

EXHIBIT E

**STRATEGIC PARTNERSHIP AGREEMENT BETWEEN
THE CITY OF AUSTIN AND
THE WINFIELD MUNICIPAL UTILITY DISTRICT NO. 2**

THE STATE OF TEXAS §
COUNTIES OF TRAVIS § KNOW ALL MEN BY THESE PRESENTS:
AND HAYS §

This Strategic Partnership Agreement Between the City of Austin, Texas and the Winfield Municipal Utility District No 2, Travis and Hays Counties, Texas ("Agreement") is made and entered into by and among the City of Austin, a municipal corporation, acting by and through its duly authorized City Manager ("City"); the Winfield Municipal Utility District No.2 ("District"), acting by and through its duly authorized Board of Directors under the authority of Section 43.0751 of the Texas Local Government Code ("Local Government Code").

RECITALS

1. The District is a municipal utility district created under Chapter 54 of the Texas Water Code. All of the territory within the District is located within the extraterritorial jurisdiction of the City in Travis and Hays Counties, Texas. The District encompasses approximately ___ acres, more or less. Its boundaries are described in **Exhibit "A"** and depicted on **Exhibit "C"** attached to this Agreement.
2. The City is a municipal corporation established by and chartered under Chapter 90, page 634, of the Special Laws of Texas, 1909, 31st Legislature.
3. The City desires to enter into an agreement with the District which would provide for eventual annexation and dissolution of the District by the City, and address issues related to administration of the district, provision of services, and other regulatory and financial matters.
4. The District and its residents and property owners desire to postpone the City's annexation of the District in accordance with the terms of this Agreement.
5. The intent of this Agreement is to enter into a strategic partnership agreement between the City and the District regarding the terms and conditions of annexation of the District by the City in accordance with Section 43.0751 of the Local Government Code.

6. Section 43.0751 of the Local Government Code allows a municipal utility district and a city to provide for limited purpose annexation in a Strategic Partnership Agreement and provide for city collection of sales and use tax in the limited purpose area.
7. The District provided notice of two public hearings concerning the adoption of this Agreement in accordance with the procedural requirements of Section 43.0751 of the Local Government Code.
8. The District conducted two public hearings regarding this Agreement in accordance with procedural requirements of Section 43.0751 of the Local Government Code on _____, 200_, at _____ o'clock p.m., at _____ and on _____, 200_ at _____ o'clock p.m. at _____.
9. The City provided notice of two public hearings concerning the adoption of this Agreement in accordance with the procedural requirements of Section 43.0751 of the Local Government Code.
10. The City conducted two public hearings regarding this Agreement in accordance with procedural requirements of Section 43.0751 of the Local Government Code on _____, 200_ at _____ o'clock p.m., at the City Council Chambers and on _____, 200_ at _____ o'clock p.m., at the City Council Chambers.
11. The District has, by formal action, after public hearings approved this Agreement on _____, 200_ in open session at a meeting held in accordance with the Open Meetings Act.
12. The City has, by formal action, after public hearings approved this Agreement on _____ in open session at a meeting held in accordance with the Open Meetings Act.
13. All procedural requirements imposed by state law for the adoption of this Agreement have been met.

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

ARTICLE I

DEFINITIONS, PURPOSE, AND LEGAL AUTHORITY

Section 1.01 Terms Defined in this Agreement.

In this Agreement, each of the following terms shall have the meaning indicated:

- a. "Agreement" means this Strategic Partnership Agreement Between the City of Austin and the Winfield Municipal Utility District No.2.
- b. "City" means the City of Austin, Texas.

- c. "Consent Agreement" means the agreement between the City and the original developers of the District, namely 2428 Partners, L. P., entitled " Agreement Concerning Creation and Operation of Winfield Municipal Utility Districts Nos. 1, 2, 3 and 4," executed _____, a copy of which Consent Agreement is attached hereto as **Exhibit "B"**.
- e. "District" means the Winfield Municipal Utility District No. 2, Travis and Hays Counties, Texas.
- f. "District Boundaries" means the boundaries of the District as they now exist, including property heretofore annexed or that may hereafter be annexed by the City for full or limited purposes, as such boundaries are more particularly described in **Exhibit "A"** and depicted on **Exhibit "C"** attached to this Agreement.
- g. "District Facilities" means the water, wastewater and drainage facilities, or contract rights therefor, listed on **Exhibit "D"**.
- g. "Limited Purpose Property" means the property area in the District to be annexed for limited purposes pursuant to this Agreement, which area is depicted in **Exhibit "C"** attached to this Agreement and which consists of all the area in the District.
- h. "Notice" means any formal notice or communication required or authorized to be given by one Party to another by this Agreement.
- i. "Parties" means the City and the District.
- j. "Party" means the City, or the District, as the case may be.
- l. "Period of Limited Purpose Annexation" means that period commencing on the effective date of the limited purpose annexation of the District, and ending upon the effective date of the conversion to full purpose jurisdiction of the City.

