

**MEMORANDUM**

TO: Stephen Oliver, Chair, and Members of the Planning Commission

FROM: *CL* Chuck Lesniak, Environmental Officer
Watershed Protection Department

DATE: October 19, 2017

SUBJECT: Proposed agreement with AISD for redevelopment of school campuses within the Barton Springs Zone

On June 7, 2017, the Environmental Commission reviewed and recommended approval of an agreement with the Austin Independent School District (AISD) establishing site development standards and an impervious cover transfer process for redevelopment of Bowie High School. The agreement states that AISD's undeveloped Travis Country site will be permanently protected and its impervious cover entitlement (approximately 6.225 acres) may be used for redevelopment of the Bowie campus. The agreement also states:

“Impervious cover from the Transferring Tract not used for redevelopment of the Bowie Site may be used only for redevelopment of other AISD school campuses as specified in a separate agreement between the City and AISD.”

City Council approved the Bowie agreement on June 22, 2017, and directed staff to work with AISD to prepare a second agreement that would allow impervious cover from the Travis Country site to be transferred to other school campuses within the Barton Springs Zone (BSZ).

A draft term sheet for this second agreement is attached for your review. This agreement would apply to all school campuses within the BSZ, except for Bowie H.S. In order to redevelop, a campus would need to comply with the impervious cover limit specified in the existing development agreement with AISD, which is 25% of net site area (NSA) for all campuses within the BSZ except for four sites (including Travis Country) that vary from 31% to 50% NSA. However, campuses where the existing or proposed conditions exceed the impervious cover limit would be allowed to comply by using an impervious cover transfer from the Travis Country site. (For example, a campus that exceeded the impervious cover limit by 0.5 acres would need to transfer 0.5 acres of impervious cover from the Travis Country entitlement.)

Consistent with the existing agreement, the redeveloped campus would also need to provide no-discharge water quality controls for all existing, new, and redeveloped areas on the site. Water quality treatment would need to be provided on-site to the maximum extent feasible, as determined by the Watershed Protection Department (WPD). However, because of the small size of if WPD determines that water quality requirements cannot be fully met using on-site controls,

treatment of an equivalent off-site area would be allowed. Most determinations about the feasibility of on-site controls would be made when AISD submits a site plan for a redevelopment project. However, AISD has prepared conceptual plans for redevelopment of four campuses and WPD reviewed the campuses for the feasibility of on-site controls. The minimum amount of on-site water quality treatment required for those campuses is therefore specified in the agreement.

AISD intends to remove existing impervious cover the Akin tract, which is one of the parcels that comprise the Bowie campus. However, the Akin tract is currently used as a life estate for the previous owner and it may not be feasible to remove some of the impervious cover when the rest of the campus redevelops, which would require using more of the Travis Country impervious cover than anticipated. As such, AISD has requested, and City staff has agreed, to include in the agreement that if AISD uses an impervious cover transfer for the Bowie redevelopment and then later removes existing impervious cover from the Akin tract, a credit for the removed impervious cover may be returned to the Travis Country entitlement. (For example, if AISD uses four acres of impervious cover credits for the Bowie redevelopment and later removes one acre of impervious cover from the Akin tract, one acre of impervious cover credit shall be returned to the Travis Country entitlement.)

Recommendation

I recommend approval of the proposed agreement because the proposed agreement:

- Implements Council's direction to allow AISD to utilize the undeveloped Travis Country impervious cover for redeveloping existing campuses once the Travis Country site is permanently conserved; and
- Is consistent with the original AISD/CoA agreement that limited impervious cover at most BSZ campuses to 25% net site area if SOS compliant water quality controls are provided; and
- Provides sufficient flexibility for AISD in meeting SOS water quality requirements by allowing treatment of untreated impervious at other AISD properties within the BSZ.

treatment of an equivalent off-site area would be allowed. Most determinations about the feasibility of on-site controls would be made when AISD submits a site plan for a redevelopment project. However, AISD has prepared conceptual plans for redevelopment of four campuses and WPD reviewed the campuses for the feasibility of on-site controls. The minimum amount of on-site water quality treatment required for those campuses is therefore specified in the agreement.

AISD intends to remove existing impervious cover the Akin tract, which is one of the parcels that comprise the Bowie campus. However, the Akin tract is currently used as a life estate for the previous owner and it may not be feasible to remove some of the impervious cover when the rest of the campus redevelops, which would require using more of the Travis Country impervious cover than anticipated. As such, AISD has requested, and City staff has agreed, to include in the agreement that if AISD uses an impervious cover transfer for the Bowie redevelopment and then later removes existing impervious cover from the Akin tract, a credit for the removed impervious cover may be returned to the Travis Country entitlement. (For example, if AISD uses four acres of impervious cover credits for the Bowie redevelopment and later removes one acre of impervious cover from the Akin tract, one acre of impervious cover credit shall be returned to the Travis Country entitlement.)

Recommendation

I recommend approval of the proposed agreement because the proposed agreement:

- Implements Council's direction to allow AISD to utilize the undeveloped Travis Country impervious cover for redeveloping existing campuses once the Travis Country site is permanently conserved; and
- Is consistent with the original AISD/CoA agreement that limited impervious cover at most BSZ campuses to 25% net site area if SOS compliant water quality controls are provided; and
- Provides sufficient flexibility for AISD in meeting SOS water quality requirements by allowing treatment of untreated impervious at other AISD properties within the BSZ.

