

**ORDINANCE NO. 20170323-024**

**AN ORDINANCE ADOPTING THE FOURTH AMENDMENT TO THE AGREEMENT CONCERNING THE CREATION AND OPERATION OF MOORE'S CROSSING MUNICIPAL UTILITY DISTRICT RELATING TO THE REQUIREMENTS OF THE WATER DISTRICT.**

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

**PART 1.** The Council finds that:

- (1) Moore's Crossing Municipal Utility District (MUD) is a conservation and reclamation district, and a governmental agency of the State of Texas created under Article XVI, Sec. 59 of the Texas Constitution by an order of the Texas Commission on Environmental Quality (formerly Texas Water Commission). The MUD operates under Chapter 54 and 49 of the Texas Water Code.
- (2) The City previously granted its consent to the creation of the MUD and the City, the MUD and Moore's Crossing Joint Venture, original developer of the MUD, entered into an "Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" ("Consent Agreement"), which sets forth terms and conditions for creation an operation of the MUD.
- (3) The creation of the MUD was confirmed by an election held within the MUD on November 3, 1987.
- (4) On December 5, 2016, the MUD submitted an application to amend the Consent Agreement between the City and the MUD.
- (5) On January 11, 2017, the MUD submitted supplement to application to amend the Consent Agreement between the City and MUD.

**PART 2.** The Fourth Amendment to the Consent Agreement is attached as Exhibit A and incorporated as part of this ordinance.

**PART 3.** The City Manager may execute the amendment and do what is necessary to implement the Fourth Amendment.

**PART 4.** This ordinance takes effect on April 3, 2017.

**PASSED AND APPROVED**

March 23 , 2017

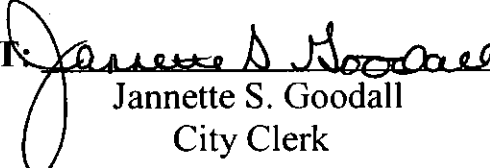
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\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk

**FOURTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND OPERATION  
OF MOORE'S CROSSING MUNICIPAL UTILITY DISTRICT**

THE STATE OF TEXAS     )  
                                      )  
COUNTY OF TRAVIS     )

KNOW ALL BY THESE PRESENTS:

**THIS FOURTH AMENDMENT** to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District (the "Fourth Amendment") is made and entered into by and between the City of Austin, a home rule municipal corporation (the "City"); Moore's Crossing Municipal Utility District, a conservation and reclamation district and political subdivision of the State of Texas created and operating as a municipal utility district pursuant to Chapters 54 and 49, Texas Water Code (the "District"); and SR Development, Inc., a Texas corporation ("SR") and MC Joint Venture, a Texas joint venture comprised of William G. Gurasich and BC Partnership ("MCJV"), a Texas general partnership, successor in interest to Moore's Crossing Joint Venture, the original owner and developer of the remaining lands comprising the District (SR and MCJV sometimes collectively referred to as the "Developer").

**I.  
RECITALS:**

**1.01.** By adoption of Ordinance No. 860206-N, the City Council consented to the creation of the District subject to certain conditions as more particularly stated therein and authorized the execution of that certain "Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "Original Consent Agreement") by and among the City, the District, and the original developer of the District. The Original Consent Agreement was executed by the City on or about March 13, 1986.

**1.02.** By adoption of Ordinance No. 931014-D, the City Council approved that certain "First Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" ("First Amendment"). The First Amendment became effective on June 10, 1994.

**1.03.** By adoption of Ordinance No. 981021-D, the City Council approved that certain "Second Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" relating to the amount of the reimbursements to the Developer for internal water, wastewater, drainage, and water quality facilities (the "Second Amendment"). The Second Amendment became effective on October 26, 1998.

**1.04.** By adoption of Ordinance No. 20030925-008, the City Council approved that certain "Third Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "Third Amendment"), which provided, among other things, that the Developer shall dedicate a six (6) acre site for a joint fire station, emergency medical services, and library facility, additional acreage for greenbelt and parkland, and seven (7) acres "to be used for City-sponsored low-to-moderate income owner-occupied housing." The Original Consent Agreement, as amended by the First Amendment, the Second Amendment and the Third Amendment, is referred to herein as the "Consent Agreement."

**1.05.** The District and the City acknowledge the prior construction of certain street and roadway improvements by the Developer and its predecessor, including but not limited to those improvements completed pursuant to that Stoney Ridge Phasing Agreement dated September 19, 2000, by and between SR and Travis County, as recorded in Document No. 2002084861, Official Public Records of Travis County, Texas ("Phasing Agreement"). The Phasing Agreement obligated the Developer to complete certain roadway improvements in the District, some of which were also required under the Consent Agreement. The Developer has fully satisfied, and has been released from, all of obligations under the Phasing Agreement, as evidenced by that certain Termination Agreement recorded in Document Nos. 2015095517 and 2015117559, Official Public Records of Travis County, Texas ("Termination and Release").

**1.06.** The City, the District, and the Developer desire to amend the Consent Agreement to set forth in writing the agreed amendments to the Consent Agreement.

**NOW, THEREFORE,** in consideration of the foregoing recitals, which shall be incorporated herein as if a part of this Fourth Amendment, and the mutual promises and undertakings herein described, the City, the District, and Developer hereby amend the Consent Agreement as follows:

## **II. AMENDMENTS TO CONSENT AGREEMENT**

**2.01.** Section 8.10(f) a,b, c and d and 8.10(5), (6) and (7) are deleted in their entirety and a new Section 8.10(f) is added as follows:

Any future right-of-way dedication or roadway improvements constructed by the Developer shall (1) meet the City of Austin's Drainage Criteria Manual (DCM) and current code and (2) be consistent with other adopted roadway plans and agreements. The Developer has agreed to:

- i. Construct Ross Road at 44 foot width from Apperson Road to McAngus Road;
- ii. Construct all "Arterial" roadways as designated by the CAMPO Plan within the District and where such roadways are on the boundaries of the District, the Developer shall construct one-half (1/2) of such roadways and related sidewalk. The Developer has dedicated 57 feet of the right-of-way for Elroy Road located within the District boundaries, east of the District's northwest boundary to Kellam Road. Developer also agrees to construct a turning lane for that same section of Elroy Road. Notwithstanding anything to the contrary herein contained, Developer's obligation for any improvements to Elroy Road for that portion of Elroy Road east of Tract E, as Tract E is shown on the Moore's Crossing MUD Land Use, Zoning & Public Space Plan heretofore approved by the City of Austin, is hereby expressly limited to the posting of fiscal for the proportionate share of the cost of the expansion of Elroy Road east of Tract E and west of Kellam Lane, less the value of right of way heretofore conveyed to the City of Austin for the expansion of Elroy Road; and
- iii. Dedicate the necessary right-of-way and construct Heine Farm Road as a 24 foot wide roadway.

Unless waived by the City, the Developer agrees to furnish the City an updated traffic impact analysis upon commencement of either the two following actions regarding the land within the District:

- i. Submission of a zoning petition to the City; or
- ii. Submission of a preliminary subdivision plat to the City.

**III.**

**GENERAL PROVISIONS**

**3.01.** Except as set forth above, all other provisions of the Consent Agreement shall remain in force and effect as written.

**3.02.** This Fourth Amendment to the Consent Agreement may be executed in duplicate originals each of equal dignity.

IN WITNESS WHEREOF, the authorized representative of each party has signed this Fourth Amendment as of the date(s) indicated below.

*[Signature pages follow]*

APPROVED AS TO FORM:

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

**CITY OF AUSTIN, TEXAS**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Assistant City Manager

Date: \_\_\_\_\_

**MOORE'S CROSSING MUNICIPAL  
UTILITY DISTRICT**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: President, Board of Directors

Date: \_\_\_\_\_

**SR DEVELOPMENT, INC.,**  
a Texas corporation

By: \_\_\_\_\_

Printed Name: William C. Gurasich

Title: President

Date: \_\_\_\_\_

**MC JOINT VENTURE, a Texas Joint  
Venture**

By: \_\_\_\_\_

William C. Gurasich

Managing Joint Venturer

Date: \_\_\_\_\_

STATE OF TEXAS       )  
                                  )  
COUNTY OF TRAVIS    )

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of that municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS       )  
                                  )  
COUNTY OF TRAVIS    )

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, President of the Board of Directors of Moore's Crossing Municipal Utility District, a conservation and reclamation district of the State of Texas, on behalf of that district.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS       )  
                                  )  
COUNTY OF TRAVIS    )

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, President of SR Development, Inc., a Texas corporation on behalf of that corporation.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS       )  
                                  )  
COUNTY OF TRAVIS    )

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, Managing Venturer of MC Joint Venture, a Texas joint venture, on behalf of that joint venture.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed/Printed Name of Notary  
My Commission Expires:\_\_\_\_\_