Light and Power System separate and apart from all other funds of the City. All revenues deposited in the Electric Fund shall be pledged and appropriated to the extent required for the following uses and in the order of precedence shown:

FIRST: To the payment of all necessary and reasonable Maintenance and Operating Expenses of the Electric Light and Power System, as defined herein or required by statute to be a first charge on and claim against the Gross Revenues thereof.

SECOND: To the payment of the amounts required to be deposited in any special funds or accounts created for the payment and security of the Priority Bonds.

THIRD: To the payment of the amounts required to be deposited in the Reserve Fund created by this Ordinance to establish and maintain the Required Reserve in accordance with the provisions of this Ordinance or any other ordinance relating to obligations for which the Reserve Fund was created and established to pay.

FOURTH: To the payment of the amounts required to be deposited in the Interest and Redemption Fund created and established by this Ordinance for the payment of principal of and interest on the Bonds as the same becomes due and payable and the payment of Separate Lien Obligations secured by a lien on and pledge of the Net Revenues of the Electric Light and Power System.

Any Net Revenues remaining in the Electric Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 14: *Water and Sewer System Fund.* The City hereby covenants and agrees that Gross Revenues of the Waterworks and Sewer System shall be, as collected, deposited into a separate account hereby created and established with a depository bank of the City and to be known as the "Water and Sewer System Fund" (herein called the "Water and Sewer Fund") and to keep such revenues of the Waterworks and Sewer System separate and apart from all other funds of the City. All revenues deposited in the Water and Sewer Fund shall be pledged and appropriated to the extent required for the following uses and in the order of precedence shown:

FIRST: To the payment of all necessary and reasonable Maintenance and Operating Expenses of the Waterworks and Sewer System, as defined herein or required by statute to be a first charge on and claim against the Gross Revenues thereof.

SECOND: To the payment of the amounts required to be deposited in any special funds or accounts created for the payment and security of the Priority Bonds.

THIRD: To the payment of the amounts required to be deposited in the Reserve Fund created by this Ordinance to establish and maintain the Required Reserve in accordance with the provisions of this Ordinance or any other ordinance relating to obligations for which the Reserve Fund was created and established to pay.

FOURTH: To the payment of the amounts required to be deposited in the Interest and Redemption Fund created and established by this Ordinance for the payment of principal of and interest on the Bonds as the same becomes due and payable and the payment of Separate Lien Obligations secured by a lien on and pledge of the Net Revenues of the Waterworks and Sewer System.

Any Net Revenues remaining in the Water and Sewer Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 15: *Reserve Fund.* For purposes of accumulating and maintaining funds as a reserve for the payment of the Priority Bonds and the Bonds, the City agrees and covenants to create a separate and special fund or account to be known as the "Combined Pledge Revenue Bond Common Reserve Fund"

the "Reserve Fund"), and all funds deposited therein (excluding earnings and income derived or received from deposits or investments which may be transferred to the Interest and Redemption Fund established in Section 16 hereof during such periods as there is on deposit in the Reserve Fund the Required Reserve) shall be used solely for the payment of the principal of and interest on the Priority Bonds and the Bonds on a pro rata basis, when (whether at maturity, upon mandatory redemption, prior to maturity or any interest payment date) and to the extent other funds available for such purposes are insufficient, and, in addition, may be used to retire the last of the Priority Bonds or Bonds outstanding.

Simultaneously with the delivery of the Series 1982 Bonds to the initial purchaser thereof, the City shall deposit in the Reserve Fund the sum of $85,000,000, hereby determined to be the Required Reserve for the Series 1982 Bonds. As and when Additional Parity Bonds or Priority Bonds are delivered or incurred, the Required Reserve shall be increased, if required, to an amount equal to the greater of (i) $85,000,000 or (ii) the average annual requirement (calculated on a calendar year basis) for the payment of principal of and interest (or other similar payments) on all Priority Bonds and Bonds then outstanding, as determined on the date the last series of Additional Parity Bonds or Priority Bonds are delivered or incurred, as the case may be. Any additional amount required shall be so accumulated by the deposit in the Reserve Fund of all or any part of said required additional amount in cash immediately after the delivery of the then proposed Priority Bonds or Additional Parity Bonds, or, at the option of the City, by the deposit of said required additional amount (or any balance of said required additional amount not deposited in cash as permitted above) in monthly installments, made on or before the last day of each month following the delivery of the then proposed Additional Parity Bonds or Priority Bonds, of not less than 1/60th of said required additional amount (or 1/60 of the balance of said required additional amount not deposited in cash as permitted above).

When and so long as the money and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but when and if the Reserve Fund at any time contains less than the Required Reserve (other than as the result of the issuance of Additional Parity Bonds or Priority Bonds as provided in the preceding paragraph), the City covenants and agrees to cure the deficiency in the Required Reserve within twelve (12) months from the date the deficiency in funds occurred with available Net Revenues in the Electric Fund and the Water and Sewer Fund, and the City hereby covenants and agrees that, subject only to payments required for the payment of principal of and interest on the Priority Bonds and the establishment and maintenance of any special funds created for the payment and security thereof, all Net Revenues remaining in the Electric Fund and the Water and Sewer Fund shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amount, as required by the terms of this Ordinance and any other ordinance pertaining to obligations the payment of which are secured by the Required Reserve.

Notwithstanding the foregoing provisions contained in this Section pertaining to an increase in the Required Reserve, in the event Priority Bonds are hereafter issued or incurred and the proceedings pertaining to the issuance or incurrence thereof provide for, or require, the creation and establishment, or reaffirm the creation and establishment, of a separate and special reserve or contingency fund for the benefit of such obligations, the amount to be accumulated and maintained in such separate and special reserve or contingency fund shall offset and be subtracted from the increase, if any, in the Required Reserve as hereinabove required.

During such time as the Reserve Fund contains the total Required Reserve, the City may, at its option, withdraw all surplus in the Reserve Fund in excess of the Required Reserve and deposit such surplus in the Interest and Redemption Fund. The City hereby designates its depository bank or banks as the custodian of the Reserve Fund.

SECTION 16: *Interest and Redemption Fund.* For purposes of providing funds to pay the principal of and interest on the Bonds as the same becomes due and payable (whether at maturity or upon mandatory redemption), the City agrees to create or maintain at a depository bank of the City a separate and special account or fund known as the "City of Austin Interest and Redemption Fund No. One" (the "Interest and Redemption Fund"). The City covenants that there shall be deposited into the Interest and Redemption Fund from the Net Revenues in the Electric Fund and the Water and Sewer Fund after the deduction of

payments required to be made to the Reserve Fund, if any, and the special funds or accounts created for the payment and security of the Priority Bonds, an amount equal to one hundred per centum (100%) of the amount required to fully pay the interest and principal, and mandatory redemption payments on the Bonds, falling due on or before the next maturity or mandatory redemption date for the Bonds, such payments to be made in equal monthly installments made on or before the 14th day of each month. If the Net Revenues in the Electric Fund and the Water and Sewer Fund in any month (after the deduction of payments required to be made to the Reserve Fund, if any, for the benefit and security of the Priority Bonds) are then insufficient to make the required payments into the Interest and Redemption Fund, then the amount of any deficiency in the payment shall be added to the amount otherwise required to be paid into the Interest and Redemption Fund in the next month.

SECTION 17: *Payment of Bonds.* On or before November 14, 1982, and semiannually on or before the 14th day of May and November thereafter while any of the Bonds are outstanding, the City shall make available to the paying agents therefor, in funds which will be immediately available on the next succeeding business day, out of the Interest and Redemption Fund and the Reserve Fund, if necessary, money sufficient to pay such interest on and such principal of the Bonds as will accrue or mature or come due by reason of redemption prior to maturity on each November 15 and May 15, respectively. The paying agents shall cancel or destroy all paid Bonds, and the coupons appertaining thereto, and furnish the City with an appropriate certificate of cancellation or destruction.

SECTION 18: *Investment of Certain Funds.* (a) Money in any Fund established pursuant to this Ordinance may, at the option of the City, be placed in time deposits or certificates of deposit secured by obligations of the type hereinafter described, or be invested, including investments held in book-entry form, in direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, United States Postal Service, Farmers Home Administration, Federal Home Loan Mortgage Association, Small Business Administration, Federal Housing Association, or Participation Certificates in the Federal Assets Financing Trust; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times. Such investments (except State and Local Government Series investments held in book entry form, which shall at all times be valued at cost) shall be valued in terms of current market value within 45 days of the close of each Fiscal Year. All interest and income derived from deposits and investments in the Interest and Redemption Fund immediately shall be credited to, and any losses debited to, the Interest and Redemption Fund. All interest and interest income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 15 hereof, be credited to and deposited in the Interest and Redemption Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds and with respect to the Reserve Fund, the Priority Bonds.

(b) That money in all Funds created by this Ordinance, to the extent not invested, shall be secured in the manner prescribed by law for securing funds of the City.

SECTION 19: *Issuance of Priority and Additional Parity Obligations.* Subject to the provisions hereinafter appearing as to conditions precedent which must first be satisfied, the City reserves the right to issue, from time to time as needed, Priority Bonds and Additional Parity Bonds, either or both, for any lawful purpose. Such Priority Bonds or Additional Parity Bonds may be issued in such form and manner as now or hereinafter authorized by the laws of the State of Texas for the issuance of evidences of indebtedness or other instruments, and should new methods or financing techniques be developed that differ from those now available and in normal use, the City reserves the right to employ the same in its financing arrangements provided only that the same conditions precedent herein required for the authorization and issuance of the same are satisfied.

