

EXHIBIT C

AGREEMENT FOR WATER AND WASTEWATER SERVICE AND OPERATIONS MANAGEMENT OF FACILITIES BETWEEN THE CITY OF AUSTIN AND THE SHADY HOLLOW MUNICIPAL UTILITY DISTRICT

THIS AGREEMENT (“Water and Wastewater Agreement”) is made and entered into between the City of Austin, Texas (“City”), a Texas home rule municipal corporation, and the Shady Hollow Municipal Utility District (formerly known as the Southwest Travis County Municipal Utility District No. 1), (“District”), a conservation and reclamation district created and operating as a municipal utility district pursuant to the provisions of Chapters 49 and 54, Texas Water Code, collectively “Parties.”

WHEREAS, the City and the District previously entered into the Agreement Concerning Creation and Operation of Southwest Travis County Municipal Utility District No. 1, executed on November 7, 1980; the First Supplement to the Agreement Concerning Creation and Operation of Southwest Travis County Municipal Utility District No. 1, executed on June 22, 1990; the Agreement for Wholesale Wastewater Service Between City of Austin and Southwest Travis County Municipal Utility District No. 1, executed on October 9, 1993; the First Amendment to Agreement for Wholesale Wastewater Service, executed on April 25, 1996; the Second Supplement to the Agreement Concerning Creation and Operation of Southwest Travis County Municipal Utility District No. 1, executed on June 24, 2008 (collectively, the “Consent Agreement”);

WHEREAS, the Southwest Travis County Municipal Utility District No. 1 formally changed its name to the Shady Hollow Municipal Utility District on October 20, 1995 and is hereinafter referred to as the Shady Hollow Municipal Utility District;

WHEREAS, the City and the District previously entered into the Agreement for Wholesale Water Supply Between City of Austin and Shady Hollow Municipal Utility District, executed on September 15, 1980;

WHEREAS, the City and the District previously entered into the Agreement for Wholesale Wastewater Service Between City of Austin and Shady Hollow Municipal Utility District, executed on October 9, 1993;

WHEREAS, the District is party to agreements, as amended, or is otherwise providing Out-of-District water and/or wastewater service to various areas, referred to herein as the “Out-of-District Service Area” including a) Shady Hollow Addition (Shady Hollow Section 1) and Shady Hollow Addition Section 2, Phase 1 (Shady Hollow Section 2, Phase 1) (for water service); b) the Shady Hollow Estates (for wastewater service); c) the Southland Oaks Section 2 (for wastewater service); d) the Enclave at Shady Hollow (for water and wastewater service) and Shady Hollow West (for water and wastewater service);

WHEREAS, the City and the District desire to enter into a new agreement, prior to full purpose annexation by the City on December 31, 2020, to set out terms and conditions for the ownership, operation, and maintenance of the District's water and wastewater facilities;

WHEREAS, the Austin City Council has, by formal action, approved this Agreement as an Exhibit to the Strategic Partnership Agreement Between the City of Austin and Shady Hollow Municipal Utility District on November 21, 2013, in open session at a meeting held in accordance with the Open Meetings Act;

WHEREAS, the District has, by formal action, approved this Agreement as an Exhibit to the Strategic Partnership Agreement Between the City of Austin and Shady Hollow Municipal Utility District on September 3, 2013, in open session at a meeting held in accordance with the Open Meetings Act;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual undertakings herein contained, the Parties agree as follows:

ARTICLE I DEFINITIONS

The following terms shall have the meanings set out below:

1.01. City Water System: means all water treatment, transmission, and distribution facilities, lines, mains, reservoirs, and pump stations; residential, commercial, and industrial connections; and any other parts or components that comprise the public water system of the City.

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

1.03. Connection: means a single family residential unit, or each commercial or industrial establishment, to which drinking water is supplied from the Retail Water System.

1.04. Consent Agreement: means the Agreement Concerning Creation and Operation of Southwest Travis County Municipal Utility District No. 1, executed on November 7, 1980, and the supplements thereto, as listed above.

1.05. Default: means the omission or failure of a Party to perform its contractual duty under this Water and Wastewater Agreement.

1.06. District: means the Shady Hollow Municipal Utility District.

1.07. Director: means the Director of the Austin Water Utility or the Director's authorized designee.

1.08. Effective Date: means the last date of execution of this Water and Wastewater Agreement.

1.09. EPA: means the United States Environmental Protection Agency.

1.10. Full Purpose Annexation Date: means 12:01 a.m., December 15, 2020.

1.11. Industrial Waste: means industrial waste as defined in Chapter 15-10 of the 2009 Austin City Code, as amended.

1.12. Infiltration and Inflow: means water that has migrated from the ground or through direct sources into a Wastewater system.

1.13. O&M Transfer Date: means April 2, 2018.

1.14. Retail Wastewater System: means the collection lines; lift stations; mains; residential, commercial, and industrial connections; the areas within the fenced areas surrounding the various components of the wastewater system and any other parts or components that comprise the public wastewater system serving the retail customers located within the Service Area.

