**ORDINANCE NO. 20120322-039**

**AN ORDINANCE AUTHORIZING THE CREATION OF SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4, THE FINALIZATION AND EXECUTION OF A CONSENT AGREEMENT, THE INITIATION OF A STRATEGIC PARTNERSHIP PLANNING PROCESS, AND THE NEGOTIATION OF A STRATEGIC PARTNERSHIP AGREEMENT, AND CONTAINING CERTAIN OTHER PROVISIONS RELATING TO THE CREATION OF SUCH DISTRICT.**

WHEREAS, the City of Austin, Texas, has received a Petition for Consent to the Creation of a municipal utility district to be known as Southeast Travis County Municipal Utility District No. 4 (the "District"), covering 378.452 acres of land located in the City's extraterritorial jurisdiction, a copy of which petition is attached as Exhibit A; and

WHEREAS, the creation of the District has previously been authorized by Chapter 8385, Subtitle F, Title 6, Texas Special District Local Laws (the "Enabling Legislation"); and

WHEREAS, in accordance with Section 54.016 of the Texas Water Code and Section 42.042 of the Local Government Code, land within the City's extraterritorial jurisdiction may not be included within a district without the City's written consent;

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

**PART 1.** The City Council consents to and authorizes the creation of Southeast Travis County Municipal Utility District No. 4 over the 378.452 acre tract of land described in the petition attached as Exhibit A and incorporated as a part of this ordinance, in accordance with the Enabling Legislation and on substantially the terms and conditions set out in the Consent Agreement between the City, Qualico, CR, L.P., and Southeast Travis County Municipal Utility District No. 4 attached as Exhibit B and incorporated as part of this ordinance.

**PART 2.** The City Council approves, and the City Manager is authorized to finalize and execute, the Consent Agreement.

**PART 3.** The City Manager is authorized to initiate a strategic partnership planning process with Southeast Travis County Municipal Utility District No. 4 and to negotiate a Strategic Partnership Agreement, containing substantially the terms and conditions set out in the Strategic Partnership Agreement attached as Exhibit C and incorporated as part of this ordinance.

**PART 4.** The City Council waives the provisions of City Code Section 25-9-159 (*Initial Action by City Council*) requiring the Council to act by resolution and to instruct the City Attorney to prepare and provide the related documents.

**PART 5.** The City Council approves the cost participations, waivers and reimbursements set forth in the attached Consent Agreement.

**PART 6.** This ordinance takes effect on April 2, 2012.

**PASSED AND APPROVED**

March 22, 2012 § Lee Leffingwell
Mayor

**APPROVED:** Karen M. Kennard
City Attorney

**ATTEST:** Shirley A. Gentry
City Clerk

**EXHIBIT A**

AUSTIN CITY CLERK
RECEIVED
2010 OCT 18 PM 2 23

# PETITION FOR CONSENT TO THE CREATION OF MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS:

The undersigned (the "*Petitioner*"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petitions the City Council of the City of Austin, Texas (the "*City*"), for its written consent to the creation of a municipal utility district over the land described by metes and bounds on **Exhibit "A"**, which is attached hereto and incorporated herein for all purposes (the "*Land*"), and, in support thereof, would show the following:

I.

The name of the proposed district is PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 4 (the "*District*").

II.

The District is proposed to be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code.

III.

The District will contain approximately 345.581 acres of land, more or less, situated in Travis County, Texas. All of the land proposed to be included in the District is located within the extraterritorial jurisdiction of the City. All of the land proposed to be included may properly be included in the District.

IV.

Petitioner holds title to and is the owner of a majority in value of the holders of title of the Land as indicated by the tax rolls of the Travis County, Texas.

V.

The general nature of the work to be done by the District at the present time is the design, construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system for domestic and commercial purposes; the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District and to control, abate and amend local storm waters or other harmful excesses of waters; the provision of and construction, acquisition, maintenance and operation of parks and recreational facilities and the construction, acquisition, improvement, maintenance and operation of such other and

additional facilities, systems, plants and enterprises as may be consonant with any or all of the purposes for which the District is created.

VI.

There is a necessity for the above-described work, because there is not now available within the area, which will be developed for single family residential and commercial uses, an adequate waterworks system, sanitary sewer system, drainage and storm sewer system or parks and recreational facilities. The health and welfare of the present and future inhabitants of the area and adjacent areas require the purchase, design, construction,. acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, drainage and storm sewer system, parks and recreational facilities and other facilities and systems. A public necessity, therefore, exists for the creation of the District in order to provide for the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of a waterworks system, sanitary sewer system, drainage and storm sewer system, parks and recreational facilities and other systems to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VII.

A preliminary investigation has been made to determine the cost of the proposed District's project, and it is now estimated by the Petitioner, from such information as it has available at this time, that such cost will be approximately $71,100,000.

VIII.

Petitioner, by submission of this Petition, requests the City's consent to the creation of the District and to the inclusion of the Land within the District.

WHEREFORE, Petitioner prays that this petition be heard and that your Honorable Body duly pass and approve an ordinance or resolution granting consent to the creation of the District and authorizing the inclusion of the Land within the District.

RESPECTFULLY SUBMITTED this 18th day of October, 2010.

CARMA EASTON INC., a Texas corporation

By: _____
Name: Shaun E. Cranston, P.Eng.
Title: General Manager
Date: 10-18-2010

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on October 18, 2010, by Shaun E. Cranston, P.Eng., General Manager of Carma Easton Inc., a Texas corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

(SEAL)

EVERETT SCOTT LINEBERRY
Notary Public, State of Texas
My Commission Expires
September 03, 2013



399322-1 09/22/2010

EXHIBIT "A"

Chaparral

Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**345.581 ACRES (DISTRICT FOUR)**

**PART 1, 306.331 ACRES**
**PART 2, 39.250 ACRES**

A DESCRIPTION OF 345.581 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING ALL OF A 73.453 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 28, 2006 AND RECORDED IN DOCUMENT NO. 2006229773 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 31.022 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 16, 2006 AND RECORDED IN DOCUMENT NO. 2006245700 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 29.293 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 21, 2006 AND RECORDED IN DOCUMENT NO. 2006225633 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 28.461 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED SEPTEMBER 15, 2006 AND RECORDED IN DOCUMENT NO. 2006182621 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 55.222 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060712 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 60.921 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006239174 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 51.942 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 1, 2006 AND RECORDED IN DOCUMENT NO. 2006233636 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 25.119 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060707 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 7.602 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060704 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 23.694 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060710 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 1.000 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 8, 2007 AND RECORDED IN DOCUMENT NO. 2007005138

OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF LOT A, HARRY REININGER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 65, PAGE 47 OF THE PLAT RECORDS OF TRAVIS COUNTY TEXAS, CONVEYED TO JOHN HALDENSTEIN & RUTH HALDENSTEIN IN WARRANTY DEED WITH VENDOR'S LIEN DATED SEPTEMBER 29, 2000 AND RECORDED IN DOCUMENT NO. 2000161977 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.005 ACRE TRACT DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO JOHN T. HALDENSTEIN AND JOSHUA N. HALDENSTEIN, DATED DECEMBER 14, 2000 AND RECORDED IN DOCUMENT NO. 2000203669 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 98.656 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 19, 2006 AND RECORDED IN DOCUMENT NO. 2006204344 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 9.662 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 14, 2007 AND RECORDED IN DOCUMENT NO. 2007224638 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 232.233 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003190 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND PORTIONS OF SASSMAN ROAD (70' RIGHT-OF-WAY); SAID 345.581 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**PART 1, 306.331 ACRES:**

**BEGINNING** at a calculated point in the east right-of-way line of Thaxton Road (50' right-of-way) for the northwest corner of said 73.453 acre tract, same being the west corner of a 2.76 acre tract described in a deed to Carl H. Dittmar, recorded in Volume 12562, Page 428 of the Real Property Records of Travis County, Texas, from which a 1/2" rebar found bears North 61°56'44" West, a distance of 0.44 feet;

**THENCE** with the north line of said 73.453 acre tract, same being the south line of said 2.76 acre tract, the following two (2) courses and distances:

1. South 61°56'44" East, a distance of 404.65 feet to a 1/2" rebar found;

2. North 27°52'53" East, a distance of 294.18 feet to a 1/2" rebar found for a north corner of said 73.453 acre tract, same being the east corner of said 2.76 acre tract, also being in the southwest line of a tract called 21 acres in a deed to Max F. Ehrlich, recorded in Volume 1945, Page 416 of the Deed Records of Travis County, Texas;

**THENCE** South 60°59'42" East, with the northeast line of said 73.453 acre tract, same being the southwest line of said 21 acre tract, a distance of 2857.05 feet to a 60D nail found for the northeast corner of said 73.453 acre tract, same being the south corner of said 21 acre tract, also being in the northwest line of said 29.293 acre tract;

**THENCE** North 27°46'44" East, with the northwest line of said 29.293 acre tract, same being the southeast line of said 21 acre tract, a distance of 1083.71 feet to a 1/2" rebar with Chaparral cap found in the south right-of-way line of Sassman Road;

**THENCE** North 28°38'04" East, crossing Sassman Road, a distance of 70.04 feet to a calculated point for the north right-of-way line of Sassman Road, same being the southwest line of a 2.00 acre tract described in a deed to Anselmo Medina and spouse, Oralia Medina, recorded in Document No. 2002227115 of the Official Public Records of Travis County, Texas;

**THENCE** South 61°39'26" East, with the north right-of-way line of Sassman Road, same being the southwest line of said 2.00 acre tract, the southwest line of a 1.00 acre tract described in a deed to Gerald D. Shoulders and Rosemary Shoulders, recorded in Volume 12233, Page 1678 of the Real Property Records of Travis County, Texas, the southwest line of a 1.00 acre tract described in a deed to Amir Batoeinngi, recorded in Document No. 2008060410 of the Official Public Records of Travis County, Texas, and the southwest line of a 1.00 acre tract described in a deed to Abacu Perez and Felicitas Perez, recorded in Document No. 2006189910 of the Official Public Records of Travis County, Texas, a distance of 547.23 feet to a calculated point;

**THENCE** South 63°50'26" East, continuing with the north right-of-way line of Sassman Road, same being the southwest line of said 1.00 acre Perez tract, a distance of 14.13 feet to a 1/2" rebar found for the south corner of said 1.00 acre Perez tract, same being the west corner of said Lot A;

**THENCE** North 26°09'41" East, with the northwest line of said Lot A, same being the southeast line of said 1.00 acre Perez tract, a distance of 362.16 feet to a calculated point for the east corner of said 1.00 acre Perez tract, same being the south corner of said 20.005 acre tract;

**THENCE** North 61°26'42" West, with the southwest line of said 20.005 acre tract, same being the northeast line of said 1.00 acre Perez tract, a distance of 113.09 feet to a 1/2" rebar found for an angle point in the southwest line of said 20.005 acre tract, same being the north corner of said 1.00 acre Perez tract, also being in the southeast line of a 1.25 acre tract described in said deed to Amir Batoeinngi;

**THENCE** North 28°21'23" East, continuing with the southwest line of said 20.005 acre tract, same being the southeast line of said 1.25 acre tract, a distance of 106.07 feet to a 1/2" rebar found for the east corner of said 1.25 acre tract;

**THENCE** North 61°29'11" West, continuing with the southwest line of said 20.005 acre tract, same being the northeast line of said 1.25 acre tract, and a 1.25 acre tract described in said deed to Gerald Shoulders, a distance of 417.23 feet to a 1" iron pipe found for the west corner of said 20.005 acre tract, same being the north corner of said 1.25 acre Shoulders tract, also being in the southeast line of a 20.022 acre tract described in a deed to Janie Diaz, recorded in Document No. 2006101103, said 20.022 acre tract being further described in Document No. 2001200503, both of the Official Public Records of Travis County, Texas;

**THENCE** North 27°07'27" East, with the northwest line of said 20.005 acre tract, same being the southeast line of said 20.022 acre tract, a distance of 162.08 feet to a calculated point;

**THENCE** crossing said 20.005 acre tract, said Lot A, said 42.558 acre tract, Sassman Road, said 23.694 acre tract, said 7.602 acre tract, said 25.119 acre tract, said 55.222 acre tract, said 51.942 acre tract, said 60.921 acre tract, and said 98.656 acre tract, the following eleven (11) courses and distances:

1. South 61°48'21" East, a distance of 672.64 feet to a calculated point;

2. South 28°11'39" West, a distance of 1597.96 feet to a calculated point;

3. With a curve to the left, having a radius of 580.00 feet, a delta angle of 69°45'07", an arc length of 706.10 feet, and a chord which bears South 06°40'54" East, a distance of 663.29 feet to a calculated point;

4. South 41°33'28" East, a distance of 274.95 feet to a calculated point;

5. With a curve to the right, having a radius of 500.00 feet, a delta angle of 96°25'47", an arc length of 841.51 feet, and a chord which bears South 06°39'26" West, a distance of 745.65 feet to a calculated point;

6. South 54°52'19" West, a distance of 25.40 feet to a calculated point;

7. South 35°07'41" East, a distance of 344.76 feet to a calculated point;

8. With a curve to the right, having a radius of 1000.01 feet, a delta angle of 40°36'48", an arc length of 708.84 feet, and a chord which bears South 14°49'17" East, a distance of 694.09 feet to a calculated point;

9. South 05°29'07" West, a distance of 423.15 feet to a calculated point;

10. With a curve to the left, having a radius of 1800.01 feet, a delta angle of 68°24'29", an arc length of 2149.12 feet, and a chord which bears South 28°43'07" East, a distance of 2023.72 feet to a calculated point;

11. South 62°55'22" East, a distance of 149.13 feet to a calculated point in the west right-of-way line of F. M. 1625 (80' right-of-way), same being the southeast line of said 98.656 acre tract;

**THENCE** South 27°04'38" West, with the west right-of-way line of F. M. 1625, same being the southeast line of said 98.656 acre tract, a distance of 699.69 feet to a calculated point for the south corner of said 98.656 acre tract, same being the east corner of a 10.067 acre tract described in a deed to Carlos Yescas and Elvira Yescas, recorded in Document No. 2003084397 of the Official Public Records of Travis County, Texas;

**THENCE** North 62°25'04" West, with the southwest line of said 98.656 acre tract, same being the northeast line of said 10.067 acre tract, and the northeast line of Lot 6, Las Lomitas Subdivision, a subdivision of record in Document No. 200200226 of the Official Public Records of Travis County, Texas, at a distance of 0.11 feet passing a 1/2" rebar found, and continuing for a total distance of 1097.97 feet to a 1/2" rebar found in the northeast line of said Lot 6, for the southwest corner of said 98.656 acre tract, same being the southeast corner of said 60.921 acre tract;

**THENCE** North 62°26'10" West, with the southwest line of said 60.921 acre tract, same being the northeast line of said Lot 6 and Lot 15 Las Lomitas Subdivision, a distance of 1283.28 feet to a 1/2" rebar with Chaparral cap found for the southwest corner of said 60.921 acre tract, same being the south corner of a 58 acre tract described in a deed to Fred J. Wende, recorded in Volume 11849, Page 396 of the Real Property Records of Travis County, Texas;

**THENCE** North 27°00'49" East, with the northwest line of said 60.921 acre tract, same being the southeast line of said 58 acre tract, a distance of 1221.01 feet to an 80D nail found for the east corner of said 58 acre tract, same being the south corner of said 55.222 acre tract;

**THENCE** North 60°57'25" West, with the southwest line of said 55.222 acre tract, same being the northeast line of said 58 acre tract, a distance of 1295.20 feet to a 60D nail found for the southwest corner of said 55.222 acre tract, same being the southeast corner of said 28.461 acre tract;

**THENCE** North 61°18'16" West, with the southwest line of said 28.461 acre tract, same being the northeast line of said 58 acre tract, a distance of 329.98 feet to a 1" iron pipe found for the southwest corner of said 28.461 acre tract, same being the southeast corner of said 29.293 acre tract;

**THENCE** North 61°30'47" West, with the southwest line of said 29.293 acre tract, same being the northeast line of said 58 acre tract, a distance of 331.97 feet to a 1/2" rebar found for the southwest corner of said 29.293 acre tract, same being the north corner of said 58 acre tract, also being in the southeast line of a 77.22 acre tract described in a

deed to William D. Wende, Fred J. Wende and Price T. Wende, recorded in Volume 12171, Page 455 of the Real Property Records of Travis County, Texas;

**THENCE** North 27°46'44" East, with the northwest line of said 29.293 acre tract, same being the southeast line of said 77.22 acre tract, the southeast line of a 32.892 acre tract described in a deed to Mark Alexander, recorded in Volume 11513, Page 1451 of the Real Property Records of Travis County, Texas, and the southeast line of a remaining portion of 29.94 acres described in a deed to Santana C. Urias, Jr., recorded in Volume 6132, Page 1217 of the Deed Records of Travis County, Texas, a distance of 1047.38 feet to a 1/2" rebar with Chaparral cap found for the northeast corner of said remaining portion of 29.94 acres, same being the southeast corner of said 31.022 acre tract;

**THENCE** North 61°12'34" West, with the southwest line of said 31.022 acre tract, same being the northeast line of said remaining portion of 29.94 acres, and the northeast line of a 2.500 acre tract described in a deed to Cloe Bell Urias, recorded in Volume 9678, Page 891 of the Real Property Records of Travis County, Texas, at a distance of 3268.31 feet passing a 1/2" rebar found, and continuing for a total distance of 3268.82 feet to a calculated point in the east right-of-way line of Thaxton Road, for the west corner of said 31.022 acre tract, same being the north corner of said 2.500 acre tract;

**THENCE** North 28°02'32" East, with the east right-of-way line of Thaxton Road, with the northwest line of said 31.022 acre tract, a distance of 417.56 feet to a 1/2" rebar found for the north corner of said 31.022 acre tract, same being the west corner of a remaining portion of a 3.22 acre tract described in a deed to Carlin Ann Wilson, recorded in Volume 12562, Page 419 of the Real Property Records of Travis County, Texas, also being the west corner of an access easement described in Volume 12562, Page 407 of the Real Property Records of Travis County, Texas;

**THENCE** with the northeast line of said 31.022 acre tract, the following two (2) courses and distances:

1. South 61°16'30" East, with southwest line of said remaining portion of 3.22 acres, a distance of 406.03 feet to a 1/2" rebar with Chaparral cap found for the south corner of said remaining portion of 3.22 acres, same being the west corner of an 18.38 acre tract described in a deed to Consumer Solutions, LLC, recorded in Document No. 2010038770 of the Official Public Records of Travis County, Texas;

2. South 61°00'23" East, with the southwest line of said 18.38 acre tract, a distance of 1136.77 feet to a 1/2" rebar with cap found for the south corner of said 18.38 acre tract, same being the southwest corner of said 73.453 acre tract;

**THENCE** with the northwest line of said 73.453 acre tract, the following three (3) courses and distances:

1. North 27°53'08" East, with the southeast line of said 18.38 acre tract, a distance of 713.60 feet to a 1/2" rebar with cap found for the east corner of said 18.38 acre tract;

2. North 61°59'49" West, with the northeast line of said 18.38 acre tract, and the northeast line of a 3.20 acre tract described in a deed to James J. Williams, recorded in Volume 13116, Page 732 of the Real Property Records of Travis County, Texas, a distance of 1540.66 feet to a 1/2" rebar with Chaparral cap found in the east right-of-way line of Thaxton Road, for the north corner of said 3.20 acre tract;

3. North 28°02'32" East, with the east right-of-way line of Thaxton Road, a distance of 360.56 feet to the **POINT OF BEGINNING**, containing 306.331 acres of land, more or less.

**PART 2, 39.250 ACRES:**

**BEGINNING** at a 1/2" rebar with Chaparral cap found in the north right-of-way line of Sassman Road, for the southwest corner of said 232.233 acre tract, same being the southeast corner of a 174.4 acre tract described in a deed to Edward J. Gillen and wife, Mildred Gillen, recorded in Volume 1549, Page 268 of the Deed Records of Travis County, Texas;

**THENCE** North 27°21'05" East, with the west line of said 232.233 acre tract, same being the east line of said 174.4 acre tract, a distance of 1257.11 feet to a calculated point;

**THENCE** crossing said 232.233 acre tract, the following two (2) courses and distances:

1. South 36°26'06" East, a distance of 1284.36 feet to a calculated point;

2. With a curve to the left, having a radius of 1490.63 feet, a delta angle of 26°48'48", an arc length of 697.59 feet, and a chord which bears South 52°29'28" East, a distance of 691.24 feet to a calculated point in the east line of said 232.233 acre tract, same being the west line of said 20.022 acre tract;

**THENCE** South 26°53'42" West, with the west line of said 20.022 acre tract, same being the east line of said 232.233 acre tract and the east line of said 9.662 acre tract, a distance of 621.23 feet to a 1/2" rebar with 5418 cap found in the north right-of-way line of Sassman Road, for the southeast corner of said 9.662 acre tract, same being the southwest corner of said 20.022 acre tract;

**THENCE** South 29°00'48" West, crossing Sassman Road, a distance of 70.00 feet to a calculated point in the south right-of-way line of Sassman Road, same being the north line of said 21 acre tract;

**THENCE** North 60°59'12" West, with the south right-of-way line of Sassman Road,

same being the north line of said 21 acre tract, a distance of 1838.40 feet to a calculated point;

**THENCE** North 29°00'48" East, crossing Sassman Road, a distance of 70.00 feet to the **POINT OF BEGINNING**, containing 39.250 acres of land, more or less.

Based on surveys made on the ground by Chaparral from June 20, 2006 through July 29, 2008. Bearing Basis: Grid Azimuth for Texas Central Zone, 1983/93 HARN values from LCRA control network. Attachments: Drawing 500-001-BD-EX4.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

9/17/2010

Eric J. Dannheim
Registered Professional Land Surveyor
State of Texas No. 6075

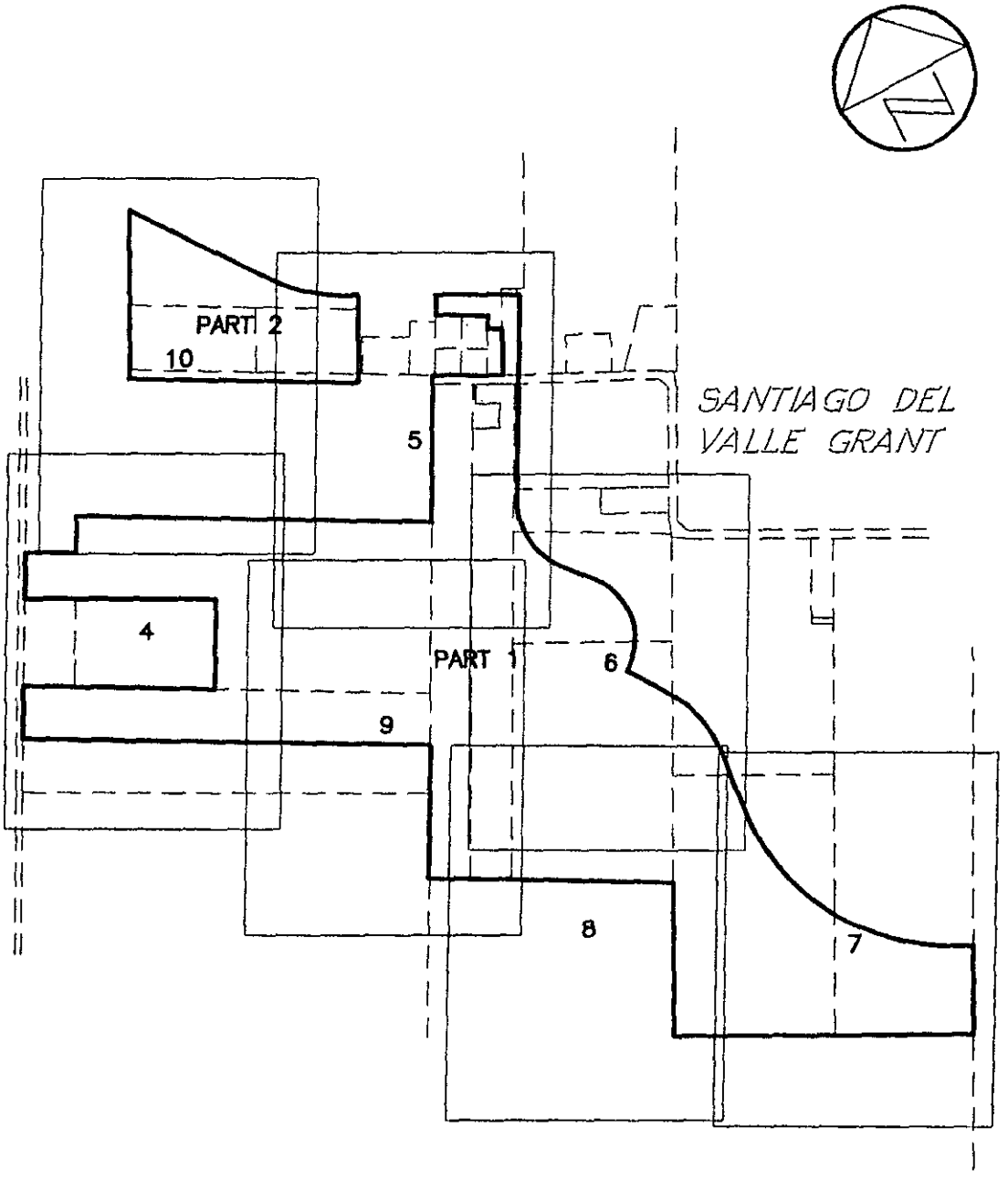
STATE OF TEXAS
REGISTERED
ERIC J. DANNHEIM
6075
PROFESSIONAL
LAND SURVEYOR

SKETCH TO ACCOMPANY A DESCRIPTION OF 345.581 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING ALL OF A 73.453 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 28, 2006 AND RECORDED IN DOCUMENT NO. 2006229773 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 31.022 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 16, 2006 AND RECORDED IN DOCUMENT NO. 2006245700 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 29.293 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 21, 2006 AND RECORDED IN DOCUMENT NO. 2006225633 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 28.461 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED SEPTEMBER 15, 2006 AND RECORDED IN DOCUMENT NO. 2006182621 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 55.222 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060712 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 60.921 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006239174 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 51.942 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 1, 2006 AND RECORDED IN DOCUMENT NO. 2006233636 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 25.119 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060707 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 7.602 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060704 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 23.694 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060710 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 1.000 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 8, 2007 AND RECORDED IN DOCUMENT NO. 2007005138 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF LOT A, HARRY REININGER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 65, PAGE 47 OF THE PLAT RECORDS OF TRAVIS COUNTY TEXAS, CONVEYED TO JOHN HALDENSTEIN & RUTH HALDENSTEIN IN WARRANTY DEED WITH VENDOR'S LIEN DATED SEPTEMBER 29, 2000 AND RECORDED IN DOCUMENT NO. 2000161977 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.005 ACRE TRACT DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO JOHN T. HALDENSTEIN AND JOSHUA N. HALDENSTEIN, DATED DECEMBER 14, 2000 AND RECORDED IN DOCUMENT NO. 2000203669 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 98.656 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 19, 2006 AND RECORDED IN DOCUMENT NO. 2006204344 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 9.662 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 14, 2007 AND RECORDED IN DOCUMENT NO. 2007224638 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 232.233 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003190 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND PORTIONS OF SASSMAN ROAD (70' RIGHT-OF-WAY).

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 1 OF 10

Chaparral

MAP SHEET INDEX
(NOT TO SCALE)




DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 2 OF 10

Chaparral

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| NO. | DELTA | RADIUS | TAN | ARC | CHORD | BEARING |
| C1 | 69°45'07" | 580.00' | 404.25' | 706.10' | 663.29' | S06°40'54"E |
| C2 | 96°25'47" | 500.00' | 559.51' | 841.51' | 745.65' | S06°39'26"W |
| C3 | 40°36'48" | 1000.01' | 370.05' | 708.84' | 694.09' | S14°49'17"E |
| C4 | 68°24'29" | 1800.01' | 1223.47' | 2149.12' | 2023.72' | S28°43'07"E |
| C5 | 26°48'48" | 1490.63' | 355.30' | 697.59' | 691.24' | S52°29'28"E |

Ⓐ LOT A
HARRY REININGER SUBDIVISION
(65/47)

Ⓑ 1.00 ACRE
ABACU PEREZ AND
FELICITAS PEREZ
(2006189910)

Ⓒ 1.00 ACRES & 1.25 ACRES
AMIR BATOEINNGI
(2008060410)

Ⓓ 1.00 ACRES & 1.25 ACRES
GERALD D. SHOULDERS AND
ROSEMARY SHOULDERS
(12233/1678)

Ⓔ 2.00 ACRES
ANSELMO MEDINA AND
SPOUSE, ORALIA MEDINA
(2002227115 )

Ⓕ 1.000 ACRE
JONA ACQUISITION INC.
(2007005138)

| LINE TABLE | | |
|---|---|---|
| No. | BEARING | LENGTH |
| L1 | N61°56'44"W | 0.44' |
| L2 | S61°56'44"E | 404.65' |
| L3 | N27°52'53"E | 294.18' |
| L4 | N28°38'04"E | 70.04' |
| L5 | S63°50'26"E | 14.13' |
| L6 | N26°09'41"E | 362.16' |
| L7 | N61°26'42"W | 113.09' |
| L8 | N28°21'23"E | 106.07' |
| L9 | N27°07'27"E | 162.08' |
| L10 | S54°52'19"W | 25.40' |
| L11 | S35°07'41"E | 344.76' |
| L12 | S62°55'22"E | 149.13' |
| L13 | N61°18'16"W | 329.98' |
| L14 | N61°30'47"W | 331.97' |
| L15 | S61°16'30"E | 406.03' |
| L16 | S26°53'42"W | 621.23' |
| L17 | S29°00'48"W | 70.00' |
| L18 | N29°00'48"E | 70.00' |

THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

LEGEND

- ● 1/2" REBAR FOUND (UNLESS OTHERWISE NOTED)
- CHAP● 1/2" REBAR WITH CHAPARRAL CAP FOUND
- CAP● 1/2" REBAR WITH CAP FOUND
- ⊙ IRON PIPE FOUND (SIZE NOTED)
- ▲ NAIL FOUND (TYPE NOTED)
- △ CALCULATED POINT

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
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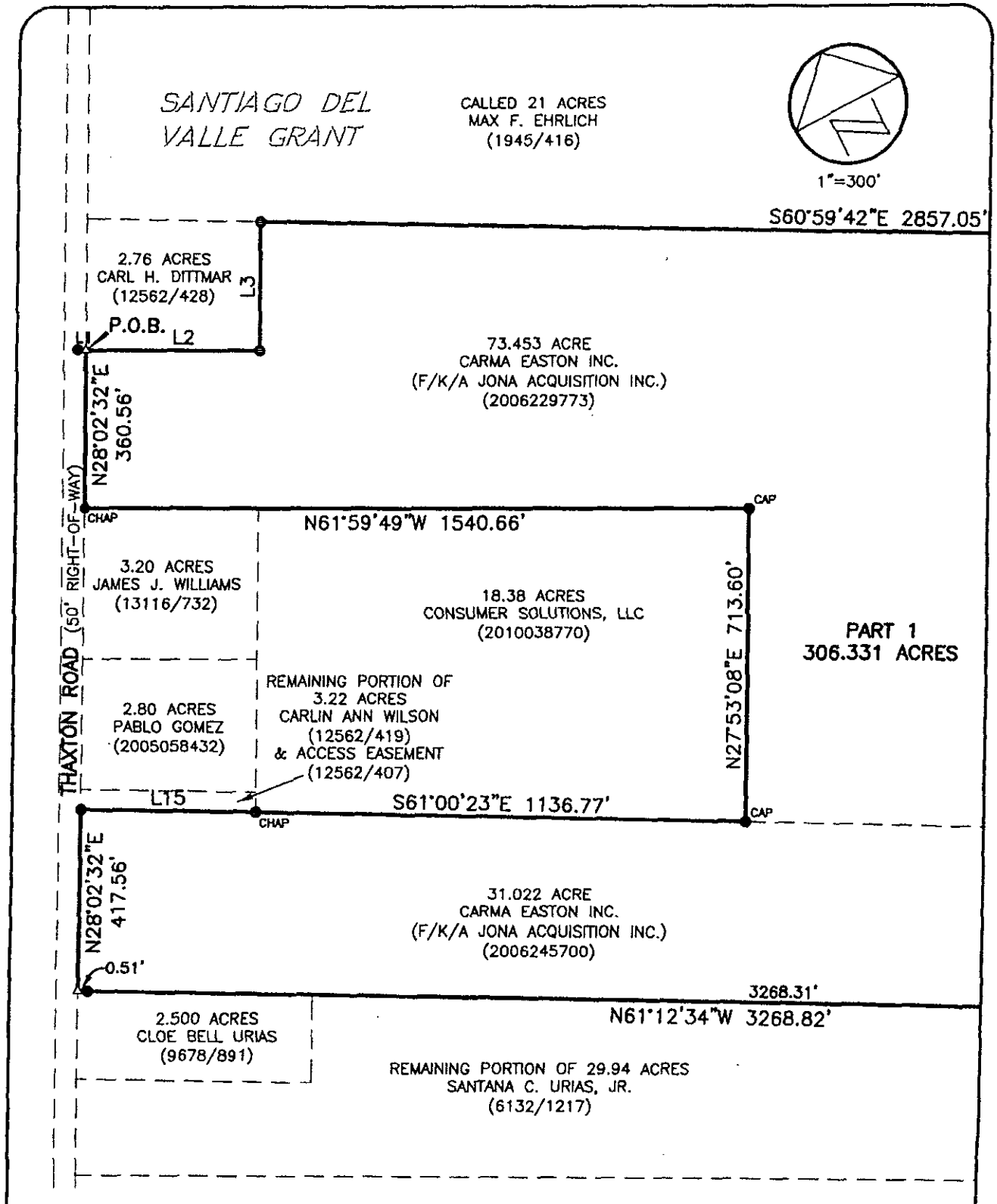
DRAWN BY: EJD
SHEET 3 OF 10

BEARING BASIS: GRID AZIMUTH FOR TEXAS CENTRAL ZONE, 1983/93 HARN VALUES FROM LCRA CONTROL NETWORK.