Term Sheet for Redevelopment of AISD Campuses within the BSZ

The Land Development Standards Agreement between the City of Austin (COA) and Austin Independent School District (AISD) regarding development in the Barton Springs Zone (BSZ) limits impervious cover (IC) on most school campuses to 25% of net site area, prohibits using IC transfers to increase IC above the 25% limit, and requires a “no discharge water quality control”, or an alternative control approved by the Watershed Protection Department (WPD), to be utilized on the site. No discharge controls are defined by WPD as controls that meet the non-degradation standard in Section 25-8-514 of the Land Development Code (LDC), meaning that the water quality treatment results in no increase in the specified pollutants compared to a site with 0% IC (in other words, the treated site has 0% equivalent IC). However, the original development agreement did not foresee redevelopment, including development of new areas, of AISD properties that pre-date the agreement, where existing or proposed conditions exceed the applicable IC limit. As such, AISD has requested a means to redevelop (including adding new impervious cover) existing campuses and use impervious cover credits from AISD’s Travis Country property provided by the June 2017 agreement approved by the Austin City Council. This term sheet provides a path forward for school campuses to redevelop utilizing the Travis Country impervious cover credits while remaining consistent with the intent of the development agreement.

1. This agreement will only apply to redevelopment of campuses in the BSZ other than Bowie High School as that campus has been addressed through a separate agreement.
2. Redevelopment of campuses (including any new impervious cover) in the BSZ must comply with the IC limit specified in the development agreement. However, campuses, where existing or proposed conditions exceed the IC limit, will be considered as in compliance by using an IC transfer from the Travis Country site. Such transfers shall not be allowed for campuses with an IC limit of 50% of net site area or higher.

Solely to create a record of the originally available transferrable Travis Country impervious cover, AISD shall submit a site plan for the Travis Country property showing the amount of developable impervious cover (6.225 ac.) to be made available as transferrable impervious cover. Site plans using transfers shall include a tracking table on the cover sheet that includes; the original Travis Country transfers available, the total amount still available, the amount to be used for the subject site plan, and the amount of transferrable impervious cover remaining after approval of the subject site plan.

3. Redevelopment must provide no-discharge water quality controls for all existing, new, and redeveloped areas on the site. Water quality treatment volume shall be based on the actual amount of IC on the site and not the adjusted amount reflecting any IC transfers. Water quality treatment shall be accomplished using on-site controls to the maximum extent technically feasible, as determined by WPD or as otherwise set forth in Section 3 below. If WPD determines that water quality requirements cannot be fully met using on-site controls, treatment of an approved equivalent area shall be provided to meet water quality treatment requirements. Approved equivalent areas are defined in the Environmental Criteria Manual (ECM) 1.9.2 as follows:

The approved equivalent area must be an area that does not currently receive treatment and is not likely to be treated in the future such as those areas that meet the definition of base impervious cover, public right-of-ways and/or single family subdivisions. An approved equivalent area is hereby defined as one (1) to one and one-half (1.5) times the proposed impervious cover area that requires water quality controls.

For this agreement, an equivalent area will be defined as one times the proposed impervious cover area that requires water quality controls. The approved equivalent area shall be located on an AISD-owned property within the BSZ portion of the Edwards Aquifer recharge zone, if possible. A site within the Barton Springs contributing zone may be approved by WPD if an appropriate site is not available within the recharge zone. Off-site treatment may include removal of existing impervious cover if the proposal includes a mechanism, such as a deed restriction, to ensure the removal is permanent. Tools such as the City's Stormwater Loading Assessment Tool will be used to demonstrate required pollutant load reduction. Treatment of the approved equivalent area shall not be used to meet any future water quality treatment requirements of the off-site location and future redevelopment of the off-site location shall require AISD to find a replacement treatment area.

4. In cooperation with AISD staff and consultants, WPD has reviewed four AISD campuses currently proposed for redevelopment to determine whether it is feasible to comply with the water quality treatment standard using solely on-site controls. WPD determined that it is technically feasible to provide the following amounts of on-site treatment:
 - a. Zilker: pollutant reduction down to 25% equivalent IC
 - b. Barton Hills: pollutant reduction down to 15% equivalent IC
 - c. Baranoff: pollutant reduction to down to 5-10% (under review by CoA) equivalent IC
 - d. Patton: pollutant reduction down to 0% equivalent IC (i.e. all treatment on-site)

Pursuant to Section 2, WPD agrees that redevelopment of Zilker, Barton Hills, and Baranoff elementary schools may utilize an off-site treatment of an approved equivalent area in order to reduce pollutant loading to meet the non-degradation water quality standard.

5. If off-site water quality treatment is provided at a location that requires a separate site plan under the City's development regulations, the City of Austin shall allow the off-site water quality treatment to be included in the site for the campus being redeveloped. Off-site water quality controls and treated areas will only be reviewed for compliance with the agreement and other City regulations that pertain to the water quality treatment system itself, and the off-site location will not otherwise be required to comply with the agreement or City development regulations.

Amendment to the Agreement for Redevelopment of Bowie High School

1. AISD has indicated that it may not be possible to remove impervious cover from the Akin tract at the time of redevelopment of Bowie High School as originally contemplated by the August 2017 agreement. Therefore, the City agrees that if a transfer of impervious cover from the Travis Country site is used for the redevelopment of Bowie High School and existing impervious cover is subsequently removed from the Akin Tract, credits equivalent to the removed impervious

cover shall be credited to the originally available Travis Country transferrable total. However, the credits returned shall not exceed the amount initially transferred for redevelopment of the Bowie campus.