(a) *Conditions Precedent for Issuance of Priority Bonds and Additional Parity Bonds—General:*

(i) The Director of Finance of the City (or other officer of the City then having the primary responsibility for the financial affairs of the City) shall have executed a certificate stating (i) that the City is not then in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the Systems, either, or both and (ii) all payments into all special funds or accounts created and established for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the Systems, either or both, have been made in full and that the amounts on deposit in such special funds or accounts are the amounts then required to be deposited therein.

(ii) The Priority Bonds and Additional Parity Bonds (except Contractual Obligations and evidences of indebtedness due within 12 months from the date of the issuance thereof) shall be scheduled to mature or be payable as to principal on November 15 or May 15 (or both) in each year the same are to be outstanding or during the term thereof.

(b) *Conditions Precedent for Issuance of Priority Bonds and Additional Parity Bonds—Capital Improvements.* The City covenants and agrees that neither Priority Bonds or Additional Parity Bonds will be issued for the purpose of financing Capital Improvements, unless and until the conditions precedent in subparagraph (a) above have been satisfied and, in addition thereto, the City has secured:

(i) for the issuance of Priority Bonds, a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Net Earnings for the preceding Fiscal Year or for 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the Priority Bonds is adopted are at least equal to the sum of (i) 1.10 times the average annual requirement for the payment of principal and interest (or other similar payments) for the Bonds outstanding and all other outstanding obligations (except Priority Bonds and Separate Lien Obligations) that are payable only from and secured solely by a lien on and pledge of the Net Revenues of the Systems, either or both, and (ii) 1.25 times the average annual requirement for the payment of principal and interest (or other similar payments) for all outstanding Priority Bonds and Separate Lien Obligations after giving effect to the Priority Bonds then proposed. In making a determination of the Net Earnings, the Accountant may take into consideration a change in the rates and charges for services and facilities afforded by the Systems, either or both, that became effective at least sixty (60) days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the above Net Earnings test, make a pro forma determination of the Net Earnings for the period of time covered by his certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Accountant's certificate or opinion; or

(ii) for the issuance of Additional Parity Bonds, a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Net Earnings for the preceding Fiscal Year or for 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the Additional Parity Bonds is adopted are at least equal to the sum of (i) 1.10 times the average annual requirement for the payment of principal and interest (or other similar payments) for the Bonds outstanding and all other outstanding obligations (except Priority Bonds and Separate Lien Obligations) that are payable only from and secured solely by a lien on and pledge of the Net Revenues of the Systems, either or both, including the Additional Parity Bonds then proposed and (ii) 1.25 times the average annual requirement for the payment of principal and interest (or other similar payments) for all outstanding Priority Bonds and Separate Lien Obligations. In making a determination of the Net Earnings, the Accountant may take into consideration a change in the rates and charges for services and facilities afforded by the Systems, either or both, that became effective at least sixty (60) days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the above Net Earnings test, make a pro forma determination of the Net Earnings of the Systems for the period of time covered by his certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Accountant's certificate or opinion.

As used in this Section, the term "Net Earnings" shall mean the combined Gross Revenues of the Systems after deducting the combined Maintenance and Operating Expenses of the Systems, but not expenditures which, under standard accounting practice, should be charged to capital expenditures.

(c) *Conditions Precedent for Issuance of Priority Bonds or Additional Parity Bonds—Capital Additions:* (i) Initial Issue. The City covenants and agrees that neither Priority Bonds nor Additional Parity Bonds will be issued for the purpose of financing Capital Additions for integration into the Systems, either or both, unless the same conditions precedent specified in subparagraph (a) above have been satisfied and, in addition thereto, the conditions precedent specified in subparagraph (b) above are satisfied or, in the alternative, the City shall have obtained:

(a) from an Independent Engineer a comprehensive Engineering Report for the Capital Addition to be financed, which report shall (a) contain (1) detailed estimates of the cost of acquiring and constructing the Capital Addition, (2) the estimated date the acquisition and construction of the Capital Addition will be completed and commercially operative, and (3) a detailed analysis of the impact of the Capital Addition on the financial operations of the system for which the Capital Addition is to be integrated and to the Systems, as a whole, during the construction thereof and for at least five Fiscal Years after the date the Capital Addition becomes commercially operative, and (b) concludes that (1) the Capital Addition is necessary and will substantially increase the capacity, or is needed to replace existing facilities, to meet current and projected demands for the service or product to be provided thereby, and (2) the estimated cost of providing the service or product from the Capital Addition will be reasonable in comparison with projected costs for furnishing such service or product from other reasonably available sources; and

(b) a certificate of the Independent Engineer to the effect that, based on the Engineering Report prepared for the Capital Addition, the projected Net Earnings for each of the five Fiscal Years subsequent to the date the Capital Addition becomes commercially operative (as estimated in the Engineering Report) will be equal to at least the sum of (i) 1.25 times the average annual requirement for the payment of the principal and interest (or other similar payments) for Priority Bonds and Separate Lien Obligations then outstanding or incurred and all Priority Bonds estimated to be issued, if any, during the period from the date the first series of obligations for the Capital Additions is to be delivered through the 5th Fiscal Year subsequent to the date the Capital Addition is estimated to become commercially operative, for all Capital Improvements and for all Capital Additions then in progress or then being initiated and (ii) 1.10 times the average annual requirements for the payment of principal and interest (or other similar payments) for Bonds and all other obligations (other than Priority Bonds or Separate Lien Obligations) payable solely from the Net Revenues of the Systems, either or both, which are then outstanding or incurred and all Bonds or such other obligations estimated to be issued, if any, during the period from the date the first series of obligations for the Capital Addition is to be delivered through the 5th Fiscal Year subsequent to the date the Capital Addition in estimated to become commercially operative, for all Capital Improvements and for all Capital Additions then in progress or then being initiated.

(ii) Subsequent Issues. Once a Capital Addition has been initiated by meeting the conditions precedent specified in subparagraphs (c)(i)(a) and (c)(i)(b) above and the initial Priority Bonds or Additional Parity Bonds delivered therefor, the City reserves the right to issue Priority Bonds and Additional Parity Bonds, as the case may be, to finance the costs of such Capital Addition in such amounts as may be necessary to complete the acquisition and construction thereof and make the same commercially operative without satisfaction of any condition precedent under subparagraphs (c)(i)(a) and (c)(i)(b) or subparagraph (b) of this Section but subject to satisfaction of the following conditions precedent:

(a) the City makes a forecast (the "Forecast") of the operations of the Systems demonstrating the Systems' ability to pay all obligations, payable solely from the Net Revenues of the Systems, either or both, to be outstanding after the issuance of the Priority Bonds or Additional Parity Bonds then being issued for the period (the "Forecast Period") of each ensuing Fiscal Year through the 5th Fiscal Year subsequent to the latest estimated date the Capital Addition then being financed is expected to be commercially operative, and

(b) an Independent Engineer reviews such Forecast and executes a certificate to the effect that such Forecast is reasonable, and, based thereon (and such other factors deemed to be relevant), the Net Revenues of the Systems will be adequate to pay all the obligations, payable solely from the Net Revenues of the Systems, either or both, to be outstanding after the issuance of the Priority Bonds or Additional Parity Bonds then being issued for the Forecast Period.

The conditions of subparagraph (b) and subparagraphs (c)(i)(a) and (c)(i)(b) of this Section need not be met with respect to any Additional Parity Bonds or Priority Bonds issued for the South Texas Project.

With reference to Priority Bonds, Additional Parity Bonds and such other obligations anticipated and estimated to be issued or incurred, the annual principal and interest requirements therefor shall be those estimated and computed by the City's Director of Finance (or other officer of the City then having the primary responsibility for the financial affairs of the City). In the preparation of the Engineering Report required in subparagraph (c)(i)(a) above, the Independent Engineer may rely on other experts or professionals, including those in the employment of the City, provided such Engineering Report discloses the extent of such reliance. In connection with the issuance of Additional Parity Bonds or Priority Bonds for Capital Additions, the certificate of the Director of Finance and Independent Engineer, together with the Engineering Report for the initial issue and the Forecast for a subsequent issue, shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements and this subparagraph (c) of this Section.

Priority Bonds or Additional Parity Bonds for Capital Additions may be combined in a single issue with Priority Bonds or Additional Parity Bonds, as the case may be, for Capital Improvements provided the conditions precedent set forth in subparagraphs (b) and (c) are complied with as the same relate to the respective purposes.

SECTION 20: *Refunding Bonds.* The City reserves the right to issue refunding bonds to refund all or any part of the outstanding Priority Bonds or the Bonds (pursuant to any law then available) upon such terms and conditions as the City Council of the City may deem to be in the best interest of the City and its inhabitants, and if less than all such outstanding Priority Bonds or the Bonds are refunded, the conditions precedent prescribed (for the issuance of Priority Bonds or Additional Parity Bonds) set forth in subparagraphs (a) and (b) of Section 19 shall be satisfied and the Accountant's certificate or opinion required in subparagraph (b) shall give effect to the issuance of the proposed refunding bonds (and shall not give effect to the Priority Bonds or the Bonds being refunded following their cancellation or provision being made for their payment).

SECTION 21: *Obligations of Inferior Lien and Pledge.* The City hereby reserves the right to issue additional obligations payable from and secured by a junior and subordinate lien on and pledge of the Net Revenues of the Systems, either or both, as may be authorized by the laws of the State of Texas.

