

5. The City and the District entered into that certain Strategic Partnership Agreement between the City of Austin and the Winfield Municipal Utility District No. 2 effective April 6, 2006 with the District which provides for eventual annexation and dissolution of the District by the City, and addresses issues related to administration of the District, provision of services, and other regulatory and financial matters;
6. The Texas Commission on Environmental Quality ("TCEQ") has issued Certificate of Convenience and Necessity ("CCN") No. 11316 to Sunfield Municipal Utility District No. 4 authorizing it to provide retail water service to approximately 575.7 acres, more or less, in Hays County and Travis County, Texas, which comprises the entire land area of the District;
7. The City and the District have determined that it is in the best interest of both Parties and also potential customers in the District to allow the City to become the retail water service provider within the District Boundaries;
8. The City, the District and Sunfield Municipal Utility Districts Nos. 1, 3 and 4 (formerly Winfield Municipal Utility Districts Nos. 1, 3 and 4) are concurrently executing that First Amendment to Agreement Concerning Creation and Operation of Winfield Municipal Utility Districts Nos. 1, 2, 3 and 4 authorizing the City, inter alia, to provide retail water service to the District; to modify the land plan for the District to permit a wider variety of land uses, including single-family development, to provide for the dedication of parkland and open space, and to provide for conversion of the District into a limited district in accordance with Section 43.0751(f)(6) of the Local Government Code;
9. An application, bearing Case Number C814-2014-0083, has been submitted to the City for a mixed-use, Planned Unit Development within the District consistent with the amended land plan;
10. The District has, by formal action, after public hearings approved this Agreement in open session at a meeting held in accordance with the Open Meetings Act;
11. The City has by vote of Council approved on final reading the terms of this Agreement as Ordinance No. 20150910-_____ at a meeting held on 10 September 2015 in accordance with the Open Meetings Act; and
12. All procedural requirements imposed by state law for the adoption of this Amended 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, the District and Developer agree that the Original Agreement is amended and restated in full as follows and is effective as set forth in Section 2.02 below:

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 First Amended and Restated Strategic Partnership Agreement between the City of Austin and the Sunfield (formerly 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 April 17, 2006 as amended from time to time.
- d. "**Conversion Date**" means the date of conversion of the District into the Limited District, which shall be the Full Purpose Annexation Date.
- e. "**District**" means the Sunfield 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".
- h. "**District Water Supply Facilities**" are those facilities described in the Water Service Plan for water service to the District, excluding, however, the improvements to create the Far South pressure zone system, including a pump station, reservoir and an appropriately sized and located water transmission main (the "**Far South Pressure Zone Facilities**").
- i. "**Full Purpose Annexation Date**" means the effective date on which the District is converted to full-purpose annexation, as provided by Section 2.06 herein.
- j. "**Limited District**" means the limited district into which the District shall convert in accordance with Section 43.0751(f)(6), Texas Local Government Code, to be known as "**Sunfield Limited District No. 2.**"
- k. "**Limited District Election**" means the election to be held by the District on or before the last uniform election date for 2016 at which the voters within the District shall consider the Limited District Election Proposition.
- l. "**Limited District Facilities**" means the facilities, improvements, and properties for which the Limited District shall assume operational control and responsibility upon the

Conversion Date in accordance with terms and conditions of this Agreement, as more particularly described in the Park Master Plan required by the Consent Agreement.