ENVIRONMENTAL COMMISSION MOTION 20171018 007a

Date: October 18, 2017

Subject: Recommendation regarding a proposed agreement with AISD establishing site development standards and allowing transfers for impervious cover for redevelopment of school campuses within the Barton Springs Zone

Motion by: Hank Smith

Seconded by: Mary Ann Neely

RATIONALE:

WHEREAS, this agreement implements Council’s direction to allow Austin Independent School District (AISD) to utilize undeveloped Travis Country impervious cover for redeveloping existing campuses once the Travis Country site is permanently conserved; and

WHEREAS, this agreement is consistent with the original agreement with AISD that limited impervious cover at most Barton Springs Zone (BSZ) campuses to 25% net site area if SOS compliant water quality controls are provided; and

WHEREAS, this agreement provides sufficient flexibility for AISD in meeting SOS water quality requirements by allowing treatment of untreated impervious cover at other AISD properties within the BSZ;

THEREFORE, the Environmental Commission recommends support of the request for a proposed agreement with AISD for redevelopment of school campuses within the BSZ with the following:

Environmental Commission Conditions:

- Regardless if 100% of the impervious cover is used from the Travis Country site there will be no entitlements left that could be used for development of the Travis Country property
- The City and AISD should consider the benefits of providing water quality protection on non-AISD property

VOTE 7-0

For: Neely, Maceo, H. Smith, Guerrero, Gordon, Creel, B. Smith

Against: None

Abstain: None

Recuse: None

Absent: Perales, Thompson, Istvan, Kitchin

Approved By:

Marisa Perales, Environmental Commission Chair

DRAFT

SCHOOL DISTRICT LAND DEVELOPMENT STANDARDS AGREEMENT

This Agreement is entered into this 22nd day of September, 1994 by the City of Austin ("City") and Austin Independent School District ("School District") under the provisions of Local Government Code Section 212.902.

**ARTICLE I
ORDINANCE COMPLIANCE AND MODIFICATION****Section 1.1 City Ordinances and Rules.**

The terms of this Agreement and the exhibits attached hereto shall supersede any conflicting requirements of the City's ordinances and rules. Otherwise, the City's ordinances and rules shall apply to School District development. Except for Chapter 13-8 of the City's Land Development Code ("LDC"), the City's ordinances and rules as they existed on January 1, 1994 shall apply throughout the term of this Agreement. Chapter 13-8 of the City's LDC contains the Building Code (Building Code, Fire Code, Energy Code, Electrical Code, Mechanical Code, Plumbing Code, and Dangerous Building Code) and shall apply as amended from time to time. Notwithstanding any provision of this Agreement to the contrary, if State or Federal law or regulations require that City ordinances or rules be modified or updated to implement State or Federal law or regulations, the School District shall comply with the modified or updated City ordinances or rules.

Section 1.2 Applicable Only To School Buildings.

The modification of the ordinance provisions set forth in this Agreement apply only to school buildings. This Agreement does not waive any fee or modify any ordinance of the City for an administration, service, or athletic facility proposed for construction by the School District separate and apart from an elementary or secondary school.

Section 1.3 Fire, Safety, And Building Codes.

Nothing in this Agreement shall be construed to limit the applicability of or waive fees for fire, safety, health, or building code ordinances of the City prior to or during construction of school buildings.

ARTICLE II
REVIEW AND DEVELOPMENT STANDARDS

Section 2.1 Temporary Classroom Buildings.

A. Temporary classroom buildings are defined as those structures which are (1) constructed in accordance with plans and specifications on file with the Department of Planning and Development of the City of Austin, (2) not placed on permanent foundations, and (3) designated for education related purposes as temporary classroom buildings by the School District. Temporary classroom buildings which are added to an existing school campus are exempt from the provisions of the site development regulations contained in the LDC.

B. All temporary classroom buildings shall comply with fire, electric, plumbing, and other life safety codes of the City.

C. The School District shall obtain permits for the movement of temporary classroom buildings.

D. The City may inspect temporary classroom buildings for compliance with applicable regulations.

E. No permit fees shall be charged by the City to the School District except for those permits which involve the provision of services by the City, such as inspections.

F. The provisions of this section apply only to temporary classroom buildings.

Section 2.2 Review Fees.

The School District shall not pay to the City any fees for the review of applications for site plan approval for school building sites. The School District shall pay all other required

fees, including inspection fees.

Section 2.3 Review Periods.

The City shall notify the School District within 10 days of submittal of an application for site plan approval if the application does not meet the minimum requirements for submittal. The City shall have 28 days to review the application for site plan approval and respond with comments. The City shall have 9 days to review an application for a small project site plan and respond with comments. The City shall have 14 days to review each update to an application for site plan approval and respond with comments.

Section 2.4 Landscaping.

The School District shall, whenever practicable, save significant trees and vegetation and utilize xeriscape. Landscaping shall be provided for each facility and at a minimum shall be designed and installed to the standards established in Exhibit "A". Alternatives may be approved administratively by the City's Environmental Officer or designee at the pre-design conference if special circumstances exist and the minimum standards are not diminished. Grasses and vegetation required for permanent erosion control shall be provided in all cases, but the School District shall not be required to plant shrubs for the purposes of screening. The School District shall complete the required landscaping within eighteen months of the issuance of a certificate of occupancy for the facility.

Section 2.5 Floor-to-area Ratio.

There shall be no floor-to-area ratio limitation on school sites.

Section 2.6 Compatibility Standards.

There shall be compliance with all compatibility standards except that there shall be no requirement for opaque fencing or screening around any building. Security lighting need not be hooded or shielded.

Section 2.7 Traffic Impact Analysis.

No traffic impact analyses shall be required.

Section 2.8 Fiscal Surety.