SECTION 22: *Maintenance and Operation—Insurance.* The City shall maintain the Systems in good condition and operate each in an efficient manner and at reasonable cost. So long as any Bonds are outstanding, the City agrees to maintain insurance for the benefit of the holder or holders of Bonds on the Systems of a kind and in an amount which usually would be carried by municipal corporations engaged in a similar type of business. Nothing in this Ordinance shall be construed as requiring the City to expend any funds derived from sources other than the operation of the Systems, but nothing hereon shall be construed as preventing the City from doing so.

SECTION 23: *Sale or Lease of Properties.* (a) The City, to the extent and in the manner required by law, may sell or exchange for consideration representing the fair value thereof, as determined by the City Council of the City, any property not necessary or required in the efficient operations of the Systems, either or both, or any equipment not necessary or useful in the operations thereof or which is obsolete, damaged or worn out or otherwise unsuitable for use in the operation of the Systems, either or both. Save and except as hereinafter provided, the proceeds of any sale of properties of the Waterworks and Sewer System shall be deposited in the Water and Sewer Fund and the proceeds of sale of properties of the Electric Light and Power System shall be deposited in the Electric Fund.

(b) The City may, to the extent and in the manner permitted by law, sell, lease or otherwise dispose of all or part of its participating interest in the South Texas Project, as approved and authorized at an election held November 3, 1981; provided such sale, lease or other disposition is approved by a majority vote of the City Council of the City with a finding on the part of the City Council that the remaining available capacity of the Electric Light and Power System (including power and energy to be received under contracts) for furnishing power and energy is adequate and sufficient to satisfy current and foreseeable power and energy demands therefor taking into consideration any generating capacity then estimated to become available and that such disposal will not jeopardize the ability of the City to meet the rate covenants contained herein and in any other ordinance authorizing outstanding obligations secured by a lien on and pledge of the Electric Light and Power System. All proceeds derived from such sale or disposal, net of reasonable and necessary expenses incurred in connection therewith (including attorneys and engineers), shall be deposited in a special escrow account with the City's depository bank and expended only for the purposes of making Capital Additions to the Electric Light and Power System, or for cost-effective projects or purposes which reduce the peak demand requirements of the Electric Light and Power System, or for the redemption or purchase (at a price not to exceed par) of outstanding Bonds or Priority Bonds, all as shall be in the sole discretion and determination of the City Council of the City.

SECTION 24: *Records and Accounts.* The City hereby covenants and agrees that so long as any of the Bonds or any interest thereon remains outstanding and unpaid, it will keep and maintain separate and complete records and accounts pertaining to the operations of the Waterworks and Sewer System and the Electric Light and Power System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Article 1113, V.A.T.C.S. The holder or holders of any Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect such records, accounts and data relating thereto, and to inspect the respective Systems and all properties comprising same. The City further agrees that following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the Accountant, shall particularly include the following:

(a) A detailed statement of the income and expenditures of the Electric Light and Power System and of the Waterworks and Sewer System for such Fiscal Year.

(b) A balance sheet for the Electric Light and Power System and the Waterworks and Sewer System as of the end of such Fiscal Year.

(c) The Accountant's comments regarding the manner in which the City has carried out the requirements of this Ordinance and any other ordinance authorizing the issuance of Priority Bonds or Additional Parity Bonds and his recommendations for any changes or improvements in the operations, records and accounts of the respective Systems.

(d) A list of insurance policies in force at the end of the Fiscal Year covering the properties of the respective Systems, setting out as to each policy the amount thereof, the risk covered, the name of the insurer and the policy's expiration date.

Expenses incurred in making an annual audit of the operations of the Systems are to be regarded as Maintenance and Operating Expenses of the respective Systems and paid on a pro rata basis or as otherwise determined by the City from available revenues in the Electric Fund and Water and Sewer Fund, either or both. Copies of each annual audit shall be furnished to the Executive Director of the Municipal Advisory Council of Texas at his office in Austin, Texas, or as otherwise provided by law and, upon request, to the original purchaser of any series of Bonds. The audits herein required shall be made within 120 days following the close of each Fiscal Year insofar as is possible.

SECTION 25: *Deficiencies; Excess Net Revenues.* (a) If on any occasion there shall not be sufficient Net Revenues of the Systems to make the required deposits into the Interest and Redemption Fund and the Reserve Fund, then such deficiency shall be cured as soon as possible from the next available Net Revenues of the Systems, or from any other sources available for such purpose.

(b) Subject to making the required deposits to (i) all special funds created for the payment and security of the Priority Bonds (including the Reserve Fund) (ii) the Interest and Redemption Fund and the Reserve Fund when and as required by this Ordinance, or any ordinance authorizing the issuance of

Additional Parity Bonds and (iii) all funds or accounts created for the benefit of Separate Lien Obligations, the excess Net Revenues of the Systems, either or both, may be used by the City for any lawful purpose.

SECTION 26: *Further Covenants.* The City further covenants and agrees by and through this Ordinance as follows:

(a) It has the lawful power to pledge the Net Revenues of the Systems to the payment of the Bonds to the extent provided herein and has lawfully exercised said power under the Constitution and laws of the State of Texas, and that the Series 1982 Bonds issued hereunder, together with the Additional Parity Bonds shall be ratably secured in such manner that no one Bond shall have preference over any other Bond of said issues.

(b) The Net Revenues of the Systems, either or both, have not been in any manner pledged or encumbered to the payment of any debt or obligation of the City or the Systems, save and except as set forth and identified in Exhibit A attached hereto and incorporated by reference as a part hereof for all purposes.

SECTION 27: *Final Deposits; Governmental Obligations.* (a) All or any of the Series 1982 Bonds shall be deemed to be paid, retired and no longer outstanding within the meaning of this Ordinance when payment of the principal of, and redemption premium, if any, on such Bonds, plus interest thereon to the due date thereof (whether such due date be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption), or (ii) shall have been provided by irrevocably depositing with, or making available to, a paying agent therefor, in trust and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Government Obligations, certified by an independent public accounting firm of national reputation, to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to make such payment, and all necessary and proper fees, compensation and expenses of each paying agent pertaining to the Series 1982 Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for the satisfaction of each paying agent. At such time as a Series 1982 Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefit of this Ordinance or a lien on and pledge of the Net Revenues of the Systems, and shall be entitled to payment solely from such money or Government Obligations.

(b) That any moneys so deposited with a paying agent may at the direction of the City also be invested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the paying agent pursuant to this Section which is not required for the payment of the Series 1982 Bonds, the redemption premium, if any, and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City or deposited as directed by the City.

(c) That the City covenants that no deposit will be made or accepted under clause (a) (ii) of this Section and no use made of any such deposit which would cause the Series 1982 Bonds to be treated as arbitrage bonds within the meaning of Section 103 (c) of the Internal Revenue Code of 1954, as amended.

(d) That notwithstanding any other provisions of this Ordinance, all money or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of the Series 1982 Bonds, the redemption premium, if any, and interest thereon, shall be applied to and used for the payment of such Bonds, the redemption premium, if any, and interest thereon and the income on such money or Government Obligations shall not be considered to be "Gross Revenues" under this Ordinance.

SECTION 28: *Remedy in Event of Default.* In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Redemption Fund or the Reserve Fund as required by this Ordinance or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the holder or holders of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to

observe and perform any covenant, condition or obligation prescribed in this Ordinance. No delay or ommission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

SECTION 29: *Bonds are Obligations.* The Series 1982 Bonds are special obligations of the City payable from the pledged Net Revenues of the Systems and the holders thereof shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

SECTION 30: *Bonds are Negotiable Instruments.* Each of the Series 1982 Bonds herein authorized shall be deemed and construed to be a "Security", and as such a negotiable instrument, within the meaning of Article 8 of the Uniform Commercial Code.

SECTION 31: *Ordinance to Constitute Contract.* The provisions of this Ordinance shall constitute a contract between the City and the holder or holders from time to time of the Series 1982 Bonds and, except as otherwise provided herein, no change, variation or alteration of any kind of the provisions of this Ordinance may be made, until such Bonds are no longer outstanding.

SECTION 32: *Governmental Agencies.* The City will comply with all of the terms and conditions of any and all franchises, permits and authorizations applicable to or necessary with respect to the Systems, either or both, and which have been obtained from any governmental agency; and the City has or will obtain and keep in full force and effect all franchises, permits, authorizations and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation and maintenance of the Systems.

SECTION 33: *No Competition.* The City will not grant any franchise or permit the acquisition, construction or operation of any competing facilities which might be used as a substitute for the facilities of the Systems, either or both, and, to the extent that it legally may, the City will prohibit any such competing facilities.

SECTION 34: *No-Arbitrage.* The City covenants to and with the purchasers of the Series 1982 Bonds that it will make no use of the proceeds of the Series 1982 Bonds, investment income or other funds at any time throughout the term of this issue of Series 1982 Bonds which would cause the Series 1982 Bonds to be arbitrage bonds within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, or any regulations or rulings pertaining thereto.