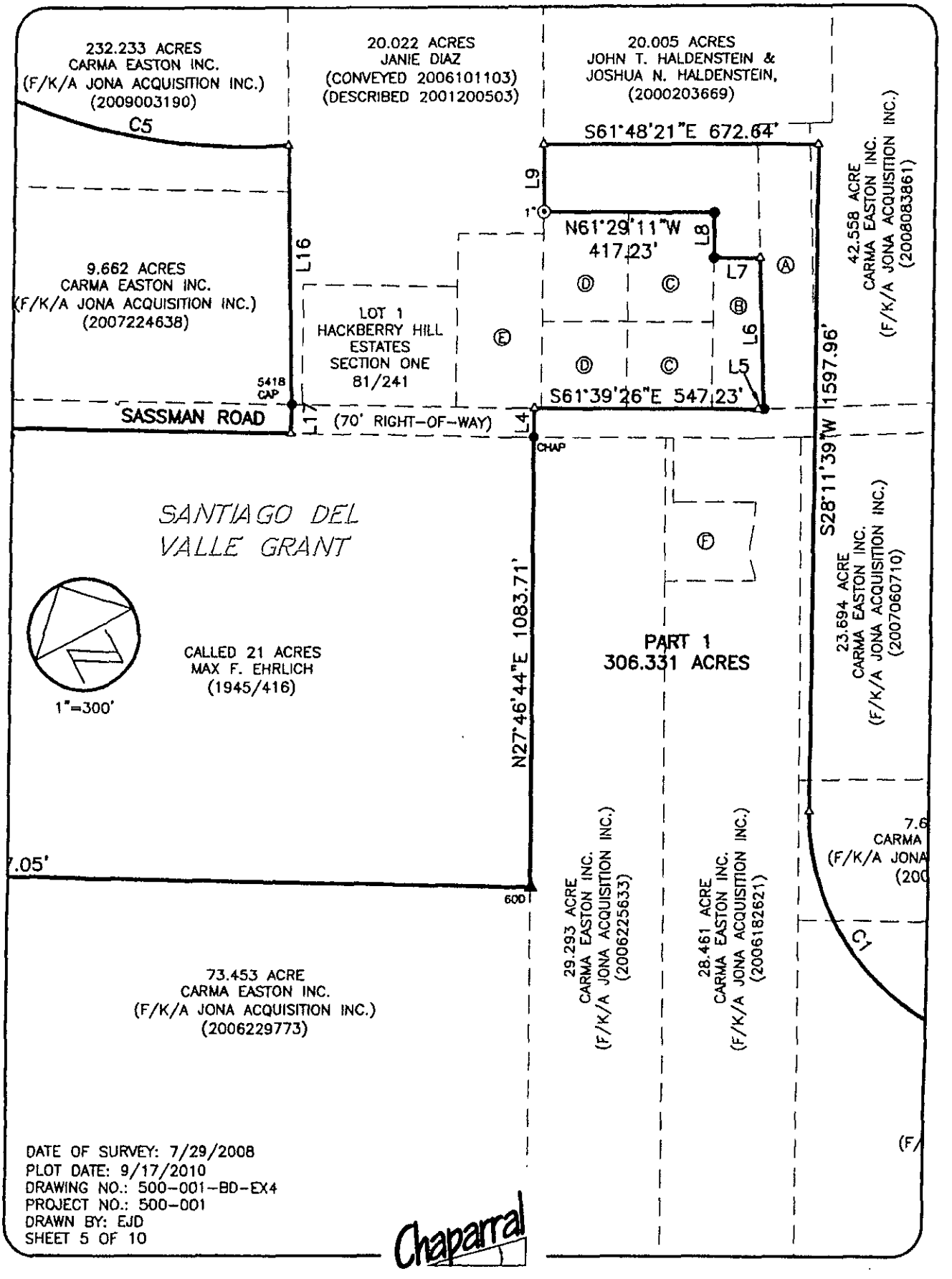
ATTACHMENTS: METES AND BOUNDS DESCRIPTION 500-001-BD-EX4

Chaparral



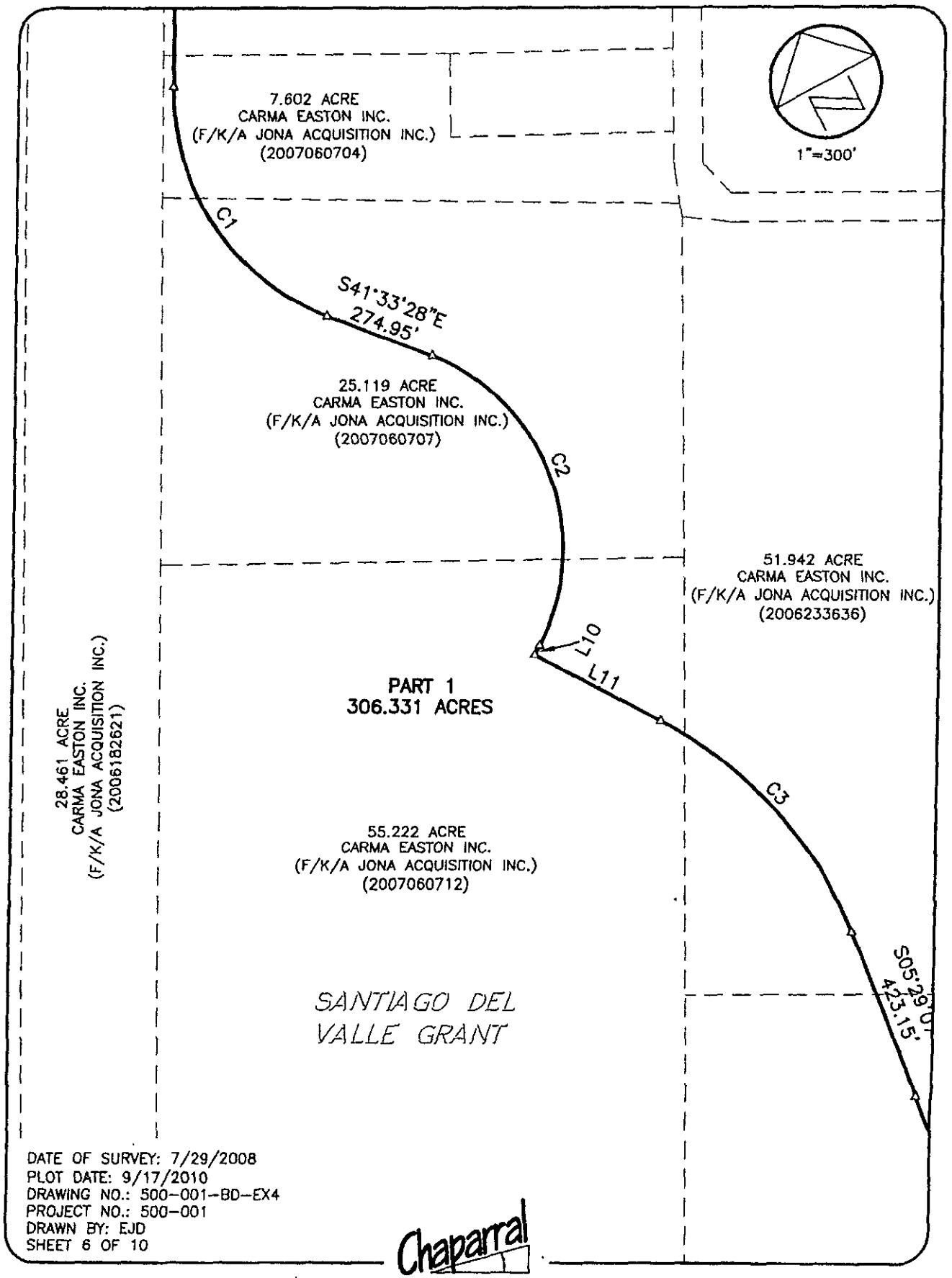

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 4 OF 10

Chaparral



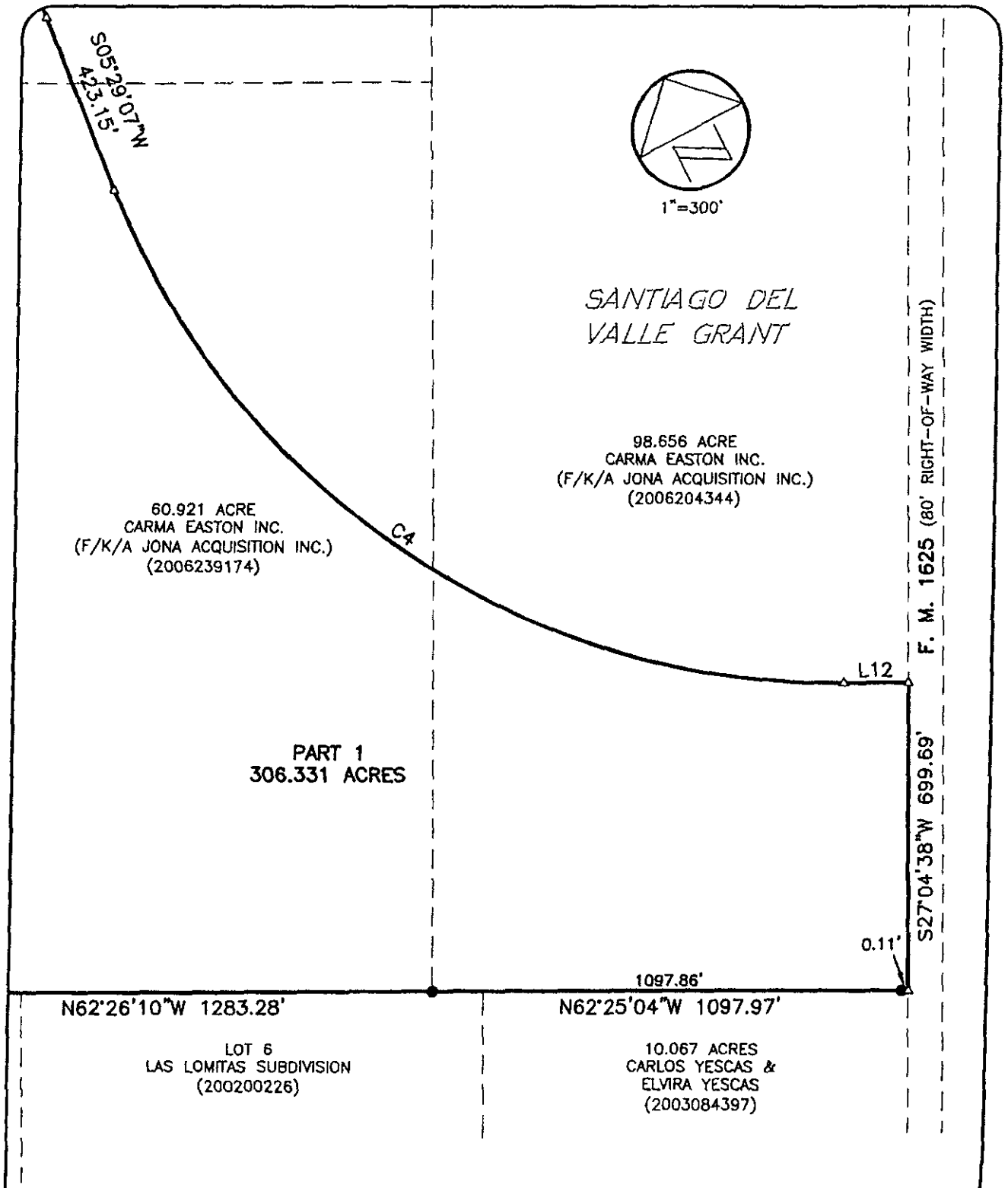

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 5 OF 10

Chaparral



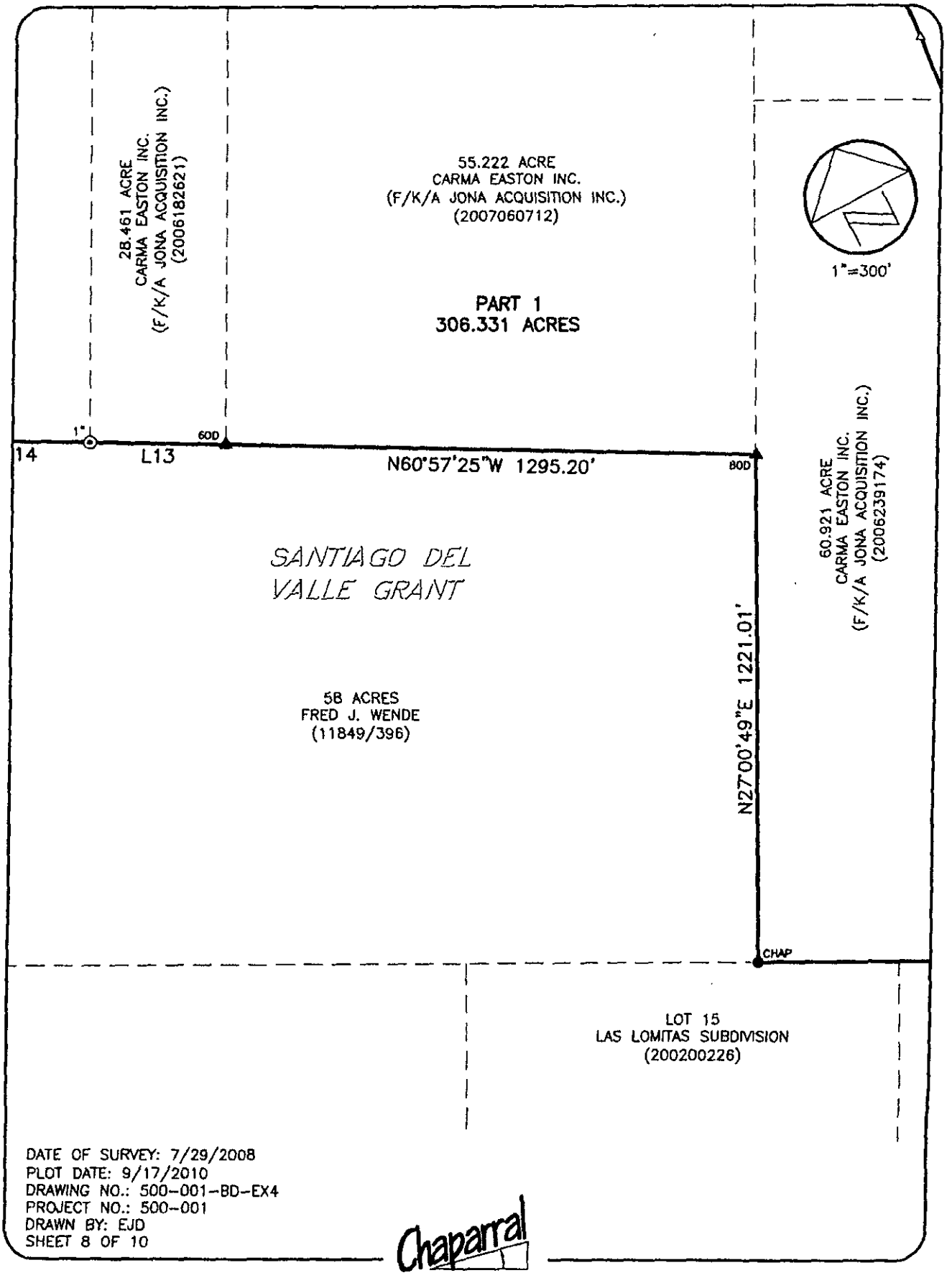

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 6 OF 10

Chaparral



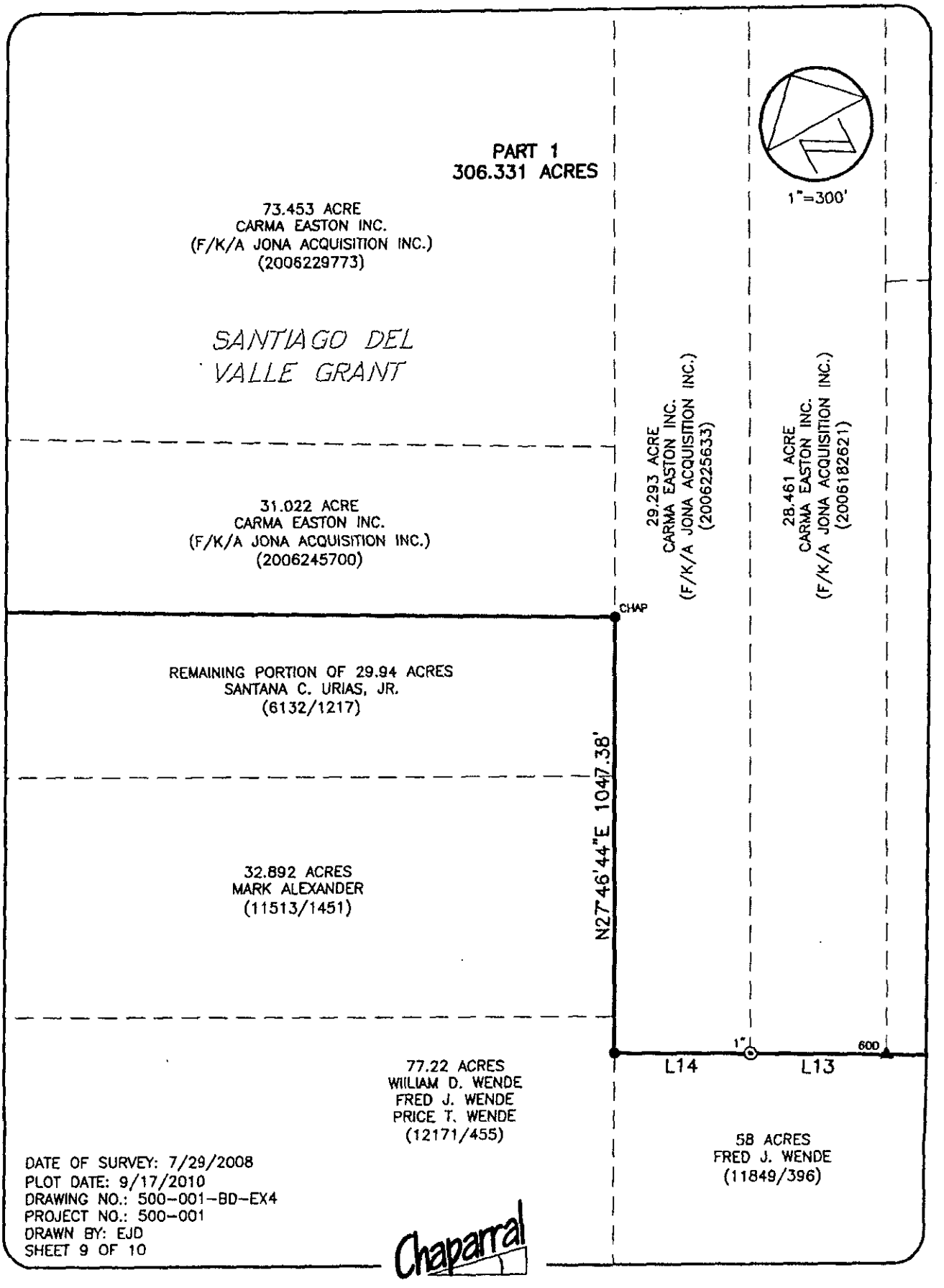

DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 7 OF 10

Chaparral

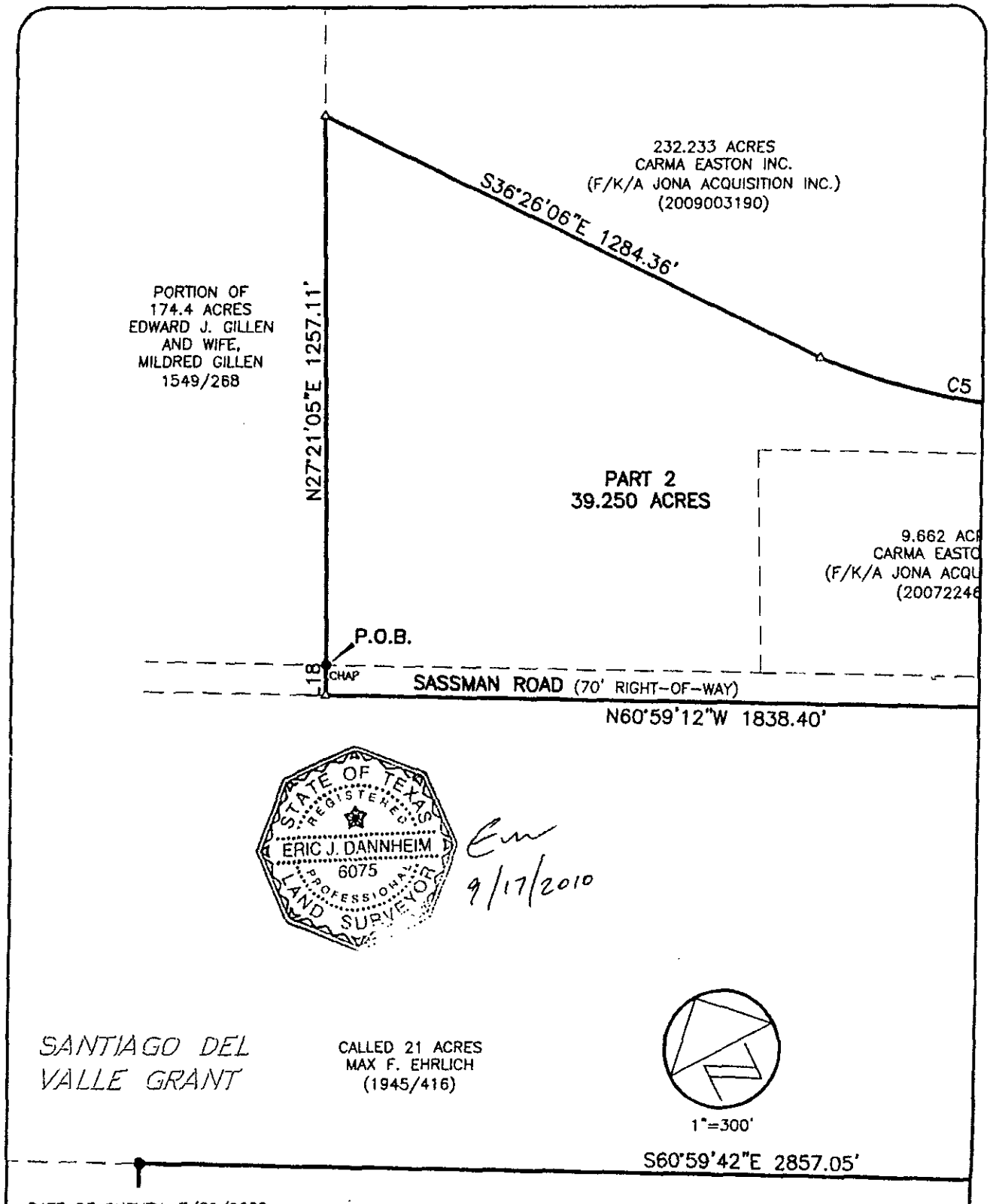



DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 8 OF 10

Chaparral




DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 9 OF 10




DATE OF SURVEY: 7/29/2008
PLOT DATE: 9/17/2010
DRAWING NO.: 500-001-BD-EX4
PROJECT NO.: 500-001
DRAWN BY: EJD
SHEET 10 OF 10

**EXHIBIT B**

**CONSENT AGREEMENT**
**SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4**

**THE STATE OF TEXAS** §
§
**COUNTY OF TRAVIS** §

This Consent Agreement (this "*Agreement*") is entered into between the **City of Austin, Texas**, a home-rule municipality located in Travis, Hays and Williamson Counties, Texas ("*the City*") and **Qualico CR, L.P.**, a Texas limited partnership (the "*Developer*"), effective as of _____, 2012 (the "*Effective Date*"). At the organizational meeting of **Southeast Travis County Municipal Utility District No. 4** (the "*District*"), a proposed municipal utility district to be created under the authority of Chapter 8375, Subtitle F, Title 6, Texas Special District Local Laws (the "*Enabling Legislation*") and City Ordinance No. _____ (the "*Consent Ordinance*"), as contemplated by this Agreement, the District will join in and agree to be bound by this Agreement.

## INTRODUCTION

The Enabling Legislation became effective May 26, 2011, and created the District, subject to the consent of the City to the creation. Pursuant to the Consent Ordinance, the City Council of the City has granted its consent to the creation of the District over the 378.452 acre tract or parcel of land owned by the Developer that is more fully described on the attached **Exhibit A** (the "*Land*").

As a condition to its consent, the City has required that the Developer and, at the organizational meeting of its Board of Directors, the District enter into this Agreement in order to set forth certain agreements between the City, the Developer, and the District. The City further desires to negotiate and enter into a strategic partnership agreement with the District in order to set forth the terms and conditions of the City's annexation of the Land and on which the District will continue to exist as a limited district in accordance with Section 43.0751, Texas Local Government Code, and the Enabling Legislation following the City's full purpose annexation of the Land as provided in Article IV of this Agreement.

The Land will be developed as part of a master-planned, mixed-use community proposed to be known as "Sun Chase" (the "*Project*") which will include commercial, multi-family and residential uses, together with park, recreational, and other facilities to serve the community. Because the Project constitutes a significant development that will occur in phases under a master development plan, the Developer and the City wish to enter into this Agreement in order to provide certainty with regard to the regulatory requirements applicable to the land within the District and to provide the City with assurance of a superior quality of development for the benefit of the present and future residents of the City and the Project.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## ARTICLE I.
## DEFINITIONS

**Section 1.01 Definitions.** In addition to the terms defined above in this Agreement, the following terms and phrases, when used in this Agreement, will have the meanings set out below:

Agreement: This Consent Agreement between the City, the Developer, and the District.

Applicable Rules: The provisions of the City Code and City Rules that are applicable to the Project.

Approved Preliminary Plans: The preliminary subdivision plans for the Project approved by the City, City file numbers C8J-2008-0176, C8J-2008-0212 and C8J-2008-0239, as amended from time to time.

Board: The duly qualified and acting Board of Directors of the District.

Bonds: Bonds, notes, and other indebtedness issued by the District under Article X of this Agreement.

City Charter: The City Charter of the City.

City Code: The Austin, Texas Code of Ordinances.

City Council: The City Council of the City.

City Manager: The City Manager of the City, or his designee.

City Rules: The administrative rules and technical criteria manuals related to the ordinances contained in the City Code.

Civic Uses: Schools, fire stations, libraries, transit or multi-modal centers and other land uses that relate to utility, educational, governmental, cultural or law enforcement functions and services or other functions and services that have a high degree of public or social importance.

Commission: The Texas Commission on Environmental Quality, or its successor agency.

Constructing Party: The Developer or the District, whichever has contracted for and is causing the construction of any Internal Water and Wastewater Facilities or Major Water and Wastewater Facilities as provided in this Agreement.

Drainage Facilities: Any drainage improvements designed and constructed to serve the Project, or that naturally receive and convey drainage through the Project, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

Effective Date: The date this Agreement has been signed by the City.

EPA: The United States Environmental Protection Agency.

Finance Director: The director of the City's finance department, or its successor department within the City.

Impact Fees: Water and wastewater capital recovery fees or impact fees imposed by the City against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions in accordance with State law.

Internal Water and Wastewater Facilities: All water and wastewater improvements, including Reclaimed Water improvements, located within the District and all of the District's interests in Shared Facilities that are designed and constructed to serve only areas within the Project.

Land: The land contained within the boundaries of the District, currently consisting of approximately 378.452 acres of land located in the City's extraterritorial jurisdiction described by metes and bounds on **Exhibit A**, as such boundaries may be revised from time to time in accordance with the terms of this Agreement or otherwise with the consent of the City.

Land Plan: The master development plan for the Land and other land being developed by the Developer as part of the Project, a copy of which is attached as **Exhibit B**, as amended from time to time, and as superseded and replaced by the PUD, if, as and when the PUD is approved by the City in accordance with this Agreement.

Limited District: Southeast Travis County Limited District No. 4, which will be created upon the City's full purpose annexation of the District, in accordance with the SPA.

Limited Purpose Annexation: Annexation by the City for the limited purposes of planning and zoning, as authorized by Article I, Section 7 of the City Charter.

Major Water and Wastewater Facilities: Any water and wastewater improvements, including Reclaimed Water improvements, and Shared Facilities designed and constructed to serve, in addition to the Project, areas outside of the Project.

Other Southeast Travis County Districts: Southeast Travis County Municipal Utility Districts No. 1-3, as approved by the City and created over land located within the Project.

Owners Association: TC Sun Chase HOA, Inc., a Texas nonprofit association which has been created by the Developer to, among other things, enforce Restrictive Covenants and own and operate the OA Amenities.

OA Amenities: Swimming pools, splash pads, community centers and other parks and recreational facilities for the Project and any related improvements, land and infrastructure that will be owned, operated and maintained by the Owners Association. Drainage Facilities, utility infrastructure, public roads and sidewalks, and other utility or public infrastructure that is owned, operated, and maintained by the District, the City, another governmental entity or a public utility will not constitute OA Amenities.

Parks and Recreational Facilities. Parks, open space, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, and recreational equipment and facilities, including street and security lighting associated with parks and trails, that will be owned, operated and maintained by the District or, after full purpose annexation of the District, the Limited District.

Post-Annexation Surcharge: A surcharge on the City's water and wastewater rates, which may be charged to customers within the Land after the full purpose annexation of the District as authorized by Section 54.016(h), Texas Water Code.

PDRD Director: The director of the City's Planning and Development Review Department, or its successor department within the City.

PUD: The Planned Unit Development for the Project, which will provide for a superior quality of development for the Project.

Reclaimed Water: Domestic or municipal wastewater that has been treated to a quality suitable for a Type I Reclaimed Water Use pursuant to the requirements of the Commission under 30 Texas Administrative Code 210 and any other applicable regulatory entities with jurisdiction.

Reimbursement Agreement: An agreement between the District and a developer within the District, including the Developer, which provides for the District's repayment of costs incurred for capital improvements and other costs which are eligible for reimbursement under the rules of the Commission.

Restrictive Covenants: Declarations of covenants, conditions, and restrictions applicable to land within the Project, which will be enforced by the Owners Association and not by the District, as provided in Article IX.

Roadway Improvements: The roadways required for the development of the Land.

Shared Facilities: Internal Water and Wastewater Facilities, Major Water and Wastewater Facilities, Roadway Improvements, and other improvements and facilities that will benefit the District and one or more the Other Southeast Travis County Districts, each of which will finance a prorata share of the cost of such improvements and facilities, in accordance with the terms of a Shared Facility Contract.

Shared Facility Contract: A contract between the District and one or more of the Other Southeast Travis County Districts that will describe and allocate the cost of Shared Facilities and provide for the payment of the cost of such Shared Facilities through the issuance of bonds by each participating district.

SPA: The strategic partnership agreement to be negotiated and entered into by the City and the District to provide for the limited purpose and full purpose annexation of the District.

Title 30: Title 30 of the City Code, which establishes the Austin/Travis County Subdivision Regulations, as amended from time to time.

Type I Reclaimed Water Use: The use of Reclaimed Water where contact between humans and the Reclaimed Water is likely.

UIR: A utility infrastructure review.

Utility Director: The director of the Austin Water Utility, or its successor department within the City.

WWTP. The wastewater treatment plant to be designed, permitted, constructed and expanded as provided in this Agreement.

WWTP Site. The land within the Project to be conveyed to the City, in fee simple, for the WWTP, as provided in this Agreement.

**Section 1.02 Developer's Agreements Relating to the Project**. Certain provisions of this Agreement refer to obligations of the Developer, such as the obligation to make property dedications, which are applicable to the entirety of the Project. Although those obligations may also be referenced in the consent agreements for the Other Southeast Travis County Districts, any of the Developer's obligations that are applicable to the entirety of the Project are only required to be performed by the Developer one time for the Project as a whole and will not constitute cumulative obligations unless expressly stated otherwise in this Agreement. Further, any property which is required to be dedicated for the Project as a whole may be located outside of the District and within any of the Other Southeast Travis County Districts.

## ARTICLE II.
## CONSENT ORDINANCE; INITIAL AND FUTURE DISTRICT BOUNDARIES

**Section 2.01 Consent Ordinance; Conditions to Effectiveness**. The City has approved the Consent Ordinance, which consents to the inclusion of the Land within the District. Anything herein to the contrary notwithstanding, the Consent Ordinance and this Agreement will be void and of no force or effect if (a) an original of this Agreement, executed by the District and the Developer, is not returned to the City on or before August 31, 2012; or (b) the SPA is not negotiated by the City and the District and an original SPA, executed by the District, returned to the City on or before August 31, 2012.