1.15. Retail Water System: means the lines; mains; residential, commercial, and industrial connections; those facilities associated with the transportation of treated water from City of Austin; the areas within the fenced areas surrounding the various components of the water system and any other parts or components that comprise the public water system serving the retail customers located within the Service Area.

1.16. Service Area: means the District's boundaries and City approved Out-of-District Service Area as more particularly designated on Exhibit 1.

1.17. Service Plan: means the Annexation Service Plan, attached as Exhibit D to the Strategic Partnership Agreement.

1.18. Sewage: means water-borne human excreta and gray water.

1.19. Strategic Partnership Agreement: means that certain Strategic Partnership Agreement Between the City of Austin and the Shady Hollow Municipal Utility District, executed simultaneously herewith on the Effective Date.

1.20. Waste or Wastewater: means liquid or water borne waste, including, without limitation, sewage, industrial waste, or other wastes, whether separate or commingled.

1.21. Water: means potable water meeting the requirements of the Commission for human consumption and other domestic uses.

ARTICLE II. WATER AND WASTEWATER SERVICE

2.01. Term. The term of this Agreement shall be effective from _____ until O & M Transfer Date, upon which date the City assumes operation and maintenance of the District's water and wastewater facilities and this Agreement terminates.

2.02. Consent Agreement and Applicable Laws and Regulations. In accordance with the Strategic Partnership Agreement, the District's obligations under this Water and Wastewater Agreement shall be governed by the Consent Agreement; provided however, that to the extent there is any conflict between this Water and Wastewater Agreement and the Consent Agreement, the terms of this Water and Wastewater Agreement shall prevail. Moreover, the obligations of the District and the City under this Water and Wastewater Agreement shall be performed in accordance with all applicable federal, state and local laws and regulations.

2.03. Operation and Maintenance by the District. The Parties agree that before the O&M Transfer Date, the District shall be solely responsible for operation and maintenance of the Retail Water System and Retail Wastewater System, and except as modified by the section herein titled "City's Criticality Assessment", such responsibility shall be performed at the same level as before the Effective Date and in accordance with generally accepted industry standards in Texas and manufacturer's standards for property of that type.

2.04. Operation and Maintenance by the City. Beginning on the O&M Transfer Date, the City will assume all responsibility for operating and maintaining the Retail Water System and Retail Wastewater System and shall honor and assume all the District's utility obligations. The City shall operate and maintain the Retail Water System and Retail Wastewater System and provide water and wastewater services to customers in the District and to the Out-of-District Service Area customers pursuant to this Water and Wastewater Agreement and the Service Plan at the same level as in the District before the Effective Date. In addition, the City will maintain all facilities described in this Water and Wastewater Agreement at the level required by State law regarding municipal annexation as of the Effective Date.

2.05. Commission Orders or Violations. If the Commission issues any form of order or penalty for violations, of applicable law that occur before the O&M Transfer Date, and that result from operation, maintenance, or other program associated with the Retail Water System or Retail Wastewater System, the District is solely responsible for and will take all necessary action to comply with, or otherwise respond to, the order as it pertains to those violations. If the Commission issues any form of order or penalty for violations, of applicable law that occur on or after the O&M Transfer Date, and that result from operation, maintenance, or other program associated with the Retail Water System or Retail Wastewater System, the City is solely responsible for and will take all necessary action to comply with, or otherwise respond to, the order as it pertains to those violations.

2.06. Provision of Water and Wastewater Service to Out-of-District Service Area Customers. The District shall continue to provide Out-of-District service to its current Out-of-District Service Area until the O&M Transfer Date. Beginning on the O&M Transfer Date, the City shall honor and assume all the District's utility obligations including the obligation to provide service to the Out-of-District Service Area as described in the Out-of-District service agreement for each respective area.

ARTICLE III. COMPLIANCE WITH STATE LAWS AND CITY REGULATIONS

3.01. Service Outside District; Enlargement of District Boundaries or Service Area. Without prior written consent of the City, the District will not initiate any proceedings to enlarge its jurisdictional boundaries through any other agency or court of competent jurisdiction.

3.02. Agreement Subject to Applicable Law. This Water and Wastewater Agreement will be subject to all applicable federal, state, and local rules, regulations, and laws, and of any other governmental body or agency having lawful jurisdiction.

3.03. Cooperation to Assure Regulatory Compliance. Because both Parties must comply with all federal, state, and local requirements to obtain permits, grants, and assistance for system construction, studies, etc., the District and the City will cooperate in good faith at all times to assure compliance with any such governmental requirements where noncompliance or noncooperation may subject the Parties to penalties, loss of grants or other funds, or other adverse regulatory action.

