

ARTICLE VII  
ANNEXATION

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

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

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

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

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

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

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

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

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

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

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

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

to annex the District, by registered or certified mail, return receipt requested, to the address of the District designated in the registration statement on file with the Texas Department of Water Resources, with a copy to the District's attorney of record, and annexation of the District to the City shall be postponed until: (i) the installation of the items has been completed; or (ii) the expiration of one (1) year, whichever occurs first.

4. Milwood shall notify each person or entity purchasing property within the District from Milwood of the annexation provisions of this Agreement and shall obtain from each such purchaser a written acknowledgement that any attempt to incorporate all or any part of the District would be contrary to the intent and purpose of this Agreement.

E. Unless otherwise prohibited by applicable law, the District shall charge and collect a special water and sewer rate in the amount of \$18.20 per month from each single family dwelling unit or its equivalent to which water and sewer services are provided. Such special rate shall be assessed and collected from each customer in the manner specified above. The special rate may continue to be charged by the City after annexation and dissolution of the District, in addition to the City's normal water and sewer rates, as authorized by Section 54.016(h) of the Texas Water Code, until the bonded indebtedness of the District has been retired. If the total principal amount of bonds for District facilities is greater or less than the total estimated amount of bonds which was used to calculate the special rate, or if it becomes evident as a result of the subdivision process that the total number of single family dwelling units or their equivalents within the District will be greater or less than the total number used to calculate the special rate, then the District and the City agree to recalculate the special rate accordingly, and such recalculated special rate shall be charged and collected as provided herein. It is specifically acknowledged and agreed that the special rate described above has been calculated and that any recalculation thereof shall be calculated as provided in the Water District Ordinance for Growth Area III, in accordance with the terms and conditions of the ordinance of the City granting consent to the creation of the District.

G. Except as otherwise provided herein, all contract obligations and responsibilities of Milwood and the District pursuant to this Agreement shall terminate when the land within the District is annexed to the City; provided, however, that any obligations which have accrued prior to annexation shall not be affected by such termination.

#### ARTICLE VIII

##### ADDITIONAL REQUIREMENTS

Milwood and the District hereby respectively agree to comply with all applicable requirements contained in the Water District Ordinance; provided, however, that where the requirements of this Agreement are more specific than, but not inconsistent with, the provisions of the Water District Ordinance, the provisions of this Agreement shall control.

#### ARTICLE IX

##### CONSTRUCTION OF DISTRICT FACILITIES

With the consent of the District and the City, Milwood, or Milwood's successors or assigns, may serve as the project manager for the construction of all water, wastewater and drainage facilities to be constructed or acquired by the District. It is provided, however, that no construction of any facility shall commence unless the plans and specifications therefor have been approved by the City and all other governmental entities having jurisdiction. Upon the issuance and sale of its bond anticipation notes or bonds for such purposes, the District shall pay Milwood the cost of construction of any facilities constructed by Milwood to the extent authorized by the Texas Department of Water Resources and permitted by the Water District Ordinance. To the extent the District is not permitted to pay Milwood for any facilities, Milwood shall dedicate such facilities to the District without compensation.

#### ARTICLE X

##### LAND AND EASEMENT COSTS

Land, easements, and rights-of-way needed for District purposes within the District, which purposes are to be financed by issuance of bonds and notes, shall be dedicated to the District by Milwood, its successors or assigns. The District may acquire land from Milwood in accordance with the rules of the Texas Department of Water Resources and the provisions of the Water District Ordinance. Land, easements, and rights-of-way outside the District needed by the District shall be acquired by the District in accordance with the usual and customary public purchasing standards and procedures applicable to the District.

#### ARTICLE XI

##### LAND USE AND DEVELOPMENT

A. Milwood covenants and agrees to dedicate the following amenities to the District: (1) approximately sixty-four (64) acres of park and greenbelt areas; (2) a two (2) acre fire station site; and (3) a five (5) acre solid waste transfer site which shall be adjacent to the District's frontage along Highway 620, in either the area designated for industrial use or the area designated for retail use on the Conceptual Plan, as defined

below. Prior to development of the solid waste transfer site, the City shall submit a site plan showing all proposed structures, buffering, setbacks and uses on the site and the District shall have the right to approve, modify or disapprove such site plan as necessary, in the opinion of the Board of Directors of the District, to maintain compatibility with adjoining land and uses; provided, however, that such site plan approval shall not be unreasonably withheld. Milwood further agrees to provide park and recreational facilities for the residents within the District having a value of at least \$750,000.00, and to construct, at its sole cost, a bridge across Lake Creek at the location to be selected by Milwood and approved by the Director of Public Works.

B. All land within the District shall be developed in accordance with the conceptual plan attached hereto as Exhibit "C" and incorporated herein by reference, 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 such Conceptual Plan. The Conceptual Plan shall be updated as each section of land within the District is platted, and all land located 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. 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 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. Any increases in the overall gross density of development or any changes increasing the intensity of the land uses shown on the Conceptual Plan may only be made with the concurrence of a majority of the members of the City Council of the City and Milwood, its successors and assigns. Any decreases in land use intensity to a residential land use designation of "AA", "A", or "A-2" under the current zoning ordinance of the City, or the equivalent zoning classifications under any future zoning ordinance enacted 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.

D. Milwood shall have the right to designate additional school sites without prior approval of either the City Council or Planning Commission.

E. All land within the District shall be developed in accordance with the Landscape Ordinance of the City, Ordinance Number 820408-E, as hereafter amended from time to time. In addition, the land within the District fronting onto Ranch Road 620 and Farmer Lane shall be developed in accordance with the requirements of the Austin City Code, Chapter 13-2, Article VI, as hereafter amended from time to time. Each site within the District developed for use for industrial purposes shall be developed as a Planned Development Area pursuant to Article 970a, Section 5, Texas Revised Civil Statutes. All buildings constructed within the District shall be constructed in accordance with City standards.

All land within the District which is located within the fully developed one hundred (100) year flood plain of the main stem of either Rattan Creek or Lake Creek shall contain no development other than development associated with District park and recreational facilities, roads, and utilities. No parking, other than parking provided in association with park and recreational facilities, shall be included within the one hundred (100) year flood plain. Land located within the one hundred (100) year flood plain shall not be included within lots or considered in making calculations of density.

F. Milwood agrees to construct the roadway designated as Anderson Mill Road to City standards, to the extent that such roadway is situated within the boundaries of the District.

G. The terms and provisions of this Article XI shall continue in effect after annexation of the District by the City.

#### ARTICLE XII

##### ASSIGNMENT OF AGREEMENT

Milwood, or any party to this Agreement, or the successors or assigns of any such party, may from time to time, transfer, convey or assign all or any part of its rights and obligations under this Agreement with respect to all or any part of the land within the District owned by such party. Upon approval by the City of the assignee or assignees, which approval shall not be unreasonably withheld, and provided that the assignee or assignees assume the liabilities, responsibilities and obligations of the assignor under this Agreement, the party assigning its rights and obligations under this Agreement shall be released from the liabilities, responsibilities and obligations hereof to the extent of the land involved in such assignment or assignments, or to the extent otherwise approved by the City. Neither the District nor the City shall assign this Agreement without written

consent of each of the other parties hereto. Milwood is specifically authorized to assign this Agreement to the District upon its creation; provided, however, that such assignment shall not relieve Milwood or its successors or assigns from the obligation to comply with the land use requirements and the other provisions contained herein affecting the use and conditions of sale of property within the District.

#### ARTICLE XIII

##### TERM OF AGREEMENT

This Agreement shall be effective from the date of execution hereof by the City and Milwood, and shall continue in effect for a period of forty (40) years from the date of the execution hereof by the District; provided, however, that if the District is not created within one (1) year after execution of this Agreement by the City, this Agreement shall terminate and be of no effect.

#### ARTICLE XIV

##### JOINT CONTRACTING

The District is authorized to contract with any firm, corporation, person, governmental entity or political subdivision for the construction, operation and maintenance of any water or wastewater facilities or any other facilities which are within the powers of the District to construct, operate or maintain.

#### ARTICLE XV

##### SEVERABILITY AND ENFORCEABILITY

In the event that any provision hereof is subsequently determined to be invalid, illegal or unenforceable such provision shall be severed from the remaining portions of this Agreement and the remainder of the Agreement shall remain in full force and effect.

If the Texas Water Commission or any court of competent jurisdiction determines that any portion of this Agreement is beyond the scope or authority of the Texas Water Code or other applicable Texas law, the City, Milwood and the District agree to immediately amend this Agreement so as to conform to such ruling or decision in such a manner as is most consistent with the original intent hereof as may be legally possible.

#### ARTICLE XVI

##### BENEFITS OF AGREEMENT

This Agreement is for the benefit of the City; the District; and Milwood, its successors and assigns, and shall not be construed to confer any benefit on any other party except as expressly provided herein. This Agreement may be executed by the City and Milwood prior to creation of the District and shall be binding upon the City and Milwood for a period of one (1) year following such execution by the City, pending creation and




confirmation of the creation of the District and approval and execution of this Agreement by the Board of Directors of the District.