- m. **“Limited Purpose Annexation”** means annexation by the City for the limited purpose of planning and zoning, as authorized by Article I, Section 7 of the City’s Charter.
- n. **“Limited District Election Proposition”** means the proposition to be considered by the voters within the District with respect to the following: (i) the approval of creation of the Limited District to be effective as of the Conversion Date; and (ii) authorization for the Limited District to levy and collect an operations and maintenance tax, as authorized by Section 49.107, Texas Water Code, to fund its operation and maintenance obligations as limited and stated in this Agreement.
- o. **“Limited Purpose Property”** means the property area in the District 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.
- p. **“Notice”** means any formal notice or communication required or authorized to be given by one Party to another by this Agreement.
- q. **“OA Amenities”** means swimming pools, splash pads, community centers and other park and recreational facilities for the Project and any related improvements, land and infrastructure that will be owned, operated and maintained by the Owners Association. Drainage facilities or utility infrastructure, public roads and sidewalks, and other utility or public infrastructure that is owned, operated, and maintained by the District, the City, another governmental entity or a public utility will not constitute OA Amenities.
- r. **“Original Agreement”** means the Strategic Partnership Agreement between the City of Austin and the Winfield Municipal Utility District No. 2 effective April 6, 2006 and recorded in Document No. 2006117615 of the Official Public Records of Travis County, Texas and Document No. 06018158, Volume 2948, Page 709 of the Official Public Records of Hays County, Texas.
- s. **“Owners Association”** means a Texas nonprofit corporation created by the Developer to, among other things, enforce restrictive covenants and own and operate the OA Amenities.
- t. **“Parties”** means the City and the District (or, as applicable following the Conversion Date, the Limited District).
- u. **“Party”** means the City, or the District, as the case may be.
- v. **“PARD Director”** means the Director of the City’s Parks and Recreation Department or its successor.
- w. **“Park Facilities”** means parks, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, and recreational equipment and facilities, including associated street and security lighting, that will be owned, operated and maintained by the

District before and by the Limited District after the full purpose annexation of the District.

- x. **"PZD Director"** means the Director of the City's Planning and Zoning Department or its successor.
- y. **"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.
- z. **"Project"** means the master-planned, mixed use community that includes the District.
- aa. **"Water Service Plan"** means the City-approved conceptual plan which is attached and described in Exhibit E to the Consent Agreement for the extension of City water infrastructure in order to provide retail water service to the District.

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, the collection of sales and use tax by the City, and the conversion of the District into the Limited District.

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 limited purpose jurisdiction of the City in Travis and Hays Counties, Texas. The District encompasses approximately 575.70 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 the Agreement, the District and the City 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, the Original Agreement became effective on April 6, 2006, the date of adoption of the Original Agreement by the City. This Agreement, as an amendment to the Original Agreement, shall become effective on **21 September 2015** which is the date that is the later of: (i) the effective date of the ordinance

authorizing execution of this Agreement by the Austin City Council; (ii) approval of this Agreement by the Board of Directors of the District; and (iii) execution of this Agreement by the Developer and the Parties. Upon the effective date of this Agreement, the Agreement shall be immediately filed by the District in the Official Public Records of Travis and Hays Counties, Texas with this original recorded Agreement to be sent following recording in each county's official public records to the after recording address set forth on the last page of this Agreement.

Section 2.03 Annexation of District for Limited Purposes.

- a. The District and the City agree that the District was annexed by the City for limited purposes of planning and zoning effective May 1, 2006, 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 the 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 has consented to the City's annexation of the property within the District Boundaries for limited purposes, and the imposition of sales and use tax by the City within the District Boundaries; and consents to the conversion of the property within the District Boundaries to full purpose jurisdiction in accordance with this Agreement. It is the intent of the Parties that the consent 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 extends 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 City's 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) **31 December 2035**, or (ii) upon the completion and issuance of District bonds for 100% of utility infrastructure by the District pursuant to the 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 "F"** to the Consent Agreement, as amended, 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 engineers and the City's Director of Water Utility 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 7.01 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. 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 **Sunfield (formerly “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 First Amended and Restated Strategic Partnership Agreement between the City of Austin and the Sunfield (formerly Winfield) Municipal Utility District No. 2 ("**Strategic Partnership Agreement**") between the District and the **City of Austin, Texas ("City of Austin")**, dated effective **21 September 2015** as further amended from time to time. The Strategic Partnership 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) **31 December 2035**, or (ii) upon the completion and issuance of District bonds for 100% of utility infrastructure by the District, in accordance with the Agreement Concerning Creation and Operation of Winfield (now “Sunfield”) Municipal Utility Districts Nos. 1, 2, 3 and 4 (as amended from time to time between the City of Austin and the District (the “**Consent Agreement**”), and the Strategic Partnership Agreement. A copy of the Strategic Partnership Agreement and the Consent Agreement are filed for record in the official public records of Travis and Hays Counties, Texas and may also be obtained by contacting the offices of the District. Any questions concerning the Strategic Partnership Agreement or the Consent 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, the District, and the Limited District.