Notwithstanding any provision of the City ordinances and rules, no cash escrow, letter of credit, bond, or any other form of financial guarantee, associated with development by the School District pursuant to this Agreement, shall be required prior to or during construction or as a condition of any acceptance, approval, or issuance of any permit or certificate by the City. By execution of this Agreement, the School District agrees that the performance otherwise secured by a financial guarantee under the City ordinances and rules, will be made at School District cost. The School District shall include in construction bid documents, construction contracts and the bonding requirements of contractors, that the installation and maintenance of temporary erosion controls and revegetation of disturbed areas will be done in accordance with City standards. The School District will include provisions in construction contracts that require the Contractor to maintain erosion controls at all times and allows the School District to hold the cost of revegetating the site as additional retainage until the City issues a letter approving the revegetation of the site. The School District shall obtain the Contractor's signature on a City approved form which states that the contractor acknowledges its responsibilities for installing and maintaining erosion controls according to City standards. The School District shall hold the cost of revegetation as retainage until the City issues a letter approving the revegetation on the site. In this section, revegetation means permanent erosion controls and does not otherwise include landscaping.

ARTICLE III
WATER QUALITY

Section 3.1 Impervious Cover Limits.

A. In all watersheds except the Barton Springs Zone, impervious cover in the

Uplands Zone shall not exceed fifty percent (50%) of the net site area, or sixty percent (60%) of net site area if transfer of impervious cover is available and utilized. For any site (except in the Barton Springs Zone) owned by the School District before May 18, 1986, the impervious cover limits established by the applicable watershed ordinance in effect on May 18, 1986 shall apply if less restrictive than the limits of this section.

B. In all watersheds except the Barton Springs Zone, impervious cover in the Water Quality Transition Zone shall not exceed eighteen percent (18%) of net site area.

C. No impervious cover shall be permitted in the Critical Water Quality Zone.

D. Except for the three school sites described on Exhibit "B", impervious cover in the Uplands Zone of the Barton Springs Zone is limited to twenty-five percent (25%) of net site area when a no discharge water quality control or an alternative approved by the Environmental and Conservation Services Department is utilized. No transfers of impervious cover are permitted to increase the impervious cover above the 25% limit. No development is allowed in the Critical Water Quality Zone or the Water Quality Transition Zone, except that which is permitted by Section 13-7-23 of the Land Development Code.

E. For the three school sites described on Exhibit "B" only, impervious cover in the Uplands Zone of the Barton Springs Zone is limited to fifty percent (50%) of net site area when a no discharge water quality control or an alternative approved by the Environmental and Conservation Services Department is utilized. No transfers of impervious cover are permitted to increase the impervious cover above the 50% limit. No development is allowed in the Critical Water Quality Zone or the Water Quality Transition Zone, except that which is permitted by Section 13-7-23 of the Land Development Code.

Section 3.2 Transfer of Impervious Cover.

A. For every one acre of land in the Critical Water Quality Zone restricted from

development and available for public use, the School District is entitled to an additional 20,000 square feet of impervious cover on lands in Uplands Zones.

B. For every one acre of land in the Water Quality Transition Zone left undeveloped and undisturbed and not included in impervious cover calculations elsewhere, the School District is entitled to an additional 20,000 square feet of impervious cover on lands in Uplands Zones.

C. For every one acre of land or portion thereof in the Uplands Zone located within a buffer of a Critical Environmental Feature and left natural and undisturbed, the School District is entitled to an additional 20,000 square feet of Impervious Cover on lands elsewhere in Uplands Zones. Such buffer area may also be included in the Net Site Area calculations for the Uplands Zone.

D. A maximum of eighty-five percent (85%) of the transfer credit otherwise available under subsection B is permitted for grass play field within the Water Quality Transition Zone if restored using predominantly native plants and grasses and if the School District provides and implements a plan for minimizing the use and impact of pesticides, herbicides and fertilizers. A maximum of fifty percent (50%) of the transfer credit otherwise available under subsection B is permitted for land use for wastewater disposal.

E. Impervious cover may only be transferred to another site or tract owned by the School District and may only be used in conjunction with an Educational Facility constructed pursuant to this Agreement. Impervious cover may only be transferred within the same watershed classification. Impervious cover may not be transferred unless the transferring tract has an approved site plan which covers the area from which impervious cover is transferred. The School District must file in the County Deed Records restrictive covenants, in a form and substance approved by the City, running with both the transferring and receiving

tracts and noting the transfer of impervious cover.

Section 3.3 Cut and Fill.

A. No cut and fill limits shall apply to the building footprint area, roadway right-of-ways or the construction and maintenance of Water Quality Controls and detention ponds.

B. No cut and fill in excess of four (4) feet shall be allowed in the Critical Water Quality Zone or the Water Quality Transition Zone.

C. Cut and fill in excess of four (4) feet must be structurally contained in accordance with the City's Environmental Criteria Manual.

D. In the Uplands Zone, cut or fill between four (4) and eight (8) feet may be administratively approved. Cut or fill in excess of eight (8) feet must be approved by the Planning Commission.

E. Criteria for allowing cut or fill between four (4) and eight (8) feet shall include, but not be limited to:

- (1) No adverse impact on a Critical Environmental Feature;
- (2) No adverse impact on water quality; or,
- (3) The site has been previously disturbed by manmade activities.

F. The fill limitation shall not apply to:

- (1) Fill placed under foundations and containment walls perpendicular to the ground, or with pier and beam construction if the fill is structurally contained; or,
- (2) Back fill for utility construction or wastewater drainfields.

G. Cut and fill for roadways shall be contained within the right-of-way.

Section 3.4 Water Quality Controls.

All school building sites shall contain water quality controls constructed and maintained in accordance with the City's ordinances and rules as set forth in Section 1.1, "City

Ordinances and Rules".

ARTICLE IV
TERM

Section 4.1 Term.

