



City of Austin

301 W. Second Street
Austin, TX

Agenda

Questions and Answers Report

Mayor Steve Adler

Mayor Pro Tem Delia Garza, District 2

Council Member Natasha Harper-Madison, District 1

Council Member Sabino "Pio" Renteria, District 3

Council Member Gregorio Casar, District 4

Council Member Ann Kitchen, District 5

Council Member Jimmy Flannigan, District 6

Council Member Leslie Pool, District 7

Council Member Paige Ellis, District 8

Council Member Kathie Tovo, District 9

Council Member Alison Alter, District 10

Thursday, January 31, 2019

Austin City Hall

The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.

QUESTIONS FROM COUNCIL

2. **Agenda Item #2:** Approve an ordinance amending City Code Chapter 15-5 related to on-site sewage facilities.

QUESTION: Please provide a summary of the stakeholder input referenced in the RCA, and the changes that were made to reflect that input.

COUNCIL MEMBER ALTER'S OFFICE

REVISED ANSWER:

Austin Water hosted several opportunities for stakeholder input and involvement related to the proposed ordinance updates.

These included several notices of intent to update rules published on the following dates: From June 21- June 24, 2018 (four times), July 12 to July 15, 2018 (four times), August 1 to August 4, 2018 (four times), and January 19 to January 22, 2019 (four times)

- 1) Two stakeholder meeting(s) were held on the following dates (October 25 and October 28, 2017)
- 2) Coordination with Watershed Protection Staff.
- 3) Follow-up meeting and numerous emails with various individual stake holders on the following dates.
- 4) Presentation to and input from Water and Wastewater Commission and Environmental Commission.

- The following changes resulted from stakeholder feedback:

- No recommendations for changes were received from the Water and Wastewater Commission or the Environmental Board. Both groups approved the changes unanimously.

- QUESTION:

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

Below are current coordination efforts made through the project team.

- Established project webpage and email sign-up form
<http://austintexas.gov/expositionblvd>
<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Faustintexas.gov%2Fexpositionblvd&data=02%7C01%7CChad.Lewallen%40austintexas.gov%7C684c1537fc5c463f455c08d686264ebd%7C5c5e19f6a6ab4b45b1d0be4608a9a67f%7C0%7C0%7C>

[7C636843896416540141&sdata=7IHplhb8YLZMhWbotAkbsgZAds44bjQrD6UKj02bOok%3D&reserved=0](https://www.austintexas.gov/itd/7C636843896416540141&sdata=7IHplhb8YLZMhWbotAkbsgZAds44bjQrD6UKj02bOok%3D&reserved=0)

- Notified Council Member Alter's office
- Mailed notification to addresses within 500 feet of project in Oct. 2018
- Project notification sent to neighborhood groups and posted to NextDoor
- Door-to-door outreach to businesses, churches, schools (staff spoke to 30+ businesses and institutions)
- Held public meeting on Oct. 25, 2018
- Interviews with West Austin News

The following communications are planned for the project during the construction phase:

- Meet the Contractor Meeting in early March 2019
- Explainer video to provide project information for those unable to attend meetings (The video is in production, and staff plans to release it before construction starts.)
- Ongoing construction updates published through email, website, NextDoor and neighborhood groups.

The proposed Exposition Boulevard Water and Wastewater Pipeline Renewal Project will have long term traffic controls (24 hrs) to contain construction activities and will be constructed in phases. Our intent is to schedule construction in front of Casis Elementary during the summer (school) break of 2020 to minimize safety concerns for students. While many factors can impact the schedule, the project team will work with the contractor to make every effort to schedule this portion of the work during the summer. The project team will continue the public outreach efforts including the nearby schools and neighborhood groups and work with the Contractor to mitigate impacts related to the proposed construction including the safe routes to schools.

7. **Agenda Item #7:** Authorize negotiation and execution of a 12-month contract with Six Square to provide educational, heritage preservation, and economic development programs and services in the African American Cultural Heritage District in an amount not to exceed \$300,000, with two additional 12-month extension options in an estimated amount not to exceed \$300,000 per extension option, for a total estimated contract amount not to exceed \$900,000.