Section 1.02 Purpose of the Agreement.

The purpose of this Agreement is to define and clarify, through contractual agreement, the terms and conditions of annexation of property in the District by the City and the relationship between the City and the District, including matters related to the issuance of debt by the District, and collection of sales and use tax by the City.

Section 1.03 General Location and Description of the District.

The District is a municipal utility district created under Chapter 54 of the Texas Water Code. All of the territory within the District is located within the extraterritorial jurisdiction of the City in Travis and Hays Counties, Texas. The District encompasses approximately ____ acres, more or less. Its boundaries are described in **Exhibit "A"** and depicted in **Exhibit "C"** attached to this Agreement.

ARTICLE II
ADOPTION OF THE AGREEMENT AND ANNEXATION OF THE DISTRICT

Section 2.01 Conduct of Public Hearings.

The District and the City acknowledge and agree that prior to the execution of this Agreement, the District and the City have conducted public hearings for the purpose of considering the adoption of this Agreement and the annexation of the District in accordance with the terms of this Agreement, and applicable law.

Section 2.02 Effective Date of Agreement.

Under the provisions of Section 43.0751(c) of the Local Government Code, this Agreement shall become effective on _____, the date of adoption of this Agreement by the City. Upon adoption, the Agreement shall be filed by the City in the Real Property Records of Travis and Hays Counties, Texas.

Section 2.03 Annexation of District for Limited Purposes

- a. The District and the City agree that the District shall be annexed by the City for limited purposes of planning and zoning effective _____, 200_ under Section 43.0751 of the Local Government Code and Article I, Section 7 of the City's Charter. The Parties agree that all of the Limited Purpose Property upon limited purpose annexation of the same by the City shall continue to be a part of the District following such annexation and shall continue to receive the same services from the District that it now receives. The District may levy an ad valorem tax in all of the areas within the District Boundaries as long as the District continues to exist.
- b. The District on behalf of all present and future owners of land within the District boundaries hereby consents to the City's annexation of the property within the District for limited purposes as provided in this Agreement, and the imposition of sales and use tax by the City within the District; and consents to the conversion of the property within the District to full purpose jurisdiction in accordance with this Agreement. It is the intent of the Parties that the consent granted in this Agreement shall bind the District and each owner and future owner of land within the District Boundaries.

Section 2.04 Regulatory and Taxation Authority of the City in the District During Limited Purpose Annexation.

Annexation of the area for the limited purposes of planning and zoning will extend City regulatory authority regarding development, construction, land use, environmental quality, and sales and use tax to the area; provided however, that some elements of development may also be subject to review and approval by county government to the extent such review is provided for in subdivision regulation agreements adopted pursuant to state law. Applicable regulations include, but are not limited to, regulations within Titles 25 and 30 of the Land Development Code and related technical manuals, and all rules adopted pursuant thereto. The City may impose and collect sales and use tax as provided in

subsection (k) of Section 43.0751 of the Local Government Code; except that the City shall have no authority to levy any other taxes within the territory annexed for limited purposes during the Period of Limited Purpose Annexation.

Section 2.05 District Residents as Citizens of the City During Limited Purpose Annexation.

- a. As provided by Article I, Section 7 of the City's Charter, upon limited purpose annexation any resident of that portion of the District annexed for limited purposes shall be deemed to be a citizen of the City and shall 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. As provided by Article I, Section 7 of the City's Charter, no resident of that portion of the District annexed for limited purposes is eligible to run for office in the City during the Period of Limited Purpose Annexation.
- c. As provided by Article I, Section 7 of the City's Charter, upon limited purpose annexation any resident of that portion of the District annexed for limited purposes shall 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.

Section 2.06 Conversion to Full Purpose Annexation of Limited Purpose Annexed Area

