

ORDINANCE NO. 80 0320-E

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. PERCENTAGES ALLOWED FOR BOND FINANCING.

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

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

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

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

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

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

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

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

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

III. BONDING PACKAGE.

A. WATER, WASTEWATER AND DRAINAGE

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

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

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

B. INTANGIBLES

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

C. BONDED AMENITIES

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

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

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

D. Non-Bonded Amenities

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

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

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

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

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

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

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

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

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

VI. ADDITIONAL REQUIREMENTS AND POLICY STATEMENT

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

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

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 Criteria Manual" of the City of Austin. Drainage plans must be approved by the Director of Engineering prior to land development.

E. The City shall have the right to inspect all facilities of the district at any time during construction, and final approval is required.

F. 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.

G. Before the MUD 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.

H. All records, files, books, information, etc., of the district shall be a matter of public record, and available for City inspection at all times.

I. The district shall prepare annual reports for the City on the status of construction and bond sales.

J. All bonds issued by the district shall have a call provision which allows the option to redeem the bonds at par on or after a specified date, such date not being sooner than 15 years after the date of issue.

K. The district shall not furnish water or waste-water 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 plat has been recorded in the deed records.

L. 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.

M. The City shall review and approve the adequacy, type, and construction of all roadways in the MUD.

N. The City may require the construction of facilities or improvements for the purpose of mitigating the impacts of stormwater runoff.

O. No land within the Municipal Utility 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. Rights-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.

R. 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.

S. 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.

PART 2. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

March 20, 1980

X Christi Keeton McWhorter
Mayor

APPROVED: Albert De La Rosa
City Attorney

ATTEST: Gina Monroe
City Clerk

ADLR:cf

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	Internal Wastewater Lines	Storm Sewer Drainage	Regional Drainage	Water Approach Mains	Wastewater Approach Mains	Water Facilities	Wastewater Facilities	Land	Water Facilities	Wastewater Facilities	Water Facilities	Wastewater Facilities	Land	Water Facilities	Wastewater Facilities	Land
	100%	75%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
	75%	65%	100%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
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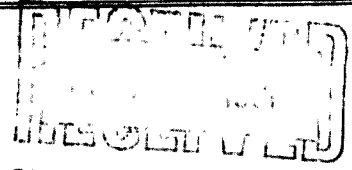
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To	David S. Ingerson	From	Holly M. Ingerson	
Co/Dept		Co		
Phone #		Phone #	862-9254	
Fax #	482-8827	Fax #		

EXHIBIT "A"

6	7	8	9	10	11
Regional Drainage	Water Approach	Wastewater Approach	Water Facilities	Wastewater Facilities	Drainage Facilities
1002	1002	1002	1002	1002	1002
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Re
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ORDINANCE NO. 810108-T



AN ORDINANCE GRANTING THE CONSENT OF THE CITY OF AUSTIN TO THE CREATION OF THE NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NUMBER 1, SUBJECT TO VARIOUS TERMS AND CONDITIONS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 54.016, Texas Water Code, the City Council of the City of Austin (hereafter referred to as "City") has adopted Ordinance No. 800320-E (hereafter referred to as the "Ordinance") establishing a municipal utility district policy for the City related to the City's growth management plan, known as the Austin Tomorrow Comprehensive Plan, adopted by the City Council of City on February 15, 1979; and,

WHEREAS, a petition has been filed for consent from the City to create a municipal utility district to be known as North Austin Growth Corridor Municipal Utility District No. 1 (hereafter referred to as "District") to include the land described in Exhibit "1" attached hereto and made a part hereof for all purposes; and,

WHEREAS, the land to be included in the proposed District lies in Growth Management Area III, (the preferred growth corridor of the City) as designated in the Austin Tomorrow Comprehensive Plan; and,

WHEREAS, the City Council has evaluated the petition for consent to creation of the District in accordance with the policy set forth in the Ordinance and determined that it conforms to such policy; Now, Therefore,

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

PART 1. That the City of Austin hereby grants (a) its consent to the inclusion of the land described in Exhibit "1" within North Austin Growth Corridor Municipal Utility District No. 1; (b) its consent to the creation of the District; and, (c) its consent to the issuance of bonds by the District, subject to the following terms and conditions:

1. That the City and the District shall enter into and execute the agreement attached hereto as Exhibit "2", entitled Agreement Concerning Creation of North Austin Growth Corridor Municipal Utility District No. 1, and the City Manager is hereby authorized to execute the agreement on behalf of the City. The agreement is incorporated herein and made a part hereof for all purposes.

2. That the City and the District shall enter into and execute the agreement attached hereto as Exhibit "3", entitled "Utility Construction Contract", and the City Manager is hereby authorized to execute the contract on behalf of the City. The contract is incorporated herein and made a part hereof for all purposes.

3. That the District shall not furnish water or sewer service to any customer in any subdivision unless such subdivision complies with all

applicable ordinances of the City of Austin concerning subdivisions and the Master Plan of the City of Austin.

4. That unless specifically approved by resolution of the City Council, no bonds or notes may be issued by the District without the taking of competitive bids therefor.

5. That, unless otherwise specifically approved by resolution of the City Council, none of the District bonds, other than refunding bonds, shall be sold for less than par.

6. That no land within the 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.

7. That any restrictions by the City on the terms and provisions of the District's bonds and notes issued to provide facilities and services to the land and conditions on the sale of the District's bonds and notes will not render the bonds and notes of the District unmarketable.

8. That the City shall have the right to audit and inspect the books and records of the District at any time.

PART 2. That the City Clerk is hereby directed to file a copy of such Ordinance in the permanent records of her office.

PART 3. The rule requiring the reading of ordinances on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

January 8, 1981

Carol Keeton McClellan
Mayor

APPROVED:

Albert D. L. Brown
City Attorney

ATTEST:

Gran Monroe
City Clerk

31DEC80
ADLR:cf

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, THE W. HORNSBY SURVEY NO. 77, THE NELSON MERRILL SURVEY NO. 70, THE J.P. WHELIN SURVEY NO. 108, AND THE L.C. CUNNINGHAM SURVEY NO. 68, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING ALL OF OR A PART OF; A 20.0 ACRE TRACT, A 21.90 ACRE TRACT, AND A 19.886 ACRE TRACT DESCRIBED IN A DEED TO LOUIS L. HIRSCHFELD, ET. UX. IN VOLUME 6463, PAGE 1349 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 70.0 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.W. KLATTENHOFF, ET. UX. IN VOLUME 5012, PAGE 2072 OF THE TRAVIS COUNTY, TEXAS PLAT RECORDS; A 91.60 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.W. KLATTENHOFF IN VOLUME 651, PAGE 402 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 14.62 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.W. KLATTENHOFF IN VOLUME 4546, PAGE 1 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 73.0 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.W. KLATTENHOFF, ET. UX. IN VOLUME 4385, PAGE 584 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 10.0 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.W. AND KATHERINE KLATTENHOFF IN VOLUME 857, PAGE 460 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 124.17 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.H. AND G.E. ROBINSON IN VOLUME 1065, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 56.03 ACRE TRACT OF LAND DESCRIBED IN A DEED TO THOMAS T. SMITH IN VOLUME 5368, PAGE 1373 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 20.674 ACRE TRACT AND A 79.587 ACRE TRACT DESCRIBED AS SECOND TRACT AND FIRST TRACT IN A DEED TO ROY A. BUTLER, ET. AL. IN VOLUME 4172, PAGE 2075 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; A 316.0 ACRE TRACT DESCRIBED IN A DEED TO HARRY D. PRUETT IN VOLUME 2402, PAGE 196 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; AND A 5.765 ACRE TRACT OF LAND AS DESCRIBED IN DEEDS TO E.J. DAVEE, JR. IN VOLUME 838, PAGE 68, VOLUME 1634, PAGE 351 AND VOLUME 5600, PAGE 1954 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 918.645 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake at the southwest corner of said 19.886 acre Hirschfeld tract, same being at the northeast intersection of Howard Lane and F.M. 1325, for the southwest corner of the herein described tract,