QUESTION: Would any portion of this contract be eligible for utilizing HOT funding?
COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

Yes, a portion of the proposed scope of work could be eligible for funding using Hotel Occupancy Tax allowed by Texas Tax Code section 351.103(c) and 351.101(a)(5) which set the funding allowable for historic preservation activities that promote tourism and the convention and hotel industry through advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums. Six Square could apply through the Heritage Tourism Grant Program in the same manner as other applicants. The revised Heritage Grant Program will open up for applications later this year.

Six Square does receive cultural arts funding (HOT) for District Day Festival. These funds are separate from this contract.

10. **Agenda Item #10:** Authorize dedication of approximately 56.932 acres of City-owned land as parkland, located along Harold Court, North of Boggy Creek, East of Lott Avenue and West of US 183, and the execution and recording of an instrument evidencing the dedication

QUESTION/ANSWER: COUNCIL MEMBER FLANNIGAN'S OFFICE

1) Has City Staff, including Neighborhood Housing and Community Development (NHCD), evaluated the possibility of using a portion of these tracts for affordable housing? If so, please provide the analysis.

NHCD has conducted a preliminary review of the site and believes there may be approximately 6 to 7 acres of developable land; further evaluations would be needed to determine the ability to develop the tract. Please see the attached maps and the characteristics below.

- **Gentrification Typology:** Dynamic (Exhibits demographic change indicative of gentrification)
- **Distance from Transit:** 0.67 miles
- **Distance from IA Corridor and Center:** 0.55 miles
- **Distance from Healthy Food:** 1.05 miles
- **Distance from Elementary School:** 0.15 miles (Ortega Elementary - Met standard according to TEA)
- **Opportunity Area Status:** Located in an Emerging Opportunity Area

2) In order to be managed, programed, and maintained by the Parks and Recreation Department is the land required to be dedicated as parkland or does Council have the option to transfer the land to the Parks and Recreation Department without dedicating it as parkland?

If there is an expectation by Council and the community of PARD spending operating and capital dollars on property improvements, it is best for the Council to dedicate it as parkland. Without this dedication, PARD will be limited from spending Park Bond or Parkland Dedication dollars for improvements. Improvements would have to be funded through the General Fund. If Council does not dedicate it as parkland and the property is used by the public for recreational purposes and, over time, PARD uses General Fund dollars for maintenance and programming, this could be considered an implied dedication.

3) What issues could arise if the City later wants to program or develop this land for public use after it is dedicated as parkland?

The property could not be used for non-recreational uses once it is dedicated parkland. Once this land becomes dedicated parkland, the City could not lease or sell the property without a voter referendum. If the City does decide to use the property for non-recreational uses, a Chapter 26 public hearing and Council action would be required before the use is changed to another city use.

- 11. Agenda Item #11:** Authorize negotiation and execution of a sublease from the City of Austin to Austin Creative Reuse, a Texas nonprofit corporation, for approximately 4,758 square feet of retail space from the Austin Public Library Recycled Reads Store located at 5335 Burnet Road for a 36-month term.

QUESTION/ANSWER:

1) *Will book sales by APL continue at the Burnet road location?*

Yes

2) *Please provide additional information on the “new strategy” staff is referencing in the statement, “at the same time give it the opportunity to phase out its operations as it progresses with its new strategy”*

The new strategy will focus on bringing the Recycled Reads experience to each and every library location through the provision of enhanced book sale opportunities at each site.

- 3) *How will this impact library FTE roles at this location? Will the same number of FTE positions continue at this location? If not, where and what will their reassigned duties be?*

The same number of FTEs will be required at the site to process and route donated and withdrawn books and other materials for sale at Recycled Reads and at the other twenty-one (21) library locations.

- 4) *Does staff intend to not recommend renewal of the lease after the current lease expires?*

The Austin Public Library does not intend to renew this lease when it expires in 2022.

- 5) *Please provide a copy of the current lease for Recycled Reads.*

The original lease and all amendments thereto are attached.

- 6) *Please provide the square footage that will be used by APL for book sales at the Burnet Road location.*

Attached is a diagram of the space at 5335 Burnet Road. As shown thereon APL will occupy 2020 square feet of the existing space and will also occupy shared space totaling 1825 square feet. As a percentage, APL will occupy a total of 38% of the lease space.