In accordance with Sections 43.0751 (f)(5) and 43.0751(h) of the Local Government Code, the District and the City agree that the limited purpose annexation status of the District under this Agreement may be converted to full purpose annexation no sooner than the earlier of (i) December 31, 2035, or (ii) upon the completion and issuance of District bonds for 100% of utility infrastructure by the District pursuant to a Consent Agreement between the City and District. In determining whether 100% of the District Facilities and bonds therefore have been completed and issued, the parties agree that such determination shall not be based on bonds authorized by the District's voters but rather shall be based on bonds necessary to provide water, wastewater and drainage facilities (including Regional Facilities) and services to proposed development within the District shown on the approved Land Use Plan attached as **Exhibit G** to the Consent Agreement in accordance with applicable standards for such facilities and services, including those of the City and the Texas Commission on Environmental Quality. In that regard, the District's consulting engineer's and the City's Director of Water Utility's will make a mutual determination of such fact acting in good faith. If they cannot agree on such determination and the City desires to annex the District for full purposes, the parties agree to submit such determination to binding arbitration within sixty days after the District receives written notice from the City of the City's desire to annex the District for full purposes and the City's belief that 100% of the District Facilities have been completed and 100% of the District's bonds have been issued therefor. The arbitration shall be conducted in accordance with Section __ of this Agreement. 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, and dissolving the District. Except as set out in this Agreement, no additional procedural or substantive requirements of state or local annexation law shall apply to such annexation, or to the annexation and dissolution ordinance.

Section 2.07 District Residents as Citizens of the City Upon Conversion to Full Purpose Jurisdiction of the District.

A resident of an area of the District that is converted to full purpose jurisdiction becomes a citizen of the City for all purposes and shall have all the rights, privileges, and responsibilities accorded to the citizens residing in all other areas that the City has annexed for full purposes.

Section 2.08 Notice to Landowners of Full Purpose and Limited Purpose Annexation of Land Within the District.

The District agrees to file the following notice concerning this Agreement in the Real Property Records of Travis and Hays Counties for the property within the District:

All of the property within the boundaries of Winfield Municipal Utility District No. 2 of Travis and Hays Counties, Texas (the "District"), as depicted on the map attached hereto, is subject to the terms and conditions of a Strategic Partnership Agreement ("Agreement") between the District and the City of Austin ("City"), dated _____ 200_. The Agreement establishes a timetable for the annexation by the City of Austin of the property in the District, which will be annexed initially for limited purposes and subsequently for full purposes. The annexation for full purposes may occur automatically at any time after the earlier of (i) December 31, 2035, or (ii) upon the completion and issuance of District bonds for 100% of utility infrastructure by the District, in accordance with a Consent Agreement between the City and District, and the Strategic Partnership Agreement. A copy of the Strategic Partnership Agreement may be obtained by contacting the offices of the District, and questions concerning the Agreement may be directed to the District or the City of Austin.

This notice with appropriate modifications shall also be included in the notice to purchasers of real property in the District in each future edition of the District's Information Form required to be recorded in the Real Property Records of Travis and Hays Counties, Texas, pursuant to Section 49.455 of the Texas Water Code.

Section 2.09 Regulatory and Taxation Authority of the City and the District Upon Full Purpose Annexation of an Area of the District.

Upon full purpose annexation of an area of the District not heretofore annexed by the City for full purposes, the City shall have all the authority and power, including taxation authority, within the full-purpose annexed area that the City enjoys in all other areas that the City has annexed or does annex for full purposes. During the period of Limited Purpose Annexation, the District shall have all of the authority and power, including taxation authority, of a municipal utility district, except as modified by the terms and provisions of this Agreement and applicable law, so long as the District exists.

ARTICLE III
SERVICES TO THE DISTRICT

Section 3.01 Municipal Services During the Period of Limited Purpose Annexation

- a. The parties understand and agree that no City services, other than services related to planning and zoning (including environmental quality), and enforcement of planning and zoning regulations (including environmental regulations) , and other services which may be agreed to by the City under separate contract, will be provided in any area within the District Boundaries prior to the conversion of the District to full purpose jurisdiction.
- b. City services not now being provided within the District Boundaries shall commence upon conversion of the District to full purpose jurisdiction, and dissolution of the District.
- c. The District shall be the retail water and wastewater service provider to all customers in District 2 so that the City will become the retail provider in District 2 upon the date of full purpose annexation conversion. Further, upon the date of full purpose annexation, the City shall own the District Facilities and its proportionate share of the Regional Facilities, or contract rights therein, as defined in the Consent Agreement.

ARTICLE IV

DISTRICT ASSETS, LIABILITIES, OBLIGATIONS, DEBT AND DEBT SERVICE AND THE CONSENT AGREEMENT

Section 4.01 Assets, Liabilities, Indebtedness, and Obligations During the Period of Limited Purpose Annexation.

- a. The Consent Agreement, to the extent that it is not inconsistent with the provisions of this Agreement, shall remain in full force and effect until, and shall expire upon, full purpose annexation of the District. The District shall be dissolved and abolished on or about the date of full purpose conversion, except to the extent that the parties agree that it may remain in existence for the purposes of winding down the District's business.
- b. If there is a conflict between the Consent Agreement and this Agreement, this Agreement shall control.
- c. The District's contracts, assets, liabilities, indebtedness, and obligations will all remain the responsibility of the District until full purpose annexation. Prior to full purpose annexation, disposition or acquisition of additional contracts, assets, liabilities, indebtedness and obligations shall be governed by the Consent Agreement to the extent the Consent Agreement is not inconsistent with this Agreement.