ARTICLE IV. RATES, CHARGES, AND BILLING

4.01. Rates and Charges. Prior to the O&M Transfer Date: (1) the District shall fix and collect rates and charges for water and wastewater service to its customers that are, in the opinion of the District's Board of Directors, sufficient, together with any other revenues and funds available to the District, to produce the amount necessary to operate, repair, and maintain the Retail Water System, Retail Wastewater System; (2) the District shall be solely responsible for ensuring that its rates and charges are determined and collected in accordance with applicable law; and (3) the District shall continue to provide customer billing, collection, and customer inquiry services as was provided as of the Effective Date for all of its retail and Out-of-District Service Area customers.

Commencing on the O&M Transfer Date, the City shall charge the customers in the District in-city rates for water and wastewater service, and the City shall provide customer billing, collection, and customer inquiry services for all retail and Out-of-District Service Area customers at the same level as provided by the District before the O&M Transfer Date.

4.02. District Responsible for Approval of Connections. Prior to the O&M Transfer Date: (1) the District will be solely responsible for the appropriate allocation of water and wastewater capacity among its retail and Out-of-District Service Area customers; and (2) the District will be responsible for ensuring compliance by its customers with the applicable terms of this Water and Wastewater Agreement and for the proper and lawful application of District policies and ordinances governing connection to the Retail Water System and Retail Wastewater System.

Commencing on the O&M Transfer Date: (1) the City will be solely responsible for the appropriate allocation of water and wastewater capacity among the retail and Out-of-District Service Area customers; and (2) the City will be responsible for ensuring compliance by its customers with the applicable terms of this Water and Wastewater Agreement and for the proper and lawful application of City policies and ordinances governing connection to the Retail Water System and Retail Wastewater System.

4.03. Customer Fees. Prior to the O&M Transfer Date, the District shall be solely responsible for the proper exercise of its governmental power to assess and collect fees, rates, taxes, or other charges associated with the operation and maintenance of the Retail Water System and Retail Wastewater System and for ensuring that the assessment and collection of the same is in compliance with applicable law. Commencing on the O&M Transfer Date, the City shall be solely responsible for the proper exercise of its governmental power to assess and collect fees, rates, or other charges associated with operation and maintenance of the Retail Water System and Retail Wastewater System and for ensuring that the assessment and collection of the same is in compliance with applicable law.

4.04. District Fees Charged to the City. The District agrees that it shall not charge the City any fees or charges or require any licenses related to the City's ownership or the District's current and the City's future operations and maintenance of the Retail Water System and Retail Wastewater System located within the Service Area.

4.05. Transfer of Customer Records. The District agrees to provide, in an electronic form acceptable to the City and at no cost to the City, all necessary customer billing records and information in order for the City to assume billing responsibilities on the O&M Transfer Date, no later than 30 days from the receipt of the City's request.

ARTICLE V. CONSTRUCTION OF FACILITIES

5.01. District Responsibilities. Prior to the O&M Transfer Date, the District shall be solely responsible for design, engineering, financing, construction, installation, inspection, operation, maintenance, repair, and replacement of all facilities within the Retail Water System and Retail Wastewater System. After the O&M Transfer Date, the City shall be solely responsible for design, engineering, financing, construction, installation, inspection, operation, maintenance, repair, and replacement of all facilities within the Retail Water System and Retail Wastewater System.

5.02. No Private Lines; Reselling of Water. The District has no knowledge of any existing, and shall prohibit the installation of new, privately owned water lines, mains, or appurtenances installed, maintained, or utilized in the public right-of-way within the Service Area in this Water and Wastewater Agreement.

5.03. Acquisition of Rights-of-Way. The District represents and warrants that to the best of its knowledge, it has all required easements and access rights required to access, own, and operate the Retail Water System and Retail Wastewater System, either by instrument, plat dedication or by prescription, and the District transfers and assigns said rights to the City in accordance with the terms of this Water and Wastewater Agreement. In the event that any third person successfully challenges the City's exercise of any such rights prior to the O&M Transfer Date, the District agrees to fully cooperate with the City and take all reasonable actions at the District's expense to defend or establish such rights. As part of the Criticality Assessment described in Section 7.04 of the Water and Wastewater Agreement, in the event that the District does not have an easement or access rights for a particular portion of its Retail Water System or Retail Wastewater System, the District will obtain such at its own cost.

ARTICLE VI. SERVICE AREA AND LIMITATIONS ON SERVICE

6.01. Limitation of Service Area. The Parties agree to the following:

6.01.1. Except for the Out-of-District Service Area, the District may not provide or construct or install facilities to provide Water or Wastewater service outside the Service Area without the prior approval of the Austin City Council;

6.01.2. The Austin City Council reserves the right to deny for any reason any requests by the District for approval under subsection 6.01.1 above;

6.01.3. If the District provides Water or Wastewater service outside the Service Area in violation of subsection 6.01.1 above, the City may require the District to immediately terminate service to the land outside the Service Area; and

6.01.4. Except as authorized before the Effective Date, the District may not connect any customer that the District knows provides Water or Wastewater service directly or indirectly to another person or entity outside the Service Area. The District will immediately terminate the service of any such customer once it discovers any such connection.

