

approvals or other governmental approvals necessary in order to develop or construct improvements upon the SASA Tract, or any portion thereof.

The above is intended to effectuate Alternative 1 of the Agreement Regarding Conveyance of Right-of-Way, as amended, attached to and incorporated into this Second Amendment Agreement as Exhibit D-2 for all purposes as if fully set out verbatim herein.

2. All other provisions of the Consent Agreement shall be and remain in full force and effect as written, except as otherwise expressly provided herein.

EXECUTED in multiple copies, each of which shall constitute an original to be effective on the latest date this Second Amendment Agreement is executed by a party, being the 15<sup>th</sup> day of March, 1988.

CITY:

CITY OF AUSTIN, a Texas municipal corporation

Dated: 6/3/88

By: [Signature]

Printed Name: John L. Ware

Title: Acting City Manager

APPROVED AS TO FORM:  
DEPARTMENT OF LAW  
CITY OF AUSTIN

Dated: 5/27/88

By: [Signature]

Printed Name: Susan K. Hill

Title: Assistant City Manager

NRAWD1085GHW  
na/ag S8

10

DISTRICT:

NORTH AUSTIN MUNICIPAL UTILITY  
DISTRICT NO. 1, a Texas municipal  
utility district

Dated: March 15, 1989

By: Steve D. Pena

Printed Name: Steve D. Pena

Title: President

ATTEST:

Reinhold Miller  
Secretary, Board of Directors

MILWOOD:

MILWOOD JOINT VENTURE, a Texas  
joint venture partnership

Dated: JAN 27 1989

By: A.H. Robinson III

Printed Name: A.H. Robinson, III

Title: PARTNER

AUSTIN WHITE LIME COMPANY,  
a Texas corporation

Dated: JAN 27 1989

By: A.H. Robinson III

Printed Name: A.H. Robinson, III

Title: PARTNER

ROBINSON RANCH

Dated: JAN 27 1989

By: A.H. Robinson III

Printed Name: A.H. Robinson, III

Title: PARTNER

NRAW1085GHW  
na/ag S8

PALMER ASSOCIATES

Dated: JAN 27 1989

By: A.H. Robinson III

Printed Name: A.H. Robinson, III

Title: PARTNER

SASA:

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan association

Dated: 6-29-88

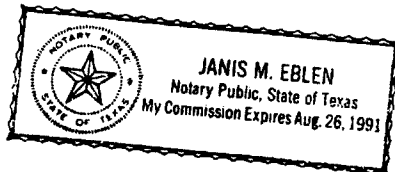
Printed Name: ROBERT D. DUFFIN

Title: SENIOR VICE PRESIDENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 3rd day of June, 1988, by John L. Ware, Acting City Mgr. of the City of Austin, a Texas municipal corporation on behalf of said municipal corporation.



Janis M. Eblen  
Notary Public, State of Texas

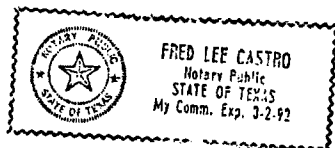
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 1st day of March, 1988 by Steve D. Pena, President of North Austin Municipal Utility District No. 1, a Texas municipal utility district on behalf of said district.



Fred Lee Castro  
Notary Public, State of Texas

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

NRAWD1085GHW  
na/ag S8

12

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27<sup>th</sup> day of January, 1988, by A.H. Robinson III, Partner of Austin White Lime Company, a Texas corporation on behalf of said corporation.



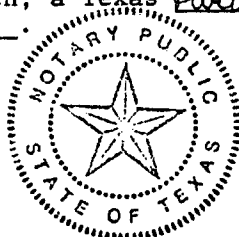
Melissa K. Miller  
Notary Public, State of Texas

Printed Name: MELISSA K. MILLER

Title: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27<sup>th</sup> day of January, 1988, by A.H. Robinson III, Partner of Robinson Ranch, a Texas Partnership on behalf of said Partnership



Melissa K. Miller  
Notary Public, State of Texas

Printed Name: MELISSA K. MILLER

Title: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27<sup>th</sup> day of January, 1988, by A.H. Robinson III, Partner of Millwood Joint Venture, a Texas joint venture partnership on behalf of said joint venture.



Melissa K. Miller  
Notary Public, State of Texas

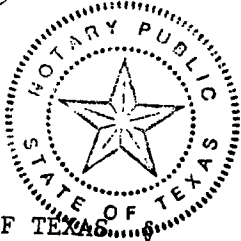
Printed Name: MELISSA K. MILLER

Title: \_\_\_\_\_

NRAWD1085GHW  
na/ag S8

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27<sup>th</sup> day of January, 1988, by A.H. Robinson III, Partner of Palmer Associates, a Texas Partnership on behalf of said Partnership



Melissa K. Miller  
Notary Public, State of Texas

Printed Name: MELISSA K MILLER

Title: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 29<sup>th</sup> day of June, 1988, by Robert D. Duffin, Senior Vice President of San Antonio Savings Association, a Texas savings and loan association on behalf of said association.

Geri Benton  
Notary Public, State of Texas

Printed Name: GERI BENTON

Title: \_\_\_\_\_

NRAWD1085GHW  
na/ag S8

6-11-75

**LAND USE BREAKOUT**

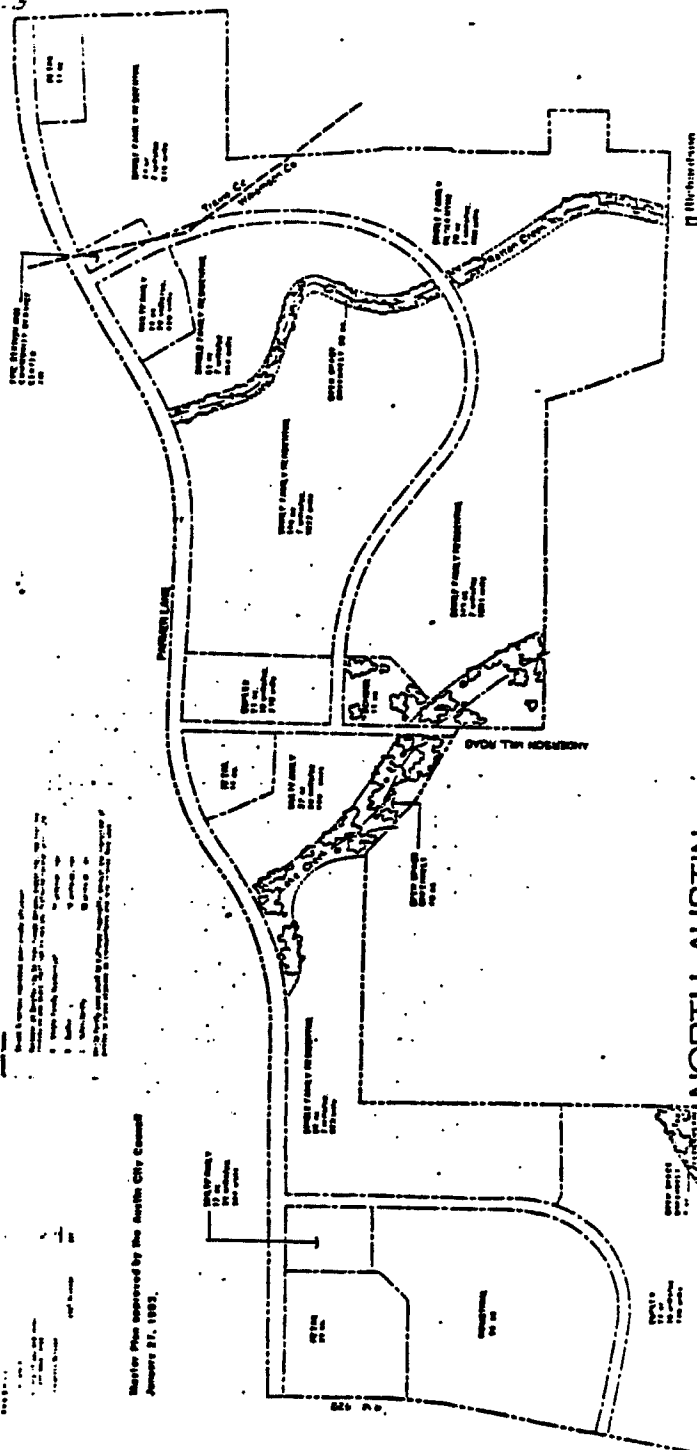
1. Single-Family Detached	100%
2. Single-Family Attached	0%
3. Medium Density Residential	0%
4. High Density Residential	0%
5. Commercial	0%
6. Industrial	0%
7. Office	0%
8. Public Use	0%
9. Open Space	0%
10. Other	0%

**NOTES:**

1. The land use breakout is based on the existing land use and the proposed land use changes. The land use breakout is not a guarantee of future land use. The land use breakout is subject to change at any time.

2. The land use breakout is based on the existing land use and the proposed land use changes. The land use breakout is not a guarantee of future land use. The land use breakout is subject to change at any time.

Master Plan approved by the North City Council  
January 21, 1982.