THENCE, N 19°19'E, along the east R.O.W. line of F.M. 1325, at 893.67 feet, passing a concrete monument at the northwest corner of said 19.886 acre tract, same being the southwest corner of said 21.90 acre Hirschfeld tract, in all 1691.03 feet to a concrete monument at the beginning of a non-tangent curve,

THENCE, with said curve to the left, whose radius equals 2352.12 feet, an arc distance of 65.58 feet, and whose sub-chord bears N 18°58'E, 65.58 feet passing an iron stake found at the northwest corner of said 21.90 acre tract, same being the southwest corner of said 20.0 acre Hirschfeld tract, in all an arc distance of 699.36 feet, and whose chord bears N 10°55'E, 696.79 feet to a concrete monument,

THENCE, N 02°34'50"E, 66.64 feet to a concrete monument at the northwest corner of said 20.0 acre tract, same being the southwest corner of said 70.0 acre Klattenhoff tract,

THENCE, continuing along the east R.O.W. line of F.M. 1325, N 02°22'30"E, 1023.60 feet to an iron stake and N 16°42'30"E, 142.0 feet to an iron stake at the northwest corner of said Klattenhoff tract, same being the southeast intersection of F.M. 1325 and Bratton Lane, for the northwest corner of the herein described tract,

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THENCE, S 64°25'E, along the south R.O.W. line of Bratton Lane, 221.87 feet to an iron stake for an angle point,

THENCE, along the southerly and easterly R.O.W. line of Bratton Lane, the following four (4) courses and distances, numbered 1 through 4,

1. S 60°46'55"E, at 2341.48 feet passing an iron stake at the northeast corner of said 70.0 acre Klattenhoff tract, same being the northwest corner of said 91.60 acre Klattenhoff tract, in all 2764.46 feet to an iron stake,
2. S 64°04'E, 100.31 feet to an iron stake,
3. S 66°23'E, 34.13 feet to an iron stake for an ell corner,
4. N 30°53'20"E, at 33.0 feet pass an iron stake at the southwest corner of said 14.62 acre Klattenhoff tract, in all 674.57 feet to an iron stake at the northwest corner of said 14.62 acre tract,

THENCE, S 59°56'40"E, with a fence, 980.28 feet to an iron stake in the west line of said 73.0 acre Klattenhoff tract, same being the northeast corner of said 14.62 acre tract, for an ell corner,

THENCE, N 29°39'E, with a fence, 1133.39 feet to an iron stake at the northwest corner of said 73.0 acre tract, for an ell corner,

THENCE, S 60°16'50"E, along a fence, 1809.20 feet to an iron stake at the northeast corner of said 73.0 acre tract, same being in the west line of said 56.03 acre Smith tract,

THENCE, S 64°59'45"E, 8.35 feet to an iron stake for an ell corner,

THENCE, N 33°06'45"E, with a fence, 113.11 feet to an iron stake at the northwest corner of said 56.03 acre tract,

THENCE, with a fence along the north line of said 56.03 acre tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 61°11'45"E, 1258.59 feet to an iron stake,
2. S 60°38'50"E, 540.28 feet to an iron stake,
3. S 61°24'45"E, 743.43 feet to an iron stake found at the northeast corner of said 56.03 acre tract, same being in the west R.O.W. line of IH 35 for the northeast corner of the herein described tract,

THENCE, along the westerly R.O.W. line of IH 35, the following nine (9) courses and distances, numbered 1 through 9,

1. S 16°02'35"W, 938.0 feet to an iron stake found at the southeast corner of said 56.03 acre tract, same being the northeast corner of said 20.674 acre Butler tract,
2. S 16°04'30"W, 325.12 feet to an iron stake found at the southeast corner of said 20.674 acre tract, same being the northeast corner of said 79.587 acre Butler tract,
3. S 15°41'45"W, 118.97 feet to a concrete monument,
4. S 00°52'20"E, 967.95 feet to a concrete monument,
5. S 01°14'E, 169.92 feet to an iron stake found at the northeast corner of said 316.0 acre Pruett tract,
6. S 01°08'E, 3.78 feet to a concrete monument,

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7. S 01°13'30"E, 144.30 feet to a concrete monument,
8. S 09°15'30"W, 2069.61 feet to a concrete monument,
9. S 09°20'30"W, 769.69 feet to an iron stake found at the southeast corner of said 316.0 acre tract, for the southeast corner of the herein described tract,

THENCE, along the southerly line of said 316.0 acre tract, the following ten (10) courses and distances, numbered 1 through 10,

1. N 60°10'45"W, 530.99 feet to an iron stake,
2. N 59°46'45"W, 200.0 feet to an iron stake,
3. N 60°33'45"W, 431.41 feet to an iron stake,
4. N 63°52'45"W, 121.87 feet to an iron stake,
5. N 60°54'45"W, 398.56 feet to an iron stake,
6. N 61°04'45"W, 200.0 feet to an iron stake,
7. N 60°50'45"W, 389.11 feet to an iron stake,
8. N 60°59'45"W, 478.10 feet to an iron stake,
9. N 60°47'45"W, 1280.17 feet to an iron stake,
10. N 60°54'45"W, 1413.40 feet to an iron stake found at the southwest corner of said 316.0 acre tract, same being in the east line of said 124.17 acre Robinson tract, for an ell corner,

THENCE, S 28°48'15"W, with a fence, 189.40 feet to an iron stake at the southeast corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane,

THENCE, along the north R.O.W. line of Howard Lane, the following four (4) courses and distances, numbered 1 through 4,

1. N 61°22'W, 680.25 feet to a point,
2. N 61°12'30"W, 900.0 feet to a point,
3. N 61°26'30"W, 1458.0 feet to an iron stake found at the southwest corner of said Robinson tract, same being the southeast corner of said 19.886 acre Hirschfeld tract,
4. N 62°00'W, 913.21 feet to the PLACE OF BEGINNING, containing 912.88 acres of land,

TOGETHER WITH said 5.765 acre Davee tract, described by metes and bounds as follows:

BEGINNING at an iron pin found at the southwest corner of said Davee tract, same being at the northeast intersection of F.M. 1325 and Bratton Lane, from which the northwest corner of said 70.0 acre Klattenhoff tract bears S 05°03'15"E, 69.90 feet for the southwest corner of the herein described tract,

THENCE, along the east R.O.W. line of F.M. 1325, N 03°44'15"W, 103.74 feet to an iron stake at a fence post and N 03 56'W, 137.45 feet to an iron stake for an angle point,

THENCE, N 02°26'30"E, with the east R.O.W. line of F.M. 1325, at 7.42 feet passing an iron stake at the southwest corner of a 4.39 acre tract described in Volume 1634, Page 351 of the Travis County, Texas Deed Records, in all 326.35 feet to an iron stake at the northwest corner of said 5.765 acre Davee tract, for the northwest corner of the herein described tract,

THENCE, S 87°48'E, with a fence, 569.13 feet to an iron stake at the northeast corner of said 5.765 acre tract, for the northeast corner of the herein described tract,

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Page 4 of 4.

