

IMPERVIOUS COVER ALLOCATION AGREEMENT

THIS IMPERVIOUS COVER ALLOCATION AGREEMENT (this "Agreement") is made and executed as of April 11, 2000, by and between WILLIAM S. WALTERS, III, Trustee ("Walters") and THE CITY OF AUSTIN (the "City").

W I T N E S S E T H:

A. Contemporaneously herewith, the City has acquired from Walters Lots 1 and 2, Block A of the Woodlands of Travis in Austin, Texas, as more particularly described on Exhibit "A" attached hereto (the "Friesenhahn Property"), pursuant to the terms of that certain Contract of Sale dated of even date herewith (the "Contract").

B. As a portion of the consideration payable to Walters for the City's acquisition of the Friesenhahn Property, the City has agreed to transfer impervious cover credits from the Friesenhahn Property, subject to the terms and conditions described herein.

NOW, THEREFORE, for and in consideration of the premises and the agreements and covenants herein set forth in the Contract, together with the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, Walters and the City do hereby agree as follows:

1. Impervious Cover Credits. Effective as of the date hereof, 335,000 square feet of impervious cover credits off of the Friesenhahn Property are hereby transferred in accordance with the following terms and conditions:

(a) As reflected by the corresponding amendment to the Save Our Springs Initiative pursuant to Section 25-8-512 of the Austin Land Development Code approved by the City Council, 160,000 square feet of impervious cover are hereby transferred to that certain tract of land known as "The Oak Hill Technology Park", as more particularly described on Exhibit "B" attached hereto (the "Oak Hill Tract"). As a result, the total amount of impervious cover that is available for development on the Oak Hill Tract will be the sum of (x) the overall impervious cover allowed on the Oak Hill Tract pursuant to applicable ordinances and regulations of the City, plus (y) 160,000 square feet. The total impervious cover on the Oak Hill Tract, however, shall not exceed the impervious cover limits contained in that certain restrictive covenant with the Travis Country Neighborhood Association recorded as Document No. 1999149271 of the Public Records of Travis County. The City hereby agrees to use best efforts to cooperate with the owner of the Oak Hill Tract to design water quality controls that both meet the requirements of the Save Our Springs Initiative and allow the amount of impervious cover transferred to the Oak Hill Tract pursuant to this Agreement.

(b) The remaining 175,000 square feet of impervious credits are hereby transferred to Walters, and may be used by Walters (or his successors or assigns) on any project designated by Walters (or his successors or assigns) located outside of the Drinking Water Protection Zone (as the same exists on the date hereof), but within the City of Austin's jurisdiction. In

the event Walters (or his successors or assigns) intends to use any of the 175,000 square feet of impervious cover credits, he shall deliver written notice thereof to the Director of the Development Review and Inspection Department of the City, which notice shall: (i) describe the property to which the credits will be transferred (each a "Designated Tract"), which property must be located outside the Drinking Water Protection Zone (as the same exists on the date hereof), (ii) specify the number of square feet of impervious cover being transferred to the Designated Tract in question, which number of square feet shall not exceed the remainder of 175,000 minus the aggregate number of square feet transferred in previous notices, and (iii) the percentage of existing impervious cover on the Designated Tract. Upon delivery of such written notice to the Director, the total amount of impervious cover that is available for development on the Designated Tract in question will be the sum of (x) the overall impervious cover allowed on such Designated Tract pursuant to applicable ordinances and regulations of the City, plus (y) the number of square feet designated in the notice. Any of the 175,000 square feet of impervious cover credits described in this subpart (b) which are not transferred to a Designated Tract in the manner described above within fifteen (15) years after the date hereof shall expire. It is hereby acknowledged that Walters may assign any of the 175,000 square feet of impervious cover credits described in this subpart (b) to any third party without the consent of the City, but with notice to the Director of such assignment.

2. Defined Terms. Unless defined differently herein or the context clearly requires otherwise, all terms used in this Agreement shall have the meanings ascribed to them under the version of the Austin Land Development Code in effect on the date of this Agreement.

3. Binding Effect. All of the terms, provisions, covenants and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

4. Counterparts. This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical.

IN WITNESS WHEREOF, Walters and the City have executed this Agreement as of the date first written above.

WALTERS:



William S. Walters, III, Trustee

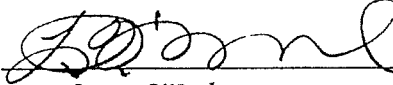
APPROVED AS TO FORM:

Patrick G. Rehmet
Assistant City Attorney

Date: _____

THE CITY:

THE CITY OF AUSTIN

By: _____
Name: Larry O'Neal
Title: Manager, Real Estate Services Division
Department of Public Works & Transportation

Exhibits:

"A" - Description of Friesenhahn Property
"B" - Description of Oak Hill Tract

APPROVED AS TO FORM:

Patrik G. Rehmet
Patrik G. Rehmet
Assistant City Attorney

Date: 4-7-00

THE CITY:

THE CITY OF AUSTIN

By: _____
Name: _____
Title: _____

Exhibits:

"A" - Description of Friesenhahn Property
"B" - Description of Oak Hill Tract