of [AMOUNT] which were issued in the original aggregate principal amount of [\$10,000,000] by Hutto Economic Development Corporation (the “Issuer”) bearing the [Index Interest Rate] as set forth in the Indenture of Trust dated as of January 1, 2019 (the “Indenture”), between the Issuer and Wells Fargo Bank, National Association, as trustee (the “Trustee”). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Indenture. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds.
2. The Purchaser has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bonds.
3. The undersigned is a duly appointed, qualified and acting representative of the Purchaser and is authorized to cause the Purchaser to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Purchaser.
4. The Purchaser is (a) an affiliate of an Owner of the Bonds, (b) a trust or other custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of the beneficial interests in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “1933 Act”) or (c) a qualified institutional buyer that is a commercial bank having a combined capital and surplus of \$5,000,000,000 or more.

5. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Bonds. The Purchaser has made its own inquiry and analysis with respect to the Issuer, the Borrower, the Project, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds.

6. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the Borrower, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Borrower, the Project, the Bonds and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bonds.

7. The Purchaser understands that the Bonds (i) are not registered under the 1933 Act and are not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) are not listed on any stock or other securities exchange, and (iii) carry no rating from any credit rating agency.

8. The Bonds are being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Bonds in Authorized Denominations, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person:

(a) that is an affiliate of an Owner of the Bonds;

(b) that is a trust or other custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers; or

(c) that is a qualified institutional buyer that is a commercial bank having a combined capital and surplus of \$5,000,000,000 or more who executes an investor letter substantially in the form of this letter.

[PURCHASER]

By _____
Name _____
Title _____

EXHIBIT H
FORM OF
DIRECT PURCHASE PERIOD CONVERSION NOTICE

[DATE]

Wells Fargo Bank, National Association
1445 Ross Ave., Ste. 4300
Dallas, TX 75202
Attention: [_____]

[\$10,000,000]
HUTTO ECONOMIC DEVELOPMENT CORPORATION
REVENUE BONDS
(PERIPHERAL INVESTMENTS, L.P. PROJECT)
SERIES 2019

Ladies and Gentlemen:

Reference is hereby made to that:

- A. Indenture of Trust, dated as of January 1, 2019 (the “Indenture”), between Hutto Economic Development Corporation and Wells Fargo Bank, National Association, as Trustee;
- B. Loan Agreement dated as of January 1, 2019 (the “Agreement”), between the Issuer and Peripheral Investments, L.P. (the “Borrower”); and
- C. Continuing Covenant Agreement dated January __, 2019 (the “Continuing Covenant Agreement”) between the Borrower and Wells Fargo Bank, National Association, as Purchaser (the “Purchaser”).

All capitalized terms contained herein which are not specifically defined shall have the meanings assigned to such terms in the Indenture.

The Borrower hereby elects, pursuant to Section 2.04(b) of the Indenture, to change the Interest Rate Determination Method for the Bonds to a new Interest Rate Determination Method as follows:

- 1. Conversion Date: _____.
- 2. New Interest Rate Determination Method: [Index Interest Rate
Period][Medium-Term Rate Period][Fixed Rate Period].

[IF A FIXED RATE PERIOD IS SELECTED:

1. Term of Fixed Rate Period [to Maturity].
2. New Fixed Rate: _____.

[IF A MEDIUM-TERM RATE PERIOD IS SELECTED:

3. Term of new Direct Purchase Period: _____.
4. New Medium-Term Rate: _____.
5. New Direct Purchase Period Purchase Date _____.

[IF AN INDEX INTEREST RATE PERIOD IS SELECTED:

3. New Index Interest Rate: [LIBOR Index Rate] [SIFMA Index Rate].
4. New Direct Purchase Period Purchase Date: _____.
5. New Applicable Factor: _____%.
6. New Applicable Spread: _____ basis points (____%).

[IF FIXED RATE OR MEDIUM-TERM RATE IS SELECTED:

The redemption provisions for the Bonds while in the new Rate Period are as follows:

[INCLUDE OPTIONAL AND SINKING FUND PROVISIONS]

Please be advised that the Borrower is hereby appointing Wells Fargo Bank, National Association, having due regard for prevailing market conditions for bonds or other securities comparable as to tax treatment, credit and maturity to the Bonds, to serve as Market Agent for the sole and limited purpose of determining the number of basis points (i.e. the Applicable Spread), which when added to the [SIFMA Index][the product of the LIBOR Index multiplied by the Applicable Factor], would equal the minimum interest rate per annum that would enable the Bonds to be sold on the Conversion Date at a price of par (without regard to accrued interest, if any, thereon).