THENCE, S 29°38'45"W, with a fence, 541.86 feet to an iron stake at the southeast corner of said 4.39 acre tract for an angle point,

THENCE, S 27°18'W, with a fence, 20.71 feet to an iron stake and S 19°11'30"W, 180.41 feet to an iron stake at the southeast corner of said 5.765 acre tract, same being in the north R.O.W. line of Bratton Lane, for the southeast corner of the herein described tract,

THENCE, N 63°25'W, 256.74 feet to the PLACE OF BEGINNING, containing 5.765 acres of land, combined total acreage of both tracts herein described being 918.645 acres of land as fenced and used upon the ground.

Prepared By:

Date

CARLSON, DIPPEL & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

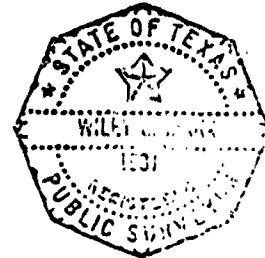


EXHIBIT "A"

Approximately 218.91 acres of land, consisting of the three (3) tracts described by metes and bounds on Exhibits "A-1", "A-2", and "A-3", attached hereto and incorporated herein by reference.

ORDINANCE NO. 010108-T

AN ORDINANCE GRANTING THE CONSENT OF THE CITY OF AUSTIN TO THE CREATION OF THE NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NUMBER 1, SUBJECT TO VARIOUS TERMS AND CONDITIONS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 54.016, Texas Water Code, the City Council of the City of Austin (hereafter referred to as "City") has adopted Ordinance No. 800320-E (hereafter referred to as the "Ordinance") establishing a municipal utility district policy for the City related to the City's growth management plan, known as the Austin Tomorrow Comprehensive Plan, adopted by the City Council of City on February 15, 1979; and,

WHEREAS, a petition has been filed for consent from the City to create a municipal utility district to be known as North Austin Growth Corridor Municipal Utility District No. 1 (hereafter referred to as "District") to include the land described in Exhibit "1" attached hereto and made a part hereof for all purposes; and,

WHEREAS, the land to be included in the proposed District lies in Growth Management Area III, (the preferred growth corridor of the City) as designated in the Austin Tomorrow Comprehensive Plan; and,

WHEREAS, the City Council has evaluated the petition for consent to creation of the District in accordance with the policy set forth in the Ordinance and determined that it conforms to such policy; Now, Therefore,

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

PART 1. That the City of Austin hereby grants (a) its consent to the inclusion of the land described in Exhibit "1" within North Austin Growth Corridor Municipal Utility District No. 1; (b) its consent to the creation of the District; and, (c) its consent to the issuance of bonds by the District, subject to the following terms and conditions:

1. That the City and the District shall enter into and execute the agreement attached hereto as Exhibit "2", entitled Agreement Concerning Creation of North Austin Growth Corridor Municipal Utility District No. 1, and the City Manager is hereby authorized to execute the agreement on behalf of the City. The agreement is incorporated herein and made a part hereof for all purposes.
2. That the City and the District shall enter into and execute the agreement attached hereto as Exhibit "3", entitled "Utility Construction Contract", and the City Manager is hereby authorized to execute the contract on behalf of the City. The contract is incorporated herein and made a part hereof for all purposes.
3. That the District shall not furnish water or sewer service to any customer in any subdivision unless such subdivision complies with all

applicable ordinances of the City of Austin concerning subdivisions and the Master Plan of the City of Austin.

4. That unless specifically approved by resolution of the City Council, no bonds or notes may be issued by the District without the taking of competitive bids therefor.

5. That, unless otherwise specifically approved by resolution of the City Council, none of the District bonds, other than refunding bonds, shall be sold for less than par.

6. That no land within the 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.

7. That any restrictions by the City on the terms and provisions of the District's bonds and notes issued to provide facilities and services to the land and conditions on the sale of the District's bonds and notes will not render the bonds and notes of the District unmarketable.

8. That the City shall have the right to audit and inspect the books and records of the District at any time.

PART 2. That the City Clerk is hereby directed to file a copy of such Ordinance in the permanent records of her office.

PART 3. The rule requiring the reading of ordinances on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

January 8, 1961

Carol Kester McCall
Mayor

APPROVED: *Albert D. Lee*
City Attorney

ATTEST: *Erin M. ...*
City Clerk

31DEC80
ADLR:CE

UTILITY CONSTRUCTION CONTRACT
BETWEEN
CITY OF AUSTIN, TEXAS
NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT NO. 1

This Contract is entered into as of the ¹²⁻¹⁷16th day of January, 1981, by and between the CITY OF AUSTIN, TEXAS (the "City"), a Home Rule City located in Travis County, Texas, and NORTH AUSTIN GROWTH CORRIDOR 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, Texas Water Code.

RECITALS

(The City operates a water supply system and a sanitary sewer collection and treatment system serving areas within and adjacent to the City and has decided to extend its water supply and sanitary sewer collection facilities into a designated preferred growth corridor north of the present City limits in order to provide water and sanitary sewer service within said area to protect the health and welfare of present and future residents of the area and of portions of the City in proximity thereto.

The District is located within said north preferred growth corridor and desires to obtain access to the City's water supply in order to provide a dependable supply of potable water for the District and access to the City's sanitary sewer system in order to provide for the transportation, treatment,

and disposal of sewage from within the District. The District is authorized by Chapter 54, Texas Water Code 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, and the Board of Directors of the District has determined that it is in the best interest of the District to cooperate with the City in the acquisition and construction of extensions to the City's water supply and sanitary sewer collection facilities.

The City and the District are authorized to make and enter into this Contract by Article 1109j, Texas Civil Statutes, as amended.

WHEREFORE, in consideration of the premises and the mutual obligations and benefits herein contained, the City and the District contract and agree as follows:

AGREEMENT

Section 1. DEFINITIONS. The terms and expressions used in this Contract, unless the context shows clearly otherwise, shall have meanings as follows:

- (a) "Project" means the water main and sanitary sewer main extension described in Exhibit "A" to this Contract.
- (b) "Board" and "Board of Directors" means the Board of Directors of the District.
- (c) "Bonds" means the bonds issued by the District for acquiring, by purchase and/or construction, the Project, whether in one of more series or issues.
- (d) "Bond Resolution" means any resolution of the Board of Directors authorizing the issuance of Bonds and

providing for their security and payment, as such resolution(s) may be amended from time to time as therein permitted.