Upon full purpose annexation of the District, the City shall have all the authority and power, including taxation authority, within the District 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. On the Conversion Date, the Limited District shall have the authority and power, including taxation authority, as provided in this Agreement, so long as the Limited 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 retail water services, 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 Full Purpose Annexation Date.
- b. City services not now being provided within the District Boundaries, other than retail

water services, shall commence upon the Full Purpose Annexation Date, and dissolution of the District.

c. District Retail Water Service.

The City has the sole right to provide all retail water service within the District Boundaries in accordance with the terms and conditions set forth in Section VI.B. of the Consent Agreement which are incorporated into this Agreement in all respects.

Section 3.02 Effluent Reuse in the District Boundaries.

The District and the City have the right to obtain treated effluent within the District Boundaries in accordance with the terms and conditions set forth in Section VI.C. of the Consent Agreement which are incorporated into this Agreement in all respects.

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, at which time the District shall be converted to the Limited District.
- 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.
- d. 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 for retail water service and as otherwise specifically provided in this Agreement.

- b. Upon conversion of the District to full purpose annexation jurisdiction of the City, and conversion of the District to the Limited 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 (i) those obligations, liabilities, indebtedness, and assets incurred or acquired by the District in violation of the Consent Agreement, this Agreement, or state law, and (ii) as provided in Article VI of this Agreement.

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.
 - c. On the Conversion Date, all funds in the District's general operating accounts will become the property of and be transferred to the Limited District.
 - d. As tax revenues for the year of full purpose annexation are collected, the portion allocable to debt service will be paid to the City and the portion allocable to operations and maintenance will be transferred to the Limited District.

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

The District agrees that 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.

At such time as it is required by the rules of the TCEQ, the District shall conduct an annual audit, 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

DISTRICT CONTINUATION AS A LIMITED DISTRICT

Section 6.01 Limited District Election.

The District agrees to conduct the Limited District Election to provide funds to operate the Limited District and to operate and maintain the Limited District Facilities. The District agrees that it may not issue bonds until such time as the Limited District Election Proposition has been submitted to and approved by the voters within the District.

Section 6.02 Continuation as a Limited District.

- a. The District shall automatically convert into the Limited District upon the Conversion Date.
- b. The boundaries of the Limited District shall be coextensive with the District Boundaries.
- c. The Limited District shall exist for an initial term ending on December 31 of the year which is greater than nine (9) years but not more than ten (10) years following the Conversion Date (the “**Initial Term**”). Following the Initial Term the City agrees that the existence of the Limited District shall continue for each successive ten (10) year term (collectively, a “**Successive Term**”) unless the City within the period that is between the first day of April and the first day of October immediately prior to the end of the immediately preceding Initial Term or Successive Term: (i) takes official action by ordinance to terminate the Limited District at the end of the then expiring Initial Term or Successive Term of the Limited District, and (ii) notifies the Limited District in writing of the official action to terminate the Limited District.

Section 6.03 Functions and Responsibilities of the Limited District.

- a. The functions and responsibilities of the Limited District shall be limited to the following, which may be changed from time to time only by written agreement of the governing bodies of the Limited District and the City:
 - i. owning, maintaining, operating, controlling, developing, and maintaining the Limited District Facilities located within the District Boundaries; and
 - ii. enforcing deed restrictions within the District Boundaries pursuant to Section 54.237 of the Water Code (including exercising the architectural control powers of the District).
- b. The Parties agree that the Limited District shall have the power of annexation in accordance with Section 49.301 - 49.302 of the Texas Water Code, but shall be required to secure the written consent of the City Council of the City prior to annexing any property into the boundaries of the Limited District.

Section 6.04 Transfer of Assets to Limited District.

The Parties agree that ownership of the Limited District Facilities shall automatically transfer from the District to the Limited District on the Conversion Date. All other assets owned by the District as of such date shall automatically transfer to the City effective as of full purpose annexation of the property within the District Boundaries.