6.02. No Delegation of Governmental Authority. The limitations stated herein shall not be construed as a delegation by the District to the City of any governmental authority or power but rather shall be construed as a contractual requirement for consent by the City to the enlargement of the City's required performance hereunder and a condition precedent to further performance by the City hereunder.

**ARTICLE VII.
OWNERSHIP OF FACILITIES**

7.01. Transfer of Ownership. The Parties agree to the following:

7.01.1 Upon the O&M Transfer Date of this Water and Wastewater Agreement, and except as otherwise provided below, the District will grant, bargain, sell, assign, and convey:

7.01.1.1 The Retail Water System and the Retail Wastewater System (“Conveyed Water and Wastewater Facilities”) as generally shown on Exhibit 2 (Water Facilities) and Exhibit 3 (Wastewater Facilities); and all easements, plans and specifications, warranties, guaranties, license agreements, performance bonds, as-built plans, that are directly related to the Conveyed Water and Wastewater Facilities;

7.01.1.2 The existing easements (“Easements”) to the lands situated in the County of Travis, State of Texas, as more generally shown on Exhibit 4 (Conveyed Easements); and

7.01.1.3 The lands (“Conveyed Property”) situated in the County of Travis, State of Texas, generally described on Exhibit 5 (Conveyed Property), and all other such infrastructure, and personal and real property necessary to own, operate, and maintain the Retail Water System and Retail Wastewater System (collectively, “Utility Property”), to the City, together with all and singular the rights, interests, and appurtenances thereto in any way belonging. The Parties specifically agree that the District shall retain full ownership of, and not convey any areas not specifically conveyed hereby; or any other personal or real property interests not reasonably required for the City’s operation and maintenance of the water and wastewater infrastructure being conveyed hereby.

7.01.2 The District agrees that as part of the conveyance of the Utility Property, it is conveying to the City the easement rights, if applicable, on which the Conveyed Water and Wastewater Facilities are located. The District agrees that none of the provisions in this Article shall be construed to relieve the District of any obligation to construct infrastructure improvements required by this Water and Wastewater Agreement, including by way of example, and without limitation, improvements required by maintenance in Section 7.01, as a result of the criticality assessment in Section 7.04 hereof.

7.01.3 The City acknowledges that, except for the warranties contained in this Section with respect to the Utility Property, neither the District nor its representatives have made any representations or warranties, express, implied, or statutory, relating to the physical condition, operating history, valuation, governmental approvals, governmental regulations, or environmental or physical condition of the Utility Property. The City further acknowledges and agrees that other than the warranties contained in this Section:

7.01.4 THE DISTRICT HAS NOT MADE, DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR GUARANTEES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE MERCHANTABILITY, HABITABILITY, QUANTITY, QUALITY OR ENVIRONMENTAL CONDITION OF THE PROPERTY OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE.

7.01.5 Further, as to title to the Utility Property, the District warrants and represents to the City that: (1) it has no knowledge of any title defect; (2) to the best of its knowledge, its title is free and clear of the rights of persons other than the District; and (3) to the best of its knowledge, its interest is free and clear of all mechanic's liens, liens, mortgages, or encumbrances of any nature and no work has been performed or begun by the District, and no materials have been furnished which might give rise to mechanic's, materialman's, or other liens against the Utility Property, or the City's title therein, or any portion thereof; and (4) that it has neither assigned, pledged, or otherwise in any manner whatsoever sold or agreed to sell or transfer by an instrument in writing or otherwise the Utility Property to any other person or entity.

7.02. Utility Property During Period Prior to O&M Transfer Date. If the District replaces or purchases real or personal property, between the Effective Date of this Water and Wastewater Agreement and the O&M Transfer Date, that could be categorized as Conveyed Equipment, Conveyed Water and Wastewater Facilities, or Easements (or reasonably be considered for the use of operating and maintaining such water and wastewater facilities), the District agrees to provide to the City a list of these items prior to the O&M Transfer Date. All such replacements or purchases shall be conveyed to the City under the same terms hereto on the O&M Transfer Date, and such lists shall amend the exhibits of Conveyed Equipment, Conveyed Water and Wastewater Facilities, or Easements. The District and the City agree that they will execute an amendment to this Water and Wastewater Agreement for that purpose, and only that purpose, prior to the O&M Transfer Date, without charge to or additional consideration from the City. The Parties agree that title changes, required by the State, for replacement or new Conveyed Equipment will occur within 30 days of the purchase or the Effective Date of this Water and Wastewater Agreement, whichever occurs last. The City shall pay title transfer fees but without any charge by the District or additional consideration from the City. The District agrees to promptly provide all necessary information and assistance to complete the title transfer transaction.

Within a reasonable time prior to the O&M Transfer Date, the District shall assign, transfer and convey to the City all specifications, warranties, guaranties, license agreements, performance bonds, maintenance records, correspondence, contracts, data, documents, customer accounts, customer records, and other assurances of performance, permits, consents, and other rights, if any, that are directly related to the Conveyed Equipment or the Conveyed Water and Wastewater Facilities.