Section 2. OBLIGATION OF DISTRICT TO ACQUIRE. Subject to the limitations set forth herein, the District will acquire, by purchase and/or construction, the Project and agrees to pay, and will pay, all of the actual costs of acquiring the Project through the issuance of Bonds to provide the money for such payment, all in the manner hereinafter described. The District agrees to proceed promptly to obtain the necessary approvals to issue the Bonds and acquire the Project. Upon obtaining said approvals, the District will 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 complete the Project as soon as practicable, but shall not be liable for any damages occasioned by delays in completion of the Project.

The City may, at its option, amend the Project to include the construction of the Walnut Creek sewer line extension ("Walnut Creek Extension") more fully described on Exhibit B. In such event, the City agrees as follows:

- (1) Construction of the Walnut Creek Extension will not commence until the District has sold the bonds for this purpose;
- (2) The City will supervise and administer the actual construction; and
- (3) The City agrees that the Walnut Creek Extension will be completed at or prior to the date the Project described on Exhibit A is completed.

Section 3. DISTRICT'S BOND RESOLUTION. The proceeds from the sale of the Bonds will be used to pay all of the District's expenses and costs in connection with the Project and the Bonds, including, without limitation, all financing, legal, printing, and other expenses incurred in connection with the issuance, sale, and delivery of the Bonds. Such Bonds will be issued in an amount sufficient to cover the costs of the Project and all the aforesaid expenses and to provide for the payment of interest on the Bonds for a period not to exceed two (2) years. A substantial draft of each Bond Resolution of the District, showing the principal amount, maturities, the funds created, and other pertinent features with respect to the Bonds authorized thereby, must be delivered to and approved by the City prior to the delivery to the purchaser of any Bonds authorized by such Bond Resolution; and the approval of such draft by the City will constitute agreement by the City that the amount of the Bonds and all provisions of the Bond Resolution are in compliance with this Contract in all respects.

Section 4. CONSULTING ENGINEERS. The District and the City shall agree on the "Consulting Engineers" for the Project and the Project will be constructed in accordance with plans and specifications which have been 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 agreement of both the District and the City.

Section 5. ACQUISITION CONTRACTS; BOND PROCEEDS. The District may enter into such contracts as are necessary to provide for acquiring,

by purchase and construction, the entire Project, and 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 as directed by the City. In addition, each such contract must be submitted to and approved by the City prior to execution by the District. The City shall have the right to supervise bid lettings and shall also have the right to approve, reject or award such bids. The District shall deposit all proceeds from the sale of Bonds (after deducting therefrom any amounts required to be deposited into any fund created by a Bond Resolution and the amount of all expenses of issuing the Bonds) into a Project Acquisition Fund, at a depository of the District. The District shall draw on and use said Project Acquisition Fund to pay the costs of acquiring the Project, provided that expenditures from the Project Acquisition Fund must be for project costs recommended for payment by the Consulting Engineers. Any Bond proceeds remaining in the Project Acquisition Fund after completion of the Project shall be deposited into the debt service fund created by the Bond Resolution and thereby reduce to such extent the amounts which otherwise would be required to be deposited therein from payments required to be made by the City under this Contract.

Section 6. OWNERSHIP AND OPERATION. Upon completion of the purchase and construction of the Project by the District, the City shall become the owner of the Project after final acceptance by the City and will thereafter operate and maintain the Project at its expense.

Section 7. PAYMENTS BY CITY.

(a) In consideration of the District's acquiring the Project for the benefit of the City and its inhabitants, the City agrees to make the payments hereinafter specified. It is further agreed that the City's obligation to make such payments will terminate when all of the District's Bonds issued in connection with the Project have been paid in full and are no longer outstanding. 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, is from the payments to be made by the City to the District under this Contract.

(b) The City agrees to make the following payments to the District for so long as any of the District's Bonds issued in connection with the Project are outstanding:

1. Such amounts, payable semiannually on or before the 10th day preceding each interest payment date on the District's Bonds, as are necessary to pay (a) the principal and/or interest coming due on the District's Bonds on the next succeeding interest payment date, plus 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.
2. Such amounts, payable upon the receipt of a statement therefor, as are necessary to pay, or reimburse the District for, the actual cost of any routine annual accounting audits, any extraordinary or unexpected expenses or costs reasonable and necessarily incurred by the District in connection with the Bonds and the Project, such as expenses of litigation, if any, and costs of special studies and special professional services, if and when required by any governmental directive or regulation, or as may be agreed between the City and the District.
3. Such amounts as are necessary to make all payments into any special or reserve fund required to be

established and/or maintained by the provisions of any Bond Resolution.

4. Such amounts as are necessary to pay any deficiency in any funds or account required to be accumulated and maintained by the provisions of any Bond Resolution.

(c) All payments required to be made by the City under this Contract shall be made from connection fees charged by the City for water or sewer customers connecting to either of the lines comprising the Project or from surplus revenues for the City's water and/or sewer system remaining after paying all expenses of operation and maintenance of said systems and after paying all debt service, reserve, and other requirements in connection with the City's water and/or sewer system revenue bonds now or hereafter outstanding; and said connection fees and surplus revenues are hereby pledged to making such payments required under this Contract; but if said connection fees and surplus revenues should not be available or sufficient at any time for making such payments, or any necessary part thereof, required under this Contract, then, to the extent required, such payments shall be made from the City's General Fund and the City's ad valorem taxes, all as hereinafter provided. The City shall make provision in each annual City Budget for the payment of all amounts required to be paid by the City under this Contract. In preparing the budget the City may take into consideration the estimated connection fees and surplus revenues of the City's water and sewer systems to be remaining after paying all expenses of operation and maintenance of said systems and after paying all debt service, reserve, and other requirements in connection with the City's water and/or sewer system revenue bonds now or hereafter outstanding; and the City hereby covenants and

agrees that it will fix, charge, and collect rates and fees for water and sewer services in such amounts as will produce fees and revenues as aforesaid sufficient to provide for making all payments required to be made by the City under this Contract. However, to the extent that such fees and revenues are not available at any time to make such payments, then the City's ad valorem taxes in the City's General Fund shall be used to make such payments, and the proceeds of an annual ad valorem tax are hereby pledged for such payments to the extent so required, in accordance with Article 1109j, Texas Civil Statutes. During the current year, and during each year hereafter, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money necessary to make all or any necessary part of the payments required to be made by the City under this Contract, and in every year said tax shall be sufficient to create a sinking fund of at least 2% as required by Article XI, Section 5 of the Texas Constitution. Said rate and amount of ad valorem tax is hereby pledged to such payments, to the extent required, and it shall be assessed, levied, and collected against all taxable property in the City for each such year.

(d) Recognizing that the District will use the payments received from the City hereunder to pay, secure, and finance the issuance of the Bonds, it is hereby agreed that if and when any Bonds are delivered, the City shall be unconditionally obligated to make the payments required by this Contract, and the holders of the Bonds shall be entitled to rely on the foregoing agreement and representation, regardless of any other agreement between the District and the City.