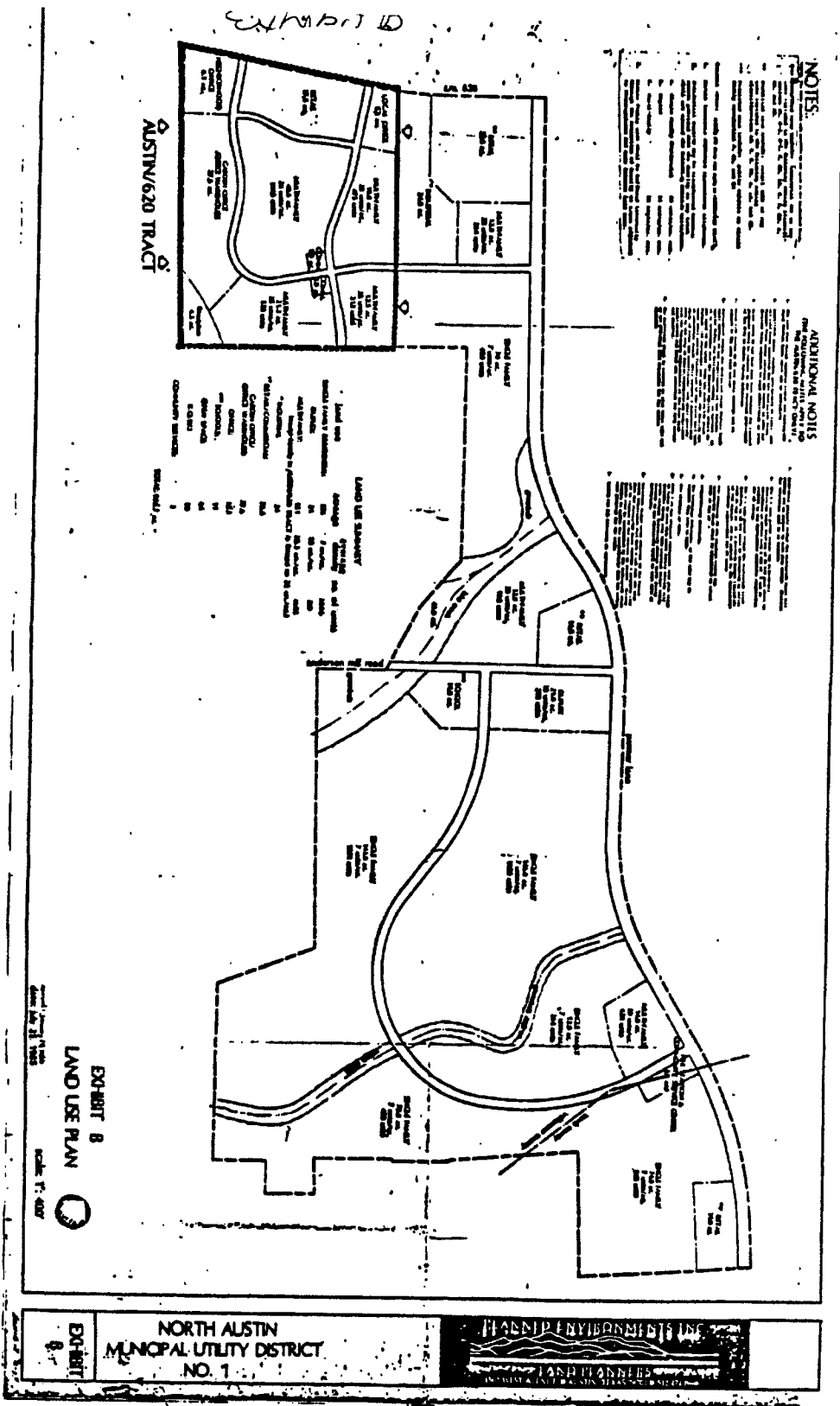


Richardson  
Vandenberg  
Partnership, Inc.



**NORTH AUSTIN  
MUNICIPAL UTILITY DISTRICT NO. 1**

EXHIBIT "C" TO CHARTER



BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE THOMAS DAVY SURVEY, ABSTRACT NO. 169, SITUATED IN WILLIAMSON COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT CONVEYED TO THELMA PINK WALDEN LEE, ESTATE OF LEE JAMES WALDEN, DECEASED, C/O WOODROW LEE, INDEPENDENT EXECUTOR, ET. AL., BY DEED RECORDED IN VOLUME 696, PAGE 654 OF THE WILLIAMSON COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 177.398 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: -

BEGINNING at an iron stake in the southerly R.O.W. line of R.M. 620, at the northeast corner of said Lee, et. al. tract for the northeast corner of the herein described tract,

THENCE, along the east line of said Lee, et. al. tract, the following two (2) courses and distances,

1. S 19° 48' 15" E, 1743.62 feet,
2. S 17° 30' 30" E, 1163.33 feet to an iron stake at the southeast corner of said Lee, et. al. tract for the southeast corner of the herein described tract,

THENCE, along the south line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 71° 42' 30" W, 605.10 feet,
2. S 71° 38' W, 1227.65 feet,
3. S 70° 14' W, 587.02 feet to a concrete monument for the southwest corner of the herein described tract,

THENCE, along the west line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. N 19° 14' 15" W, 1151.95 feet,
2. N 19° 08' 30" W, 1164.55 feet,
3. N 19° 29' 15" W, 1085.77 feet to an iron stake in the southerly R.O.W. line of said R.M. 620 for the northwest corner of the herein described tract,

THENCE, along the southerly R.O.W. lines of said R. M. 620, the following three (3) courses and distances, numbered 1 through 3,

1. With curve to the right, whose radius equals 2814.93 feet, an arc distance of 744.16 feet, and whose chord bears N 78° 23' 45" E, 741.89 feet to a concrete monument,
2. N 86° 01' 45" E, 1185.28 feet to a concrete monument at the beginning of a curve,
3. With curve to the left whose radius equals 2819.83 feet, an arc distance of 566.37 feet, and whose chord bears N 81° 48' 15" E, 565.86 feet to the PLACE OF BEGINNING, containing 177.398 Acres of Land, more or less.

## EXHIBIT A

Exhibit 1 to Ordinance + EXHIBIT C  
TO AGRICULTURE



AGREEMENT REGARDING CONVEYANCE OF RIGHT-OF-WAY

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

This Agreement Regarding Conveyance Of Right-Of-Way ("Agreement") is made by and between San Antonio Savings Association, a Texas savings and loan association ("SASA"), and the City of Austin, Texas, a municipality in the State of Texas acting by and through its duly authorized City Manager ("City"), and is as follows:

W I T N E S S E T H:

WHEREAS, SASA is the owner of that certain 177.398 acre tract of land, more or less, situated in Williamson County, Texas, locally known as the Northwest Crossing Tract, more fully described on Exhibit "A," attached to and incorporated by reference into this Agreement for all purposes ("SASA Property"); and

WHEREAS, the SASA Property is located in the North Austin Municipal Utility District No. 1, a political subdivision of the State of Texas ("MUD"); and

WHEREAS, the development of the SASA Property is currently restricted to the terms and conditions set out in that one certain First Amendment to Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1 ("Amended Consent Agreement"), executed by the Austin/620 Joint Venture, the City, the MUD, Austin White Lime Company, Robinson Ranch, Milwood Joint Venture, and Palmer Associates, dated May 21, 1986; and

WHEREAS, State Highway 620 abuts the northern boundary of the SASA Property; and

WHEREAS, the State Department of Highways and Public Transportation ("State Highway Department"), with the support of both Williamson County and the City, plans to widen and improve Highway 620 and the intersection of Highway 620 and Farmer Lane; and

WHEREAS, the City has requested that SASA convey to the State Highway Department 8.196 acres of land out of the SASA Property to be used as right-of-way for the widening and improvement of Highway 620 and the construction of the Parmer Lane intersection, which 8.196 acres is more fully described on Exhibit "B," attached to and incorporated into this Agreement for all purposes ("Right-Of-Way Tract"); and

WHEREAS, the City and SASA have reached an agreement regarding the terms and conditions of a conveyance of the Right-Of-Way Tract from SASA to the State Highway Department and desire to set forth their agreement in writing; and

WHEREAS, the City, Williamson County, and Travis County, and their citizens, will greatly benefit from the improvements to Highway 620 and the construction of the Parmer Lane intersection enabled by SASA's conveyance of the Right-Of-Way Tract to the State Highway Department.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the City and SASA agree as follows:

#### Section I

1.01 Upon execution of this Agreement, the City and SASA shall direct Georgetown Title Company of Georgetown, Texas, to act as escrow agent ("Escrow Agent") for both parties in effectuating the transfer of the Right-Of-Way Tract by deed from SASA, as grantor, to the State Highway Department, as grantee.

1.02 In exchange for the consideration set forth below, within ten (10) days of the execution of this Agreement by both parties, SASA will (i) execute and deliver to the Escrow Agent two deeds ("Deeds"), identical to the forms attached to and incorporated into this document as Exhibits "C-1" and "C-2," conveying all of its right, title, and interest in the Right-Of-Way Tract to the State Highway Department to be used as right-of-way to enable the widening and improvement of Highway 620 and the construction of the Parmer Lane intersection; (ii) provide additional instruments and information required by the City and the Escrow Agent to evidence clear, unencumbered title to the

Right-Of-Way Tract; and (iii) execute and deliver to the Escrow Agent, for the benefit of the State, a Donation Letter, in the form attached as Exhibit "D" and incorporated into this Agreement by reference.

1.03 The Escrow Agent shall hold the deeds and other information and instruments referenced in Section 1.02 above, in trust and effectuate the closing ("Closing") of the conveyance in strict compliance with the escrow instructions set forth in that one certain escrow agreement ("Escrow Agreement"), attached as Exhibit "F" and incorporated into this Agreement by reference.

1.04 Simultaneously with the execution of this Agreement, SASA shall execute and deliver to the City a Right of Entry and Possession in form attached as Exhibit "E" and incorporated into this Agreement by reference for all purposes.