- 7) *Please provide the estimated monthly revenue generated by Recycled Reads in 2016 and 2017.*

FY 16 monthly average revenue = \$12,863

FY 17 monthly average revenue = \$11,432

- 8) *What proportion of the space that will continue to be leased by APL will be in the current retail area of the bookstore, and what proportion of the space that will continue to be leased by APL will be in the area currently used as office space or space to process used books for re-sale?*

Attached is a diagram of the space at 5335 Burnet Road. As shown thereon, APL will continue to exclusively occupy 360 square feet of the current retail area. They will also continue to have shared use of 1100 square feet of the current retail area. APL will continue to exclusively occupy 1660 square feet of the office space or space to process used books for resale. It will also have shared use as to 725 square feet of the office space or space to process used books for resale.

COUNCIL MEMBER ALTER'S OFFICE

QUESTION: What is the total square footage of the current leased space for Austin Public Library Recycled Reads Store, and what percentage of that total is proposed to be sub-let?

COUNCIL MEMBER POOL'S OFFICE

ANSWER:

See attachment.

QUESTION:

Does ARR still pay Recycled Reads based on the volume of materials the store diverts from the landfill as part of the city's zero-waste goals?

Please provide a financial history of ARR's partnership with Recycled Reads.

COUNCIL MEMBER POOL'S OFFICE

ANSWER:

No. The agreement between ARR and APL providing for payments to APL for landfill tonnage diversion expired in 2017 and was not renewed. The payments prior to the expiration of the agreement are as follows:

FY2009-2010	\$ 3,112.52
FY2010-2011	\$ 7,735.36
FY2011-2012	\$ 9,554.08
FY2012-2013	\$ 47,952.50
FY2013-2014	\$ 56,430.50
FY2014-2015	\$ 60,819.40
FY2015-2016	\$ 60,584.42
FY2016-2017	\$ 54,714.00.

- 20. Agenda Item #20:** Authorize negotiation and execution of agreements for HIV social services each for an initial 42-month term, with two optional 12-month extensions with: AIDS Services of Austin in an amount not to exceed \$1,105,881 for the initial term and \$315,966 for each extension option, for a total agreement amount not to exceed \$1,737,813; Austin Travis County Mental Health Mental Retardation Center dba Integral Care in an amount not to exceed \$497,000 for the initial term and \$142,000 for each extension option, for a total agreement amount not to exceed \$781,000; Project Transitions, Inc. in an amount not to exceed \$427,791 for the initial term and \$122,226 for each extension option, for a total agreement amount not to exceed \$672,243; and The Wright House Wellness Center dba ASHWell in an amount not to exceed \$175,000 for the initial term and \$50,000 for each extension option, for a total agreement amount not to exceed \$275,000.

QUESTION: Please provide a list of anyone who submitted a solicitation for this item.
COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

All applicants are recommended for an award.

- 22. Agenda Item #22:** Authorize amendments to the existing contracts with Champion National Security, Inc., Securitas Security Services USA Inc., and Whelan Security Co., for continued security guard services, for an increase in the amount of \$12,492,937, and to extend the term for up to three years, for revised contract amounts not to exceed \$20,900,000 divided among the contractors.

QUESTION: Please provide additional background information on the performance of the current security guard services contract, including the number of regular hours and overtime hours included.

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The weekly estimated security contract service hours for Building Services Department are 694 regular hours and 20 overtime hours. Austin Water averages 1,842 hours per month, (460.5 per week) and do not incur overtime. Municipal Court - 136 hours billed per week and The Downtown Austin Community Court (DACC) - 100 hours billed per week for a combined weekly total of 236 hours per week and normally do not incur overtime.

- 25. Agenda Item #25:** Authorize negotiation and execution of three multi-term contracts with Austin Arborist Company D/B/A Austin Tree Experts, Clean Scapes L.P., and Unity Contractor Services, Inc. (MBE), to provide tree and brush maintenance services, each for up to five years, for total contract amounts not to exceed \$12,250,000 divided among the contractors.