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

APPROVED AS TO FORM:

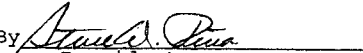
By   
Albert DeLaRosa  
City Attorney

CITY OF AUSTIN, TEXAS

By   
City Manager

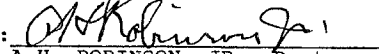
Executed on MAY 20 1983, 1983

NORTH AUSTIN MUNICIPAL  
UTILITY DISTRICT NO. 1

By   
President,  
Board of Directors

Executed on May 8, 1984

AUSTIN WHITE LIME COMPANY

BY:   
A.H. ROBINSON, JR., Partner

BY:   
GEORGE E. ROBINSON, Partner

Executed on Jan 30, 1984

ROBINSON RANCH

BY:   
A.H. ROBINSON, JR., Partner

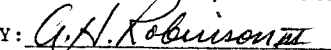
BY:   
GEORGE E. ROBINSON, Partner

Executed on January 30, 1984

MILWOOD JOINT VENTURE

  
BY: BILL MILBURN, Venturer

BY: PALMAR ASSOCIATES, Venturer

BY: 

Executed on January 30, 1984

ORDINANCE NO. 81 08'3-2

AN ORDINANCE REPEALING ORDINANCE NO. 800320-2; ESTABLISHING A POLICY RELATED TO POLITICAL SUBDIVISIONS CREATED PURSUANT TO ARTICLE III, SECTION 52 OF THE TEXAS CONSTITUTION OR ARTICLE XVI, SECTION 59 OF THE TEXAS CONSTITUTION FOR THE CITY OF AUSTIN; ESTABLISHING THIRTEEN BASIC QUALIFICATIONS FOR CONSENT TO THE CREATION OF A WATER DISTRICT; PROVIDING PERCENTAGES ALLOWED FOR BOND FINANCING; ESTABLISHING THE PROVISIONS OF THE BONDING PACKAGE; PROVIDING FOR THE PROVISION OF SPECIAL WATER AND SEWER RATES WITHIN THE CONSENT AGREEMENT AS AUTHORIZED BY SECTION 54.816(h) OF THE TEXAS WATER CODE; ESTABLISHING VARIOUS REQUIREMENTS; DECLARING A POLICY STATEMENT; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

PART 1. That Ordinance No. 800320-2, as amended, be and it is hereby repealed.

PART 2. That this policy relating to the political subdivisions created pursuant to Article III, Section 52 of the Texas Constitution or Article XVI, Section 59 of the Texas Constitution, be adopted pursuant to the applicable provisions of the Texas Water Code and the Texas Municipal Annexation Act of the State of Texas, to be equitably applied to all petitioners for new Water Districts within the City's Extra-Territorial Jurisdiction.

1. BASIC QUALIFICATIONS FOR CONSENT TO THE CREATION OF A WATER DISTRICT INCLUDING BUT NOT LIMITED TO MUNICIPAL UTILITY DISTRICTS (MUD), WATER CONTROL AND IMPROVEMENT DISTRICTS (WCID), AND FRESH WATER SUPPLY DISTRICTS (FWSU).

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- A. The Water District shall contain acreage necessary to assure the economic viability of the District, but in no event shall a Water District contain less than 100 acres.
- B. The land to be included within the water district must lie entirely outside the City limits; provided however, that land within the City by virtue of strip-annexation along major thoroughfares may be included with the Water District if such land within the City, constitutes no more than 5% of the total acreage of the Water District.
- C. The economic viability of the district must be shown in the same manner as required by the State.
- D. The consent resolution and agreement must reflect, and conform to, all the applicable stipulations of this policy.
- E. The City Council must determine that the district is not likely to be annexed by the City within three (3) years. Such determination shall not be binding on the City, however.
- F. When the City Council receives a petition for creation of a Water District within the City's Extra-Territorial Jurisdiction, it shall be evaluated in accordance with the policy set forth herein.

### III. PERCENTAGES ALLOWED FOR BOND FINANCING.

- A. A Municipal Utility District will be allowed to issue bonds equal in amount to the bonding package outlined in Section III. hereof, times the appropriate percentage determined in Exhibit "A", attached hereto. All other forms of Water Districts including Water Control and Improvement Districts and Fresh Water Supply Districts in Growth Management Areas III and IV will be allowed bonding authority equal to one half the percentages for the following items only listed in Exhibit "A" Municipal Utility Districts: 1) internal water lines, 2) regional drainage, 3) water approach mains, and 4) water facilities. All such other forms of Water Districts located in Growth Management Area V will be allowed bonding authority equal to three quarters of the percentages for the items listed. Exceptions to the percentage limitations in Exhibit "A" may be granted by the City Council only where a proposed Water District will serve established residential areas and is not being created primarily to serve undeveloped land. Further, when a petition is received for creation of a Municipal Utility

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District in Area V which in the estimation of the City Council will not have a deleterious effect on the urban planning decisions including annexation, extension of utility services, protection of the environment, the fiscal integrity of the City of Austin and other goals delineated in the Austin Tomorrow Comprehensive Plan, it shall be evaluated on a case by case basis and considered individually on its merits and not necessarily subject to the provisions of this policy.

3. Where a Water District overlaps any of the boundary lines in Exhibit "A", the percentage shall be apportioned according to the number of living unit equivalents in each area. The percentage shall be determined with respect to area designation and City limits at the date the consent agreement is approved by the City Council.
- C. The following definitions shall apply when used in Exhibit "A":
  1. "Growth management area" refers to an area as described within the Master Plan of the City of Austin.
  2. "Extra-territorial jurisdiction area" refers to that area between the City limits and 5 miles beyond that as defined in appropriate state enabling legislation.
  3. "Internal water lines" or "Internal wastewater lines" means those lines, constructed within the Water District, including any overline required which will not be recovered under the City's overline policy since that policy shall be applicable to the developer.
  4. "Storm sewer/drainage" is limited to the cost of storm sewer pipe and open channels and their installation where impervious channel surfaces are required.
  5. "Regional drainage" means regional type storm water retention/detention features designed and constructed to control and/or manage storm water, a substantial portion of which issues from one or more watersheds outside the Water District, and provided such construction is approved by the Engineering Department of the City of Austin.

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6. "Wastewater facilities" means treatment plants, storage facilities and other items not included in 3 or 9 of this section.
7. "Water facilities" means treatment plants, storage facilities, wells and other items not included in 3 or 10 of this section.
8. "Water Facilities Using Ground Water from Edward's Aquifer" means all such facilities listed in definition 7 above which, in this case, derive their raw water source from the Edward's Aquifer.
9. "Irrigation land" means land irrigated in connection with a sewage treatment plant. The bonds allowed for this land are to be determined by the raw land cost. When land or irrigation is no longer used for that purpose, and it is sold, the proceeds from the sale shall be placed in the Debt Retirement Fund of the district. If annexation has occurred, such proceeds shall be placed in the Utility Enterprise Debt Retirement Fund of the City of Austin.
10. Approach mains are defined as those water and/or wastewater lines which lead up to but not within the property to be served and as further defined, by the Cost Participation Ordinance of the City of Austin.

### III. BONDING PACKAGE.

#### A. WATER, WASTEWATER AND DRAINAGE

A Water District shall be permitted the bonding permitted under the State Law and the rules of the Texas Water Development Board for 1) construction, and for 2) land and easement costs for water, sewer, and drainage improvements (in accordance with Exhibit "A"). Further, the "30% rule" instituted by the Texas Water Commission shall apply in determining the bonding allowed for Water, Wastewater and Drainage. The percentages in Exhibit "A" shall apply after limits imposed by that rule and the delineation between types of districts and allowable bonding percentages established in Section II.A. of this Ordinance. The developer must pay 30% of the cost of internal lines and drainage. Additionally, that oversize portion of a water or wastewater approach main which the City of Austin has required to be constructed to serve areas outside of the

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boundaries of the Water District may be financed with bonds. In such cases, the City shall repay the Water District annually for the City's pro rata share of the debt retirement cost of such facility. The City shall retain the right to allocate its pro rata share of the facility and collect subsequent users fees as defined in the Cost Participation Ordinance of the City of Austin. Provided, however, that the following items shall not be allowed to be financed by the issuance of bonds, and therefore, shall not be included in the bonding package:

1. Land or easements within the Water District, or any property owned by the developers of the Water District, dedicated for any water or wastewater line or facility, including treatment plants for any function related to drainage. Provided, however, that bonds may be authorized for the purchase of land for irrigation purposes connected with a package treatment plant (in accordance with the chart in Exhibit "A"). Provided further that irrigation land purchased from the developers of the Water District must be purchased at book value.
  2. Curbs, gutters, inlets, culverts, and bridges.
  3. Drainage improvements, except storm sewers and regional facilities, in accordance with Exhibit "A".
3. INTANGIBLES
1. A contingency factor of 10% shall be allowed on all water, wastewater and drainage costs.
  2. Construction costs shall include 10% for engineering, and shall include all fees.
  3. Interest during construction and capitalized interest shall be allowed to the full extent of the State Law for all costs that qualify for bond financing.
  4. Other non-construction costs allowed for bond financing are: fiscal agent fees, legal fees and administration organizational expense and printing the bonds, as allowed by State Law.

C. BONDED AMENITIES

Additional bonding authority may be used as the City Council specifies for any of the following items. The City Council must approve the need for each item, the

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site location and design. The aggregate of the City requirements shall be limited by the economic viability of the District. Bonded authority for any item under this section shall be based on raw land cost and carrying expenses.

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

D. NON-BONDED AMENITIES

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

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

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

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

If the Municipal Utility District requests City Council approval of subsequent, additional bonding authority beyond that agreed to in the original consent agreement, the special rates agreed to in this section will be recalculated as determined above to reflect the additional bonded indebtedness.

In addition, if it becomes evident via the subdivision approval process or otherwise, that the number of planned living unit equivalents within the district will exceed or be less than the figures originally used as the basis for computing the surcharge then the district and the City agree to adjust the special charges accordingly.

A. The bonded indebtedness used to calculate the special rate shall be:

- 1) Area III: the total amount of bonded indebtedness for construction, land and easement costs for water and wastewater internal lines, and all drainage as set out in Exhibit "A";
  - 2) Area IV: the total amount of bonded indebtedness for construction, land and easement costs for water and wastewater internal lines, all drainage as set out in Exhibit "A"; and fifty percent of the total bonded indebtedness for construction, land and easement costs for water and wastewater approach mains and facilities and irrigation land as set out in Exhibit "A";
  - 3) Area V: the total amount of bonded indebtedness for construction, land and easement costs for regional drainage, water and wastewater approach mains, water and wastewater facilities and irrigation land.
- B. Since Section 54.016(h) of the Texas Water Code which permits the special rates used in this policy contains a provision which says that the City of Austin cannot annex the district prior to the installation of 90% of the facilities for which district bonds were authorized, the consent agreement must also contain a provision containing

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a date for 90% installation beyond which authorization for all unissued bonds may be terminated at the option of the City Council. If the City Council elects to so terminate, it must concurrently annex the district. To facilitate this requirement the consent agreement must require that bonds be issued to finance only completed and approved facilities and existing items.

- C. Any water and sewer customer within the boundaries of the City may enforce the special rates required to be included in a contract authorized by this policy.
- D. Prior to annexation, the special rate calculated in Section IV shall be charged in addition to the regular rate which shall not be less than that charged by the City within the City limits for consumers of similar customer classification. The revenue from the special rate shall be deposited in the debt retirement fund of the district.
- E. The revenue and ad valorem taxing authority of the district shall be pledged on all bonds as the City's ad valorem taxing authority shall be after annexation has occurred.

#### VI. ADDITIONAL REQUIREMENTS AND POLICY STATEMENT.

The City shall require the following of all Water Districts, and these requirements shall be stipulated by the appropriate set of consent resolutions and agreements.

- A. All development activities within the district shall conform to all existing City of Austin ordinance requirements.
- B. Underground utilities may be required by the City Council.
- C. All development construction by the district or the developers must be done in accordance with the City of Austin standards for similar facilities and copies of plans and specifications must be approved by the City before construction begins.
- D. All planning, designs, and construction of drainage facilities and other facilities and/or features pertinent to drainage shall be done in accordance with the "Drainage

EXHIBIT "A" TO CREATION AGREEMENT

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Ordinances Manual" of the City of Austin. Drainage plans must be approved by the Director of Public Works prior to land development.

- F. The City shall have the right to inspect all ~~facilities of the district~~ at any time during construction, and final approval is required. In addition, the City shall have the right to charge inspection fees for review of facilities the cost of which is not covered by other appropriate charges.
- G. Bonds shall be issued only for those purposes specifically authorized by the consent agreement, and bonds authorized for one purpose shall not be used for another.
- H. Before the Water District issues bid invitations for its bonds, the City Council shall have the right of approval of all bond issues and sales, including bond prices, interest rates, and redemption premiums, and copies of all documents submitted to State agencies shall be concurrently submitted to the City.
- I. All records, files, books, information, etc., of the district shall be a matter of public record, and available for City inspection at all times.
- J. The district shall prepare annual reports for the City on the status of construction and bond sales.
- K. All bonds issued by the district shall have a call provision which allows the option to redeem the bonds at par.
- L. The district shall not furnish water or wastewater service to any tract of land unless the Planning Commission of the City of Austin has approved a subdivision plat covering such tract of land and such plan has been recorded in the deed records. The Planning Commission of the City of Austin will not be required to approve any subdivision within a Water District which does not conform to the provisions of the consent agreement.
- M. The district shall not provide service outside its boundaries unless approval is obtained from the City Council. If such permission is granted, no bond funds shall be expended or indebtedness incurred to provide such service without approval of the City Council.

EXHIBIT "A" TO CREATION AGREEMENT  
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- M. The City shall review and approve the adequacy, type and construction of all roadways in the Water District.
- N. The City may require the construction of facilities or improvements for the purpose of mitigating the impacts of storm water runoff.
- O. No land within the Water District shall be allowed, at any time in the future, to incorporate, join in an incorporation, or be annexed into any incorporated city other than the City of Austin.
- P. No land may be annexed to a district without the approval of the City Council.
- Q. Right-of-way, public park land, utility and drainage easements and all other appropriate lands and easements shall be properly dedicated to the public, the district and its ultimate successor.
2. The net effective interest rate will not exceed 2% above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period preceding the date notice of sale is given.
3. Any wastewater treatment plant constructed in whole or in part with bond proceeds under this policy, shall not discharge over the Edwards Aquifer recharge zone or in the Barton Creek Watershed but must instead irrigate. Any wastewater treatment plant constructed in whole or in part with bond proceeds under this policy must be reviewed and approved by the City Council prior to the issuance of the State permit or any amendment thereto if it is to discharge instead of irrigate.
4. Water Districts that are not charging a special rate as described in this Ordinance Part 1, IV, shall charge a regular rate for service not less than that charged by the City for service to customers outside of the City as shall be established by the City Council from time to time.
5. Water service in a WCD, RWSD or any other type of Water District with the exception of a Municipal Utility District will only be provided to lots one (1) acre minimum in size to insure the capability to install and operate an on-site wastewater disposal system over the life of the property.

PART 3. That all ordinances, resolutions and orders heretofore passed, adopted and made, or any part of the same, affecting approach mains, which

EXHIBIT "A" TO CREATION AGREEMENT

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are in conflict with this Ordinance, shall be and the same are hereby in all things repealed.

PART 4. Whereas, an emergency is apparent for the immediate preservation of order, health, safety and general welfare of the public, which emergency requires the suspension of the rule providing for the reading of an ordinance on three separate days, and requires that this ordinance become effective immediately upon its passage; therefore, the rule requiring the reading on three separate days is hereby suspended and this ordinance shall become effective immediately upon its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED

August 19, 1981

I  
I  
I  
I  
I  
I

Mayor

APPROVED:

Albert D. L. R.  
Acting City Attorney

ATTEST:

Gene M. Mouser  
City Clerk

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| 1                      | 2                              | 3                    | 4                    | 5                     | 6                  | 7                    | 8                         | 9                | 10   | 11                               | 12   |
|------------------------|--------------------------------|----------------------|----------------------|-----------------------|--------------------|----------------------|---------------------------|------------------|--|----------------------------------|------|
| Growth Management Area | Extra Territorial Jurisdiction | Internal Water Lines | Internal Water Lines | Storm Sewer Discharge | Regional Discharge | Water Approach Lines | Wastewater Approach Lines | Water Facilities | Water facilities Utilizing Groundwater from Edward's Aquifer | Wastewater Irrigation Facilities |      |
| III                    | 0-2 ml.                        | 100%                 | 100%                 | 75%                   | 100%               | 100%                 | 100%                      | 100%             | 0%   | 100%                             | 100% |
| III                    | 2-5 ml.                        | 75%                  | 75%                  | 65%                   | 100%               | 90%                  | 90%                       | 90%              | 0%   | 90%                              | 100% |
| IV                     | 0-2 ml.                        | 40%                  | 40%                  | 0%                    | 100%               | 60%                  | 60%                       | 60%              | 0%   | 60%                              | 100% |
| IV                     | 2-5 ml.                        | 30%                  | 30%                  | 0%                    | 100%               | 40%                  | 40%                       | 40%              | 0%   | 40%                              | 100% |
| V                      | 0-5 ml.                        | 0%                   | 0%                   | 0%                    | 100%               | 60%                  | 20%                       | 100%             | 0%   | 20%                              | 100% |

EXHIBIT "A" TO CREATION AGREEMENT  
Page 12 of 12

UTILITY CONSTRUCTION CONTRACT  
BETWEEN  
THE CITY OF AUSTIN, TEXAS AND  
NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1

This Contract is made and entered into on the date last herein written, by and between the CITY OF AUSTIN, TEXAS ("the City"), a Home Rule City located in Travis County, Texas, and the NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1 ("the District"), a conservation and reclamation district created pursuant to Article XVI, Section 59, of the Texas Constitution and operating under the provisions of Chapter 54 of the Texas Water Code.

RECITALS

The City owns and operates a water supply system and a sanitary sewer collection and treatment system serving areas within and adjacent to its city limits and has determined to extend its water supply and sanitary sewer facilities into the service area north of its present city limits in order to provide water and sanitary sewer service within said area for the purpose of protecting the health and welfare of present and future residents of the area and of portions of the City in proximity thereto.

The District desires to obtain access to the City's water supply system in order to enable it to provide a dependable supply of potable water to the inhabitants of the District and to obtain access to the City's sanitary sewer system in order to provide for the transportation, treatment, and disposal of sewage from within the District. Pursuant to Chapter 54 of the Texas Water Code, the District is authorized to purchase, construct and acquire, inside or outside its boundaries, works, improvements, and facilities helpful or necessary to supply water for municipal uses, domestic uses, and commercial purposes and to collect, transport, and dispose of waste. The Board of Directors of the District has determined that it is in the best

EXHIBIT "B" TO CREATION AGREEMENT  
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interests of the District and its inhabitants to cooperate with the City in the acquisition and construction of certain extensions to the City's water supply and sanitary sewer facilities.

The City and the District are authorized to make and enter into this Contract in accordance with the laws of the State of Texas, including Article 1109j, Texas Revised Civil Statutes, and Chapter 54, Texas Water Code.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that for same in consideration of the premises and the mutual obligations and benefits contained herein, the City and the District contract and agree as follows:

#### AGREEMENT

##### I. DEFINITIONS

The terms and expressions used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

1.01 "Project" shall mean and refer to those water main and sanitary sewer main extensions and improvements described in Exhibit "A" to this Contract. The exact alignment and configuration of such water main and sanitary sewer main extensions and the exact location and configuration of the other water and sanitary sewer improvements may vary depending upon the final engineering design which shall be reviewed by the Environmental Board of the City and which shall be approved by the consulting engineers for the District and the Directors or acting Directors of the City's Water and Wastewater and Public Works Departments. It is expressly acknowledged and agreed that, prior to the time engineering design for the Project has been finally determined, the City may, at its option, require the oversizing of any of the facilities comprising the Project, provided: (1) that the City bears the cost of such oversizing and any related engineering expenses; (ii) that the total cost

of the Project to the District is not increased as a result of the oversizing; and (iii) that the construction of the Project is not delayed as a result of such oversizing.

1.02 "Board" and/or "Board of Directors" shall mean and refer to the Board of Directors of the District.

1.03 "Bonds" shall mean and refer to the bonds to be issued by the District, in one or more series or issues, for the purpose of acquiring, by purchase and/or construction, the Projects.

1.04 "Bond Resolution" shall mean and refer to any resolution or trust indenture of the Board of Directors authorizing the issuance of the Bonds and providing for their security and payment, as amended from time to time as therein permitted.

## II. OBLIGATIONS OF DISTRICT WITH RESPECT TO THE ACQUISITION OF THE PROJECT.

2.01 Subject to the limitations hereinafter set forth, the District agrees that it will proceed, as promptly as possible and to the best of its abilities, with the financing and acquisition and/or construction of the Project, all in the manner hereinafter described. The District agrees to promptly pursue the approvals necessary for the District to issue the Bonds and acquire the Project. Upon obtaining said approvals, the District agrees to proceed promptly to issue and sell the Bonds and, thereafter, to purchase and/or construct the Project. The District hereby covenants that it will make a diligent effort to design and to complete the Project as soon as practicable; provided, however, that the District shall not be liable for any damages which may be occasioned by delays not caused by negligence of the District. The District and the City shall agree on the "Consulting Engineers" for the Project, which shall be constructed in accordance with plans and specifications prepared by the Consulting Engineers and approved by the City.



It is further agreed that the Consulting Engineers may be changed, but only with the consent of both the District and the City.

The District may enter into such contracts as may be necessary to provide for the acquisition, by purchase and/or construction, of the Project. Said contracts shall be approved and executed as required by the laws and regulations applicable to municipal utility districts and shall be awarded by competitive bidding in accordance with applicable City policies and procedures. The City shall be given notice of and invited to attend all bid openings, including bid openings for Bonds.

### III. DISTRICT'S OBLIGATION TO PROVIDE FINANCING FOR PROJECTS

3.01 In order to finance the costs of the Projects, the District agrees to issue and sell the Bonds, in one or more series or installments, in such amounts as may be necessary to pay the costs and expenses of acquiring and/or constructing the Project and the costs and expenses of issuing the Bonds including, without limitation, the cost of acquiring all rights-of-way, easements, and land therefor; the funding of all special funds created for the payment and security of the Bonds; reasonable financial and legal fees, as agreed to in writing by the City attorney and the Director of Finance of the City; printing and other expenses incurred in connection of the issuance, sale and delivery of the Bonds; and an amount sufficient to provide for the payment of interest on the Bonds for a period not to exceed two (2) years. The parties agree that all of the Bonds issued by the District pursuant to the provisions hereof shall be payable solely from the contractual payments identified and described in Article V of this Contract.

3.02 Prior to the passage by the Board of Directors of the District of any resolution authorizing the issuance of the Bonds, a draft of such resolution in substantially final form

and content shall be delivered to the City Manager of the City at least thirty (30) days before the proposed date of sale of such Bonds and approved by the City Council of the City. Such draft shall set forth the principal amount and the maturities of the Bonds to be issued, the special funds created for the payment and security of the Bonds, including provisions relating to the creation and establishment of a special escrow fund for the deposit of the proceeds of the sale of the Bonds; and the procedures to be followed for the disbursement or withdrawal of funds deposited in such accounts. The necessity and amount of capitalized interest on the Bonds shall, after the first issue of Bonds, be reviewed and determined by the District and the Director of Finance of the City.

#### IV. OWNERSHIP AND OPERATION OF PROJECT

4.01 It is understood and agreed that the Project, upon final completion of the purchase and/or construction thereof, shall be dedicated to the City and, upon acceptance thereof by the City, all right, title and interest of the District in and to the Project shall vest in the City and the City shall thereafter be responsible for the maintenance and operation of the Project, at its sole expense.

#### V. PAYMENTS BY THE CITY

5.01 For and in consideration of the District's acquiring the Project and conveying the same to the City, the City agrees to pay to the District, in the manner hereinafter set forth, a sum equal to the total of the principal, interest, paying agents' fees, and other charges and expenses which may accrue in connection with the payment and discharge of the Bonds. It is further agreed that the City's obligation to make the payments herein specified shall terminate at such time as: (a) all of the Bonds have been paid in full and are no longer outstanding or (b) the City has irrevocably deposited with the paying agent or trustee, as the case may be, in trust: (1) monies sufficient

to fully pay the principal of, redemption premium, if any, on and interest on the Bonds to the respective due date or dates by reason of maturity, redemption or otherwise; and/or (2) government obligations, certified by an independent public accounting firm of national reputation, which shall mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient funds to pay the principal of; redemption premium, if any, on and interest on all outstanding Bonds to their respective due date or dates by reason of maturity, redemption or otherwise. "Government obligations" as used herein shall mean direct obligations of the United States of America, including obligations upon which principal and interest are unconditionally guaranteed by the United States of America, and United States Treasury obligations such as its State and Local Government Series, which may be in book-entry form. It is further understood and agreed that the District's only source of funds to pay the principal of and interest on the Bonds, and to pay expenses relating to the Bonds, shall be from the payments to be made by the City to the paying agent for the District pursuant to this Contract.

5.02 The City agrees to make the following payments to or on behalf of the District for so long as any of the Bonds issued in connection with the Project are outstanding:

- (a) Such amounts, payable semi-annually on or before the last business day prior to the due date of each payment on the District's Bonds, as may be necessary to pay the principal and/or interest coming due on the District's Bonds on the next succeeding payment date;
- (b) Such amounts, payable upon receipt of a statement therefor, as may be necessary to pay, or to reimburse the District for, the fees and charges of the paying agent for paying or (redeeming the Bonds and/or interest coupons appertaining thereto coming due on such date;
- (c) Such amounts, payable upon receipt of a statement therefor, as may be necessary to pay, or to reimburse the District for: (1) the actual cost of any special accounting audits required by

to fully pay the principal of, redemption premium, if any, on and interest on the Bonds to the respective due date or dates by reason of maturity, redemption or otherwise; and/or (2) government obligations, certified by an independent public accounting firm of national reputation, which shall mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient funds to pay the principal of; redemption premium, if any, on and interest on all outstanding Bonds to their respective due date or dates by reason of maturity, redemption or otherwise. "Government obligations" as used herein shall mean direct obligations of the United States of America, including obligations upon which principal and interest are unconditionally guaranteed by the United States of America, and United States Treasury obligations such as its State and Local Government Series, which may be in book-entry form. It is further understood and agreed that the District's only source of funds to pay the principal of and interest on the Bonds, and to pay expenses relating to the Bonds, shall be from the payments to be made by the City to the paying agent for the District pursuant to this Contract.

5.02 The City agrees to make the following payments to or on behalf of the District for so long as any of the Bonds issued in connection with the Project are outstanding:

- (a) Such amounts, payable semi-annually on or before the last business day prior to the due date of each payment on the District's Bonds, as may be necessary to pay the principal and/or interest coming due on the District's Bonds on the next succeeding payment date;
- (b) Such amounts, payable upon receipt of a statement therefor, as may be necessary to pay, or to reimburse the District for, the fees and charges of the paying agent for paying or (redeeming the Bonds and/or interest coupons appertaining thereto coming due on such date;
- (c) Such amounts, payable upon receipt of a statement therefor, as may be necessary to pay, or to reimburse the District for: (1) the actual cost of any special accounting audits required by

the City; (2) any extraordinary or unexpected expenses or costs reasonably and necessarily incurred by the District in connection with the Bonds and the Projects, such as expenses of litigation, if any; and (3) costs of special studies and special professional services, if and when required by any governmental directive or regulation, or as may be agreed to by the City and the District; provided, however, that the City shall not be obligated to pay District expenses of litigation if the City is an opposing party in such litigation;

- (d) Such amounts as may be necessary to make all payments into any special fund or reserve fund required to be established and/or maintained by the provisions of any Bond Resolution, as defined in Paragraph 5.05 hereof; and
- (e) Such amounts as may be necessary to pay any deficiency in any fund or account required to be accumulated and/or maintained by the provisions of any Bond Resolution, as defined in Paragraph 5.05 hereof.

5.03 This Contract, and all payments required to be made by the City hereunder, shall constitute a Separate Lien Obligation within the meaning of and as such term is defined in Ordinance Number 820303-A, a copy of which ordinance is attached hereto as Exhibit "B" and incorporated herein by this reference. The capitalized terms set forth in this Section 5.03 and in Section 5.04 of this Article shall have the same meanings assigned to such terms by said Ordinance. The City hereby covenants and agrees that, subject only to the prior lien on and pledge of the Net Revenues of the City's Waterworks and Sewer System to the payment and security of the Priority Bonds, including the establishment and maintenance of the special funds created for the payment and security of the Priority Bonds, the Net Revenues of the Waterworks and Sewer System, with the exception of those in excess of the amounts required for the payments to be made hereunder and required for the payment and security of the Bonds, are hereby irrevocably pledged, equally and ratably, to the payment and security of the Bonds and to the payments required to be made by the City hereunder pursuant to Section 5.02 of this Article V. It is further acknowledged and

agreed that the lien on and pledge of the Net Revenues of the Waterworks and Sewer System securing the payments required to be made by the City under and pursuant to Section 5.02 of this Article V shall be in all respects on a parity and of equal dignity with the lien and pledge of the Net Revenues of the Waterworks and Sewer System securing the payment of the "City of Austin, Texas, Water, Sewer and Electric Refunding Revenue Bonds, Series 1982" and additional obligations issued on a parity therewith (which obligations the City expressly reserves the right to issue, in accordance with the terms and conditions prescribed therefor in said Ordinance Number 820303-A), as well as other Separate Lien Obligations which the City expressly reserves the right to issue and to be payable from and equally secured by a lien on and pledge of such Net Revenues. It is expressly agreed by the parties hereto that the lien and pledge securing the payments to be made hereunder shall be applicable only to the Net Revenues of the Waterworks and Sewer System, and that the Net Revenues of the Electric Light and Power System shall not be deemed to have been pledged or encumbered by any lien to secure the payment of any City obligations under this Contract in any manner. The City agrees to make provision, in each annual City Budget, for the payment of all amounts required to be paid by the City under and pursuant to this Contract.

5.04 The City hereby covenants and agrees to establish and maintain rates and charges for water and wastewater services adequate to annually produce Net Revenues of the Waterworks and Sewer System equal at least to: (a) the sum of all amounts deposited from the Water and Sewer System Fund (1) in any special funds or accounts created for the payment and security of the Priority Bonds and (2) in the Interest and Redemption Fund and Reserve Fund (created and established by Ordinance Number 820303-A) for the payment of principal of and interest on the Series 1982 and Additional Parity Bonds, and to establish

and maintain the Required Reserve as provided in said Ordinance or any other ordinance relating to obligations for which the Reserve Fund was created and established to pay; plus (b) an amount equal to 1.25 times the combined annual payments to be made during a Fiscal Year on all Separate Lien Obligations of the Waterworks and Sewer System for purposes of paying or representing the payment of, principal of and interest on all indebtedness incurred by reason of, resulting from or issued pursuant to such Separate Lien Obligations. In addition, the City hereby covenants and agrees to establish and maintain rates and charges for facilities and services afforded by the Electric Light and Power System and the Waterworks and Sewer System adequate to provide gross revenues in each fiscal year from each System sufficient:

- (a) To pay the respective Maintenance and Operating Expenses thereof;
- ((b) To provide such amounts as may be required to establish, maintain or restore, as the case may be, a required balance in any reserve or contingency fund created for the payment and security of Separate Lien Obligations;
- (c) To produce combined Net Revenues of the System sufficient to pay the amounts required to be deposited in any reserve or contingency fund created for the payment and security of the Priority Bonds, the Series 1982 and Additional Parity Bonds, and any other obligations or evidences of indebtedness issued or incurred that are payable only from and secured solely by a lien on and pledge of the combined Net Revenues of the Systems; and
- (d) To produce combined Net Revenues of the Systems (after payment of the amounts required to be paid by paragraphs (b) and (c), above) equal to at least the sum of (1) 1.25 times the annual principal and interest requirements (or other similar payments) for the then-outstanding Priority Bonds and the Separate Lien Obligations and (2) 1.10 times the total annual principal and interest requirements (or other similar payments) for the then-outstanding Bonds and all other indebtedness (except Priority Bonds and Separate Lien Obligations) payable only from and secured solely by lien on and pledge of the Net Revenues of either or both of the Systems.

5.05 The terms and specifications of the Bonds to be issued by the District pursuant to this Contract shall be set

forth in a bond resolution or resolutions adopted by the Board of Directors (the "Bond Resolution", whether one or more). Approval and execution of this Contract by the proper officers of the City, as authorized by a resolution or ordinance of the City Council of the City shall signify not only the acceptance and final approval of this Contract, but also an acknowledgment that the covenants of such Bond Resolution constitute contractual arrangements between the District and the purchasers of the Bonds. The City agrees faithfully to perform all of its obligations under this Contract in such manner as will permit the District to fully perform all of its obligations under the Bond Resolution. The City further agrees that the District, the purchasers of the Bonds and all others concerned in any manner with the issuance of the Bonds and the security of this Contract in support thereof may rely upon a certified copy of the resolution or ordinance of the City Council approving and authorizing the execution of this Contract as conclusive evidence of the City's approval and acceptance hereof and of its responsibilities and obligations hereunder.

5.06 All payments made by the City pursuant to Section 5.02(a) of this Contract shall be deposited with the depository institution designated as the paying agent for the Bonds, which paying agent shall be approved by the City; provided, however, that such approval shall not be unreasonably withheld. The funds so deposited shall be held and disbursed by the paying agent for the benefit of the holders of the Bonds from time to time in accordance with the terms and provisions of such Bonds.

#### VI. DISTRICT'S PRO RATA COSTS OF PROJECT.

6.01 The City agrees that, upon completion of the Project, adequate water distribution, wastewater collection, and treatment capacity shall be reserved to serve all land within the District and to meet the City's obligations to supply treated water to the District and to collect wastewater



therefrom. For and in consideration of the City reserving adequate distribution capacity on behalf of the District, the District hereby agrees to pay to the City its pro rata share of the principal and/or interest requirements and paying agent fees due on the Bonds issued to finance the Project, as indicated on Exhibit "C", attached hereto and incorporated herein by reference for all purposes.

6.02 The District and the City agree that the pro rata share of the costs of the Project to be borne by the District shall be payable in semi-annual installments on or before five (5) business days prior to the due date of each principal and/or interest payment on the Bonds. The District's obligation to make principal payments on the Bonds shall not commence until the fifth anniversary date of the issuance of such Bonds. Each such semi-annual installment shall be in an amount equal to the percentages hereinabove stipulated as applied to the total principal and/or interest requirements and paying agent fees due on the Bonds on the principal and/or interest date next following the date a semi-annual installment payment is to be made by the District to the City. An example of the manner in which the semi-annual installments to be made by the District to the City are to be calculated is attached hereto as Exhibit "D" and made a part hereof for all purposes.

6.03 The District hereby covenants and agrees that, after payment of all maintenance and operating expenses of the District's water distribution and sewer collection works, plants and facilities (hereinafter called the "System Facilities"), and subject only to any prior lien on and pledge of the income and revenues derived from the operation and ownership of the System Facilities to the payment and security of bonds (other than the Bonds) issued by the District, the revenues and income derived from the operation and ownership of the System Facilities shall be and are hereby irrevocably pledged to the

payments to be made to the City under and pursuant to Section 6.02 above. In this connection and so long as such semi-annual installment payments remain due and owing to the City, the District covenants and agrees to fix and maintain such rates and charges for water and sewer services afforded by the System Facilities as shall be fully sufficient to provide income and revenues at all times adequate to make the contract payments representing the District's pro rata share of the costs of the Project to the City. In addition, the payments to the City under and pursuant to Section 6.02 hereof shall be payable from and secured by an ad valorem tax, imposed by the District, unlimited as to rate or amount, which the District agrees to levy, assess and collect, upon all taxable property within the District at the same time as other District taxes are levied, assessed and collected. All of the foregoing provisions for the payments required under and pursuant to the foregoing Section 6.02 by the District to the City are made pursuant to the authority conferred by Sections 54.218 and 54.219 of the Texas Water Code, and an election duly held within in the District on the \_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_. The District agrees that the resolution of its Board of Directors approving this Contract and authorizing the execution hereof on behalf of District shall make specific provision for the levy, assessment and collection of the aforementioned taxes during each year and at such rate (full allowance being made for delinquencies and costs of collection) as may be necessary to promptly make the payments herein pledged to City after consideration of all funds on hand or to be on hand from other sources, including those derived from the System Facilities as above set forth. The District hereby pledges the employment of these provisions for taxation as the means of making all payments to the City required under this Contract in each and every year when, for any reason, it shall appear that other available sources will

not produce funds entirely adequate for such purpose in the succeeding fiscal year.

6.04 The City covenants and agrees to enforce any and all existing contractual obligations with other entities and individuals in order to bring about cost participation in the Project on the part of these entities or individuals.

6.05 It is understood and agreed that the City shall have the right to establish and charge a subsequent user fee to all City water or sewer customers connecting to the facilities comprising the Project. In consideration of the District paying a share of the costs of the Project, neither the District nor any customers within the District shall be obligated to pay such subsequent user fee so long as the District is not annexed to the City, it being understood that the District's share of the costs of the Project is to be in lieu of of any such subsequent user fees to be assessed and collected by the City for the Project against other customers of the City's Waterworks and Sewer System. The District shall not have any rights to any such subsequent user fees collected by the City or any interest thereon.

#### VII. CONSTRUCTION AND INSURANCE

7.01 The Environmental Board of the City shall have the right to review the initial plans for the alignment and construction of the Project, and shall be invited to make on-site inspections of the Project during the alignment and construction stages.

7.02 During such time as the District or its contractors engage in construction work in relation to the Project, the District agrees to require all contractors performing such work to provide adequate insurance in relation to the Project and the work being performed as is usually carried by contractors constructing like properties and also to require all contractors to carry worker's compensation insurance. Upon completion of

construction of the Project and the dedication thereto to the City under the terms hereof, the City agrees to carry insurance on the Projects of a kind and in an amount which is customarily carried by municipal corporations in relation to the ownership and operations of utility properties.

#### VIII. CONDITIONS PRECEDENT

The obligation of the District to acquire and/or construct all or any part of the Project shall be conditioned upon the following:

- (a) Approval by the Texas Department of Water Resources, the Texas Department of Health, and any and all other local, state, or federal agencies having jurisdiction;
- (b) Sale of the Bonds in an amount sufficient to pay the costs of the acquisition and the expenses of issuing the Bonds; and
- (c) The District's ability, or the ability of its contractors, using all reasonable diligence, to obtain necessary material, labor, and equipment.

#### IX. USE OF CITY'S PROPERTY

By these presents, the City authorizes the District's use of any and all real property, streets, alleys, public ways and places, and general utility or water easements of the City for the acquisition and/or construction of the Project, so long as such use by the District does not interfere with any lawful use by the City. The City further agrees to provide right-of-way for the Project and to proceed immediately to acquire any necessary right-of-way by purchase, contract, or condemnation. The City's costs of acquiring such right-of-way shall be considered costs of the Project which shall be reimbursed by the District out of the proceeds of the Bonds. Nothing herein shall be construed as limiting the powers of the District to acquire land, easements or right-of-way for any purpose allowed by law. Upon completion of the Project, all easements acquired by the District for the Project shall be dedicated to the City.

#### X. FORCE MAJEURE

10.01 The term "Force Majeure", as employed herein, shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; orders of any kind of the Government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.

10.02 If, by reason of Force Majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Contract, then such party shall give written notice and the full particulars of such Force Majeure to the other party within a reasonable time after the occurrence thereof. The obligations of the party giving such notice, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

10.03 It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty. It is specifically excepted and provided, however, that in no event shall any Force Majeure

relieve the City of its obligation to make the contract payments to the District as required by Article V of this Contract.

#### XI. REGULATORY BODIES

This Contract, and the acquisition of the Projects, shall be subject to all valid rules, regulations, and laws applicable thereto passed or promulgated by the United States of America, the State of Texas, or any governmental body or agency having lawful jurisdiction thereof.

#### XII. PARTIES IN INTEREST

This Contract shall be for the sole and exclusive benefit of the City, the District and the owners or holders of the Bonds from time to time, and shall not be construed to confer any benefit or right upon any other parties.

#### XIII. SEVERABILITY

The provisions of this Contract are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Contract, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Contract to other persons or circumstances shall not be affected thereby.

#### XIV. TERM OF CONTRACT

This Contract shall be in force and effect for so long as the Bonds, or any of them, remain outstanding and unpaid; provided, however, that in no event shall the term of this Contract exceed forty (40) years from the date of execution hereof by the District.

#### XV. EXECUTION OF CONTRACT

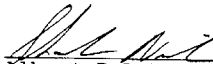
This Contract may be executed by the City prior to the creation of the District and shall be binding upon the City for a period of one (1) year following the approval of this Contract

or the Project by the Texas Water Commission, whichever occurs first, and execution of this Contract by the Board of Directors thereof, and shall thereafter be binding upon the City and District in accordance with its terms.


IN WITNESS WHEREOF, the District and the City, each acting under authority of their respective governing bodies, have caused multiple originals of this Contract to be duly executed, each of such to be of equal dignity, on the date or dates indicated below.

APPROVED AS TO FORM:

CITY OF AUSTIN, TEXAS

*for*   
Albert DeLaRosa  
City Attorney

By

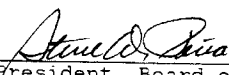
  
City Manager

Date:

MAY 20 1983

NORTH AUSTIN MUNICIPAL UTILITY  
DISTRICT NO. 1

By

  
President, Board of Directors

Date:

February 21, 1984

2663R/SBL

EXHIBIT "A"

DISTRICT ITEMS

WATER

1. 36 inch Jollyville Transmission Main (along McNeil Road from Jollyville Reservoir to Parmer Lane)
2. 24 inch Parmer Lane Transmission Line (from existing 24 inch main in Milwood 6-11 to McNeil Road)
3. 36 inch Transmission Line (from 36 inch main in McNeil Road to Proposed Reservoir)
4. 24 inch FM 620 Transmission Main (from 36 inch in Parmer at Reservoir to FM 620)

WASTEWATER

Temporary Lift Station and Force Main System (from North Austin M.U.D. #1 to Bull Creek Lateral "A")

CONTRACT BOND ITEMS

1. Northwest "A" System Reservoir (2,700,000 Gallons Effective Storage)
2. 48 inch Spicewood Springs Transmission Main and Discharge Piping (from Spicewood Springs Pump Station to U.S. Highway 183)
3. Oversize Research Boulevard Transmission Main from 36 inch to 48 inch Diameter.

WASTEWATER

Permanent Wastewater System including Anderson Mill and Forest North (from North Austin M.U.D. #1 to Bull Creek Interceptor)

REAL9/43-1:SBL



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AN ORDINANCE by the City Council of the City of Austin, Texas, authorizing the issuance of \$598,000,000 "CITY OF AUSTIN, TEXAS, WATER, SEWER AND ELECTRIC REFUNDING REVENUE BONDS, SERIES 1982"; prescribing the form of the bonds and the form of the interest coupons; pledging the net revenues of the City's Waterworks and Sewer System and Electric Light and Power System to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security and delivery of said bonds; and declaring an emergency.

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Passed March 3, 1982

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ORDINANCE NO. 820303-A

AN ORDINANCE by the City Council of the City of Austin, Texas, authorizing the issuance of \$598,000,000 "CITY OF AUSTIN, TEXAS, WATER, SEWER AND ELECTRIC REFUNDING REVENUE BONDS, SERIES 1982", prescribing the form of the bonds and the form of the interest coupons, pledging the net revenues of the City's Waterworks and Sewer System and Electric Light and Power System to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security and delivery of said bonds; and declaring an emergency

WHEREAS, the City of Austin, Texas (the "City") has duly issued and delivered, and there are currently outstanding, the following series or issues of revenue bonds payable from and secured by a lien on and pledge of the net revenues of City's Electric Light and Power, Waterworks and Sewer System, to

|      |   |               |
|------|---|---------------|
| (1)  | City of Austin, Texas, Utility System Revenue Bonds, Series 1, dated April 1, 1977, now outstanding in the aggregate principal amount of .....                                    | \$ 80,000,000 |
| (2)  | City of Austin, Texas, Utility System Revenue Bonds, Series 2, dated October 1, 1977, now outstanding in the aggregate principal amount of .....                                  | 55,000,000    |
| (3)  | City of Austin, Texas, Utility System Revenue Bonds, Series 3, dated April 1, 1978, now outstanding in the aggregate principal amount of .....                                    | 78,000,000    |
| (4)  | City of Austin, Texas, Utility System Revenue Bonds, Series 4, dated October 1, 1978, now outstanding in the aggregate principal amount of .....                                  | 76,780,000    |
| (5)  | City of Austin, Texas, Utility System Revenue Bonds, Series 5, dated March 1, 1979, now outstanding in the aggregate principal amount of .....                                    | 79,000,000    |
| (6)  | City of Austin, Texas, Utility System Revenue Bonds, Series 6, dated September 1, 1979, now outstanding in the aggregate principal amount of .....                                | 60,000,000    |
| (7)  | City of Austin, Texas, Utility System Revenue Bonds, Series 7, dated July 1, 1980, now outstanding in the aggregate principal amount of .....                                     | 45,000,000    |
| (8)  | City of Austin, Texas, Utility System Revenue Bonds, Series 8, dated January 1, 1981, now outstanding in the aggregate principal amount of .....                                  | 45,000,000    |
| (9)  | City of Austin, Texas, Utility System Revenue Bonds, Series 9, dated June 1, 1981, now outstanding in the aggregate principal amount of .....                                     | 27,000,000    |
| (10) | City of Austin, Texas, Utility System Revenue Bonds, Series 10, dated October 1, 1981, now outstanding in the aggregate principal amount of .....                                 | 43,000,000    |
| (11) | City of Austin, Texas, Electric, Waterworks and Sewer System Refunding Revenue Bonds, Series 1979, dated July 1, 1979, now outstanding in the aggregate principal amount of ..... | 303,665,000   |

AND WHEREAS, the City Council of the City has determined and hereby finds that refunding bonds should be issued in an amount sufficient, together with other available funds of the City, to refund all the above described bonds for the reasons set forth in Section 41 hereof, pay the costs of issuance of the refunding bonds and provide a debt service reserve for the refunding bonds; and

WHEREAS, it is hereby officially found and determined that it is necessary and desirable to use proceeds of the refunding bonds to fund a portion of the debt service reserve provided in Section 15 below, to effectively market the bonds and achieve the purpose of the refunding as hereinafter set forth; now, therefore,

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Exhibit B to Utility Construction Contract - Page 3 of 27

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

SECTION 1: *Authorization—Principal Amount—Series Designation* For the purpose of refunding all outstanding CITY OF AUSTIN, TEXAS, ELECTRIC, WATERWORKS AND SEWER SYSTEM REFUNDING REVENUE BONDS and CITY OF AUSTIN, TEXAS, UTILITY SYSTEM REVENUE BONDS, there shall be and there is hereby authorized to be issued a series of bonds, each payable to bearer, but subject to registration as to the payment of principal, in the principal amount of FIVE HUNDRED NINETY-EIGHT MILLION DOLLARS (\$598,000,000), to be designated "CITY OF AUSTIN, TEXAS, WATER, SEWER AND ELECTRIC REFUNDING REVENUE BONDS, SERIES 1982" (the "Series 1982 Bonds"), pursuant to authority conferred by and in conformity with the laws of the State of Texas, particularly Article 717k, as amended, V.A.T.C.S.

SECTION 2: *Date—Denomination—Numbers—Maturities—Interest Rates.* The Series 1982 Bonds shall be dated March 15, 1982; shall each be in the denomination of Five Thousand Dollars (\$5,000); shall consist of 119,600 bonds, numbered consecutively from One (1) upward and shall mature and bear interest at per annum rates in accordance with the following schedule:

| <u>Bond Numbers</u><br><u>(All Inclusive)</u> | <u>Maturity</u><br><u>Date</u> | <u>Aggregate</u><br><u>Principal</u><br><u>Amount</u> | <u>Interest</u><br><u>Rate</u> |
|---|--------------------------------|---|--------------------------------|
| 1 to 435                                      | November 15, 1982              | \$ 2,175,000  | 8.25%                          |
| 436 to 1,506                                  | May 15, 1983                   | 5,355,000   | 8.75%                          |
| 1,507 to 2,366                                | November 15, 1983              | 4,300,000   | 8.75%                          |
| 2,367 to 3,264                                | May 15, 1984                   | 4,490,000   | 9.50%                          |
| 3,265 to 4,254                                | November 15, 1984              | 4,950,000   | 9.50%                          |
| 4,255 to 5,288                                | May 15, 1985                   | 5,170,000   | 10.00%                         |
| 5,289 to 6,398                                | November 15, 1985              | 5,550,000   | 10.00%                         |
| 6,399 to 7,564                                | May 15, 1986                   | 5,830,000   | 10.40%                         |
| 7,565 to 8,653                                | November 15, 1986              | 5,445,000   | 10.40%                         |
| 8,654 to 9,800                                | May 15, 1987                   | 5,735,000   | 10.80%                         |
| 9,801 to 11,310                               | November 15, 1987              | 7,550,000   | 10.80%                         |
| 11,311 to 12,898                              | May 15, 1988                   | 7,940,000   | 11.20%                         |
| 12,899 to 14,574                              | November 15, 1988              | 8,380,000   | 11.20%                         |
| 14,575 to 16,344                              | May 15, 1989                   | 8,850,000   | 11.50%                         |
| 16,345 to 18,002                              | November 15, 1989              | 8,290,000   | 11.50%                         |
| 18,003 to 19,755                              | May 15, 1990                   | 8,765,000   | 11.75%                         |
| 19,756 to 21,499                              | November 15, 1990              | 8,720,000   | 11.75%                         |
| 21,500 to 23,345                              | May 15, 1991                   | 9,230,000   | 12.00%                         |
| 23,346 to 25,250                              | November 15, 1991              | 9,525,000   | 12.00%                         |
| 25,251 to 27,266                              | May 15, 1992                   | 10,080,000  | 12.25%                         |
| 27,267 to 29,386                              | November 15, 1992              | 10,600,000  | 12.25%                         |
| 29,387 to 31,636                              | May 15, 1993                   | 11,250,000  | 12.50%                         |
| 31,637 to 33,862                              | November 15, 1993              | 11,130,000  | 12.50%                         |
| 33,863 to 36,224                              | May 15, 1994                   | 11,810,000  | 12.75%                         |
| 36,225 to 38,592                              | November 15, 1994              | 11,840,000  | 12.75%                         |
| 38,593 to 49,774                              | November 15, 1996              | 55,910,000  | 11.00%                         |
| 49,775 to 55,938                              | November 15, 1997              | 30,820,000  | 13.50%                         |
| 55,939 to 87,218                              | November 15, 2001              | 156,400,000   | 14.00%                         |
| 87,219 to 94,973                              | November 15, 2002              | 38,775,000  | 11.00%                         |
| 94,974 to 119,600                             | November 15, 2006              | 123,135,000   | 14.25%                         |

SECTION 3: *Interest.* The Series 1982 Bonds shall bear interest from date until paid, or redeemed in accordance with the terms prescribed therefor, at the per annum rates shown above, such interest to be evidenced by interest coupons attached to each of said bonds and said interest shall be payable on November 15, 1982, and semiannually thereafter on May 15 and November 15 in each year.

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Exhibit B to Utility Construction Contract - Page 4 of 27

SECTION 4: *Payment of Bonds—Paying Agent—Registrar* Both principal of and interest on the Series 1982 Bonds shall be payable in lawful money of the United States of America, without exchange or collection charges to the owner or holder thereof upon presentation and surrender of such bonds or proper coupons, at Morgan Guaranty Trust Company of New York, New York, New York (the "Paying Agent").

The Paying Agent is hereby designated and appointed the Registrar for the Series 1982 Bonds, and, in the performance of the duties of Registrar, shall maintain and keep Bond Registration Books for purposes of registering the Series 1982 Bonds as to the payment of principal and discharging the same from registration, all in accordance with the Bond Registration Provisions appearing on the Form of Bond set forth in Section 9 hereof and incorporated herein by reference as a part of this Ordinance for all purposes.

SECTION 5: *Optional Redemption.* (a) The City reserves the right to redeem the Series 1982 Bonds maturing on and after November 15, 2002, in whole or in part (and if in part the particular Bonds to be redeemed shall be selected by the Registrar at random, by lot or other customary method selected by the Registrar), on or after May 15, 1997, at the price of par plus accrued interest to the date of redemption and without premium.

(b) The City also reserves the right to redeem the Series 1982 Bonds maturing on November 15, 1984 through November 15, 1994, in whole or in part (and if in part the particular Bonds to be redeemed shall be selected by the Registrar at random, by lot or other customary method), on May 15, 1984 or on any interest payment date thereafter, at the price of par plus accrued interest to the date of redemption and without premium, provided the principal amount of Bonds to be redeemed shall not exceed the amount of proceeds derived from the sale or other disposition of the City's participating interest in the South Texas Project and on hand in the special escrow account referred to in Section 23(b) hereof at the time of the call for redemption.

SECTION 6: *Mandatory Redemption.* The Series 1982 Bonds hereinafter described shall also be subject to mandatory redemption prior to maturity as follows:

(a) Series 1982 Bonds maturing on November 15, 1996, are subject to mandatory redemption prior to maturity and shall be redeemed, in part, on the dates and in the principal amounts set forth below:

| <u>Date</u>             | <u>Amount</u> |
|-------------------------|---------------|
| May 15, 1995 .....      | \$12,575,000  |
| November 15, 1995 ..... | 15,295,000    |
| May 15, 1996 .....      | 11,020,000    |

(b) Series 1982 Bonds maturing on November 15, 1997, are subject to mandatory redemption prior to maturity and shall be redeemed, in part, on the date and in the principal amount set forth below:

| <u>Date</u>        | <u>Amount</u> |
|--------------------|---------------|
| May 15, 1997 ..... | \$12,100,000  |

(c) Series 1982 Bonds maturing on November 15, 2001, are subject to mandatory redemption prior to maturity and shall be redeemed, in part, on the dates and in the principal amounts set forth below:

| <u>Date</u>             | <u>Amount</u> |
|-------------------------|---------------|
| May 15, 1998 .....      | \$14,665,000  |
| November 15, 1998 ..... | 18,925,000    |
| May 15, 1999 .....      | 16,530,000    |
| November 15, 1999 ..... | 21,375,000    |
| May 15, 2000 .....      | 19,725,000    |
| November 15, 2000 ..... | 21,645,000    |
| May 15, 2001 .....      | 20,355,000    |

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(d) Series 1982 Bonds maturing on November 15, 2002, are subject to mandatory redemption prior to maturity and shall be redeemed, in part, on the date and in the principal amount set forth below:

| <u>Date</u>        | <u>Amount</u> |
|--------------------|---------------|
| May 15, 2002 ..... | \$20,630,000  |

(e) Series 1982 Bonds maturing on November 15, 2006, are subject to mandatory redemption prior to maturity and shall be redeemed, in part, on the dates and in the principal amounts set forth below:

| <u>Date</u>             | <u>Amount</u> |
|-------------------------|---------------|
| May 15, 2003 .....      | \$17,370,000  |
| November 15, 2003 ..... | 19,955,000    |
| May 15, 2004 .....      | 17,300,000    |
| November 15, 2004 ..... | 17,415,000    |
| May 15, 2005 .....      | 19,305,000    |
| November 15, 2005 ..... | 15,795,000    |
| May 15, 2006 .....      | 1,855,000     |

On or prior to each April 1 and October 1 in each of the years specified above that Series 1982 Bonds are to be mandatorily redeemed, the Registrar shall select at random, by lot or other customary method the serial numbers of the Series 1982 Bonds within the applicable maturity to be redeemed on the next following mandatory redemption date, and the Series 1982 Bonds thus selected shall be redeemed on the next following May 15 and November 15, as the case may be, from moneys set aside for that purpose in the Interest and Redemption Fund, at the price of par and accrued interest to the date of redemption, without premium. Any Series 1982 Bonds not selected for prior redemption shall be paid on the date of their stated maturity.

The principal amount of the Series 1982 Bonds required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Series 1982 Bonds which, at least 90 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Registrar for cancellation, (2) shall have been purchased and cancelled by said Registrar at the request of the City with moneys in the Interest and Redemption Fund, at a price not exceeding the principal amount of such Series 1982 Bonds plus accrued interest to the date of purchase thereof, or (3) have been redeemed pursuant to the optional redemption provisions set forth above in Section 3 hereof and not theretofore credited against a mandatory redemption requirement.

**SECTION 7: Notice of Redemption.** At least thirty (30) days prior to any date on which any of the Series 1982 Bonds are to be redeemed pursuant to the provisions of Sections 5 or 6 hereof, the City shall cause a written notice of redemption (specifying the serial numbers and amount of bonds to be redeemed) to be published at least once in a financial publication of general circulation in The City of New York, New York and in a newspaper of general circulation in the City of Austin, Texas. By the date fixed for any such redemption due provision shall be made with the Paying Agent for the payment of the principal amount of the Series 1982 Bonds which are to be so redeemed and accrued interest thereon to the date fixed for redemption. If such written notice of redemption is published and if due provision for such payment is made, all as provided above, the Series 1982 Bonds which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the holder to receive the redemption price from the Paying Agent out of the funds provided for such payment. A similar notice shall be mailed by the City, postage prepaid, not less than 30 days prior to the redemption date, (a) to the registered owner of each Series 1982 Bond to be redeemed at the address appearing on the Bond Registration Books maintained by the Registrar and (b) to the owner of each of the Series 1982 Bonds to be redeemed

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Exhibit B to Utility Construction Contract - Page 6 of 27

which is payable to bearer, provided that each such owner previously shall have filed written instructions with the Registrar as to the name and address to which such notice should be mailed; but failure to mail or receive any such notice, or any defect therein or in the mailing thereof, shall not affect the validity of the proceedings for the redemption of such Series 1982 Bonds

SECTION 8: *Execution of Bonds.* The seal of said City shall be impressed on each of said Series 1982 Bonds or, in the alternative, a facsimile of such seal shall be printed on the said Series 1982 Bonds. The Series 1982 Bonds and interest coupons appurtenant thereto may be executed by the imprinted facsimile signatures of the Mayor and City Clerk and execution in such manner shall have the same effect as if such Series 1982 Bonds and coupons had been signed by the Mayor and City Clerk in person by their manual signatures. Inasmuch as such Series 1982 Bonds are required to be registered by the Comptroller of Public Accounts of the State of Texas, only his signature (or that of a deputy designated in writing to act for the Comptroller) shall be required to be manually subscribed to such Series 1982 Bonds in connection with his registration certificate to appear thereon, as hereinafter provided; all in accordance with the provisions of Article 717j-1, V.A.T.C.S.

SECTION 9: *Forms.* The form of the Series 1982 Bonds, including the form of interest coupons to be attached thereto, the form of registration certificate of the Comptroller of Public Accounts of the State of Texas and the form for registration of ownership to be printed thereon, shall be substantially as follows, to wit:

(Form of Bond)

NO. \_\_\_\_\_ UNITED STATES OF AMERICA \$5,000

STATE OF TEXAS

COUNTY OF TRAVIS

CITY OF AUSTIN, TEXAS,  
WATER, SEWER AND ELECTRIC  
REFUNDING REVENUE BOND  
SERIES 1982

The City of Austin, a municipal corporation in the County of Travis, State of Texas, FOR VALUE RECEIVED, hereby promises to pay to the bearer hereof, or, if this bond be registered as to principal as hereafter provided, to the registered owner hereof, on the FIFTEENTH DAY OF \_\_\_\_\_ (unless this Bond shall have been redeemed prior to maturity in accordance with the provisions of the ordinance hereinafter referred to) the principal sum of

FIVE THOUSAND DOLLARS

(\$5,000), and to pay interest thereon from the date hereof until paid at the rate of \_\_\_\_\_ percentum ( \_\_\_\_\_ %) per annum, such interest being evidenced by interest coupons payable on November 15, 1982, and semiannually thereafter on May 15 and November 15 in each year while this Bond is outstanding.