SECTION 35: *Interest on Bonds to Remain Tax Exempt.* The City recognizes that the purchasers and holders of the Series 1982 Bonds will have accepted them on, and paid therefor a price which reflects, the understanding that interest thereon is exempt from federal income taxation under laws in force at the time the Series 1982 Bonds shall have been delivered. In this connection the City shall take no action or fail to take any action, which action or failure to act may render the interest on any of such Series 1982 Bonds subject to federal income taxation, particularly pursuant to Section 103(b) of the Internal Revenue Code of 1954, as amended, nor shall the City take any action or fail to take any action, which action or failure to act, would have the effect of causing the income derived by the City from the Systems, either or both, to become subject to federal income taxation in the hands of the City, whether or not provision shall have been made for the payment of such Series 1982 Bonds.

SECTION 36: *Amendment of Ordinance.* This Ordinance may be amended in the following manner and subject to the following conditions: (a) the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City, provided, however, that nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Bonds so as to:

(1) Make any change in the maturity of the outstanding Bonds;

(2) Reduce the rate of interest borne by any of the outstanding Bonds;

(3) Reduce the amount of the principal payable on the outstanding Bonds;

(4) Modify the terms of payment of principal of or interest on the outstanding Bonds, or impose any conditions with respect to such payment;

(5) Affect the rights of the holders of less than all of the Bonds then outstanding; or

(6) Change the minimum percentage of the principal amount of Bonds necessary for consent to such amendment.

(b) If at any time the City shall desire to amend the Ordinance under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York, and in a newspaper of general circulation in the City of Austin, Texas, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the paying agents for inspection by all holders of Bonds. Such publication is not required, however, if notice in writing is given to each holder of Bonds.

(c) Whenever at any time the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all Bonds then outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the paying agents, the governing body of the City may pass the amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the City and all the holders of then outstanding Series 1982 Bonds and all future Additional Parity Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication of the notice provided for in this Section or the date of such consent, whichever is later, and shall be conclusive and binding upon all future holders of the same Bond during such period. After the applicable period of time a consent is irrevocable has expired, the holder who gave consent, or a successor in title, may revoke such consent by filing notice thereof with the paying agents and the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the then outstanding Bonds as in this Section defined have, prior to the attempted revocation, consented to and approved the amendment.

(f) For the purpose of this Section, the fact of the holding of Bonds by any bondholder and the amount and numbers of such Bonds and the date of their holding same, may be proved by the affidavit of the person claiming to be such holder, or by a certificate executed by any trust company, bank, banker or any other depository wherever situated showing that at the date therein mentioned such person had on deposit with such trust company bank, banker or other depository, the Bonds described in such certificate. The City may conclusively assume that such ownership continues until written notice to the contrary is served upon the City.

SECTION 37: *City Manager—Director of Finance to Have Charge of Records and Bonds.* The City Manager and Director of Finance shall be and they are hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, and shall take and have charge and control of the Series 1982 Bonds herein authorized pending their approval by the Attorney General, their registration by the Comptroller of Public Accounts and delivery to the intial purchasers.

SECTION 38: *Sale of Bonds.* The Series 1982 Bonds are hereby sold and shall be delivered to Dillon, Read & Co. Inc., Smith Barney, Harris Upham & Co. Incorporated and Boettcher & Company, on behalf of the ultimate purchasers thereof in accordance with the Purchase Contract in form and substance

approved by resolution of the City Council of even date herewith, and it is hereby found and determined by the City Council that the price and terms specified in such Purchase Contract are the most advantageous and reasonably obtainable by the City.

SECTION 39: *Approval of Official Statement.* The Official Statement, dated March 3, 1982, relating to the Series 1982 Bonds, in substantially the form as submitted to this meeting, is hereby approved and authorized to be distributed to the ultimate purchasers of the Series 1982 Bonds, with such changes therein as shall be approved by the Mayor or the City Manager of the City and the distribution of the Preliminary Official Statement, dated February 22, 1982 is hereby in all respects ratified, confirmed and approved.

SECTION 40: *Proceeds of Sale.* Promptly after the delivery of the Series 1982 Bonds, all of the proceeds from the sale and delivery of the Series 1982 Bonds shall be deposited in immediately available funds with Morgan Guaranty Trust Company of New York, hereby designated as the bank of delivery, and such proceeds, less accrued interest on the Series 1982 Bonds, which shall ultimately be deposited to the credit of the Interest and Redemption Fund, shall be used for the purpose of refunding, discharging and retiring all of the Refunded Bonds, initially funding the Reserve Fund as herein required, and paying the costs and expenses of issuance of the Series 1982 Bonds. By a resolution of the City Council of even date herewith the City Council has authorized the execution of a "City of Austin, Texas Water, Sewer and Electric Refunding Revenue Bonds Special Escrow Fund Agreement" between the City and the Treasurer of the State of Texas, which will use said proceeds, together with other available funds of the City, to provide for the refunding, discharging and retiring of the Refunded Bonds. The balance of said proceeds not so transferred to Treasurer of the State of Texas, representing accrued interest on the Series 1982 Bonds, a portion of the Required Reserve for the Series 1982 Bonds and amounts sufficient to pay the costs of issuance of the Series 1982 Bonds will be immediately transferred by the bank of delivery to Texas Commerce Bank—Austin, Austin, Texas, the City's official depository bank. The Director of Finance is hereby authorized and directed to instruct the Texas Commerce Bank—Austin, to transfer $20,000,000 from the reserve fund established for the benefit of the Utility System Revenue Bonds, Series 1 through 10, being refunded by the Series 1982 Bonds to the Reserve Fund established herein for investment in open market securities; and also to transfer to the Reserve Fund established herein the sum of $28,325,743.10 from the Interest and Redemption Funds for the Refunded Bonds, which amount, together with the sum of $36,674,256.90 from the proceeds of sale of the Series 1982 Bonds, shall be invested in the United States Treasury Obligations, State and Local Government Series totalling in amount $65,000,000 and as set forth in the subscriptions filed on behalf of the City with the Federal Reserve Bank of Dallas on February 26, 1982, which subscriptions are hereby ratified and affirmed.

SECTION 41: *Reasons for Refunding.* It is specifically found and determined by the City that unanticipated increases in the cost of certain Capital Additions and Capital Improvements to the Systems and greater than expected population and industrial growth in the City of Austin metropolitan area have created an immediate need for the City to achieve greater financing flexibility, reduced net debt service payments on debt supported by the Systems and the ability to sell or otherwise dispose of the City's interest in the South Texas Project or other parts or components of the Systems no longer needed. It is further found and determined that the ordinances authorizing the Refunded Bonds contain restrictive covenants which inhibit the City's ability to finance Capital Additions and projects financed through Separate Lien Obligations and require the City to provide excess revenues which results in the necessity of charging and collecting rates considerably higher than necessary, thus increasing the cost of electric, water and sewer service to the inhabitants of the City and prevent, because of excessively restrictive covenants, the adequate and economical financing of projects which are expected to be required for the Systems in the near future. It is also found that the refunding of the Refunded Bonds in the manner herein provided is expected to release certain of the City's moneys for capital expenditures for the Systems thus avoiding the necessity to issue bonds of the City for such purpose, and is expected to reduce significantly the amount of Net Revenues of the Systems which will be required for the amortization of outstanding indebtedness, thus permitting lower rates to the customers of the Systems. Therefore, for the reasons stated in this Section 41, the City Council has found it to be necessary and in the best interest of the City that such refunding be accomplished, and the Refunded Bonds be refunded, discharged and retired thereby.

SECTION 42: *Cusip Numbers.* That CUSIP numbers may be printed on the Series 1982 Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Series 1982 Bonds

shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Series 1982 Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed thereon.

SECTION 43. *Emergency.* The public importance of refunding the Refunded Bonds creates an emergency and an urgent public necessity that the refunding be accomplished as soon as possible and without delay for the immediate preservation of the public peace, health and safety of the citizens of the City of Austin, Texas; that this Ordinance take effect and be in full force immediately upon its passage; and that the rule requiring that all ordinances be read on three separate days be waived and suspended, and it is hereby suspended and further that all ordinances and charter rules governing the effective date of this Ordinance are hereby suspended and that this ordinance is hereby passed as an emergency measure and shall be effective immediately upon its passage and adoption as provided by the Charter of the City of Austin.

PASSED AND APPROVED, this

Carole Keeton McClellan
Mayor, City of Austin, Texas

(City Seal)

ATTEST: Grace Monroe
City Clerk, City of Austin, Texas

APPROVED:

Albert De La Rosa
City Attorney, City of Austin, Texas

Exhibit A

LIST OF OUTSTANDING OBLIGATIONS
PAYABLE FROM NET REVENUES OF THE
SYSTEMS, EITHER OR BOTH

1. $598,000,000 City of Austin, Texas, Water, Sewer, and Electric Revenue Bonds, Series 1982.

2. Utility Construction Contract between the City and North Austin Growth Corridor MUD No.1, pursuant to which $5,960,000 North Austin Growth Corridor MUD No.1, City of Austin Contract Bonds, Series 1981 have been issued.

3. Utility Construction Contract between the City and Northwest Travis County MUD No.1, pursuant to which $3,550,000 Northwest Travis County MUD No.1, Unlimited Tax and City of Austin Contract Bonds, Series 1982, payable by the City as to principal amount only, are expected to be issued on or about April 1, 1982.

4. Utility Construction Contract between the City and Springwoods MUD, pursuant to which $3,520,000 Springwoods MUD Combination City of Austin Contract, Unlimited Tax and Revenues Bonds, Series 1982, payable by the City as to principal amount only, are expected to be issued on or about April 1, 1982.