**Section 2.02 Public Hearing**. The parties confirm that, prior to the execution of this Agreement, the City has conducted a public hearing for the purpose of considering the adoption of this Agreement.

**Section 2.03 Boundary Adjustments between Southeast Travis County Districts.** The City acknowledges that the boundaries of the District have been established prior to the commencement of development of the Project and that adjustments to the District's boundaries may be necessary to accommodate the final development plan for the Project. Accordingly, the City agrees that areas of land within the Other Southeast Travis County Districts may be excluded from those districts and added to the District and that portions of the Land may be excluded from the boundaries of the District and added to the Other Southeast Travis County Districts in order to avoid having lots and development areas located in multiple districts. The City consents to any such annexation or exclusion and agrees that no further City consent thereto will be required; however, the City agrees to provide a resolution evidencing its consent if requested by the District or the Developer to do so. If any area is annexed or excluded under this Section, the District must, within ten days of the date of the Board's adoption of an order approving the annexation or exclusion, provide the City with a certified copy of the annexation or exclusion order, including a metes and bounds description of the annexed or excluded tract, and a revised boundary map of the District.

**Section 2.04 Other Annexations to District.** If the District desires to annex additional territory outside of the Other Southeast Travis County Districts, such annexation will be subject to City's review and approval, as described in the City Code. The landowner will be required to request and participate in the voluntary Limited Purpose Annexation by the City of

the additional territory; to waive the requirements of Sections 43.035, 43.071(e)(1)(b), 43.121(b)(2), and 43.127(a), Texas Local Government Code; to agree to the postponement of the date for full purpose annexation; and to execute any documents reasonably required by the City in connection with such Limited Purpose Annexation.

## ARTICLE III.
## GOVERNANCE

**Section 3.01 City-Appointed Board Member.** In accordance with the Enabling Legislation, the City will have the right to appoint one member to the District's permanent Board. In making its appointments to the Board, the City will follow the procedure set forth in Section 2-1-4 of the City Code for appointment of a board with fewer than seven members. The City will make its initial appointment and provide a resolution setting forth the appointment to the District on or before July 1, 2012. The City's initial appointed Board member will take office at the first Board meeting following the date of his or her appointment. Thereafter, the City will appoint a replacement Board member to fill any vacancy in the City's appointed director position and provide the District with a copy of a resolution setting forth its appointment within 60 days of the date the vacancy is created. If the City does not provide a resolution to the District setting forth its initial Board member appointment on or before July 1, 2012, or does not provide a resolution setting forth its replacement Board member appointment within 60 days of the date any vacancy in its appointed director position is created, the City agrees that the remaining members of the Board may fill the vacancy in accordance with Section 49.105(a), Texas Water Code.

**Section 3.02 Term Limits for Permanent Directors.** In accordance with the Enabling Legislation, no member of the District's permanent Board may serve more than two four-year terms of office.

**Section 3.03 Maximum Fees of Office.** Notwithstanding any contrary provision of applicable law, no member of the District's Board may receive fees of office for more than 16 days of service in any District fiscal year.

**Section 3.04 District Information to be Provided to City.**

**(a) Agendas.** The District agrees to provide a copy of the agenda for each meeting of its Board to the PDRD Director and the Utility Director, in the manner provided in Section 12.01, concurrently with the posting of the agenda at the Travis County Courthouse.

**(b) Minutes.** The District will provide a copy of the minutes of all meetings of its Board to the PDRD Director and the Utility Director, in the manner provided in Section 12.01, within 15 business days of the date of approval of such minutes by the Board.

**(c) Financial Dormancy Affidavit, Financial Report or Audit.** The District agrees to file a copy of its annual financial dormancy affidavit, annual financial report or annual audit of its debt service and general fund accounts, whichever is required under the Texas Water Code, with the PDRD Director and the Utility Director, in the manner provided in Section 12.01, within 30 days after approval of each financial dormancy affidavit, financial report or audit by the Board. Any required audit must be prepared by an independent certified public accountant.

**(d)** **Budgets.** The District agrees to file a copy of its approved budget for each fiscal year with the PDRD Director and the Utility Director, in the manner provided in Section 12.01, within 30 days after approval of each budget by the Board.

**Section 3.05** **Interlocal Agreements.** The District is authorized to enter into interlocal agreements with the Other Southeast Travis County Districts, with Travis County and with the City for purposes permitted by the Interlocal Cooperation Act, Chapter 791, Government Code; the Enabling Legislation and this Agreement. All interlocal agreements between the District and one or more of the Other Southeast Travis County Districts, other than Shared Facilities Contracts that only provide for cost-sharing in Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities based on each district's prorata share of capacity in the facilities covered by the contract, which will not require City review or approval, must be submitted to the PDRD Director and the Utility Director and will be subject to their review and approval prior to execution, which approval will not be unreasonably withheld, conditioned or delayed. A copy of any Shared Facilities Contract only providing for cost-sharing on a prorata basis must be filed with the PDRD Director and the Utility Director at least three business days prior to the date of the Board meeting at which the contract is considered by the District. The PDRD Director and the Utility Director will timely review all interlocal agreements submitted under this Section and either approve them or provide written comments specifically identifying any changes required for approval within 45 days of receipt.

**Section 3.06** **Other Contracts.** The District will not, without the prior approval of the PDRD Director and the Utility Director, enter into any service contracts with terms that would extend beyond the date of the City's full purpose annexation of the District and (a) require the payment of termination fee for their termination or (b) are not terminable upon 60 days notice or less. The prohibition contained in the preceding sentence will not apply to contracts with utility providers such as Bluebonnet Electrical Cooperative or contracts that will be assumed by the Limited District after full purpose annexation. The PDRD Director and the Utility Director will timely review all contracts submitted under this Section and either approve them or provide written comments specifically identifying any changes required for approval within 45 days of receipt.

**Section 3.07** **District Property.** The District may not sell, convey, lease, mortgage, transfer, assign or otherwise alienate any of its water, Reclaimed Water, and wastewater facilities or other District property, including any facilities or property deemed to be surplus, to any third party other than the City without the prior approval of the City Manager, which approval will not be unreasonably withheld, conditioned or delayed. The foregoing prohibition will not apply to the District's disposal or recycling of equipment or material which has passed its useful life or the grant of easements necessary in connection with the development of the Project, for which no approval will be required.

**Section 3.08** **City Services.** No City services, other than services related to planning and zoning (including environmental quality), enforcement of planning and zoning regulations (including environmental regulations), retail water, Reclaimed Water, and wastewater services, solid waste services, and any other services that the City may agree to provide under separate contract with the District or the Developer will be provided to any area within the District boundaries prior to the City's annexation of such land for full purposes.

## ARTICLE IV.
## STRATEGIC PARTNERSHIP AGREEMENT; POST-ANNEXATION SURCHARGE

**Section 4.01 Strategic Partnership Agreement.** At the organizational meeting of the District's Board, the Board will authorize the negotiation and execution of a SPA setting forth the terms and conditions of the City's annexation of the Land and the terms and conditions upon which the District will be converted to a limited district that will continue to exist following the City's full purpose annexation of all of the land within the District in accordance with Section 43.0751, Texas Local Government Code, and the Enabling Legislation. The SPA must be approved by the District and an original, executed by the District, returned to the City on or before August 31, 2012.

**Section 4.02 Election on Operation and Maintenance Tax for the Limited District.** Concurrently with the District's confirmation election, which will be held as required by the Enabling Legislation, the District agrees to conduct an election on a proposition to authorize the Limited District to levy an operation and maintenance tax, as authorized by Section 49.107, Texas Water Code, to provide funds to operate the Limited District and to operate and maintain the facilities of the Limited District following full purpose annexation of the District. The District agrees that it may not issue bonds until such time as this proposition has been submitted to and approved by the voters within the District.

**Section 4.03 Post-Annexation Surcharge.** After the date the District is annexed by the City for full purposes, the City may charge customers within the District a Post-Annexation Surcharge, as permitted by Section 54.016(h), Texas Water Code, to compensate the City for its assumption of obligations of the District, provided that, at the time of annexation, at least 90% of the facilities for which District Bonds are authorized have been installed. The District agrees that at least 90% of the facilities for which District Bonds are authorized will be installed on or before December 30, 2023. If 90% of such facilities are not installed by that date, then the City will have the right to revoke the District's authority to issue its remaining authorized but unissued Bonds and to proceed with annexation of the District for full purposes at any time thereafter. For purposes of this Section, 90% of the facilities for which District Bonds are authorized will be deemed to have been installed at such time as the water, wastewater and drainage facilities required to serve 90% of the Land have been constructed. The Post-Annexation Surcharge will be calculated based on the criteria and in accordance with the formula attached as **Exhibit C**. The Post-Annexation Surcharge may be charged and collected by the City, in addition to the City's water and sewer rates, until the bonded indebtedness of the District has been retired or for a period of 30 years after the date of full purpose annexation of the District, whichever occurs first. The City will have the right to recalculate the amount of the Post-Annexation Surcharge if necessary to compensate the City for additional outstanding obligations of the District assumed by the City or if the variables used to calculate the Post-Annexation Surcharge change, and such recalculated surcharge may be charged and collected as provided herein. The provisions of this Section will be disclosed at closing to each purchaser of land within the District. The parties agree that the formula set forth on **Exhibit C** meets the requirements of Section 54.016(h)(4), Texas Water Code.

## ARTICLE V.
## SUPERIOR DEVELOPMENT; DEVELOPMENT RIGHTS

**Section 5.01 Development in Accordance with Land Plan and PUD.** The City hereby confirms its approval of the Land Plan, including the land uses and densities shown on the Land Plan. The Land Plan will be effective until such time as the City has approved the PUD, which approval will be subject to the terms of the City Code and this Agreement and will be within the City's sole discretion, at which time the PUD will supersede and replace the Land Plan. Approval of the Land Plan does not constitute approval of the subdivision design for the PUD. Modifications to the subdivision design may be required to qualify for PUD zoning. Due

to the fact that the Project includes a significant land area and its development will occur in phases over a number of years, the City and the Developer acknowledge that changes to the Land Plan may become desirable due to changes in market conditions or other factors. Variations of a preliminary plat or final plat from the Land Plan that do not increase the overall density of development of the Project will not require an amendment to the Land Plan. Although the Land Plan covers the entire Project, revisions of the Land Plan that only affect the land within one of the districts within the Project will only require the consent of the affected district. Similarly, minor changes to street alignments, lot line locations, or lot sizes that do not result in an increase in the total number of lots within the Project will not require an amendment to the Land Plan. Changes to the location of Civic Uses may be approved administratively by the PDRD Director. Changes to the location of school sites will require the prior approval of the Del Valle Independent School District. Other changes to the Land Plan and all changes to the PUD will be subject to review and approval by the City in accordance with the process set forth in the City Code.

**Section 5.02 Applicable Rules; Application of Title 30.** Notwithstanding any subsequent change to such statute, the Developer will be entitled to take advantage of all rights conferred under Chapter 245, Texas Local Government Code, without forfeiting any rights under this Article. If there is any conflict or inconsistency between the requirements of this Agreement and the provisions of Title 30, the provisions of Title 30 will govern and any conflicting or inconsistent requirement of this Agreement will be deleted.

**Section 5.03 Planned Unit Development.** The Developer agrees to prepare and submit a proposed PUD for the Project for the City's review and consideration in accordance with the City Code and this Agreement. The PUD will include mixed uses, as shown on the Land Plan, as well as a variety of housing types and prices. The PUD will provide for a compact, connected community in accordance with the City's comprehensive plan and will meet the superior development standards contained in this Agreement. PUD Tier Two superiority criteria included in this Agreement will be considered in City Staff's recommendation and will be given consideration in the deliberation of the PUD. Additional cost participations which exceed the requirements set forth in this Agreement and the Applicable Rules will not be required as a condition to approval of the PUD. Consistent with the Approved Preliminary Plans, the City staff has recommended that the Land initially be designated as interim Single Family Residence Standard Lot (I-SF-2) District and interim Single Family Residence Small Lot (I-SF-4a) District, as depicted on the attached Exhibit D. The Developer agrees that it will apply for initial zoning as a part of its application for approval of the PUD. The I-SF-2 and I-SF-4a zoning would be established as only interim categories for purposes of the City's Limited Purpose Annexation of the District and will not be used by the City to establish baseline zoning for the PUD. Until the PUD is approved by the City, the City will not be required to issue any site development permits for any portion of the Land other than permits consistent with these interim categories and the terms of this Agreement. A reference to this Agreement will be included on the face of all future preliminary plans covering portions of the Land. If, as, and when the City approves the PUD, the PUD zoning will supersede and replace the Land Plan, which will be of no further force or effect. The City agrees that it will not decrease the densities shown on the Approved Preliminary Plans based on any reservations, dedications, or donations of land by the Developer under this Agreement.

**Section 5.04 Development and Construction Standards.** The Developer agrees that all development, construction, and infrastructure within the District will comply with City design standards, specifications, and requirements, unless otherwise provided in this Agreement or approved by the City, including building permit requirements. The Developer agrees that the Restrictive Covenants for the Land will require that either (a) (i) all commercial

buildings within the District be constructed in a manner sufficient to achieve an Energy Star rating, and (ii) all residential buildings within the District be constructed in a manner sufficient to achieve a rating of two stars or greater under the City's Austin Energy Green Building Program, or (b) such buildings be constructed in a manner sufficient to achieve a reasonably equivalent rating under another program approved by the City. The Developer also agrees that the Restrictive Covenants will require that toilets, bathroom sink faucets and shower heads that are labeled as meeting the standards of the EPA WaterSense program, or a comparable program approved by the Developer and the City, be installed in all residential buildings within the District and that all residential irrigation system components are certified as meeting the standards of the EPA WaterSense program, or a comparable program approved by the Developer and the City, or, if the EPA WaterSense program ceases to exist, that such fixtures and irrigation system components be labeled, certified or approved through a comparable program established or approved by the EPA or the City.

**Civic Uses.** The Developer agrees to make land out of the Project available for Civic Uses, as shown on the Land Plan, as provided on the attached **Exhibit E**.

**Section 5.05 Drainage Facilities and Environmental Protection.** The Land will be developed with an integrated storm water system and enhanced regional water quality system that will comply with the requirements set forth on the attached **Exhibit F**. Because the Drainage Facilities within the District will be owned, financed, operated and maintained by the District, and not the City, customers and developers within the District will not be assessed any City drainage or water quality fees or charges prior to full purpose annexation. Upon full purpose annexation, the City will assume the responsibility for maintenance of all Drainage Facilities and all standard City drainage fees will apply.

**Section 5.06 Tree and Landscaping Requirements.** The Developer will meet the minimum landscaping requirements for the Land set forth on the attached **Exhibit G**.

**Section 5.07 Transportation.** The Developer agrees to comply with the transportation requirements attached as **Exhibit H.**

**Section 5.08 Building and Urban Design.** The Developer agrees that the design standards set forth on the attached **Exhibit I** will be included in the PUD and shown on the face of all preliminary plans covering property within the District.

**Section 5.09 Art in Public Places.** The Developer agrees to participate in the City's Art in Public Places Program as provided in the attached **Exhibit J**.

**Section 5.10 Affordable Housing.** The Developer will support the City's affordable housing goals and programs as provided in the attached **Exhibit K**.

## ARTICLE VI.
## WATER AND WASTEWATER FACILITIES AND SERVICES

**Section 6.01 City To Provide Retail Water and Wastewater Utility Services.** The City will be the sole provider of retail water and wastewater services within the District and will provide water and wastewater service to customers within the District in the same manner and on the same terms and conditions as the City provides service to other retail customers inside its corporate limits. Except for City Impact Fees, which will governed by Section 6.02 of this Agreement, and as otherwise provided in this Agreement, the City's standard water and wastewater rates, charges, and other fees, including engineering review and

inspection fees, applicable within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within the District. All fees, rates, and charges for water and wastewater service will be billed and collected by the City. The District will not contract with any retail public utility other than the City for water or wastewater services and will not provide any retail or wholesale water or wastewater services.

**Section 6.02 Impact Fees, including Waiver and Credit.** Except as otherwise provided in this Section, the City's Impact Fees applicable within its extraterritorial jurisdiction will be applicable to the development within the Project. The City acknowledges that it would not be equitable for the District or the Developer to both construct and fully finance the water and wastewater facilities identified on **Exhibits L-1 and L-2** and **Exhibit M-1** and also to pay costs associated with the same facilities through Impact Fees. Accordingly, the City has granted the waiver of wastewater Impact Fees and credit against water Impact Fees described on the attached **Exhibit M-1**. The City further agrees that, if any costs of any Internal Water Facilities and/or the Major Water Facilities (other than costs associated with replacement or refurbishment) are now or in the future included in the City's water Impact Fees, then, until the full purpose annexation of the District, the Developer will receive a credit, which may only be applied to water Impact Fees payable for development within the Project, against the City's water Impact Fees in an amount equal to the portion of the Internal Water Facilities and/or the Major Water Facilities' cost included in the City's water Impact Fees.

**Section 6.03 Service Level.** The City agrees and commits to provide sufficient water and wastewater service for the full build-out of all of the Land within the District. The City agrees to provide written confirmation of the availability of service upon the District's request if required in connection with any District bond sale.

**Section 6.04 Responsibility for Design, Financing and Construction.** Unless otherwise specifically provided in this Agreement, the District or the Developer will design, finance, construct, and convey to the City all Internal Water and Wastewater Facilities required to provide retail water and wastewater services to the District, and the Developer or the District and/or the Other Southeast Travis County Districts will design, finance, construct, and convey to the City all Major Water and Wastewater Facilities required to serve the Project as set forth on the conceptual utility plan attached as **Exhibit L-1 and L-2**, as amended from time to time, all at no cost to the City except as provided on **Exhibit M-1**. All such projects will be bid in accordance with the requirements applicable to the District under the rules of the Commission and Chapters 49 and 54, Texas Water Code unless otherwise mutually agreed by the District and the City. If, in the future, the City cost participates with the District or the Developer in any oversized water or wastewater facilities not currently contemplated by this Agreement, then such facilities will be bid in accordance with applicable City requirements.

**Section 6.05 Utility Planning and Phasing**. The City approves the conceptual plan for the type, sizing, and alignment of the Major Water and Wastewater Facilities required for the full-build out of the Project attached as **Exhibit L** and the cost reimbursements, waivers and participations described on **Exhibit M-1**. The conceptual plan has been developed and approved by the Developer and the City based on current conditions and anticipated future utility requirements. If, in the future, the City's or the Developer's requirements change, changes to **Exhibit L** and to **Exhibit M-1** that are acceptable to the Developer, the District, and the Utility Director may be approved administratively by the Utility Director on behalf of the City. For each phase of development, the Constructing Party will be required to submit a UIR that is consistent with **Exhibit L**, as amended from time to time. In conjunction with each UIR, the Constructing Party will provide the Utility Director with all information pertaining to the related phase of development that is necessary for the Utility Director to confirm the level of

service and the appropriateness of the type, sizing, and alignment of the water and wastewater infrastructure. The City agrees that no fees will be required for filing or processing any UIR under this Section. The Utility Director will timely review all UIRs submitted under this Section and either approve them or provide written comments specifically identifying any changes required for approval within 90 days of receiving a complete UIR from the Constructing Party. The City will utilize the infrastructure constructed pursuant to each approved UIR to provide service to the related phase of development at the requested level of service. The City will not require that the Developer or the District finance or construct any Major Water and Wastewater Facilities in addition to those identified on **Exhibits L-1 and L-2** and **Exhibit M-1**, as amended from time to time, for any phase of development unless (a) the Developer or the District has materially modified its requested level of service in a manner that would reasonably require additional Major Water and Wastewater Facilities; or (b) the City has identified oversizing requirements other than those set forth on **Exhibits L-1 and L-2** and **Exhibit M-1**, as amended from time to time, in its response. If subsection (b) of the preceding sentence of this Section applies, the City will be required to pay the cost of such additional oversizing in accordance with City ordinances and this Agreement.

**Section 6.06 Design of Water and Wastewater Facilities; Points of Connection**. All water and wastewater facilities required to serve the District will be designed in accordance with applicable City requirements and design standards as well as any applicable regulations of other governmental entities with jurisdiction. The plans and specifications for such facilities will be subject to review and approval by the City prior to the commencement of construction, and the City will collect all applicable fees in accordance with its policies and procedures, subject to the terms of this Agreement. The sizing and routing of all such facilities will be consistent with **Exhibit L**. The initial points of connection are shown conceptually on **Exhibit L**. All other points of connection to the City's water and wastewater system will be subject to approval by the City.

**Section 6.07 Easements and Land.** All Internal Water and Wastewater Facilities to the customer side of the meter will be constructed within dedicated utility easements or public rights-of-way, and all required easements will be dedicated to the City, on forms approved by and at no cost to the City, at the earlier of the City's approval of construction plans or a final plat for the land within which such facilities will be constructed. Land and easements required for Major Water and Wastewater Facilities will be conveyed to the City, in lengths and widths which are consistent with the City's Utility Design Criteria and this Agreement, on forms approved by the City and at no cost to the City, at the earlier of the City's approval of construction plans or the final plat for the land within which the facilities will be constructed, but the Developer will be entitled to reimbursement for such lands and easements from the District and the Other Southeast Travis County Districts as permitted under the rules of the Commission, except as otherwise provided in Section 10.12. The City acknowledges that the Developer has previously acquired all easements required for the Major Water and Wastewater Facilities located outside the Project, except for portion of the 36-inch waterline described on **Exhibit L-1** to be located west of Dry Creek. The City agrees that the portion of the 36-inch waterline west of Dry Creek will be constructed within public rights-of-way or existing City waterline easements unless the City elects to acquire an easement for that portion of the line and notifies the Developer of such election before the Developer commences design of the waterline. The Developer will be entitled to reimbursement by the District for all costs of off-site easement acquisition paid by the Developer as permitted by the rules of the Commission.

**Section 6.08 City's Reimbursement and Cost Participation Policies; Oversizing**. To the extent the City requires any Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities to be oversized to serve areas outside of the Project or

requires any easements for Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities to be sized for facilities larger than or in addition to the facilities required to serve the Project, the City will reimburse the Developer for such easements and oversizing in accordance with the terms of the attached **Exhibit M**.

**Section 6.09 Major Water and Wastewater Facilities.** The City agrees that the District may participate in the construction of certain Major Water and Wastewater Facilities as Shared Facilities, and the joint design, financing, construction, and use of such Shared Facilities are expressly permitted by this Agreement. All Major Water and Wastewater Facilities will be constructed in phases as development occurs and will be extended through each tract that is being developed to the boundary of any adjacent, undeveloped land within the Project in order to allow service to be extended in an orderly and consistent manner to the adjoining land at the time it is developed. The phasing plan for any Major Water and Wastewater Facilities will be subject to approval of the Utility Director, which approval will not be unreasonably withheld, conditioned, or delayed as long as it is consistent with the Developer's development plan for the Project. The District and the Developer agree to cooperate with the City in order to assure that Major Water and Wastewater Facilities in which the District participates are extended in a manner that does not result in the City becoming responsible for the completion of any Major Water and Wastewater Facilities after full purpose annexation of the District. If the Developer sells any tract out of the Land prior to (a) recordation of a final subdivision plat covering such tract and (b) dedicating all of the easements required to extend the Major Water and Wastewater Facilities through that tract as provided in Section 6.07, above, the Developer will, prior to the closing of such sale, either (a) convey the easement or easements in question to the City as provided in Section 6.07, or (b) convey the tract subject to a restrictive covenant, in the form attached as **Exhibit M-3**, that requires the purchaser to donate the easement or easements in question as provided in that Section. If the Developer conveys any tract in violation of this provision, the City, at its sole discretion, may withhold water and wastewater service to the tract until the required easement is conveyed or the restrictive covenant is recorded or may pursue any other remedy available to the City for a default by the Developer under this Agreement.

**Section 6.10 Construction by City.** The City reserves the right, at its discretion, to construct or require a third party to construct any portion of the Major Water and Wastewater Facilities. The City will notify the Developer and the District of its intention to do so, however, and no construction by the City or a third party will be permitted if it would materially impair the construction of Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities by the Developer or the District, or materially delay the availability of service to the Project.

**Section 6.11 Commencement of Construction; Notice; Inspections.** Following City approval of the plans and specifications for each water and wastewater utility project and prior to the commencement of construction, the Constructing Party will give written notice to the Utility Director in order to allow the City to assign an inspector. The City will inspect all Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities for compliance with the approved plans and specifications. The City will also, for each connection, conduct the series of plumbing inspections required by the Texas Plumbing License Law and issue a customer service inspection certificate when all inspections are satisfactorily completed. The City will provide the inspections contemplated by this Section for the standard fees charged by the City for inspections inside the City limits, which fees will be collected by the City from the customer requesting the inspection. The City will retain copies of all inspection reports for the City's applicable records retention period, and provide them to the District upon request.

**Section 6.12 Record Drawings**. The Constructing Party will provide one set of record drawings of all Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities constructed by or on behalf of the District to the City, at no cost to the City. The Constructing Party will use good faith efforts to obtain and furnish such drawings within 30 days of approval of the final pay estimate for each project.

**Section 6.13 Conveyance to City; Ownership, Operation, and Maintenance of Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities.** Upon completion of construction of any Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities constructed by or on behalf of the District and following the City's acceptance of such facilities, as documented in a letter from the City to the Developer, the Constructing Party will promptly convey those facilities to the City, on forms approved by the City and at no cost to the City, subject to the City's obligation to provide service to the District as provided in this Agreement. Any failure of a Constructing Party to promptly convey facilities as required in this Section may constitute a default by the Constructing Party under this Agreement. Any such conveyance will not affect the Developer's right to reimbursement from the District for the cost of any facilities or capacity in facilities constructed or financed by the Developer. The Constructing Party will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the facilities conveyed to the City, at no cost to the City and on forms approved by the City. The City agrees that its acceptance of such facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed as long as the facilities have been constructed in accordance with the plans approved by the City and all outstanding "punch list" items have been resolved. Upon any such conveyance and acceptance, the City agrees to operate and maintain such facilities to provide service to the District in accordance with this Agreement.

**Section 6.14 Availability of Service.** The City agrees to provide service as required for development within the Land, including water service at flow rates and pressures sufficient to meet the minimum requirements of the Commission and to provide sufficient fire flows. The Developer and the District agree that the City may use the Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities to serve third parties, so long as such use does not impair the City's commitment of and ability to provide water and wastewater service to the Project as and when required. The City further agrees that, upon the payment of the City's Impact Fees as required by this Agreement, the City will guarantee the District service from the City's water and wastewater utility system for the Land as requested in accordance with the applicable UIR and this Agreement.

**Section 6.15 Water Conservation**. The District will comply with the City's Water Conservation Ordinance, as amended from time to time.

**Section 6.16 Fire Hydrants**. The City will maintain any fire hydrants that are a part of the public water system serving the Project and are conveyed to the City. The Developer agrees that the Restrictive Covenants will require that any privately-owned fire hydrants, such as those located within commercial developments, including apartment complexes, that are located outside of a water and wastewater easement conveyed to the City will be owned, operated, and maintained by the owner of the property on which the hydrants are located. The Restrictive Covenants will also require that commercial property owners perform maintenance of all privately-owned fire hydrants on their property in accordance with the City's maintenance recommendations applicable to City-owned fire hydrants. The City agrees to include a note on the construction plans for any commercial property within the District that identifies any fire hydrants on that property that will be owned and must be maintained by the property owner. The City will have no responsibility for maintenance of privately-owned hydrants, but may

require the reservation of appropriate easements on all properties on which privately-owned fire hydrants will be located in order to allow the applicable fire service provider to access the fire hydrants for fire-fighting purposes.

## ARTICLE VII.
## OTHER UTILITIES AND SERVICES

**Section 7.01 Generally.** The Developer will have the right to select the providers of cable television, gas, telephone, telecommunications, and all other utilities and services not specifically covered by this Agreement, or to provide "bundled" utilities within the Land.

**Section 7.02 Street Lighting.** The Developer will construct street lighting within the boundaries of the District in compliance with the applicable standards of Bluebonnet Electric Cooperative, the electric service provider for the Land. The District will operate and maintain the street lighting within its boundaries until the District is annexed by the City for full purposes.

**Section 7.03 Solid Waste and Recycling Service.** The City will be the sole provider of residential solid waste services, as defined in Chapter 15-6 of the City Code, within the District. The District will contract with the City to provide solid waste services to all of the District's residences. The City will provide solid waste services to the District's residences for the same rates, in the same manner and on the same terms and conditions that the City provides solid waste services to residences located within the City limits. The City's charges for solid waste services will be included on the City's regular monthly water and wastewater bills to customers within the District and the District will have no liability for such charges.

## ARTICLE VIII.
## PARKS AND RECREATIONAL FACILITIES AND OTHER COMMUNITY AMENITIES

**Section 8.01 Project Park Requirements.** The Project will be developed as a master-planned community with substantial parkland, open space, greenbelts, trails, and park improvements. The City agrees that the private and public parkland, open space, greenbelts, and trails described in this Agreement will satisfy all of the parkland dedication requirements for the Project, and that no additional parkland dedication or park fees will be required from the Developer. During the PUD process, the Developer will prepare a park facilities plan for the Project that will identify the Parks and Recreational Facilities to be owned and operated by the District and/or the Other Southeast Travis County Districts and the OA Amenities to be owned and operated by the Owners Association, and a copy of such plan will be provided to the PDRD Director at least three business days before the Board meeting at which the District will consider approval of the plan. The Developer and the District agree that any design or construction plans related to the park and open space land within the Project will be subject to approval by the City.

**Section 8.02 ADA Compliance.** The Parks and Recreational Facilities for the overall Project will be designed to comply with the accessibility requirements of the Americans with Disabilities Act and will meet any applicable consumer product safety standards. Trail accessibility will be provided as set forth on the attached **Exhibit H-2**.

**Section 8.03 Project Parks and Open Space.** Based on the preliminary development plan for the Project, approximately 58 acres of park and open space land are required under the current Applicable Rules. The Developer agrees to provide park and open

space land and improvements for the Project exceeding this required acreage as described on the attached **Exhibit N**.

**Section 8.04 Ownership, Operation and Maintenance of Parks and Recreational Facilities.** Except for property to be dedicated to the Owners Association or dedicated to or reserved for the City or another governmental entity under this Agreement, the Developer will dedicate all Parks and Recreational Facilities located within the Project to the District or one of the Other Southeast Travis County Districts for ownership, operation, and maintenance. No OA Amenities may be dedicated to the District and all OA Amenities must be conveyed to and operated and maintained by the Owners Association. The District agrees not to convey or transfer any Parks and Recreational Facilities to the Owners Association without the approval of the City. The District agrees to operate and maintain the Parks and Recreational Facilities conveyed to it in a good state of repair and in a manner so as not to create a nuisance or danger to the public health and safety. The City will have no obligation to operate or maintain the Parks and Recreational Facilities dedicated to the District.

## ARTICLE IX.
## RESTRICTIVE COVENANTS; LIMITATION ON DISTRICT POWERS; DUTIES OF OWNERS ASSOCIATION

**Section 9.01 Restrictive Covenants.** The Developer will impose Restrictive Covenants on all of the Land within the District in order to assure high quality development and high quality maintenance of all improvements constructed for the benefit of the community which are not maintained by a public entity. The Restrictive Covenants, which will include any provisions specifically required by this Agreement, will be enforced by the Owners Association. Any Restrictive Covenants to be imposed on property owned or to be conveyed to the District will be subject to the review and approval of the PDRD Director prior to recordation, which approval will not be unreasonably withheld, conditioned or delayed.

**Section 9.02 Limitation on District Powers.** The District agrees that it will not have or exercise the power to enforce Restrictive Covenants nor the power to own, finance, construct, or maintain any OA Amenities. The Developer agrees that all OA Amenities will be conveyed to and be owned, operated, and maintained by an Owners Association and not the District.

**Section 9.03 Owners Association.** The Developer has caused the Owners Association to be created as a Texas nonprofit corporation. The owners of all developed lots within the District (other than the Owners Association, the District and/or Limited District, and any other public utility or public entity owning property within the District, including the City and/or Travis County), will be required to be members of the Owners Association under the terms of the Restrictive Covenants. The Owners Association will be granted assessment powers and lien rights under the Restrictive Covenants. The Owners Association will be obligated, among other duties, to enforce the Restrictive Covenants in order to maintain property values in the District and to accept all OA Amenities constructed by the Developer within the District for ownership, operation, and maintenance. The Owners Association will be required, under the terms of the Restrictive Covenants, to levy assessments sufficient to pay all capital, operations and maintenance expenses associated with the OA Amenities.

## ARTICLE X.
## FINANCIAL AND BONDS

**Section 10.01 Tax Rate.** The District agrees that, unless otherwise approved in writing by the City Council, the District's total annual ad valorem tax rate must equal or exceed the City's annual ad valorem tax rate. The District agrees to adopt its annual tax rate in compliance with the legal requirements applicable to municipal utility districts, to report the tax rate set by the District each year to the District's tax assessor/collector and to perform all acts required by law for its tax rate to be effective.

**Section 10.02 District Fees.** The District agrees that the City will be exempt from, and will not be assessed, any District fees.