Section 8. CONDITIONS PRECEDENT. The obligation of the District to acquire the Project shall be conditioned upon the following:

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

Section 9. USE OF CITY'S PROPERTY. By these presents, the City authorizes use by the District of any and all real property, streets, alleys, public ways and places, and general utility or water easements of the City for acquisition and 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 that it will provide right-of-way for the Project and will 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 Project costs and will be reimbursed by the District out of Bond proceeds.

Section 10. FORCE MAJEURE. If, by reason of Force Majeure, any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Contract then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such

Force Majeure, shall be suspended during the continuance of the inability then 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. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of the Government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, 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. 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 payments to the District as required by Section 7 of this Contract.

Section 11. REGULATORY BODIES. This Contract, and the acquisition of the Project, 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 or any authorized representative thereof.

Section 12. 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.

Section 13. 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.

Section 14. TERM OF CONTRACT. This Contract shall be force and effect for so long as the Bonds, or any of them, remain outstanding and unpaid, provided that in no event shall the term of this Contract exceed forty (40) years.

Section 15. 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 year pending creation and confirmation of the District and approval and execution of this Contract by the Board of Directors thereof and shall thereafter be binding upon the City and District in accordance with its terms.

IN WITNESS WHEREOF, the District and the City, acting under authority of their respective governing bodies, have caused multiple copies of

this Contract to be duly executed, each of such copies to be of equal dignity, all as of the date and year first herein written.

CITY OF AUSTIN, TEXAS

By Robert M. Muehlbach
City Manager

NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT NO. 1

By Richard A. Wilho
President, Board of Directors

DBA25/H

AMENDMENT TO
UTILITY CONSTRUCTION CONTRACT
AND CREATION AGREEMENT
BETWEEN
CITY OF AUSTIN, TEXAS
AND
NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT NO. 1

This agreement is entered into as of the 17th day of August, 1988, by and between the CITY OF AUSTIN, TEXAS (the "City"), and NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NO. 1 (the "District") for the purpose of amending the Utility Construction Contract (the "Contract"), dated April 13, 1981, between said parties and the herein-mentioned Creation Agreement.

RECITALS

Pursuant to the Contract, the District issued \$5,960,000 City of Austin Contract Bonds, Series 1981 (the "Bonds"), and used the proceeds of the Bonds to acquire and construct certain extensions to the City's water supply and sanitary sewer collection facilities (the "Project"). The Project has subsequently been completed and accepted by the City. In consideration of the acquisition and construction of the Project by the District, the Contract requires the City to make semiannual payments to the District in such amounts as are necessary to pay, among other things, the principal and/or interest due on the Bonds, plus the fees and charges of the paying agent for paying or redeeming the Bonds.

The City and the District are also parties to an Agreement Concerning Creation and Operation of North Austin Growth Corridor Municipal Utility District No. 1 (the "Creation Agreement"), executed by the City on January 16, 1981, and by the District on April 13, 1981, pursuant to which the District agreed, among other matters, to make semiannual payments to the City, equal to a percentage of the principal and/or interest due on the Bonds.

Because interest rates prevailing in the bond markets have declined since the issuance of the Bonds, the City and the District have determined that another series of bonds should be issued by the District on a parity with the Bonds for the purpose of refunding a portion of the Bonds and thereby reducing proportionately the semiannual payments of both parties described above.

AGREEMENT

For and in consideration then of the mutual obligations and benefits to be derived thereby, the City and the District hereby amend the Contract by adding subsection (e) to Section 7 thereof as follows:

(e) With the consent and approval of the City, the District may from time to time issue refunding bonds for the purpose of refunding all or part of the Bonds and paying expenses incurred in connection therewith, and such refunding bonds shall be issued on a parity with the Bonds. The City agrees that such refunding bonds shall be considered to be "Bonds" for purposes of Section 7 and Section 14 of this Contract, and when such refunding bonds are issued and delivered by the District, the City shall be unconditionally obligated to make payments as provided in this Section 7 in support of said refunding bonds. The proceeds of all such refunding bonds shall be deposited with an escrow agent or trustee and shall be used as provided in the resolution or trust indenture adopted by the District and approved by the City in connection with such refunding.

The City and the District further hereby amend the Creation Agreement by adding a new Paragraph D to Article II thereof as follows:

D. Following the issuance of refunding bonds by the District, the District's obligation to make payments to the City pursuant to Article II.B. of this Contract shall be based on the principal and interest payments due on such refunding bonds and on any bonds which have not been refunded.

Except as provided above, the Contract and the Creation Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the District and the City, each acting under authority of their respective governing bodies, have caused multiple originals of this agreement to be duly

executed, each of such to be of equal dignity, as of the date hereinabove first mentioned.

APPROVED AS TO FORM:


City Attorney

CITY OF AUSTIN, TEXAS

By: 
City Manager

Date: August 17, 1988

NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT
NO. 1

By: 
President
Board of Directors

Date: _____

4E/NAG1(j)

SECOND AMENDMENT AGREEMENT TO THE AGREEMENT
CONCERNING CREATION AND OPERATION OF
WELLS BRANCH MUNICIPAL UTILITY DISTRICT
(FORMERLY NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT NO. 1)

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

THAT this Amendment Agreement is made and entered into as of the 11th day of March, 1992, by and between the City of Austin, Texas (the "City"), a home rule city located in Travis County, Texas, acting herein by and through its undersigned duly authorized City Manager or her designee, as authorized by specific action of its City Council, and Wells Branch Municipal Utility District formerly named North Austin Growth Corridor Municipal Utility District No. 1 (the "District"), a political subdivision of the State of Texas created and operated pursuant to Chapter 50 and 54 of the Texas Water Code.

RECITALS

WHEREAS, the District and the City entered into that certain "Agreement Concerning Creation and Operation of North Austin Growth Corridor Municipal Utility District No. 1 (the "Consent Agreement") on April 13, 1981, which provides for, among other things, the provision of water and wastewater utility services and financing of system improvements for same; and

WHEREAS, the District now desires to delete that certain requirement that the District collect from each customer of the District a special water and sewer rate before annexation ("pre-annexation surcharge") in addition to normal water and wastewater rates; and

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

I.

- A. Article II B of the Consent Agreement is amended to add the following:

The District may make such payments to the City through the assessment and collection of a district property tax or any other revenues lawfully available to the District.

The parties hereby stipulate that, following the deletion of the requirement for a preannexation surcharge originally set forth in Article VIII B of this Agreement, funds from the preannexation surcharge remaining in the escrow held by the City on the District's behalf for payment of the District's pro rata share of the Series 1981 and Series 1990 contract

revenue bonds will be applied to the March 1, 1992 debt service payment. At the District's option, amounts remaining in the escrow following the March 1, 1992 debt service payment will be refunded to the District or applied in partial satisfaction of the District's pro rata share of the September 1, 1992 debt service payment.

- B. Article VIII B of the Consent Agreement is deleted in its entirety.
- C. Article VIII C of the Consent Agreement is renumbered as Article VIII B and is revised to read as follows:
 - B. After the annexation of the District by the City, the City may collect a special water and sewer service surcharge in the amount of \$8.89 per month for each single family residential customer or living unit equivalent (LUE) of the District's water or sewer system as determined by the City's policies and ordinances. The parties agree that the amount of said surcharge has been calculated pursuant to Paragraph IV of Part 1 of the City's municipal utility district policy. Collection of the surcharge shall be continued by the City as authorized by Section 54.016 (h), Texas Water Code, until the bonded indebtedness of the District has been retired. The surcharge may be charged in addition to the City's normal water and sewer rates.
- D. Article VIII D of the Consent Agreement is renumbered as Article VIII C.