All provisions of this Agreement shall be in full force and effect for the term of twenty-five (25) years from the Effective Date unless terminated sooner pursuant to this section. At any time after seven (7) years from the Effective Date, written notice of cancellation ("Notice of Cancellation") may be delivered by either party to the other party. This Agreement will terminate sixty (60) days after the date of the delivery of the Notice of Cancellation. A Notice of Cancellation must be authorized by majority vote of the School Board or City Council, as appropriate. In the event that a Notice of Cancellation is delivered by one party to the other, during the intervening sixty (60) day period before the Agreement terminates, the parties agree to negotiate to resolve the issues which gave rise to the Notice of Cancellation. Before the date on which this Agreement terminates, the parties may, by majority vote of both the School Board and City Council, agree to extend the life of, or modify, this Agreement. The fact that negotiations are ongoing shall not affect the validity of the Notice of Cancellation or the termination date.

ARTICLE V
MISCELLANEOUS PROVISIONS

Section 5.1 Liaisons and Dispute Resolution.

The City shall designate one upper-level, full-time employee to act as City Liaison with the School District who will establish and maintain communication with the School District and who will review and, if possible, resolve all issues and disputes relating to the Agreement. The School District shall designate one upper-level, full-time employee to act as School District Liaison with the City who will establish and maintain communication with the City and who

will review and, if possible, resolve all issues and disputes relating to this Agreement.

Section 5.2 Modification Procedure.

Any modification, amendment or alteration of this Agreement shall only be effective and binding if the modification, amendment, or alteration is in writing and signed by both parties. If the City Council amends City ordinances regarding development standards and processes addressed by Article III (Water Quality) of this Agreement, and the School District determines that the amendment is advantageous to the School District, then the School District Superintendent and the City Manager are authorized to, and shall, modify Article III to be consistent with the amendment.

Section 5.3 Entire Agreement.

This Agreement contains the complete and entire agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters. No oral statement or prior written material not specifically incorporated in this Agreement shall be of any force or effect. The parties agree that in entering into this Agreement they have relied solely upon the representations and agreements contained in this Agreement and no others. Any consent, waiver, approval, or authorization under this Agreement shall be effective if signed by the party granting or making such consent, waiver, approval, or authorization.

Section 5.4 Interpretation.

The singular form of any word used in this Agreement includes the plural, and vice-versa, unless the context requires otherwise. The use of a word of any gender in this Agreement includes all other genders, unless the context requires otherwise. This Agreement

and all of the terms and provisions hereof shall be construed to effectuate the purposes contemplated hereby and to sustain the validity hereof.

Section 5.5 Invalid Provisions.

If any clause, sentence, provision, paragraph, section, or article of this Agreement is held by a court or competent jurisdiction to be invalid, illegal, or ineffective, that invalidity, illegality, or ineffectiveness shall not impair, invalidate, or nullify the remainder of this Agreement; and its effect shall be confined to the clause, sentence provisions, paragraph, section, or article held to be invalid, illegal, or ineffective.

Section 5.6 Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer any benefits, rights, or remedies under or by reason of this Agreement upon any person other than the parties to this Agreement and their respective successor governmental entities. No assignment of this Agreement or of any right, duty, or obligation of performance under this Agreement, in whole or in part, shall be effective unless such assignment is approved in writing by both the School District and the City.

Section 5.7 No Joint Venture, Partnership, Agency, Etc.

This Agreement shall not be construed as in any way establishing a partnership or joint venture, express or implied agency, or employer-employee relationship between the parties hereto.

Section 5.8 Other Instruments.

The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Agreement.

Section 5.9 No Waiver.

No consent or waiver, express or implied, by a party to or of any default of any covenant or provision of this Agreement by the other party shall be construed as a consent to or a waiver of any other default of the same or any other covenant or provision of this Agreement.

Section 5.10 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Section 5.11 Headings.

The headings used in this Agreement are used for reference and shall not be used to interpret or limit the meaning of any provision of this Agreement.

Section 5.12 Parties Bound.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective administrators, legal representatives and successor governmental entities.

Section 5.13 Counterparts.

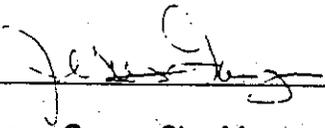
This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.

Section 5.14 Successor Entities.

Any reference to any governmental entity, governmental department or governmental official or employee shall include any succeeding governmental entity, governmental department, or governmental official or employee assuming the responsible or function described by this Agreement.

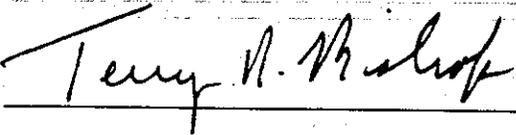
IN WITNESS WHEREOF, we have hereunto set our hands as of the date appearing in the first paragraph of this Agreement.

CITY OF AUSTIN



Jesus Garza, City Manager

AUSTIN INDEPENDENT SCHOOL DISTRICT



Terry N. Bishop, Superintendent

SECOND AMENDMENT TO THE SCHOOL DISTRICT LAND DEVELOPMENT STANDARDS AGREEMENT BETWEEN THE CITY OF AUSTIN AND THE AUSTIN INDEPENDENT SCHOOL DISTRICT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

**KNOW ALL
BY THESE PRESENTS:**

This Second Amendment to the School District Land Development Standards Agreement ("Second Amendment") is made and entered into by and between the City of Austin, Texas, a home-rule city and municipal corporation in Travis County, Texas ("City"), and the Austin Independent School District ("School District") under the provisions of the Local Government Code, Section 212.902.

RECITALS

WHEREAS, the City and the School District executed the School District Land Development Standards Agreement ("Original Agreement") on September 22, 1994, in accordance with Section 212.902 of the Texas Local Government Code; and

WHEREAS, the Original Agreement was amended and restated in February 1997 by the School District Land Development Standards Agreement executed by Jesus Garza, City Manager, on behalf of the City, and by James H. Fox, Jr., Superintendent, on behalf of the School District (as amended and restated, the "Agreement"), which Agreement was received for filing in the City Clerk's Office on February 11, 1997; and

WHEREAS, the Agreement provides that it may be amended if the amendment is approved and signed by both parties; and

WHEREAS, the City and the School District desire to further amend the Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the School District agree as follows:

ARTICLE I

1. Section 2.3 is deleted and replaced with the following:

Section 2.3. City Review and Comment of Site Development Plan and Building Permit Application.