The District shall provide in all agreements with developers developing within the District, that if all bonds have not been issued by the date of full purpose annexation by the City, the developers waive any right to a claim against the District or the City for reimbursement of unreimbursed developer expenses.

Section 4.02 Assumption of the District's Outstanding Obligations, Assets, Debts, and Liabilities by the City.

- a. The City shall assume none of the District's obligations or assets during the period preceding conversion to full purpose annexation jurisdiction, except as specifically provided in this Agreement.
- b. Upon conversion to full purpose annexation jurisdiction of the District, and dissolution of the District, all of the obligations, liabilities, indebtedness, and assets of the District, including but not limited to the District's Bonds, shall be assumed by the City except those obligations, liabilities, indebtedness, and assets incurred or acquired by the District in violation of the Consent Agreement, or this Agreement, or state law.

Section 4.03 Capital Improvements During the Period of Limited Purpose Annexation.

During the Period of Limited Purpose Annexation the District shall be responsible for making all capital improvements to District Facilities, under the terms and conditions in effect under the Consent Agreement.

Section 4.04 District Bonds and Tax.

- a. The District will levy a debt service tax to provide debt service to the District's Bonds in accordance with the terms thereof, and will continue to do so pending full purpose annexation of the District. Upon full purpose annexation of the District by the City, the City will assume the District's outstanding bonds. Any funds in the District's debt service account which have not been applied toward the District's Bonds will be transferred to the City in full to be applied toward debt service of the District's Bonds being assumed by the City upon conversion to full purpose annexation jurisdiction of the District.

With regard to these funds, the District shall:

- i. maintain separate accounts for its debt service fund and for its general fund reflecting the source of these funds; and
 - ii. provide the City with an annual accounting in due course after the close of the District's fiscal year for each year of this Agreement for the debt service fund account and the general fund account reflecting the status of each such account.
- b. The District agrees to report the annual debt tax rate and operations and maintenance tax rate set by the District to the District's tax collector in Travis and Hays Counties, and to do and perform all acts required by law for the tax rates to be effective.

Section 4.05 Limitations on Employment Contractual Obligations of the District, and Debt, Liabilities or Obligations.

The District agrees that as of the effective date of this Agreement, it will not enter into any contracts for employment or services that will result in the creation or continuation of a contractual obligation for the City after the date of full purpose annexation of the District, without the prior written approval of the City. Except for the issuance of bonds approved in the Consent Agreement, the District shall not incur debt, liabilities, or obligations, to construct additional District Facilities, or otherwise transfer property without the prior written approval of the City.

ARTICLE V

DEDICATION TO CITY OF DISTRICT FACILITIES AND REAL PROPERTY; AUDIT

Section 5.01 Easement and Fee Simple Dedication of District Facilities to City.

Upon full purpose annexation of the District by the City, the District shall grant to the City fee simple title or public utility easements (to the extent the City does not already hold an easement to such District Facilities) to all real property containing District Facilities then owned by the District that are to be transferred to the City on the date of conversion to full purpose jurisdiction of the District. In addition, any developers who have constructed District Facilities for the District pursuant to reimbursement agreements with the District but for which the District has not then issued District bonds to purchase same shall convey such unreimbursed District Facilities to the City free and clear of any liens, claims or encumbrances and shall waive any rights to reimbursement for same. The District shall provide for appropriate provisions in any such reimbursement agreements requiring such developers to make any conveyance required by this Section. The dedications shall be by appropriate instrument, acceptable in form and substance to the District and the City, and the District and such developers shall perform all acts necessary prior to the effective date of the conversion to accomplish the transfer of title or easement effective on the date of conversion. However, should the transfer of title to all such properties not be accomplished for any reason by the effective date of the full purpose annexation of the District, the District and such developers shall proceed promptly to conclude the transfer following conversion, for a period not to exceed ninety (90) days, and the District shall remain in effect for such purposes.

Section 5.02 Audit; Review of District Records.

The District shall conduct an annual audit each year, at its sole expense, to be performed by an independent certified public accountant. The District shall file a copy of the completed audit with the City's Director of Financial Services. The District shall make its financial records available to the City for inspection during normal business hours.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01 Effective Date and Duplicate Counterparts.

This Agreement may be executed in duplicate counterparts but shall not be effective unless executed by the City and the District on or before _____. The District agrees that, upon its execution of this Agreement, the District shall be bound by this Agreement; however, the obligations of the District

under this Agreement are subject to the condition that the City will take the action necessary to authorize this Agreement and will execute and deliver the Agreement on or before _____, failing which the District may withdraw from this Agreement.

Section 6.02 Entire Agreement.

- a. Except as expressly set forth in this Agreement, this Agreement is not intended to waive or limit the applicability of laws, regulations and ordinances applicable to the District or the City, nor does it waive the jurisdiction or sovereignty of any governmental body with respect to the District or the City.
- b. As of this date there are no agreements, oral or written, between the Parties which are in conflict with this Agreement. Except as expressly provided by this Agreement, this Agreement, together with all of the attachments to this Agreement, constitutes the entire agreement between the Parties with respect to the terms and conditions governing the annexation of the District. Except as expressly provided by this Agreement, no representations or agreements other than those specifically included in this Agreement shall be binding on either the City or the District.

Section 6.03 Notice.

- a. It is contemplated that the Parties will contact each other concerning the subject matter of this Agreement. However, any Notice shall be given at the addresses below for each of the Parties.
- b. Notice may be given by:
 - i. delivering the Notice to the Party to be notified;
 - ii. by depositing the Notice in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified; or
 - iii. by sending the Notice by telefax with confirming copy sent by mail to the Party to be notified.
- c. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the earlier of the date of actual receipt or three days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the Party to be notified.
- d. For purposes of Notice, the addresses of the Parties shall, until changed as provided in this Section, be as follows:

City of Austin:

City Manager
P. O. Box 1088
Austin, Texas 78767

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

Winfield Municipal Utility District No.2:
Name
Address
Austin, Texas

with required copy to District Attorney:
Freeman & Corbett, L.L.P.
8500 Bluffstone Cove, Ste. B-104
Austin, TX 78759

- e. The Parties may change their addresses for Notice purposes by providing five days written notice of the changed address to the other Party.
- f. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating Notice is extended to the first business day following the Saturday, Sunday, or legal holiday.

Section 6.04 Time.

Time is of the essence in all matters pertaining to the performance of this Agreement.

Section 6.05 Severability or Modification of Agreement as a Result of Modification of the State Code and Statutory Authority for the Agreement.

- a. If any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application of the word, phrase, clause, sentence, paragraph, section or other part of this Agreement 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 and objective of 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 ninety 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 Article VII of this Agreement.

- b. If any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement is modified in whole or in part as a result of amendments to the underlying state code and statutory authority for this Agreement, the Parties agree and understand that such modification may frustrate the purpose of this Agreement. The parties agree that 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 code 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 ninety days from the effective date of amendment of the state code and statutory authority for this Agreement, then this Agreement shall terminate, unless the Parties agree to an extension of time for negotiation of the modification.
- c. If this Agreement is to be terminated as a result of the operation of this Section, the City shall have the right for a ninety (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 shall apply to such annexation and dissolution, or to the annexation and dissolution ordinance.

Section 6.06 Waiver.

Any failure by a Party to the Agreement to insist upon strict performance by the other Party of any provision of this Agreement shall not be deemed a waiver of the provision or of any other provision of the Agreement. The Party has the right at any time to insist upon strict performance of any of the provisions of the Agreement.

Section 6.07 Applicable Law and Venue.

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

Section 6.08 Reservation of Rights.

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

Section 6.09 Further Agreement and Documents.

Both Parties agree that at any time after execution of this Agreement, they will, upon request of the other Party, exchange any other documents necessary to effectuate the terms of this Agreement. Both Parties also agree that they will do any further acts or things as the other Party may reasonably request to effectuate the terms of this Agreement.

Section 6.10 Incorporation of Exhibits and Other Documents by Reference.

All Exhibits and other Documents attached to or referred to in this Agreement are incorporated into this Agreement by reference for the purposes set forth in this Agreement.

Section 6.11 Assignability, Successors, and Assigns.

This Agreement shall not be assignable by the either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned.

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors and assigns.

Section 6.12 Amendment.

This Agreement may only be amended in writing upon the approval of the governing bodies of the City and the District.

ARTICLE VII
DEFAULT AND REMEDIES FOR DEFAULT

Section 7.01 Default.

- a. Upon the occurrence, or alleged occurrence, of an event of default under or violation of this Agreement, the non-defaulting Party shall send the defaulting Party Notice of its default or violation or alleged default or violation. Except as otherwise specifically provided in this Agreement, the defaulting Party must cure its default or violation within seventy-five days following receipt of the Notice of default or violation.
- b. If the default or violation is not cured within the seventy-five day period, the non-defaulting Party may sue for enforcement or cancellation of this Agreement. However, prior to bringing any proceeding in a court of law or before a court of competent jurisdiction, the Parties may resolve the issue through mediation. If the Parties agree to seek mediation or arbitration, they must participate in good faith. However, none of the Parties shall be obligated to pursue mediation or arbitration that does not resolve the issue in dispute within seven days after the mediation is initiated or within fourteen days after the mediation is requested. Further the parties are not obligated to pursue arbitration that does not resolve the issue within twenty-eight days after the arbitration is requested. The Parties shall share the costs of the 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 as a home rule city.
- c. If the Parties are unable to resolve their dispute through mediation or arbitration, the non-defaulting Party shall have the right to enforce the terms and provisions of this Agreement by

specific performance or by such other legal or equitable relief to which the non-defaulting Party maybe entitled. Any remedy or relief described in this Agreement shall be cumulative of, and in addition to, any other remedies and relief available at law or in equity.

- d. If the defaulting Party fails to abide by these deadlines, the non-defaulting Party shall have all rights and remedies available in law and equity and all rights and remedies provided in this Agreement. The Parties acknowledge that the City's remedies shall include the right, in the City's sole discretion, to proceed with full purpose annexation of the District, or any portion thereof.
- e. All of these rights and remedies shall be cumulative.

Section 7.02 Dissolution of the District.

- a. If the District is dissolved without the prior written approval of the City, this Agreement shall automatically terminate and the City shall have the right to annex all of the territory within the District for full purposes without restriction.
- b. If the District is dissolved, the Board of Directors for the District shall continue to exist after the dissolution for the sole purpose of doing any and all acts or things necessary to transfer the assets, obligations, indebtedness, and liabilities to the City. Upon completion of the transfer of all assets, obligations, indebtedness, and liabilities to the City, the District shall cease to exist.

IN WITNESS WHEREOF, this Agreement consisting of ____ pages and **Exhibits A-D** is executed in duplicate counterparts.

CITY OF AUSTIN, TEXAS

Attest: _____

City Clerk

By: _____

City Manager

**WINFIELD
MUNICIPAL UTILITY DISTRICT NO. 2**

Attest:

Secretary

President

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the __ day of _____, 200_, by _____, City Manager for the City of Austin, Texas, for and on behalf of the City of Austin, Texas.

Notary Public in and for the State of Texas
My Commission Expires: _____

THE STATE OF TEXAS

COUNTY OF TRAVIS This instrument was acknowledged before me on the __ day of _____, 200_, by _____, President of Winfield Municipal Utility District No. 2, for and on behalf of the Winfield Municipal Utility District No.2 .

Notary Public in and for the State of Texas
My Commission Expires: _____

STRATEGIC PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF AUSTIN AND THE
WINFIELD MUNICIPAL UTILITY DISTRICT No. 2

LIST OF EXHIBITS

The following are the exhibits for this Agreement:

Exhibit A	District Boundaries – Legal Description
Exhibit B	Consent Agreement
Exhibit C	Map of District
Exhibit D	District Facilities

Exhibit A to Strategic Partnership Agreement

STATE OF TEXAS

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COUNTIES OF HAYS AND TRAVIS §

DESCRIPTION, based on record information (courses given are those of record in Document No. 02024812 noted below or calculated), of a tract or parcel of land containing 577.75 acres, being situated in the D. C. Burleson Survey, William Porter Survey No. 6, and the George Herder Survey No. 537, in Hays and Travis Counties, Texas, being a portion of Tract 1, of 2392.429 acres, conveyed to Athena Equity Partners-Hays, L.P. by the deed recorded in Document No. 02024812 of the Official Public Records of Travis County, Texas; the said 577.75 acre tract being more particularly described as follows:

BEGINNING at a point at the intersection of the centerline of Turnersville Road with the northerly projection of the west line of South Turnersville Road, being the most easterly northeast corner of the abovesaid 2392.529 acre tract;

THENCE, leaving the centerline of Turnersville Road, along the westerly line of South Turnersville Road, same being the easterly line of the 2392.526 acre tract, the following four (4) courses:

- 3) S00°55'14"E, a distance of 50.48 feet to an angle point;
- 4) S02°47'02"E, a distance of 1484.55 feet to an angle point;
- 5) S02°38'47"E, a distance of 920.05 feet to an angle point;
- 4) S02°20'28"E, 1800.39 feet to an angle point;

THENCE, leaving the west line of South Turnersville Road and crossing into the 2392.526 acre tract, with the following eighteen (18) courses:

- 1) S37°17'15"W, 2440.00 feet;
- 2) S74°51'59"W, 390.00 feet;
- 3) N07°27'10"W, 400.00 feet;
- 4) N28°07'42"W, 1149.14 feet;
- 5) N02°07'22"E, 1990.00 feet;
- 6) N89°04'11"W, 1639.56 feet;
- 7) N24°07'02"W, 873.15 feet;
- 8) S87°39'32"W, 290.00 feet;
- 9) S37°10'17"W, 360.00 feet;

- 10) N88°13'53"W, 450.00 feet;
- 11) N21°00'41"W, 785.81 feet;
- 12) N89°38'17"W, 1115.06 feet;
- 13) N02°23'03"W, 463.60 feet;
- 14) With a curve to the left, having a central angle of 06°41'36", a radius of 2640.00 feet, a long chord of 308.23 feet (chord bears N00°37'08"E) for an arc distance of 308.41 feet to a point;
- 15) N02°43'40"W, 384.47 feet to the calculated point of curvature of a curve to the left;
- 16) With the said curve to the left, having a central angle of 00°05'48", a radius of 2640.00 feet, a long chord of 4.45 feet (chord bears N02°46'34"W) for an arc distance of 4.45 feet to a point;
- 17) N02°49'28"W, 300.00 feet to the point of curvature of a curve to the right;
- 18) With a curve to the left, having a central angle of 15°31'41", a radius of 2640.00 feet, a long chord of 713.29 feet (chord bears N10°35'19"W) for an arc distance of 715.48 feet to a point in the centerline of Turnersville Road and the northerly line of the 2392.529 acre tract;

THENCE, along the centerline of said Turnersville Road, being the northerly line of the 2392.529 acre tract with the following seven (7) courses:

- 1) N87°56'00"E, 3150.96 feet to the point of curvature of a non-tangent curve to the right;
- 2) With said curve to the right, having a central angle of 62°40'10", a radius of 270.00 feet, a long chord of 280.82 feet (chord bears S61°42'52"E) for an arc distance of 295.32 feet to a point;
- 3) S28°25'34"E, 451.78 feet to the point of curvature of a curve to the left;
- 4) With the said curve to the left having a central angle of 64°39'59", a radius of 190.00 feet, a long chord of 203.24 feet (chord bears S60°45'34"E) for an arc distance of 214.44 feet to a point;
- 5) N86°54'26"E, 2475.62 feet to the point of curvature of a curve to the right;
- 6) With the said curve to the right having a central angle of 31°16'30", a radius of 500.00 feet, a long chord of 269.55 feet (chord bears S77°27'19"E) for an arc distance of 272.93 feet to a point;

- 7) S61°44'00"E, continuing with the said northerly line of the 2392.526 acre tract and the centerline of Turnersville Road, 218.25 feet to the POINT OF BEGINNING AND CONTAINING within these metes and bounds 577.75 acres of land area.

I, Jerry Fults, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and 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.



JERRY W. FULTS, RPLS
No. 1999 - State of Texas

Exhibit B to Strategic Partnership Agreement

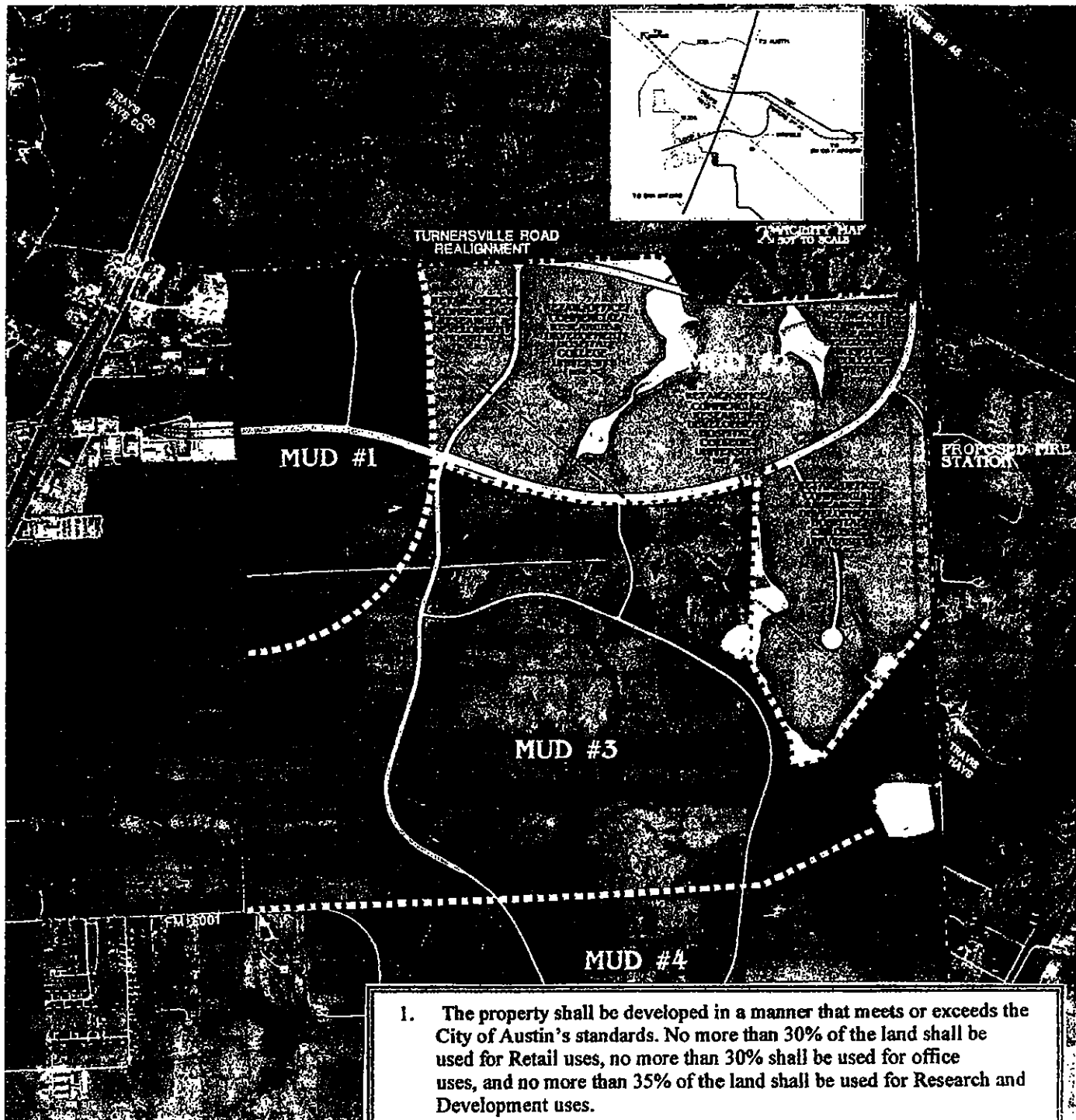
The Consent Agreement will be attached here.

Exhibit C to Strategic Partnership Agreement

Exhibit D To Strategic Partnership Agreement

The District Facilities are those described in the creation reports filed with the Texas Commission on Environmental Quality for creation of the District being the water, wastewater and drainage facilities and contract rights necessary for providing water, wastewater and drainage services to the District.

EXHIBIT F



LEGEND

- RETAIL/OFFICE/COMMERCIAL/
RESEARCH & DEVELOPMENT/
HOSPITAL/COLLEGE-UNIVERSITY
- PROPOSED FIRESTATION
- FLOODPLAIN
- DRAINAGE
- LAKE
- R.O.W.

1. The property shall be developed in a manner that meets or exceeds the City of Austin's standards. No more than 30% of the land shall be used for Retail uses, no more than 30% shall be used for office uses, and no more than 35% of the land shall be used for Research and Development uses.
2. Final use restrictions will be determined per final zoning approved by the Austin City Council.
3. No site development permit shall be issued for an area within the Limited Purpose Annexation Property until that area is zoned by the City.
4. The City of Austin's approval of the Land Plan shall not be construed to be approval of any "permit" as defined by Sec. 245.001, Texas Local Government Code.

STEVE BARTLETT COMPANY

WINFIELD
BUDA, TEXAS

MUD#2 - LAND USE PLAN

SCALE 1" = 600'



EXHIBIT G

The following calculation is intended to allow the City to collect from the district's utility customers upon annexation of the district, sufficient funds for payment of debt service remaining on certain facilities financed with district bonds. The facilities to which the surcharge applies are described at Article III D. 6 of this agreement.

FORMULA FOR SURCHARGE CALCULATION:

$$1) \quad A = \frac{P i}{1 - (1 + i)^{-n}}$$

$$2) \quad \frac{A}{12 \times \text{ESFCs}} = \text{Monthly Surcharge per ESFC}$$

A = Total annual surcharge to be collected from MUD customers

P = Total bond principal outstanding for bonded facilities to which the surcharge applies, including the pro rata share of non construction costs, see note a.

i = Average annual effective interest rate on the outstanding bonds

n = Number of years remaining in debt retirement period

ESFCs = Total number of equivalent single family customers connected to to the district utility system, adjusted as required by note b.

- a. P may be reduced by the amount of district funds identified for debt service on bonded facilities to which the surcharge applies if the funds are made available to the City at annexation. No other credits or reductions to P are allowed.
- b. If full build out of the district has not been achieved at the time of annexation, the number of ESFCs used in the surcharge calculation should be adjusted in order to estimate a levelized district surcharge that will yield a surcharge revenue stream equal to the present value of the applicable district debt. The adjusted ESFCs may be calculated using an expected annual growth rate to discount the expected total ESFCs, similar to a present value calculation.