Section 6.05 Limited District Information to be provided to City.

- a. The Limited District will provide the PZD Director with a copy of the agenda for each meeting of its Board concurrently with the posting of the agenda at the Travis County Courthouse. The Limited District will also provide the PZD Director with a copy of the minutes of all meetings of the Limited District's Board within five business days of the date of approval of such minutes. The Limited District will file a copy of its approved budget for each fiscal year with the PZD Director within 30 days after approval by the Limited District's Board.
- b. The Limited District will obtain an annual audit, prepared by an independent certified public accountant, and will file a copy of its annual audit with the PZD Director within 30 days after approval by the Limited District's Board.

Section 6.06 No City Liability for Limited District Operations.

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

Section 6.07 Bonds and Indebtedness of Limited District.

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

Section 6.08 Limitations on Employment Obligations.

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

Section 6.09 Limitation on Limited District Facilities and Related Debt.

After the Conversion Date, the Limited District may not acquire, purchase, construct, or lease

additional Limited District Facilities, expand any existing Limited District Facilities, or incur debt, liabilities, or obligations to construct additional Limited District Facilities, other than Limited District Facilities which are provided for under this Agreement, without the prior approval of the City, which approval will not be unreasonably withheld, conditioned, or delayed. Nothing in this Agreement will be construed to prohibit the Limited District from repairing or replacing any Limited District Facilities, from installing landscaping or park and recreational improvements, or from modifying or upgrading any Limited District Facilities as may be required by applicable law or a regulation of any governmental entity with jurisdiction. Any repair, replacement or improvements undertaken by the Limited District shall be subject to the terms and conditions of this Agreement, including those provisions that require prior approval of the City.

Section 6.10 Restrictive Covenants.

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

Section 6.11 Dissolution of the Limited District.

- a. Notwithstanding Section 6.02 of this Agreement, if, in any year, the Limited District fails to levy an operation and maintenance tax sufficient to perform its duties and functions as provided in this Agreement, after taking into account its then existing fund balances, the Limited District may be unilaterally dissolved by the City, and no consent of the Limited District or any property owner in the Limited District will be required.
- b. Upon the adoption of an ordinance by City Council dissolving the Limited District under this Article VI, the City will assume all obligations, liabilities, indebtedness, and assets of the Limited District. If the Limited District is dissolved, the Board of Directors of the Limited District shall continue to exist for up to one (1) year from the date the Limited District is dissolved for the sole purpose of cooperating with the City to ensure an orderly transition, authorizing execution of any documents, and doing any and all other acts or things necessary to transfer the assets, obligations, indebtedness, and liabilities of the Limited District to the City in a manner reasonably acceptable to the City Attorney. If any transfer is not been completed for any reason prior to the time the Board of Directors for the Limited District can no longer operate as determined by the City in its sole reasonable discretion, the Limited District agrees that the City will be authorized to finalize such conveyances as the Limited District's successor-in-interest. Upon completion of the transfer of all assets, obligations, indebtedness, and liabilities to the City, the Limited District shall cease to exist.

ARTICLE VII **MISCELLANEOUS PROVISIONS**

District: Sunfield Municipal Utility District No. 2:
c/o: Tim Green
9 Greenway Plaza
Suite 1100
Houston, Texas 77046

Developer: A&M Option 541, LLC
c/o: Jack Tate
16380 Addison Road
Addison, Texas 75001

2428 Partners, LLC
c/o: Douglas Neff
100 Bayview Circle
Suite 240
Newport Beach, California 92660

- 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 7.03 Time.

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

Section 7.04 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 7.05 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 7.06 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 7.07 Reservation of Rights.

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

Section 7.08 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 7.09 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 7.10 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 7.11 Amendment.

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

ARTICLE VIII **DEFAULT AND REMEDIES FOR DEFAULT**

Section 8.01 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 8.02 Dissolution of the District.