5. Utility Construction Contract between the City and South Austin Growth Corridor MUD No. 1.

EXHIBIT "C"

Facility		District's pro rata share
1.	Spicewoods Springs 48 inch Discharge Pipe and Transmission Main	51.3%
2.	Oversize Proposed Research Boulevard Line from 36 inch to 48 inch	51.3%
3.	2.7 MG Northwest "A" Reservoir	100%
4.	36 inch Jollyville Water Transmission Line	100%
5.	24 inch Parmer Lane Water Transmission Line from McNeil to Existing 24 inch Line	100%
6.	36 inch Line from 36 inch in McNeil to Reservoir	100%
7.	24 inch Parmer Lane Water Line from Reservoir to FM 620	100%
8.	Temporary sewer to Bull Creek Lateral "A"	100%
9.	Permanent Sewer Interceptor to Bull Creek Interceptor	26.4%

REAL9/43-2:SBL

EXHIBIT D

Contract Bond Number One

The calculation of the District's pro rata share of the Debt Service Payment is based on the following formula:

Pro rata share X CR X DSP

Debt Service Payment (DSP)

Semi-annual Debt Service Payment (DSP) to be made by the city to the paying agent shall equal the total semi-annual principal, interest, and paying agent fees. For its participation, the District will pay to the City the pro rata share as calculated by the formula.

Construction Ratio (CR) for Each Project

$$\frac{\text{Proceeds Applied to Construction of Each Project}}{\text{Total Proceeds Applied to Construction of All Projects}}$$

Example

Total Construction of All Projects	$6,500,000
For Permanent Sewer Interceptor Lift Station and Force Main to Bull Creek Interceptor	CR = $\frac{6,500,000}{6,500,000}$ = 1.00

District Share of Debt Service Payment calculated as follows for each project:

	Pro rata share	X	CR	X	DSP
For Permanent Sewer Interceptor Lift Station and Force Main to Bull Creek Interceptor	26.4%	X	100%	X	DSP

EXHIBIT "D"
Page 1 of 2

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

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

This First Amendment Agreement is made and entered into as of the 21st day of May, 1986, by and among the CITY OF AUSTIN, TEXAS (the "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; NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1 (the "District"), a municipal utility district created on the 15th day of November, 1983, by order of the Texas Water Commission and operating pursuant to Chapter 54 of the Texas Water Code; Milwood Joint Venture, Robinson Ranch, and Austin White Lime Company (hereinafter collectively, referred to as "Milwood"), parties to creation of the district; and Austin/620 Joint Venture, subsequent holder of title to the certain tract consisting of 177 acres within the boundaries of the District.

W I T N E S S E T H

WHEREAS, by ordinance adopted by the City Council of the City on May 5, 1983, the City consented to the creation of the District and authorized the execution of an "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" (hereinafter the "Consent Agreement") by and among the parties hereto; and

WHEREAS, the Consent Agreement was executed by the City, the District and Milwood, to be effective on February 21, 1984; and

WHEREAS, as Exhibit C to the Consent Agreement, the City and Milwood agreed on a Land Use Plan for the District; and

WHEREAS, in Article XI, of the Consent Agreement, changes in the densities and intensities shown on the original Exhibit C may only be accomplished with the concurrence of a majority of the City Council and Planning Commission of the City and Milwood; and

WHEREAS, in December, 1984, the Austin/620 Joint Venture acquired 177 acres of land lying within the District for development pursuant to the conditions and understandings as set out in the Consent Agreement, said 177 acres are depicted in metes and bounds attached hereto as Exhibit "1"; and

WHEREAS, the Austin/620 Joint Venture has petitioned the City for consent to an amended Land Use Plan, which changes the densities and intensities of use on the original Exhibit C for the 177 acres; and

WHEREAS, the City and Milwood desire to consent to the Austin/620 Joint Venture amended Land Use Plan and clarify the relationship of the Austin/620 Joint Venture tract to the balance of the District:

"B. Milwood, its successors and assigns, shall develop and maintain the land within the District, excluding that which is owned by the Austin/620 Joint Venture, in accordance with the land plan attached hereto as Exhibit "C" and incorporated herein by reference, including all notations hereon, as the same may be amended from time to time with the concurrence of a majority of the members of the Planning Commission of the City and Milwood, its successors and assigns (the "Conceptual Plan"), except as otherwise hereinafter provided. Milwood, its successors and assigns, shall comply with all requirements set forth in Exhibit "C". The City, District and Milwood hereby consent to the Land Use Plan of the Austin/620 Joint Venture, with all notations thereon, attached hereto and incorporated herein for all purposes as Exhibit "C-1", as the same may be amended from time to time by concurrence of a majority of the City Council of the City, Milwood, its successors and assigns, and Austin/620 Joint Venture, its successors and assigns ("the Austin/620 Plan"), except as otherwise provided herein. The Austin/620 Joint Venture tract shall be developed in accordance with the Austin/620 Plan and all notations thereon. The Conceptual Plan and the Austin/620 Plan shall be updated as each section of land within the District shall be platted in accordance with the requirements of Article 970a, Texas Revised Civil Statutes, prior to development of such land. The City's Director of Planning shall determine whether a plat is in substantial compliance with the Conceptual Plan or the Austin/620 Plan, as applicable. Any person aggrieved by the decision of the Director of Planning may appeal such determination by filing a written appeal with the City Clerk of the City within ten (10) days from the date of such decision. The City Council of the City of Austin shall then hold a public hearing and render a decision either affirming or reversing such determination within fifteen (15) days from the date of such appeal.

"C. The City acknowledges that the Austin/620 tract's overall water and wastewater capacity demand, as expressed in living unit equivalents ("LUEs"), to fully develop the tract in accordance with the Austin/620 Plan is 1800, as demand expressed in LUEs was calculated by the City Water and Wastewater Utility on March 1, 1985, to wit:

water = 1 LUE = 2.2 gpm/peak hour flow
= 2.2 gpm x 1800 = 3960.0 gpm

Amended

wastewater = 1 LUE = 1.1 gpm peak flow
= 1.1 gpm x 1800 = 1980.0 gpm

with LUEs estimated as follows between the Conceptual Plan for this acreage and the Austin/620 Plan:

Original Conceptual Plan = 2005 LUEs (estimated)
Austin/620 Plan = 1800 LUEs

Decrease over Original (estimated) = 205 LUEs

shall not consent to any future Land Use Plan changes if the land uses imply an increase in water and wastewater service commitment over and above 1800 LUEs, as defined herein.

"D. The Austin/620 Joint Venture, its successors and assigns, agree to supply the City, as each subdivision plat is submitted for approval, with density and LUE analyses of all preliminary and final plats for the purpose of monitoring compliance with the density and LUE limits reflected on the Austin/620 Plan and as set out in this Agreement. Any increases in the overall gross density of development, number of LUEs allocated for development, any changes in the intensity of the land uses shown on the Conceptual Plan and/or Austin/620 Plan may only be made with the concurrence of a majority of the members of the City Council of the City, its successors and assigns. For Milwood and the District, any decreases in land use intensity to a residential land use designation of "AA", "A", or "A-2" under the zoning ordinance of the City, or the equivalent zoning classifications under any future zoning ordinance adopted by the City, shall not require approval by the City Council or Planning Commission of the City, except as to plat approval by the Planning Commission as hereinabove provided.

The District hereby agrees to place the provisions of Article XI, paragraphs B, C and D of the Consent Agreement, as amended, on the face of all revised land plans applicable to the District, so that each approved land plan contains a reference to the LUE allocation as set out in Article XI."

"E. The Austin/620 Joint Venture, its successors and assigns, hereby agrees to fund and construct, in accordance with the percentages set out below, the following transportation improvements, as the same are deemed necessary by the City of Austin:

a. <u>Internal Roadways</u>

The Austin/620 Joint Venture shall be required to build all of the Austin/620 tract's internal roadways and intersections to the standard listed in the TIA submitted for project. In addition, the intersection at Bertrose Lane/ Woodstone Drive shall be signalized, and provided with left turn storage; the precise dimensions of the left turn storage required will be determined at the subdivision review stage. The Austin/620 Joint Venture shall fully fund all of these internal improvements.

b. <u>FM 620/Bertrose Lane Intersection</u>

100% .... a free right turn lane on 620 for turns onto Bertrose Lane.

100% .... a free right turn lane on Bertrose Lane for turns onto FM 620.

c. FM 620/Woodstone Drive Intersection

100% .... a free right turn lane on FM 620 for turns onto Woodstone Drive.
100% .... a free right turn lane on Woodstone Drive for turns onto FM 620.

100% .... a left turn lane on FM 620 for turns onto Woodstone Drive. Storage for at least six vehicles should be provided.

83% .... a traffic signal.

d. 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.

e. Parmer Lane/FM 620 Intersection

10% .... a traffic signal.

9% ~~25%~~ .... a free right turn lane on Parmer Lane for turns onto FM 620 westbound.

25% ~~9%~~ .... 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. Bertrose Lane/Parmer Lane Intersection

Improvements required by 1990:

100% .... a free right turn lane on Bertrose Lane for turns onto Parmer Lane.

76% .... a free right turn lane on Parmer Lane for turns onto Bertrose Lane.

80% .... a left turn lane on Bertrose Lane for

50% .... additional left turn storage on Parmer Lane for turns onto Bertrose Lane. Dual lefts with storage for at least 20 vehicles will be required.

50% .... additional left turn storage on Bertrose Lane for turns onto Parmer Lane. Dual lefts with storage for at least 18 vehicles will be required.