#### Section II

2.01 In exchange for the execution and delivery of the Deeds and other instruments referenced in Section 1.02 above to the Escrow Agent, the City covenants, warrants, and agrees to perform one of the following two alternatives:

##### Alternative 1:

(a) After SASA submits to the City a complete and proper application ("Application") requesting amendment to the Amended Consent Agreement so as to permit SASA to utilize the SASA Property for the land uses reflected on the Northwest Crossing Preliminary Plan, a copy of which is attached as Exhibit "G," and incorporated into this Agreement for all purposes ("Revised Land Use Plan"), subject only to conditions acceptable to both SASA and the City, the City will review the Application in accordance with Ordinance No. 850131-P, as may be amended from time to time, and, if the Application is acceptable to the City Council, the City shall approve SASA's requested amendment.

(b) Review, and if acceptable, support and approve a revision to the Amended Consent Agreement allowing SASA the option to change the land use of those tracts ("Option Tracts") depicted on Exhibit "H" from "Industrial Park" to "Multi-Family" with a density 25 units/acre, provided that SASA applies for City

administrative review and approval of the change in land use of the Option Tracts and provided that the following conditions are satisfied:

- (i) traffic generation from the Option Tracts will not exceed that which would be generated by the land uses permitted under the Amended Consent Agreement; and
- (ii) impervious cover on the Option Tracts will not exceed that allowed under the Amended Consent Agreement; and
- (iii) all of the Option Tracts, with the exception of the two (2) tracts marked "I" and "II" on Exhibit H, would be converted to Multi-Family use at the same time (the two Option Tracts marked "I" and "II" may be converted to "Multi-Family" use, or retain "Industrial Park" use designation, independent of the use of the other Option Tracts);
- (iv) all other standards and conditions set forth in the Amended Consent Agreement shall remain in full force and effect.

(c) On or before Closing, the City will deposit Three Hundred Thousand and No/100 Dollars (\$300,000.00) with the Escrow Agent, which amount shall be paid to SASA at Closing in accordance with the terms of the Escrow Agreement;

(d) The City will acknowledge and confirm, in writing, that the entire cost of SASA's pro rata participation in regional drainage improvements to Lake Creek, as referenced in Section "F" of the Amended Consent Agreement, shall be \$246,000.00, which amount (i) includes the cost of channel excavation and spoils placement necessary to remove the 100-year flood plain from all but the designated 3.4 acres as shown on Exhibit "G," (ii) once paid to the City, will relieve SASA of any obligation to construct, fund or otherwise participate in any on-site water detention improvements, and (iii) will be paid by SASA to the City in cash at Closing if the City is diligently pursuing

Alternative 1 of this Agreement. If the City fails to comply with the requirements of Alternative 1, the City shall promptly reimburse said \$246,000.00 to SASA.

(e) The City will waive and release SASA, and any and all succeeding owners of the SASA Property, from the obligation to construct, fund, or otherwise participate in any off-site traffic signalization and roadway improvements referenced in Section E of the Amended Consent Agreement and described therein as follows:

FM 620/US 183 Intersection

64% ... dual left turn bays on FM 620 for turns onto US 183 southbound. The Austin/620 Joint Venture shall fund 64% of the cost of providing the additional storage needed to bring the total to 20 vehicles.

100% ... additional left turn storage on US 183 for turns onto FM 620 eastbound. The additional storage should accommodate three vehicles.

100% ... a free right turn lane on FM 620 for turns onto US 183 northbound.

100% ... a free right turn lane on US 183 for turns onto FM 620 eastbound.

Parmer Lane/FM 620 Intersection

10% ... a traffic signal.

9% ... a free right turn lane on Parmer Lane for turns onto FM 620 westbound.

25% ... a free right turn lane on Parmer Lane for turns onto FM 620 eastbound.

13% ... a left turn lane on FM 620 for turns onto Parmer Lane northbound. Storage for 17 vehicles should be provided.

6% ... a left turn lane on FM 620 for turns onto Parmer Lane southbound. Storage for 11 vehicles should be provided.

(f) The City will reaffirm and continue in effect the SASA Property's current exemption from the Comprehensive Watershed Ordinance, Austin City Code of 1981, Chapter 13-15, Article II, as amended from time to time;

(g) The City will support SASA's request to the State Highway Department to position the access and egress ramps for the Outerloop Parkway as depicted on Exhibit "J," attached to and incorporated into this document for all purposes, provided SASA's request satisfies all applicable state or federal safety standards for highway design; and

(h) Notwithstanding anything in this Agreement to the contrary, if the City is diligently pursuing this Alternative 1 and SASA is unable to deliver clear title to the Right-Of-Way Tract, then the City shall have the following options:

(i) Accept the title as offered by SASA, subject to defects, in which event all objections to title will be waived; or

(ii) Proceed to immediately condemn the Right-Of-Way Tract in order to clear title, in which event both parties agree that they will stipulate before the Special Commissioners and/or court that the value of the Right-Of-Way Tract is \$300,000.00.

If the City elects to proceed under this subsection (h)(ii) in order to obtain clear title, SASA shall grant the State Highway Department a Right of Entry and Possession of the Right-Of-Way Tract upon Closing so that the State Highway Department may proceed with construction. It is understood and agreed that in the event the City elects to cure title to the Right-Of-Way Tract through condemnation pursuant to this subsection, the City is still obligated to perform all other requirements of this Alternative 1.

(i) The City will complete and document items (a) through (f) of this Alternative 1 within sixty (60) days of the date SASA submits its Application to the City, as referenced in subsection (a) of this Alternative 1. If SASA's Application is being actively processed by the City, the City shall be entitled to an additional fifteen (15) days to complete and document items (a) through (f) but only after giving written notice of the extension to SASA.

If the City and SASA proceed under this Alternative 1, then the Deed marked as Exhibit "C-2" shall be of no further force and effect and the Title Company shall stamp or mark the original of such document, both on the front and signature pages, as follows:

"Cancelled and terminated pursuant to Agreement Regarding Conveyance of Right-Of-Way dated \_\_\_\_\_, 1988, and executed by and between the City of

3.04 This Agreement may be executed in multiple counterparts, each of which will be considered an original, but all of which shall constitute one instrument.

3.05 This Agreement constitutes the entire agreement of the parties, supersedes any prior undertakings or written or oral agreements between the parties, and can be modified or varied only by written instrument subscribed to by each of the parties.

EXECUTED this 28<sup>th</sup> day of January, 1988.

SASA:

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan association

By: Robert D. Duffin

Printed Name: ROBERT D. DUFFIN

Title: SR. VICE PRESIDENT

CITY:

THE CITY OF AUSTIN, a municipal  
corporation

By: James E. Thompson

Printed Name: James E. Thompson

Title: Acting Assistant City Manager

APPROVED AS TO FORM:

THE CITY OF AUSTIN  
Legal Department

Diana L. Granger

Printed Name: Diana L. Granger

11-787.17.12

Austin and SASA. The original of this document has been destroyed."

In this event, the Deed which shall be executed and delivered to the State shall be the Deed attached as Exhibit "C-1."

Alternative 2: If the City (i) fails to comply with all of the requirements of Alternative 1 within the time allowed thereunder, or (ii) the City elects Alternative 2, then within thirty (30) days of (i) or (ii) herein, whichever is applicable, the City shall initiate negotiations with, and make an offer to, SASA to purchase the Right-Of-Way Tract for a purchase price ("Purchase Price") equal to the fair market value of the Right-Of-Way Tract, which shall include the diminution in value of the remainder tract, if any. The Purchase Price shall be determined by an appraiser selected by the City and whose qualifications and procedures comply with the State Highway Department's requirements. If the City and SASA are unable to reach an agreement regarding the Purchase Price of the Right-Of-Way Tract, then the City, within fifteen (15) days of SASA's written rejection of the City's final offer, shall proceed to diligently initiate and pursue condemnation of the Right-Of-Way Tract. It is understood and agreed that the \$300,000.00 paid by the City to SASA at Closing shall be credited to the City and offset from (i) the final Purchase Price or (ii) the fair market value of the Right-Of-Way Tract as determined by a court in the final judgment, if the City condemns the Right-Of-Way Tract pursuant to this Alternative 2, as applicable. It is further understood and agreed that SASA shall grant the State Highway Department a Right of Entry and Possession of the Right-Of-Way Tract at Closing under the terms of the Escrow Agreement even if the City must proceed under Alternative 2.

2.02 It is understood and agreed by and between the parties that the City has elected to completely perform Alternative 1; however, if the City elects and completely performs Alternative 1, but fails to approve SASA's requests under (a) and (b) of Alternative 1, it shall be deemed to have elected Alternative 2. If the City either elects or is deemed to have elected Alternative 2, then the Purchase Price, or fair market value of



the Right-Of-Way Tract as determined by the award of the Special Commissioners in a condemnation proceeding, as applicable, shall begin to accrue interest at ten percent (10%) per annum, which interest will begin to accrue sixty (60) days after SASA submits its Application to the City and will continue until the Purchase Price, as agreed upon by the City and SASA, or the fair market value of the Right-Of-Way Tract, as determined in the award of the Special Commissioners in a condemnation proceeding, is paid.

If the City and SASA proceed under this Alternative 2, then the Donation Letter and the Deed included as Exhibit "C-1" shall be of no further force and effect and the Title Company shall stamp or mark the originals of such documents, both on the front and signature pages, as follows:

"Cancelled and terminated pursuant to Agreement Regarding Conveyance of Right-Of-Way dated           , 1988, and executed by and between the City of Austin and SASA. The originals of this document have been destroyed."

In this event, the Deed which shall be conveyed to the State shall be the Deed attached as Exhibit "C-2."

It is understood and agreed by the City and SASA that, whether the City pursues and satisfies Alternative 1 or Alternative 2, the State Highway Department shall be entitled to quiet enjoyment of the Right-of-Way Tract and shall not be subject to either revocation of the Right of Entry and Possession or dispossession of title to the Right-of-Way Tract.

### Section III

3.01 This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.

3.02 This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas and all obligations of the parties which are created by the Agreement are performable in Travis County, Texas.

3.03 In the event any one or more sentences, clauses or provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this Agreement shall be construed as if such sentences, clauses, or provisions had never been contained in this Agreement.

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE THOMAS DAVY SURVEY, ABSTRACT NO. 169, SITUATED IN WILLIAMSON COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT CONVEYED TO THELMA PINK WALDEN LEE, ESTATE OF LEE JAMES WALDEN, DECEASED, C/O WOODROW LEE, INDEPENDENT EXECUTOR, ET. AL., BY DEED RECORDED IN VOLUME 696, PAGE 654 OF THE WILLIAMSON COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 177.398 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: -

BEGINNING at an iron stake in the southerly R.O.W. line of R.M. 620, at the northeast corner of said Lee, et. al. tract for the northeast corner of the herein described tract,

THENCE, along the east line of said Lee, et. al. tract, the following two (2) courses and distances,

1. S 19° 48' 15" E, 1743.62 feet,
2. S 17° 50' 30" E, 1163.33 feet to an iron stake at the southeast corner of said Lee, et. al. tract for the southeast corner of the herein described tract,

THENCE, along the south line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 71° 42' 30" W, 605.10 feet,
2. S 71° 38' W, 1227.65 feet,
3. S 70° 14' W, 587.82 feet to a concrete monument for the southwest corner of the herein described tract,

THENCE, along the west line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. N 19° 14' 15" W, 1151.96 feet,
2. N 19° 08' 30" W, 1164.56 feet,
3. N 19° 29' 15" W, 1085.77 feet to an iron stake in the southerly R.O.W. line of said R.M. 620 for the northwest corner of the herein described tract,

THENCE, along the southerly R.O.W. lines of said R. M. 620, the following three (3) courses and distances, numbered 1 through 3,

1. With curve to the right, whose radius equals 2814.83 feet, an arc distance of 744.16 feet, and whose chord bears N 78° 23' 45" E, 741.99 feet to a concrete monument,
2. N 86° 01' 45" E, 1185.29 feet to a concrete monument at the beginning of a curve,
3. With curve to the left whose radius equals 3869.83 feet, an arc distance of 566.37 feet, and whose chord bears N 81° 48' 15" E, 563.86 feet to the PLACE OF BEGINNING, containing 177.398 Acres of land, more or less.

## EXHIBIT A

DEED

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

THAT San Antonio Savings Association, a Texas savings and loan association ("Grantor"), for a full valuable consideration to Grantor in hand paid by the City of Austin for the benefit of the State Department of Highways and Public Transportation ("Grantee"), the receipt and sufficiency of which is acknowledged, and for the payment of which no lien, express or implied, is retained against the property and premises hereby conveyed, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY, unto Grantee all of Grantor's right, title, and interest in and to the following described real property in Williamson County, Texas, together with all improvements thereon, to wit:

8.196 acres of land, more or less, situated in the Thomas P. Davy survey, located in Williamson County, Texas, more fully described on Exhibit "1," attached to and incorporated into this document by reference ("Property").

Grantor reserves all of the oil, gas, sulphur and other minerals in and under the Property, but waives all rights of ingress and egress to the surface of the Property for the purpose of exploring, developing, mining, or drilling for same; however, nothing in this reservation shall affect the title and rights of the Grantee to take and use all other minerals thereon, therein, or thereunder for the purpose of roadway construction or improvement.

Grantor is conveying the Property hereunder solely for use by the Grantee for right-of-way for construction of roadway improvements. If the Property is ever (i) abandoned as right-of-way for roadway improvements; (ii) no longer needed by Grantee for right-of-way; or (iii) used for any purpose other than as right-of-way for roadway improvements, the title granted hereunder shall automatically revert to Grantor or Grantor's successors and/or assigns.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, Grantee's successors and assigns, forever, unless the Property reverts to Grantor as provided above; and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except, however, that this conveyance is made subject to all easements of record in Williamson County, Texas, or visible or apparent on the ground, and all reservations, covenants, conditions and restrictions which are applicable to the Property; and Grantee by acceptance of delivery of this deed does hereby assume and agree to perform all of the obligations of Grantor under said easements, reservations, covenants, conditions and restrictions.

Grantee's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 1988.

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan association

*RA* By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AFTER RECORDING, RETURN TO:

11-0188.21

DEED

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

THAT SAN ANTONIO SAVINGS ASSOCIATION, a Texas savings and loan association ("Grantor"), for a full valuable consideration to Grantor in hand paid by the by the City of Austin for the benefit of the State Department of Highways and Public Transportation ("Grantee"), the receipt and sufficiency of which is acknowledged, and for the payment of which no lien, express or implied, is retained against the property and premises hereby conveyed, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY, unto Grantee all of Grantor's right, title and interest in and to the following described real property in Williamson County, Texas, together with all improvements thereon, to wit:

8.196 acres of land, more or less, situated in the Thomas P. Davy survey, located in Williamson County, Texas, more fully described on Exhibit "1", attached to and incorporated into this document by reference ("Property").

Grantor reserves all of the oil, gas, sulphur and other minerals in and under the Property, but waives all rights of ingress and egress to the surface of the Property for the purpose of exploring, developing, mining, or drilling for same; however, nothing in this reservation shall affect the title and rights of the Grantee to take and use all other minerals thereon, therein, or thereunder for the purpose of roadway construction or improvement.

Grantor is conveying the Property hereunder for use by the Grantee for right-of-way for construction of roadway improvements.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, Grantee's successors and assigns, forever; and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the

EXHIBIT C-2

same or any part thereof, except, however, that this conveyance is made subject to all easements of record in Williamson County, Texas, or visible or apparent on the ground, and all reservation, covenants, conditions and restrictions which are applicable to the Property; and Grantee by acceptance of delivery of this deed does hereby assume and agree to perform all of the obligations of Grantor under said easements, reservations, covenants, conditions and restrictions.

Grantee's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 1988.

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan association

*MA* By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AFTER RECORDING, RETURN TO:

11-0188.22.2

\_\_\_\_\_, 1988

State Department of Highways  
and Public Transportation  
c/o Joseph Morahan  
P.O. Box 1088  
Austin, Texas 78767-8828

Re: San Antonio Savings Association - Donation of Right-of-  
Way for the Construction of Highway 620/Farmer Lane  
Intersection

To Whom It May Concern:

This is to advise that San Antonio Savings Association ("SASA") has been made aware of the federal and state statutes governing the acquisition of right-of-way for highway projects and that SASA is entitled to receive fair market compensation for its parcel of right-of-way, more fully described on Exhibit "A," and to damages to the remainder of its tract, more fully described on Exhibit "B," if any.

Pursuant to the terms of that one certain "Agreement Regarding Conveyance of Right-of-Way" between SASA and the City of Austin, SASA has elected to transfer the right-of-way tract to the State Department of Highways and Public Transportation, without receiving full monetary compensation for it.

Very truly yours,

SAN ANTONIO SAVINGS ASSOCIATION

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

L11-987.29

EXHIBIT D

RIGHT OF ENTRY AND POSSESSION

THE STATE OF TEXAS       §  
                                  §  
COUNTY OF WILLIAMSON     §

THIS RIGHT OF ENTRY AND POSSESSION ("Agreement") is made by and between San Antonio Savings Association, a Texas savings and loan association ("SASA"), and the City of Austin, Texas, a municipality in the State of Texas acting by and through its duly-authorized City Manager ("City") and is as follows:

WHEREAS, SASA is the owner of a certain tract of land in Austin, Travis County, Texas, more fully described in Exhibit "A," attached to and incorporated into this Agreement for all purposes ("Right-of-Way Tract"); and

WHEREAS, the City, for the benefit of the State Department of Highways and Public Transportation ("State Highway Department"), desires to acquire title to the Right-of-Way Tract for right-of-way purposes; and

WHEREAS, this Agreement is executed pursuant to and fully supports Section 1.02 of that one certain Agreement Regarding Conveyance of Right-Of-Way ("Right-of-Way Agreement"), attached as Exhibit "B" and incorporated into this Agreement by reference for all purposes; and

WHEREAS, for the purpose of widening and improving Highway 620 and constructing the Farmer Lane/Highway 620 intersection ("Improvements"), the State Highway Department must have possession of the Right-of-Way Tract by September 30, 1987, or two (2) weeks after the State Highway Department awards the contract for construction of the Improvements, whichever occurs first.

NOW, THEREFORE, SASA, for good and valuable consideration paid to it by the City, for the benefit of the State Highway Department, the receipt and sufficiency of which is acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL, and CONVEY, unto the City, for the benefit of the State Highway Department, the right of entry upon, and the right and

EXHIBIT E



possession of, the Right-of-Way Tract for the purposes and upon the terms and conditions set forth below.

The right of entry and possession granted in this Agreement is conditioned strictly upon the following:

1. The State Highway Department shall have the right of entry upon, and possession of, the Right-of-Way Tract from and after September 15, 1987, or two (2) weeks after the State Highway Department awards the contract for construction of the Improvements, whichever occurs first. The State Highway Department shall have the right to control and use the Right-of-Way Tract for surveying; site review and analysis; fencing; traffic and pedestrian control devices and signs; and widening, improving and constructing the Improvements.

2. The grant herein made shall not prejudice, or in any way effect SASA's rights to receive compensation from the City for the interest in the Right-of-Way Tract to be acquired by the State Highway Department, pursuant to the Right-of-Way Agreement.

3. Notwithstanding anything to the contrary, this document shall not be recorded in any public records or referred to in any memorandum or other document recorded in any public records.

4. Notwithstanding anything to the contrary in this Agreement or elsewhere, the right of entry and possession set forth in this Agreement shall not prohibit or interfere with SASA's development of the Northwest Crossing Tract, including its rights or ability to cross or go upon the Right-of-Way Tract as needed to access and develop the Northwest Crossing Tract. The Northwest Crossing Tract is more fully described on Exhibit "C," attached to and incorporated into this document by reference for all purposes.

TO HAVE AND TO HOLD the possession of the Right-of-Way Tract for the purposes and subject to the limitations above-described, and SASA warrants that no person or corporation owns an interest in the fee title to the Right-of-Way other than SASA.

EXECUTED by the undersigned on the date set below.

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan, Venturer

Date: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE CITY OF AUSTIN, a Texas  
municipal corporation

Date: \_\_\_\_\_

*RSB* By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

11-887.27.3

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made and entered into by and between San Antonio Savings Association, a Texas savings and loan association ("SASA"), the City of Austin, Texas, a municipality in the state of Texas, acting by and through its duly-authorized City Manager ("City"), and Georgetown Title Company, a title company situated and doing business in Georgetown, Williamson County, Texas ("Escrow Agent"), and is as follows:

WHEREAS, the City and SASA have executed that one certain Agreement Regarding Conveyance of Right-Of-Way of even date herewith ("Right-of-Way Agreement"), setting forth the terms and conditions upon which SASA has agreed to convey to the State Department of Highways and Public Transportation ("State Highway Department") 8.196 acres of land, more or less, situated in Williamson County, Texas, and more fully described in Exhibit "A," attached to and incorporated into this Agreement by reference ("Right-Of-Way Tract"); and

WHEREAS, pursuant to Section 1.03 of the Agreement Regarding Conveyance Right-Of-Way, two alternate deeds ("Deeds") conveying the Right-Of-Way Tract from SASA, as grantor, to the State Highway Department, as grantee, are to be delivered to, and held by, the Escrow Agent under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. SASA shall deliver the Deeds and the Donation Letter (for the benefit of the State Highway Department) to the Escrow Agent to be held in trust and not released, recorded, or referred to in any recorded document, until closing ("Closing") and Closing shall occur within seventy-two (72) hours from the time all of the following have occurred:

EXHIBIT F

(i) the City has delivered to the Escrow Agent a certified copy of the Award of Contract by the State Highway Department for the construction of the Farmer Lane/Highway 620 Interchange ("Award of Contract"), (ii) SASA has delivered a letter to the Escrow Agent stating that it has received a certified copy of the Award of Contract, and (iii) clear title to the Right-Of-Way Tract can be delivered to the City, or, alternatively, SASA grants the State Highway Department a Right of Entry and Possession of the Right-Of-Way Tract under the terms of Section 2.01 of the Right-of-Way Agreement.

2. At or before Closing, (i) SASA will pay to the Transportation and Public Services Department of the City \$246,000.00 as its pro rata share of the regional drainage improvements to Lake Creek, and (ii) the City will pay to SASA \$300,000.00 as partial consideration for the Right-Of-Way Tract.

3. This Agreement is subject to any further additional terms, exceptions, provisions and conditions which are acceptable to and approved in writing by the parties to this Agreement.

4. The Escrow Agent shall be liable as a depository only, and does not pass on, or evaluate, the sufficiency, form, accuracy or validity of documents deposited, or to be deposited, under this Escrow Agreement. The Escrow Agent may rely on any documents or writings reasonably believed by it to be authentic in making any deliveries or releases required by this Agreement.

5. A fee of \$\_\_\_\_\_ will be paid to the Escrow Agent as compensation for services rendered hereunder, and it is further agreed that reasonable additional compensation shall be paid for extraordinary services required hereunder. The Escrow Agent shall exercise no lien on any documents held in escrow, but shall have the right of recourse against the parties for lawful costs, expenses, and fees.

6. Unless the conditions set forth in paragraph 1 of this Agreement have been met within ninety (90) days from the date of this Agreement, the Escrow Agent shall consider this escrow of no force and effect and shall deliver all documents or instruments to the respective parties from whom they have been received, with

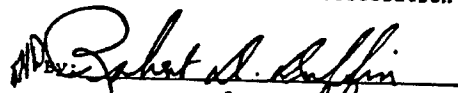
such redelivery relieving the agent from any further liability with reference thereto. This provision may be waived by all parties involved and an extension of term of this Agreement may be entered into by mutual consent of the parties, reduced to writing and delivered and accepted by the Escrow Agent. Provided, however, that in the event that an extension is not agreed to by mutual consent of the parties, then the City and SASA shall proceed to comply with Alternative 2 of the Right-of-Way Agreement.

EXECUTED by the undersigned on the dates set forth below.

SAN ANTONIO SAVINGS ASSOCIATION, a  
Texas savings and loan association

Dated:


1-28-88

  
Printed Name: Robert W. Cuffin  
Title: SR. VICE PRESIDENT

CITY OF AUSTIN, a municipal  
corporation

Dated:

2/1/88

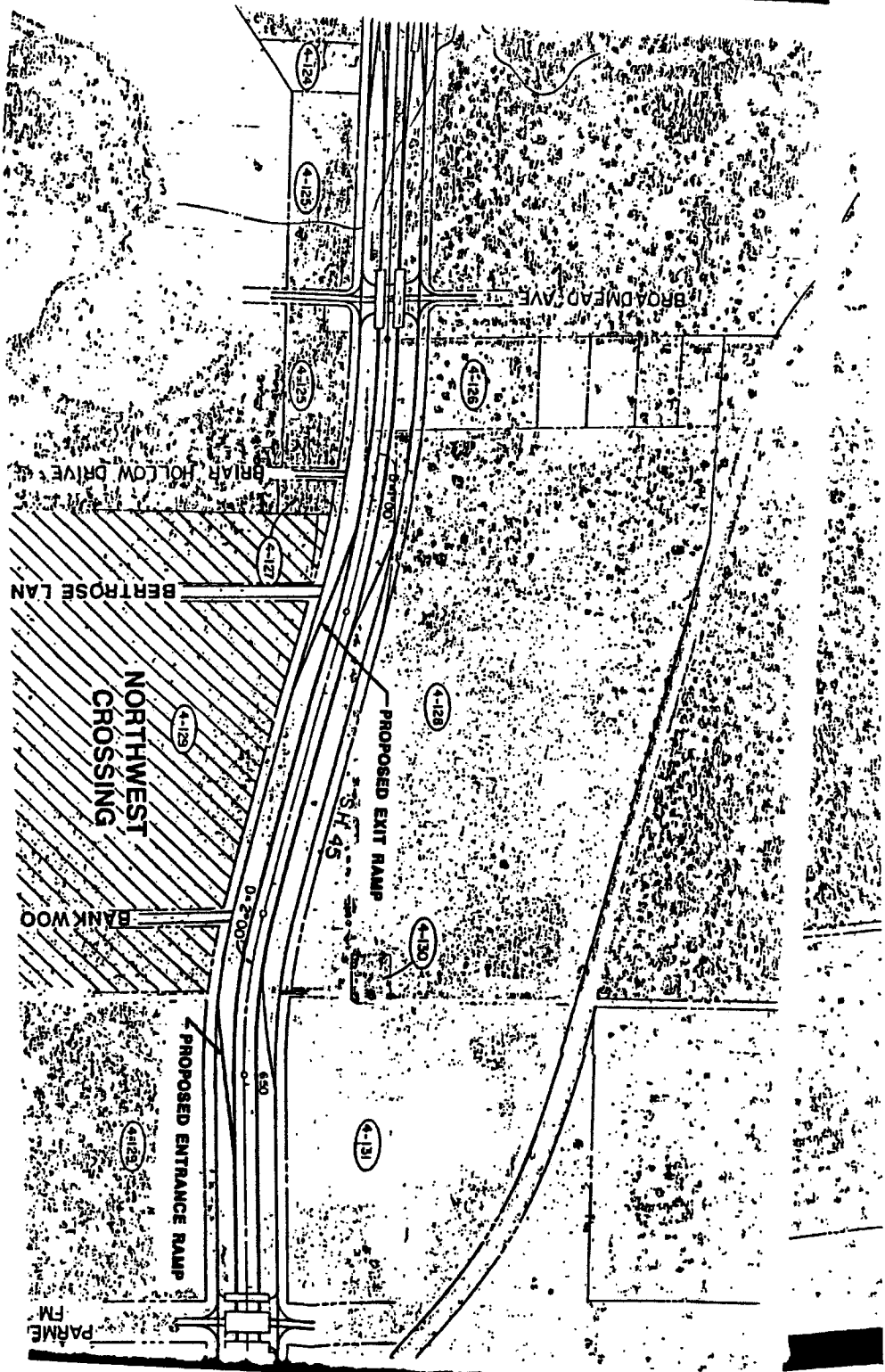
By:   
Printed Name: James E. Thompson  
Title: Acting Assistant City Manager

Received from SASA two alternate deeds to 8.196 acres in Williamson County, more or less, to be held in trust, but to be delivered to the City, if the above conditions are met.

GEORGETOWN TITLE COMPANY,  
Williamson County, Texas

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

11-787.19.11



ASSIGNMENT OF RIGHTS AND OBLIGATIONS

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF TRAVIS   §

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, North Austin Municipal Utility District No. 1, a municipal utility district created by order of the Texas Water Commission and operating pursuant to Chapter 54 of the Texas Water Code (the "District"); and Milwood Joint Venture, Robinson Ranch, Austin White Line Company, and Palmer Associates, parties to creation of the District, have executed that certain Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1, dated January 30, 1984 ("Creation Agreement"), which Creation Agreement is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, San Antonio Savings Association, a Texas savings and loan association (hereinafter referred to as "Assignee"), acquired that certain 177 acre tract of land lying within the District and located in Travis County, Texas, as more particularly described on Exhibit "B," attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Milwood Joint Venture, Robinson Ranch, Austin White Line Company, and Palmer Associates (hereinafter collectively referred to as "Assignor") desire to assign certain rights and obligations under the Creation Agreement to Assignee and Assignee desires to assume said rights and obligations.

NOW, THEREFORE, for and in consideration of the premises herein stated, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns to Assignee, and Assignee hereby assumes, certain rights and obligations as follows:

1. Construction of District Facilities. Assignee shall serve as project manager of the water, wastewater and drainage facilities internal to the Property and shall comply with Article IX of the Creation Agreement to the extent that said article affects the Property.

2. Land and Easement Costs. The obligations of the Assignor under Article X of the Creation Agreement, to the extent that said article affects the Property, are hereby assigned to the Assignee.

3. Land Use and Development. All rights and obligations of the Assignor under Article XI of the Creation Agreement, to the extent that said article affects the Property, are hereby assigned to the Assignee; provided, however, Assignee does not hereby assume any of the Assignor's rights and obligations under Sections A, D, and F of said article.

It is expressly understood and agreed by and between Assignor and Assignee that Assignee in no way assumes responsibility for compliance with, nor shall Assignee be liable for, the Assignor's failure to comply with the terms and provisions of the Creation Agreement, except to the extent stated herein, and that Assignor retains all other rights and obligations under the Creation Agreement.

This assignment is made pursuant to Article XII of the Creation Agreement and is subject to approval of the Assignee by the City of Austin.

*Exhibit X to Ordinance*

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

ASSIGNOR:

NORTH AUSTIN MUNICIPAL UTILITY  
DISTRICT NO. 1

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Board of Directors, President

ATTEST:

\_\_\_\_\_  
Board of Directors, Secretary

AUSTIN WHITE LIME COMPANY

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ROBINSON RANCH

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MILWOOD JOINT VENTURE

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PALMER ASSOCIATES

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**ASSIGNEE:**

**SAN ANTONIO SAVINGS ASSOCIATION**

**Dated:** \_\_\_\_\_

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

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**CITY OF AUSTIN, TEXAS**

**Dated:** \_\_\_\_\_

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

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**APPROVED AS TO FORM:**

**CITY OF AUSTIN  
LEGAL DEPARTMENT**

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

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**11-0388.11**

Map

AGREEMENT CONCERNING THE THIRD AMENDMENT TO THE  
AGREEMENT CONCERNING CREATION AND OPERATION OF  
NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1 AND THE  
FIRST AMENDMENT TO THE UTILITY CONSTRUCTION CONTRACT BETWEEN  
THE CITY OF AUSTIN AND  
NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1

THE STATE OF TEXAS   §  
                          §     KNOW ALL MEN BY THESE PRESENTS:  
COUNTIES OF TRAVIS   §  
AND WILLIAMSON       §

This agreement ("Agreement") amending "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" and amending "Utility Construction Contract Between the City of Austin and North Austin Municipal Utility District No. 1" is made and entered into by and among North Austin Municipal Utility District No. 1 (the "District"), a municipal utility district created by order of the Texas Water Commission on November 15, 1983, and operating pursuant to Chapter 54 of the Texas Water Code, the City of Austin (the "City"), a home-rule City located in Travis and Williamson Counties, Texas and Austin White Lime, a Texas general partnership, Robinson Ranch, a Texas general partnership and Milwood Joint Venture, a Texas joint venture (hereinafter collectively referred to as "Milwood") and San Antonio Savings Association ("SASA"), subsequent holder of title to the certain tract of 177 acres within the boundaries of the District.

W I T N E S S E T H

WHEREAS, the District, the City and Milwood entered into that certain "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" (the "Consent Agreement") on February 21, 1984, and two subsequent amendments thereto which provide for, among other things, the provision of water and wastewater utility services and financing for system improvements for same; and

WHEREAS, the District and the City entered into that "Utility Construction Contract Between the City of Austin, Texas and North

Austin Municipal Utility District No. 1 (the "Construction Contract") on February 21, 1984, which provides for, among other things, the provision of water and wastewater utility services and the financing for utility system improvements to provide such services through the issuance of contract revenue bonds; and

WHEREAS, the Consent Agreement, as amended, and Construction Contract contain certain obligations by the parties for construction, ownership and financing of certain water improvements to provide adequate water supply to the District; and

WHEREAS, the parties acknowledge that the District has financed and constructed the 24-Inch Parmer Lane Transmission Main and the 36-Inch McNeil Road Transmission Main at a combined cost of \$4,900,000 and that the City has financed and constructed approximately \$23,600,000 of water improvements to provide Northwest B pressure plane water service to the general area; and

WHEREAS, the parties now desire to amend or delete certain obligations of the parties with respect to water utility facilities and services to benefit all parties and provide reliable water service in the District; and

WHEREAS, the parties desire to designate this Agreement as the third amendment to the Consent Agreement and as the first amendment to the Construction Contract;

NOW, THEREFORE, for the mutual promises, obligations and releases set forth below, the parties agree as follows:

I.  
PRIOR AGREEMENTS

1.01 Provision of Water Utility Service and System Improvements.

- A. The Consent Agreement and Construction Contract provide for the design, financing, construction, ownership, and operation and maintenance of certain water main extensions and other water improvements (the "Project"). Water improvements designated as Project items include:
1. 36-Inch McNeil Road Transmission Main from the Jollyville Reservoir along McNeil Road to the 24-Inch Transmission Main in Parmer Lane. The parties acknowledge that this facility has been constructed by the District with its funds and is owned and operated by the District.
  2. 24-Inch Parmer Lane Transmission Main from the terminus of the 36-Inch McNeil Road Transmission Main along the right-of-way of Parmer Lane to FM 620. The parties acknowledge that this facility has been constructed by the District with its funds and is owned and operated by the District.
  3. Cost participation in the oversize of the Research Boulevard Transmission Main. The parties acknowledge that the Research Boulevard Transmission Main has been constructed by the City with its funds and is owned and operated by the City.
  4. 2,700,000 Gallon Northwest "A" System Elevated Reservoir. The parties acknowledge that this facility has not been constructed and its funding

was to be provided through the issuance of contract revenue bonds.

5. 48-Inch Spicewood Springs Transmission Main and Discharge Piping from Spicewood Springs Pump Station to U.S. Highway 183. The parties acknowledge that the Transmission Main has not been constructed and does not need to be constructed. Its funding was to be provided through the issuance of contract revenue bonds. The parties further acknowledge that the Discharge Piping has been constructed and funded from other sources.

- B. The City, pursuant to Article III of the Consent Agreement, agreed to "sell and deliver to the District all water which may be reasonably required ... for domestic and commercial uses" of the District. The City and District in the Consent Agreement and Construction Contract agreed to the construction of the Project to provide the facilities for the provision of the water service to the District by the City. Portions of the Project were to be funded solely by the District through its bonds and other portions were to be funded through the issuance of contract revenue bonds.

## II.

### REVISIONS TO THE WATER UTILITY SERVICE PLAN

2.01 Ownership of 24-Inch and 36-Inch Transmission Mains. The parties acknowledge that the 24-Inch Parmer Lane Transmission Main and the 36-Inch McNeil Road Transmission Main (collectively the "Mains") are currently owned, operated and maintained by the District. The District agrees to dedicate the Mains to the City upon execution of this Agreement. The City agrees to accept the

**SOAH DOCKET NO. 473-14-5138  
PUC DOCKET NO. 42857**

PETITION OF NORTH AUSTIN	§	BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT NO. 1,	§	
NORTHTOWN MUNICIPAL UTILITY	§	
DISTRICT, TRAVIS COUNTY WATER	§	
CONTROL AND IMPROVEMENT	§	
DISTRICT NO. 10 AND WELLS	§	
BRANCH MUNICIPAL UTILITY	§	OF
DISTRICT	§	
FROM THE RATEMAKING ACTIONS	§	
OF THE CITY OF AUSTIN	§	
AND REQUEST FOR INTERIM RATES	§	
IN WILLIAMSON AND TRAVIS	§	
COUNTIES	§	ADMINISTRATIVE HEARINGS

**SOAH DOCKET NO. 473-14-5138  
PUC DOCKET NO. 42867**

PETITION OF NORTH AUSTIN	§	BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT NO. 1,	§	
NORTHTOWN MUNICIPAL UTILITY	§	
DISTRICT, AND WELLS BRANCH	§	
MUNICIPAL UTILITY DISTRICT	§	OF
FROM THE RATEMAKING ACTIONS	§	
OF THE CITY OF AUSTIN	§	
AND REQUEST FOR INTERIM RATES	§	
IN WILLIAMSON AND TRAVIS	§	
COUNTIES	§	ADMINISTRATIVE HEARINGS

**PETITIONERS' EXHIBITS 1-4**

**ON BEHALF OF PETITIONERS  
OCTOBER 17, 2014**

**NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1**  
**c/o Armbrust & Brown, PLLC**  
**100 Congress Avenue, Suite 1300**  
**Austin, Texas 78701**

**AFFIDAVIT OF CUSTODIAN OF RECORDS**


BEFORE ME, the undersigned notary public, on this day personally appeared Katherine Dulany, who, being by me duly sworn, did depose and say as follows:

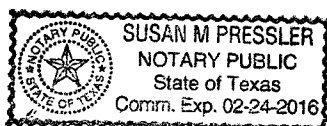
"My name is Katherine Dulany. I am over 18 years of age, of sound mind, have never been convicted of a felony and am otherwise capable of making this affidavit. I am personally acquainted with the facts stated in this affidavit.

I am the custodian of the records of North Austin Municipal Utility District No. 1, a political subdivision of the State of Texas (the "District"). Attached hereto are 234 pages of copies of records of the District that are kept by the District in the regular course of business. The attached copies are exact duplicates of the original records."

  
Katherine Dulany

Sworn to and subscribed before me, the undersigned authority, on this the 22<sup>nd</sup> day of August, 2013.

  
Notary Public



{W0591987.1}



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

THE STATE OF TEXAS   §

COUNTIES OF TRAVIS   §  
AND WILLIAMSON       §

KNOW ALL MEN BY THESE PRESENTS:

THIS AGREEMENT is made and entered into by and between the City of Austin, Texas (hereinafter referred to as the "City"), a municipal corporation situated in Travis County, Texas, acting herein by and through its undersigned duly authorized City Manager, as authorized by specific action of its City Council; North Austin Municipal Utility District No. 1 (hereinafter referred to as the "District"), a municipal utility district created on the 15 day of ~~November~~, 1983, by order of the Texas Water Commission and operating pursuant to Chapter 54 of the Texas Water Code; and Milwood Joint Venture, Robinson Ranch, and Austin White Lime Company (hereinafter collectively referred to as "Milwood"), the holders of legal title to all of the land comprising the District, which consists of approximately 997 acres situated partially within Williamson County, Texas, and partially within Travis County, Texas, a portion of which lies within the City and a portion of which lies within the extraterritorial jurisdiction of the City.

For and in consideration of the premises and the mutual agreements, covenants, and conditions hereinafter set forth, the parties hereto hereby contract and agree as follows, to wit:

ARTICLE I

ISSUANCE OF BONDS BY THE DISTRICT

A. Bonds For District Facilities

1. The City has granted its unconditional consent to the creation of the District in accordance with the Water District Ordinance adopted by the City Council of the City on August 19, 1981, by Ordinance Number 810819-E, a true and correct copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (the "Water District Ordinance"); subject, however, to a variance granting the District the bonding authority provided in the Water District Ordinance for Growth Area III. The terms and conditions of the Water District Ordinance are made a part of this Agreement for all purposes to the extent allowed by law. The District agrees that it shall only issue bonds and notes, including bond anticipation notes, in the manner provided by the Water District Ordinance and the rules and requirements of the Texas Water Commission. All bonds and notes of the District shall be approved by the City Council of the City prior to the

issuance thereof; provided, however, that the authorization granted herein by the City of a principal amount (plus interest) of bonds proposed to be issued by the District shall be deemed to include the approval of bond anticipation notes not to exceed the amount of principal and interest of the bonds so authorized. It is specifically agreed that the District's bonds, when issued, shall be secured by a pledge of the District's taxes and revenues.

2. The parties hereto acknowledge and agree that this Agreement and the Water District Ordinance, as now in effect and hereafter amended, 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 Agreement nor the Water District Ordinance otherwise restrict or limit the powers and authority of the District 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 available, lawful source to provide for such acquisition, ownership, maintenance and operation, as well as to accomplish any purpose or to 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. Bonds and notes of the District may be issued for any purpose not specifically prohibited by this Agreement or the Water District Ordinance, subject to the provisions of the Texas Water Code and the rules and requirements of the Texas Water Commission.

B. Bonds for Special Facilities

1. To enable the City to supply water to the District and to receive and treat wastewater from the District in accordance with the provisions of Articles II and III hereof, the parties hereby acknowledge that major extensions and improvements to the City's existing water and sewer facilities shall be necessary. The parties agree that, subject to the approval of the Texas Water Commission, the necessary improvements and extensions shall be accomplished as more fully described and identified in the Utility Construction Contract (the "Preferred Contract") by and between the District and the City, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference. The parties further agree that, in the event the

approval of the Texas Water Commission to the oversizing of the facilities described in the Preferred Contract is not obtained, the District shall construct improvements and extensions to the City's system sized only as necessary to provide service to the District, and the District shall purchase capacity from the City's water and wastewater utility system for a purchase price equivalent to the difference between the cost of construction of the oversized facilities, as described in the Preferred Contract, and the cost of facilities sized only to serve the District. The parties hereto acknowledge and agree that the value to the City of the District's oversizing certain utility facilities as provided in the Preferred Contract, is equivalent to the value to the District of the capacity to be allocated to the District by the City from the City's water and sewer utility systems. The Preferred Contract shall be deemed approved by the City Council of the City simultaneously with the City's approval of this Agreement.

2. It is expressly acknowledged and agreed that the approval of the Texas Water Commission of facilities described in the Preferred Contract will be requested at the time a petition for creation of the District is presented to the Texas Department of Water Resources. The parties mutually covenant and agree to cooperate in making such modifications to the Preferred Contract as may be reasonably necessary in order to obtain the approval of the Texas Water Commission thereof. In the event that the Texas Water Commission does not approve the construction of the facilities described in the Preferred Contract, the parties covenant and agree to cooperate with each other in order to develop a utility construction proposal which will satisfy the requirements of the District and the City in order to provide service to the land within the District and which will be acceptable to the Texas Water Commission.

3. The term "Construction Contract", as hereinafter utilized in this Agreement, shall mean and refer to the Preferred Contract or any subsequent utility construction agreement between the City and the District which provides for the construction of the utility facilities and improvements necessary to serve the District, and which is approved by the Texas Water Commission.

4. It is expressly acknowledged that the "Project", as such is defined in the Construction Contract, shall include approach mains necessary to serve the District and that no additional City approval of such approach mains shall be required upon completion of the Project.

5. To finance the cost of acquiring and constructing the Project, the District is hereby authorized to issue bonds and bond anticipation notes, subject to the terms, conditions and

procedures set forth in the Construction Contract. The Project shall be constructed by the District in accordance with the provisions of the Construction Contract and, upon completion thereof, shall be dedicated to the City. Upon such dedication, all right, title and interest of the District in and to the Project shall vest in the City. The City agrees that, upon completion of the Project, adequate distribution capacity shall be reserved by the City to serve all land within the District.

#### ARTICLE II

##### WATER SUPPLY

A. At the times and in the manner requested by the District, the City agrees to sell and deliver to the District all water which may be reasonably required by inhabitants of the District for domestic and commercial purposes. The City agrees that water service to the District shall immediately, upon execution of this Agreement by the City, be made available to the District from the City's Jollyville Reservoir. All such water shall be supplied from the City's water distribution system, as extended by the District, to a point or points of delivery adjacent to the boundaries of the District, as designated by the District's engineer and approved by the City. The sale and furnishing of water to the District shall be nondiscriminatory and uniform with the policy or policies of the City relating to utilities inside the City's utility service area as established by Ordinance Number 810820-B, as now in effect or hereafter amended. Water supplied to the District pursuant to this Agreement shall be at the rate or rates established by the City for water supplied to water districts generally. The District specifically agrees that the supply of water to the District may be reasonably limited by the City on the same basis and to the same extent as the supply of water to any other customer within the City's service area. "Water", as used in this Article II, shall mean potable water meeting the requirements of the Texas Department of Health for human consumption and other domestic uses. The City agrees to use reasonable efforts to acquire and maintain a supply of water adequate to provide service to the District. This Agreement shall serve in lieu of an approved approach main request for water service under the City's approach main policy.

B. Metering equipment and related facilities, including a meter loop, a meter house or pit, and standard-type devices required for properly measuring the quantity of water delivered to the District, shall be installed at each point of delivery of water to the District. The District, at its expense, shall install and provide the meter loop and the meter house or pit. The City, at the District's expense, shall provide and install

the meter. The City, at its expense, shall operate and maintain the metering equipment and related facilities and shall calibrate the metering equipment upon request by the District; provided, however, that the cost of calibrating the metering equipment shall be borne by the District if requested more frequently than once every twelve (12) months. Any 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 during the corresponding period immediately preceding such failure, subject to reasonable adjustments for seasonal and climatic considerations, unless the City and the District otherwise agree. The metering equipment shall be read once each calendar month.

C. 1. Rates charged to customers of the District for water delivered pursuant to this Article II shall be set by the District and shall not be less than those normally charged by the City for comparable customers within the City, as established from time to time by the City Council of the City. It is agreed and understood that the District shall charge the surcharge provided in Article VII hereof in addition to such water service rates.

2. The City and the District agree that the District shall comply with the City's Capital Recovery Fee Ordinance, Ordinance Number 821216-H, as hereafter amended from time to time, and shall be entitled to any credits and offsets for construction of offsite facilities set forth therein.

D. The District's billing and payment procedures shall substantially conform with the procedures established by the City as set forth in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, that the District may vary such procedures if required by law and that the District and the City may enter into a contract providing that the City may handle billings for the District in such a manner and for such compensation as may be mutually agreeable.

#### ARTICLE III

##### SEWAGE TREATMENT

A. The City agrees to receive, treat, and dispose of all sewage which is collected by the District and delivered to a point or points of delivery into the City's sanitary sewer trunk line, as extended by the District. Said point or points of delivery shall be designated by the District's engineer and approved by the City. Sewage treatment and disposal services provided to the District shall be nondiscriminatory and uniform with the policy or policies established by the City Council of the City relating to utilities in the City's utility service

area, as established by Ordinance Number 810820-B, as now in effect or hereafter amended. Sewage received from the District and treated by the City pursuant to the terms of this Agreement shall be at the rate or rates established by the City for sewage received from water districts generally. The District specifically agrees that the treatment of sewage received from the District may be reasonably limited by the City on the same basis and to the same extent as the treatment of sewage received any other customer within the City's service area. The City agrees to use reasonable efforts to acquire and maintain sewage treatment capacity adequate to provide service to the District. This Agreement shall serve in lieu of an approved approach main request for sewer service under the City's approach main policy.

B. The District is authorized to contract with any firm, corporation, person or governmental entity for the temporary disposal of sewage until such time as the facilities contemplated hereunder have been constructed by the District. The reasonable cost and expense of such temporary sewage disposal shall be a bondable expense of the District to the extent permissible under the rules and regulations of the Texas Water Commission. No package treatment plant shall be used within the District on either a temporary or permanent basis.

C. 1. Rates charged to customers of the District for sanitary sewer service shall be set by the District and shall not be less than those normally charged by the City for comparable customers within the City, as established from time to time by the City Council of the City. It is agreed and understood that the District shall charge the surcharge provided in Article VII hereof in addition to such sanitary sewer service rates.

2. The City and the District agree that the District shall comply with the City's Capital Recovery Fee Ordinance, Ordinance Number 821216-H, as hereafter amended from time to time, and shall be entitled to any credits and offsets for construction of offsite facilities set forth therein.

D. The District's billing and payment procedures shall substantially conform with the procedures established by the City as set forth in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, that the District may vary such procedures if required by law and that the District and the City may enter into a contract providing that the City may handle the billings for the District in such a manner and for such compensation as may be mutually agreeable.

E. Industrial waste, if any, received by the District shall be processed in a manner consistent with the provisions of the City's Industrial Waste Ordinance, Ordinance Number 821209-F.

#### ARTICLE IV

##### OPERATION AND MAINTENANCE

A. The District shall operate and maintain the water and wastewater system located within the District, unless the City and the District enter into a contract for the City to operate the system in such manner and for such compensation as may be mutually agreeable. All water and wastewater connections within the District shall be inspected by the District for compliance with the requirements of the City and the requirements of the Texas Department of Water Resources. Water meters shall be purchased by the District from the City's Water and Wastewater Department at cost.

B. The District shall operate and maintain the park and recreational facilities located within the District to the extent permitted by applicable law; provided, however, that in the event it is ever determined by the Texas Water Commission or any court of competent jurisdiction that the District is incapable of legally operating and maintaining such facilities, the City may accept the parks and recreational facilities located within the District for operation and maintenance under a time schedule mutually acceptable to the District and the City, or, if an agreement is not reached between the City and the District, the District may convey such facilities to Milwood, its successors or assigns, pursuant to the terms and conditions of restrictive covenants which are to be imposed against the property situated within the District. In either event, the District shall thereafter have no further obligation with respect to the operation and maintenance of such facilities.

#### ARTICLE V

##### AREA OF AND LIMITATIONS ON SERVICE

Unless the prior approval of the City Council of the City is obtained, the District shall not: (1) construct or install water or wastewater lines or facilities to serve areas outside the District; (2) sell or deliver City water or wastewater service to areas outside the District; or (3) annex any additional lands to the District.

#### ARTICLE VI

##### LIMITATION ON LIABILITY

The City shall not be liable to Milwood, the District, or any customer of the District for any failure of the City to provide water or sewer service: (1) where such failure results from impairment of facilities, strikes or other conditions beyond the City's control, so long as the City uses reasonable efforts to promptly correct such condition or conditions, or (2) as otherwise provided in Articles II and III hereof.

ARTICLE VII  
ANNEXATION

A. The parties hereto acknowledge and agree that the land comprising the District lies partially within the extraterritorial jurisdiction of the City and partially within the City; is not bordered by another city, town, or village; and that the portion which is not currently within the City is scheduled for annexation by the City in accordance with the Annexation Plan of the City. The parties further acknowledge that the creation of the District, and the City's consent thereto, are for the purpose of promoting the orderly development of and extension of municipal services to the land comprising the District.

B. In furtherance of the purposes of this Agreement, the District and Milwood, and their respective successors and assigns, covenant and agree to the extent allowed by law that, except upon written consent of the City Council of the City they will not: (1) seek or support any effort to incorporate any land within the District, or any part thereof; or (2) sign, join in, associate with, or direct to be signed any petition seeking to incorporate any land in the District or to include any of such land within the boundaries of the City or any other incorporated entity.

C. All parties to this Agreement respectively agree that one of the purposes of this Agreement is to effectuate the provisions of Section 54.016(f) of the Texas Water Code regarding annexation pursuant to the terms and conditions of a contract between a district and a city. It is further understood that, by enacting the ordinance granting consent to the creation of the District and by executing this Agreement, the City has begun the legal process of annexation of the District, and it is mutually agreed that all parties hereto shall use their best efforts to bring about the conclusion of that process in accordance with the terms hereof.

D. It is expressly understood and agreed that the City may complete the annexation process and annex the District upon the following terms and conditions:

1. At any time following the installation of the "requisite percentage of District facilities", as herein-after defined, the annexation process may be completed and the District included within the corporate boundaries of the City. For purposes of this Subsection D, the term "requisite percentage of District facilities" shall mean ninety percent (90%) by dollar amount of the total facilities for which District bonds have been approved by the voters within the District. The District shall be dissolved on the date and in the manner specified in the ordinance



completing such annexation, but in no event more than ninety (90) days after the effective date of such annexation. Upon the dissolution of the District, the City shall immediately succeed to all properties, powers, duties, assets, debts, liabilities, and obligations of the District.

2. Notwithstanding the provisions of the preceding Subparagraph D-1, if, prior to the installation of the requisite percentage of District facilities, the City is presented with a valid petition for annexation in aid of incorporation which complies with the provisions of the Municipal Annexation Act (Article 970a, V.T.C.S.) and all other statutes, ordinances, and charter provisions relating to incorporation, the City shall be authorized to complete the annexation process and include the District within the corporate boundaries of the City. In such event, the District shall continue to exist following the effective date of such annexation; provided, however, that:

(a) The provisions of this Agreement shall remain in full force and effect until the District is dissolved in accordance with the provisions of this subsection;

(b) The total ad valorem taxes collected by the City and the District from taxable property within the District during any year between annexation of the District and dissolution of the District shall not exceed an amount greater than the City's ad valorem tax on property within the City limits. As between the City and the District, the District shall be entitled to levy and collect an ad valorem tax which, when added to the projected revenues of the District for the next year, will yield an amount sufficient to meet all financial obligations of the District and provide a ten percent (10%) contingency fund. The City shall be entitled to levy and collect an ad valorem tax which, when added to that which the District is entitled to levy and collect, shall not cause the total ad valorem taxes on taxable property within the District to exceed the limitation set forth above. It is provided, however, that if the foregoing limitation upon the total amount of ad valorem taxes shall be declared invalid by a court of competent jurisdiction and no appeal is or can be taken from that decision, then such limitation shall not apply and the City and District may each levy such ad valorem taxes as may be authorized by law.

(c) During the period following annexation but preceding dissolution of the District, the District shall, to the extent permitted by law, be responsible for providing water and wastewater service to residents of the District. The City shall be responsible for the provision of all other governmental services, including the operation and maintenance of parks and recreational areas, to residents of the District until dissolution of the District, at which time the City shall become responsible for the provision of all governmental services to residents of the District.

(d) The District shall be dissolved and the City shall succeed to all the remaining properties, powers, duties, assets, debts, liabilities, and obligations to the District upon: (i) the retirement of the District's bonded indebtedness or (ii) the expiration of forty (40) years from the date this Agreement is executed by the District, whichever occurs first. In accordance with the procedures established by applicable law, the City may elect to forfeit the collection of the surcharge described in Article VII, Section E of this Agreement and dissolve the District prior to the installation of the requisite percentage of District facilities. In such event, the City shall give notice to the District in the same manner as provided in Subparagraph 3, of this Article VII, Section D, below, of its election to dissolve the District, and such dissolution shall take effect six (6) months after such notice; provided, however, that if the installation of any items of authorized facilities financed with the proceeds from the sale of bonds has been commenced in good faith, in compliance with and in reliance on the provisions of this Agreement, and is in progress upon the date the City notifies the District of its election, dissolution of the District shall be postponed until: (i) installation of such items has been completed, or (ii) the expiration of one (1) year, whichever occurs first.

3. The City may annex the District at such time as the City finds such annexation to be feasible; provided, however, that if the installation of any items of authorized facilities financed with the proceeds of bonds has commenced in good faith in compliance with and in reliance upon the provisions of this Agreement and is in progress at the time the City finds annexation of the District to be feasible, the City shall give written notice of its intent to proceed