Section 2.3.1 Review Schedule.

- A. The City Liaison shall notify the School District Liaison by telephone or facsimile transmission within five (5) working days of site development plan submittal if the submitted site development plan and reports do not meet the minimum submittal requirements of this Agreement and applicable City ordinances and rules. If the Site Development Plan is insufficient for review, then the City Liaison shall provide written explanation of the application's deficiencies. After the submittal of a sufficient and complete application, the City shall have twenty-eight (28) days to review a site development plan, each subsequent phase of an approved phased site development plan, and accompanying reports, if any, and respond with complete comments from all reviewing City departments to the School District Liaison regarding the site development plan's compliance with this Agreement. Should complete comments not be returned within said twenty-eight (28) days, then the City Liaison shall give a written response to the School District with a copy to the City Manager. Said response shall contain a detailed explanation of the reasons for the delay and an accurate timetable for when complete comments regarding the Site Development Plan will be issued.
- B. After submittal of a sufficient and complete application, the City shall have nine (9) days to review a small project site development plan and respond to the School District Liaison with written comments from all reviewing City departments regarding compliance with this Agreement and applicable City ordinances and rules.
- C. The City shall have fourteen (14) days to review submitted updates to a site development plan.

- D. The School District shall give the City Liaison at least two (2) working days prior notice of the School District's intent to submit a site development plan for initial review or a site development plan update based on prior City review.
- E. The School District shall include with all update submittals a summary sheet listing each comment issued by the City and a brief description of how the comment was addressed.
- F. If, after the City has issued comments to the second update to the site development plan the City has not approved the site development plan, the School District and City Liaison shall meet to resolve the remaining issues preventing site development plan approval. Unless otherwise agreed on by the Liaisons, the above described meeting shall occur within ten (10) days of the City issuing comments to the second site development plan update.
- G. Site development plans for educational facilities shall have priority review by the City.

Section 2.3.2. Final Approval of Site Development Plan.

The site development plan shall be approved if the site development plan complies with this Agreement and all applicable City ordinances and rules.

Section 2.3.3. Effect of Approved Site Development Plan.

- A. A site development plan approved pursuant to this Agreement shall satisfy all City requirements necessary for the School District to begin site construction of all development features shown on the site development plan.
- B. If required, a building permit shall be issued by the City to the School District when the building construction plans are approved as complying with the applicable building code and the approved site development plans.
- C. The School District may begin site construction and utility construction in accordance with the site development plan after:

1. the approval of the site development plan;
 2. a preconstruction conference; and
 3. installation of required environmental controls.
- D. If applicable, water and wastewater tap(s) from the City may be purchased after approval of the Site Development Plan.

Section 2.3.4. Minor Revision to Approved Site Development Plan Prior to or During Construction.

- A. The School District shall transmit to the City Liaison copies of proposed minor revisions to an approved site development plan.
- B. Within four working days of the School District's request for a minor revision, the City shall approve the request, if, subject to modifications required by the City, the minor revision is consistent with this Agreement and applicable City ordinances and rules.
- C. Minor field revisions involving temporary erosion controls may be approved by City environmental field inspectors.

Section 2.3.5. Building Construction Plan Review and Building Permit Issuance.

- A. After the City building official has received information, all applicable City building permit review fees, and adequate evidence of the future availability of water and wastewater service, the City shall have twenty-one (21) days to review a building permit application for a new building and issue to the School District either a Building Permit or a complete written list of changes needed to bring the building construction plans into compliance with the Building Code and this Agreement.
- B. After making the changes necessary to bring the building construction plans into compliance with the Building Code and this Agreement, as noted in the written list of changes provided by the City, the School District may resubmit the building construction plans to the City.

- C. The City shall have ten (10) days to review the resubmitted building construction plans and issue to the School District either a building permit or a second written list of changes needed to bring the building construction plans into compliance with the Building Code and this Agreement. The ten (10) day review period by the City shall apply to each additional resubmittal of the building construction plans.
- D. If the City fails to provide written comments to the School District Building Official within the required ten (10) days, or if more than two resubmittals have been required without a permit being issued, then the City and School District liaison shall meet or communicate as quickly as possible to resolve outstanding issues. The City and School District Building Official may mutually agree to extend any of the required ten (10) day review periods.

2. A new Section 2.9 is added to read:

Section 2.9 Building Height Regulations.

- A. Except as provided in Subsection B of this section, the maximum height of a building located on a school site is 60 feet.
- B. In the zoning jurisdiction of the City:
 - 1. a building located 50 feet or less from a property that is used or zoned for a single-family residential use may not exceed a height of 30 feet; and
 - 2. a building located more than 50 feet but less than 100 feet from a property that is used or zoned for a single-family residential use may not exceed a height of 40 feet.

3. A new Section 2.10 is added to read:

Section 2.10 Parking Requirements.

- A. The minimum number of parking spaces required for a school facility constructed in the corporate limits of the City is:

1. for an elementary or junior high school, 1.5 spaces for each faculty and staff; and
 2. for a senior school, 1.5 spaces for each faculty and staff and 1 space for every 3 students in the 11th and 12th grades.
- B. The minimum parking requirement for a school activity facility in the corporate limits of the City shall be determined by the City on a case by case basis. Shared parking shall be used when possible.
- C. Bicycle parking shall be provided as the School District deems appropriate.
- D. Except for landscaping requirements, the layout of a parking lot must comply with the Transportation Criteria Manual.
4. A new Section 2.11 is added to read:

Section 2.11 Site Development Plan Not Required for Certain Development.