BOTH PRINCIPAL of and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges to the owner or holder, such principal and interest coupons appertaining hereto, being payable only upon presentation and surrender of this Bond or proper interest coupon, at Morgan Guaranty Trust Company of New York, New York, New York (the "Paying Agent").

If this Bond is registered as to principal (other than to bearer), such principal shall be paid to the registered owner shown on the Bond Registration Books of the City kept by the Paying Agent as "Registrar" for the City, upon presentation and surrender of this Bond to the Paying Agent.

THIS BOND is one of a series of bonds (the "Bonds"), dated March 15, 1982, numbered consecutively from One (1) upward, each in the denomination of \$5,000, aggregating in principal amount \$598,000,000, issued for the purpose of refunding all presently outstanding "City of Austin, Texas, Electric, Waterworks

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Exhibit B to Utility Construction Contract - Page 7 of 27

and Sewer System Refunding Revenue Bonds" and "City of Austin, Texas, Utility System Revenue Bonds", pursuant to and in conformity with the laws of the State of Texas, particularly Article "11", V A T C.S., as amended, the Home Rule Charter of the City and an ordinance (the "Ordinance") duly passed by the City Council of the City and duly recorded in the Minutes of said Council.

THE BONDS are issued in coupon form without right of conversion and exchange into fully registered bonds. Provisions regarding the registration of this Bond as to principal and the conditions of transfer are set forth in the Bond Registration Provisions appearing on the back hereof.

THE BONDS maturing on the dates hereinafter identified are subject to mandatory redemption prior to maturity with funds from the "Interest and Redemption Fund", established in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the amounts set forth in the Ordinance. Bonds maturing November 15, 1996 are subject to mandatory redemption on May 15, 1995 and semiannually thereafter on each November 15, and May 15 through May 15, 1996. Bonds maturing November 15, 1997 are subject to mandatory redemption on May 15, 1997. Bonds maturing November 15, 2001 are subject to mandatory redemption on May 15, 1998 and semiannually thereafter on each November 15, and May 15 through May 15, 2001. Bonds maturing on November 15, 2002 are subject to mandatory redemption on May 15, 2002. Bonds maturing November 15, 2006 are subject to mandatory redemption on May 15, 2003, and semiannually thereafter on each November 15 and May 15 through May 15, 2006. The particular Bonds to be redeemed on each such date shall be chosen at random, by lot or other customary method by the Registrar; provided, however, that the principal amount of the Bonds required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Bonds which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Registrar for cancellation, (2) shall have been purchased and cancelled by said Registrar at the request of the City with moneys in the Interest and Redemption Fund at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

On and after May 15, 1997, the Bonds maturing on and after November 15, 2002 may be redeemed prior to their scheduled maturities, at the option of said City, with funds derived from any source, in whole on any date, or in part on any interest payment date, for the principal amount thereof and accrued interest thereon to the date fixed for redemption, and without premium. If less than all the Bonds of a maturity are to be so redeemed, the particular Bonds of a maturity, to be redeemed shall be selected at random, by lot or other customary method by the Registrar.

Furthermore, the Bonds maturing on November 15, 1984 through November 15, 1994, may be redeemed at the option of the City, in whole or in part (and, if in part the particular Bonds to be redeemed shall be selected by the Registrar at random, by lot or other customary method), on May 15, 1984 or on any interest payment date thereafter at the price of par and accrued interest to the date of redemption and without premium, provided the principal amount of Bonds to be redeemed shall not exceed the amount of proceeds derived from the sale of the City's participating interest in the "South Texas Project" and on hand at the time of the call for redemption.

At LEAST thirty days prior to the date fixed for any redemption the City shall cause a written notice of such redemption (specifying the serial numbers and amount of Bonds to be redeemed), to be published at least once in a financial publication of general circulation in The City of New York, New York, and in a newspaper of general circulation in the City of Austin, Texas. By the date fixed for any such redemption due provision shall be made with the Paying Agent for the payment of the principal amount of the Bonds which are to be so redeemed and accrued interest thereon to the date fixed for redemption. If such written notice of redemption is published and if due provision for such payment is made, all as provided above, the Bonds which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be

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regarded as being outstanding except for the right of the bearer to receive the redemption price from the Paying Agent out of the funds provided for such payment. A similar notice shall be mailed by the City, postage prepaid, not less than 30 days prior to the redemption date, (a) to the registered owner of each of the Bonds to be redeemed addressed to such owner at the address appearing on the Bond Registration Books maintained by the Registrar, and (b) to the owner of each of the Bonds to be redeemed, which is payable to bearer, provided that each such owner previously shall have filed written instructions with the Registrar as to the name and address to which such notice should be mailed, but failure to mail or receive any such notice, or any defect therein or in the mailing thereof, shall not affect the validity of the proceedings for the redemption of such Bonds.

THE BONDS are special obligations of the City payable solely from and equally secured by a lien on and pledge of the "Net Revenues" (as such term is defined in the Ordinance) of the City's Electric Light and Power System and the "Net Revenues" of the Waterworks and Sewer System; such lien on and pledge of the "Net Revenues" of both Systems being joint and several and, also, being junior and subordinate to the payment and security of "Priority Bonds" (which the City has reserved the right to issue subject to the terms and conditions stated in the Ordinance). For a more complete description and identification of the revenues pledged to the payment of the Bonds, and other obligations of the City secured by and payable from the same source or sources as the Bonds, reference is hereby made to the Ordinance.

THE CITY has reserved the right, subject to the restrictions stated in the Ordinance, to issue and incur additional parity revenue obligations payable from and equally secured by a lien on and pledge of the Net Revenues of the Electric Light and Power System and the Net Revenues of the Waterworks and Sewer System, in the same manner and to the same extent as the Bonds. In addition, the City has expressly reserved the right to incur obligations payable from and secured by a lien on and pledge of the Net Revenues of either the Electric Light and Power System or the Waterworks and Sewer System, but not both Systems, which lien on and pledge of the respective Net Revenues will be of equal dignity with the lien on and pledge of said respective Net Revenues in favor of the Bonds. The City has also reserved the right to issue Priority Bonds to be secured by a first lien on and pledge of the Net Revenues of Electric Light and Power System and the Net Revenues of the Waterworks and Sewer System under the terms and conditions contained in the Ordinance.

THE HOLDER HEREOF shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the Series of which it is a part is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of the Bonds to render the same lawful and valid have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas and the Ordinance hereinabove mentioned; that the Bonds do not exceed any constitutional or statutory limitation; and that provision has been made for the payment of the principal of and interest on this Bond and the Series of which it is a part by irrevocably pledging the Net Revenues of the Electric Light and Power System and the Waterworks and Sewer System of the City of Austin, Texas, as hereinabove recited.

Except where defined herein, capitalized terms have the meanings assigned to them in the Ordinance.

IN TESTIMONY WHEREOF, the City Council of the City of Austin, Texas, in accordance with the provisions of Article 717j-1, V.A.T.C.S., has caused the seal of said City to be impressed or a facsimile thereof to be printed hereon, and this bond and its appurtenant coupons to be executed with the imprinted facsimile signatures of the Mayor and City Clerk of said City.

\_\_\_\_\_  
Mayor, City of Austin, Texas

COUNTERSIGNED:

\_\_\_\_\_  
City Clerk, City of Austin, Texas

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(Form of Interest Coupon)

NO \_\_\_\_\_

S \_\_\_\_\_

ON 15.

THE CITY OF AUSTIN, a municipal corporation in the County of Travis, State of Texas, hereby promises to pay to bearer the amount shown on this interest coupon, in lawful money of the United States of America, without exchange or collection charges to the bearer, unless due provision has been made for the redemption prior to maturity of the Bond to which this interest coupon appertains, upon presentation and surrender of this interest coupon, at

MORGAN GUARANTY TRUST COMPANY OF NEW YORK, NEW YORK, NEW YORK.

said amount being interest due on that day on the Bond, bearing the number hereinafter designated, of that issue of CITY OF AUSTIN, TEXAS, WATER, SEWER AND ELECTRIC REFUNDING REVENUE BONDS, SERIES 1982, dated March 15, 1982. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation, or from any source whatsoever other than those sources described in the Bond to which this coupon appertains. Bond No.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(Form of Registration Certificate)

COMPTROLLER'S REGISTRATION CERTIFICATE REGISTER NO. \_\_\_\_\_

I hereby certify that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this \_\_\_\_\_

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(Form of Bond Registration Provisions)

BOND REGISTRATION PROVISIONS

This Bond may be registered as to principal alone on the Bond Registration Books of the City kept by Morgan Guaranty Trust Company of New York, New York, New York, as Registrar, upon presentation hereof to the Registrar, which shall make notation of such registration in the registration blank below, and this Bond thereafter may be transferred only upon a duly executed assignment of the registered owner or his duly authorized representative in such form as shall be satisfactory to the Registrar, such transfer to be made on such Bond Registration Books and endorsed thereon by the Registrar. Any such transfer of this Bond may be to bearer and thereby transferability by delivery shall be restored, but this Bond shall again be subject to successive registrations and transfers as before. The principal of this Bond, if registered, unless registered to bearer, shall be payable only to or upon the order of the registered owner or his legal representative upon presentation and surrender of this Bond to the Registrar by such registered owner (or to the bearer of this Bond if it is registered to bearer). The bearer of any coupon may be deemed and regarded by the Registrar and the City as the absolute owner for all purposes, including payment and discharge of the liability upon such coupon to the extent of such payment, and neither the Registrar nor the

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