The City of Austin shall have the right to review and approve the final design of all the foregoing transportation improvements. The City of Austin shall have the right to inspect the construction of said transportation improvements during all phases of construction and the fees for such inspection shall be borne as a cost of such construction.

Nothing herein may be relied upon to imply or argue that the District or Milwood is consenting to the funding or construction of the remaining percentages of any of the above transportation improvements.

"F. The Austin/620 Joint Venture, its successors and assigns, hereby agrees to fund and construct, on a pro rata basis, certain regional drainage improvements to Lake Creek. The exact type of improvements and the cost participation of the Austin/620 Joint Venture in said improvements shall be determined after an engineering study is completed.

The City of Austin shall have the right to review and approve the final design of the foregoing improvements. The City of Austin shall have the right to inspect the construction of said improvements during all phases of construction and the fees for such inspection shall be borne as a cost of such construction.

"G. Austin/620 Joint Venture, its successors and assigns, covenant and agree that, contemporaneously with the recording of a final plat for any portion of the Austin/620 Joint Venture tract, the following restrictive covenants, numbered one (1) through five (5), shall be placed of record in the Real Property Records of Travis County, Texas, in a form approved by the City Attorney, which covenants and restrictions shall run with the property and be binding upon Austin/620 Joint Venture, and its successors and assigns:

1. The land uses approved on the Austin/620 Plan shall not be cumulative.

2. Sites along FM620 and within the Austin/620 tract, that have been annexed for limited purposes shall be subject to the applicable provisions of the City of Austin Zoning Ordinance, effective as of the date of approval and as amended from time to time.

3. Sites with driveway access to FM620, within the Austin/620 tract, shall undergo and be subject

hydrogeologic study of sites and subdivisions, and shall provide data to the City of Austin demonstrating compliance with the foregoing requirements at the time such subdivisions and sites are submitted for City review and approval.

5. Individual projects within the Austin/620 will undergo and be subject to site plan review. Criteria for evaluation will be as follows:

   a. The 5.2 acre parcel within the C12m-85-011 Austin/620 tract fronting on FM 620 shall be designated as office with a FAR of .5 and be subject to the development standards established for LO zoning.

   b. The 8.1 acre parcel within the Austin/620 tract fronting on FM 620 shall be designated as office with an FAR of .35, a building height limitation of two stories, and be subject to the development standards established for NO zones.

   c. The remaining FM 620 frontage within the Austin/620 tract shall be designated as retail with an FAR of .3.

   d. Compatability standards, to the same degree and under the same conditions as if each site were in the City of Austin.

   e. The Landscape Ordinance, as the same may be amended from time to time.

   f. The findings of TIAs submitted with each site plan.

   g. Note 3 of the original conceptual land plan which is taken to mean that multi-family density will increase moving away from adjacent single family areas without increasing average multi-family density on the Austin/620 tract to more than 25 units/acre.

   h. Buildings within sites adjacent to the Forest North subdivision will have a 135 foot set back from the Austin/620 Joint Venture's property line and be limited to two stories in height. Privacy fences will be constructed by the Austin/620 Joint Venture within the Austin/620 property to buffer the neighborhood

Notwithstanding any provision herein to the contrary, however, it is agreed and understood that the obligations arising under paragraphs E and F hereof are personal obligations of the Austin/620 Joint Venture or successors, do not run with the land, and shall not burden any portion of the 177 acre tract. No person or entity purchasing any portion of the 177 acre tract shall have any liability for such obligations unless said person or entity expressly assumes the obligations as described in paragraphs E and F in writing. Further, the satisfaction of such obligations shall not be a pre-condition or prerequisite to the obtaining of site plan approvals or other governmental approvals necessary in order to develop or construct improvements upon the 177 acre tract, or any portion thereof.

II.

All other provisions of this Consent Agreement, shall be and remain in full force and effect as there 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 Agreement is executed by a party, being the 21st day of May, 1986.

APPROVED AS TO FORM:

BY: Cynthia J. Hall
Asst City Attorney
Date: 2-14-86

CITY OF AUSTIN

BY: Jorge Carrasco
Jorge Carrasco
City Manager

Executed on 2/24, 1986.

ATTEST:

Secretary, Board of Directors

NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1.

BY: Steve D. Rena
PRINTED: Steve D. Rena
President
Board of Directors

Executed on April 18, 1986.

AUSTIN WHITE LIME COMPANY

BY: A. H. Robinson Jr.
PRINTED: A. H. Robinson, Jr.
Partner

Executed on May 16, 1986.

ROBINSON RANCH

BY: A.H. Robinson Jr.
PRINTED: A.H. Robinson, Jr.
Partner

Executed on May 16, 1986.

BY: Geo. E. Robinson
PRINTED: George E. Robinson
Partner

Executed on May 16, 1986.

MILWOOD JOINT VENTURE

BY: Bill Milburn
PRINTED: Bill Milburn
Bill Milburn, Venturer

Executed on MAY 19, 1986.

PALMER ASSOCIATES

BY: J.O. Robinson
PRINTED: J.O. Robinson
Venturer

Executed on May 16, 1986.

AUSTIN/620 JOINT VENTURE

BY: John Ramsey
PRINTED: John Ramsey
Venturer

Executed on May 21, 1986.

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on 2-24, 1986 by Jorge Carrasco, City Manager of the City of Austin, Texas.

Lolita J. Slagle
Notary Public, State of Texas

My Commission Expires:
4-11-89

Lolita J. Slagle
(Name - Typed or Printed)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on April 18, 1986 by Steve D. Pena, President of the Board of Directors of North Austin Municipal Utility District No. 1, on behalf of said District.

NOTARY PUBLIC STATE OF TEXAS

Fredlee Castro
Notary Public, State of Texas

My Commission Expires:

FRED LEE CASTRO
My Commission Expires
3/2/88

(Name - Typed or Printed)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 16, 1986 by A.H. Robinson, Jr., Partner of Austin White Lime Company.

NOTARY PUBLIC STATE OF TEXAS

Melissa K. Miller
Notary Public, State of Texas

My Commission Expires:
8-9-89

MELISSA K. MILLER
(Name - Typed or Printed)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 16, 1986 by George E. Robinson, Partner of Austin White Lime Company.

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 16, 1986 by A.H. Robinson, Jr., Partner of Robinson Ranch.

My Commission Expires:
For 9-89

Melissa K. Miller
Notary Public, State of Texas

MELISSA K. MILLER
(Name - Typed or Printed)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 16, 1986 by George E. Robinson, Partner of Robinson Ranch.

My Commission Expires:
5-9-89

Melissa K. Miller
Notary Public, State of Texas

MELISSA K. MILLER
(Name - Typed or Printed)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on MAY 19, 1986 by Bill Milburn, Venturer of Milwood Joint Venture.

My Commission Expires:
10-29-88

Donna Ellis
Notary Public, State of Texas

DONNA ELLIS
(Name - Typed or Printed)

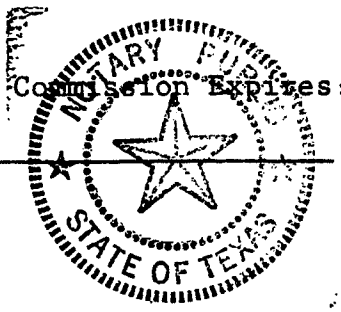
STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 16, 1986 by J.O. Robinson, Venturer of Palmer Associates.

Melissa K. Miller

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 21, 198 6 by John Ramsey, Venturer of Austin/620 Joint Venture.



My Commission Expires:

Fred Lee Castro
Notary Public, State of Texas
FRED LEE CASTRO
My Commission Expires
3/2/88
(Name - Typed or Printed)

EXHIBIT 1

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 2814.93 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, 565.86 feet to the PLACE OF BEGINNING, containing 177.398 Acres of Land, more or less.

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

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

THIS SECOND AMENDMENT TO AGREEMENT CONCERNING CREATION AND OPERATION OF NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1 ("Second Amendment Agreement") is made and entered into by and between the CITY OF AUSTIN, a Texas municipal corporation situated in Travis County, Williamson, and Hays Counties, Texas, acting by and through its duly-authorized City Manager, as authorized by specific action of the City Council ("City"); NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1, a municipal utility district created on November 15, 1983, by order of the Texas water Commission and operating pursuant to Chapter 54, Texas Water Code ("District"); MILWOOD JOINT VENTURE, ROBINSON RANCH, PALMER ASSOCIATES, and AUSTIN WHITE LIME COMPANY, parties to the creation of the District (collectively "Milwood"); and SAN ANTONIO SAVINGS ASSOCIATION, a Texas savings and loan association, the owner of certain property located within the District ("SASA"), and is as follows:

WHEREAS, by ordinance adopted by the City Council of the city on May 5, 1983, the City consented to the creation of the District and authorized the execution of that one certain "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" ("Consent Agreement") by and among the parties hereto, save and except SASA; and

WHEREAS, the Consent Agreement was executed by the City, the District, and Milwood to be effective on February 21, 1984; and

WHEREAS, pursuant to the term of the Consent Agreement, the City, the District, and Milwood agreed the property within the District would be restricted to those uses reflected on the Land Use Plan referenced in, and attached to, the Consent Agreement as Exhibit "C," a copy of which is attached to and incorporated into this Second Amendment Agreement as Exhibit "A" ("Original Land Use Plan"); and

WHEREAS, pursuant to Article XI of the Consent agreement, the land uses, densities, and intensities shown on the Original Land Use Plan may only be changed with the concurrence of a majority of the City Council and Planning Commission of the City and Milwood; and

WHEREAS, the Consent agreement was first amended pursuant to that one certain First Amendment to Agreement Concerning Creation and Operation of the North Austin Municipal Utility District No. 1 ("First Amendment Agreement"), executed by the City, the District, Milwood, and Austin/620 Joint Venture on May 21, 1986; and

WHEREAS, the First Amendment Agreement changed the Original Land Use Plan to provide for land uses and densities depicted on Exhibit "B," attached to and incorporated into this document for all purposes ("First Amended Land Use Plan"); and

WHEREAS, SASA is the current owner of 177 acres of land, more or less, lying within the District and more particularly described by metes and bounds on Exhibit "C," attached to and incorporated

into this document by reference for all purposes ("SASA Tract"); and

WHEREAS, SASA has petitioned the City for consent to amend the First Amended Land Use Plan, to permit the land uses, densities, and intensities on the SASA Tract which are depicted on Exhibit "D-1", attached to and incorporated into this document by reference for all purposes, subject to the conditions described below; and

WHEREAS, the City, the District, and Milwood desire to consent to SASA's proposed Second Amended Land Use Plan, attached hereto and incorporated herein as Exhibit "D" for all purposes, and to clarify the relationship of the SASA Tract to the balance of the land within the District.