The District agrees to notify, in September of each year, City staff of capital purchases or changes concerning the operation, maintenance, and management of the Retail Water System and Retail Wastewater System. The District agrees not to enter into any contracts with third parties that would have the effect of being inconsistent with this Water and Wastewater Agreement or would impair or interfere with the City's ownership of the Retail Water System and Retail Wastewater System or the City's future operation and maintenance of the Retail Water System and Retail Wastewater System.

7.03. City's Use of Facilities. If the EPA or the Commission issues any form of order or penalty for violations of applicable law resulting from the City's use of Utility Property, the City is responsible for and will take all necessary action to comply with, or otherwise respond to, the order upon prior notice to the District, except for emergencies. To the extent permitted by law, the City agrees to hold the District harmless for violations that arise out of the actions or inactions of the City and which do not arise out of the actions or inactions of the District.

7.04. City's Criticality Assessment.

7.04.1 The City, with the cooperation of the District, will conduct a criticality assessment of the Retail Water System and Retail Wastewater System no later than January 5, 2015. The City's criticality assessment report will specifically identify each area for improvement and a schedule for completion. The City will provide the District a written copy of the report.

7.04.2 Subject to subsection 7.04.3 below, by July 1, 2017, the District agrees that all City-identified infrastructure improvements from the criticality assessment that are considered maintenance activities will be funded and completed. These may include, but are not limited to, such items as: pump overhauls; replacement of aging electrical wiring or electrical equipment; painting; repair of identified damaged or cracked water or wastewater mains, or manholes; additional portable generators; maintenance of water valves and fire hydrants, replacement/repair of water valves and fire hydrants not properly working; repair or replacement of plant equipment in accordance with TCEQ standards and practices; easements or modifications of lift station facilities and mains to allow emergency equipment to access each lift station and main; and repair or replacement of plant equipment that has been deemed a risk to public health or safety. The City's criticality assessment will include a proposed schedule for completing infrastructure improvements. Upon receipt of the City's criticality assessment and proposed schedule for infrastructure improvements, the District shall prepare a proposed list and schedule of infrastructure improvements, which may or may not be identical to the City's schedule and list of infrastructure improvements within 60 days of receipt of the City's criticality assessment. Any subsequent proposed modifications to a list and schedule of infrastructure improvements by either Party shall be responded to in writing within 60 days of receipt by the Party receiving such document.

7.04.3 The improvements or repairs made by the District under this Section 7.04 shall only include the replacement or repair of equipment that is in need of repair in order to comply with TCEQ standards, practices and rules. If the District disagrees with the list

of infrastructure improvements identified by the City, or if the City disagrees with the District's schedule for completion or list of infrastructure improvements, the Parties will first attempt to mediate with a mutually acceptable mediator a mutually acceptable resolution within 60 days of such disagreement. If mediation fails, a mutually acceptable arbitrator will meet with the Parties within 60 days of either Party's request and will make the final binding determination (either: (i) the District performs the improvement according to the City's schedule and assumes the cost of the improvement; (ii) the District performs the improvement according to the District's schedule; (iii) the District is not required to adopt the City's requested improvement); or (iv) as otherwise determined by the arbitrator within 3 business days of the joint meeting. The Parties agree the cost of the arbitrator shall be borne by the Party against whom the arbitrator makes the determination.

7.04.4 The District agrees to use its best efforts at all times to complete the mutually agreed upon improvements by the dates set out in this Section. If any of the improvements will unavoidably not be completed by July 1, 2017, the City and the District may agree to modify the deadline date, but no later than September 30, 2017 for any item. If any of the improvements are not completed within the modified schedule, the City may, after notice to the District and opportunity to cure not less than 30 days, pursue the remedies available to the City under Article VIII of this Water and Wastewater Agreement; provided, however, that such remedies shall not be available if the delay is caused by force majeure.

ARTICLE VIII.

TERM, PERFORMANCE, AND FORCE MAJEURE

8.01. Term of Agreement. This Water and Wastewater Agreement shall commence on the Effective Date and terminate on the Full Purpose Annexation Date.

8.02 Default and Remedies. In the event that one Party believes that the other Party is in default of any of the provisions in this Water and Wastewater Agreement, the nondefaulting Party will make written demand to cure to the defaulting Party and give the defaulting Party up to thirty days to cure the default or, if the curative action cannot reasonably be completed within thirty days, the defaulting Party will commence the curative action within thirty days and thereafter diligently pursue the curative action to completion. This period must pass before the nondefaulting Party may initiate any remedies available to the nondefaulting Party due to such default. The nondefaulting Party shall mitigate direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The Parties agree that they will use their best efforts to resolve any disputes and may engage in nonbinding arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas before initiating any lawsuit to enforce their rights under this Water and Wastewater Agreement. The Parties shall have all remedies available in law or in equity, and nothing in this Water and Wastewater Agreement shall be construed to limit either Party's right to recover damages or to seek other authorized and appropriate curative remedies if a breach of contract action is filed by a nondefaulting Party to this Water and Wastewater Agreement. The Parties agree that the

remedies for a breach of this Water and Wastewater Agreement by either Party shall be controlled by the breach and remedy provisions set forth in this Water and Wastewater Agreement, and not by the breach and remedy provisions of the Strategic Partnership Agreement being executed by the Parties simultaneously herewith.

