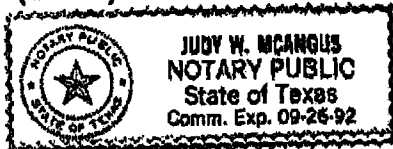


THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 26th  
day of February, 1990, by Robert M. Tiemann, as  
President of NORTHTOWN MUNICIPAL  
UTILITY DISTRICT NO. 1, a municipal utility district, on behalf of  
said district.

(SEAL)



Judy W. McAngus  
Notary Public, State of Texas

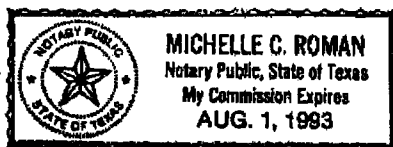
Typed/Printed Name of Notary

My Commission Expires:

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 19th  
day of March, 1990, by Bill Milburn, as President of  
Bill Milburn, Inc., a Texas corporation, on behalf of said  
corporation.

(SEAL)



Michelle C. Roman  
Notary Public, State of Texas

Typed/Printed Name of Notary

My Commission Expires:

5114

APPROVED AS TO FORM:

John M. Feenichy  
ASSISTANT CITY ATTORNEY

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this, the 16<sup>th</sup> day of April, 1990, by Byron C. Marshall, as Assistant City Manager of CITY OF AUSTIN, Texas, a municipal corporation, on behalf of said municipal corporation.

(SEAL)



Lucile Mokry  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary

My Commission Expires: \_\_\_\_\_

5114

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CLERK & DISTRICTS  
SECTION

#6

SECOND AMENDMENT TO THE AGREEMENT  
CONCERNING CREATION AND OPERATION OF  
NORTHTOWN MUNICIPAL UTILITY DISTRICT

THE STATE OF TEXAS           §  
                                  § KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS           §

THAT this Amendment Agreement is made and entered into as of the 1st day of December, 1993, by and among the City of Austin, Texas ("City"), a home rule city, located in Travis County, Texas, acting herein by and through its undersigned duly authorized City Manager, as authorized by specific action of its City Council; Northtown Municipal Utility District ("District") a political subdivision of the State of Texas; created and operating pursuant to Chapters 50 and 54 of the Texas Water Code; and Milburn Investments, Inc. (hereinafter referred to as "MII").

R E C I T A L S

WHEREAS, the District, the City and MII's predecessor, Pflugerville Joint Venture entered into that certain "Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1" (the "Consent Agreement") which provided for, among other things, the provision of water and wastewater utility services and financing for system improvements for same;

WHEREAS, the District, the City and MII's predecessor, Bill Milburn, Inc. entered into that certain "First Amendment To The Agreement Concerning Creation and Operation of Northtown Municipal Utility District (the "Amendment") to delete that certain requirement that the District collect from each customer of the District a special water and sewer rate before annexation in addition to normal water and wastewater rates;

WHEREAS, the District, the City and MII's predecessor, Pflugerville Joint Venture, entered into that certain "Utility Construction Contract Between the City of Austin and Northtown Municipal Utility District No. 1" (the "Utility Construction Contract"); and

WHEREAS, the District, the City and MII's predecessor, Pflugerville Joint Venture, entered into that certain First Amendment To The Utility Construction Contract Between The City of Austin and Northtown Municipal Utility District on April 16, 1990 (the "First Amendment To Utility Construction Contract");

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth, the City, the District, and MII agree to amend the Consent Agreement in the following regards:

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UTILITIES & MISC. C'S  
SECTION

## ARTICLE I

- A. Article V is amended by adding the following Section D:

"As used in this Consent Agreement, the term "developer" shall mean any person who owns land located in the District and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks, or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. In order to assure the orderly development of lands within the District, to apply uniform standards to all developers within the District, to protect and to preserve the integrity of the land use plan which is the basis for the determination of the water, sewer, and drainage service requirements within the District, the City and the District acknowledge and agree as follows:

1. Prior to agreeing to accept water, sewer, and drainage facilities for operation and maintenance, or agreeing to provide water or sewer services to a new subdivision, the District will require that the developer whose property is being served by those facilities will execute an agreement containing substantially the same requirements as those imposed under this Consent Agreement, as amended, and that such agreement shall be formalized and recorded as a deed restriction which runs with the land.

2. Prior to granting approval of a subdivision plat of the property within the District, the City shall request the developer or owner of the property within the proposed subdivision to produce documentation that the developer has entered into the agreement with District as referenced in the above-referenced paragraph."

## ARTICLE II

- A. Article XII, Section E is hereby deleted in its entirety.

- B. Article XII, Section F1 shall be and is hereby amended by deleting the second, third and fourth sentences in their entirety and by revising the last sentence, which reads as follows:

"The District and the Director of the City's Parks and Recreation Department shall agree on the exact location and configuration of the parkland to be so dedicated."

- C. Article XII, Section F1 shall be and is hereby amended by adding a new paragraph that follows the words "parkland to be so dedicated", which reads as follows:

"MII shall have no obligation to donate parkland if, prior to the receipt of proceeds from the District's first bond issue, MII dedicates to the District the parkland designated on the Land Plan which is owned by MII and pays to the District a sum of \$80,400.00. MII specifically agrees that it will not utilize bond proceeds to any extent to fund this contribution. The parties hereby acknowledge and agree that the District has on all dwelling units receiving water and sewer taps after November 23, 1992 the right, to the extent authorized by applicable law, to impose a \$300 fee at the time the water and sewer tap is made, and that the District shall have discretion to utilize the proceeds from the fee to acquire and improve parks, open space and property for reclamation. If this fee is ever struck down by a court, then park development funds will be paid to the District by the developer at the time of each District bond sale, wherein the recipients of the bond proceeds will donate an amount equivalent to 15% of the total bond issue, until a total donation of \$1,770,000 is received by the District."

- D. Article XII, Section I is hereby added and reads as follows:

"Should MII purchase and develop additional land over and above that currently owned by MII, then such land will be subject to the Land Plan referenced in Exhibit "G" to the Consent Agreement and all other provisions of the Consent Agreement."

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UTAH COUNTY CLERK  
COUNTY

- E. Article XII, Section J is hereby added and reads as follows:

"Before a developer may obtain final plat approval for any land within the District, the developer ~~must dedicate to the District all parkland, school sites and fire station sites shown on the land plan to be on any portion of the developer's land situated in the District.~~"

- F. Article XII, Section K is hereby added and reads as follows:

"Nothing in this section shall affect MII's obligation under Article XII, Section D of the Consent Agreement which shall remain in force and effect."

- G. Article XII, Section G shall be deleted in its entirety. ✓

- H. The Land Plan attached hereto as Exhibit "G" is hereby substituted for the original Land Plan attached as Exhibit "G" to the Consent Agreement. All references to Land Plan after the date of this Second Amendment shall refer to the revised Land Plan.

### ARTICLE III

Except as otherwise expressly provided herein, all other provisions of the Consent Agreement, as amended to the date hereof, shall be and remain in full force and effect as written.

EXECUTED, in multiple copies, each of which shall constitute an original, this 1st day of December, 1993.

ATTEST:

CITY OF AUSTIN, TEXAS

By: James E. Aldridge  
James E. Aldridge  
City Clerk

By: Don H. Rodriguez J.K. JMT  
Title: Administrator for Dev. Services  
Executed on 12-1, 19 93

ATTEST:

By: Cheryl Mize  
Secretary  
Board of Directors

NORTHTOWN MUNICIPAL UTILITY  
DISTRICT

By: Texana Kowis  
Texana Kowis  
President  
Board of Directors

Executed on 11-22, 19 93

MILBURN INVESTMENTS, INC.

By: [Signature]

Executed on 11-17, 19 93

4:20:44.006

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DEC 12 2013  
MILBURN INVESTMENTS

THE STATE OF TEXAS

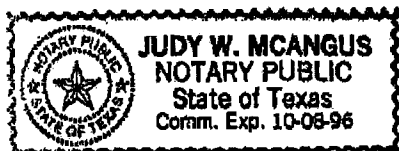
§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on this the 20th day of November, 19 93, by Texana Kowis, as President of NORTHTOWN MUNICIPAL UTILITY DISTRICT, a municipal utility district, on behalf of said district.

(SEAL)



Judy W. McAngus  
Notary Public, State of Texas

Judy W. McAngus  
Typed/Printed Name of Notary

My Commission Expires:

10-08-96

THE STATE OF TEXAS

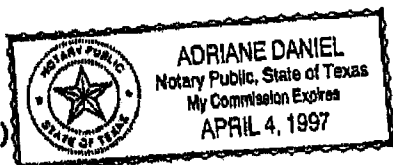
§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on this the 17th day of November, 19 93, by Joseph A. D. Quinonez, as Vice President of MILBURN INVESTMENTS, INC., a Texas corporation, on behalf of said corporation.

(SEAL)



Adriane Daniel  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary

My Commission Expires:



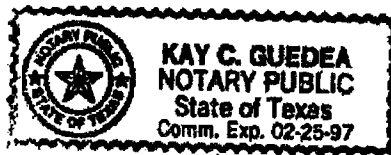
APPROVED AS TO FORM:

John F. Ramirez  
Assistant City Attorney

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the 1<sup>st</sup>  
day of December, 1993, by OSCAR S. RODRIGUEZ, as  
Administrator of Development Services CITY OF AUSTIN, a Texas municipal  
corporation, on behalf of said municipal corporation.

(SEAL)



Kay C. Guedea  
Notary Public, State of Texas  
KAY C. Guedea  
Typed/Printed Name of Notary

My Commission Expires:

02/25/97

4:20:01(4).006

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UTILITIES & DISTRICTS  
SECTION

**THIRD AMENDMENT TO THE AGREEMENT CONCERNING  
CREATION AND OPERATION OF  
NORTHTOWN MUNICIPAL UTILITY DISTRICT NO. 1**

STATE OF TEXAS           §  
                                  §  
COUNTY OF TRAVIS       §

THIS THIRD AMENDMENT AGREEMENT is made by and between the City of Austin ("City"), a Texas municipal corporation and a home rule city located in Travis County, Texas; Northtown Municipal Utility District No. 1 ("District"), a political subdivision of the State of Texas, created and operating pursuant to Chapters 50 and 54 of the Texas Water Code; and ~~EMM~~ Milburn Investments, Inc. ("MII"), a subsequent holder of title to land within the District.

WHEREAS, the District, the City, and MII or its predecessor in interest have previously entered into that certain "Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1" dated October 18, 1984 ("Consent Agreement"), and subsequent amendments thereto, setting forth, among other things, the terms and conditions for the provision of water and wastewater utility service to the District and for the financing of system improvements for same; and

WHEREAS, the City, the District, and MII now desire to further amend the Consent Agreement to delete the prohibition against District utility rates that are less than the rates charged by the City for comparable customers within the City;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements set forth below, the City and the District hereby agree to amend the Consent Agreement as follows:

Section 1.       Article III, Section C.1. is deleted in its entirety.

Section 2.       Article III, Section C.2. is renumbered as Article III, Section C.1.

Section 3.       Article III, Section C.3. is hereby renumbered as Article III, Section C.2.

Section 4.       Article IV, Section B.1. is hereby deleted in its entirety.

Section 5.       Article IV, Section B.3. is renumbered as Article IV, Section B.

Section 6.       Except as otherwise expressly provided herein and in the previous amendments to the Consent Agreement, all terms

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UTILITIES & DISTRICTS  
SECTION

and provisions of the Consent Agreement shall remain in full force and effect.

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective upon due execution by the authorized representative of each party.

APPROVED AS TO FORM:

CITY OF AUSTIN, TEXAS

By: *Robert Thomas*  
Assistant City Attorney

By: *J. Smith*  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: 11/30/94

APPROVED AS TO FORM:

NORTHTOWN MUNICIPAL  
UTILITY DISTRICT NO. 1

By: \_\_\_\_\_

By: *Texana Kowis*  
Texana Kowis, President  
Board of Directors  
Date: 10-17-94

~~BILL~~ MILBURN INVESTMENTS, INC.

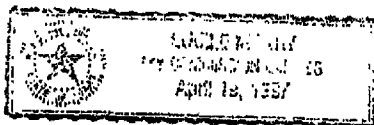
By: *Jeffrey Milburn*  
Name: Jeffrey Milburn  
Title: Vice President  
Date: 11/16/94

northtown3.amd  
/la wp3.2

THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

This Third Amendment to the Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1 was acknowledged before me on this 30<sup>th</sup> day of November, 1994 by Jim Smith, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.

Lucile Moberg  
Notary Public, State of Texas

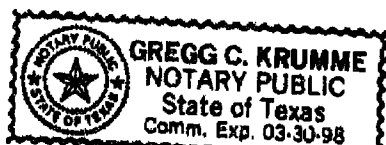


Typed/Printed Name of Notary

My Commission Expires:

THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

This Third Amendment to the Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1 was acknowledged before me on this 17<sup>th</sup> day of October, 1994, by Texana Kowis, President of the Board of Directors of Northtown Municipal Utility District No. 1, a political subdivision of the State of Texas, on behalf of said political subdivision.



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UTILITIES & ...  
SECTION

Gregg C. Krumme  
Notary Public, State of Texas

Typed/Print Name of Notary

My Commission Expires:

THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

This Third Amendment to the Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1 was acknowledged before me on this 11th day of November, 1994, by TERRY S. MITCHELL, Vice President of ~~Bill~~ Milburn Investments, Inc., on behalf of said corporation.



Richard E. Yack  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Print Name of Notary

My Commission Expires:  
\_\_\_\_\_

FOURTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND  
OPERATION OF NORTHTOWN MUNICIPAL UTILITY DISTRICT

THE STATE OF TEXAS

)

KNOW ALL BY THESE PRESENTS:

COUNTY OF TRAVIS )

THIS FOURTH AMENDMENT AGREEMENT is made by and between the City of Austin, a Texas municipal corporation ("City"), and Northtown Municipal Utility District, a political subdivision of the State of Texas created and operating as a municipal utility district pursuant to Chapters 54 and 49, Texas Water Code (the "District").

WHEREAS, by and through its adoption of Ordinance No. 840503-0, the Austin City Council granted its consent to the creation of Northtown Municipal Utility District and authorized execution of that certain "Agreement Concerning Creation and Operation of Northtown Municipal Utility District setting forth terms and conditions for creation and operation of the District; and

WHEREAS, the "Agreement Concerning Creation and Operation of Northtown Municipal Utility District was executed by and between the City, the District and Pflugerville Joint Venture, a Texas joint venture comprised of Bill Milburn, Inc. and William T. Gunn, on or about October 18, 1984; and

WHEREAS, the Consent Agreement was amended by that certain "First Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District executed on or about April 16, 1990; by that certain "Second Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about December 1, 1993; by that certain "Third Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about November 30, 1994 (the Consent Agreement, as modified by the First Amendment, Second Amendment and Third Amendment being hereinafter referred to as the "Consent Agreement"); and

WHEREAS, the District has proposed the amendment of the approved Land Plan for the District to modify the designated land use for a certain 15.6 acre tract within the District now owned by the Harken Partnership from retail use to industrial use and to modify the street layout within the described 15.6 acre tract; and

WHEREAS, all involved City departments have reviewed the proposed modification of the Land Plan and have no objections to the same;

NOW, THEREFORE, the City and the District hereby agree as follows:

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SECTION

ARTICLE I  
AMENDMENT OF MUD LAND PLAN

1.01. The Consent Agreement is hereby amended by substituting the Land Plan attached to this Fourth Amendment as Exhibit "G" in place of the Land Plan currently attached to the Consent Agreement as Exhibit "G."

1.02. All references to the Land Plan after the date of this Fourth Amendment shall refer to the revised Land Plan.

ARTICLE II  
GENERAL PROVISIONS

2.01. Except as provided above, all other provisions of the Consent Agreement shall remain in force and effect as written.

2.02. This Fourth Amendment may be executed in duplicate originals each of equal dignity.

2.03. This Fourth Amendment shall be effective from and after the date of execution by the authorized representatives of the District and the City.

IN WITNESS WHEREOF, this Fourth Amendment is executed by the authorized representatives of the District and the City on the date(s) shown below.

ATTEST:

CITY OF AUSTIN, TEXAS:

*Betty A. Aldridge, Deputy*  
James E. Aldridge  
City Clerk

By: *Toby Hammett Futrell*  
Name: Toby Hammett Futrell  
Title: Assistant City Manager  
Date: August 25, 1997

ATTEST:

NORTHTOWN MUNICIPAL UTILITY  
DISTRICT:

*Patricia Rhodes*  
Secretary,  
Board of Directors

By:

*Texana Kowis*

Name:

Texana Kowis

Title:

President, Board of Directors

Date:

7/27/97

THE STATE OF TEXAS )

COUNTY OF TRAVIS )

THIS INSTRUMENT was acknowledged before me on this 25 day of August, 1997, by Toby Futrell, as Asst. City Mgr. of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.

*Doris L. Anderson*  
Notary Public, State of Texas



AGUILE.  
PUBLI  
Texas

Printed/Typed Name of Notary

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS )

COUNTY OF TRAVIS )

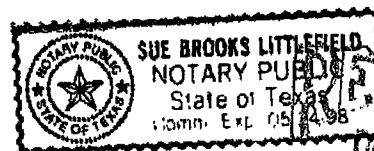
THIS INSTRUMENT was acknowledged before me on this 28<sup>th</sup> day of July, 1997, by Texana Kowis, as President of the Board of Directors of Northtown Municipal Utility District, a conservation and reclamation district of the State of Texas, on behalf of said district.

*Sue Brooks Littlefield*  
Notary Public, State of Texas

Printed/Typed Name of Notary

My Commission Expires: \_\_\_\_\_

JMT/jmt



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UTILITIES & DISTRICTS  
SECTION



**EXHIBIT "G"**  
**(Exhibit "A")**

A copy of the Land Plan is available in the District records.

**FIFTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND  
OPERATION OF NORTHTOWN MUNICIPAL UTILITY DISTRICT**

THE STATE OF TEXAS                                 )  
  )  
COUNTY OF TRAVIS                                 )       **KNOW ALL BY THESE PRESENTS:**

**THIS FIFTH AMENDMENT AGREEMENT** is made by and between the City of Austin, a Texas municipal corporation ("City"), and Northtown Municipal Utility District, a political subdivision of the State of Texas created and operating as a municipal utility district pursuant to Chapters 54 and 49, Texas Water Code (the "District").

**WHEREAS,** by and through its adoption of Ordinance No. 840503-0, the Austin City Council granted its consent to the creation of Northtown Municipal Utility District and authorized execution of that certain "Agreement Concerning Creation and Operation of Northtown Municipal Utility District" setting forth terms and conditions for creation and operation of the District; and

**WHEREAS,** the "Agreement Concerning Creation and Operation of Northtown Municipal Utility District" was executed by and between the City, the District and Pflugerville Joint Venture, a Texas joint venture comprised of Bill Milburn, Inc. and William T. Gunn, on or about October 18, 1984; and

**WHEREAS,** the Consent Agreement was amended by that certain "First Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about April 16, 1990; by that certain "Second Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about December 1, 1993; by that certain "Third Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about November 30, 1994; and by that certain "Fourth Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about August 25, 1997 (the Consent Agreement, as modified by the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment being hereinafter referred to as the "Consent Agreement"); and

**WHEREAS,** the District has proposed the amendment of the approved Land Plan for the District to modify the designated land use for a certain 52.2 acre tract within the District now owned by Howard Lane, L.P. from industrial use to multi-family use; and

**WHEREAS,** all involved City departments have reviewed the proposed modification of the Land Plan and have no objections to the same;

**NOW, THEREFORE,** the City and the District hereby agree as follows:

**ARTICLE I  
AMENDMENT OF MUD LAND PLAN**

**1.01.** The Consent Agreement is hereby amended by substituting the Land Plan attached to this Fifth Amendment as Exhibit G in place of the Land Plan currently attached to the Consent Agreement as Exhibit G.

**1.02.** All references to the Land Plan after the date of this Fifth Amendment shall refer to the revised Land Plan.

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**UTILITIES & DISTRICTS  
SECTION**

**ARTICLE II  
GENERAL PROVISIONS**

2.01. Except as provided above, all other provisions of the Consent Agreement shall remain in force and effect as written.

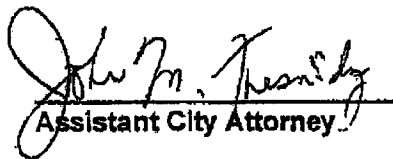
2.02. This Fifth Amendment may be executed in duplicate originals each of equal dignity.

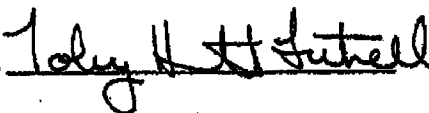
2.03. This Fifth Amendment shall be effective from and after the date of execution by the authorized representatives of the District and the City.

IN WITNESS WHEREOF, this Fifth Amendment is executed by the authorized representatives of the District and the City on the date(s) shown below.

APPROVED AS TO FORM:

CITY OF AUSTIN, TEXAS:

  
Assistant City Attorney

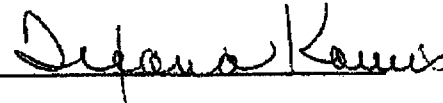
By: 

Date: 2/23/00

ATTEST:

NORTHTOWN MUNICIPAL UTILITY  
DISTRICT:

  
Board Secretary

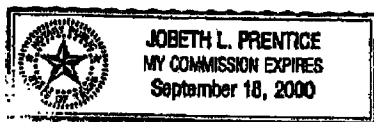
By: 

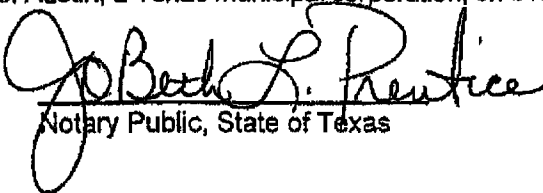
Date: February 21, 2000

THE STATE OF TEXAS )

COUNTY OF TRAVIS )

THIS INSTRUMENT was acknowledged before me on 23rd, 2000, by Toby Hammett Futrell, Assistant City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.



  
Notary Public, State of Texas

Printed/Typed Name of Notary

My Commission Expires: 9/18/00

THE STATE OF TEXAS )

COUNTY OF TRAVIS )

THIS INSTRUMENT was acknowledged before me on February 21, 2000, by Teanna Lewis,  
President of the Board of Directors of Northtown Municipal Utility District, a  
conservation and reclamation district of the State of Texas, on behalf of said district.

Sue Brooks Little

Notary Public, State of Texas

Printed/Typed Name of Notary

My Commission Expires: \_\_\_\_\_



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UTILITIES & DISTRICTS  
SECTION

**EXHIBIT "G"**

**Revised Land Plan**

**SIXTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND  
OPERATION OF NORTHTOWN MUNICIPAL UTILITY DISTRICT**

THE STATE OF TEXAS   §  
                                  §       **KNOW ALL PERSONS BY THESE PRESENTS:**  
COUNTY OF TRAVIS     §

**THIS SIXTH AMENDMENT TO AGREEMENT** is made by and between the City of Austin, a Texas municipal corporation ("City"), and Northtown Municipal Utility District, a political subdivision of the State of Texas created and operating as a municipal utility district pursuant to Chapters 54 and 49, Texas Water Code (the "District").

**WHEREAS**, by and through its adoption of Ordinance No. 840503-0, the Austin City Council granted its consent to the creation of Northtown Municipal Utility District and authorized execution of that certain "Agreement Concerning Creation and Operation of Northtown Municipal Utility District" setting forth terms and conditions for creation and operation of the District; and

**WHEREAS**, the "Agreement Concerning Creation and Operation of Northtown Municipal Utility District" was executed by and between the City, the District and Pflugerville Joint Venture, a Texas joint venture comprised of Bill Milburn, Inc. and William T. Gunn, on or about October 18, 1984; and

**WHEREAS**, the Consent Agreement was amended by that certain "First Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about April 16, 1990; by that certain "Second Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about December 1, 1993; by that certain "Third Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about November 30, 1994; by that certain "Fourth Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about August 25, 1997; and by that certain "Fifth Amendment to Agreement Concerning Creation and Operation of Northtown Municipal Utility District" executed on or about February 23, 2000 (the Consent Agreement, as modified by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment being hereinafter referred to as the "Consent Agreement"); and

**WHEREAS**, the District has proposed the amendment of the approved Land Plan for the District (i) to modify the designated land use for those certain 271.148 acre and 26.221 acre tracts within the District which are currently owned by Village @ Northtown, Ltd., and (ii) to modify the designated land use for that certain 29.551 acre tract within the District which is currently owned by Jeffersindershan, Ltd., said tracts being respectively described by Attachment 1, Attachment 2, and Attachment 3 to this Sixth Amendment; and

**WHEREAS**, the District has further proposed the amendment of the approved Land Plan for the District to make the roadway system reflected thereon consistent with current regional roadway plans; and

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UTILITIES & DISTRICTS  
SECTION

**WHEREAS**, the District has further proposed certain text amendments to the Consent Agreement which are set forth below; and

**WHEREAS**, the relevant City departments, boards and commissions have reviewed the proposed modifications of the Land Plan and the proposed Consent Agreement text amendments and have no objections to same;

**NOW, THEREFORE**, the City and the District hereby agree as follows:

**ARTICLE I  
AMENDMENT OF MUD LAND PLAN**

**1.01** The Consent Agreement is hereby amended by substituting the Land Plan attached to this Sixth Amendment as Exhibit "G" in place of the Land Plan currently attached to the Consent Agreement as Exhibit "G".

**1.02** All references to the Land Plan after the date of this Sixth Amendment shall refer to the revised Land Plan.

**ARTICLE II  
AMENDMENT OF TEXT OF CONSENT AGREEMENT**

**2.01** The Consent Agreement is hereby amended by adding a new Section L to Article XII which shall read as follows:

- L. With regard to those certain 271.148 acre, 26.221 acre and 29.551 acre tracts of land within the District which are respectively described by metes and bounds in Attachment 1, Attachment 2 and Attachment 3 hereto (all of which tracts are collectively referred to hereinafter as the "Village at Northtown Property"), the following standards and procedures shall govern the City's consideration of requested amendments to the Land Plan, notwithstanding anything else in this Consent Agreement, or on the Land Plan, or in the notes on the Land Plan which may be in conflict with these standards and procedures:
  - 1. The areas of the Village at Northtown Property which are designated on the Land Plan for residential uses, including the multi-family and single-family attached areas, shall collectively be limited to a maximum of 4,399 residential dwelling units.
  - 2. Subject to the overall cap on the number of residential dwelling units set forth in Subsection L.1. above, the total number of multi-family dwelling units on the Village at Northtown Property

may not exceed the product of the gross acres of the Village at Northtown Property designated for multifamily use on the Land Plan times 22 units per acre (the term "multifamily" being understood and agreed to be the equivalent of those types of residential uses permitted in the various MF Multifamily Residence District zoning classifications under the Austin City Code as of the date hereof).

3. Subject to the overall cap on the number of residential dwelling units set forth in Subsection L.1.above, the total number of single-family attached dwelling units on the Village at Northtown Property may not exceed the product of the gross acres of the Village at Northtown Property designated for single-family attached use on the Land Plan times 14 units per acre (the term "single-family attached" being understood and agreed to be the equivalent of those types of residential uses permitted in the SF-5 Urban Family Residence District and SF-6 Townhouse and Condominium Residence District zoning classifications under the Austin City Code as of the date hereof).
4. Amendments to that part of the Land Plan which includes the Village at Northtown Property shall be approved on behalf of the City administratively by the Director of the Neighborhood Planning and Zoning Department (or such other City department which shall succeed to its duties) provided that the proposed amendment:
  - a. has been approved by the Board of Directors of the District, such approval to be evidenced by resolution or order duly adopted in an open meeting, which includes a finding that water and wastewater utility capacity and facilities are or will be available to serve the areas affected by the proposed amendment;
  - b. does not include a land use type that is more intense than the existing permitted uses on the Village at Northtown Property;



- c. does not amend a site development regulation applicable to the Village at Northtown Property;
  - d. does not increase the intensity of a land use which is adjacent to other land used, platted or designated on the Land Plan for detached single-family residential purposes;
  - e. does not amend a condition of approval of the Consent Agreement;
  - f. does not increase land use intensity or density in an area of the Village at Northtown Property without decreasing land use intensity or density, as the case may be, an equivalent amount in another area of the Village at Northtown Property;
  - g. does not shift development intensity in a manner that results in an "E" or "F" level of service on a roadway segment or intersection within the District.
- 5. Applications for amendments to the Land Plan which do not meet the criteria for administrative approval by the City as set forth above must be approved by the City Council, after recommendation by the City Zoning and Platting Commission.
  - 6. Except to the extent in conflict herewith, the application requirements and procedures for Land Plan amendments set forth in the Austin City Code, as amended from time to time, shall apply.

**2.02 Article XII, Subsection F.2.a. of the Consent Agreement is amended to read hereafter as follows:**

- a. The fire station site shown on the Land Plan attached hereto as Exhibit "G" shall be dedicated to the Travis County Emergency Services District No. 2 ("ESD") concurrently with the approval of a final subdivision plat containing the fire station site, or at such earlier time as the ESD may make a written request for such dedication to the owner of the land shown as the fire station site. The instrument of dedication to the ESD shall (i) restrict the use of the dedicated site to a fire station / emergency services facility

by language reasonably acceptable to the ESD and the City, and (ii) require the ESD to convey the land within the fire station site to the City for \$1.00 at such time as the City assumes the responsibility for fire fighting services within the District, provided that the City pays the ESD in accordance with applicable Texas law for the permitted improvements which at that time have been constructed and are existing on the fire station site. The instrument of dedication to the ESD shall additionally contain (i) a reservation of an access easement along the western boundary of the fire station site to provide joint access to the parkland located to the south of the fire station site, and (ii) such easements and covenants appurtenant to the fire station site as reasonably necessary to provide the location(s) for required storm water detention facilities off of the site. These provisions shall apply to the fire station site on the Village at Northtown Property notwithstanding anything to the contrary in Article XII, Section J.

2.03 Article XII, Subsection F.1. of the Consent Agreement is amended to read hereafter as follows:

1. Approximately one hundred fifty-five (155) acres of land in the District, as shown on the Land Plan attached hereto as Exhibit "G", shall be dedicated to the District for Park and Green Space purposes. The District and the Director of the City's Parks and Recreation Department shall agree on the exact location and configuration of the Park and Green Space to be so dedicated at such times as subdivision plat applications are processed through the City for land which contains or which is adjacent to the various segments of the Park and Green Space as shown on the Land Plan.

The parties hereby acknowledge and agree that the District has on all dwelling units receiving water and sewer taps after November 23, 1992 the right, to the extent authorized by applicable law, to impose a \$300 fee at the time the water and sewer tap is made, and that the District shall have discretion to utilize the proceeds from the fee to acquire and improve Parks, Green Space and property for reclamation. If this fee is ever struck down by a court, then park development funds will be paid to the District by the developer at the time of each District bond sale, wherein the recipients of the bond proceeds will donate an amount equivalent to 15% of the total bond issue, until a total donation of \$1,770,000 has been received by the District in

parks fees and/or park development funds from bond proceeds.

In addition, with regard to those certain 271.148 acre, 26.221 acre and 29.551 acre tracts of land within the District which are respectively described by metes and bounds in Attachment 1, Attachment 2 and Attachment 3 hereto (all of which tracts are collectively referred to hereinafter as the "Village at Northtown Property"), the following special requirements shall apply:

- a. At such time as the first final subdivision plat application is processed through the City for land which contains or which is adjacent to the 1.03 acre Park shown on the Land Plan as being adjacent to the fire station site near the southeast corner of Heatherwilde Blvd. and John Henry Faulk Parkway, the owners of the Village at Northtown Property, or their successors or assigns in ownership of the land being final platted, shall be obligated to construct a 20-car parking lot on the said 1.03 acre Park, together with a trailhead which shall consist at a minimum of access from the parking lot to an existing or planned trail within the adjacent Green Space and a kiosk displaying area Parks and Green Spaces and their connecting trails. In its sole discretion, the City may require fiscal surety for such parking lot and trailhead construction, or the appropriate construction agreement in a form approved by the City Attorney and the attorney for the District, or both, as a condition of final plat approval.
- b. At such time as the first final subdivision plat application is processed through the City for any of the Village at Northtown Property which is to be used for residential purposes, the owners of the Village at Northtown Property, or their successors or assigns in ownership of the land being final platted, shall be obligated to contribute the sum of \$35,100.00 for park improvements in the District, or shall be obligated to construct an equivalent amount of park improvements in the District as approved by the City. The said sum was calculated by multiplying \$30,000.00 per acre times the number of acres which is equal to 10 acres minus the total acres of new Park to be dedicated out of the Village

at Northtown Property pursuant to this Sixth Amendment. To further explain, as presently shown on the Land Plan and described in this Sixth Amendment, 8.83 acres of new Park is to be dedicated out of the Village at Northtown Property. This is 1.17 acres less than 10 acres. Multiplying the 1.17 acres by \$30,000.00 per acre resulted in the said sum of \$35,100.00. The said sum shall be increased or decreased by the same formula if the exact amount of acreage of new Park dedicated out of the Village at Northtown Property is ultimately more or less than 8.83 acres, but in no event shall less than 7 acres of new Park be dedicated out of the Village at Northtown Property. Additionally, the said sum shall be increased by 2% on each anniversary of the effective date of this Sixth Amendment until paid. In its sole discretion, the City may require a cash contribution (either to the City or the District), or fiscal surety for park improvements, or the appropriate construction agreement in a form approved by the City Attorney and the attorney for the District, or some combination thereof, as a condition of final plat approval.

- c. At such time as any preliminary subdivision plat application is processed through the City for the 20.92 acre single family attached tract as shown on the Land Plan which is adjacent to dedicated Green Space in the District, the owners of the Village at Northtown Property, or their successors or assigns in ownership of the land being platted, shall be required to show on the preliminary plat a direct, unimpeded pedestrian connection between such Green Space and John Henry Faulk Parkway, ideally along a public street, and preferably in the eastern half of the said 20.92 acre single family attached tract. The precise details of location, design and construction shall be addressed during the final platting process. In its sole discretion, the City may require fiscal surety for such pedestrian connection, or the appropriate construction agreement in a form approved by the City Attorney and the attorney for the District, or both, as a condition of final plat approval.

- d. In addition, sidewalks or combination sidewalk / trails which are 8 feet in width shall be installed within the dedicated right-of-way of John Henry Faulk Parkway and Harris Branch Parkway which is situated inside the Village at Northtown Property to facilitate a link between the point at which the pedestrian connection described in the immediately preceding Subsection c. intersects with John Henry Faulk Parkway and the 22 acre Park as shown on the Land Plan. Each tract or parcel of land which is final platted along such path shall be subject to this requirement to provide for such sidewalk or sidewalk / trail construction as a condition of final plat approval and in accordance with the City Transportation Criteria Manual. These extra width sidewalks or sidewalk / trails shall be required on only one side of the road, however, with the determination of the appropriate side being made by the Director of the City's Parks and Recreation Department. Sidewalks on the opposite side of the road, if any, shall be of the width required by the Transportation Criteria Manual.
- e. At such time as the first final subdivision plat application is processed through the City for land which contains or which is adjacent to the 7.80 acre Park shown on the Land Plan as being located near the northeast corner of the Village at Northtown Property, the owners of the Village at Northtown Property, or their successors or assigns in ownership of the land being final platted, shall be obligated to (i) cause the construction of an 8 foot wide sidewalk or combination sidewalk / trail along Wells Branch Parkway between the 7.80 acre Park and the Green Space to its west as shown on the Land Plan, which shall be constructed in such a way as to provide an accessible connection to the then existing or planned trail in the Green Space, and (ii) perform on their previous agreement with the District to ~~provide a safe pedestrian access across Wells Branch Parkway~~ (subject to the required license approval from Travis County to cross the right-of-way of Wells Branch Parkway and any final requirements of the District), so as to provide continuous trail access to the 22 acre Park as shown on the Land Plan. In its sole discretion, the City may require fiscal surety for such sidewalk or

sidewalk/trail and pedestrian access improvements, or the appropriate construction agreement in a form approved by the City Attorney and the attorney for the District, or both, as a condition of final plat approval.

- f. It is agreed and understood that the 7.80 acre Park referred to in the immediately preceding Subsection e. shall not be acceptable for dedication as parkland for the purposes of this Consent Agreement and the Land Plan unless the drainage across the said Park (under both current and future fully developed conditions) is enclosed within an underground storm sewer pipe, except for the necessary inlet and outfall structures for such underground pipe which shall be installed as close to each end of the said Park as possible. It is further agreed and understood that the 7.80 acre Park referred to in the immediately preceding Subsection e. shall not be acceptable for dedication as parkland for the purposes of this Consent Agreement and the Land Plan if the said Park is bisected by the extension of a public road through it. Unless the conditions described in this Subsection F.1.f. are met, another parkland tract of equal size must be established at another location which is acceptable to the City and the District.
- g. All park related improvements to be constructed by the owners of the Village at Northtown Property, or their successors or assigns, pursuant to this Subsection F.1. shall be subject to the approval of the City and the District, which approvals shall not be unreasonably withheld, delayed or conditioned.
- h. To the extent that any of the provisions of this Subsection F.1. are in conflict with anything else in this Consent Agreement, or on the Land Plan, or in the notes on the Land Plan, this Subsection F.1. shall govern.

### **ARTICLE III GENERAL PROVISIONS**

**3.01** Except as provided above, all other provisions of the Consent Agreement shall remain in force and effect as written.

3.02 This Sixth Amendment may be executed in duplicate originals each of equal dignity.

3.03 This Sixth Amendment shall be effective from and after the date of execution by the authorized representatives of the District and the City.

IN WITNESS WHEREOF, this Sixth Amendment is executed by the authorized representatives of the District and the City on the date(s) shown below.

**APPROVED AS TO FORM:**

*Daniel Lloyd*  
Assistant City Attorney

**CITY OF AUSTIN, TEXAS:**

By: *Lisa Y. Gordon*  
Name: Lisa Y. Gordon  
Title: Assistant City Manager  
Date: 5/13/03

**ATTEST:**

*Brenda*  
Board Secretary

**NORTHTOWN MUNICIPAL UTILITY DISTRICT:**

By: *Tekana Kowis*  
Name: Tekana Kowis  
Title: President, Board of Directors  
Date: July 2, 2003

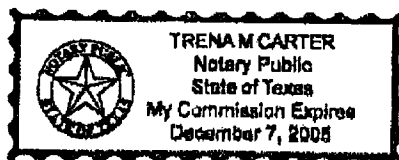
THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on May 13<sup>th</sup>, 2003,  
by Lisa Y. Gordon, the Assistant City Manager of  
the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.

*Trena M. Carter*  
Notary Public, State of Texas

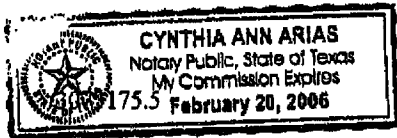


THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on July 2, 2003  
by Ilexana Kowis, the president of  
the Board of Directors of Northtown Municipal Utility District, a conservation and reclamation  
district of the State of Texas, on behalf of said district.



Cynthia Ann Arias  
Notary Public, State of Texas



# EXHIBIT C

## AGREEMENT CONCERNING CREATION AND OPERATION OF NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NO. 1

THE STATE OF TEXAS                   §  
COUNTY OF TRAVIS                   §       KNOW ALL MEN BY THESE PRESENTS:

THAT FOR and in consideration of the mutual agreements, conditions, and covenants contained herein, the City of Austin, Texas (the "City"), Wells Branch, a joint venture ("Wells Branch"), and North Austin Growth Corridor Municipal Utility District No. 1 (the "District"), mutually contract and agree as follows:

### ARTICLE I

#### PARTIES

This is a contract among the City, acting through Dan H. Davidson, City Manager, as authorized by specific action of the Austin City Council; the District, a municipal utility district created on March 18, 1981, by order of the Texas Water Commission and operating pursuant to Chapter 54, Texas Water Code; and Wells Branch, a joint venture of the holders of legal title to all of the land comprising the District, which consists of approximately 906.14 acres situated wholly in Travis County, Texas, and lying within the extra-territorial jurisdiction of the City.

## ARTICLE II

### ISSUANCE OF BONDS BY DISTRICT

A. The City has granted its consent to the creation of the District pursuant to the municipal utility district policy adopted by the City on March 20, 1980, under Ordinance No. 80 0320-E as the same may be amended, a true and correct copy of such policy as it exists on the date hereof being attached hereto as Exhibit A and incorporated herein by reference. Except as otherwise provided herein, the District agrees that it shall issue bonds and notes only for the purposes and in the manner provided by said City policy, as the same may be amended from time to time. It is specifically agreed, however, that the District's bonds, when issued, may be secured by a pledge of the District's taxes or revenues or both.

B. Water and wastewater trunk lines to serve the District will be constructed by the District pursuant to the Utility Construction Contract between the City and the District, a copy of which is attached hereto as Exhibit B. The District is hereby authorized to issue the bonds described in the Utility Construction Contract. Upon completion of construction by the District, the City shall own and operate said lines, but shall reserve adequate capacity therein to serve all land within the District. The District hereby agrees to pay a pro rata share of the cost of said lines based upon the capacity reserved for service to the District. The District shall make payments to the City semi-annually not later than fifteen (15) days prior to each principal and interest payment date on the bonds issued to finance said lines, in an amount equal to the percentages of the principal and/or interest due on said bonds on such date as follows:

*Revised by  
Second  
Amendment*

Water Approach Main	66.7%
Wastewater Approach Main	35 %
Walnut Creek Extension	5 %
(Described on Exhibit B)	

All such payments shall bear interest at the rate of ten percent (10%) per annum from their due date until paid.

C. The parties hereto acknowledge and agree that this Contract and the City's municipal utility district policy have the effect of restricting the general statutory purposes for which the District may issue bonds and notes. The parties further recognize and agree that neither this Contract nor said policy restrict or limit the powers and authority of the District otherwise to acquire, own, operate and maintain water or wastewater systems, drainage facilities, recreational facilities, or any other systems, facilities, assets or properties of or serving the District. The District may use funds and assets from any other lawful source available to it to provide for such acquisition, ownership, maintenance and operation, as well as to accomplish any purpose and exercise any function, act, power or right authorized by law. Such funds and assets shall include, without limiting the generality of the foregoing, revenues from any of the systems, facilities, properties and assets of the District not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants and donations from public or private sources; and revenues from any other source lawfully available to the District; provided, however, that no payment for such purposes shall be made from the proceeds of bonds issued by the District, or from tax or other revenues pledged to the retirement of the bonded indebtedness of the District or payable to the City pursuant to the terms hereof.

*add R.D.  
by Amendment*

### ARTICLE III

#### WATER SUPPLY

A. The City agrees to sell and to deliver to the District all water reasonably required by users within the boundaries of the District for domestic and commercial uses, such water to be supplied from the City's water distribution system as extended by the District pursuant to the Utility Construction Contract, at a point or points of delivery adjacent to the boundaries of the District to be designated by the District's engineer and approved by the City. The sale of water to the District shall be nondiscriminatory and shall be uniform with the policy or policies established by the Austin City Council for the provision of utilities outside the City limits. Water as used in this Article III means potable water meeting the requirements of the Texas Department of Health for human consumption and other domestic uses. The City presently has, and shall maintain, an adequate water supply to provide service to the District. Without limiting the generality of the foregoing, the City agrees that it will maintain the capability to deliver to the District a minimum of 10,000 gallons of water per minute.

B. The City shall furnish, install, operate, and maintain, at its expense, at each point of delivery to the District, the necessary metering equipment to measure the water delivered to the District under this Contract, including a meter house or pit and metering devices of standard type for properly measuring the quantity of water delivered to the District. The City shall calibrate the metering equipment whenever requested by the District, but no more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be

deemed to be accurate. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the City and the District agree on a different amount. The metering equipment shall be read once each calendar month.

*deleted by  
Third Amendment*

C. Rates for customers of the District for water delivered pursuant to this Article III shall not be less than those normally charged by the City for comparable customers within the City or more than those normally charged by the City for comparable customers outside the City, all as established from time to time by the Austin City Council.

D. Billings and payments will be rendered to customers of the District in substantial compliance with the procedures established in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, the District may vary the procedures to the extent required by law.

#### ARTICLE IV

##### SEWAGE TREATMENT

A. The City agrees to receive, treat, and dispose of all sewage collected by the District and delivered to the City at a point or points of delivery into the City's sanitary sewer trunk line as extended by the District pursuant to the Utility Construction Contract, said point or points of delivery to be designated by the District's engineer and approved by the City. Sewage treatment and disposal services provided to the District shall be non-discriminatory and uniform with the policy or policies established by the

Austin City Council for the provision of utilities outside the City limits. The City presently has, and will maintain, adequate sewage treatment capacity to provide service to the District. Without limiting the generality of the foregoing, the City agrees that it will maintain the capability to receive, treat, and dispose of 2,000 gallons per minute average sewage flow from the District.

*Deleted by  
Third Amendment*  
B. Rates for customers of the District for sanitary sewer service shall not be less than those normally charged by the City for comparable customers within the City or more than those normally charged by the City for comparable customers outside the City, all as established from time to time by the Austin City Council.

*B*  
C. Billings and payments will be rendered to customers of the District in substantial compliance with the procedures established in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, the District may vary the procedures to the extent required by law.

## ARTICLE V

### OPERATION AND MAINTENANCE

The District shall operate and maintain the water and wastewater system within the District, unless the City and the District enter into a contract for the City to operate the system. The City shall have the right to inspect all water and wastewater connections made in the District. Water meters shall be purchased by the District from the City's Water and Wastewater Department at cost.

## ARTICLE VI

### AREA OF AND LIMITATIONS ON SERVICE

Except as provided in the Utility Construction Contract, the District may not construct or install water or wastewater lines or facilities to serve areas outside the District, or sell or deliver City water or wastewater service to areas outside the District, or annex any additional lands to the District without the prior approval of the Austin City Council.

## ARTICLE II

### LIMITATION OF LIABILITY

The City shall not be liable to Wells Branch, any member thereof, the District, or any customer of the District for the failure of the City to provide water or sewer service where the failure results from the impairment of facilities by strikes or other conditions beyond the City's control so long as the City uses reasonable efforts to correct such condition.

## ARTICLE VIII

### CITY ANNEXATION

*Revised by  
Third Amendment*

A. The District agrees that at least 90% of the facilities and amenities for which the District bonds have been authorized will be installed within twelve (12) years from the date of execution of this Contract by the District. If such facilities are installed prior to such date, the City may annex the District at anytime thereafter. If installation of 90% or more of the facilities and amenities for which District bonds have been authorized has not been accomplished within the twelve (12) year period, the City, at its option, may

revoke its authorization for or approval of the installation of any further facilities or amentities and also may revoke its authorization for the issuance of the balance of the District's unissued bonds; provided, however, that the City's right to revoke such authorization may be exercised only if the City concurrently annexes to the City the entire District as it then exists; and provided further that, if the installation of any items of authorized facilities has commenced in good faith in compliance with and in reliance on the provisions hereof and is in progress at the time the City proposes to revoke such authorizations, the annexation of the District to the City and the revocation of such authorizations shall be postponed until the installation of the items has been completed and the purchase of such items with the proceeds from the sale of District bonds or other funds of the District has been accomplished.

*deleted by  
Second  
Amendment*

B. The District shall charge and collect a special water and sewer service surcharge in the amount of \$8.89 per month for each single-family residential customer or the equivalent of the District's water or sewer system. The surcharge shall be charged in addition to the regular water and sewer rates in the District. The District shall pay to the City each month all surcharges as collected and such payments shall be credited by the City to the amounts due the City for the District's pro rate share of the cost of the water and sewer trunk lines serving the District, as provided in Article II, Paragraph B of this Contract. At such time as the District has deposited surcharge payments with the City equal in amount to the next semi-annual payment due the City pursuant to Article II, Paragraph B hereof, all further surcharge payments made by the District prior to the due date of said



~~semi-annual payment shall be credited against the amounts due the City for water and sewer service pursuant to Articles III and IV hereof.~~

*Revised by  
Second Amendment*

C. The parties hereby agree that the amount of said surcharge has been calculated pursuant to Paragraph IV of Part 1 of the City's municipal utility district policy. The surcharge shall be continued by the City after annexation of the District as authorized by Section 54.016(h), Texas Water Code, until the bonded indebtedness of the District has been retired. The surcharge may be charged in addition to the City's normal water and sewer rates.

D. All contract obligations and responsibilities of Wells Branch and the District under this Contract shall terminate when the area within the District is annexed to the City.

#### ARTICLE IX

##### ADDITIONAL REQUIREMENTS

Wells Branch and the District hereby respectively agree to comply with all applicable requirements contained in Paragraph VI of Part 1 of the City's municipal utility district policy, except that where said requirements are inconsistent with the provisions of this Contract, the provisions of this Contract shall control.

#### ARTICLE X

##### CONSTRUCTION OF DISTRICT FACILITIES

All water, wastewater, and drainage facilities to be acquired or constructed by the District may be constructed by Wells Branch, with the con-

sent of the District. Neither Wells Branch nor the District shall commence construction of any facility unless the plans and specifications for such facility have been approved by the City, the Texas Department of Water Resources, the Texas Department of Health, where applicable, and all other governmental agencies having jurisdiction. Upon issuance and sale of its bonds for such purposes, the District shall pay Wells Branch the cost of construction of any such facilities constructed by Wells Branch to the extent authorized by the Texas Department of Water Resources and permitted by the City's municipal utility district policy. To the extent the District is not permitted to pay Wells Branch for any such facilities, Wells Branch shall dedicate the facilities to the District without compensation.

#### ARTICLE XI

##### LAND AND EASEMENT COSTS

Easements and rights-of-way needed for District purposes within the District will be dedicated to the District by Wells Branch or its assigns. The District may acquire land from Wells Branch in accordance with the rules of the Texas Department of Water Resources. Land and rights-of-way outside the District needed by the District may be acquired by the District in accordance with the usual and customary public purchasing standards and procedures applicable to the District.

## ARTICLE XII

### ASSIGNMENT OF CONTRACT

Wells Branch from time to time may transfer, convey or assign its rights and obligations under this Contract with respect to all or any part of the land owned by it. Upon prior approval by the City of the assignee or assignees (which approval will not be unreasonably withheld), and only upon the condition that the assignee or assignees assume the liabilities, responsibilities and obligations of this Contract, the party assigning this Contract shall be released from the liabilities, responsibilities and obligations under this Contract to the extent of the land involved in the assignment or assignments, or as may be otherwise approved by the City. Neither the District nor the City shall assign this Contract without written consent of each of the other parties hereto.

## ARTICLE XIII

### TERM OF CONTRACT

This Contract shall be effective from the date of execution hereof by the City and shall continue in effect for a period of forty (40) years.

## ARTICLE XIV

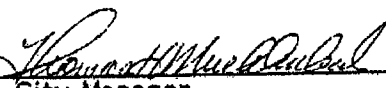
### BENEFITS OF CONTRACT

This Contract is for the benefit of the City, the District, and Wells Branch and shall not be construed to confer any benefit on any other party except as expressly provided herein. This Contract may be executed by the City and Wells Branch prior to creation of the District and shall be binding

upon said parties for a period of one year pending creation and confirmation of the District and approval and execution of this Contract by the Board of Directors thereof and shall thereafter be binding upon all parties in accordance with its terms.

IN WITNESS WHEREOF each of the parties has caused this Contract to be executed by its duly authorized representative, in multiple copies, each of equal dignity, on the date or dates indicated below.

CITY OF AUSTIN, TEXAS

By:   
City Manager

Executed on 4/13, 1981.

NORTH AUSTIN GROWTH CORRIDOR  
MUNICIPAL UTILITY DISTRICT NO.1

By:   
President, Board of Directors

Executed on 4/13, 1981.

WELLS BRANCH, a Joint Venture

By:   
Its duly authorized Manager

Executed on 4/13, 1981.

DBA25G

ORDINANCE NO. 80 0320-E

AN ORDINANCE ESTABLISHING A MUNICIPAL UTILITY DISTRICT (MUD) POLICY FOR THE CITY OF AUSTIN; ESTABLISHING THEREIN BASIC QUALIFICATIONS FOR CONSENT TO THE CREATION OF A MUD; PROVIDING PERCENTAGES ALLOWED FOR BOND FINANCING; ESTABLISHING THE PROVISIONS OF THE BONDING PACKAGE; PROVIDING FOR THE PROVISION OF SPECIAL WATER AND SEWER RATES WITHIN THE CONSENT AGREEMENT AS AUTHORIZED BY SECTION 54.016(h) OF THE TEXAS WATER CODE; ESTABLISHING VARIOUS REQUIREMENTS; DECLARING A POLICY STATEMENT; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council, of the City of Austin, Texas, wishes to allow the prudent utilization of Municipal Utility Districts to encourage development in accordance with its Growth Management Plan, and

WHEREAS, the City Council wishes to develop policies to curtail the rising costs of housing and the size of purchase-money mortgages, and

WHEREAS, the City Council wishes to develop a policy for the creation of Municipal Utility Districts in a manner that will not burden the citizens of Austin with future debt, and

WHEREAS, the City Council wishes to develop a policy for the creation of Municipal Utility Districts in a manner that will discourage urban sprawl; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That this Municipal Utility District Policy be adopted pursuant to the provisions of the Texas Water Code, to be equitably applied to all petitioners for new Municipal Utility Districts within Growth Management Areas III and IV of the City's Extra-territorial Jurisdiction.

I. BASIC QUALIFICATIONS FOR CONSENT TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT (MUD).

A. The MUD shall contain acreage necessary to assure the economic viability of the District, but in no event shall a MUD contain less than 100 acres.

B. The land to be included within the MUD must lie entirely outside the City limits.

C. The economic viability of the district must be shown in the same manner as required by the State.

D. The consent agreement must reflect, and conform to, all the applicable stipulations of this policy.

E. The City Council must determine that the district is not likely to be annexed by the City within three (3) years. Such determination shall not be binding on the City, however.

F. When the City Council receives a petition for creation of a MUD within Growth Management Areas III or IV, it shall be evaluated in accordance with the policy set forth herein. When a petition is received for creation of a MUD in Area V, it shall be evaluated on a case by case basis and considered individually on its merits and not under this policy.

## II. PERCENTAGES ALLOWED FOR BOND FINANCING.

A. A MUD will be allowed to issue bonds equal in amount to the bonding package outlined in Section III. hereof, times the appropriate percentage determined in Exhibit "A", attached hereto. Exceptions to the percentage limitations in Exhibit "A" may be granted by the City Council only where a proposed MUD will service established residential areas and is not being created primarily to serve undeveloped land.

B. Where a MUD overlaps any of the boundary lines in Exhibit "A", the percentage shall be apportioned according to the number of living unit equivalents acres in each area. The percentage shall be determined with respect to area designation and City limits at the date the consent agreement is approved by the City Council.

C. The following definitions shall apply when used in Exhibit "A":

1. "Growth management area" refers to an area as described within the Master Plan of the City of Austin.
2. "Extra-territorial jurisdiction area: refers to the number of miles beyond the City limits.
3. "Internal water lines" or "Internal wastewater lines" means those lines, constructed within the MUD, including any oversize required which will not be recovered under the City's oversize policy since that policy shall be applicable to the developer.
4. "Storm sewer/drainage" is limited to the cost of storm sewer pipe and open channels and their installation where impervious channel surfaces are required.

5. "Regional drainage" means regional type storm water retention/detention features designed and constructed to control and/or manage storm water, a substantial portion of which issues from one or more watersheds outside the MUD, and provided such construction is approved by the Engineering Department of the City of Austin.

6. "Wastewater facilities" means treatment plants, storage facilities and other items not included in 3 or 9 of this section.

7. "Water facilities" means treatment plants, storage facilities, wells and other items not included in 3 or 9 of this section.

8. "Irrigation land" means land irrigated in connection with a sewage treatment plant. The bonds allowed for this land are to be determined by the raw land cost. When land or irrigation is no longer used for that purpose, and it is sold, the proceeds from the sale shall be placed in the Debt Retirement Fund of the district. If annexation has occurred, such proceeds shall be placed in the debt retirement fund of the City of Austin.

9. Water approach mains and Wastewater approach mains are defined as those items included in the approach main policy of the City of Austin.

### III. BONDING PACKAGE.

#### A. WATER, WASTEWATER AND DRAINAGE

A Municipal Utility District shall be permitted the bonding permitted under the State law and the rules of the Texas Water Development Board for 1) construction, and for 2) land and easement costs for water, sewer, and drainage improvements (in accordance with Exhibit "A". Further, the "30% rule" instituted by the Texas Water Commission shall apply in determining the bonding allowed for Water, Wastewater, and Drainage. The percentages in Exhibit "A" shall apply after limits imposed by that rule. The developer must pay 30% of the cost of internal lines and drainage. Additionally, that oversize portion of a water or wastewater approach main which the City of Austin has required to be constructed to serve areas outside of the boundaries of the MUD may be financed with bonds. In the case of such an oversize

portion constructed under the approach main policy, the subsequent use fee (both principal and interest) will be paid to the MUD 1) for ten years after the approach main is accepted by the City instead of the five years required in the City approach main policy or 2) until the date of annexation by the City or 3) until the MUD retires its bonds (whichever date occurs first). Provided, however, that the following items shall not be allowed to be financed by the issuance of bonds, and therefore, shall not be included in the bonding package:

1. Land or easements within the MUD, or any property owned by the developers of the MUD, dedicated for any water or wastewater line or facility, including treatment plants for any function related to drainage. Provided, however, that bonds may be authorized for the purchase of land for irrigation purposes connected with a package treatment plant (in accordance with the chart in Exhibit "A").
2. Curbs, gutters, inlets, culverts, and bridges.
3. Drainage improvement, except storm sewers and regional facilities, in accordance with Exhibit "A".

#### B. INTANGIBLES

1. A contingency factor of 10% shall be allowed on all water, wastewater and drainage costs.
2. Construction costs shall include 10% for engineering, and shall include all fees.
3. Interest during construction and capitalized interest shall be allowed to the full extent of the State law for all costs that qualify for bond financing.
4. Other non-construction costs allowed for bond financing are: fiscal agent fees, legal fees, and administration organizational expense and printing the bonds, as allowed by State law.

#### C. BONDED AMENITIES

Additional bonding authority may be used as the City Council specifies for any of the following items. The City Council must improve the need for each item, the site location and design. The aggregate of the City requirements shall be limited by the economic



viability of the District. Bonded authority for any land under this section shall be based on raw land cost and carrying expenses.

1. Solid waste disposal sites.
2. Fire station sites.
3. Park lands, nature preserves, creek preservation easements, hike and bike trails, lakes and greenbelts in addition to those required by City ordinance.
4. Water quality monitoring stations, holding ponds and storm-water treatment facilities.
5. Other items which might be mutually agreed upon by the City Council and the petitioners, and are permitted by the State.

D. Non-Bonded Amenities

The following amenities are required and shall not be financed by the issuance of bonds or by the incurrence of debt by the district.

1. Traffic control signs and devices constructed within the MUD.
2. Street signs.
3. Street lights.
4. Sidewalks, installed in accordance with Chapter 41 of the Austin City Code (Subdivision Ordinance), when developing by urban standards.
5. Recreational facilities on park land equal to 10% of the value assigned to the park land.

IV. Consent agreements shall provide, in adequate detail as required by Section 54.016(h) of the Texas Water Code that the water and sewer rates for properties within the MUD be specifically set so as to compensate the City of Austin for assuming the district's indebtedness after annexation. These special rates shall be in effect until the bonded indebtedness of the MUD is fully retired. If the bonds are called, these special rates shall nevertheless be in effect for the full projected life of the original bonds. These special rates shall consist of a component calculated to retire all or part of the bonded indebtedness incurred by the MUD as set out in "A" below. The component shall be determined by calculating the monthly

debt retirement payment for the appropriate bonded indebtedness and dividing the monthly payment by the number of planned living unit equivalents within the district. After annexation, this special rate shall be charged in addition to the water and sewer rates paid by other city consumers of similar customer classification.

A. The bonded indebtedness used to calculate the special rate shall be that for construction, land and easement costs for water and wastewater internal lines, and all drainage, as set out in Exhibit "A".

B. Since Section 54.016(h) of the Texas Water Code which permits the special rates used in this policy contains a provision which says that the City of Austin cannot annex the district prior to the installation of 90% of the facilities for which district bonds were authorized, the consent agreement must also contain a provision containing a date for 90% installation beyond which authorization for all unissued bonds may be terminated at the option of the City Council. If the City Council elects to so terminate, it must concurrently annex the district. To facilitate this requirement the consent agreement must require that bonds be issued to finance only completed and approved facilities and existing items.

C. Any water and sewer customer within the boundaries of the city may enforce the special rates required to be included in a contract authorized by this policy.

D. Prior to annexation, the special rate calculated in Section IV shall be charged in addition to the regular district rate which regular rate shall not be less than that charged by the City within the city limits for consumers of similar customer classification. The revenue from the special rate shall be deposited in the debt retirement fund of the district.

V. The revenue and ad valorem taxing authority of the district shall be pledged on all bonds as the City's ad valorem taxing authority shall be after annexation has occurred.

#### VI. ADDITIONAL REQUIREMENTS AND POLICY STATEMENT

The City shall require the following of all MUDs, and these requirements shall be stipulated by the consent agreements.

A. All development activities within the district shall conform to all existing City of Austin ordinance requirements.