A site development plan is not required for development on a school site that disturbs 5,000 square feet of land or less.

5. Section 3.1 of the Agreement is deleted and replaced with the following:

Section 3.1 Impervious Cover Limits

- A. This subsection applies in an uplands zone.
1. Except as provided in Subsections A.2., A.3., and A.4. below, the maximum impervious cover in an uplands zone is 50 percent of the net site area or 60 percent of the net site area if a transfer of impervious cover is available and used.
 2. In an urban watershed, the maximum impervious cover is 65 percent of the gross site area or the impervious cover allowed by the zoning district, whichever is greater.

3. For development in the Barton Springs Zone for which a no discharge water quality control or alternative control approved by the Watershed Protection Utility is utilized:
 - a. except as provided in Subsection A.3.b. or Subsection A.3.c below, development of a school site shall be 25 percent impervious cover or comply with the impervious cover regulations established in Section 25-8-514 of the City Code (the Save Our Springs Initiative), whichever is greater.
 - b. for a school site described on Exhibit B, impervious cover may not exceed the impervious cover limit established in the exhibit.
 - c. for development of a school site on a tract of land subject to a Conservation Easement to Restrict Impervious Cover (or instrument having similar intent and effect) entered into in connection with a development or settlement agreement between a developer and the City of Austin after March 15, 2000, which includes an allocation of impervious cover to identified tracts of land within the area covered by such agreement, the School District shall be governed solely by the terms and provisions of the applicable Conservation Easement to Restrict Impervious Cover (or instrument having similar intent and effect) regarding the impervious cover limits for such school site.
4. Except in the Barton Springs Zone, for a site owned by the School District before May 18, 1986, the maximum impervious cover is the impervious cover established by the applicable watershed ordinance in effect on May 18, 1986 or the impervious cover established in this Section 3.1, whichever is greater.

- B. This subsection applies in a water quality transition zone.
1. Except as provided in Subsection B.2., the maximum impervious cover is 18 percent.
 2. In the Barton Springs Zone, development is limited to the development allowed in a critical water quality zone by Subsection C.
- C. Except as authorized in the Austin City Code, development is not permitted in a critical water quality zone.
- D. With respect to School Site Number Five (Kiker Elementary) described on Exhibit B, the School District is constructing an eight-classroom addition containing 16,049 square feet of impervious cover (the "Kiker Expansion"), for a total of 159,361 square feet of impervious cover on the Kiker Tract after completion of the expansion or 37.75 percent of net site area. To mitigate the square footage of developed area in excess of 15 percent of net site area (96,000 square feet), the School District will pay to the City the sum of \$230,400. The City shall use these funds to purchase and preserve land in the Barton Springs Zone.

The School District agrees to make the payment within one year following the effective date of this Second Amendment. The City agrees that the payment is a one-time payment and is required only in connection with the Kiker Expansion.

6. Section 3.2C. is amended to read:
- C. Except as otherwise provided in this subsection, for every one acre of land or portion thereof in the Uplands Zone located within a buffer of a Critical Environment Feature and left natural and undisturbed, the School District is entitled to an additional 20,000 square feet of Impervious Cover on lands elsewhere in Uplands Zones. Such buffer area may also be included in the Net Site Area calculations for the Uplands Zone. A transfer of impervious cover to an uplands zone of the Barton Springs Zone is not permitted.

- 7. Exhibit B to the Agreement is deleted and a new Exhibit B is adopted in the form attached to this Second Amendment.

ARTICLE 2 - GENERAL PROVISIONS

- 1. All provisions of the Agreement not specifically amended herein shall remain in effect.
- 2. This Second Amendment is effective after execution by the authorized representatives of all parties.

IN WITNESS WHEREOF, this instrument is made and executed to be effective as of the last date signed by the parties.

CITY OF AUSTIN:

AUSTIN INDEPENDENT SCHOOL DISTRICT:

By: Toby Futrell
 Toby Futrell
 City Manager

By: Doyle Valdez
 Doyle Valdez App'd as to Legal Form 2/24/06
 President, Board of Trustees

Date: 2/24/06

Date: 2/27/06

By: Pascal D. Forgione, Jr.
 Pascal D. Forgione, Jr.
 Superintendent

Date: 2-27-06

APPROVED AS TO FORM:

Delia Thomas
 Assistant City Attorney

EXHIBIT "B"SCHOOL SITES SUBJECT TO SECTION 3.1.A.3.b.School Site Number One

Intentionally Deleted

School Site Number Two (Travis Country Site)

Tract of land consisting of approximately 13.42 acres out of a certain 705.75 acre tract being out of the J. Trammel Survey No. 4, the E. Barton Survey No. 8, the E. Jenkins Survey No. 9; and the C. Arnold Survey No. 78 in Travis County, Texas being more fully described by deed of record in Volume 4046, Page 1490 of the Real Property Records of Travis County Texas; the said 13.42 acres being Lot 63, Block "6" of the Travis Country Section Two, Phase Two Subdivision.

Impervious cover limit: 50% of the net site area.

School Site Number Three (Village at Western Oaks Site)

Tract of land consisting of approximately 14.24 acres, described as Lot 38, Block A in the Village at Western Oaks, Section 28 and 29, approved preliminary subdivision plan #C8-84058.09.

Impervious cover limit: 50% of the net site area.

School Site Number Four (Boone Elementary)

Tract of land consisting of approximately 12.055 acres out of the Thomas Anderson League Survey #17, and also being out of a 14.11 acre tract as conveyed to A.I.S.D. by Deed recorded in Volume 5031, Page 1294, Deed Records of Travis County, Texas.

Impervious cover limit: 31% of the net site area.