**Section 10.03 Authority to Issue Bonds.** The District will have the authority to issue Bonds:

**(a)** for the purchase, construction, acquisition, repair, extension, and improvement of land, easements, works, improvements, facilities, plants, equipment, and appliances, undivided interests in facilities, and/or contract rights, necessary to:

**(1)** provide a water supply for municipal uses, domestic uses, and commercial purposes;

**(2)** collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state (other than solid waste, as defined in Chapter 15-6 of the City Code); and

**(3)** gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District;

**(b)** to pay expenses authorized by Section 49.155, Texas Water Code, as amended;

**(c)** to develop and maintain Parks and Recreational Facilities as authorized by Subchapter N of Chapter 49 (Sections 49.461, et seq.), Texas Water Code, as amended;

**(d)** to pay its prorata share of the cost of any Shared Facilities; and

**(e)** in accordance with the Enabling Legislation, to design, acquire, construct, and finance Road Improvements.

The District must issue its Bonds for the purpose of financing reimbursable expenses under Section 49.155, Texas Water Code, and the cost of purchasing, acquiring or constructing water, wastewater, and drainage facilities, interests in facilities, and/or contract rights prior to or simultaneously with issuance of Bonds for any other purpose. The City agrees that the District may issue its Bonds to finance, pay or reimburse 100% of all costs and expenses that it is authorized to finance, pay or reimburse under applicable rules of the Commission, and any conflicting, inconsistent or limiting provisions of Ordinance No. 810819-E, other City ordinances, or any other Applicable Rules are hereby waived.

**Section 10.04 Maximum Amount of New Money Bonds.** The District agrees that the total principal amount of new money Bonds that may be issued by the District for

capital improvements may not exceed $39,141,209 without City Council approval. This maximum will be exclusive of the principal amount of any refunding Bonds.

**Section 10.05 Timing of Issuance; Amortization Period; Maturities**. The District proposes to issue Bonds substantially in accordance with the finance plan attached as **Exhibit O**. In order to provide the City with some assurance as to the timing of the District's issuance and retirement of its debt, the District will use good faith efforts, subject to market conditions and sufficient tax base existing, to sell its last issue of Bonds on or before December 30, 2029. If the District fails or is unable to do so, the City will have the authority to revoke the District's authority to issue its remaining authorized but unissued Bonds and to proceed with annexation of the District for full purposes. All Bonds must be amortized over a period that does not exceed 25 years from the date of issuance, each issue of Bonds must be structured so that substantially level debt service requirements will be maintained throughout the amortization period of the issue, and each Bond issue must include an optional redemption date no later than 10 years after the date of issuance. These requirements may only be modified if the modification is approved in writing by the Finance Director following receipt of a written application from the District, setting forth the justification for the requested modification. The Finance Director will have no obligation to approve any such application.

**Section 10.06 Notification for Bond Reviews.** The District agrees to include, in each application for the approval of the issuance of Bonds, the terms and conditions of this Agreement related to bond issuance. The Developer and the District each agree that it will not request reimbursement or authorization to reimburse any expenses not authorized by this Agreement.

**Section 10.07 Notice to City.** The District agrees to give notice to the City of its intention to issue Bonds by filing the information described in this Section with the Finance Director.

**Section 10.08 Bonds Requiring Commission Approval.** The District must give written notice to the Finance Director at the time the District submits any application to the Commission for approval of the issuance of Bonds.

**Section 10.09 Refunding Bonds.** In connection with: (a) an advance refunding which (i) has a final maturity no longer than the final maturity on the obligations refunded, (ii) will achieve a net present value savings in an amount consistent with the City's financial policies for City refundings, and (iii) has savings that are substantially or fairly uniform over each maturity being refunded; or (b) a current refunding which (i) has a final maturity no longer than the final maturity on the refunded obligations, (ii) will achieve a net present value savings, and (iii) has savings that are substantially or fairly uniform over each maturity of obligations being refunded, no prior notice to or City review or approval will be required; however, the District must deliver a certificate from its financial advisor that demonstrates that the proposed refunding will comply with this Section at least three business days before execution of the purchase agreement for the refunding and must deliver evidence of its compliance with the requirements of this Section to the City within three business days after the execution of the purchase agreement for the refunding.

**Section 10.10 City Review and Approval**. Upon Commission approval of any issuance of Bonds, the District must submit a copy of its application to the Commission, including the engineering report and projected debt service schedule; a copy of the Commission order approving the issuance of the Bonds; and any other information reasonably required by the PDRD Director to the City for review. The City's approval of any District Bond issue will not

be unreasonably withheld, conditioned or delayed. The City will have the right to disapprove any proposed Bond issue only if the District or the Developer is not in compliance with any material term of this Agreement or the SPA. The District may be required to provide evidence of compliance with this Section 10.10 at the time of the sale of its Bonds; therefore, the City agrees that the PDRD Director will be authorized to and will provide written confirmation of City approval to the District promptly upon the District's request.

**Section 10.11 Other Funds.** The District may use funds obtained from any available, lawful source to acquire, own, operate, and maintain its facilities, as well as to accomplish any purpose or to exercise any function, act, power, or right authorized by law and not prohibited by this Agreement. Such funds may include revenues from any of the systems, facilities, properties, and assets of the District that are not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants, and donations from public or private sources; and revenues from any other lawfully available source.

**Section 10.12 Expenses Not Eligible for Reimbursement.** A District Bond issue may include not more than two years of capitalized interest. Proceeds from a District Bond issue may not be used to reimburse a developer for more than two years of developer interest or land costs for the following:

**(a)** Easements for water and wastewater facilities within the boundary of the District that are granted to the City;

**(b)** Sites for lift stations, pump stations, and other above-ground water and wastewater infrastructure located within the boundary of the District that are conveyed to the City, except for sites for Major Water and Wastewater Facilities that are eligible for reimbursement under the rules of the Commission;

**(c)** Construction costs related to a Reclaimed Water System; and

**(d)** Sites for fire and emergency services stations, and library buildings.

This Section will not be deemed or construed to prohibit the District from reimbursing the Developer for the cost of the WWTP Site, as permitted under the rules of the Commission.

**Section 10.13 District Debt Service Tax.** The District agrees to levy a tax to pay debt service on the District's Bonds in accordance with the terms of each resolution or order approving the issuance of its Bonds in each year while such Bonds are outstanding until the full purpose annexation of the District. All debt service tax revenues will be maintained in a separate account or accounts from the District's general operating funds. The District will require that its bookkeeper provide an accounting allocation of the debt service fund among the various categories of bonded facilities in order to simplify the City's internal allocation of the debt service fund following the full purpose annexation of the District and transfer of the fund to the City.

**Section 10.14 Assumption of the District's Outstanding Obligations, Liabilities, and Assets Upon Full Purpose Annexation.** Upon the City's full purpose annexation of the District, the District's outstanding obligations, indebtedness, other liabilities, and assets will be transferred and assumed as provided in the SPA.

**Section 10.15 Reimbursement Agreements; Payment to Developer Following Full Purpose Annexation.** The District agrees that all Reimbursement

Agreements that it enters into with any developer within the District will include the following provision relating to any sums payable by the City upon full purpose annexation of the District under Section 43.0715, Texas Local Government Code:

> If, at the time of full purpose annexation of the District, the developer has completed the construction of or financed any facilities or undivided interests in facilities on behalf of the District in accordance with the terms of this agreement, but the District has not issued Bonds to reimburse the developer for the cost of the facilities or undivided interests in facilities, the developer agrees that it will convey the facilities or undivided interests in question to the City, free and clear of any liens, claims or encumbrances, subject to the developer's right to reimbursement under Section 43.0715, Texas Local Government Code, modified as provided in this section. The developer agrees that the amount payable by the City will be determined based on costs and expenses that are eligible for reimbursement under Commission rules, without any waivers or variances, but will be payable to the developer in three equal annual installments, with the first payment being made within 30 days of the date of the City's full purpose annexation.

## ARTICLE XI.
## TERM, EFFECTIVENESS; ASSIGNMENT AND REMEDIES

**Section 11.01 Term.** The term of this Agreement will commence on the Effective Date and will end upon the City's full purpose annexation of the entire District, which will occur as provided in the SPA, unless this Agreement is sooner terminated under the provisions hereof.

**Section 11.02 Effectiveness.** The District acknowledges that this Agreement relates to the City's consent to the creation of the District and, as provided in the Enabling Legislation, the provisions of this Agreement are valid and enforceable.

**Section 11.03 Termination and Amendment by Agreement.** This Agreement may be terminated or amended as to all of the Land at any time by mutual written agreement of the City, the Developer and, after its creation, the District, or may be terminated or amended only as to a portion of the Land by the mutual written agreement of the City, the owners of a majority of the portion of the Land affected by the amendment or termination and, after its creation, the District. At such time as the Developer no longer owns land within the District, this Agreement may be amended by mutual written agreement of the District and the City, and the joinder of the Developer will not be required.

**Section 11.04 Agreement Running with the Land; Assignment.**

**(a)** The terms of this Agreement will run with the Land and be binding upon the Developer and its successors and assigns. This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer to a purchaser of all or a portion of the Land. Any assignment must be in writing, specifically set forth the assigned rights and obligations without modification, hypothecation, or amendment, and be executed by the proposed assignee and a copy of the assignment must be provided to the City.

**(b)** If the Developer assigns its rights and obligations hereunder as to a portion of the Land, then the rights and obligations of any assignee and the Developer will be severable, and the Developer will not be liable for the nonperformance of the assignee and vice versa. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance.

**(c)** This Agreement is not intended to and will not be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Land.

**Section 11.05 Cooperation; Agreement Not to Contest or Support Negative Legislation.**

**(a)** The City, the District, and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder and provide to the other parties any other documents necessary to effectuate the terms of this Agreement.

**(b)** The City agrees to cooperate with the Developer in connection with any waivers or approvals the Developer may desire from Travis County in order to avoid the duplication of processes or services in connection with the development of the Land.

**(c)** Neither the Developer nor the District will engage in any litigation or legislative processes to challenge the terms of this Agreement, or to resolve any disputes related to the annexation process established by this Agreement or any related service plan. If any future legislation would have the effect of prohibiting the annexation of the District or requiring further approval of the District's residents to the annexation of the District as contemplated by this Agreement, it is the intent of the parties that annexation of the District be governed by the provisions of this Agreement notwithstanding such legislation. Neither the Developer nor District will seek or support legislation to incorporate all or any part of the District as a municipality. Neither the Developer nor the District will contest any efforts of the City to assure that future legislation does not prohibit or impose additional requirements on the City's right and ability to annex the District in accordance with this Agreement.

**(d)** In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, the Developer, the District, and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement.

**Section 11.06 Default and Remedies.**

**(a)** **Notice of Default; Opportunity to Cure.** If a party defaults in the performance of any obligation under this Agreement, the nondefaulting party may give written notice to the other parties to this Agreement, specifying the alleged event of default and extending to the defaulting party 30 days from the date of the notice in order to cure the default complained of or, if the curative action cannot reasonably be completed within 30 days, 30 days to commence the curative action and a reasonable additional period to diligently pursue the curative action to completion.

**(b) Dispute Resolution.** If any default is not cured within the curative period specified above, the parties agree to use good faith, reasonable efforts to resolve any dispute among them by agreement, including engaging in mediation or other non-binding alternative dispute resolution methods, before initiating any lawsuit to enforce their respective rights under this Agreement. The parties will share the costs of any mediation or arbitration equally. The parties further agree that the City is not obligated to resolve any dispute based on an arbitration decision under this Agreement if the arbitration decision compromises the City's sovereign immunity.

**(c) Other Legal or Equitable Remedies.** If the parties are unable to resolve their dispute through mediation or arbitration, the nondefaulting party will have the right to enforce the terms and provisions of this Agreement by a suit seeking specific performance or such other legal or equitable relief as to which the nondefaulting party may be entitled. Any remedy or relief described in this Agreement will be cumulative of, and in addition to, any other remedies and relief available to such party. The parties acknowledge that the City's remedies will include the right, in the City's sole discretion, to terminate this Agreement and proceed with full purpose annexation of the District. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation, or to the annexation ordinance.

**(d) Waiver of District Sovereign Immunity upon Issuance of Bonds.** In accordance with the Enabling Legislation, upon the issuance of Bonds by the District, the District waives sovereign immunity to suit by the City for purposes of adjudicating a claim by the City for the District's breach of this Agreement.

**Section 11.07 Notices to Purchasers.** In addition to the notice to purchasers required by Section 49.452, Texas Water Code, the District will promulgate and record in the Official Public Records of Travis County, Texas, and the Restrictive Covenants will require that each seller of land within the District provide to each purchaser of land within the District, a supplemental "plain speak" notice in the form attached as **Exhibit P**, which summarizes and gives notice of certain terms of this Agreement. This notice, with appropriate modifications, will also be included in the notice to purchasers included in the District's Information Form required to be recorded in the Official Public Records of Travis County, Texas, pursuant to Section 49.455 of the Texas Water Code, as amended from time to time.

**Section 11.08 Dissolution of the District.** If the District is dissolved without the prior written approval of the City, this Agreement will automatically terminate and the City will have the right to annex all of the territory within the District for full purposes without restriction. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation and dissolution, or to the annexation and dissolution ordinance. If the District is dissolved, the City, as the successor to the District, will have the authority to execute any documents and to do any and all acts or things necessary to transfer the District's assets, obligations, indebtedness, and liabilities to the City.

## ARTICLE XII.
## MISCELLANEOUS PROVISIONS

**Section 12.01 Notice.** Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it

to the party, or any agent of the party listed in this Agreement; or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth above. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

| | |
|---|---|
| The City: | City of Austin<br>P.O. Box 1088<br>Austin, Texas 78767-1088<br>Attn: City Manager |
| With Required Copy to: | City of Austin<br>P.O. Box 1088<br>Austin, Texas 78767-1088<br>Attn: City Attorney |
| The Developer: | Qualico CR, L.P.<br>7940 Shoal Creek Blvd., Ste. 201<br>Austin, Texas 78757<br>Attn: Vera Massaro |
| With Required Copy to: | Richard Suttle<br>Armbrust & Brown, PLLC<br>100 Congress Avenue, Suite 1300<br>Austin, Texas 78701 |
| The District: | Southeast Travis County Municipal Utility District No. 4<br>c/o Armbrust & Brown, PLLC<br>Attn: Sue Brooks Littlefield<br>100 Congress Ave., Ste. 1300<br>Austin, Texas 78701 |

Each of the parties may change its respective address to any other address within the United States of America by giving at least five days' written notice to the other parties. The Developer may, by giving at least five days' written notice to the City, designate additional parties to receive copies of notices under this Agreement. At such time as the Developer no longer owns land within the District, no further notice to the Developer under this Agreement will be required.

**Section 12.02 Severability.** If any part of this Agreement or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the parties agree that they will amend or revise this Agreement to accomplish to the greatest degree practical the same purpose as the part determined to be invalid or unconstitutional, including, without limitation, amendments or revisions to the terms and conditions of this Agreement pertaining to or affecting the rights and authority of the parties in areas of the District annexed by the City pursuant to this Agreement, whether for limited or full purposes. If the parties cannot agree on any such amendment or revision within 90 days of the final judgment of the trial court or any state appellate court that reviews the matter, then either party may proceed in accordance with the procedures specified in this Agreement.

**Section 12.03 Frustration of Purpose.** If any part of this Agreement is modified as a result of amendments to the underlying State law and statutory authority for this Agreement, the parties agree that such modification may frustrate the purpose of this Agreement. The parties agree that, in such event, they will attempt to amend or revise this Agreement to accomplish to the greatest degree practical (i) the same purpose and objective of the part of this Agreement affected by the modification of the underlying State law and statutory authority and (ii) the original intent and purpose of this Agreement. If the parties cannot agree on any such amendment or revision within 90 days from the effective date of amendment of the State law and statutory authority for this Agreement, then this Agreement will terminate, unless the parties agree to an extension of time for negotiation of the modification.

If this Agreement is to be terminated as a result of the operation of this Section, the City will have the right, for a 90 day period prior to the effective date of termination, in its sole discretion, to annex the District for full purposes and dissolve the District. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation and dissolution, or to the annexation and dissolution ordinance.

**Section 12.04 Non-Waiver.** Any failure by a party to insist upon strict performance by another party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**Section 12.05 Applicable Law and Venue.** The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.

**Section 12.06 Entire Agreement.** This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement supersedes all other agreements between the parties concerning the subject matter.

**Section 12.07 Exhibits, Headings, Construction and Counterparts.** All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender include the feminine or neuter, and the singular includes the plural, and vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation and drafting of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and any otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

**Section 12.08 Time.** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

**Section 12.09 Authority for Execution.** The City certifies, represents, and warrants that the execution of this Agreement has been duly authorized in conformity with its City Charter and City ordinances. The Developer certifies, represents, and warrants that the execution of this Agreement has been duly authorized in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on its behalf. The District certifies, represents and warrants that this Agreement has been duly authorized in conformity with all applicable laws and regulations.

**Section 12.10 Exhibits.** The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

| | | |
|---|---|---|
| Exhibit A | - | The Land |
| Exhibit B | - | Land Plan |
| Exhibit C | - | Post-Annexation Surcharge Formula |
| Exhibit D | - | Interim Zoning Map |
| Exhibit E | - | Civic Uses |
| Exhibit F | - | Stormwater, Drainage, Water Quality and Environmental Protection Requirements |
| Exhibit F-1 | - | Typical Modified Channel Cross-section |
| Exhibit F-2 | - | Proposed Biofiltration Ponds |
| Exhibit F-3 | - | Headwater Buffer Plan |
| Exhibit F-4 | - | Prohibited Uses |
| Exhibit G | - | Tree and Landscaping Requirements |
| Exhibit H | - | Transportation Requirements |
| Exhibit H-1 | - | Connectivity |
| Exhibit H-2 | - | Trail and Accessibility |
| Exhibit I | - | Building and Urban Design Standards |
| Exhibit I-1 | - | Roadway Classification |
| Exhibit J | - | Art in Public Places Participation |
| Exhibit K | - | Affordable Housing Participation |
| Exhibit L | - | Conceptual Water and Wastewater Plan |
| Exhibit L-1 | - | Conceptual Major Water Facilities |
| Exhibit L-2 | - | Conceptual Major Wastewater Facilities |
| Exhibit L-3 | - | Planned Wastewater Easement Locations |
| Exhibit M | - | Cost Reimbursements, Credits and Participation |
| Exhibit M-2 | - | Form of Credit Transfer |
| Exhibit M-3 | - | Form of Restrictive Covenant |
| Exhibit N | - | Park and Open Space Requirements |
| Exhibit O | - | Finance Plan |
| Exhibit P | - | "Plain Speak" Notice Form |

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the dates indicated below.

**CITY:**

CITY OF AUSTIN, TEXAS

By:_____
Name:_____
Title: City Manager
Date:_____

APPROVED AS TO FORM:

By:_____
Name:_____
Title: Assistant City Attorney
Date:_____

**DEVELOPER:**

**QUALICO CR, LP**, a Texas limited partnership

By: Qualico CR Management, LLC, a Texas limited liability company, its general partner

By: Qualico Developments (U.S.), Inc., a Delaware corporation, its manager

By:_____
Brian Higgins, Vice President

By:_____
Vera Massaro, Assistant Secretary

**DISTRICT:**

**SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4**

By:_____
Name:_____
Title: President, Board of Directors
Date:_____

ATTEST:

By:_____
Name:_____
Title: Secretary, Board of Directors
Date:_____

Southeast Travis County MUD No. 4

Index of Exhibits to Consent Agreement

| | |
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| F-1 | Typical Modified Channel Cross-section |
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| O | Finance Plan |
| P | "Plain Speak" Notice Form |

# EXHIBIT A

378.452 ACRES
JOSE ANTONIO NAVARRO SURVEY, ABS. NO. 18
TRAVIS COUNTY, TEXAS
SOUTHEAST TRAVIS COUNTY MUD #4

**FIELD NOTES**

**BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE JOSE ANTONIO NAVARRO SURVEY, ABSTRACT 18, SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF THAT CERTAIN 74.590 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2008139825, A PORTION OF THAT CERTAIN 362.872 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2008082363, ALL OF THAT CERTAIN 184.382 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2010119925 AND A PORTION OF THAT CERTAIN 161.518 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2009141317 ALL OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING 378.452 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at an iron rod found at the southeast corner of said 74.590 acre Qualico CR, LP tract, also being the southwest corner of said 161.518 acre Qualico CR, LP tract, also being a point on the northern right-of-way line of Pearce Lane, a varying width public roadway, for the **POINT OF BEGINNING** of the herein described tract,

**THENCE**, with the southern boundary line of said 74.590 acre Qualico CR, LP tract and the northern right-of-way line of said Pearce Lane, the following two (2) courses and distances numbered 1 and 2,

1. N64°19'11"W a distance of 92.92 feet to an iron rod found at the point of curvature to the left,
2. with said curve to the left having a radius of 9419.72 feet, an arc length of 502.24 feet, and whose chord bears N65°59'24"W, a distance of 502.18 feet to an iron rod found,

**THENCE**, leaving the northern right-of-way line of said Pearce Lane, and crossing said 74.590 acre Qualico CR, LP tract, the said 161.518 acre Qualico CR, LP tract, and the 362.872 acre Qualico CR, LP tract , the following twelve (12) courses and distances, numbered 1 through 12,

1. N59°39'27"E, a distance of 145.30 feet to a calculated point,
2. S77°46'45"E, a distance of 440.15 feet to a calculated point,
3. S84°08'57"E, a distance of 722.01 feet to a calculated point,
4. N45°54'29"E, a distance of 698.92 feet to a calculated point,
5. N08°39'51"E, a distance of 919.38 feet to a calculated point,
6. N55°53'27"W, a distance of 506.81 feet to a calculated point,
7. N16°17'52"W, a distance of 1014.45 feet to a calculated point,
8. N62°26'37"E, a distance of 544.11 feet to a calculated point,
9. N30°27'47"E, a distance of 295.08 feet to a calculated point,
10. N18°05'14"W, a distance of 633.66 feet to a calculated point,
11. N31°33'30"E, a distance of 578.23 feet to a calculated point,
12. N30°19'13"E, a distance of 1597.94 feet to an iron rod found on the north line of said 362.872 acre Qualico CR, LP tract, and in the south line of a 147.806 acre tract conveyed to Gregory C. Weiss and Virginia G. Bassett tract, recorded in Document Number 2006186612,

J: 4390\SURVEY\FIELD NOTES\FN-MUD TRACT 4.doc

**THENCE**, with the common southern boundary line of said 147.806 acre Gregory C. Weiss and Virginia G. Bassett tract and the northern boundary line of said 362.872 acre Qualico CR, LP tract, S63°19'24"E, a distance of 699.61 feet to the northwest corner of said 184.382 Qualico CR, LP tract,

**THENCE**, with the common southern boundary line of said 147.806 acre Gregory C. Weiss and Virginia G. Bassett tract and the northern boundary line of said 184.382 acre Qualico CR, LP tract, S63°21'31"E, a distance of 2403.99 feet to an iron rod found at the northeast corner of said 184.382 acre Qualico CR, LP tract, also being in the westerly right-of-way line of Wolfe Lane, a varying width public roadway,

**THENCE**, with the common boundary line of said 184.382 acre Qualico CR, LP tract and the west right-of-way line of said Wolfe Lane, the following nine (9) courses and distances, numbered 1 through 9,

1. S28°41'05"W, a distance of 93.30 feet to an iron rod found,
2. S28°01'16"W, a distance of 387.32 feet to an iron rod found,
3. S27°56'22"W, a distance of 289.74 feet to an iron rod found,
4. S27°35'22"W, a distance of 341.84 feet to an iron rod found,
5. S27°21'56"W, a distance of 191.88 feet to an iron rod found,
6. S26°52'52"W, a distance of 541.29 feet to an iron rod found,
7. S27°04'44"W, a distance of 1120.79 feet to an iron rod found,
8. S27°32'04"W, a distance of 329.70 feet to an iron rod found,
9. S27°38'13"W, a distance of 195.47 feet to an iron rod found, in the west right-of-way line of said Wolfe Lane and in the west line of said 161.518 acre Qualico CR, LP tract,

**THENCE**, with the common boundary line of said 161.518 acre Qualico CR, LP tract and the west right-of-way line of said Wolfe Lane, the following two (2) courses and distances, numbered 1 and 2,

1. S27°17'41"W, a distance of 103.86 feet to an iron rod found,
2. S27°06'59"W, a distance of 2038.07 feet to a calculated point,

**THENCE**, leaving right-of-way line of said Wolfe Lane and crossing said 161.518 acre Qualico CR, LP tract, S39°14'43"W, a distance of 856.86 feet to an iron rod found in the south line of said 161.518 acre Qualico CR, LP tract, also being in the northerly right-of-way line of said Pearce Lane, for the point of curvature to the left,

**THENCE**, with the common boundary line of said 161.518 acre Qualico CR, LP tract and the north right-of-way line of said Pearce Lane, the following six (6) courses and distances, numbered 1 through 6,

1. with said curve to the left having a radius of 2576.23 feet, an arc length of 451.04 feet, and whose chord bears N46°34'33"W, a distance of 450.46 feet to an iron rod found,
2. N51°35'30"W, a distance of 194.12 feet to an iron rod found at the point of curvature to the left,
3. with said curve to the left having a radius of 8327.42 feet, an arc length of 502.55 feet, and whose chord bears N53°20'29"W, a distance of 502.47 feet to an iron rod found,
4. N55°04'13"W, a distance of 181.98 feet to an iron rod found at the point of curvature to the left,
5. with said curve to the left having a radius of 3174.03 feet, an arc length of 506.11 feet, and whose chord bears N59°48'40"W, a distance of 505.58 feet to an iron rod found and

6. N64°22'45"W, a distance of 434.44 feet to the **POINT OF BEGINNING**, and containing 378.452 acres of land.

Surveyed by: _____ 14 JAN 2011

AARON V. THOMASON, R.P.L.S. NO. 6214
***SETSTONE SURVEYING***
5501 West William Cannon
Austin, TX 78749
Ph: 512-282-0170 Fax: 512-280-5165
aaron@setstone.net

STATE OF TEXAS
SETSTONE
AARON V. THOMASON
6214
PROFESSIONAL
LAND SURVEYOR

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD83, CENTRAL ZONE (4203)

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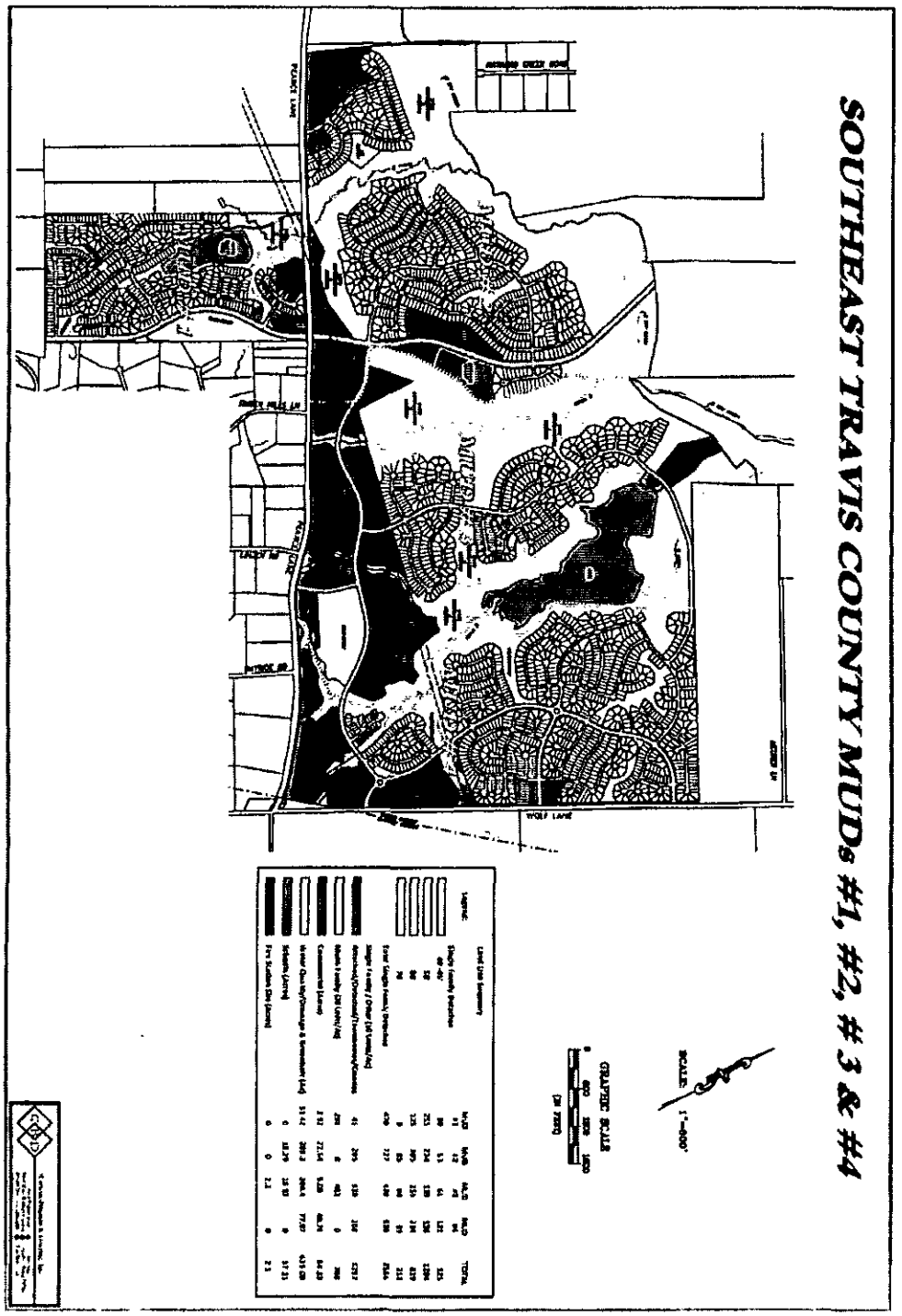
# EXHIBIT B



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## EXHIBIT C

## Post Annexation Surcharge Formula

The following calculation is intended to allow the City to collect sufficient funds for payment of the debt service remaining on the District's Bonds at the time of annexation, as authorized by Section 54.016(h), Texas Water Code. After annexation, the water and wastewater rates charged to customers receiving water and sewer services at properties that were within the territorial boundary of the District at the time of annexation may vary from the water and wastewater rates charged to customers receiving services at other properties within the City in order to compensate the City for the assumption of the debt on the District's Bonds. These water and wastewater rates will be reflected as a post annexation surcharge on the customers' monthly utility bills and will be stated as a percentage of the water and sewer rates of the City. The amount of the post-annexation surcharge and the percentage of the City's water and wastewater rates will vary as the City's rates are amended, but in no event will the rates of customers charged the post annexation surcharge exceed 125% of the water and wastewater rates charged to other customers within the City who are not otherwise subject to a post-annexation surcharge.

FORMULA FOR SURCHARGE CALCULATION:

| | | | |
|---|---|---|---|
| 1. | A | = | $\frac{P \times I}{1 - [(1 + I)^{-n}]}$ |
| 2. | S | = | $\frac{A}{12 \times ESCFs}$ |

where:

| | |
|---|---|
| A = | total annual post annexation surcharge |
| P = | principal outstanding on the District's Bonds, less any reduction provided for by Note 1, below |
| I = | average annual effective interest rate on the District's outstanding Bonds |
| n = | years remaining in debt retirement period |
| ESFCs = | total number of equivalent single family customer connections within the territorial boundary of the District |
| S = | monthly post annexation surcharge per equivalent single family connection, but in no event will S exceed 125% of the water and sewer rates charged to other customers within the City |

Note 1: P will be reduced by the amount of District funds transferred to the City at the time of annexation or received by the City after annexation, including any debt service taxes paid to the City for the year of annexation as provided in this Agreement.

Note 2: For purposes of illustration, the following are examples of the application of the formula set forth above and the calculation of the post annexation surcharge under this Exhibit based on certain assumptions:

Example 1:

Principal Remaining: $3,000,000

Interest Rate: 4.5 %

Remaining Term of bonds: 15 years

Equivalent Single Family Connections: 1,183

Monthly Surcharge: $19.68

Example 2:

Principal Remaining: $5,000,000

Interest Rate: 6.25 %

Remaining Term of bonds: 15 years

Equivalent Single Family Connections: 2,500

Monthly Surcharge: $17.44

Example 3:

Principal Remaining: $1,000,000

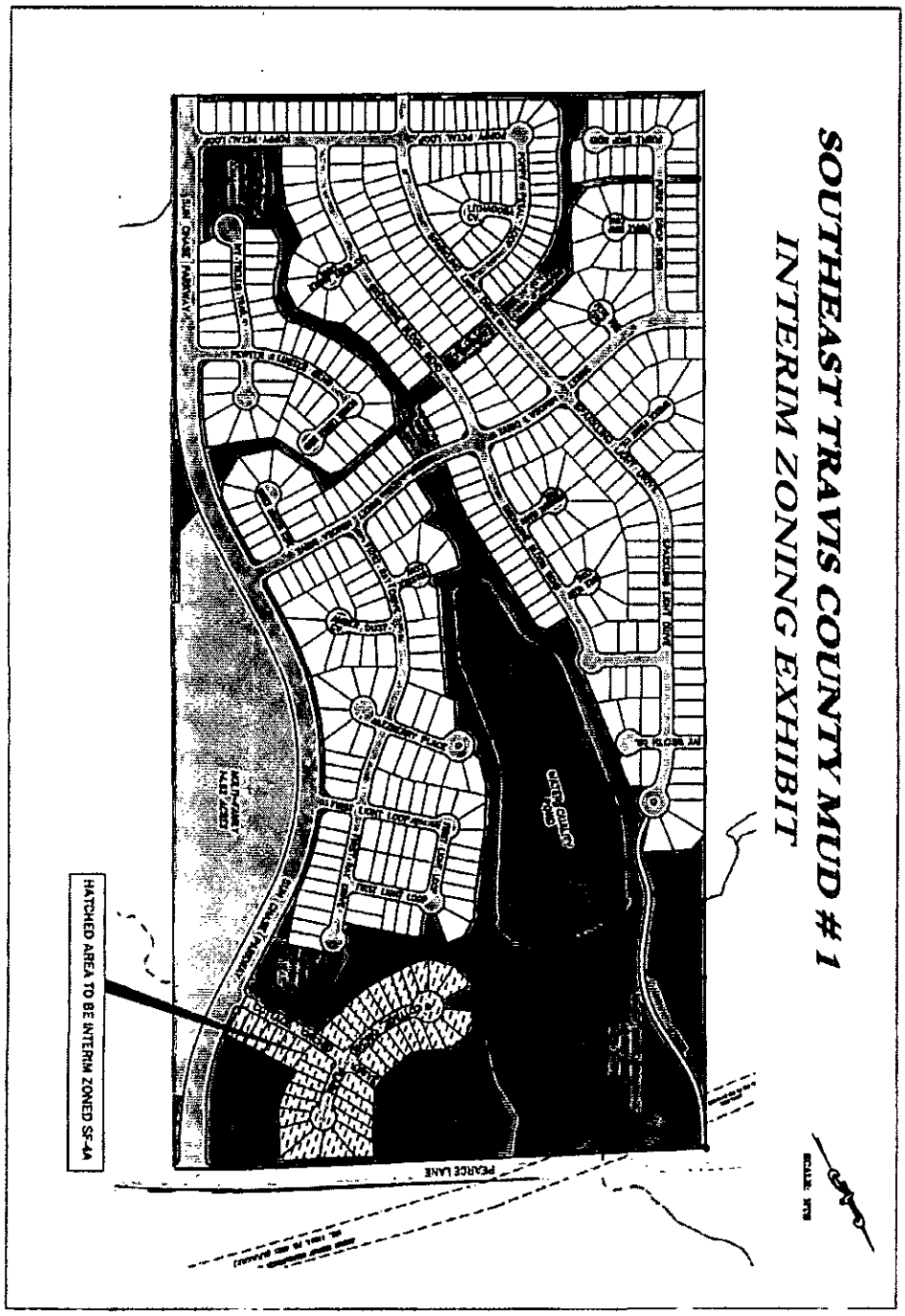
Interest Rate: 6.25 %

Remaining Term of bonds: 5 years

Equivalent Single Family Connections: 3,168

Monthly Surcharge: $6.29

**EXHIBIT D**



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## EXHIBIT E

## Civic Uses

1. The Developer agrees to donate two sites within the Project to the Del Valle Independent School District (the "*School District*"), at the locations shown on the Approved Preliminary Plans, for school uses mutually agreed to between the Developer and the School District, upon the following terms:

(a) Each site will be donated to the School District at such time as the School District has funding available and is ready, willing and able to construct school facilities on the site in question.

(b) Each site will consist of at least 18 buildable acres.

(c) Any changes to the location of a school site will be subject to approval by the Developer, the School District, and the City.

(d) The Developer will extend water, wastewater and streets to each school site at no cost to the School District.

2. The Developer agrees to dedicate the fire station site shown on the Land Plan to the City at no cost to the City.

3. See **Exhibit H** for Developer's agreement regarding reservation of a ten-acre transit center site.

## EXHIBIT F

## Stormwater, Drainage and Water Quality and Environmental Protection Requirements

1. The District will own, operate, and maintain the District's drainage infrastructure until full-purpose annexation of the District by the City.

2. Each water quality or detention pond which contains all or a portion of runoff water from industrial, commercial, or mixed-use development (as defined by the City) will be owned, operated, and maintained by the District or the owner of the property on which the pond is located.

3. The Developer and the District each agree to fully comply with the City's ordinances, regulations, and procedures related to drainage, as defined by the City Code. The Developer's construction plans will be consistent with this commitment.

4. The District and the Developer each agree to be good stewards of the environment relating to air quality, water quality, trees, buffer zones and greenbelt areas, critical environmental features, soils, waterways, topography, and the natural and traditional character of the land located within the District.

5. Unless otherwise specified herein or as modified by the PUD, the District and Developer each agree to fully comply with the City's ordinances, regulations, and procedures related to water quality and environmental preservation and protection, as defined by the City Code, as to the portion of the Land owned by it.

6. In all phases of development, the Developer agrees to:

a. except for Land contained within the Sun Chase South Preliminary Plan (C8J-2008-0176), design modified channels based on geomorphic stability for full build-out hydrology. This design requires a series of nested channels as shown on **Exhibit F-1** that includes a bankfull (1 yr. return interval) channel within the floodplain (100 yr) channel with distinct connections to an inset floodplain terrace. The top width to depth ratio of the bankfull channel shall be designed per accepted geomorphic principles (e.g., Osterkamp et al. 1983 or Osborn and Stypula 1987). The channel longitudinal profile (slope) shall be designed and demonstrated by calculation to be non-erosive via permissible shear or velocity calculations that consider the particle size of the native soil comprising the channel. If topographic and/or development constraints make the design of a non-erosive natural channel infeasible, the use of armoring (such as with geotextiles) will be allowed.

b. restore floodplain, including through the use of native prairie grass species and riparian trees species, in order to provide an enhanced public amenity, minimize impacts of urbanization, and reduce costs of future, long-term maintenance of the floodplain;

c. provide water quality controls superior to those otherwise required by Austin City Code for those areas set forth on the attached **Exhibit F-2** (Proposed Bio-Filtration Ponds) and **Exhibit F-3** (Headwater Buffer Plan);

d. provide volumetric flood control detention in accordance with the volumetric detention analysis prepared by Carlson Brigance & Doering, Inc. dated October 24, 2011, which has been reviewed and approved by the City;

d. provide protection of headwaters of unclassified waterways for those areas depicted on the attached **Exhibit F-3** (Headwater Buffer Plan);

e. prohibit, through Restrictive Covenants, the uses listed on **Exhibit F-4** which the City and the Developer agree may contribute to air or water quality pollutants; and

f. cluster impervious and disturbed areas in an environmentally sensitive manner as approved by the City in conjunction with its review and approval of the Preliminary Plans.

7. The District (as to the portion of the Land owned by the District) and the Developer (as to the portion of the Land owned by the Developer) each agrees to comply with the integrated pest management plan approved by the City in conjunction with the Approved Preliminary Plans.

8. The Developer agrees to provide pervious paving for all pedestrian sidewalks, trails and walkways included in the OA Amenities.

**EXHIBIT F-1**

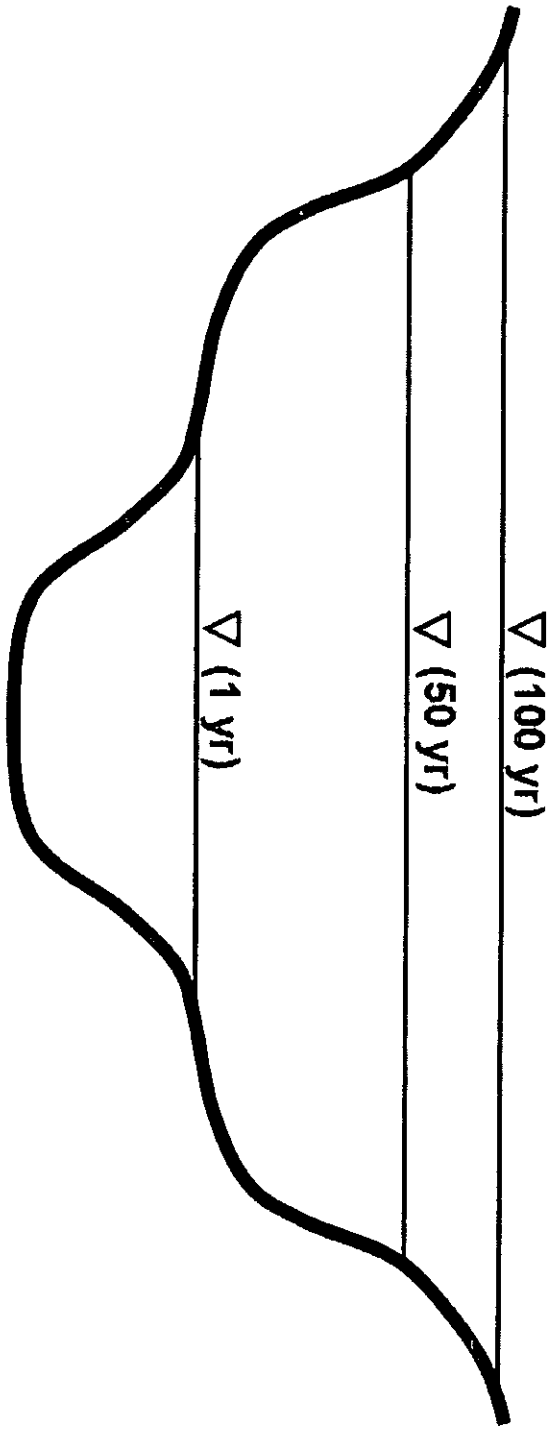


Figure ___ . Typical modified channel cross-section. Designer shall ensure channel longitudinal slope meets non-erosive permissible shear requirements.



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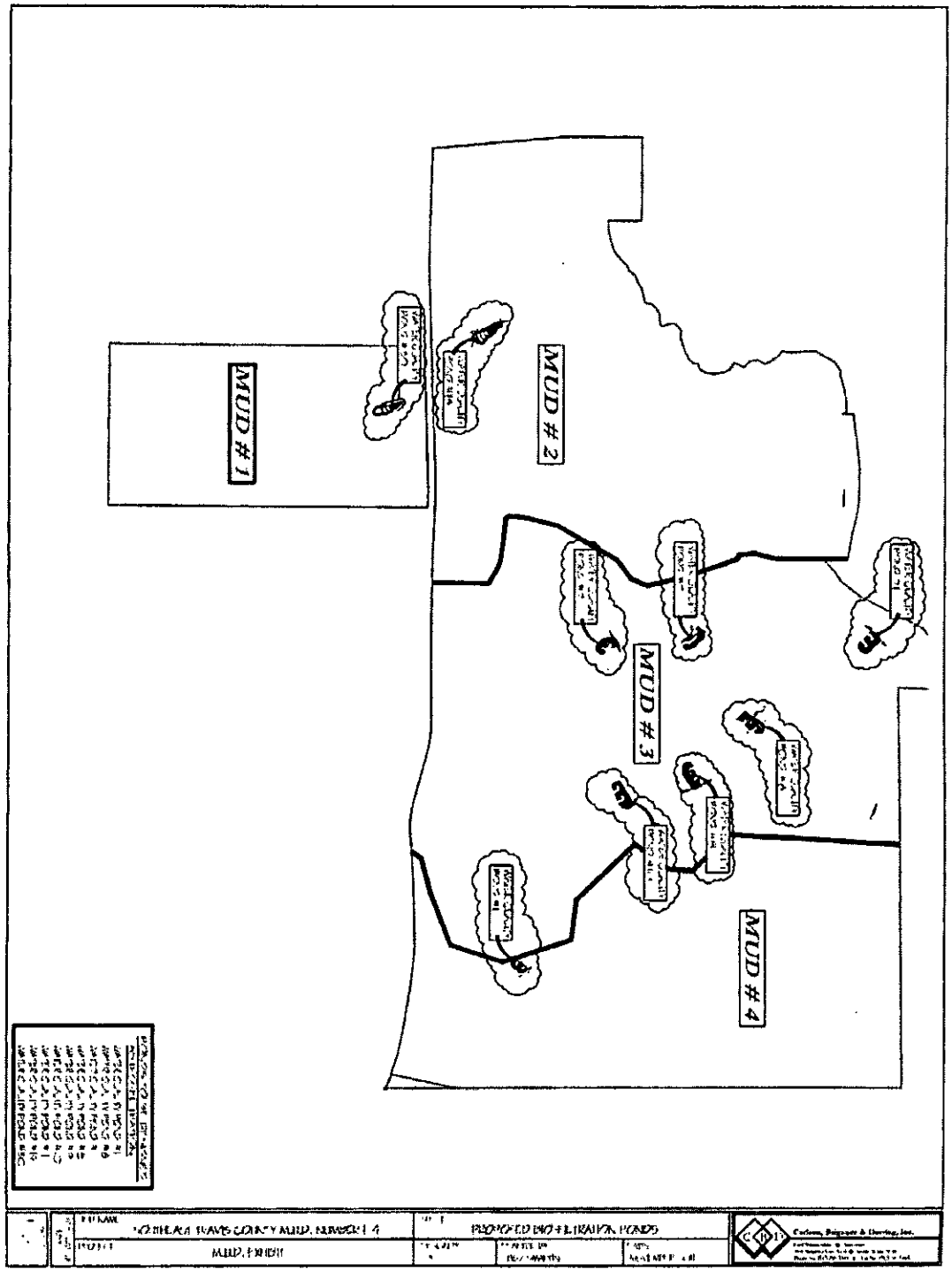
# EXHIBIT F-2



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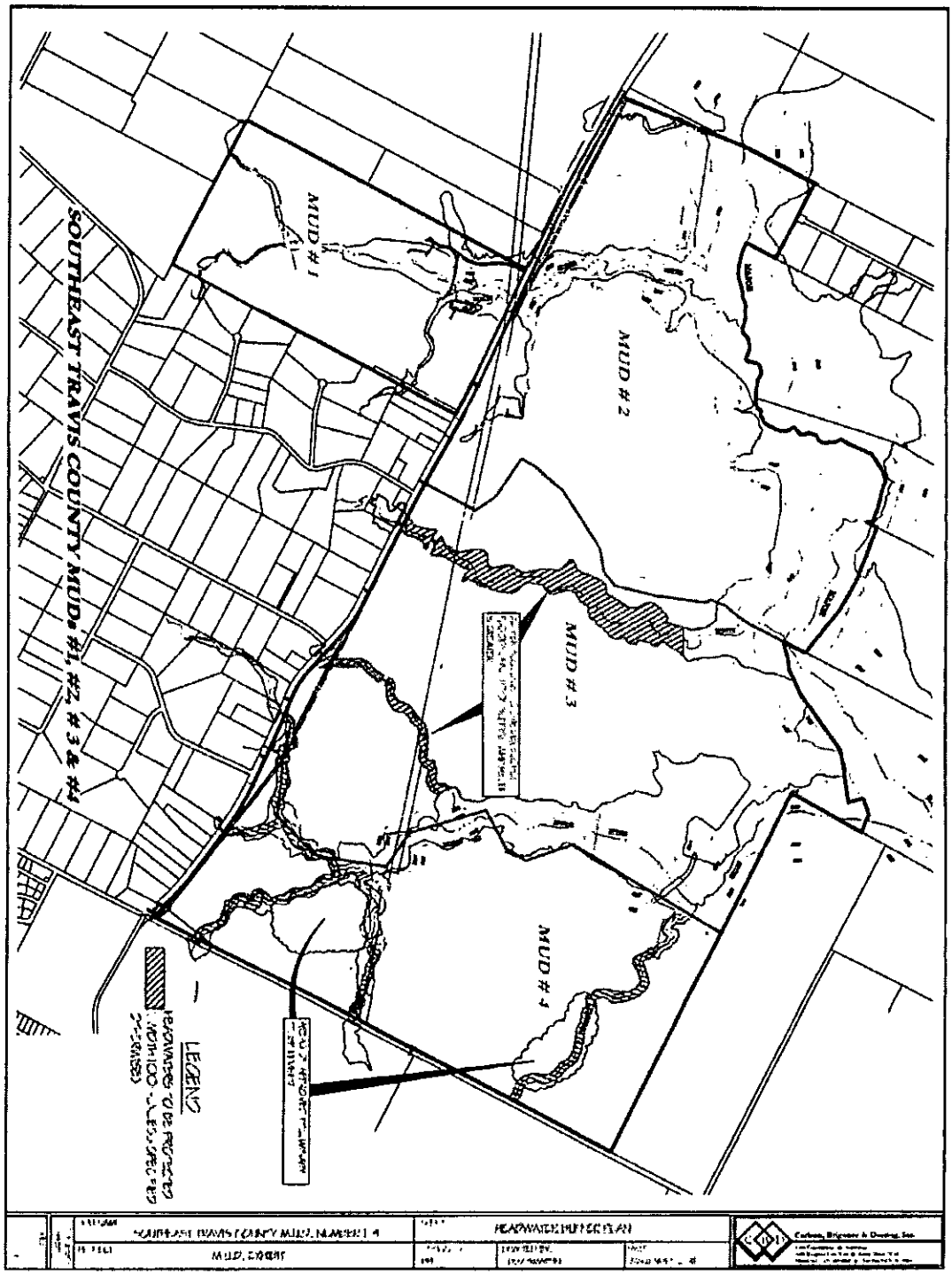
# EXHIBIT F-3



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# EXHIBIT F-4

**Southeast Travis County MUDs 1-4**
**PROPOSED - Prohibited Land Uses:**

---

**Basic Industry** – Prohibited Land Uses limited to:
- Concrete batch plants
- Poultry Processing

**Laundry Services** – Prohibited Land Uses limited to:
- Diaper services

**Resource Extraction** – Prohibited Land Uses limited to:
- Quarries
- Sand or gravel operations
- Mining Operations

**Scarp and Salvage Services** – Prohibited Land Uses limited to:
- Automotive wrecking yards
- Junkyards
- Auction yards

**Stockyards** – Prohibited land uses limited to:
- Stockyards
- Animal sales
- Auction yards

SETC MUDs Proposed Prohibited Land Uses 11.11.20111.docx



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## EXHIBIT G

### Tree and Landscaping Requirements

A. Developer Agreements. The Developer (with respect to the portion of the Land owned by the Developer) agrees to comply with the City's tree preservation ordinance, Protected and Heritage Tree, and the minimum landscaping requirements in Chapter 25 of the Land Development Code and to exceed those requirements by doing the following:

1. A tree preservation plan will be developed with the City's arborist during the PUD process that, at a minimum, will satisfy the requirements of the City's tree preservation ordinance, Protected and Heritage Tree, with additional emphasis given to trees less than 19" in diameter (where feasible) counting towards or fulfilling the tree planting/preservation requirements;

2. All preserved or planted trees for landscape requirements will come from the Environmental Criteria Manual, Appendix F; and

3. A tree care plan, prepared by a certified arborist, will be provided for construction-related impacts within the critical root zone of all trees which are required to be preserved.

B. District Agreements. The District (with respect to the portion of the Land owned by the District) agrees to exceed the minimum landscaping requirements of the City Code by doing the following:

1. Properly maintaining its property, subject to any applicable water use or other restrictions imposed by the City; and

2. Upon Reclaimed Water being brought to the Project, to use Reclaimed Water for irrigation in open space areas where such use is economically feasible, subject to any applicable water use restrictions imposed by the City.

## EXHIBIT H

## Transportation Requirements

1. The Developer agrees to provide for appropriate connectivity to areas adjacent to the Project as shown on the attached **Exhibit H-1** (Connectivity).

2. The Developer also agrees to do the following:

a. dedicate right-of-way for Pearce Lane, Wolf Lane and Sun Chase Parkway (Arterial C/Four Daughters under the CAMPO 2030 Plan) in accordance with the Phasing Agreement between the Developer and Travis County approved in conjunction with the approval of the Preliminary Plans;

b. fund the construction of improvements to Sun Chase Parkway (Arterial C/Four Daughters under the CAMPO 2030 Plan) and improvements to intersections of internal roadways with Pearce and Wolf Lanes in accordance with the Phasing Agreement between the Developer and Travis County, Texas recorded under Document No. 2010040073, Official Public Records of Travis County, Texas, approved in conjunction with the approval of the Preliminary Plans;

c. provide bicycle facilities and access for pedestrians and bicyclists to schools, parks and other destinations as shown on the attached **Exhibit H-2** (Trail & Accessibility);

d. include sidewalks and bike lanes (i) generally meeting the design specifications established for typical arterial and collector street cross-sections under the City's Transportation Criteria Manual and (ii) generally complying with National Association of City Transportation Officials ("*NACTO*") and American Association of State Highway and Transportation Officials ("*AASHTO*") standards, including signage and markings, but not including signalization, as follows:

1. for arterial streets, five-foot bike lanes and six-foot sidewalks;

2. for residential collector roads (60/40), five-foot designated bike lanes on either side of the two 13-15 foot driving lanes, for a total of 40-44 feet of pavement, and five-foot sidewalks;

3. for neighborhood collector roads (64/44), five-foot bike lanes segregated by pavement striping located two feet from the two 13-15 foot driving lanes, for a total of 40-44 feet of pavement, and five-foot sidewalks;

4. for commercial collector roads (70/44), five-foot bike lanes on either side of the three 11-foot driving lanes (consisting of two traffic lanes with a continuous left-turn lane), for a total of 43-44 feet of pavement, and sidewalks as designated by the Commercial Design Standards, Subchapter E;

5. for local streets, four foot sidewalks only.

All applicable requirements will be shown on the construction plans, which are subject to the City's and the County's approval under Title 30.

3. To reserve a ten-acre transit center site at a location to be mutually agreed upon by the Developer and the City during the PUD process. This site may be purchased by the City or, at the City's option, another governmental entity designated by the City by written notice to the

Developer at any time prior to the date the first of the District or one of the Other Southeast Travis County Districts is annexed for full purposes by the City.

4. During the development of the Project, to maintain an on-going dialogue with Capital Metropolitan Transit Authority and any other mass transit service provider regarding mass transit service options and transportation issues.

# EXHIBIT H-1

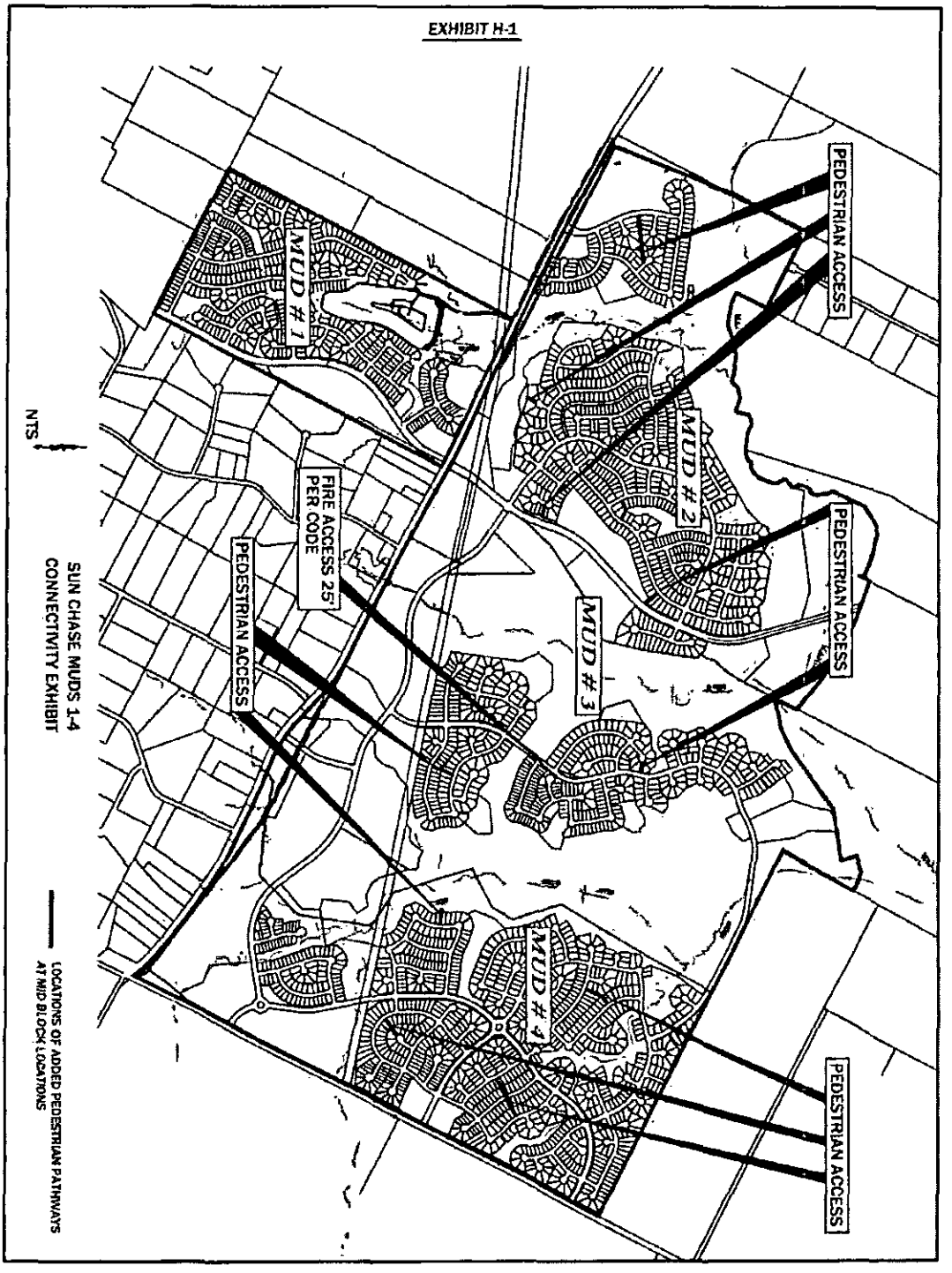




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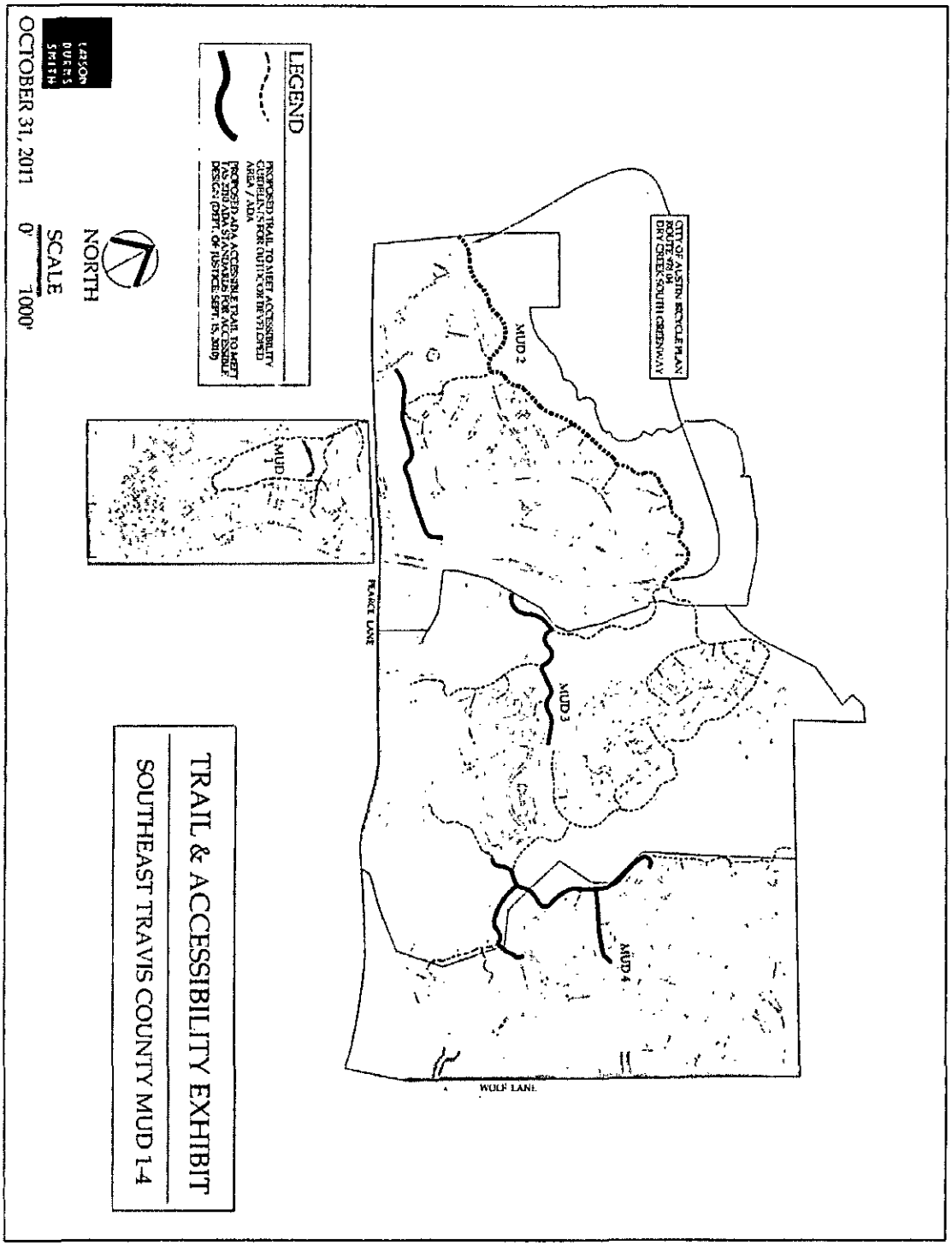
**EXHIBIT H-2**



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## EXHIBIT I

## Building and Urban Design Standards

1. The Developer will meet all PUD Tier I Additional Requirements, with the goal of creating a pedestrian-friendly development, focusing on sidewalks, building placement and frontage.

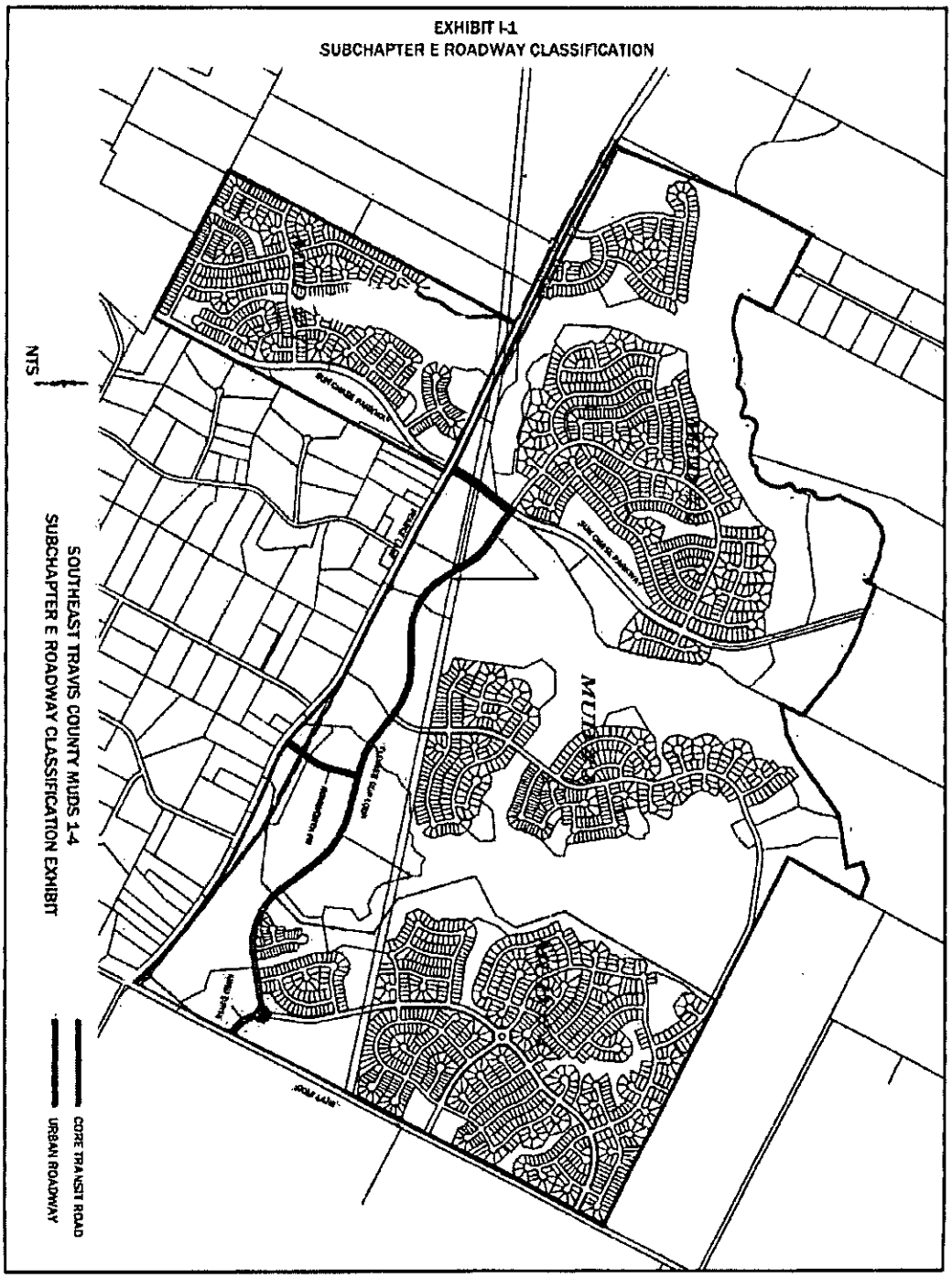
2. The Developer will meet Subchapter E Core Transit Corridor standards for sidewalks and building placement for 50% of the commercial, multi-family and village cluster development on Flower Cup Loop between Sun Chase Parkway and Misu Drive, as shown on the attached **Exhibit I-1** (Subchapter E Roadway Reclassification).

3. The Developer will meet Subchapter E Urban Roadway standards for sidewalks and building placement for 50% of the commercial, multi-family and village cluster development along Sun Chase Parkway from Pearce Lane to Flower Cup Loop; along Rumworth Drive from Pearce Lane to Flower Cup Loop and along Misu Drive from Wolf Lane to Flower Cup Loop, as shown on the attached **Exhibit I-1** (Subchapter E Roadway Reclassification).

4. The Developer will adhere to a maximum block size of five acres for commercial, multi-family and village cluster development.

5. Additional pedestrian, bicycle and fire access will be provided to improve connectivity as set forth on **Exhibit H-1**

# EXHIBIT I-1



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## EXHIBIT J

## Art in Public Places Participation

The Developer will prepare a Public Art Master Plan, which will identify opportunities, guiding principles and locations within the Project for outdoor art installations to be implemented by the Developer. Following installation, all subsequent management, operation and/or maintenance of the artwork will be the responsibility of the Developer or the Owners Association.

## EXHIBIT K

## Affordable Housing Participation

## Affordable Housing Participation

In order to meet the City's affordable housing goals, the Developer agrees as follows:

1. Ten percent of the rental units within the Project will be set aside for households with an income level of 60% or less of the median family income in the Austin metropolitan statistical area for a period of 40 years from the Effective Date of this Agreement.

2. Ten percent of the owner-occupied units within the Project will be priced, at the time of their initial offering for sale, at a price that is affordable to a household with an income level of 80% of the median family income in the Austin metropolitan statistical area.

3. The Developer will make a financial contribution to the City's affordable housing program equal to two percent of the total "hard" construction cost reimbursements actually received by the Developer out of the proceeds of bonds issued by the District and the Other Southeast Travis County Districts, up to a maximum total contribution of $1.8 Million. This contribution will be calculated as follows:

Total District Bond Issue Amount: $_____

Less:

Non-Construction Costs, including:

| | |
|---|---|
| Legal and Financial Advisory Fees: | $_____ |
| Interest Costs, including Capitalized and Developer Interest | $_____ |
| Bond Discount | $_____ |
| Administrative and Organizational (including creation costs and operating advances) | $_____ |
| Bond Application Engineering Report, Market Study | $_____ |
| Bond Issuance Expenses, including TCEQ Bond Issuance Fee, Attorney General Review Fee, Rating Agency Fees, Bond Insurance | $_____ |
| Application, Review and Inspection Fees | $_____ |
| Site Costs | $_____ |
| Offsite Costs | $_____ |
| Engineering and Geotechnical: | $_____ |
| Total Non-construction Costs: | $_____ |

NET ELIGIBLE MUD BOND ISSUE AMOUNT $_____*

AFFORDABLE HOUSING CONTRIBUTION PERCENTAGE: X 2%

AFFORDABLE HOUSING CONTRIBUTION: $_____

4. Each contribution will be calculated based upon costs approved for reimbursement under applicable Commission rules and a report on reimbursable costs prepared by a certified professional accountant on behalf of the District at the time of each Bond issue. Each contribution, along with a copy of the report on reimbursable costs, will be delivered to the City Controller until the maximum contribution of $1.8 Million has been paid. A copy of each report on reimbursable costs will be submitted to the Finance Director concurrently with the delivery of the contribution and report to the Controller.

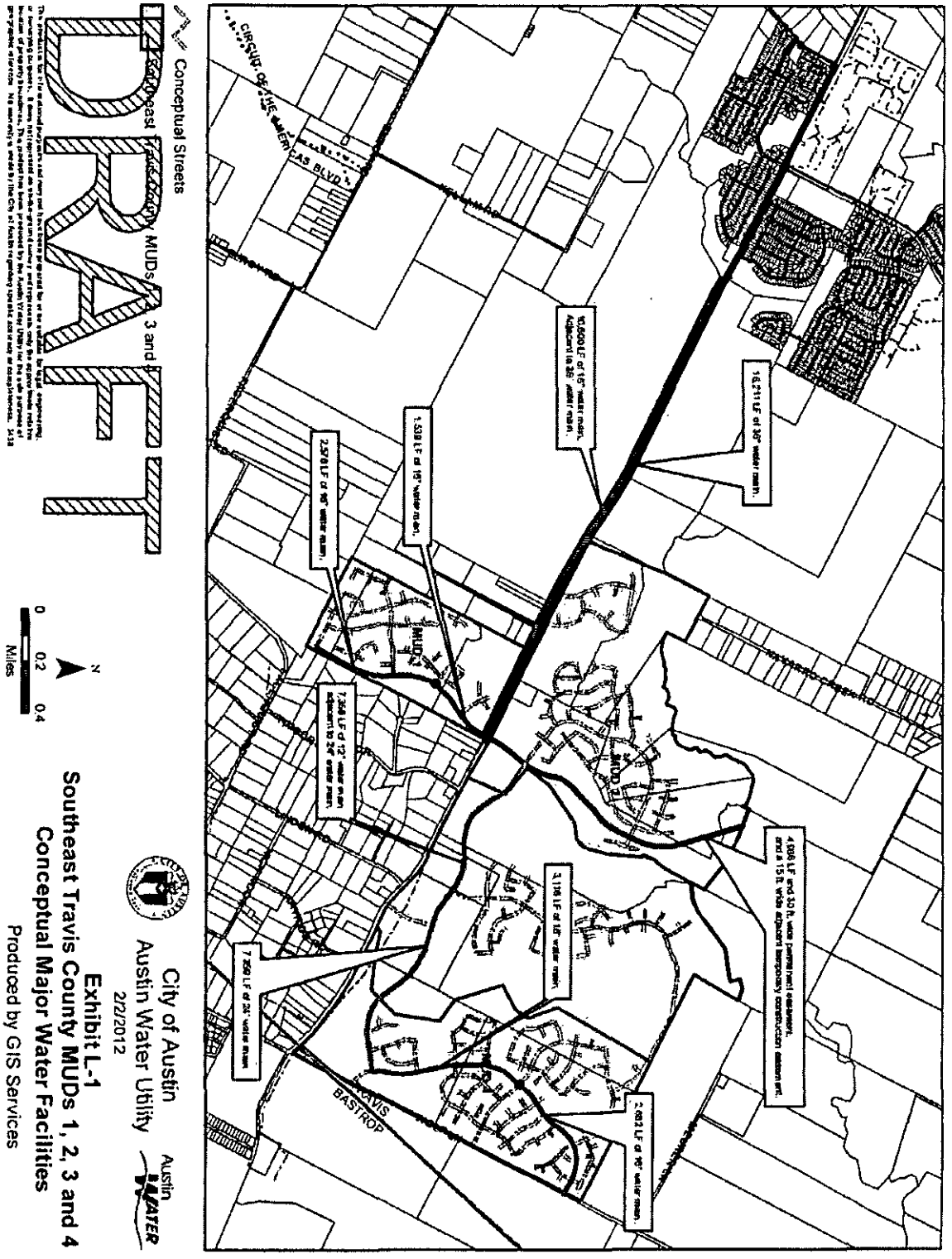
## EXHIBIT L

## Conceptual Water and Wastewater Plans and Easements

Exhibit L includes the attached **Exhibit L-1**: Conceptual Major Water Facilities; **Exhibit L-2**: Conceptual Major Wastewater Facilities; and **Exhibit L-3**: Planned Wastewater Easement Locations. These are conceptual in nature. The Major Water and Wastewater Facilities identified in **Exhibits L-1 and L-2** are based upon the report by Carlson, Brigance & Doering, Inc. dated September 14, 2011 and September 19, 2011 and the updated Master Wastewater Plan dated October 17, 2011. The facilities' sizing required for the Project and the City's oversizing are based upon that report and plan.

The size and capacity of the Major Water and Wastewater Facilities depicted on **Exhibit L-1 and L-2** may be decreased, at the City's sole discretion, if it is determined later that demands within the Project or City's service area on particular facilities will be less than originally estimated.

# EXHIBIT L-1



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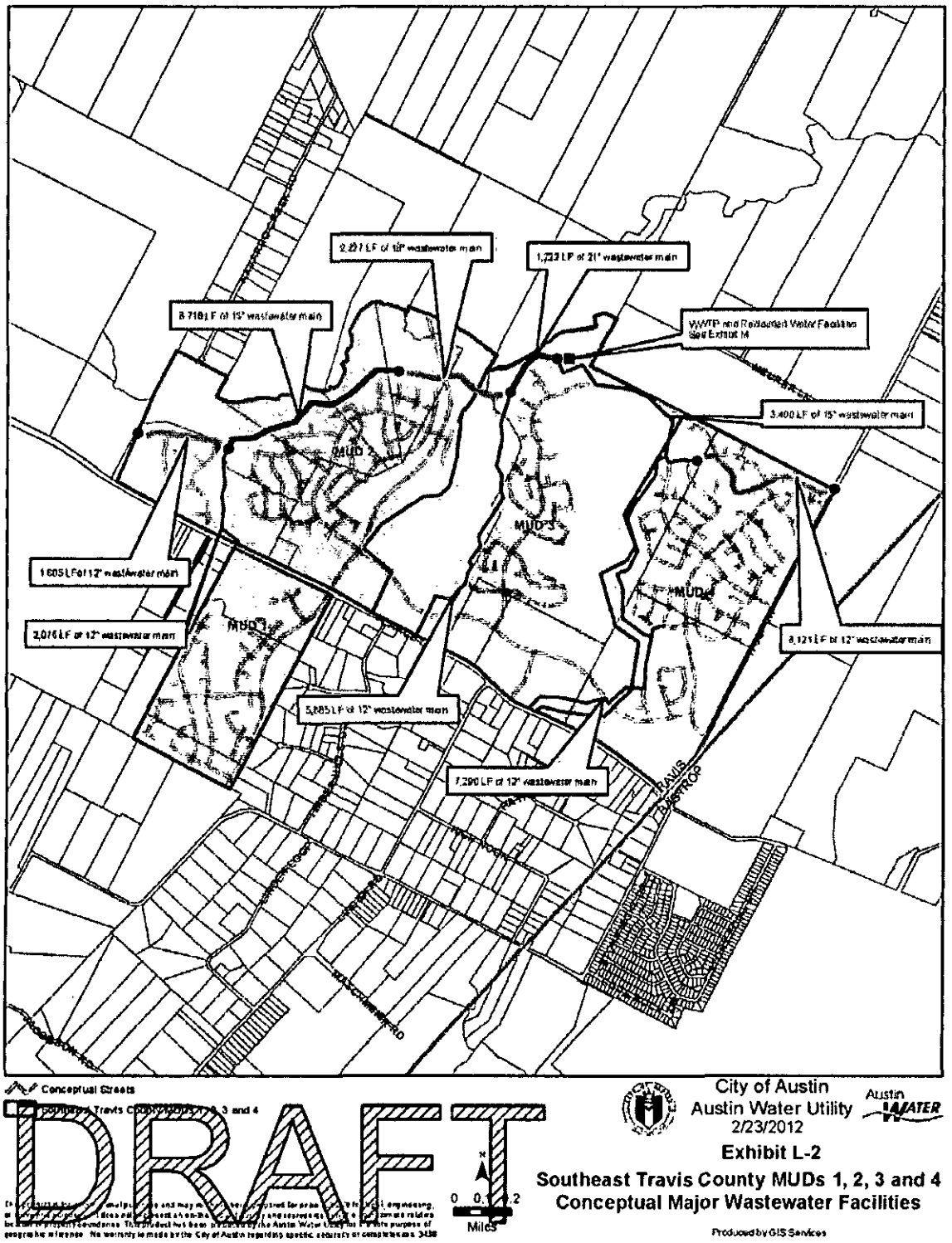
# EXHIBIT L-2



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# EXHIBIT L-3

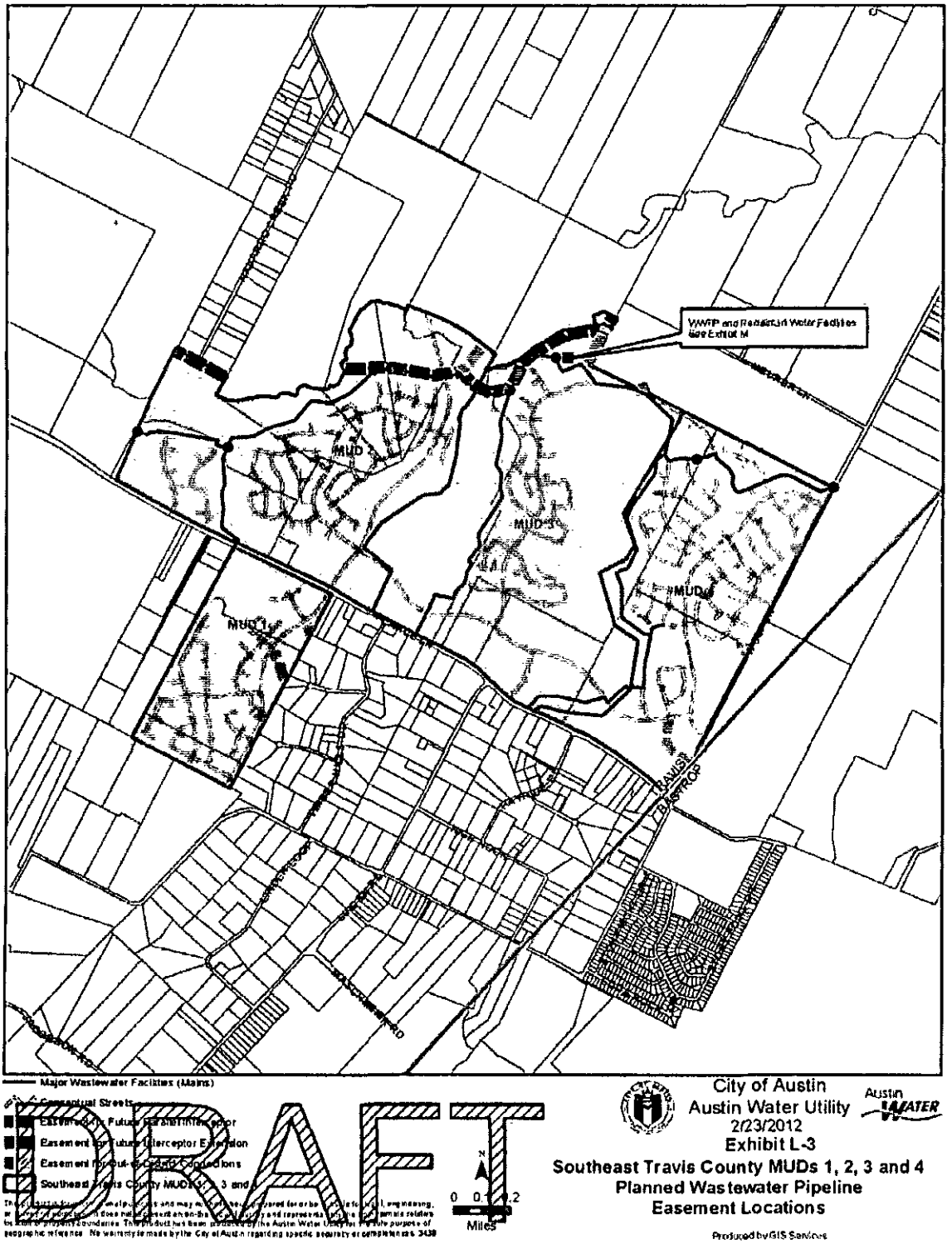




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**EXHIBIT M-1**

**Cost Reimbursements, Waivers and Participation**

| Description | Terms of Cost Reimbursement, Waivers and Participation |
|---|---|
| 1. Impact Fees: The waivers described in this Exhibit have been granted in consideration of the Developer's oversizing, cost participation, construction of Wastewater and Reclaimed Water facilities and waiver of reimbursements described in this Agreement. | 1. The City waives all wastewater Impact Fees for development within the Project.<br><br>2. The City waives a total of $1,499,400 of water Impact Fees for development within the Project. The Developer will receive a water Impact Fee credit in the original amount of $1,499,400, which will be applied and managed as provided in this Exhibit. The City will manage the accounting for the credit's balance, and will provide a reconciliation to the Developer upon request, but no more frequently than once each calendar quarter. The Developer will manage the transfer of portions of the credit as development occurs through credit transfers in the form attached as **Exhibit M-2 (Credit Form)**. This water Impact Fee credit may be applied by the Developer beginning with the first water tap purchased for development within the Project.<br><br>3. The Developer will complete a water Impact Fee credit transfer, in the form attached as **Exhibit M-2**, and provide it to each developer or builder who is to receive a water Impact Fee credit under this Agreement. The completed form, which must include the legal description and street address of the property to which the credit has been assigned, must be signed and notarized by the Developer and presented to the City at the time of tap purchase in order to authorize the City to apply a portion of the Developer's water Impact Fee credit to the water Impact Fees which would otherwise be payable for the development of the property in question.<br><br>4. If a developer or builder pays a water Impact Fee for a property within the Project to the City and later presents a notarized and completed credit transfer form, the City will not be required to refund any water Impact Fees previously paid for the property. In that case, the credit in question will be void and of no effect, and may be applied by the Developer to another property within the Project.<br><br>5. The City will deduct the amount of each water Impact Fee to which a credit is applied from the Developer's water Impact Fee credit's balance. Upon the depletion of the credit, |

| | |
|---|---|
| | the City's standard water Impact Fees will be payable in full for any future development within the Project.<br><br>No credit form will be required to be presented for the waiver of wastewater Impact Fees as provided in this Agreement. |
| 2. Easements or land required for additional oversizing of Major Water and Wastewater Facilities | If the City requests oversizing for Major Water and Wastewater Facilities beyond that identified in **Exhibit L-1 (Water Facilities)** or **Exhibit L-2 (Wastewater Facilities)**, the City will pay its proportionate share of additional land and easements costs, if any, based upon any increase in the size of the easements or any additional land necessary to accommodate the City's additional oversizing and the Developer's cost of such land. The width and length of all required easements or land will be determined by the City in accordance with City design criteria, specifications, and policies. |
| 3. Additional easements required for future Major Water and Wastewater Facilities extensions | The City anticipates that it will require additional easements in the future in order to extend the Major Water and Wastewater Facilities, as set forth on **Exhibit L-3 (Easements).** The width and length of these additional easements will be determined by the City in accordance with City design criteria, specifications, and policies. Because the size and depth of the future infrastructure cannot be determined at this time, the Developer agrees that the easements required within each portion of the Land will be conveyed to the City, at no cost, prior to City's approval of a construction plan or a final plat for that portion of the Land. |
| 4. Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities reimbursements | The City's cost reimbursement ordinances and policies, under which the City would pay more than its proportional share of costs for oversizing, will not be applied or used in any manner for any water, Reclaimed Water, and wastewater infrastructure (Austin City Code Chapter 25-9).<br><br>For those Major Water and Wastewater Facilities identified on **Exhibit L-1** and **Exhibit L-2** which have been oversized at the request of the City, excluding the WWTP, the Developer will pay 100% of all costs associated with the oversizing without reimbursement by the City. This provision will not apply to the WWTP, which is subject to the specific provisions set forth below in this Exhibit.<br><br>The Developer may seek reimbursement from the District for all infrastructure required to provide utility service to the development within the District in accordance with the rules |

| | |
|---|---|
| | of the Commission. |
| 5. Additional oversizing of Major Water and Wastewater Facilities reimbursements | Exclusive of the costs of the Major Water and Wastewater Facilities identified on **Exhibit L-1** and **Exhibit L-2** and the costs of the WWTP, which will be paid as provided in this Agreement and this Exhibit, the City will pay its proportionate share of costs for any additional oversizing of Major Water and Wastewater Facilities beyond that identified in **Exhibit L-1** or **Exhibit L-2**, based upon the difference in the cost of the size of the pipe in accordance with City ordinances. |
| 6. WWTP | 1. The Developer will convey the WWTP Site described on the attached **Exhibit L-2** and **Exhibit L-3** to the City, at no cost to the City, for the WWTP. The WWTP Site will be sized to include land area sufficient for a WWTP with an ultimate treatment capacity of 2.25 million gallons per day (MGD) and Reclaimed Water facilities with an ultimate capacity of 2.25 million gallons per day The WWTP Site will be conveyed to the City, by deed in a form and content reasonably acceptable to the City concurrently with the City's approval of the WWTP design plan to be provided by the Developer under Subsection 3, below, and prior to any construction or site work on the WWTP.<br><br>2. The City has obtained wastewater discharge permit TPDES No. WQ0010543015 (the "Permit") for the WWTP to be constructed with a treatment capacity of 300,000 gallons per day (GPD). The City will be responsible for processing all renewals, modifications and amendments to the Permit, at its sole cost, as required to allow expansions of the WWTP to be constructed in a timely manner and to assure the continued availability of service to the Project.<br><br>3. The Developer will cause the WWTP to be designed with an ultimate treatment capacity of 2.25 MGD and ultimate Reclaimed Water capacity of 2.25 MGD and will provide the design and engineering plans to the City for its review and approval, which approval will not be unreasonably withheld, conditioned or delayed.<br><br>4. The first 300,000 GPD phase of the WWTP (the "First Phase") will be constructed by the Developer, at no cost to the City, on the WWTP Site. The Developer will only be required to post fiscal security based upon the construction of the First Phase (300,000 GPD). Only the site area for the First Phase will be required to be fenced as part of the First Phase. In consideration of the Developer's construction of the First Phase, the City |

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| | agrees to provide 1,244 LUEs (determined based on the City's utility design criteria) of wastewater service to the Project. The City will be responsible for providing 1,244 LUEs of wastewater service to the Project, as and when required for development within the Project, regardless of whether other properties outside of the Project are provided wastewater service by the City through the First Phase. All future expansions of the WWTP will be constructed by the City, as provided in this Exhibit.<br><br>5. By September 31st of each year, the Developer will provide an annual report to the Austin Water utility which includes a projection of estimated development in LUES by land use categories, based on the City's utility design criteria, for the next five years in order to assist the City in projecting future wastewater flows for the Project.<br><br>6. The City will calculate the number of LUEs of wastewater service required for the Project based on each submitted site plan or final plat. When the number of LUEs so calculated by the City exceeds 1,244, the City, at the City's discretion, will not be required to approve any further construction plans or final plats of property within the Project until the Developer makes a one-time, lump sum payment ("WWTP Capacity Payment") to the City for each site plan or final plat. The WWTP Capacity Payment will be calculated by the City by taking the total existing treatment capacity of the WWTP and dividing that amount of capacity by the capacity of wastewater service required for one LUE (using the City's most recent utility design criteria) to obtain the total number of LUEs of wastewater service available through the WWTP. The actual hard and soft costs from all previous construction phases of the WWTP, exclusive of engineering and design fees previously paid by the Developer associated with the WWTP's ultimate treatment capacity of 2.25 MGD, will be divided by the total number of LUEs of wastewater service determined under the preceding sentence. The resulting cost per LUE will be multiplied by the number of LUEs required by the Developer for service to the property within the submitted site plan or final plat to calculate the WWTP Capacity Payment for that plan or plat. The City will determine a reasonable amount of LUEs to be purchased by the Developer based on the site plan or final plat in question. The City's determination will be consistent with the 2.25 MGD design for the WWTP and other related City criteria. The Developer will pay the WWTP Capacity Payment to the City's Austin Water utility prior to the City's approval of the construction plan or final plat for which additional LUES of service are required. This WWTP Capacity Payment will be in lieu of, and not in addition to, the City's |

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| | wastewater Impact Fees for such additional LUEs of service.<br><br>7. The Developer may request additional LUEs of wastewater service at any time, but the request must be submitted at least 18 months prior to the time the additional wastewater service is required if the City will be required to construct the next phase of the WWTP in order to provide such service. If the request for additional LUEs will not require an expansion of the WWTP, as determined by the Commission's rules and the City, then the additional LUES of wastewater service will be provided immediately.<br><br>8. The Developer, at no cost to the City, will construct the base WWTP facilities described below, which will be required not only for service through the First Phase, but also for the second expansion of the WWTP to 1.2 MGD, in order to minimize the costs of subsequent expansions. These facilities must be completed concurrently with the construction of the First Phase. These base facilities are as follows: an all-weather access road to the WWTP, electrical components, telephone service, influent wet well and appurtenances (including a splitter box), outfall/discharge structure, piping, chemical feeds, and the operations building shell.<br><br>9. The Developer may, at its discretion, provide mowing services, at its cost, for that portion of the WWTP Site that is located outside of the fencing for the First Phase. The City is not required to provide mowing services for the portion of the WWTP Site located outside of the fencing for the First Phase. The City will provide mowing services to the area inside the fencing for the First Phase and, as the WWTP and the area enclosed by fencing is expanded, the City will be responsible for providing mowing services inside the expanded fenced area. The City may, at its discretion, provide mowing services, at its cost, for that portion of the WWTP Site that is located outside of the fencing beyond the First Phase.<br><br>10. All WWTP expansions may include capital improvements related to repair and replacement of facilities to allow the expansion to become operational and such improvements will be considered a part of the expansion provided that the repair and replacement does not alter the intent of the original design of the facilities. |
| 7. Reclaimed Water Facilities | 1. The Developer agrees to construct, at no cost to the City, Reclaimed Water facilities concurrently with the phased development of the Project to meet the Reclaimed Water |

needs for public open space and parks, and private parks and recreation facilities for each phase of development within the Project. The Reclaimed Water distribution facilities will be sized for the transmission of 2.25 MGD of Reclaimed Water. The Developer will only be required to post fiscal for the construction of Reclaimed Water facilities with a capacity of 1.2 MGD. The City will be responsible for obtaining the Section 210 reuse permit required for the use of the Reclaimed Water at its sole cost.

2. Upon the City's acceptance of the Reclaimed Water facilities, the City will be responsible for providing Reclaimed Water to the Project, as and when required for development within the Project, regardless of whether other properties outside of the Project are provided Reclaimed Water service by the City. All future expansions of the Reclaimed Water facilities at the WWTP site will be constructed by the Developer up to a capacity of 1.2 MGD. All future expansions of the Reclaimed Water facilities at the WWTP site beyond the 1.2 MGD treatment capacity will be constructed by the City, as provided in this Exhibit. Notwithstanding the foregoing, the Developer will be responsible for the construction of all Reclaimed Water distribution facilities within the Project, without reimbursement by the City. Reclaimed Water will be provided to users within the Project at the City's standard in-City retail rate. The City's Impact Fees applicable within its extraterritorial jurisdiction will be applicable to the development within the Project.

3. If the Developer or the District wishes to obtain additional Reclaimed Water service beyond 1.2 MGD, the Developer or the District will be required to make a one-time, lump sum payment ("Reclaimed Water Capacity Payment") to the City for the additional capacity requested. The actual hard and soft costs from all previous construction phases of the Reclaimed Water facilities, exclusive of engineering and design fees previously paid by the Developer associated with the design for 2.25 MGD of Reclaimed Water capacity, will be divided by the total number of gallons of existing capacity of the Reclaimed Water facilities. The resulting cost per gallon will be used to calculate the Reclaimed Water Capacity Payment for the amount of additional Reclaimed Water capacity requested. If additional Reclaimed Water capacity beyond 1.2 MGD for the Project is requested, the Developer or the District will pay the Reclaimed Water Capacity Payment to the City's Austin Water utility for that portion of the requested Reclaimed Water capacity which the City determines is available.

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| 8. Water Facilities | 1. Up to 800 LUEs of water service (subject to the fire flow limitation stated below) will be provided to the Project from the 16" water main along Pearce Lane depicted on **Exhibit L-1**. The City will not be required to provide more than 800 LUEs of water service to the Project until the 36" water main described on **Exhibit L-1** is constructed and accepted by the City. The City will provide 800 LUEs of water service to the Project regardless of whether the City provides water service to other properties outside of the Project through the 16" water main.<br><br>2. The City will only be required to provide water service to individual lots or structures for which the required fire flow does not exceed 1,500 gallons per minute (gpm). Any lot or structure that will require a fire flow greater than 1,500 gpm will only be provided water service after the 36" water main shown on **Exhibit L-1** is constructed and is accepted by the City.<br><br>3. The LUEs of water service being provided to the Project will be calculated by the City based upon the total number of LUEs required for service to all approved site plans or final plats for the Project. If the 36" water main is not operational after the City has approved the 800th LUEs of water service for the Project, then the City will not be required to approve any further construction plans or final plats for the Project until 36" water main shown on **Exhibit L-1** is constructed and accepted by the City. If the City has not utilized the 16' water main described in Subsection 1 to provide service to areas outside of the Project, the 36" water main will be constructed by the Developer. If, however, the City has provided service to properties outside of the Project through the 16" water main and, as a result, 800 LUEs of water service are not available to the Project through the 16" water main, then the City will construct the 36" water main.<br><br>4. The Developer or the City, whichever is responsible under Subsection 3, above, agrees to initiate the design of the 36" water main on or before the date on which the Developer files a site plan or final plat which would, in combination with all previously approved site plans or final plats for the Project, require in excess of 600 LUEs of water service be provided to the Project. The Developer or the City, whichever is responsible under Section 3, above, agrees to begin construction of the 36" water main on or before the date on which the Developer files a site plan or final plat which would, in combination with all previously approved site plans or final plats for the Project, require in excess of 700 LUEs of water service |

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| | be provided to the Project.<br><br>5. Neither the Developer nor the Developer's successors or assigns (including the Owners Association) will have any right to reimbursement or cost participation from the City for Reclaimed Water facilities. |
| | |

**EXHIBIT M-2**

**CREDIT TRANSFER**

1. Qualico CR, L.P., a Texas limited partnership, acting by and through its undersigned, duly authorized representative ("*Qualico*"), hereby transfers a water Impact Fee credit arising under the Consent Agreements between Qualico CR, L.P and the City of Austin for Southeast Travis County Municipal Utility Districts No. 1-4 as follows:

**Transferee:**_____

**Contact Information for Transferee:**_____

_____

_____

_____

**Property:**

Street Address:_____

Legal Description:_____

_____

_____

_____

_____

**Number of service units (according to American Water Works Association criteria) for which this credit is issued:**_____

2. Transferee acknowledges that this Credit Transfer must be presented to the City of Austin prior to the payment of the water Impact Fees for the Property. If Transferee pays the water Impact Fees for the Property and later presents this Credit Transfer, no refund will be issued by the City and this Credit Transfer will be void and of no further force and effect, and the water Impact Fee credit provided for in this Credit Transfer will revert to and become the property of Qualico, and may be applied to other property without liability to Transferee.

Executed this ____ day of _____, 20__.

**QUALICO CR, LP**, a Texas limited partnership

By: Qualico CR Management, LLC, a Texas limited liability company, its general partner

By: Qualico Developments (U.S.), Inc., a Delaware corporation, its manager

By:_____

_____

By:_____

_____

Date:_____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, _____ of Qualico Developments (U.S.), Inc., a Delaware corporation, Manager of Qualico CR Management, LLC, a Texas limited liability company, General Partner of Qualico CR, LP, a Texas limited partnership, on behalf of said corporation, limited liability company and limited partnership.

(SEAL)

_____
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, _____ of Qualico Developments (U.S.), Inc., a Delaware corporation, Manager of Qualico CR Management, LLC, a Texas limited liability company, General Partner of Qualico CR, LP, a Texas limited partnership, on behalf of said corporation, limited liability company and limited partnership.

(SEAL)

_____
Notary Public, State of Texas

**ACCEPTED AND AGREED TO BY:**

_____

By:_____

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



{W0533560.2}

**EXHIBIT M-3**

**RESTRICTIVE COVENANT**

OWNER: _____ (the "*Owner*")

ADDRESS: _____

CONSIDERATION: Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

PROPERTY: _____ (the "*Property*")

A. Owner, the City of Austin, Texas (the "*City*"), and Southeast Travis County Municipal Utility District No. ___ (the "*District*") previously entered into the Consent Agreement for Southeast Travis County Municipal Utility District No. ____, dated as of _____, 2012 (the "*Consent Agreement*").

B. Section 6.09 of the Consent Agreement requires that, if the easements necessary to extend the Major Water and Wastewater Facilities (as defined in the Consent Agreement) across any portion of the Land (as defined in the Consent Agreement) have not been dedicated or conveyed to the City prior to sale by Owner, that portion of the Land must be impressed with a restrictive covenant requiring the purchaser to donate the easements in question to the City.

C. Owner desires to sell the Property, and all easements across the Property required by Section 6.09 of the Consent Agreement have not yet been dedicated or conveyed to the City.

THEREFORE, for good and valuable consideration, and in compliance with Section 6.09 of the Consent Agreement, Owner hereby declares that the Property will be subject to the following covenants and restrictions, which will run with the land, and be binding upon Owner, and its successors and assigns:

1. Capitalized terms not otherwise defined herein will have the meanings ascribed to them in the Consent Agreement, a copy of which is on file with the City.