NOW, THEREFORE, for and in consideration of the mutual promises, obligations, and benefits contained in this Second Amendment Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by all parties, the City, the District, Milwood, and SASA agree as follows:

1. Article I of the First Amendment Agreement, which amends Article XI of the Consent Agreement, is hereby amended to read as follows:

> "B. Milwood, its successors and assigns, shall develop and maintain the land within the District, excluding that which is owned by SASA, in accordance with the land plan, attached to and incorporated into this document as Exhibit "D," including all notations thereon, as the same may be amended from time to time with the concurrence of the majority of the City Council of the City and Milwood, its successors and assigns ("Conceptual Plan"), except as otherwise provided below. Milwood, its successors and assigns, shall comply with all requirements set forth in Exhibit "D." The City, the District, and Milwood hereby

consent to the Second Amended Land Use Plan, with all notations thereon, as the same may be amended from time to time by the concurrence of a majority of the members of the City Council of the City, Milwood, its successors and assigns, and SASA, its successors and assigns, except as otherwise provided herein. The SASA Tract shall be developed in accordance with the Second Amended Land Use Plan and all notations thereon. The Conceptual Plan and the Second Amended Land Use Plan shall be updated as each section of land in the District shall be platted in accordance with the requirements of Article 978, Texas Revised Civil Statutes, prior to the development of such land. The City's Director of Planning shall determine whether a plat is in substantial compliance with the Conceptual Plan or the Second Amended Land Use Plan, as applicable. Any person aggrieved by the decision of the Director of Planning may appeal such determination by filing a written appeal with the City Clerk of the City within ten (10) days from the date of such decision. The City Council of the City of Austin shall hold a public hearing and render a decision either affirming or reversing such determination within fifteen (15) days from the date of such appeal.

"C. The City acknowledges that the overall water and wastewater capacity demand for the SASA Tract, as expressed in living unit equivalents ("LUEs"), to fully develop the SASA Tract in accordance with the Second Amended Land Use Plan is 1,800, as the demand, expressed in LUEs was calculated by the City Water and Wastewater Utility on March 1, 1985, to wit:

Water = 1 LUE = 2.2 GPM/Peak Hour Flow
= 2.2 GPM x 1,800 = 3,960.0 GPM

Wastewater = 1 LUE = 1.1 GPM/Peak Hour Flow
= 1.1 GPM x 1,800 = 1,980.0 GPM

with LUEs allocated as follows: Between the Original Land Use Plan for the SASA Tract and the Second Amended Land Use Plan:

Original Land Use Plan = 2,005 LUEs

Second Amended Land Use Plan = 1,800 LUEs

Decrease Over Original = 205 LUEs

It is hereby acknowledged and agreed between the City, SASA, the District, and Milwood that the LUEs required by SASA to fully develop the SASA Tract consistent with the Second Amended Land Use Plan shall be allocated to the SASA Tract by Milwood and the District out of the

original amount of water and wastewater service agreed to by the City for development of the entire District. Nothing in this document may be relied upon to imply or argue that by the City's consenting to the Second Amended Land Use Plan, the City has increased its total water and wastewater commitment to the District or to Milwood for development of the balance of the acreage within the District. Any future amendments of the Second Amended Land Use Plan, if consented to by the City, will be subject to a recalculation of water and wastewater capacity demand in accordance with the formulae set out above and the City shall not consent to any future land use plan changes if the land uses require an increase in water and wastewater service commitment over and above 1,800 LUEs, as defined above.

"D. SASA, its successors and assigns, agree to supply the City, as each subdivision plat is submitted for approval, with density and LUE analyses of all preliminary and final plats for the purpose of monitoring and compliance with the density and LUE limits reflected on the Second Amended Land Use Plan, as set out in this Agreement. Any increases in the overall gross density of development, number of LUEs allocated for development, any changes in the intensity of land uses shown on the Second Amended Land Use Plan, or the Conceptual Plan, may only be made with the concurrence of the majority of the members of the City Council of the city, their successors and assigns. For Milwood and the District, any decreases in land use intensity to a residential land use designation of "AA," "A," or "A-2" under the Zoning Ordinance of the City, or the equivalent zoning classifications under any future zoning ordinance adopted by the City, shall not require approval by the City Counsel or Planning Commission of the City, except as to plat approval by the Planning Commission as hereinabove provided."

"The District hereby agrees to place the provisions of Article XI, Paragraphs B, C, and D of this Second Amended Consent Agreement, on the face of all revised land plans applicable to the District, so that each approved land plan contains a reference to the LUE allocation as set out in Article XI.

"E. SASA, its successors and assigns, hereby agrees to fund and construct, in accordance with the percentages set out below, the following transportation improvements, as the same are deemed necessary by the City of Austin:

a. Internal Roadways

SASA shall be required to build all of SASA Tract's internal roadways and intersections to the standard listed in the TIA submitted for the project. In

addition, the intersection at Briarwick Lane/Northwest Parkway shall be signalized, and provided with left turn storage; the precise dimensions of the left turn storage required will be determined at the subdivision review stage. SASA shall fully fund all of these internal improvements.

b. FM 620/Briarwick Lane Intersection

100% .... a free right turn lane on 620 for turns onto Briarwick Lane.

100% .... a free right turn lane on Briarwick Lane for turns onto FM 620.

100% .... a left turn lane on FM 620 for turns onto Briarwick Lane. Storage for at least six vehicles should be provided.

85% .... a traffic signal.

c. FM 620/Northwest Parkway Intersection

100% .... a free right turn lane on FM 620 for turns onto Northwest Parkway.

100% .... a free right turn lane on Northwest Parkway for turns onto FM 620.

100% .... a left turn lane on FM 620 for turns onto Northwest Parkway. Storage for at least six vehicles should be provided.

85% .... a traffic signal.

d. Briarwick Lane/Parmer Lane Intersection

Improvements required by 1990:

100% .... a free right turn lane on Briarwick Lane for turns onto Parmer Lane.

76% .... a free right turn lane on Parmer Lane for turns onto Briarwick Lane.

80% .... a left turn lane on Briarwick Lane for turns onto Parmer Lane. Storage for 10 vehicles should be provided.

92% .... a left turn lane on Parmer Lane for turns onto Briarwick Lane. Storage for 13 vehicles should be provided.

92% .... a traffic signal.

Improvements required by final build-out (ca. 1995):

50% .... additional left turn storage on Parmer Lane for turns onto Briarwick Lane. Dual lefts with storage for at least 20 vehicles will be required.

50% .... additional left turn storage on Briarwick Lane for turns onto Parmer Lane. Dual lefts with storage for at least 18 vehicles will be required.

The City of Austin shall have the right to review and approve the final design of all the foregoing transportation improvements. The City of Austin shall have the right to inspect the construction of said transportation improvements during all phases of construction and the fees for such inspection shall be borne as a cost of such construction.

Nothing herein may be relied upon to imply or argue that the District or Milwood is consenting to the funding or construction of the remaining percentages of any of the above transportation improvements.

"F. SASA, its successors and assigns, the City, and the District hereby agree that SASA will contribute $246,000.00, as its total obligation, toward funding of certain regional drainage improvements to Lake Creek. Once the $246,000.00 is paid, SASA shall have no further obligation to construct, fund, or otherwise participate in the Lake Creek Drainage Improvements or any on-site or off-site water detention improvements. Payment of such amount shall be made in accordance with the Agreement Regarding Conveyance of Right-of-Way between SASA and City, dated January 28, 1988, as amended.

The City shall have the right to review and approve the final design of the Lake Creek Regional Drainage Improvements. The City shall have the right to inspect construction of said improvements during all phases of construction and the fees for such inspection shall be borne as a cost of such construction.

"G. SASA, its successors and assigns, covenant and agree that, contemporaneously with the recording of a final plat for any portion of the SASA Tract, the following restrictive covenants, numbered one (1) through five (5), shall be placed of record in the Real Property Records of Travis County, Texas, in a form approved by the City Attorney, which covenants and restrictions shall run with

the property and be binding upon SASA and its successors and assigns:

1. The land uses approved on the Second Amended Land Use Plan shall not be cumulative.

2. Sites along FM 620 and within the SASA Tract, that have been annexed for limited purposes shall be subject to the applicable provisions of the City of Austin Zoning Ordinance, effective as of the date of approval and as amended from time to time.