8.03. Effect of Force Majeure. In the event that either Party is rendered unable by force majeure to carry out any of its obligations under this Water and Wastewater Agreement, whether in whole or in part, then the obligations of that Party, to the extent affected by the force majeure, shall be suspended during the continuance of the inability, provided, however, that due diligence is exercised to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the Party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other Party. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes events or occurrences that are not within the control of the Party claiming their ability and that could not have been avoided by the exercise of due diligence, and may include acts of God, strikes, lockouts or other industrial disturbances, criminal conduct or sabotage, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of either Party, whether similar to those enumerated or otherwise, that is not within the control of the Party claiming their ability and that could not have been avoided by the exercise of due diligence. It is understood and agreed that the settlement of strikes, lockouts and other industrial or labor disturbances shall be entirely within the discretion of the Party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or other industrial or labor disturbances by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the Party having the difficulty. Force majeure shall relieve City from liability to the District or any water customer of the District for failure to provide water service due to an inability covered by this Article.

ARTICLE IX. GENERAL PROVISIONS

9.01. Notices. Any notice required or permitted to be delivered under this Water and Wastewater Agreement shall be forwarded via hand-delivery or the United States Postal Service, postage prepaid, to the addresses shown below:

City of Austin
Austin Water Utility
P.O. Box 1088
Austin, Texas 78767-8828
Attn: Director

Shady Hollow Municipal Utility District
3910 Capistrano Trail
Austin, Texas 78739
Attn: Board President

With required copy to:
City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767

With required copy to:
Phil Haag
600 Congress Avenue
Suite 2100
Austin, Texas 78701

Each Party shall forward to the other within twenty four hours of the filing thereof in the Commission or other court or agency of competent jurisdiction a true copy of any petition, application, or other instrument affecting this Water and Wastewater Agreement, whether directly or indirectly.

9.02. Address Change Procedure. The addresses of the Parties shall, until changed as provided, be as shown above. The Parties shall have the right at any time to change their respective addresses by giving written notice of same to the other Party.

9.03. Interlocal Cooperation. The City and the District shall cooperate with each other at all times so as to promote the efficient performance of the obligations of this Water and Wastewater Agreement.

9.04. Provision of Further Documents. The District and the City shall execute and deliver such other legal documents or instruments and perform such other acts as are necessary to effectuate the purposes and intent of this Water and Wastewater Agreement.

9.05. Severability. The provisions of this Water and Wastewater Agreement are severable, and if any part of this Water and Wastewater Agreement or the application thereof to any person or circumstances is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Water and Wastewater Agreement and the application of such part of this Water and Wastewater Agreement to other persons or circumstances shall not be affected thereby and this Water and Wastewater Agreement shall be construed as if such invalid or unconstitutional portion had never been contained herein.

9.06. Entire Agreement. This Water and Wastewater Agreement, including any exhibits attached hereto and made a part hereof by reference for all purposes, constitutes the entire agreement between the Parties relative to the subject matter of this Water and Wastewater Agreement and supersedes all prior or contemporaneous agreements, representations, covenants, or warranties, whether oral or in writing, respecting the subject matter hereof.

9.07. Third Party Contracts. The City agrees to honor and assume all of the District's obligations under agreements with parties, other than the City, related to the provision of water and wastewater services to other entities, and the District represents and warrants that, to the best of its knowledge, the agreements identified Out-of-District Agreements constitute all such agreements and a copy of each agreement has been provided to the City prior to the execution of this Water and Wastewater Agreement. The District agrees that the City may negotiate and execute any new agreements related to the Out-of-District Service Area, without the consent of the District, only if they would not be effective until after the O&M Transfer Date.

9.08. Compliance with Rules. The District agrees to file a copy of this Water and Wastewater Agreement with the Executive Director of the Commission, it being fully recognized by the Parties that the effectiveness of this contract is dependent upon and subject to compliance with all applicable local, state, and federal rules and laws.

9.09. Amendment. No amendment of this Water and Wastewater Agreement shall be effective unless it is executed by the authorized representatives of the City and the District.

9.10. Independent Contractor. The District and City shall have the status of an independent contractor hereunder and shall be solely responsible for the proper direction of their respective employees hereunder, and the District's employees shall not be considered employees or borrowed servants of the City for any reason, and the City's employees shall not be considered employees or borrowed servants of the District for any reason.

9.11. No Third Party Beneficiary. This Water and Wastewater Agreement shall be construed as an interlocal contract respecting the performance of governmental services and nothing herein shall be construed to confer any right, privilege, or benefit on any person or entity not a party hereto or otherwise creates any vested right or third party beneficiary relationship.