2. Land and easements within the Property that are required for the Major Water and Wastewater Facilities must be conveyed to the City, in lengths and widths which are consistent with the City's Utility Design Criteria and the Consent Agreement, on forms approved by the City and at no cost to the City, at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed.

3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

5. If at any time the City fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppels of the right to enforce it.

6. This agreement may be modified, amended or terminated only by joint action of both (a) the Director of the Austin Water Utility, or his successor, and (b) the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

7. This agreement will automatically terminate and be of no force or effect as to any of the Property for which the City has approved construction plans or for which a final plat, approved by the City, has been recorded.

EXECUTED this the ____ day of _____, 20____.

## EXHIBIT N

## Park and Open Space Requirements

1. Within the Project, the Developer agrees to provide the park and open space land in the approximate amounts set forth below, which approximately ten times the PUD Tier I requirements:

| District | Required | Provided | Less Utility Easements | Net Acres |
|---|---|---|---|---|
| SETC 1 | 9.70 | 49.11 | (2.340) | 46.77 |
| SETC 2 | 12.43 | 184.49 | (17.0) | 167.49 |
| SETC 3 | 20.09 | 295.4 | (13.53) | 281.87 |
| SETC 4 | 15.68 | 73.87 | (7.34) | 66.53 |
| | 57.9 | 602.87 | (40.21) | 562.66 |

2. Other than the OA Amenities and any other park improvement owned by the Owners Association which are available for use by reservation through the Owners Association, the park and open space areas in the Project will be open to the public.

3. Parks will be dispersed throughout the Project, located within ¼ mile of each residence within the Project, to the extent feasible and practicable, and accessible by pedestrians and cyclists in all Project neighborhoods.

4. The acreage amounts set forth above are estimates, based on the Land Plan, and the final acreage of park and open space land will be determined during the PUD process and some floodplain areas may be reclaimed for development.

**SE Travis County MUD No. 4**
**Proforma Bonding Capacity Worksheet**

FOR PURPOSES OF ILLUSTRATION ONLY

| | | |
|---|---|---|
| [illegible] | $ | [illegible] |
| [illegible] | | [illegible] |
| Maximum Total Tax Rate | $ | 0.9800 |

| Year Tax | Year Fiscal | Projected TAV | Available I&S Tax Rate | Collections @ 95.00% | Est. Cap-I | Available for D/S | $3,880,000 Series 2023 5.35% | $4,555,000 Series 2025 5.35% | $5,800,000 Series 2027 5.35% | $6,785,000 Series 2029 5.35% | Total Projected D/S | Projected Ending I&S Fund Balance | % of Next Year's D/S | M&O Tax | Total Tax Rate |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2020 | 2021 | $ 569,821 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | n/a | $ 0.9800 | $ 0.9800 |
| 2021 | 2022 | 14,138,490 | - | - | - | - | - | - | - | - | - | - | n/a | 0.9800 | 0.9800 |
| 2022 | 2023 | 27,048,995 | - | - | - | - | - | - | - | - | - | - | n/a | 0.9800 | 0.9800 |
| 2023 | 2024 | 39,745,731 | 0.7300 | 275,637 | 415,160 | 690,797 | 207,580 | - | - | - | 207,580 | 483,217 | 233% | 0.2500 | 0.9800 |
| 2024 | 2025 | 63,721,013 | 0.7300 | 441,905 | - | 925,122 | 207,580 | - | - | - | 207,580 | 717,542 | 133% | 0.2500 | 0.9800 |
| 2025 | 2026 | 84,976,910 | 0.7300 | 589,329 | 487,385 | 1,794,256 | 297,215 | 243,693 | - | - | 540,907 | 1,253,348 | 232% | 0.2500 | 0.9800 |
| 2026 | 2027 | 118,777,201 | 0.7300 | 823,720 | - | 2,077,068 | 297,215 | 243,693 | - | - | 540,907 | 1,536,161 | 161% | 0.2500 | 0.9800 |
| 2027 | 2028 | 141,926,995 | 0.7300 | 984,284 | 620,600 | 3,141,025 | 297,215 | 348,921 | 310,300 | - | 958,435 | 2,184,590 | 228% | 0.2500 | 0.9800 |
| 2028 | 2029 | 177,343,886 | 0.7300 | 1,229,880 | - | 3,414,469 | 297,215 | 348,921 | 310,300 | - | 958,435 | 2,456,034 | 169% | 0.2500 | 0.9800 |
| 2029 | 2030 | 208,081,198 | 0.7300 | 1,443,043 | 725,996 | 4,627,072 | 297,215 | 348,921 | 444,290 | 362,998 | 1,453,423 | 3,173,649 | 218% | 0.2500 | 0.9800 |
| 2030 | 2031 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,616,692 | 297,215 | 348,921 | 444,290 | 362,998 | 1,453,423 | 3,163,270 | 196% | 0.2500 | 0.9800 |
| 2031 | 2032 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,606,313 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,996,145 | 186% | 0.2500 | 0.9800 |
| 2032 | 2033 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,439,188 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,829,020 | 176% | 0.2500 | 0.9800 |
| 2033 | 2034 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,272,064 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,661,896 | 165% | 0.2500 | 0.9800 |
| 2034 | 2035 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,104,939 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,494,771 | 155% | 0.2500 | 0.9800 |
| 2035 | 2036 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,937,814 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,327,646 | 145% | 0.2500 | 0.9800 |
| 2036 | 2037 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,770,689 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 2,160,522 | 134% | 0.2500 | 0.9800 |
| 2037 | 2038 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,603,565 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,993,397 | 124% | 0.2500 | 0.9800 |
| 2038 | 2039 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,436,440 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,826,272 | 113% | 0.2500 | 0.9800 |
| 2039 | 2040 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,269,315 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,659,147 | 103% | 0.2500 | 0.9800 |
| 2040 | 2041 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,102,191 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,492,023 | 93% | 0.2500 | 0.9800 |
| 2041 | 2042 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,935,066 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,324,898 | 82% | 0.2500 | 0.9800 |
| 2042 | 2043 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,767,941 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 1,157,773 | 72% | 0.2500 | 0.9800 |
| 2043 | 2044 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,600,816 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 990,649 | 62% | 0.2500 | 0.9800 |
| 2044 | 2045 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,433,692 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 823,524 | 51% | 0.2500 | 0.9800 |
| 2045 | 2046 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,266,567 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 656,399 | 41% | 0.2500 | 0.9800 |
| 2046 | 2047 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,099,442 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 489,275 | 30% | 0.2500 | 0.9800 |
| 2047 | 2048 | 208,081,198 | 0.7300 | 1,443,043 | - | 1,932,318 | 297,215 | 348,921 | 444,290 | 519,743 | 1,610,168 | 322,150 | 20% | 0.2500 | 0.9800 |
| 2048 | 2049 | 208,081,198 | 0.7300 | 1,443,043 | - | 1,765,193 | - | 348,921 | 444,290 | 519,743 | 1,312,953 | 452,240 | 34% | 0.2500 | 0.9800 |
| 2049 | 2050 | 208,081,198 | 0.7300 | 1,443,043 | - | 1,895,283 | - | 348,921 | 444,290 | 519,743 | 1,312,953 | 582,330 | 80% | 0.2500 | 0.9800 |
| 2050 | 2051 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,025,373 | - | - | 444,290 | 519,743 | 964,032 | 1,061,340 | 110% | 0.2500 | 0.9800 |
| 2051 | 2052 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,504,383 | - | - | 444,290 | 519,743 | 964,032 | 1,540,351 | 298% | 0.2500 | 0.9800 |
| 2052 | 2053 | 208,081,198 | 0.7300 | 1,443,043 | - | 2,983,394 | - | - | - | 519,743 | 519,743 | 2,463,652 | 474% | 0.2500 | 0.9800 |
| 2053 | 2054 | 208,081,198 | 0.7300 | 1,443,043 | - | 3,906,695 | - | - | - | 519,743 | 519,743 | 3,386,952 | n/a | 0.2500 | 0.9800 |
| 2054 | 2055 | 208,081,198 | 0.7300 | 1,443,043 | - | 4,829,995 | - | - | - | - | - | 4,829,995 | n/a | 0.2500 | 0.9800 |
| 2055 | 2056 | 208,081,198 | 0.7300 | 1,443,043 | - | 6,273,038 | - | - | - | - | - | 6,273,038 | n/a | 0.2500 | 0.9800 |
| 2056 | 2057 | 208,081,198 | 0.7300 | 1,443,043 | - | 7,716,081 | - | - | - | - | - | 7,716,081 | n/a | 0.2500 | 0.9800 |
| 2057 | 2058 | 208,081,198 | 0.7300 | 1,443,043 | - | 9,159,124 | - | - | - | - | - | 9,159,124 | n/a | 0.2500 | 0.9800 |
| 2058 | 2059 | 208,081,198 | 0.7300 | 1,443,043 | - | 10,602,168 | - | - | - | - | - | 10,602,168 | n/a | 0.2500 | 0.9800 |
| | | | | | $ 2,249,140 | | $ 7,251,086 | $ 8,512,562 | $ 10,839,267 | $ 12,680,074 | $ 39,283,000 | | | | |

| | | | | | |
|---|---|---|---|---|---|
| | Par Amount | $ 3,880,000 | $ 4,555,000 | $ 5,800,000 | $ 6,785,000 |
| 2 years | Cap-I | (415,160) | (487,385) | (620,600) | (725,995) |
| 3.00% | UW's Discount | (116,400) | (136,650) | (174,000) | (203,550) |
| 4.00% | FA & BC | (155,200) | (182,200) | (232,000) | (271,400) |
| | TCEQ application | (40,000) | (40,000) | (40,000) | (40,000) |
| 0.25% | TCEQ fee | (9,700) | (11,388) | (14,500) | (16,963) |
| | AG Fee | (3,880) | (4,555) | (5,800) | (6,785) |
| | Developer Interest | (301,597) | (354,732) | (452,764) | (530,301) |
| 0.50% | Misc | (19,400) | (22,775) | (29,000) | (33,925) |
| | Est. Proceeds | $ 2,818,063 | $ 3,316,309 | $ 4,231,346 | $ 4,956,082 |

Specialized Public Finance Inc

3/1/2012

EXHIBIT O

Exhibit O
Page 1 of 1

{W0533560.2}

## EXHIBIT P

## "Plain Speak" Notice Form

The property that you are about to purchase is located within Southeast Travis County Municipal Utility District No. 1 (the "*District*"). The District is a governmental entity with taxing powers that was created by the Texas Legislature with the consent of the City of Austin (the "*City*). The District and the City have entered into a Consent Agreement (the "*Consent Agreement*") that contains provisions that may affect you as a property owner. The following summary describes certain important provisions of the Consent Agreement, but does not include every provision of the Consent Agreement which may affect you or the property you are purchasing. You may obtain a full and complete copy of the Consent Agreement from the District upon your request.

1. Governance. The District is governed by a five-member Board of Directors. The City is authorized to appoint one member of the Board. The other four Board members are elected by the residents of the District to serve four-year, staggered terms. No Board member may serve more that two four-year terms of office. No Board member may receive fees of office for more than 16 days of service in any District fiscal year.

2. City Services. The City provides retail water and wastewater service and residential solid waste and recycling services within the District. Neither the District nor any other utility or service provider may provide these services. The City will only provide City services provided for by the Consent Agreement, and any other services which the City may agree to provide under a separate contract, to areas within the District prior to the City's full purpose annexation of the District.

3. District Tax Rate. The Consent Agreement requires that the District's tax rate be no less than the City's tax rate.

4. Annexation; Creation of Limited District. The City has annexed all of the land in the District for the limited purposes of planning and zoning; therefore, development within the District is subject to City regulation, including the City's zoning ordinances. When the District is annexed by the City for full purposes, the District will be converted to a "limited district" that will continue to own and operate certain park and open space land, and related facilities. This limited district will levy and collect a tax, which will be in addition to the City's ad valorem tax, to provide the limited district with funds for operation and maintenance.

5. Restrictive Covenants. The District does not have the power to enforce restrictive covenants. All restrictive covenants will be enforced by the owners association for the development.

6. Park Facilities. The District is not authorized to own, finance, construct, or maintain swimming pools, splash pads, and community centers, or related improvements, land and infrastructure. These improvements may only be owned, operated and maintained by the owners association for the development.

7. Assessments by Owners Association. All property owners in the District are required to become members of the owners association, which will levy assessments on the property in the District and has the power to place liens on property to enforce the payment of the assessments. The owners association's assessments are in addition to the taxes levied and collected by the District (or, after full purpose annexation, limited district and the City).

8. Post Annexation Surcharge. After full purpose annexation of the District, the Consent Agreement authorizes the City to charge and collect water and wastewater rates to customers within the territorial boundary of the District at the time of annexation which vary from the City's standard rates in order to compensate the City for the assumption of the debt on the District's Bonds. These rates will be reflected as a post annexation surcharge on the customers' monthly utility bills and will be stated as a percentage of the water and sewer rates of the City.

**EXHIBIT C**

February 28, 2012 draft

**STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF AUSTIN AND SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4**

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

This Strategic Partnership Agreement (this "*SPA*") is between the **City of Austin, Texas**, a home-rule municipality located in Travis, Hays, and Williamson Counties, Texas ("*the City*") and **Southeast Travis County Municipal Utility District No. 4** (the "*District*"), a political subdivision of the State of Texas created under Chapter 8382, Subtitle F, Title 6, Texas Special District Local Laws Code (the "*Enabling Legislation*") and Chapters 49 and 54 of the Texas Water Code. Qualico CR, L.P., a Texas limited partnership (the "*Developer*"), has joined in this SPA for the sole purpose of evidencing its consent to the City's annexation of its land as contemplated by this SPA. In this SPA, the City and, prior to the Conversion Date, as defined below, the District, and, after the Conversion Date, the Limited District are sometimes individually referred to as a "*Party*" and collectively referred to as the "*Parties*".

**RECITALS**

A. The District is a municipal utility district that has been created under the Enabling Legislation and currently contains 378.452 acres of land, as more fully described on the attached **Exhibit A** (the "*Land*"). The City has consented to the creation of the District by Ordinance No. _____ adopted _____, 2012 (the "*Consent Ordinance*") and under the terms of the Consent Agreement between the City, the District and the Developer dated effective as of _____, 2012 (the "*Consent Agreement*").

B. The Consent Agreement requires, among other things, that the District negotiate and enter into a strategic partnership agreement with the City setting forth the terms on which the District will continue to exist after the full-purpose annexation of the District by the City. The District desires to comply with that requirement through the approval and execution of this SPA.

C. The Enabling Legislation provides that (i) any agreement related to the City's consent to the creation of the District is valid and enforceable, and (ii) a strategic partnership agreement between the City and the District may provide for a term of any number of years and the term limitation contained in Section 43.0751(g)(2), Texas Local Government Code, does not apply to a limited district created under such a strategic partnership agreement.

D. The City and the District are authorized and desire to enter into this SPA to establish the terms and conditions upon which (i) the City will annex all of the land within the District for limited and full purposes, and (ii) following the full purpose annexation of all of the land within the District, the District will be converted to and operate as a limited district under Section 43.0751, Texas Local Government Code.

E. In accordance with Section 43.0751(d), Texas Local Government Code, the District has conducted two public hearings at which members of the public who wished to present testimony or evidence regarding this SPA were given the opportunity to do so, with the first public hearing being held at _____ _._. on _____, _____, 2012, and the second public hearing being held at ____ _._. on _____, _____ 2012, at the offices of Armbrust & Brown, PLLC, 100 Congress Avenue, Suite 1300, Austin, Texas. Notice of the public hearings in the format required by Section 43.123(b) and Section 43.0751(d), Texas Local Government Code, was given on or after the 20th date before each public hearing. Following the

public hearings, the Board of Directors of the District approved this SPA on _____, 20__, in an open meeting held in accordance with Chapter 552, Government Code (the "*Texas Open Meetings Act*").

F. In accordance with Section 43.0751(d), Texas Local Government Code, the City has also conducted two public hearings at which members of the public who wished to present testimony or evidence regarding this SPA and the City's annexation of the Land were given the opportunity to do so, with the first public hearing being held at _____ _._. on _____, _____, 2012, and the second public hearing being held at ___ _._. on _____, _____ 2012, at _____. Notice of the public hearings in the format required by Sections 43.123(b), 43.0751(d), and 43.063(c), Texas Local Government Code, was given on or after the 20th date before each public hearing. Following the public hearings, the City Council of the City approved this SPA on _____, 2012, in an open meeting held in accordance with the Texas Open Meetings Act.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained in this SPA, and other good and valuable consideration, the City and the District agree as follows:

## ARTICLE I.
## DEFINITIONS, PURPOSE, AND LEGAL AUTHORITY

### Section 1.01. Confirmation of Recitals; Legal Authority.

The City and the District confirm that the recitals set forth above are true and correct, and that this SPA has been duly approved and adopted in accordance with all applicable requirements of Section 43.0751, Texas Local Government Code, and as authorized by the Enabling Legislation. The District confirms and agrees that this SPA relates to the City's consent to the creation of the District, and is valid and enforceable.

### Section 1.02. Definitions.

In addition to the terms defined elsewhere in this SPA, when used in this SPA, each of the following terms will have the meaning indicated below:

Annexation Corridor means a corridor through the Land which may be annexed by the City prior to the full-purpose annexation of the remainder of the Land, as provided in Section 3.07 of this SPA.

Board means the Board of Directors of the District or, after the Conversion Date, the Board of Directors of the Limited District.

City Annexation Notice means the notice of the City's intent to annex the District, to be recorded in the Official Public Records of Travis County, Texas attached as **Exhibit B**.

City Council means the City Council of the City.

City Manager means the City Manager of the City or his designee.

Commission means the Texas Commission on Environmental Quality, or its successor agency.

Conversion Date means the date on which all remaining Land is converted from Limited Purpose Annexation status to full purpose annexation status, and the District is converted to the Limited District, subject to Section 3.08 of this SPA.

District means Southeast Travis County Municipal Utility District No. 4.

Drainage Facilities means any drainage improvements designed and constructed to serve the Project, or that naturally receive and convey drainage through the Project, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

Effective Date means the date this SPA has been approved and executed by both the City and the District.

Land means the land within the District's boundaries, as those boundaries may be modified from time to time with the consent of the City.

Limited District means Southeast Travis County Limited District No. 4, the limited district to be created upon the City's full purpose annexation of all of the Land in accordance with this SPA.

Limited District Facilities means the open space and Recreational Facilities which will be owned, operated, and maintained by the District prior to the Conversion Date and owned, operated, and maintained by the Limited District after the Conversion Date.

Limited Purpose Annexation means annexation by the City for the limited purposes of planning and zoning, as authorized by Article I, Section 7 of the City's Charter.

Notice means any formal notice or communication given by one Party to this SPA to the other.

OA Amenities means swimming pools, splash pads, community centers and other park and recreational facilities for the Project and any related improvements, land and infrastructure that will be owned, operated and maintained by the Owners Association, as approved by the City Manager, which approval will not be unreasonably withheld, conditioned, or delayed. Drainage Facilities or utility infrastructure, public roads and sidewalks, and other utility or public infrastructure that is owned, operated, and maintained by the District, the City, another governmental entity or a public utility will not constitute OA Amenities.

Owners Association means a Texas nonprofit corporation created by the Developer to, among other things, enforce restrictive covenants and own and operate the OA Amenities.

PDRD Director means the City's Director of Planning and Development Review, or his successor.

Project means the master-planned, mixed use community that includes the District.

Project Area means the additional land which is described in the Consent Agreement and may be added to the Land and annexed into the District, subject to the requirements of the Consent Agreement and this SPA.

Reclaimed Water means domestic or municipal wastewater which has been treated to a quality suitable for a Type 1 Reclaimed Water Use pursuant to the requirements of the Commission under 30 Texas Administrative Code Chapter 210, and any other applicable regulatory entities with jurisdiction.

Recreational Facilities means parks, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, and recreational equipment and facilities, including associated street and security lighting that will be owned, operated and maintained by the District before and by the Limited District after the full purpose annexation of the Land.

Service Plan means the service plan attached as **Exhibit C** which specifies the municipal services to be provided by the City after the City's full annexation of land within the District.

SPA means this Strategic Partnership Agreement between the City and the District.

Type I Reclaimed Water Use means the use of Reclaimed Water where contact between humans and the Reclaimed Water is likely.

Water and Wastewater Facilities means any water or wastewater improvements, including Reclaimed Water improvements, or undivided interests in such improvements, designed and constructed to serve the District, which, upon the Conversion Date, are under construction or have been completed but have not been conveyed to the City for ownership, operation, and maintenance.

**Section 1.03. Purpose of SPA.**

The purpose of this SPA is to set forth the terms of and conditions of Limited Purpose Annexation and full purpose annexation of the Land by the City, and the terms on which the District will continue to exist as the Limited District after the full purpose annexation of the Land by the City.

**Section 1.04. Election**

The District agrees to conduct an election on a proposition to authorize the Limited District to levy an operation and maintenance tax, as authorized by Section 49.107, Texas Water Code, to provide funds to operate the Limited District and to operate and maintain the facilities of the Limited District following the Conversion Date. The District agrees that it may not issue bonds until such time as this proposition has been submitted to and approved by the voters within the District.

**Section 1.05. Effective Date of SPA; Recordation of SPA; Binding Effect; Applicable to Property Added to the District in the Future.**

This SPA will become effective on the Effective Date. On the Effective Date, the City will record this SPA in the Official Public Records of Travis County, Texas, and the terms of this SPA will constitute covenants running with the land comprising the Land and will become binding on each current and future owner of any land included within the Land. If, in the future, additional property is annexed to the District, then, upon the effective date of such annexation, the terms of this SPA will become applicable to that additional property in the same manner and to the same extent as if the additional property had originally been included within the Land.

**Section 1.06. Notices.**

As required by the Enabling Legislation, the City has filed a notice in the Official Public Records of Travis County, Texas describing the City's intention to annex the District and the anticipated dates of the City's annexation of the District for limited and full purposes, a copy of which is attached as **Exhibit B**. The District agrees that a reference to this SPA, as recorded in the Official Public Records of Travis County, Texas in accordance with Section 1.05 of this SPA, and

the information contained in the City's Annexation Notice will be attached as an addendum to the Notice to Purchaser form issued by the District under Sections 49.452 and 49.453, Texas Water Code, and incorporated into the Information Form recorded by the District under Section 49.455, Texas Water Code.

## ARTICLE II.
## LIMITED PURPOSE ANNEXATION

### Section 2.01. Current Status.

The Land is currently located within the extraterritorial jurisdiction of the City, in Travis County, Texas.

### Section 2.02. Developer's Consent to Limited Purpose Annexation.

The Developer has consented to the City's Limited Purpose Annexation of the Land and the portions of the Project Area owned by it, either now or in the future, as provided in **Exhibit D**.

### Section 2.03. Limited Purpose Annexation.

The District and the City agree that, in accordance with Sections 43.0751(f) and 43.0751(q) of the Texas Local Government Code, Limited Purpose Annexation of land within the District's boundaries, as those boundaries may be modified from time to time with the consent of the City, may be effected by City Council adoption of an ordinance including the land within the City's limited purpose jurisdiction. Except as set out in this SPA, no additional procedural or substantive requirements of State or local annexation law will apply to such annexation or the annexation ordinance.

### Section 2.04. Continued Existence of the District Following Limited Purpose Annexation.

Following the City's Limited Purpose Annexation, the District will continue to exist and to have and exercise all of its powers under the Enabling Legislation and the general laws of the State, including the power to levy and collect an ad valorem tax on the Land, and will continue to provide all services which the District has been created and is authorized to provide, subject only to the terms of the Consent Agreement and this SPA. The District agrees that it will not enforce restrictive covenants nor own, operate, or maintain any OA Amenities.

### Section 2.05. Rights of District Residents upon Limited Purpose Annexation.

As provided in Article 1, Section 7 of the City's Charter, upon the Limited Purpose Annexation of the District, (a) any resident of that portion of the District annexed for limited purposes will be deemed to be a citizen of the City and be entitled to vote in City elections on every issue where the question before the electorate is the election or recall of a City Council member, or the amendment of the City's Charter; (b) no resident of that portion of the District annexed for limited purposes will be eligible to run for office in the City prior to full purpose annexation; and (c) any resident of that portion of the District annexed for limited purposes will be deemed to be a citizen of the City in connection with ordinances, rules, or regulations which are applicable to the citizen by virtue of the Limited Purpose Annexation.

## ARTICLE III.
## FULL PURPOSE ANNEXATION

**Section 3.01. Full Purpose Annexation.**

When any portion of the Land then located within the City's limited purpose jurisdiction is converted to full purpose annexation status in accordance with this SPA and as provided by 43.0751, Texas Local Government Code, the conversion may be effected by City Council adoption of an ordinance including the land in question within the full purpose city limits. Except as set out in this SPA, no additional procedural or substantive requirements of State or local annexation law will apply to such annexation or to the annexation ordinance.

**Section 3.02. Consent Agreement.**

The Consent Agreement, to the extent that it is not inconsistent with the provision of this SPA, will remain in full force until, and will expire upon, the Conversion Date.

**Section 3.03. Service Plan.**

Following the Conversion Date, the City will provide additional municipal services within the District in accordance with the Service Plan attached as **Exhibit C**, which will be the Service Plan for the District. The City will not assume any obligation or be required to provide any services relating to the Limited District Facilities or OA Amenities. The District affirms that the Service Plan is sufficient, and no further negotiations or public hearings are required for the adoption of the Service Plan. All services and obligations relating to the Limited District Facilities will be assumed and provided by the Limited District following the Conversion Date. The District agrees that it will not contest the Service Plan, which the City and the District agree will be effective for a period of ten years from the Conversion Date.

**Section 3.04. Authority of the City Upon Full Purpose Annexation.**

Upon the Conversion Date, the City will have all of the authority and power within the Land that the City has in all other areas within the City's incorporated city limits, including the power to levy and collect ad valorem property taxes and sales taxes.

**Section 3.05. Rights of District Residents upon Full Purpose Annexation.**

Following the Conversion Date, the residents of the Land will be citizens of the City for all purposes and will have all of the rights, privileges, and responsibilities accorded to citizens residing in all other areas within the City's incorporated city limits.

**Section 3.06. Post-annexation Surcharge.**

The District agrees that, following the Conversion Date, the City may charge and collect a special surcharge on the water and sewer rates charged within the Land for the purpose of wholly or partially compensating the City for its assumption of the debt obligations of the District as provided in this SPA, as authorized by Section 54.016(h), Texas Water Code, and as more fully described in the Consent Agreement.

**Section 3.07. Annexation Corridor.**

Concurrently with its annexation of any land outside of the Project that the City desires and is legally allowed to annex, the City may annex an Annexation Corridor upon and across the Land

as necessary to establish contiguity between the other land to be annexed and the then-existing full purpose city limits in accordance with Section 43.071(e)(1), Texas Local Government Code, as provided in this Section. The Annexation Corridor may be located upon and across land located within future public rights-of-way shown on a proposed preliminary plan for any part of the Land, or upon and across easements, parks, open space or drainage lands owned or to be conveyed to the District. Each of the Developer and the District, for any of such lands owned in fee simple by it, and the Board of the District pursuant to Section 43.071(e)(1), Texas Local Government Code, consent to such annexation so long as the corridor does not exceed 50 feet at its widest point. The full purpose annexation of the Annexation Corridor, as contemplated by this Section, will not require any procedural action of any kind other than the adoption of an annexation ordinance by the City. The Service Plan will be the service plan for the Annexation Corridor, and will be effective for ten years from the date of full purpose annexation of the Annexation Corridor. The Parties agree that the Annexation Corridor will continue to be a part of the District following its full purpose annexation by the City and will continue to receive District and Limited District services during the existence of the District and the Limited District, respectively.

**Section 3.08. Conversion of Remaining Land to Full Purpose Annexation Status.**

The City may convert all of the remaining land within the District to full purpose annexation status at such time as it determines such conversion to be appropriate, subject to the terms of the Consent Agreement and this SPA, but in no event sooner than December 31, 2023. In accordance with Sections 43.0751(f)(5) and 43.0751(h), Texas Local Government Code, the District and the City agree that any land within the District which has not been previously annexed by the City for full purposes may be converted to full purpose annexation status on or after December 31, 2023 (This date is for MUD 1; the dates for MUD 2 (2027)), and MUDs 3& 4 (2029) will be filled in those SPAs when form is final) at the City's sole discretion. This full purpose annexation conversion may be effected by City Council adoption of an ordinance including the area of the District within the full purpose City limits. Except as set out in this SPA, no additional procedural or substantive requirements of State or local annexation law will apply to such annexation or to the annexation ordinance.

The Developer has executed and delivered the Consent and Waiver attached to this SPA as **Exhibit D** to evidence its consent to the annexations contemplated by this SPA, and its waiver of Sections 43.035, 43.071(e)(1)(b), 43.121(b)(2) and 43.127, Texas Local Government Code.

**3.09 Water Conservation**. The Limited District will comply with the City's Water Conservation Ordinance, as amended from time to time.

**3.10 Ownership, Operation and Maintenance of Recreational Facilities.** The Limited District will not accept the conveyance of any OA Amenities and will not convey or transfer any Recreational Facilities to the Owners Association without the approval of the City. The Limited District will operate and maintain the Recreational Facilities conveyed to it in a good state of repair and in a manner so as not to create a nuisance or danger to the public health and safety. The City will have no obligation to operate or maintain the Recreational Facilities owned and operated by the Limited District.

## ARTICLE IV.
## DISTRICT ASSETS, LIABILITIES, AND OBLIGATIONS

**Section 4.01. District Tax Rate for Year of Full Purpose Annexation**

The District agrees to establish a tax rate for the year of full purpose annexation sufficient to meet its historical operations expenses and its debt service obligations; to timely report its tax rate to the District's tax assessor/collector; to take all other actions required by law for its tax rate to be effective; and to use good faith efforts to cause its tax assessor/collector to collect its tax revenues as they become due.

**Section 4.02. Assumption of the District's Outstanding Obligations, Liabilities, and Assets Upon Full Purpose Annexation.**

Upon the Conversion Date:

**(a)** The Limited District Facilities will become the property of the Limited District and the Limited District will thereafter own, operate, and maintain the Limited District Facilities.

**(b)** The City will assume all of the District's other outstanding obligations, indebtedness, liabilities, and assets, including all obligations on or related to the District's outstanding bonds.

**(c)** All funds in the District's debt service account will be transferred to the City and will be applied by the City to the debt service on the District's bonds.

**(d)** All funds in the District's general operating accounts will become the property of and be transferred to the Limited District.

**(e)** As tax revenues for the year of full purpose annexation are collected, the portion allocable to debt service will be paid to the City and the portion allocable to operations and maintenance will be transferred to the Limited District.

**Section 4.03. Limited District Contracts.** On the Conversion Date, any contracts between the District and any governmental entity or private service provider which relate to the Limited District Facilities and/or the functions to be performed by the Limited District will be assumed by the Limited District. On the Conversion Date, any contracts or agreements between the District and any governmental entity or private service provider which relate to any functions of the District that will be assumed and performed by the City will be assumed by the City. Without the prior approval of the City Manager or his designee, which approval will not be unreasonably withheld, conditioned, or delayed, the District will not enter any contracts that extend beyond the Conversion Date that (a) require the payment of a fee for their termination, or (b) are not terminable upon 60 days' notice or less. The prohibition contained in the preceding subsection (b) will not apply to District contracts with utility providers such as Bluebonnet Electric Cooperative or District contracts that will be assumed by the Limited District after full purpose annexation.

**Section 4.04. Reimbursement of Developer Upon Full Purpose Annexation.**

If, on the Conversion Date, any developer is entitled to receive reimbursement from the District for costs and expenses, including costs of construction, which are eligible for reimbursement under the rules of the Commission, but the District has not issued bonds for such reimbursement, the developer will, upon conveyance of any related facilities, interests in facilities, and associated rights to the City, free and clear of any liens, claims, or encumbrances, be entitled to reimbursement from the City as provided in Section 43.0715, Texas Local Government Code, as modified by the terms of the developer's reimbursement agreement with the District, consistent with Section 10.15 of the Consent Agreement.

**Section 4.05. Transfer of Certain Easements and Real Property to City.**

Within 90 days after the Conversion Date, the District will convey to the City, at no cost to the City, any real property and/or easements owned or held by the District which contain Water and Wastewater Facilities that are to be transferred to the City in accordance with this SPA. All conveyances will be by appropriate instrument, acceptable in form and substance to the City and the District. If any necessary transfer of title is not accomplished, for any reason, by the Conversion Date, the District agrees that the City will be authorized to finalize such conveyances as the District's successor-in-interest, and the Limited District will cooperate with the City to conclude any such transfer.

## ARTICLE V.
## LIMITED DISTRICT

**Section 5.01. Conversion of District to Limited District; Term of Limited District.**

Upon the Conversion Date, the District will be converted to the Limited District, and will thereafter be known as Southeast Travis County Limited District No. 4. In accordance with the Enabling Legislation, the Limited District will continue to exist in perpetuity, unless and until the City and the Limited District mutually agree to terminate this SPA and dissolve the Limited District or this SPA is terminated and the Limited District is dissolved by the City as provided in this SPA.