School Site Number Five (Kiker Elementary)

Tract of land consisting of 11.727 acres, more or less, out of the Samuel Hamilton Survey No. 16, in Travis County, Texas, being more particularly described in a Special Warranty Deed from Circle C Development Joint Venture to Austin Independent School District, recorded in Volume 11278, Page 1333, Real Property Records of Travis County, Texas.

Impervious cover limit: 38% of the net site area.

ORDINANCE NO. 20170622-058

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF AUSTIN AND AUSTIN INDEPENDENT SCHOOL DISTRICT ESTABLISHING SITE DEVELOPMENT STANDARDS FOR THE REDEVELOPMENT OF BOWIE HIGH SCHOOL AND IMPERVIOUS COVER TRANSFER; WAIVING CITY CODE SECTION 25-8-483; AND GRANTING APPROVAL FOR REDEVELOPMENT AS REQUIRED BY CITY CODE SUBSECTION 25-8-26(F).

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

PART 1. The City Manager is authorized to execute an Agreement between the City of Austin and Austin Independent School District, attached here as Exhibit A, establishing regulations for the redevelopment of Bowie High School, located at 4103 W. Slaughter Lane.

PART 2. Council waives the prohibition of transfers in the Barton Springs Zone in City Code section 25-8-483 (*Transfer of Development Intensity*).

PART 3. Council waives the requirement in City Code subsection 25-1-21(104) to allow the Bowie High School redevelopment site to include the Bowie practice fields located across a public street or right-of-way.

PART 4. Council approves the redevelopment of Bowie High School as required by City Code subsection 25-8-26(F).

PART 5. This ordinance takes effect on July 3, 2017.

PASSED AND APPROVED

_____ June 22 _____, 2017

§
§
§

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

WHEREAS, the City and AISD have an interest in providing for transfer of impervious cover for redevelopment of Bowie High School;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and AISD agree as follows:

ARTICLE I - REGULATIONS, GENERALLY

The Bowie High School redevelopment site (“Bowie Site”) is subject to the site development standards established in Articles II and III of this Agreement, the School District Land Development Standards Agreement, as amended from time to time, ordinances specifically applicable to the Bowie Site, and the City of Austin Land Development Code (“City Code”) to the extent applicable in accordance with the School District Land Development Standards Agreement. Except as provided in Articles II and III of this Agreement and the School District Land Development Standards Agreement, redevelopment of the Bowie Site shall comply with the requirements of the City Code. If a conflict exists between this Agreement and the School District Land Development Standards Agreement, ordinances specifically applicable to the Bowie Site, or the City Code, this Agreement controls. AISD may seek variances to City Code requirements for development or redevelopment of Bowie High School as provided under City Code.

ARTICLE II - SITE SPECIFIC REGULATIONS FOR BOWIE HIGH SCHOOL

Redevelopment of the Bowie Site shall comply with the following:

1. AISD will comply with City Code Chapter 25-8 (*Environment*) and that chapter’s related technical criteria in effect as of the date of this Agreement, or, at AISD’s election, in effect as of the date of the site plan application.
2. Regardless of the requirements of City Code Chapter 25-8 (*Environment*), AISD will provide water quality treatment complying with City Code Section 25-8-514 (*Pollution Prevention Required*) for all existing and redeveloped impervious cover on the Bowie Site.
3. AISD will implement beneficial reuse of stormwater to the maximum extent feasible as determined by mutual agreement of the parties. Beneficial reuse of stormwater may include rainwater harvesting, internal non-potable use, landscape and athletic field irrigation, and other measures to reuse stormwater on-site, maximize infiltration, and reduce potable water usage for non-potable needs.
4. Notwithstanding any requirement of City Code Chapter 25-8 (*Environment*) to the contrary, Section 2.8 (*Fiscal Surety*) of the School District Land Development Standards Agreement shall apply to the redevelopment of the Bowie Site.

5. AISD shall acquire sufficient property adjacent to the Bowie Site and use transfers of impervious cover under Article III of this Agreement to result in total impervious cover for the Bowie Site of 25% or less on a net site basis, excluding any net site area previously allocated to other development.

ARTICLE III – IMPERVIOUS COVER TRANSFER PROCESS

AISD and the City agree to the transfer of impervious cover credit to the Bowie Site as established in this Article.

1. The tract from which impervious cover shall be transferred (the “Transferring Tract”) is more particularly described as follows:

Lot 60 in Block 6 of TRAILWOOD VILLAGE TWO AT TRAVIS COUNTRY, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 76, Pages 393-395 of the Plat Records of Travis County, Texas.

2. The impervious cover credits eligible for transfer from the Transferring Tract will be calculated based on the allowable impervious cover under the School District Land Development Standards Agreement.
3. The Transferring Tract shall be restricted to prohibit development on the tract in a manner acceptable to the City, which may include a conservation easement, restrictive covenant, or similar instrument.
4. The impervious cover from the Transferring Tract may be used by AISD for redevelopment of the Bowie Site and to meet the requirements of this Agreement.
5. Impervious cover from the Transferring Tract not used for redevelopment of the Bowie Site may be used only for redevelopment of other AISD school campuses as specified in a separate agreement between the City and AISD.

ARTICLE IV- GENERAL PROVISIONS

Resolution of any issue or dispute relating to this Agreement shall be governed by the Dispute Resolution provision in the School District Land Development Standards Agreement.

IN WITNESS WHEREOF, this Agreement is made and executed to be effective upon execution by the authorized representatives of AISD and the City.

CITY OF AUSTIN:

By: _____
Elaine Hart
Interim City Manager

Date: _____

AUSTIN INDEPENDENT SCHOOL DISTRICT:

By: _____
Kendall Pace
President, Board of Trustees

Date: _____

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney