ORDINANCE NO. 20070503-008

AN ORDINANCE APPROVING THE ELEVENTH AMENDMENT TO THE AGREEMENT CONCERNING THE CREATION AND OPERATION OF THE NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1, FOR THE 25.75 ACRE "CAMDEN TRACT".

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

PART 1. The Council finds:

(A) On May 5, 1983, by Ordinance No. 830503-O, the City of Austin consented to the creation of North Austin Municipal Utility District No. 1 and authorized the execution of the Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1. The Consent Agreement has been previously amended ten times.

(B) The City has agreed to amend the Land Use Plan and Consent Agreement to change the land use for a 25.75 acre tract of land owned by Austin Jack L.L.C. and referred to as the "Camden Tract", from community commercial (GR) uses to multifamily use, in accordance with the terms of Exhibit 1 to this ordinance.

PART 2. The Eleventh Amendment to the Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1, which is attached as Exhibit "1" and incorporated in this ordinance for all purposes, is approved.

PART 3. This ordinance takes effect on May 14, 2007.

PASSED AND APPROVED

May 3, 2007 §
§
§

Will Wynn
Mayor

APPROVED:
David Allan Smith
City Attorney

ATTEST:
Shirley A. Gentry
City Clerk

Exhibit 1

ELEVENTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND OPERATION OF NORTH AUSTIN MUNCIPAL UTILITY DISTRICT NO. 1

This Eleventh Amendment to the Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1 ("Eleventh Amendment Agreement") is executed on _____, 2007, by the City of Austin, a Texas municipal corporation situated in Travis, Williamson, and Hays Counties, Texas ("City"); North Austin Municipal Utility District No. 1, a municipal utility district created on November 15, 1983, by order of the Texas Water Commission and operating pursuant to Chapter 54, Texas Water Code ("District"); and Austin Jack, L.L.C., a Delaware Limited Liability Company ("Austin Jack"), and is as follows:

WHEREAS, by and through its adoption of Ordinance No. 830505-O, the Austin City Council granted its consent to the creation of North Austin Municipal Utility District No. 1 and authorized execution of that certain "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" setting forth terms and conditions for creation and operation of the District, including the designation of approved land uses by adoption of a land plan ("Land Plan"); and

WHEREAS, the "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1" ("Consent Agreement") was executed by and between the City, the District, and Milwood Joint Venture II, Robinson Ranch, Palmar Associates, and Austin White Lime Company (the "Developers"); and

WHEREAS, pursuant to the terms of the Consent Agreement, the City, the District, and the Developers agree the property within the District would be restricted to those uses reflected on the Land Use Plan referenced in, and attached to, the Consent Agreement as the same has been amended from time to time; and

WHEREAS, pursuant to the Eighth Amendment to the Consent Agreement, the City, District and Developers agreed that future land use revisions could be made with the consent of the District, the City and the owner of the affected property; and

WHEREAS, Austin Jack, L.L.C., is the current owner of approximately 25.75 acres of land, more or less, lying within the District and more particularly described by metes and bounds on **EXHIBIT A**, attached to and incorporated into this document by reference for all purposes ("Camden Tract"); and

WHEREAS, Camden Property Trust, which has contracted to purchase the Camden Tract, has petitioned the City for consent to amend the Land Use Plan, to permit the land uses, densities, and intensities on the Camden Tract which are depicted on **EXHIBIT B**, attached to and incorporated into this document by reference; and

WHEREAS, the City, the District, and Austin Jack desire to consent to Camden's Proposed Eleventh Amended Land Use Plan, attached and incorporated herein as **EXHIBIT B**

for all purposes, and to clarify the relationship of the Camden Tract to the balance of the land within the District; and

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

1. Article XI, Paragraph I of the Consent Agreement, as amended, is hereby amended by adding the following sentence at the end of its present text:

   All development on the 25.75 acre Camden Tract must comply with current City of Austin water quality standards, as set out in the City Code Chapter 25-8, and the City Environmental Criteria Manual.

2. Article XI, Paragraph A of the Consent Agreement is hereby amended by adding the following paragraphs at the end of its present text:

   At the time of site plan approval by the City for a residential development on the 25.75 acre Camden Tract, the District shall collect a Parkland Usage Fee of $351,588 from the property owner. This fee may be reduced by half to $174,794 if the site plan includes construction of a pool and other substantial recreational facilities to be built on-site within the residential project.

   Water and wastewater service connection to the District's utility system shall not be made for the Camden Tract until the respective property owner or purchaser has paid to the District the Parkland Usage Fee for that tract.

   The Parkland Usage Fee collected from the property owner for the development of the Camden Tract shall only be used for: (1) "hard improvements" to the parks within the District including, but not limited to, the construction of planned amenities for the Rattan Creek Park such as the proposed pool house, expanded parking and new sport court, as shown on the Rattan Creek Master Plan; and/or (2) the acquisition of property to be dedicated as parkland within the District.

   The City and District agree that the restricted use of the Parkland Usage Fee with regard to the development of the Camden Tract, as stated above, is applicable to the Parkland Usage Fees collected for the Camden Tract only and such restriction is not applicable to any future development projects within the District and establishes no precedent for regulation or restriction of the District's use of Parkland Usage Fees received after the effective date of this amendment except for fees received for the development of the Camden Tract.

   The Parkland Usage Fee requirements for the Camden Tract constitutes the parkland dedication or fee requirements for the Camden Tract only for the purposes compliance with Section 25-4-211 of the City of Austin Land Development Code.

3. Article XI, Section H, Subsection 1 of the Consent Agreement, as amended, is hereby amended to read as follows:

H. 1. The land uses on the 25.75 acre Camden Tract, a part of the AWLC Tract, as dictated on the Eleventh Amended Lane Use Plan attached hereto as Exhibit B, include only the range of uses permitted in the Multi-Family Residence Moderate – High Density District use district as described in City Code Section 25-2-65, as it existed in May 2007. The land uses approved on the remainder of the AWLC Tract include only the range of uses permitted in the GR use district as described in City Code Section 13-2-221, as it existed in August 1990, provided that liquor sales will be permitted inside the proposed hotel uses.

4. Article I, 1.01, H. from the Tenth Amendment is amended to read as Section H-1.

5. The Consent Agreement is hereby amended to substitute the Revised Land Plan attached hereto as Exhibit B as the approved land plan for the property within the district. All prior land plans are hereby superseded. For and after the effective date of this Eleventh Amendment, all references to the Land Plan in the Consent Agreement, as amended, shall mean and refer to the Revised Land Plan attached as Exhibit B.

Executed in multiple copies, each of which shall constitute and original to be effective on the latest date this Eleventh Amendment Agreement is executed by a party, being the _____ day of _____, 2007.

CITY OF AUSTIN,
A Texas municipal corporation

By: _____ Date: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

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

By: _____ Date: _____
Printed Name: _____
Title: _____

ATTEST:

By: _____
Secretary, Board of Directors

AUSTIN JACK, L.L.C.,
A Delaware limited liability company

By: **STATE FARM REALTY INVESTMENT COMPANY f/k/a AMBERJACK, LTD.**, its managing member

By: _____ Date: _____
John R. Higgins
Vice President

By: _____
G. Roger Gielow
Secretary

STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me _____, Notary Public, on this day personally appeared Laura J. Huffman, Assistant City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.

Given under my hand and seal of office on _____, 2007.

_____
Notary Public

STATE OF TEXAS §

COUNTY OF _____ §

Before me _____, Notary Public, on this day personally appeared _____, _____ of North Austin Municipal Utility District No. 1, a Texas municipal utility district, on behalf of said district.

Given under my hand and seal of office on _____, 2007.

_____
Notary Public

STATE OF TEXAS §

COUNTY OF _____ §

Before me _____, Notary Public, on this day personally appeared John R. Higgins, Vice President of State Farm Realty Investment Company f/k/a Amberjack, Ltd., managing member of Austin Jack, L.L.C., a Delaware Limited Liability Company, on behalf of said company.

Given under my hand and seal of office on _____, 2007.

_____
Notary Public

11.442 ACRES
PORTION OF LOT 2
ROBINSON RANCH SUBDIVISION

Exhibit A to Exhibit 1

FN. NO. 07-004(AJM)
JANUARY 3, 2007
1266-05.09

DESCRIPTION

OF 11.442 ACRES OF LAND OUT OF THE THOMAS P. DAVY SURVEY ABSTRACT NO. 169, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF LOT 2, ROBINSON RANCH SUBDIVISION, A SUBDIVISION OF RECORD IN CABINET J, SLIDES 386-387 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 11.442 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at an iron rod found in the southerly right-of-way line of State Farm Way (R.O.W. varies), being the northeasterly corner of Lot 2, Block "B" State Farm Subdivision Section One, a subdivision of record in Cabinet K, Slide 83 of said Plat Records, being the northwesterly corner of said Lot 2, Robinson Ranch Subdivision;

THENCE, along said southerly right-of-way line, being the northerly line of said Lot 2, Robinson Ranch Subdivision, the following five (5) courses and distances:

1) N70°53'40"E, a distance of 49.00 feet to a 1/2 inch iron rod with cap set for the point of curvature of a curve to the left;

2) Along said curve to the left having a radius of 708.36 feet, a central angle of 13°49'00", an arc length of 170.82 feet and a chord which bears N63°59'10"E, a distance of 170.40 to a 1/2 inch iron rod with cap set for the point of tangency of said curve;

3) N57°04'40"E, a distance of 181.00 feet to a 1/2 inch iron rod with cap set for the point of curvature of a curve to the right;

4) Along said curve to the right having a radius of 760.02 feet, a central angle of 11°17'11", an arc length of 149.71 feet and a chord which bears N62°43'27"E, a distance of 149.47 to an iron rod found for the end of said curve;

5) N68°21'38"E, a distance of 77.40 feet to a 1/2 inch iron rod with cap set for the **POINT OF BEGINNING** and northwesterly corner hereof;

THENCE, N68°21'38"E, continuing along said southerly right-of-way line, for the northerly of said Lot 2, Robinson Ranch Subdivision and hereof, a distance of 462.71 feet to a 1/2 inch iron rod with cap set, for the northeasterly corner hereof;

THENCE, leaving said southerly right-of-way line, over and across said Lot 2, Robinson Ranch Subdivision, for a portion of the easterly line hereof, the following four (4) courses and distances:

1) S21°42'22"E, a distance of 332.91 feet to a 1/2 inch iron rod with cap set at an angle point;

2) N69°00'15"E, a distance of 117.15 feet to a 1/2 inch iron rod with cap set at an angle point;

3) S21°42'22"E, a distance of 546.84 feet to a 1/2 inch iron rod with cap set at an angle point;

4) N69°00'15"E, a distance of 350.03 feet to a 1/2 inch iron rod with cap set in the easterly line of said Lot 2, Robinson Ranch Subdivision, being in the westerly right-of-way line of West Parmer Lane (R.O.W. varies), for an angle point hereof;

THENCE, S21°42'22"E, along said westerly right-of-way line, for a portion of the easterly line of said Lot 2, Robinson Ranch Subdivision and hereof, a distance of 68.01 feet to an iron rod found (TXDOT Hwy. Sta. 338+58.48, 100 feet right) at the southeasterly corner of said Lot 2, Robinson Ranch Subdivision, also being the northeasterly corner of Lot 1, Block "A" Jefferson Center Subdivision, a subdivision of record in Cabinet T, Slides 107-109 of said Plat Records, for the southeasterly corner hereof;

THENCE, leaving said westerly right-of-way line, along the southerly line of said Lot 2, Robinson Ranch Subdivision, being the northerly line of said Lot 1, Block "A", for the southerly line hereof, the following two (2) courses and distances:

1) S69°00'15"W, a distance of 705.23 feet to an iron rod found at an angle point;

2) S68°09'53"W, a distance of 159.11 feet to a 1/2 inch iron rod with cap set for the southwesterly corner hereof;

THENCE, leaving the northerly line of said Lot 1, Block "A", over and across said Lot 2, Robinson Ranch Subdivision, for the westerly line hereof, the following three (3) courses and distances:

1) N21°50'07"W, a distance of 465.01 feet to a 1/2 inch iron rod with cap set at an angle point;

2) N44°33'05"W, a distance of 167.17 feet to a 1/2 inch iron rod with cap set at an angle point;

3) N21°38'22"W, a distance of 326.63 feet to the **POINT OF BEGINNING**, containing an area of 11.442 acres (497,608 sq. ft.) of land, more or less, within these metes and bounds.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY STATE THAT THIS DESCRIPTION WAS PREPARED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION DURING THE MONTHS OF JULY AND AUGUST, 2006.

STATE OF TEXAS
REGISTERED
MARK JERRY JEZISEK
5267
PROFESSIONAL
LAND SURVEYOR

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

MARK J. JEZISEK
R.P.L.S. NO. 5267
STATE OF TEXAS

14.310 ACRES
PORTION OF LOT 2,
ROBINSON RANCH SUBDIVISION

FN. NO. 07-003(AJM)
JANUARY 3, 2007
1266-05.09

DESCRIPTION

OF 14.310 ACRES OF LAND OUT OF THE THOMAS P. DAVY SURVEY ABSTRACT NO. 169, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF LOT 2, ROBINSON RANCH SUBDIVISION, A SUBDIVISION OF RECORD IN CABINET J, SLIDES 386-387 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 14.310 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at an iron rod found in the southerly right-of-way line of State Farm Way (R.O.W. varies), being the northeasterly corner of Lot 2, Block "B" State Farm Subdivision Section One, a subdivision of record in Cabinet K, Slide 83 of said Plat Records, being the northwesterly corner of said Lot 2, Robinson Ranch Subdivision, for the northwesterly corner hereof;

THENCE, along said southerly right-of-way line, being the northerly line of said Lot 2, Robinson Ranch Subdivision, for the northerly line hereof, the following five (5) courses and distances:

1) N70°53'40"E, a distance of 49.00 feet to a 1/2 inch iron rod with cap set for the point of curvature of a curve to the left;

2) Along said curve to the left having a radius of 708.36 feet, a central angle of 13°49'00", an arc length of 170.82 feet and a chord which bears N63°59'10"E, a distance of 170.40 to a 1/2 inch iron rod with cap set for the point of tangency of said curve;

3) N57°04'40"E, a distance of 181.00 feet to a 1/2 inch iron rod with cap set for the point of curvature of a curve to the right;

4) Along said curve to the right having a radius of 760.02 feet, a central angle of 11°17'11", an arc length of 149.71 feet and a chord which bears N62°43'27"E, a distance of 149.47 to an iron rod found for the end of said curve;

5) N68°21'38"E, a distance of 77.40 feet to a 1/2 inch iron rod with cap set for the northeasterly corner hereof;

THENCE, leaving said southerly right-of-way line, over and across said Lot 2, Robinson Ranch Subdivision, for the easterly line hereof, the following three (3) courses and distances:

1) S21°38'22"E, a distance of 326.63 feet to a 1/2 inch iron rod with cap set for an angle point;

2) S44°33'05"E, a distance of 167.17 feet to a 1/2 inch iron rod with cap set for an angle point;

3) S21°50'07"E, a distance of 465.01 to a 1/2 inch iron rod with cap set in the southerly line of said Lot 2, Robinson Ranch Subdivision, being the northerly line of Lot 1, Block "A" Jefferson Center Subdivision, a subdivision of record in Cabinet T, Slides 107-109 of said Plat Records, for the southeasterly corner hereof;

THENCE, along the southerly line of said Lot 2, Robinson Ranch Subdivision, being the northerly line of said Lot 1, Block "A", for the southerly line hereof, the following two (2) courses and distances:

1) S68°09'53"W, a distance of 282.48 feet to a concrete monument found at an angle point;

2) S67°49'43"W, a distance of 446.04 feet to an iron rod found at the southeasterly corner of said Lot 2, Block "B", being the southwesterly corner of said Lot 2, Robinson Ranch Subdivison, for the southwesterly corner hereof;

THENCE, N19°06'34"W, leaving the northerly line of said Lot 1, Block "A", along the easterly line of said Lot 2, Block "B", for the westerly line of said Lot 2, Robinson Ranch Subdivision and hereof, a distance of 890.67 feet to the **POINT OF BEGINNING**, containing an area of 14.310 acres (623,371 sq. ft.) of land, more or less, within these metes and bounds.

THE BEARING BASIS OF THE SURVEY SHOWN HEREON, IS THE WESTERLY R.O.W. LINE OF MERNA LANE NOW KNOWN AS BRIARWICK DRIVE (PLATTED AS GOOD NEIGHBOR DRIVE) AS SHOWN ON THE PLAT OF STATE FARM SUBDIVSION SECTION ONE BEING OF RECORD IN CABINET K, SLIDE 83 OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY STATE THAT THIS DESCRIPTION WAS PREPARED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION DURING THE MONTHS OF JULY AND AUGUST, 2006, AND IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

1/3/07
MARK J. JEZISEK
R.P.L.S. NO. 5267
STATE OF TEXAS

STATE OF TEXAS REGISTERED MARK JERRY JEZISEK 5267 PROFESSIONAL LAND SURVEYOR

Exhibit A to Exhibit 1, Pg. 4 of 4

Exhibit B to Exhibit I