9.12. Governing Law. This Water and Wastewater Agreement shall be construed under the laws of the State of Texas and all obligations of the Parties are deemed performable in Travis County, Texas.

9.13. Venue. Venue for any suit arising under this Water and Wastewater Agreement shall be in Travis County.

9.14. Assignment. This Water and Wastewater Agreement or any obligation hereunder, may not be assigned by either Party without the prior written consent of the other Party.

9.15. Multiple Originals. This Water and Wastewater Agreement may be executed in multiple originals, each of equal dignity.

9.16. Effective Date. This Water and Wastewater Agreement shall become effective upon the date last date of execution.

IN WITNESS WHEREOF, the authorized representatives of the City and the District have executed this Water and Wastewater Agreement as of the date(s) set forth below.

CITY OF AUSTIN:

By: _____

Name: Robert Goode

Title: Assistant City Manager

Date: _____

**SHADY HOLLOW MUNICIPAL UTILITY
DISTRICT:**

By: _____

Name: Ronald O. Stried

Title: President

Date: _____

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT is acknowledged before me on this ____ day of _____, 2013, by Robert Goode as Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of that municipal corporation.

Notary Public, State of Texas

Printed/Typed Name of Notary

My Commission Expires: _____

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2013, by Ronald O. Stried, President of the Board of Directors of Shady Hollow Municipal Utility District, a conservation and reclamation district created and operating as a municipal utility district, on behalf of that district.

Notary Public, State of Texas

Printed/Typed Name of Notary

My Commission Expires: _____

EXHIBIT 1
MAP OF SERVICE AREA

EXHIBIT 2
CONVEYED WATER FACILITIES TO THE CITY

The District's water facilities, equipment, pumps, lines, appurtenances and any all related property located in easements and right of ways of sections in the District and of specific subdivisions in the Out of District Service Area are referenced in the recorded documents listed below. The list of documents is organized based on reference to facilities located within the District and facilities located within the Out of District Service Area.

Facilities and related Equipment in the District

- A. Shady Hollow Section 2A, Phase 1; Shady Hollow Section 5, Phase 1; Shady Hollow Section 5, Phase 2: Travis County Real Property Records, Travis County, Texas, Volume 8553, Page 393 (Deed/Bill of Sale, Executed March 28, 1984).
- B. Shady Hollow Section 2, Phase 2A: Real Property Records, Travis County, Texas, Volume 10098; Page 0407 (Ratification of Conveyance of Facilities, Executed January 20, 1987; Deed of the Facilities at Real Property Records, Travis County, Texas, Volume 10073, Page 0770 and Contract for Sale of the Water and Wastewater Facilities at Volume 10073, Page 0760.)
- C. Shady Hollow Section 3B; Shady Hollow Section 2A, Phase 2: Travis County Real Property Records, Travis County, Texas, Volume 10011, Page 0839. (Deed/Bill of Sale, December 10, 2006).
- D. Shady Hollow Section 3A, Phase 1, Section 3A, Phase 2; Section 3A, Phase 3 and Section 4: Real Property Records Travis County, Texas Volume 10126, Page 0378 (Deed/Bill of Sale, January 2, 1987); Travis County Real Property Records, Volume 10126 Page 0368, Instrument No. 1012600368 (Contract for Sale of Water, Wastewater and Drainage Facilities, March 2, 1987.)
- E. Shady Hollow Section 6, Phase A, Section 6, Phase B, Section 6, Phase C: Real Property Records, Travis, County, Texas Volume 10014, Page 0253 (Deed/Bill of Sale, December 5, 1986)

- F. Shady Hollow Section 6, Phase D: Real Property Records, Travis County, Texas Volume 10724, Page 0492 (Deed, May 24, 1988).

Facilities and Related Equipment in these subdivisions of the Out of District Service Area

- A. Shady Hollow West: All Water Facilities pipes, equipment and any and all related personal property used in connection with water service located on map or plat recorded at 102, Page 58-60 Real Property Records; Bill of Sale and Conveyance, Real Property Records, Travis County, Texas Volume 13363, Page 0549.
- B. The Enclave at Shady Hollow: All Water Facilities pipes, equipment and any and all related personal property used in connection with water service located in easements or right of way identified on map or plat of record in Volume 86, Page 133D in Plat Records of Travis County, Texas.

EXHIBIT 3
CONVEYED WASTEWATER FACILITIES TO THE CITY

The District's facilities, equipment, pumps, lines, appurtenances and any all related property located in easements and right of ways of sections in the District and of the subdivisions in the Out of District Service Area are referenced in the recorded documents listed below. The list of documents is organized based on reference to facilities located within the District and facilities located within the Out of District Service Area.