**Section 5.02. Limited District Functions.**

Following the Conversion Date, the Limited District will own, operate and maintain the Limited District Facilities and will have all powers necessary to do so, including all powers reasonably inferable to provide services related to the Limited District Facilities or to comply with the requirements of State law or this SPA which are applicable to the Limited District. The Limited District will not, however, have any powers which are not expressly set forth in this SPA, reasonably necessary to exercise the powers and provide the services set forth herein, or otherwise approved by the City. If the Limited District exercises or attempts, by formal Board action, to exercise any power not authorized by this SPA or otherwise approved by the City, the City will have the right to seek a writ of mandamus, prohibiting the Limited District from exercising or attempting to exercise any such power.

**Section 5.03. Limited District Information to be Provided to City.**

**(a)** The Limited District will provide the PDRD Director with a copy of the agenda for each meeting of its Board concurrently with the posting of the agenda at the Travis County Courthouse. The Limited District will also provide the PDRD Director with a copy of the minutes of all meetings of the Limited District's Board within five business days of the date of approval of such minutes.

**(b)** The Limited District will file a copy of its approved budget for each fiscal year with the PDRD Director within 30 days after approval by the Limited District's Board.

**(c)** The Limited District will obtain an annual audit, prepared by an independent certified public accountant, and will file a copy of its annual audit with the PDRD Director within 30 days after approval by the Limited District's Board.

**Section 5.04. No City Liability for Limited District Operations.**

The City will not be liable for any claims or causes of action which arise out of, or result from, the Limited District's ownership, operation or maintenance of the Limited District Facilities, nor will the City be liable for any claims or causes of action arising out of or resulting from the Limited District's operations, maintenance or other activities on any property owned by the City. To the extent authorized by law, the Limited District will indemnify, defend, and hold harmless the City from any claims, demands, actions, and causes of action whatsoever arising out of or resulting from the Limited District's maintenance, operation, or ownership of the Limited District Facilities, the Limited District's performance of its functions described in this SPA, or the Limited District's maintenance, operations, or other activities on any property owned by the City. The Limited District agrees to cause the City to be added as an additional insured on its general liability insurance, which the Limited District agrees to obtain and maintain in full force and effect for each year of its existence.

**Section 5.05. Bonds and Indebtedness of Limited District.**

The Limited District may not issue bonds or notes for any purpose without the prior written consent of the City. The Limited District may not incur indebtedness or enter into lease agreements other than in connection with the normal functions and operations of the Limited District, for the operation, maintenance and repair of the Limited District Facilities, or for other purposes authorized in this SPA.

**Section 5.06. Limitations on Employment Obligations.**

The Limited District will not, without the prior written approval of the City, enter into any contracts for employment that will result in a contractual obligation binding on the City after the date of dissolution of the Limited District.

**Section 5.07. Limitation on Limited District Facilities and Related Debt.**

After the Conversion Date, the Limited District may not acquire, purchase, construct, or lease additional Limited District Facilities, expand any existing Limited District Facilities, or incur debt, liabilities, or obligations to construct additional Limited District Facilities, other than Limited District Facilities which are provided for under the Consent Agreement or any Planned Unit Development approved by the City which have not been completed as of the Conversion Date, without the prior approval of the City, which approval will not be unreasonably withheld, conditioned, or delayed. Nothing in this SPA will be deemed or construed to prohibit the Limited District from repairing or replacing any Limited District Facilities, or from modifying or upgrading any Limited District Facilities as may be required by applicable law or a regulation of any governmental entity with jurisdiction, or from accepting property contemplated to be conveyed to the District under the Consent Agreement or any Planned Unit Development approved by the City.

**Section 5.08. Restrictive Covenants.**

The Limited District may not, without the prior written approval of the City, impose any restrictive covenants on property owned by the Limited District, other than restrictive covenants required by the Consent Agreement or otherwise required or approved by the City. All restrictive covenants imposed by the Limited District on its property will be submitted to the PDRD Director and will be subject to his or her review and approval prior to execution and recordation, which approval will not be unreasonably withheld, conditioned, or delayed.

**Section 5.09. Dissolution of the Limited District.**

If, in any year, the Limited District fails to levy an operation and maintenance tax sufficient to perform its duties and functions as provided in this SPA, the Limited District may be unilaterally dissolved by the City, and no consent of the Limited District or any property owner in the Limited District will be required. Upon the adoption of a resolution by City Council dissolving the Limited District under this Section, the City will assume all obligations, liabilities, indebtedness, and assets of the Limited District. The Board of Directors of the Limited District will cooperate with the City to ensure an orderly transition, and will execute any documents necessary to transfer the assets, obligations, indebtedness and liability of the Limited District to the City in a manner reasonably acceptable to the City Attorney. If any transfer has not been completed for any reason by the dissolution date, the Limited District agrees that the City will be authorized to finalize such conveyances as the District's successor-in-interest.

## ARTICLE VI.
## DEFAULT AND REMEDIES FOR DEFAULT

**Section 6.01. Notice of Default; Opportunity to Cure.**

If a Party defaults in the performance of any obligation under this SPA, the nondefaulting Party may give written notice to the other Party, specifying the alleged event of default and extending to the defaulting Party 30 days from the date of the notice in order to cure the default complained of or, if the curative action cannot reasonably be completed within 30 days, 30 days to commence the curative action and a reasonable additional period to diligently pursue the curative action to completion.

**Section 6.02. Dispute Resolution.**

If any default is not cured within the curative period specified in Section 6.01, the Parties agree to use good faith, reasonable efforts to resolve any dispute among them by agreement, including engaging in mediation or other non-binding alternative dispute resolution methods, before initiating any lawsuit to enforce their respective rights under this SPA. The Parties will share the costs of any mediation or arbitration equally. The Parties further agree that the City is not obligated to resolve any dispute based on an arbitration decision under this SPA if the arbitration decision compromises the City's sovereign immunity.

**Section 6.03. Other Legal or Equitable Remedies.**

If the Parties are unable to resolve their dispute through mediation or arbitration, the nondefaulting Party will have the right to enforce the terms and provisions of this SPA by a suit seeking specific performance or such other legal or equitable relief as to which the nondefaulting Party may be entitled. Any remedy or relief described in this SPA will be cumulative of, and in addition to, any other remedies and relief available to such Party. The Parties acknowledge that the City's remedies will include the right, in the City's sole discretion, to terminate this Agreement and dissolve the Limited District.

**Section 6.04. Reservation of Rights.**

To the extent not inconsistent with this SPA, each Party reserves all rights, privileges and immunities under applicable law.

**Section 6.05. Applicable Laws; Waiver of Sovereign Immunity Relating to Claims by the City.**

Except as expressly set forth in this SPA, this SPA is not intended to waive or limit the applicability of laws, regulations and ordinances applicable to the District or the Limited District, nor does it waive the jurisdiction or sovereignty of any governmental body. Upon the issuance of bonds by the District, the District and the Limited District will be deemed to have waived sovereign immunity in connection with any suit by the City for the purpose of adjudicating a claim for breach of this SPA, as provided in the Enabling Legislation.

**Section 6.06. Changes in Law Affecting the Rights of the City.**

**(a)** The City may terminate this SPA, or seek any other remedy, on 30 days' written notice to the District or, after the Conversion Date, the Limited District, if, during the term of this SPA, the District or the Limited District directly sponsors, requests, lobbies for, or secures the adoption of state or federal legislation that impairs, undermines, restricts, eliminates, or otherwise adversely affects the rights of the City under this SPA.

**(b)** Notwithstanding Subsection (a), the District or Limited District's tender of comments or analyses with regard to proposed legislation or rules of a government agency affecting this SPA will not give rise to a right of the City to terminate this SPA pursuant to this Section.

## ARTICLE VII.
## MISCELLANEOUS PROVISIONS

**Section 7.01. Effective Date; Counterparts.**

This SPA may be executed in multiple counterparts. The District and the Developer each agree that, upon its execution of this SPA, it will be bound by this SPA; however, the obligations of the District and the Developer under this SPA are subject to the condition that the City execute this SPA and deliver a fully executed original to each of the District and the Developer on or before 5:00 p.m. on August 31, 2012, and to the approval of this SPA by the voters within the District as provided in Section 1.04.

**Section 7.02. Entire Agreement.**

There are no agreements, oral or written, between the Parties which are in conflict with this SPA. This SPA and the Consent Agreement, together with all attachments, constitute the entire agreement between the Parties with respect to the annexation of the District. Except as expressly provided by this SPA and the Consent Agreement, no representations or agreements other than those specifically included in this SPA and the Consent Agreement will be binding on the City, the Developer or the District.

**Section 7.03. Notice.**

Any Notice may be given by: (i) delivering the Notice to the Party to be notified; (ii) depositing the Notice in the United States Mail, certified, return receipt requested, postage prepaid, addressed to the Party to be notified; or (iii) sending the Notice by telecopier or electronic mail, with confirming copy sent by hand delivery or by certified mail to the Party to be notified. Notice deposited in the United States mail in the manner described above will be deemed effective on the earlier of (i) the date of actual receipt or (ii) three days after the date of its deposit in the mail. Notice given in any other manner will be effective only if and when received

by the Party to be notified. For purposes of Notice, the addresses of the Parties will, until changed as provided in this section, be as follows:

| | |
|---|---|
| City of Austin: | City Manager<br>City of Austin<br>P.O. Box 1088<br>Austin, Texas 7867<br>Fax: (512) 974-2833 |
| with required copy to: | City Attorney<br>City of Austin<br>P.O. Box 1088<br>Austin, Texas 78767<br>Fax: (512) 974-2894 |
| District or Limited District: | Southeast Travis County Municipal<br>Utility District No. 4<br>c/o Armbrust & Brown, PLLC<br>100 Congress Avenue, Suite 1300<br>Austin, Texas 78701<br>Fax: (512) 435-2360 |
| with required copy to: | Qualico CR, L.P.<br>7940 Shoal Creek Blvd., Ste. 201<br>Austin, Texas 78757<br>Attn: Vera Massaro<br>Fax: (512) 371-5728 |

A Party may change its address for purpose of Notice by providing Notice of the new address to the other Party in accordance with this Section.

**Section 7.04. Time.**

Time is of the essence in all matters pertaining to the performance of this SPA. If any date or period provided in this SPA ends on a Saturday, Sunday, or legal holiday, the applicable period will be extended to the first business day following the Saturday, Sunday, or legal holiday.

**Section 7.05. Waiver.**

Any failure by a Party to this SPA to insist upon strict performance by another Party of any provision of this SPA will not be deemed a waiver of that provision or any other provision of this SPA and a Party will have the right at any time to insist upon strict performance of all of the provisions of this SPA.

**Section 7.06. Applicable Law and Venue.**

The construction and validity of this SPA will be governed by the laws of the State of Texas (without regard to conflict of law principles). Venue will be in Travis County, Texas.

**Section 7.07. Incorporation of Exhibits by Reference.**

The following exhibits are attached to this SPA, and are incorporated into this SPA by reference:

| | | |
|---|---|---|
| Exhibit A | - | The Land |
| Exhibit B | | City's Annexation Notice |
| Exhibit C | - | Service Plan |
| Exhibit D | - | Property Owner's consent to Limited Purpose and Full Purpose annexation; consent to Service Plan and waiver of Sections 43.035, 43.071(e)(1)(b), 43.121(b)(2) and 43.127, Texas Local Government Code |

**Section 7.08. Assignability, Successors, and Assigns.**

This SPA will not be assignable by the District or the City without the prior written consent of the City Council and the Board of the District prior the Conversion Date or the Board of the Limited District after the Conversion Date. This SPA will be binding upon and inure to the benefit of the Parties and their respective representatives, successors and permitted assigns.

**Section 7.09. Amendment.**

This SPA may only be amended in writing upon the approval of the City Council and the Board of the District prior to the Conversion Date or the Board of the Limited District after the Conversion Date.

**Section 7.10. Further Documents and Acts.**

Each of the Parties agrees that, following the Effective Date, it will, upon the request of any other Party, execute such further documents and do such further acts and things as may reasonably be necessary to effectuate the terms of this SPA.

**Section 7.11. Conflict.**

This SPA and the Consent Agreement are intended to be harmonious and consistent with each other and, to the extent of any potential conflict, the Parties agree that the Consent Agreement and this SPA will, to the extent possible, be read and interpreted in a manner that resolves any such potential conflict and effects the intent of the Parties in connection with the other agreement. If there is a conflict between the Consent Agreement and this SPA which cannot be resolved, the terms of this SPA will control.

**DISTRICT:**

**SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4**

By:_____
Name:_____
Title: President, Board of Directors
Date:_____

ATTEST:

By:_____
Name:_____
Title: Secretary, Board of Directors
Date:_____

**CITY:**

**CITY OF AUSTIN, TEXAS**

By:_____
Name:_____
Title: City Manager
Date:_____

APPROVED AS TO FORM:

By:_____
Name:_____
Title: Assistant City Attorney
Date:_____

EXECUTED SOLELY FOR PURPOSES OF EVIDENCING ITS CONSENT TO THE ANNEXATION OF THE LAND, AS DESCRIBED IN THIS SPA.

**DEVELOPER:**

**QUALICO CR, LP**, a Texas limited partnership

By: Qualico CR Management, LLC, a Texas limited liability company, its general partner

By: Qualico Developments (U.S.), Inc., a Delaware corporation, its manager

By:_____
Brian Higgins, Vice President

By:_____
Vera Massaro, Assistant Secretary

Date:_____

# EXHIBIT A

378.452 ACRES
JOSE ANTONIO NAVARRO SURVEY, ABS. NO. 18
TRAVIS COUNTY, TEXAS
SOUTHEAST TRAVIS COUNTY MUD #4

**FIELD NOTES**

**BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE JOSE ANTONIO NAVARRO SURVEY, ABSTRACT 18, SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF THAT CERTAIN 74.590 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2008139825, A PORTION OF THAT CERTAIN 362.872 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2008082363, ALL OF THAT CERTAIN 184.382 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2010119925 AND A PORTION OF THAT CERTAIN 161.518 ACRE TRACT OF LAND CONVEYED TO QUALICO CR, LP IN DOCUMENT NUMBER 2009141317 ALL OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING 378.452 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at an iron rod found at the southeast corner of said 74.590 acre Qualico CR, LP tract, also being the southwest corner of said 161.518 acre Qualico CR, LP tract, also being a point on the northern right-of-way line of Pearce Lane, a varying width public roadway, for the **POINT OF BEGINNING** of the herein described tract,

**THENCE**, with the southern boundary line of said 74.590 acre Qualico CR, LP tract and the northern right-of-way line of said Pearce Lane, the following two (2) courses and distances numbered 1 and 2,

1. N64°19'11"W a distance of 92.92 feet to an iron rod found at the point of curvature to the left,
2. with said curve to the left having a radius of 9419.72 feet, an arc length of 502.24 feet, and whose chord bears N65°59'24"W, a distance of 502.18 feet to an iron rod found,

**THENCE**, leaving the northern right-of-way line of said Pearce Lane, and crossing said 74.590 acre Qualico CR, LP tract, the said 161.518 acre Qualico CR, LP tract, and the 362.872 acre Qualico CR, LP tract , the following twelve (12) courses and distances, numbered 1 through 12,

1. N59°39'27"E, a distance of 145.30 feet to a calculated point,
2. S77°46'45"E, a distance of 440.15 feet to a calculated point,
3. S84°08'57"E, a distance of 722.01 feet to a calculated point,
4. N45°54'29"E, a distance of 698.92 feet to a calculated point,
5. N08°39'51"E, a distance of 919.38 feet to a calculated point,
6. N55°53'27"W, a distance of 506.81 feet to a calculated point,
7. N16°17'52"W, a distance of 1014.45 feet to a calculated point,
8. N62°26'37"E, a distance of 544.11 feet to a calculated point,
9. N30°27'47"E, a distance of 295.08 feet to a calculated point,
10. N18°05'14"W, a distance of 633.66 feet to a calculated point,
11. N31°33'30"E, a distance of 578.23 feet to a calculated point,
12. N30°19'13"E, a distance of 1597.94 feet to an iron rod found on the north line of said 362.872 acre Qualico CR, LP tract, and in the south line of a 147.806 acre tract conveyed to Gregory C. Weiss and Virginia G. Bassett tract, recorded in Document Number 2006186612,

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**THENCE**, with the common southern boundary line of said 147.806 acre Gregory C. Weiss and Virginia G. Bassett tract and the northern boundary line of said 362.872 acre Qualico CR, LP tract, S63°19'24"E, a distance of 699.61 feet to the northwest corner of said 184.382 Qualico CR, LP tract,

**THENCE**, with the common southern boundary line of said 147.806 acre Gregory C. Weiss and Virginia G. Bassett tract and the northern boundary line of said 184.382 acre Qualico CR, LP tract, S63°21'31"E, a distance of 2403.99 feet to an iron rod found at the northeast corner of said 184.382 acre Qualico CR, LP tract, also being in the westerly right-of-way line of Wolfe Lane, a varying width public roadway,

**THENCE**, with the common boundary line of said 184.382 acre Qualico CR, LP tract and the west right-of-way line of said Wolfe Lane, the following nine (9) courses and distances, numbered 1 through 9,

1. S28°41'05"W, a distance of 93.30 feet to an iron rod found,
2. S28°01'16"W, a distance of 387.32 feet to an iron rod found,
3. S27°56'22"W, a distance of 289.74 feet to an iron rod found,
4. S27°35'22"W, a distance of 341.84 feet to an iron rod found,
5. S27°21'56"W, a distance of 191.88 feet to an iron rod found,
6. S26°52'52"W, a distance of 541.29 feet to an iron rod found,
7. S27°04'44"W, a distance of 1120.79 feet to an iron rod found,
8. S27°32'04"W, a distance of 329.70 feet to an iron rod found,
9. S27°38'13"W, a distance of 195.47 feet to an iron rod found, in the west right-of-way line of said Wolfe Lane and in the west line of said 161.518 acre Qualico CR, LP tract,

**THENCE**, with the common boundary line of said 161.518 acre Qualico CR, LP tract and the west right-of-way line of said Wolfe Lane, the following two (2) courses and distances, numbered 1 and 2,

1. S27°17'41"W, a distance of 103.86 feet to an iron rod found,
2. S27°06'59"W, a distance of 2038.07 feet to a calculated point,

**THENCE**, leaving right-of-way line of said Wolfe Lane and crossing said 161.518 acre Qualico CR, LP tract, S39°14'43"W, a distance of 856.86 feet to an iron rod found in the south line of said 161.518 acre Qualico CR, LP tract, also being in the northerly right-of-way line of said Pearce Lane, for the point of curvature to the left,

**THENCE**, with the common boundary line of said 161.518 acre Qualico CR, LP tract and the north right-of-way line of said Pearce Lane, the following six (6) courses and distances, numbered 1 through 6,

1. with said curve to the left having a radius of 2576.23 feet, an arc length of 451.04 feet, and whose chord bears N46°34'33"W, a distance of 450.46 feet to an iron rod found,
2. N51°35'30"W, a distance of 194.12 feet to an iron rod found at the point of curvature to the left,
3. with said curve to the left having a radius of 8327.42 feet, an arc length of 502.55 feet, and whose chord bears N53°20'29"W, a distance of 502.47 feet to an iron rod found,
4. N55°04'13"W, a distance of 181.98 feet to an iron rod found at the point of curvature to the left,
5. with said curve to the left having a radius of 3174.03 feet, an arc length of 506.11 feet, and whose chord bears N59°48'40"W, a distance of 505.58 feet to an iron rod found and

6. N64°22'45"W, a distance of 434.44 feet to the **POINT OF BEGINNING**, and containing 378.452 acres of land.

Surveyed by: _____ 14 JAN 2011

AARON V. THOMASON, R.P.L.S. NO. 6214
***SETSTONE SURVEYING***
5501 West William Cannon
Austin, TX 78749
Ph: 512-282-0170 Fax: 512-280-5165
aaron@setstone.net

STATE OF TEXAS
SETSTONE
AARON V. THOMASON
6214
PROFESSIONAL
LAND SURVEYOR

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD83, CENTRAL ZONE (4203)

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February 28, 2012 draft

**EXHIBIT B**

NOTICE TO PURCHASERS OF PROPERTY IN SOUTHEAST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

The City of Austin, Texas (the "*City*") hereby gives notice, in accordance with Section 8382.252, Texas Special District Local Laws Code, as follows:

1. The City has consented to the creation of Southeast Travis County Municipal Utility District No. 4 (the "*District*") over the land described on the attached **Exhibit A**, which is incorporated herein by reference.

2. The City has approved a Strategic Partnership Agreement ("*SPA*") with the District for the purpose of establishing terms and conditions upon which (a) the City will annex all of the land within the District for limited and full purposes and (b) following full purpose annexation of all of the land in the District, the District will be converted to a Southeast Travis County Limited District No. 4 (the "*Limited District*").

3. In accordance with the SPA; Title 6, Subtitle F, Chapter 8382, Texas Special District Local Laws Code; and Section 43.0751, Texas Local Government Code, (a) the City has the authority and intention to annex all of the land within the District for limited purposes on or before _____, 2012; and (b) the City has the authority and intention to annex all of the land within the District for full purposes at such time as the City finds such annexation to be feasible, but in no event sooner than December 31, 2023.

Any interested person may request a copy of the SPA or the Consent Agreement by contacting the City of Austin Planning and Development Review Department, P.O. Box 1088, Austin, Texas 78767-1088. Questions concerning these agreements may be directed to the District, or, after full purpose annexation of the District, the Limited District, or the City of Austin Planning and Development Review Department.

CITY OF AUSTIN, TEXAS

By: _____
_____
_____

add acknowledgement



{W0533426.1}

**EXHIBIT C**

# CITY OF AUSTIN

## DRAFT ANNEXATION SERVICE PLAN

**Case Name:** Southeast Travis County MUD No. 4
Subject to the Strategic Partnership Agreement
**Date:** _____, 2012

## INTRODUCTION

This Service Plan ("*Plan*") is made by the City of Austin, Texas ("*City*") in accordance with a Strategic Partnership Agreement ("*SPA*) between the City and Southeast Travis County Municipal Utility District No. 4 ("*MUD*") pursuant to Texas Local Government Code Section 43.0751. This Plan relates to the annexation to the City of land ("*annexation area*") known as the Southeast Travis County MUD No. 4 area. The MUD was created under Chapter _____, Subtitle F, Title 6, Special District Local Laws Code, and Chapters 49 and 54 of the Texas Water Code. The annexation area is located in southeastern Travis County and is currently in the City's limited purpose jurisdiction.

The annexation area is described by metes and bounds in **Exhibit A**, which is attached to this Plan and to the annexation ordinance of which this Plan is a part. The annexation area is also shown on the map in **Exhibit A**.

## EFFECTIVE TERM

This Plan shall be in effect for a ten-year period commencing on the effective date of the annexation, unless otherwise stated in this Plan. Renewal of this Plan shall be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council, which refers to this Plan and specifically renews this Plan for a stated period of time.

## INTENT

It is the intent of the City that services under this Plan shall provide full municipal services as described in Section 43.056 of the Texas Local Government Code.

The City reserves the right guaranteed to it by the Texas Local Government Code to amend this Plan if the City Council determines that changed conditions or subsequent occurrence or any other legally sufficient circumstances exist under the Local Government Code or other Texas laws to make this Plan unworkable or obsolete or unlawful.

## SERVICE COMPONENTS

In General. This Plan includes three service components: (1) the Early Action Program, (2) Additional Services, and (3) a Capital Improvement Program.

As used in this Plan, providing services includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract, in whole or in part. It may also include separate agreements with associations or similar entities.

**EARLY ACTION PROGRAM**

The following services will be provided in the annexation area commencing on the effective date of the annexation, unless otherwise noted.

a. Police Protection. The Austin Police Department ("*APD*") will provide protection and law enforcement services in the annexation area.

b. Fire Protection. The Austin Fire Department ("*AFD*") will provide emergency and fire prevention services in the annexation area.

c. Emergency Medical Service. The City of Austin/Travis County Emergency Medical Services ("*EMS*") Department will provide emergency medical services in the annexation area.

d. Solid Waste Collection. The Austin Resource Recovery Department will provide services in the annexation area. Services will be provided by City personnel or by solid waste service providers under contract with the City.

e. Maintenance of Water and Wastewater Facilities. Water and wastewater service will be provided to areas that are not within the certificated service area of another utility through existing City facilities located within or adjacent to the area, unless otherwise mutually agreed upon by the utilities. The facilities will be maintained and operated by Austin Water as governed by standard policies and procedures, and under the provisions of the attached City service extension policy as amended from time to time. Water and wastewater services to new development and subdivisions will be provided according to the standard policies and procedures of Austin Water, which may require the developer of a new subdivision or site plan to install water and wastewater lines. The extension of water and sewer service will be provided in accordance with the attached water and wastewater service extension policy as amended from time to time.

f. Maintenance of Roads and Streets, Including Street Lighting. The Public Works Department will maintain public streets over which the City has jurisdiction.

   The Transportation Department will also provide regulatory signage services in the annexation area.

   Street lighting will be maintained in accordance with the City of Austin ordinances, Austin Energy criteria and state law. The City will maintain the street lights and pay for the electricity for any streetlights located within the public right-of-way that the MUD maintained under the night watchman light program in place at the time of full purpose annexation.

g. Maintenance of Parks, Playgrounds, and Swimming Pools. The Limited District Facilities and OA Amenities, as defined, in the SPA, will continue to be the assets and responsibilities of the Southeast Travis County Limited District No. 4 (the "*Limited District*") and Owners Association, respectively.

Recreational facilities and area amenities, including parks, pools, splash pads, community centers, and medians, that are privately owned, maintained, or operated will be unaffected by the annexation.

h. Maintenance of Any Other Publicly-Owned Facility, Building, or Service. Should the City acquire any other facilities, buildings, or services necessary for municipal services located within the annexation area, an appropriate City department will provide maintenance services for them.

## ADDITIONAL SERVICES

Certain services, in addition to the above services, will be provided within the annexation area if they are provided elsewhere in the city limits. They are as follows:

a. Watershed Protection. The Watershed Protection Department will provide drainage services in accordance with and as limited by applicable codes, laws, ordinances and special agreements. Drainage planning and maintenance are fee-based services.

b. Planning and Development Review. The Planning and Development Review Department will provide comprehensive planning, land development and building review and inspection services in accordance with and as limited by applicable codes, laws, ordinances and special agreements.

c. Code Compliance. In order to attain compliance with City codes regarding land use regulations and the maintenance of structures, the City's Code Compliance Department will provide education, cooperation, enforcement and abatement relating to code violations

d. Library. Upon annexation, residents may utilize all Austin Public Library facilities.

e. Public Health, Social, and Environmental Health Services. The Austin/Travis County Health and Human Services Department will continue to work in partnership with the community to promote health, safety, and well being.

f. Austin Energy. Austin Energy will continue to provide electric utility service to all areas which the City is authorized to serve by the Public Utility Commission of Texas.

g. Anti-litter Services. The Austin Resource Recovery Department will provide anti-litter services in the annexed area. Anti-litter is a fee-based service.

h. Other Services. All other City Departments with jurisdiction in the area will provide services according to City policy and procedure.

## CAPITAL IMPROVEMENTS PROGRAM

The City will initiate the construction of capital improvements necessary for providing municipal services for the annexation area as necessary.

Each component of the Capital Improvement Program is subject to the City providing the related service directly. In the event that the related service is provided through a contract service provider, the capital improvement may not be constructed or acquired by the City but may be provided by the contract provider. The City may also lease buildings in lieu of construction of any necessary buildings.

The annexation area will be included with other territory in connection with planning for new or expanded facilities, functions, and services. No capital improvements are necessary at this time to provide the following services:

- Police Protection
- Fire Protection
- Emergency Medical Services
- Solid Waste Collection
- Water and Wastewater Facilities
- Roads and Streets
- Street Lighting
- Parks, Playgrounds and Swimming Pools
- Watershed Protection

## SERVICES TO BE PROVIDED BY LIMITED DISTRICT

The Limited District created under the SPA will retain ownership of the Limited District Facilities, as more particularly described in the SPA. The Limited District shall be responsible for maintenance and any necessary capital improvements for all such Limited District Facilities. Maintenance services may be provided by Limited District personnel or by private service providers under contract with the Limited District.

## SERVICES TO BE PROVIDED BY CITY IF LIMITED DISTRICT IS DISSOLVED

If the Limited District is dissolved or ceases to exist for any reason prior to the expiration of this Plan, title to all land and facilities owned by the Limited District shall vest in the City on the date of dissolution.

## AMENDMENT: GOVERNING LAW

This Plan may not be amended or repealed except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Plan, and the City reserves the right to make such changes. This Plan is subject to and shall be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules and regulations of governmental bodies and officers having jurisdiction.

## FORCE MAJEURE

In case of an emergency, such as force majeure as that term is defined in this Plan, in which the City is forced to temporarily divert its personnel and resources away from the annexation area for humanitarian purposes or protection of the general public, the City obligates itself to take all

reasonable measures to restore services to the annexation area of the level described in this Plan as soon as possible. Force Majeure shall include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrest and restraint of government, explosions, collisions and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City. Unavailability or shortage of funds shall not constitute force majeure for purposes of this Plan.

## SUMMARY OF THE WATER AND WASTEWATER UTILITY SERVICE EXTENSION POLICY

The following information is a summary of Austin Water's Service Extension Policy, as set out in Chapters 25-1 through 25-5 and 25-9 of the Austin City Code, in conformance with the Texas Local Government Code requirement that the Plan have a summary of the service extension policy.

Water and wastewater service is only provided to lots that have been properly subdivided and platted or are a legal lot. For property that is required by subdivision regulations to construct water or wastewater facilities connecting to the City system, funding and construction of those facilities will remain the responsibility of the developer. If the specific undeveloped property does not have City water or wastewater service fronting the property, the owner may make an application for an extension of service to the Director of Austin Water for review. If the Director determines that adequate capacity is available, or will be, and if the project does not include City cost participation or reimbursement, and if the proposed facilities are a logical extension of the City's water and wastewater system and the requested extension otherwise meets the requirements of Chapter 25-9, the extension size, capacity, and routing may be approved by the Director for funding and construction by the developer.

Depending on the size of the new facilities and other conditions, with City Council approval, the City may reimburse the developer for part of the cost of constructing certain facilities. With City Council approval, the City may cost participate by reimbursing costs associated with the oversize capacity of wastewater mains larger than 8 inches but less than 18 inches in diameter, and of water mains greater than 12 inches but less than 24 inches in diameter. With City Council approval, the City may reimburse to the developer the construction cost of the full capacity of wastewater facilities 18 inches in diameter or larger, and water facilities 24 inches in diameter or larger, as well as other facilities such as reservoirs or pumps. The actual calculation of the cost participation and reimbursement amounts, including limits and the schedules for the payments, are included in the Land Development Code.

For lots served by an existing on-site well or septic system that have water or wastewater lines within 100 feet of the lot at the time of annexation, the owner will not be required to pay the impact fees if a tap permit is obtained by the property owner on or before the second anniversary of the date of annexation. For lots served by an existing well or septic system that do not have water or wastewater lines within 100 feet of the lot, the owner will not be required to pay the impact fees of a tap permit is obtained by the property owner on or before the second anniversary of the date of acceptance of the water or sewer line to within 100 feet of their lot. In either case the owner will still be required to pay other applicable connection fees.

As long as a property is using a septic system, the property owner remains responsible for the operation and maintenance of the septic system. If the septic system fails before the City sewer service is extended to the property, the property owner must repair the system. Under certain

circumstances the Austin/Travis County Health and Human Services Department may require connection to the City sewer facilities.

This policy is set by the City Council and can be amended in the future by ordinance.

**EXHIBIT D**

**[PROPERTY OWNER'S CONSENT TO LIMITED PURPOSE AND FULL PURPOSE ANNEXATION, APPROVAL OF THE SERVICE PLAN AND WAIVER OF SECTIONS 43.035, 43.071(e)(1)(b), 43.121(b)(2), and 43.127, TEXAS LOCAL GOVERNMENT CODE]**

Qualico, CR, L.P. (the "*Developer*"), owner of the following described property (the "*Property*"):

(see attached field note description and vicinity map)

Tax Appraisal District Property ID Number:_____

hereby consents to limited and full purpose annexation by the City of Austin for the Land, as defined in the Strategic Partnership Agreement ("*SPA*") between the City of Austin and Southeast Travis County MUD No. 4, owned either now or in the future by the Developer. Developer waives the requirements of Sections 43.035, 43.071(e)(1)(b), 43.121(b)(2) and 43.127(a) of the Texas Local Government Code and consents to the limited and full purpose annexation of the Land in accordance with the SPA. Developer certifies that Developer is the present owner(s) of the Property and understands that annexation is at the sole discretion of the City of Austin, and that this consent does not obligate the City to annex the property at any time. Developer also understands that full purpose annexation extends full municipal jurisdictional control, including taxation, onto the Property. Developer executes this consent on behalf of Developer, its successors and assigns. .

**QUALICO CR, LP**, a Texas limited partnership

By: Qualico CR Management, LLC, a Texas limited liability company, its general partner

By: Qualico Developments (U.S.), Inc., a Delaware corporation, its manager

By:_____
Brian Higgins, Vice President

By:_____
Vera Massaro, Assistant Secretary

Date: _____



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