Very truly yours,

PERIPHERAL INVESTMENTS, L.P.

By _____
Name _____
Title _____

[Signature Page to Conversion Notice]

Wells Fargo Bank, National Association hereby (i) certifies that it is the Owner of 100% of the outstanding aggregate principal amount of the Bonds, and (ii) agrees, subject to the satisfaction all requirements of the Indenture, to purchase the Bonds in the new [Index Interest Rate Period] [Medium-Term Rate Period] [Fixed Rate Period] upon the foregoing terms on the Conversion Date. All capitalized terms contained herein which are not specifically defined shall have the meanings assigned to such terms in the foregoing Conversion Notice.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Purchaser

By _____
Name _____
Title _____

Dated: _____, 20 ____

[Signature Page to Conversion Notice]

Wells Fargo Bank, National Association hereby accepts its appointment to serve as Market Agent for the purposes set forth in the foregoing Conversion Notice. In the judgment of the Market Agent, having due regard for prevailing market conditions for bonds or other securities comparable as to tax treatment, credit and maturity to the Bonds, ____ basis points (i.e. the Applicable Spread), when added to the [SIFMA Index][the product of the LIBOR Index multiplied by the Applicable Factor], is the minimum interest rate per annum that would enable the Bonds to be sold on the Conversion Date at a price of par (without regard to accrued interest, if any, thereon). All capitalized terms contained herein which are not specifically defined shall have the meanings assigned to such terms in the foregoing Conversion Notice

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Market Agent

By _____
Name _____
Title _____

Dated: _____, 20____

[Signature page to Conversion Notice]

Wells Fargo Bank, National Association, as Trustee, hereby acknowledges and agrees to the terms of the foregoing Conversion Notice. All capitalized terms contained herein which are not specifically defined shall have the meanings assigned to such terms in the foregoing Conversion Notice.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By _____
Name _____
Title _____

Dated: _____, 2015

CITY OF HUTTO CITY COUNCIL AGENDA

AGENDA ITEM NO.: 11A. **AGENDA DATE:** January 17, 2019

PRESENTED BY: Lisa Brown, City Secretary

ITEM:

Consideration of and possible appointments to City Boards and Commissions, including the Economic Development Corporations.
(Lisa Brown)

STRATEGIC GUIDE POLICY: Quality of Life & Services

ITEM BACKGROUND:

On July 7, 2018, the City Council approved Ordinance 0-18-07-05-8B that changed the terms of service of the boards, commissions and corporation members to be realigned to match those of the council places and terms. Beginning July 1, 2018 new terms will expire on June 30, of the corresponding Council Member term. Transition to new terms for current board and commission members can be reappointed to the new terms based on the new expiration terms, or new appointments can be recommended during a council meeting in July. All current board and commission members have been assigned Place numbers to coincide with existing council members. On June 20, 2018, the Council re-appointed all seated board members to terms aligned with the corresponding member term.

There are several seats on the boards and commissions that were created as a result of the ordinance in July that need to be filled. Additionally, there are some board and commission members who have been reappointed that do not wish to continue past the expiration of their original term and intend to resign their position at that time.

BUDGETARY AND FINANCIAL SUMMARY:

Not applicable.

RELATED COUNCIL COMMITTEE OR ADVISORY BOARD RECOMMENDATIONS:

Not applicable.

CITY ATTORNEY REVIEW:

Not applicable

STAFF RECOMMENDATION:

Not applicable.

SUPPORTING MATERIAL:

1. [Board Spreadsheet](#)

Boards and Commissions Master Transition

Council Member Place 1	Scott Rose	May-20
Council Member Place 2	Tom Hines	May-21
Council Member Place 3	Nate Killough	May-19
Council Member Place 4	Tim Jordan	May-20
Council Member Place 5	Patti Turner	May-21
Council Member Place 6	Terri Grimm	May-19
Mayor (Place 7)	Doug Gaul	May-19

* Newly Appointed
* Re-appointed
* Vacant
** Plans to resign Dec 2018

*All Boards and Commissions terms Realigned for appointment in June
Terms Run 7/1 to 6/30 unless otherwise indicated*

Last update: **1/8/2019**

Planning & Zoning Commission								
Meets: 1st Tuesday @ 7:00pm of each month in the City Council Chamber								
2 yr Terms Per Charter								
Liaison - Ashley Lumpkin								
Approved					Term	Term	Phone	Email Address
20-Sep	Place 1	Davey	Robinson	Vice-Chair	Dec-19	June-20	512-635-0169	davey.robinson@austin.rr.com
6-Dec	Place 2	Randal	Clark	Commissioner	Dec-18	June-20	512-876-3277	texas30@gmail.com
20-Sep	Place 3	Jessica	Romigh	Chair	Dec-19	June-19	512-906-9453	jessicaromigh@gmail.com
20-Sep	Place 4	Michael	Orman	Commissioner	Dec-18	June-20	512-636-8521	MikeOrmanPBC@orman.us
2-Aug	Place 5	Richard	Hudson	Commissioner	Dec-18	June-20	562-841-2145	sfchudson@gmail.com
20-Sep	Place 6	Tony	Wertz	Commissioner	Dec-19	June-19	512-785-3242	awertz1952@yahoo.com
2-Aug	Place 7	Lori	Ortiz	Commissioner	Dec-18	June-19	512-203-6813	lori.ortiz@austin.rr.com
Parks Advisory Board								
Meets: 2nd Wednesday @ 7:00pm of each month in the City Council Chamber								
Liaison - Shane Mize								
Approved					Term	Term		
20-Sep	Place 1	Katie	Weiss	Member	Dec-18	June-20	512-619-7099	katieweiss95@gmail.com
20-Sep	Place 2	Michael	Orman	Member	Dec-20	June-21	512-636-8521	MikeOrmanPBC@orman.us
20-Sep	Place 3	Dana	Lively	Member	Dec-20	June-19	713-824-7337	danaklively@gmail.com
jan 3 2019	Place 4	Julia	Cooper	Member	Dec-19	June-20	512-636-4602	juliakcooper@gmail.com
20-Sep	Place 5	Kelly	Gaydos	Chair	Dec-20	June-21	512-658-4033	kelly_gaydos@yahoo.com
6-Sep	Place 6	Rose	McMillin	Member	Dec-20	June-19	512-656-8486	rosemcmillin@yahoo.com
2-Aug	Place 7	Perry	Savard	Vice Chair	Dec-19	June-19	512-560-1133	pmsstreetglide@gmail.com
Library Advisory Board								
Meets: Quarterly @ 6:00pm of each month in the City Council Chamber								
Liaison - Eliska Padilla								
Approved					Term	Term		
20-Sep	Place 1	David	Westbrook	Member	Dec-20	June-20	602-300-0735	dianboase@gmail.com
20-Sep	Place 2	Dwight	Baker	Chair	Dec-20	June-21	714-585-3713	baker1640@sbcglobal.net
20-Sep	Place 3	Tara	Chappell	Vice Chair	Dec-20	June-19	512-914-2011	tchappell08@gmail.com
20-Sep	Place 4	Kathi	Shilling	Member	Dec-20	June-20	214-676-4565	kshilling873@gmail.com
	Place 5	Vacant		Member	Dec-18	June-21		
6-Sep	Place 6	Patricia	Elsasser	Member	Dec-20	June-19	512-317-0306	elsasserpatricia@yahoo.com
1-Nov	Place 7	Lori	Ortiz	Member		June-19	512-203-6813	lori.ortiz@austin.rr.com
Zoning Board of Adjustments								
Meets: 4th Wednesday @ 7:00pm of each month in the City Council Chamber								
Liaison - Ashby Grundman								
Approved					Term	Term		
	Place 1	Vacant			Dec-18	June-20		
20-Sep	Place 2	Thomas	McGowan	Member	Dec-20	June-21	512-516-3968	tmmcgowan@yahoo.com
20-Sep	Place 3	Randal	Clark	Member	Dec-20	June-19	512-876-3277	texas30@gmail.com
	Place 4	Vacant		Member	Dec-20	June-20		
	Place 5	Vacant		Member		June-21		
6-Sep	Place 6	Maureen	Rooker	Member	Dec-19	June-19	512-789-2210	MaureenRooker@remax.net
2-Aug	Place 7	Dana	Lively	Member	Dec-20	June-19	713-824-7337	danaklively@gmail.com

Historic Preservation Commission								
Meets: 4th Tuesday @ 6:00pm of each month in the City Council Chamber								
Liaison - John Bynum								
Approved					Term	Term		
	Place 1	Vacant		Commissioner	Dec-18	June-20		
2-Aug	Place 2	Mary	Belton	Commissioner	Dec-18	June-21	951-218-3235	meb2745@gmail.com
20-Sep	Place 3	Curtis	Orton	Commissioner	Dec-18	June-19	512-689-8759	curtisorton3@gmail.com
20-Sep	Place 4	Robert	Lykins	Commissioner	Dec-19	June-20	512-788-3978	rlykins4066@yahoo.com
	Place 5	Vacant		Commissioner	Dec-19	June-21		
19-Jul	Place 6	Travis	Allen	Commissioner		June-19	512-740-4831	travallenman@yahoo.com
	Place 7	Vacant		Commissioner		June-19		
Building and Standards Commission								
Meets: As Needed in the City Council Chamber								
Liaison - Bryan Surgi								
Approved					Term	Term		
jan 3 2019	Place 1	Troy	Manella	Commissioner	Dec-19	June-20	512-785-3561	troy737@gmail.com
20-Sep	Place 2	Olinda	Ramirez	Commissioner	Dec-19	June-21	972-974-7712	olinda.ramirez1982@gmail.com
2-Aug	Place 3	Kendrick	Whittington	Commissioner		June-19	512-426-9688	kendrick@nexlegacyconstruction.com
20-Sep	Place 4	Vacant			Dec-18	June-20		
20-Sep	Place 5	Tom	Brown	Commissioner	Dec-18	June-21	256-473-3128	tjandsjbrown@att.net
16-Aug	Place 6	Maureen	Rooker	Commissioner	Dec-18	June-19	512-789-2210	MaureenRooker@remax.net
20-Sep	Place 7	Richard	Hudson	Commissioner	Dec-19	June-19	552-841-2145	sfchudson@gmail.com
Ethics Review Commission								
Meets: As Needed in the City Council Chamber (at least once a year)								
Liaison - Lisa Brown								
Approved					Term	Term		
20-Sep	Place 1	Craig	Cargill	Member	Dec-19	June-20	512-638-3214	craig.cargill@gmail.com
20-Sep	Place 2	Lori	Brown-Duncan	Member	Dec-19	June-21	512-426-9380	loribd216@aol.com
20-Sep	Place 3	Larry	Straughn	Vice Chair	Dec-19	June-19	512-876-1590	olin.straughn@huttoisd.net
20-Sep	Place 4	Russell	Daniel	Chair	Dec-19	June-20	512-626-7873	russelldaniel7@gmail.com
20-Sep	Place 5	Dana	Lively	Member	Dec-19	June-21	713-824-7337	danaklively@gmail.com
2-Aug	Place 6	April	Willis	Member		June-19	817-996-8197	aprilacm@gmail.com
	Place 7	Vacant		Member		June-19		
Economic Development Corporation								
Meets: 1st Monday @ 6:00pm of each month in the City Council Chamber								
Liaison - Jessica Bullock								
Approved					Current Term	Proposed Term		
20-Sep	Place 1	Nelson	Nagle	Treasurer	Oct-19	June-20	512-426-2025	nelson.nagle@huttotx.gov
13-Dec	Place 2	Doug	Gaul	Member	Oct-19	June-21	512-413-4370	doug.gaul@huttotx.gov
20-Sep	Place 3	Dan	Thornton	Vice Chair	Oct-19	June-19	512-529-4213	dan.thornton@huttotx.gov
13-Dec	Place 4	Scott	Rose		Oct-19	June-20	254-206-0889	scott.rose@huttotx.gov
20-Sep	Place 5	Vacant		Member	Oct-19	June-21		
20-Sep	Place 6	Greg	Braun	Member	Oct-19	June-19	512-299-0188	greg.braun@huttotx.gov
19-Jul	Place 7	Steve	Harris	Chair	Oct-19	June-19	254-498-2224	Steven.Harris@huttotx.gov