Facilities and Related Equipment in the District

- A. Shady Hollow Section 2A, Phase 1; Shady Hollow Section 5, Phase 1; Shady Hollow Section 5, Phase 2: Travis County Real Property Records, Travis County, Texas, Volume 8553, Page 393 (Deed/Bill of Sale, Executed March 28, 1984).
- B. Shady Hollow Section 2A, Phase 2: Real Property Records, Travis County, Texas, Volume 10098; Page 0407 (Ratification of Conveyance of Facilities, Executed January 20, 1987; Deed of the Facilities at Real Property Records, Travis County, Texas, Volume 10073, Page 0770 and Contract for Sale of the Water and Wastewater Facilities at Volume 10073, Page 0760.)
- C. Shady Hollow Section 3B; Shady Hollow Section 2A, Phase 2: Travis County Real Property Records, Travis County, Texas, Volume 10011, Page 0839. (Deed/Bill of Sale, December 10, 2006).
- D. Shady Hollow Section 3A, Phase 1, Section 3A, Phase 2; Section 3A, Phase 3 and Section 4: Real Property Records Travis County, Texas Volume 10126, Page 0378 (Deed/Bill of Sale, January 2, 1987); Travis County Real Property Records, Volume 10126 Page 0368, Instrument No. 1012600368 (Contract for Sale of Water, Wastewater and Drainage Facilities, March 2, 1987.)
- E. Shady Hollow Section 6, Phase A, Section 6, Phase B, Section 6, Phase C: Real Property Records, Travis, County, Texas Volume 10014, Page 0253 (Deed/Bill of Sale, December

5, 1986)

F. Shady Hollow Section 6, Phase D: Real Property Records, Travis County, Texas Volume 10724, Page 0492 (Deed, May 24, 1988).

G. Lift Stations.

a) Lift Station #1 SH Sect. 5 Lot 13.

Facilities and Related Equipment in these subdivisions in Out of District Service Area

A. Shady Hollow West. All Wastewater facilities, pipes, equipment and any and all related personal property used in connection with wastewater service located on map or plat recorded at 102, Page 58-60 Real Property Records; Bill of Sale and Conveyance, Real Property Records, Travis County, Texas Volume 13363, Page 0549.

B. Shady Hollow Estates. All Wastewater Facilities pipes, equipment and any and all related personal property used in connection with wastewater service located in easements or right of way according to the map or plat record for: a) Shady Hollow Estates, Section One, Volume 84, Page 49A, Plat Records; b) Shady Hollow Estates, Section Two Amended, Volume 85, Page 126A, Plat Records; c) Shady Hollow Estates Section Three, Volume 85, Page 35A, Plat Records; and d) Shady Hollow Estates Phase B, Volume 84, Page 136C, Plat Records of Travis County Texas.

C. The Enclave at Shady Hollow. All Wastewater Facilities pipes, equipment and any and all related personal property used in connection with wastewater service located in easements or right of ways according to the map or plat of record in Volume 86, Page 133D in Plat Records of Travis County, Texas.

D. Southland Oaks Section 2. All Wastewater Facilities pipes, equipment and any and all related personal property used in connection with wastewater service located in easements or right of according to the map or plat of record in Volume 85, Page 33D,

34A-34B in Plat Records of Travis County, Texas.

E. Lift Stations.

- b) Lift Station #2 at 11908 Onion Hollow Run
- c) Lift Station #3 at 3314 Lost Oasis Hollow
- d) Lift Station #4 at River Rock Court
- e) Lift Station #5 at 12005 Corner Brook Pass

EXHIBIT 4
CONVEYED EASEMENTS TO THE CITY

All interests in water, wastewater and public utility easement as shown on the City of Austin approved subdivision plats.

1. All easements identified and described in the following Exhibit 4A. [Any missing or unidentified easements will be addressed by the District through the Criticality Assessment described in Section 7.04 of this Agreement.]

EXHIBIT 4A

- A. Public Utility and Access Easements. Real Property Records, Travis County, Texas Volume 11533, Page 335; and, Real Property Records, Travis County, Document No. 1999141358 (Addition to Public Utility and Access Easement November 12, 1999):
1. Lost Oasis
 2. River Rock
 3. Hobbiton Trail
 4. Corner Brook
 5. Bears Den Court
- B. Addition to Public Utility and Access Easements. Real Property Records, Travis County, Document No. 1999141358.
- C. Addition to Public Utility and Access Easement. Real Property Records, Travis County, Texas, Volume 13029, Page 0187.
- D. Lift Station Easement (Onion Hollow). Real Property Records, Travis County, Texas Volume 11879, Pages 0087.
- E. Public Utility Easement (Split Rock Trail). Real Property Records, Travis County, Texas Document No. 2002191559.
- F. Easements for Wastewater Transmission Line and Access. Real Property Records, Travis County, Texas Volume 12630, Page 0186
- G. Easement for Wastewater Transmission Line. Real Property Records, Travis County, Texas Volume 11994, Page 0714

EXHIBIT 5
DISTRICT PROPERTY CONVEYED TO THE CITY

All interests in land owned by the District for the water and wastewater system excluding the property housing the management offices at 3910 Capistrano Trail, Austin, Texas 78739 and the real property and improvements for the District's fire station.