3. Sites with driveway access to FM 620, within the SASA Tract, shall undergo and be subject to PRA site plan review.

4. Development within the SASA Tract shall conform to the requirements of the Edwards Aquifer orders for Williamson County, as amended, if applicable. If it is determined that the Edwards Aquifer Orders do not apply to the tract, then SASA, its successors and assigns, who develop the tract shall provide filtration of the first half inch of stormwater runoff, shall conduct a hydrogeologic study of sites and subdivisions, and shall provide data to the City of Austin demonstrating compliance with the foregoing requirements at the time such subdivisions and sites are submitted for City review and approval.

5. Individual projects within the SASA Tract will undergo and be subject to site plan review. Criteria for evaluation will be as follows:

   a. The 4.4 acre parcel within the SASA Tract fronting on FM 620 shall be designated as office with a FAR of .5 and be subject to the development standards established for LO zoning.

   b. The 7.9 acre parcel within the SASA Tract fronting on FM 620 shall be designated as office with an FAR of .35, a building height limitation of two stories, and be subject to the development standards established for NO zones.

   c. The remaining FM 620 frontage within the SASA Tract shall be designated as retail with an FAR of .3. Retail uses including those retail uses allowed under CS zoning, as set forth in Chapter 13-2A of the Austin City Code, shall be allowed.

d. Compatibility standards, to the same degree and under the same conditions as if each site were in the City of Austin.

e. The Landscape Ordinance, as the same may be amended from time to time.

f. The findings of TIAs submitted with each site plan.

g. Note 3 of the original Conceptual Plan which is taken to mean that multi-family density will increase moving away from adjacent single-family areas without increasing average multi-family density on the SASA Tract to more than 25 units/acre.

h. Buildings within sites adjacent to the Forest North subdivision will have a 135 foot set back from the SASA tract line and be limited to two stories in height. Privacy fences will be constructed by SASA within the SASA Tract to buffer the neighborhood from the office uses proposed for the sites.

i. Zoning and PRA standards as applicable.

SASA, its successors and assigns, shall reproduce Paragraphs E, F and G upon all subsequent approved plans, if any."

Notwithstanding any provision herein to the contrary, however, it is agreed and understood that the obligations arising under Paragraphs E and F hereof are personal obligations of SASA, its successors and assigns, do not run with the land, and shall not burden any portion of the SASA Tract. No person or entity purchasing any portion of the SASA Tract shall have any liability for such obligations unless said person or entity expressly assumes the obligations as described in Paragraphs E and F in writing. Further, the satisfaction of such obligations shall not be a pre-condition or prerequisite to the obtaining of site plan

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 15th day of March _____, 1988.9

CITY:

CITY OF AUSTIN, a Texas municipal corporation

Dated: 6/3/88

By: _____

Printed Name: John L. Wave

Title: Acting City Manager

APPROVED AS TO FORM:
DEPARTMENT OF LAW
CITY OF AUSTIN

Dated: 5/27/88

By: _____

Printed Name: Susan K. Hill-C

Title: Assistant City Atty

NRAWD1085GHW
na/ag S8

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:

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

NRAWD1085GHW
na/ag S8

PALMER ASSOCIATES

Dated: JAN 2 7 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

By: Robert D. Duffin

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
My Commission Expires Aug. 26, 1991

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 15th day of March, 19889 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
My Comm. Exp. 3-2-92

Fred Lee Castro
Notary Public, State of Texas

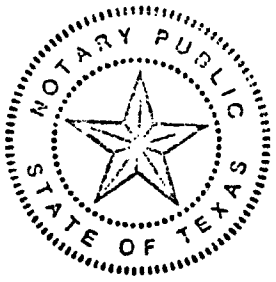
Printed Name: _____

Title: _____

NRAWD1085GHW
na/ag S8

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

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



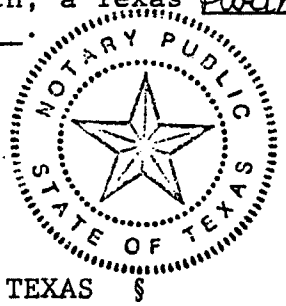
Melissa K. Miller
Notary Public, State of Texas

Printed Name: MELISSA K. MILLER

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

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



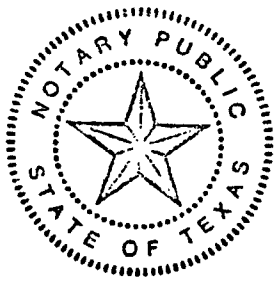
Melissa K. Miller
Notary Public, State of Texas

Printed Name: MELISSA K. MILLER

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27th 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: _____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 27th day of January, 1988, by G.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 29th 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

NORTH AUSTIN
MUNICIPAL UTILITY DISTRICT NO. 1
EXHIBIT "C" TO CREATION
NOTES:
LAND USE BREAKOUT

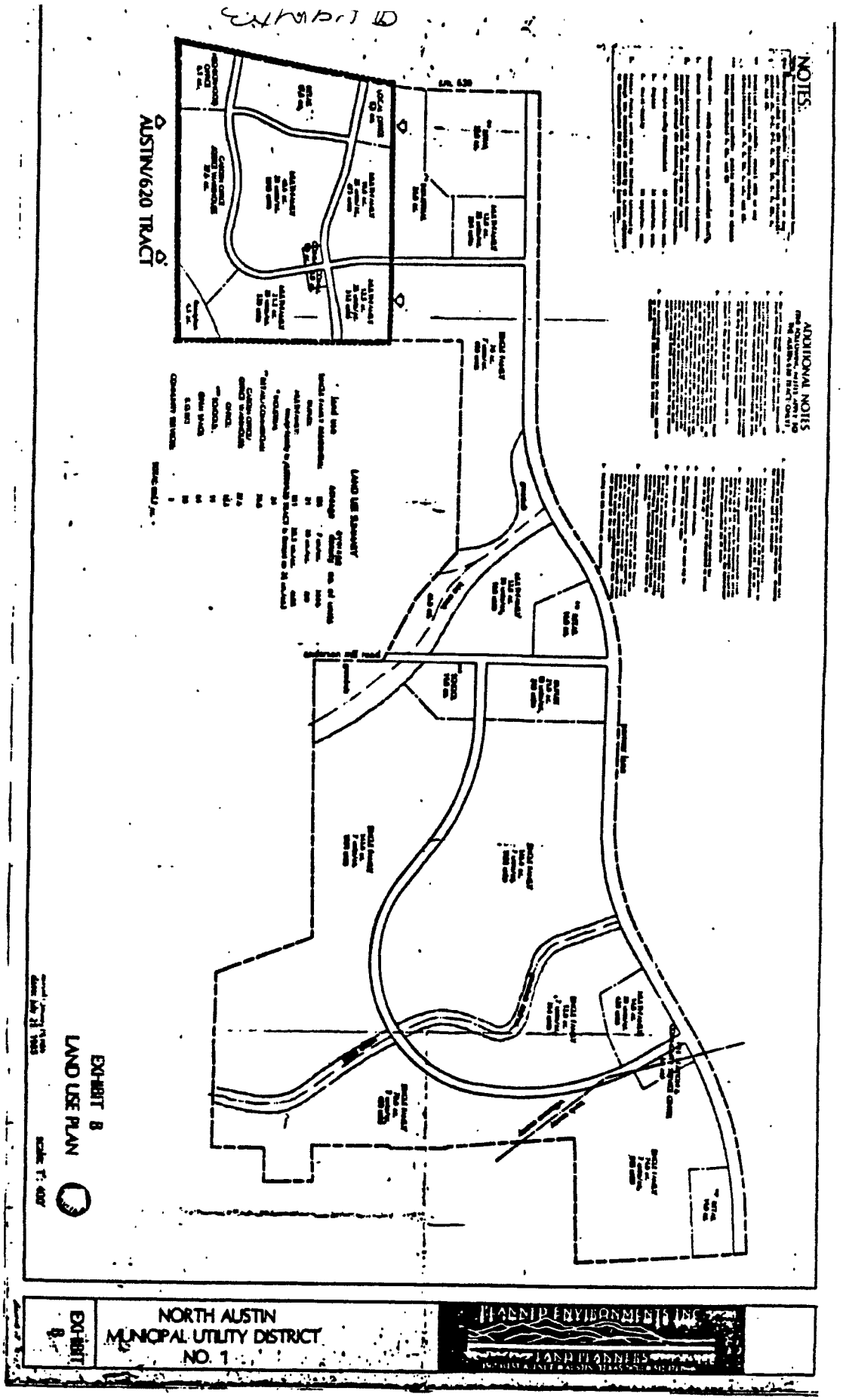


EXHIBIT D
NOTES:
ADDITIONAL NOTES
AUSTIN/620 TRACT
EXHIBIT B
LAND USE PLAN
EXHIBIT B
NORTH AUSTIN
MUNICIPAL UTILITY DISTRICT
NO. 1

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, 2163.33 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, 3151.96 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 2814.93 feet, an arc distance of 744.16 feet, and whose chord bears N 78° 33' 45" E, 741.99 feet to a concrete monument,
2. N 86° 01' 45" E, 3185.29 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, 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 AGREEMENT

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 Parmer 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