- a. If the District is dissolved prior to the Conversion Date 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 District Boundaries 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 up to one (1) year from the date the District is dissolved for the sole purpose of cooperating with the City to ensure an orderly transition, authorizing execution of any documents, and doing any and all other acts or things necessary to transfer the assets, obligations, indebtedness, and liabilities of the District to the City in a manner reasonably acceptable to the City Attorney. If any transfer is not completed for any reason prior to the time the Board of Directors for the District can no longer operate as determined by the City in its sole reasonable discretion, the District agrees that the City will be authorized to finalize such conveyances as the District's successor-in-interest. Upon completion of the transfer of all assets, obligations, indebtedness, and liabilities to the City, the District shall cease to exist.

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EXECUTED AND DELIVERED in duplicate counterparts effective as set forth in Article II, Section 2.02 above.

CITY OF AUSTIN, TEXAS

By: _____
Marc A. Ott
City Manager

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me, the undersigned notary, on ____ September 2015 by Marc A. Ott, City Manager for the City of Austin, Texas, a Texas municipal corporation, for and on behalf of the municipal corporation.

Notary Public in and for the State of Texas

[Seal]

APPROVED AS TO FORM:

City of Austin
Law Department

James M. Williams, Sr.
Assistant City Attorney

**SUNFIELD MUNICIPAL UTILITY
DISTRICT NO. 2**

Attest: _____
Secretary

By: _____
President

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me, the undersigned notary, on ____
September 2015 by _____,
for the Sunfield Municipal Utility District No. 2, for and on behalf of the Sunfield Municipal
Utility District No. 2.

Notary Public in and for the State of Texas

[Seal]

A&M Option 541, LLC

By: _____

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me, the undersigned notary, on _____
September 2015 by _____,
of A&M Option 541, LLC, a Texas limited liability company, for and on behalf of A&M Option
541, LLC.

Notary Public in and for the State of Texas

[Seal]

2428 Partners, LLC

By: _____

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me, the undersigned notary, on ____
September 2015 by _____,
of 2428 Partners, LLC, a Texas limited liability company, for and on behalf of 2428 Partners,
LLC.

Notary Public in and for the State of Texas

[Seal]

FIRST AMENDED AND RESTATED STRATEGIC PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF AUSTIN AND
THE SUNFIELD (formerly Winfield) MUNICIPAL UTILITY DISTRICT NO. 2

LIST OF EXHIBITS

The following are the exhibits for this Agreement:

- Exhibit A - District Boundaries
- Exhibit B - INTENTIONALLY DELETED
- Exhibit C - Depiction of District Boundaries
- Exhibit D - District Facilities

- 7) With the said curve to the left, having a central angle of $9^{\circ}17'01''$, a radius of 589.50 feet, a long chord of 95.41 feet (chord bears $S76^{\circ}14'04''W$) for an arc distance of 95.52 feet to the point of reverse curvature of a curve to the right;
- 8) With the said curve to the right, having a central angle of $18^{\circ}38'26''$, a radius of 5062.50 feet, a long chord of 1639.77 feet (chord bears $S80^{\circ}54'46''W$) for an arc distance of 1647.02 feet to the point of reverse curvature of a curve to the left;
- 9) With the said curve to the left, having a central angle of $89^{\circ}19'27''$, a radius of 25.00 feet, a long chord of 35.15 feet (chord bears $S45^{\circ}34'16''W$) for an arc distance of 38.98 feet to a point;
- 10) $S72^{\circ}04'34''W$, 73.96 feet;
- 11) With a nontangent curve to the left, having a central angle of $89^{\circ}12'55''$, a radius of 35.00 feet, a long chord of 49.16 feet (chord bears $N43^{\circ}41'56''W$) for an arc distance of 54.50 feet to the point of reverse curve of a curve to the right;
- 12) With the said curve to the right, having a central angle of $5^{\circ}17'19''$; a radius of 5076.50 feet, a long chord of 468.42 feet, (chord bears $N85^{\circ}39'43''W$) for an arc distance of 468.59 feet to the point of compound curvature of another curve to the right;
- 13) With the said curve to the right, having a central angle of $11^{\circ}01'45''$; a radius of 310.50 feet, a long chord of 59.68 feet, (chord bears $N77^{\circ}30'11''W$) for an arc distance of 59.77 feet to the point of compound curvature of a curve to the left;
- 14) With a curve to the left, having a central angle of $9^{\circ}17'01''$, a radius of 589.50 feet, a long chord of 95.41 feet (chord bears $N76^{\circ}37'49''W$) for an arc distance of 95.52 feet to the point of reverse curvature of a curve to the right;
- 15) With the said curve to the right, having a central angle of $10^{\circ}31'14''$, a radius of 5062.50 feet, a long chord of 928.26 feet (chord bears $N76^{\circ}00'42''W$) for an arc distance of 929.56 feet to the point of tangency;
- 16) $N70^{\circ}45'06''W$, 672.93 feet to a point of curvature of a curve to the left;
- 17) With the said curve to the left, having a central angle of $90^{\circ}00'00''$; a radius of 35.00 feet, a long chord of 49.50 feet, (chord bears $S64^{\circ}14'54''W$) for an arc distance of 54.98 feet to a point;
- 18) $N79^{\circ}35'36''W$, 91.08 feet to the point of curvature of a point on a non tangent curve to the left;

- 19) With the said curve to the left, having a central angle of $90^{\circ}00'00''$; a radius of 35.00 feet, a long chord of 49.50 feet, (chord bears $N25^{\circ}45'06''W$) for an arc distance of 54.98 feet to the point of tangency;
- 20) $N70^{\circ}45'06''W$, 196.34 feet;
- 21) $N02^{\circ}23'03''W$, 769.14 feet to the point of curvature of a point on a non tangent curve to the left;
- 22) With a curve to the left, having a central angle of $06^{\circ}41'36''$, a radius of 2640.00 feet, a long chord of 308.23 feet (chord bears $N00^{\circ}37'08''E$) for an arc distance of 308.41 feet to a point;
- 23) $N02^{\circ}43'40''W$, 384.47 feet to the calculated point of curvature of a curve to the left;
- 24) With the said curve to the left, having a central angle of $00^{\circ}05'48''$, a radius of 2640.00 feet, a long chord of 4.45 feet (chord bears $N02^{\circ}46'34''W$) for an arc distance of 4.45 feet to a point;
- 25) $N02^{\circ}49'28''W$, 300.00 feet to the point of curvature of a curve to the left;
- 26) With a curve to the left, having a central angle of $15^{\circ}31'41''$, a radius of 2640.00 feet, a long chord of 713.29 feet (chord bears $N10^{\circ}35'19''W$) 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;

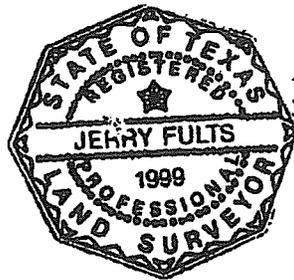
THENCE, along the centerline of said Turnersville Road, being the northerly line of the 2392.529 acre tract with the following seven (7) courses:

- 1) $N87^{\circ}56'00''E$, 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 $62^{\circ}40'10''$, a radius of 270.00 feet, a long chord of 280.82 feet (chord bears $S61^{\circ}42'52''E$) for an arc distance of 295.32 feet to a point;
- 3) $S28^{\circ}25'34''E$, 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 $64^{\circ}39'59''$, a radius of 190.00 feet, a long chord of 203.24 feet (chord bears $S60^{\circ}45'34''E$) for an arc distance of 214.44 feet to a point;
- 5) $N86^{\circ}54'26''E$, 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 $31^{\circ}16'30''$, 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 2392.529 acre tract and the centerline of Turnersville Road, 157.97 feet to the POINT OF BEGINNING AND CONTAINING within these metes and bounds 575.70 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 Fults
JERRY W. FULTS, RPLS
No. 2999 - State of Texas

EXHIBIT C TO PARTNERSHIP AGREEMENT

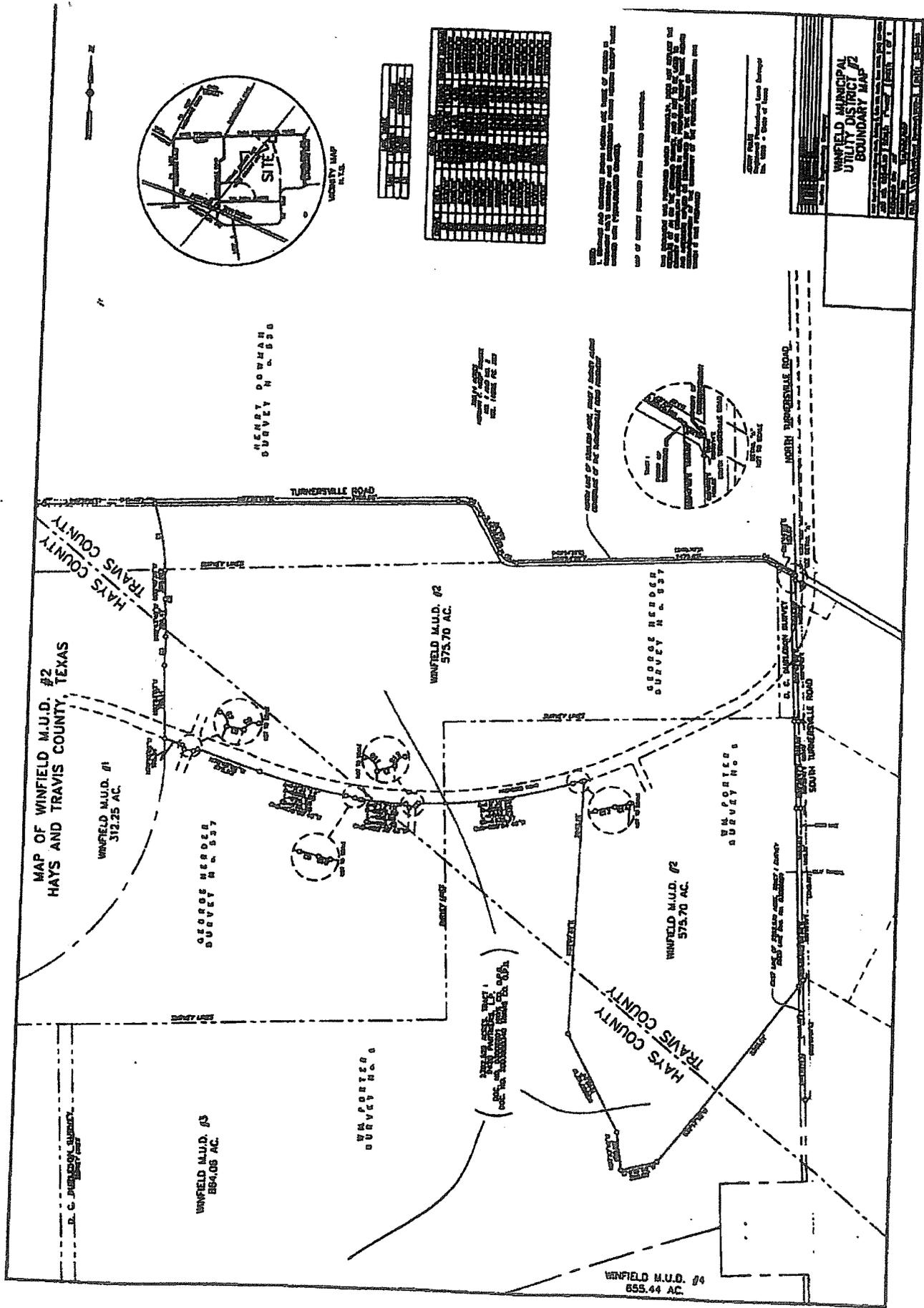


Exhibit D To Strategic Partnership Agreement

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.

PROJECT INFORMATION:

Project Name: Sunfield Municipal Utility Districts
Project Case Manager: Virginia Collier
Council Ordinance Nos.: 20150305-018 and 20150910-_____

AFTER RECORDING, PLEASE RETURN TO:

City of Austin
Planning and Zoning Department
505 Barton Springs Road – Fifth Floor (78704)
P.O. Box 1088
Austin, Texas 78767