II.

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

EXECUTED in multiple counterparts, each of which shall constitute an original to be effective on the latest date this Amendment is executed by a party hereto, being the 11th day of March, 1992.

APPROVED AS TO FORM:

By: John M. Treadway
Assistant City Attorney

CITY OF AUSTIN

By: Ray C. Marshall
Title: First Assistant City Manager
Date: February 27, 1992

ATTEST: James E. Aldridge
James E. Aldridge
City Clerk

(Rev. 02/14/92)

-2-

P-WB00815

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ATTEST:

WELLS BRANCH MUNICIPAL UTILITY
DISTRICT

By: Brenda Oliver
Secretary,
Board of Directors

By: William L. Glass
President,
Board of Directors

Executed on: 3-11-92

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27th day of
February, 1992, by Byron C. Marshall, First Assistant
City Manager of the CITY OF AUSTIN, TEXAS, on behalf of said
City.

(Seal)

James E. Aldridge
Notary Public in and for the
State of Texas

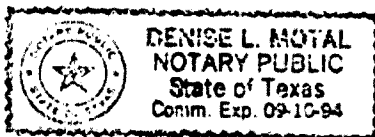
James E. Aldridge
(Name - Typed or Printed)

My Commission Expires: 7-14-92

STATE OF TEXAS §
 §
COUNTRY OF TRAVIS §

This instrument was acknowledged before me on the 13th day of
March, 1992, by William L. Glass,
President of WELLS BRANCH MUNICIPAL UTILITY, a
municipal utility district, on behalf of said District.

(Seal)



Denise L. Motal
Notary Public in and for the
State of Texas

Denise L. Motal
(Name - Typed or Printed)

My Commission Expires: _____

JMT:scy/12035

(Rev. 02/14/92)

-3-

P-WB00816

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THIRD AMENDMENT TO THE AGREEMENT CONCERNING
CREATION AND OPERATION OF WELLS BRANCH MUNICIPAL UTILITY DISTRICT
(FORMERLY NORTH AUSTIN GROWTH CORRIDOR
MUNICIPAL UTILITY DISTRICT NO. 1)

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

WHEREAS, Wells Branch Municipal Utility District, formerly known as North Austin Growth Corridor Municipal Utility District No. 1 (the "District") is a political subdivision of the State of Texas, created and operating pursuant to Chapter 50 and 54 of the Texas Water Code; and

WHEREAS, the City of Austin, Texas (the "City"), is a home rule city, and the District is located wholly within the extraterritorial jurisdiction of the City; and

WHEREAS, the City and the District have previously entered into that certain "Agreement Concerning Creation and Operation of North Austin Growth Corridor Municipal Utility District No. 1 dated April 13, 1981, and such agreement has previously been amended, by mutual agreement of the City and the District, by amendments dated August 17, 1988 and March 11, 1992 (the original agreement, together with all amendments thereto being herein collectively referred to as the "Consent Agreement"); and

WHEREAS, the City and the District now desire to further amend the Consent Agreement, and to set forth such amendments in writing;

NOW, THEREFORE, the City, acting herein by and through its undersigned, duly authorized acting City Manager, as authorized by specific action of its City Council, and the District, acting herein by and through its undersigned duly authorized officers, hereby agree as follows:

1. The District. The City and the District acknowledge and agree that, on February 14, 1983, the District, with the consent of the City, annexed a tract of land containing 141.476 acres of land situated in Travis County, Texas, and on June 24, 1993, the District, pursuant to House Bill 1962, annexed three tracts of land containing 218.91 acres of land situated in Travis and Williamson Counties, Texas. The City hereby consents to the June 24, 1993 annexation by the District. After such annexations, the District consists of 1,279.0463 acres of land, and all references in the Consent Agreement to the District shall be amended to mean the District as presently constituted, and all land within the District, including the land added to the District pursuant to the annexations described herein. The City ratifies and confirms its agreement to provide water and wastewater service to all users within the boundaries of the District, as such boundaries currently exist, in accordance with the terms of the Consent Agreement,

including without limitation the provisions set forth in Articles III and IV of the Consent Agreement, which require (i) that the City provide all water reasonably required by users within the boundaries of the District for domestic and commercial uses; and (ii) that the City receive, treat and dispose of all sewage collected by the District and delivered to the City. Without limiting the generality of the foregoing, it is stipulated and agreed that the City shall provide the District with water pressure, at the District's master meters, which is sufficient, under normal operating conditions, to provide 35 p.s.i. or greater pressure at the District's retail customer meters for all District customers.

2. Amendment to Article III. Article III, Section C, of the Consent Agreement is hereby deleted in its entirety. Article III, Section D is hereby renumbered as Article III, Section C.

3. Amendment to Article IV. Article IV, Section B, of the Consent Agreement is hereby deleted in its entirety. Article IV, Section C is hereby renumbered as Article IV, Section B.

4. Amendment to Article VIII. Article VIII, Section A of the Consent Agreement is hereby deleted in its entirety, and the following inserted in lieu thereof:

A. In accordance with Section 54.016(h) of the Texas Water Code, annexation of the District shall not occur prior to September 1, 1999. The District stipulates and agrees that on June 23, 1993, ninety percent of the facilities for which District bonds were originally authorized had been installed. The District further stipulates and agrees that on or before September 1, 1999, ninety percent of the facilities for which District bonds have now been authorized will be installed within the District as expanded by the June 24, 1993, annexation. If for any reason it is determined or alleged, notwithstanding the District's stipulation and agreement, that ninety percent of the facilities have not been installed by September 1, 1999, then the City may revoke its authorization for or approval of the installation of any further facilities or amenities and also may revoke its authorization for the issuance of the balance of the District's unissued bonds; provided, however, that any such revocation shall not prejudice the rights provided to Milburn Investments, Inc. in paragraph 9a of the Settlement Agreement and Mutual Release executed to settle and resolve the litigation styled Milburn Investments, Inc. v. City of

Austin, et al., No. 93-08464, in the District court of Travis County, Texas, or as otherwise provided by law.

5. Post-Annexation Surcharge. The parties agree that the time and conditions of annexation of the District by the City shall be as set out in paragraph 4 of this third Amendment to the Agreement Concerning Creation and Operation of Wells Branch Municipal Utility District, formerly North Austin Growth Corridor Municipal Utility District No. 1 (hereafter "Third Amendment"). The parties further recognize and agree that the surcharge in the amount of \$8.89 has been calculated in the amount and manner set out in paragraph VIII of the Consent Agreement and agree that, upon annexation of the District to the City, the surcharge may be charged in all the land now constituting the District, including the property annexed to the District as set out and described in paragraph 1 of this Third Amendment. The parties agree that Milburn Investments, Inc. ("MII") is bound by and is a party only to this paragraph 5 of this Third Amendment, and is not a party to nor is it bound by any other paragraph of this Third Amendment; further, the parties agree that MII, by signing this third Amendment, is not bound by and is not a party to the original Consent Agreement or any of its subsequent amendments except as provided herein. The parties agree that MII, by signing this Third Amendment, does not assume any obligations or liabilities of Wells Branch, a joint venture (one of the parties to the original Consent Agreement in 1981), or any other party to the Consent Agreement.

6. Controlling Agreement. Except as otherwise provided herein and in the previous amendments to the original Consent Agreement, all terms and provisions of the Consent Agreement shall remain in full force and effect. In the event of any conflict between the provisions of the original Consent Agreement and/or any previous amendment thereto and this Third Amendment, the provisions of this Third Amendment shall control.

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective on the 10th day of June, 1994.

Date: 6/10/94

CITY OF AUSTIN, TEXAS

By: Jesus Garza

Its: Acting City Manager

ATTEST:

Betty G Brown
Betty G Brown
City Clerk

APPROVED AS TO FORM:

Diana L Granger
Diana L Granger
Attorney for the City

Date: 6/13/94

WELLS BRANCH MUNICIPAL UTILITY
DISTRICT

By: *Charles R. Walters*
Charles R. Walters, President
Board of Directors

ATTEST:

Joseph E. Bowker
Joseph E. Bowker, Secretary
Board of Directors

MILBURN INVESTMENTS, INC.

By: *Jerry E. Miller*
Printed Name: JERRY E. MILLER
Title: V.P. President

Water Distribution System Long-Range Planning Guide

February 1994



CHAPTER 4

TREATMENT FACILITIES PLANS

Chapter 4 discusses the long-range program recommended by the LRP team for upgrading and expanding treatment facilities to meet demand and comply with regulations. It includes:

- Recommended timing for treatment plant expansions and the corresponding cost estimates.
- Discussion of the impact of aggressive demand management (IWRP) on treatment plant expansion timing (including economic analysis)
- Information on what is involved in bringing Water Treatment Plant 4 and its associated distribution facilities through the design and construction process and into the system.
- Confirmation that winter treatment plant capacity is adequate to allow down-time for maintenance.
- An overview of sludge disposal practices.
- Discussion of the implications of the Safe Drinking Water Act (SDWA) Amendments.

4.1 TREATMENT PLANT EXPANSION TIMING

"Current Trend" Timing

The provision of treatment plant capacity should prove challenging in light of provisions of the Safe Drinking Water Act and site limitations of existing facilities. Upgrades to the treatment facilities will meet Americans with Disabilities Act requirements. Compliance with Occupational Safety and Health Administration regulations may soon be required as a result of pending legislation in the United States Congress. The Engineering Division is proposing to create a Utility Water Treatment Task Force to address all of the complicated treatment plant issues. The LRP Guide team supports the creation of this Task Force.

The City currently operates 3 water treatment plants (WTPs)—Davis, Green, and Ullrich—with a total combined treatment capacity of 225 MGD.

The Davis WTP (120 MGD) occupies a site that limits expansion or major upgrade of processes. This plant is expected to continue functioning at its current capacity throughout the 45-year planning period.

The Green WTP (45 MGD) operates on a site that limits any major expansion or upgrading of treatment processes. Its capacity will eventually be replaced by WTP 4. If the 1998 requirements for the Safe Drinking Water Act (SDWA) Phase II Disinfection/Disinfection By-Products (D/DBP) Rule require expensive space-consuming modifications, the aging Green WTP may need to be replaced by the year 2002. Without the restrictions of this proposed rule, it could continue in service until WTP 4 comes on line (about 2017).

The Ullrich WTP (60 MGD) can be expanded. As demand approaches current capacity limits, the LRP Guide team assumed the Ullrich plant would first be expanded to 100 MGD. The 100 MGD capacity was based on existing CIP projects defined prior to promulgation of the D/DBP Rule. We anticipate the expansion will be needed in the relatively near future (by 1998). Our estimates indicate that the plant will need to be expanded again in about 2008, this time to 140 MGD which is considered to be the limit of its site.

The proposed WTP 4 represents the largest water system investment of the planning period. Together with its associated mains and facilities, WTP 4 will require an investment of \$173 million—about half of the total new CIP investment for the 45-year period. WTP 4 will also change the operating strategy for a large part of the system. The LRP team recommends an initial capacity of 100 MGD by the year 2018, with expansion to 160 MGD by the year 2028.

Figure 4-1, Treatment Plant Expansion Timing With “Current Trend” Demand, shows how and when rising demand is projected to trigger the need for the recommended improvements. Table 4-1, Treatment CIP Improvements and Cost Estimates, outlines the corresponding costs. CIP expenditures total \$205 million for the 45-year period.

As implied above, growth in demand is the primary factor creating the need for new investment in treatment capacity, although increasingly stringent regulations may also play a role. Each of the recommended major projects provides an increment of capacity sufficient to meet increases in demand for approximately ten years.

If Green WTP is taken off line, due to SDWA regulations, Ullrich WTP needs to be expanded to 140 MGD before Green WTP is decommissioned. Without Green, and with Davis at 120 MGD and Ullrich at 140 MGD, system treatment capacity totals 260 MGD. The maximum-day demand, with the 95 percent confidence limit, reaches 259 MGD in the year 2007. Therefore, WTP 4 would be needed by the year 2008 (9 years earlier than otherwise projected).

Figure 4-1 shows the 225-MGD capacity line meeting the maximum-day 95 percent confidence limit demand line just after the year 1998. Given that Ullrich WTP is the only expandable existing plant and that we are recommending the addition of the Ullrich Medium Service Transmission Main before the year 2000, upgrade of Ullrich WTP is the logical first step to increase treatment capacity. We feel that this capacity will also provide reliability and flexibility of operation in the near term, particularly when SDWA related construction is occurring.

The expansion of Ullrich to 100 MGD has been taken as part of the baseline set of facilities referred to as "existing" in this Guide and our analysis indicates that an expansion should be accomplished by 1998. Projects to expand Ullrich have been under construction for some time. However, the size of the expansion and magnitude of funding have not been determined largely due to issues still under consideration associated with the not yet adopted SDWA Disinfection/Disinfection By-Products Rule.

Treatment Plant Expansion Timing with "Current Trend" Demand

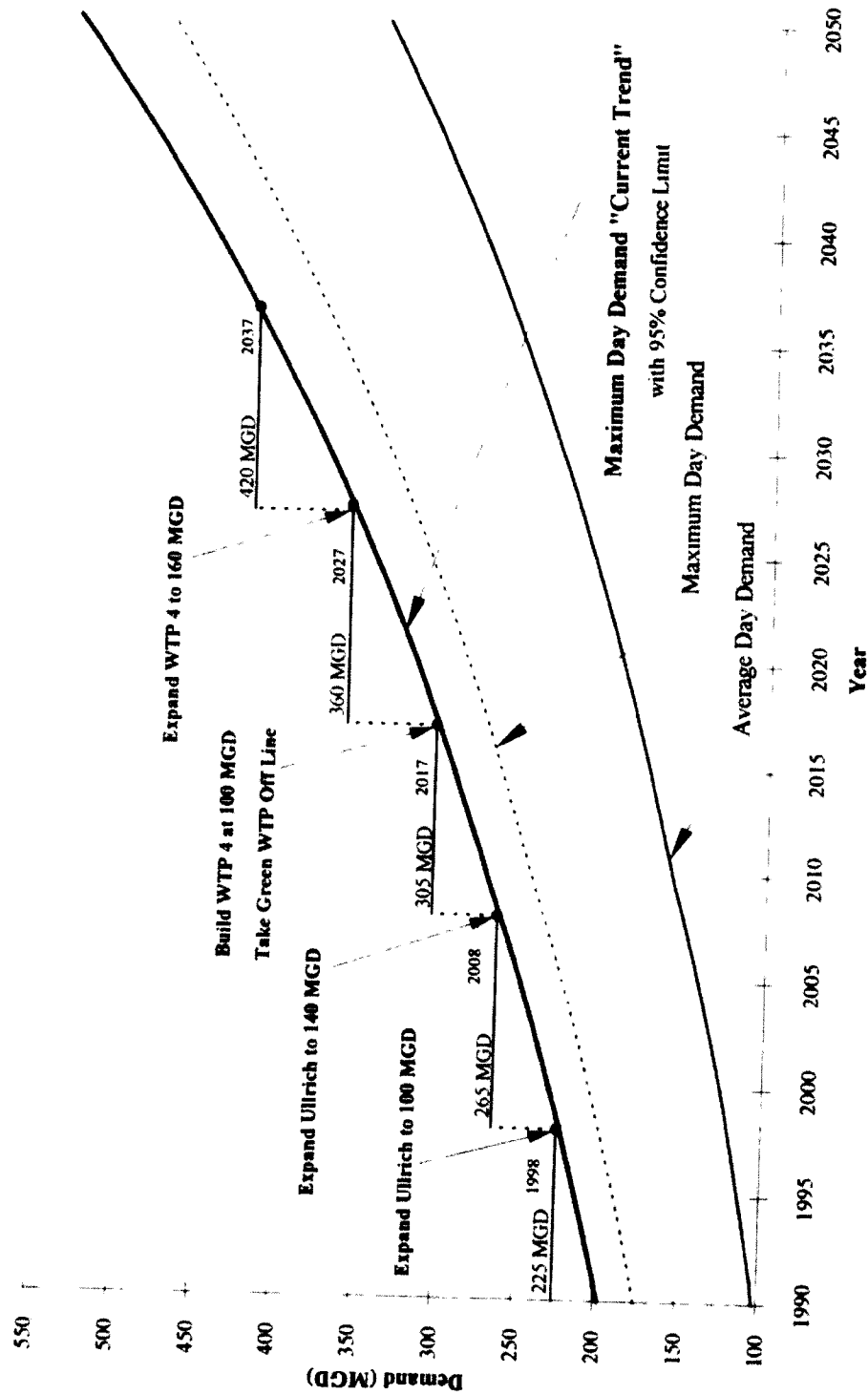


Figure 4-1

Table 4-1

TREATMENT CIP IMPROVEMENTS AND COST ESTIMATES

TREATMENT Description	Treatment Capacity (MGD)	Total Cost Estimate (dollars)	Recommended Before Year
ULLRICH WTP UPGRADE	100 to 140	20,000,000	2010 (2008)
WATER TREATMENT PLANT 4	100	128,000,000	2018
WATER TREATMENT PLANT 4 UPGRADE	100 to 160	57,000,000	2037
<i>TOTAL TREATMENT</i>		<i>\$205,000,000</i>	
TOTAL WTP CIP IMPROVEMENTS			
	YEAR 2000	\$0	
	YEAR 2010	\$20,000,000	
	YEAR 2017	\$0	
	YEAR 2018	\$128,000,000	
	YEAR 2037	\$57,000,000	
	<u>TOTAL</u>	<u>\$205,000,000</u>	

Note: Costs for upgrading Ullrich WTP to 100 MGD are not included in this table

The 265-MGD capacity line meets the demand line just after the year 2008. This triggers expanding the Ullrich WTP to 140 MGD, which is now assumed to be the effective maximum treatment capacity at the Ullrich site. This \$20-million improvement will bring the total system treatment capacity to 305 MGD.

The 305-MGD capacity line intersects the demand line just after the year 2017. Since our recommendations would have resulted in the existing sites having been expanded to their maximum limits, a new water treatment plant would be needed at that time. The Utility has already invested in a new plant site and planning and engineering for a fourth plant and associated facilities. The LRP team assumed the Utility would proceed with the proposed WTP 4 facility at the existing site near the intersection of RM 2222 and RM 620 (the Four Points area).

In 2017, Green WTP will be over 90 years old and may encounter increasing difficulty in meeting SDWA requirements. The LRP team recommends that WTP 4 be designed with enough capacity to allow the retirement of Green. Therefore, the Guide recommends designing WTP 4 at a treatment capacity of 100 MGD for the first phase. This treatment capacity addition (minus the Green WTP) brings total capacity to 360 MGD.

The first phase of the plant is currently estimated at about \$128 million (see Table 4-1). The associated distribution facilities cost estimates amount to about \$45 million for a combined total project cost of \$173 million before the year 2018.

The 360-MGD capacity meets the demand line in the year 2027; at this time a WTP 4 treatment capacity upgrade is needed. We recommend an additional 60 MGD at WTP 4 to supply the system through the year 2037 time horizon. This will bring the system total to 420 MGD. The 60 MGD expansion will cost an estimated \$57 million. Additional information on WTP 4 appears later in this chapter.

Impacts of Aggressive Demand Management on Treatment Plant Expansion Timing

As discussed in Chapter 3, aggressive demand-side management has the potential to be of great benefit by allowing the postponement of major facilities investments. Figure 4-2, Treatment Plant Expansion Timing And Demand With Effects Of Aggressive Demand Management, shows the two "demand reduction scenario" curves. The figure shows the timing of key treatment plant expansion events under the different demand reduction scenarios.

In this section the deferral timing and economic impact are discussed for each of the following three treatment plant expansion projects:

- The Ullrich WTP Expansion from 100 to 140 MGD
- The Initial Construction of WTP 4 (at 100 MGD) and associated distribution facilities
- The Expansion of WTP 4 from 100 MGD to 160 MGD with associated distribution facilities

Note that the Ullrich WTP expansion from 60 MGD to 100 MGD is also shown on the figure. In the judgment of the LRP team, there is insufficient data on changing usage patterns to justify postponing the Ullrich expansion based on conservation goals being met in the short term. Therefore, prudent planning suggests that the 1998 completion target be used. Also, in the broad scheme covered by this long-range planning Guide, the project is not anticipated to be a major scale investment due to the existing infrastructure in place at the plant. Therefore, the timing and economic impact of the Ullrich Expansion to 100 MGD is not discussed here.

Note that the economic analysis simply shows the benefit of the capital investment deferral. This is only one part of the Integrated Water Resources Planning economic picture. To paint the full picture of the benefits of these deferrals, the loss of revenue, the costs of programs to reduce demands, and the operations and maintenance costs would need to be weighed against the cumulative value of the deferrals. Other less tangible costs and benefits related to environmental impacts, risk management, and reliability would ideally be factored in as well.