QUESTION:

- 1) Please provide additional information on how the funding amount was determined.
- 2) Please provide information on how frequently trees in city parks receive this type of

maintenance.

- 3) How does our current urban forestry maintenance compare to national best practices and recommended standards?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

1) Funding was determined by departmental requests and by estimating future project needs. Several new departments joined the current contract within the past year with greater future estimates than their current spend allotment. Per Council's recent directive, Public Works requested additional funding in order to perform more preventative maintenance services than what was performed in the past, such as overgrowth clearance work along sidewalks.

2) Based on estimates from Fiscal Year 2014, individual park trees receive maintenance on average every 42 years and individual street trees receive maintenance every 45 years.

3) Public Works Forestry services meet or exceeds requirements in the American National Standards Institute national standards for forestry maintenance. Public Works is staffed with International Society of Arboriculture (ISA) certified arborists and hold contractors to the standard of ISA best practices and require contractors to staff ISA certified arborists.

Internal arborists maintain their credentials with annual training that keeps City arborists in close contact with the Texas Forest Service and the Texas Chapter of ISA, as well as national and international trends in tree health care.

- 28. Agenda Item #28:** Authorize negotiation and execution of a multi-term contract with Front Steps Inc., to provide shelter operations and services for the Austin Resource Center for the Homeless, for up to five years for a total contract amount not to exceed \$13,500,000.

QUESTION: One of National Alliance to End Homelessness (NAEH)'s recommendations for the re-design of shelters in Austin was to "change staff job descriptions and job titles to align with Housing First principles and housing-focused activities" and that "salaries should match the higher level of skills needed to perform housing-focused services." Are these recommendations incorporated within the proposed contract?

COUNCIL MEMBER TOVO'S OFFICE

ANSWER:

Austin Public Health staff will be negotiating the new agreement for ARCH operations in conjunction with contracted technical assistance and training from the National Alliance to End Homelessness over the next few months. Due to changing operations and services at the ARCH, some job descriptions and job titles will be changing to include higher skilled positions. The recommended contractor, Front Steps, Inc., has acknowledged these changes are necessary to align with the new service delivery model, and budget shifts coinciding with personnel shifts will allow for higher skilled positions to be compensated at a higher rate.

- 34. Agenda Item #34:** Authorize negotiation and execution of an agreement with the Texas Department of Transportation to collaborate on stormwater management and environmental protection for state highway projects within the city limits or extraterritorial jurisdiction.

QUESTION: Please provide: 1) a map of the proposed stormwater controls; 2) schematic of proposed stormwater controls; 3) the area to receive additional tree protection including iconic trees.

COUNCIL MEMBER POOL'S OFFICE

ANSWER:

See attached.

- 37. Agenda Item #37:** Approve a resolution to initiate code amendments to Chapter 25-10 (Sign Regulations) to provide limited allowances for off-premise signage at schools and transit facilities in public right-of-way.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?
COUNCIL MEMBER FLANNIGANS OFFICE

ANSWER:

Austin Code Department (ACD) would expect to see little if any impact to department resources as a result of the proposed change, as the resolution would relax current sign regulations and allow signage in new locations.

Since the Land Development Code and sign permitting process would be affected by this change, we highly recommend Planning and Zoning (PAZ) and the Department of Development Services (DSD) be consulted as internal stakeholders, as this action will directly impact the resources of their departments.

Once the resolution language is finalized and approved, ACD may be included in the broader stakeholder engagement process as an internal stakeholder, and would be required to educate staff on the ordinance change in regards to the enforcement of offsite signage as part of the Property Maintenance Code..

- 38. Agenda Item #38:** Approve a resolution affirming the City Council's support of AISD and directing the City Manager to prioritize collaborative planning with an emphasis on opportunities to achieve community benefits on publicly owned land.

QUESTION:

- 1) Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?
- 2) If this resolution is approved as drafted does City Staff believe they have the authority to offer similar assistance and support described in this resolution to the eight other local school districts within the City of Austin in the future if needed?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

- 1) Due to the broad nature of the resolution, an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution cannot be developed at this time.
- 2) The resolution appears to be specific to collaboration with AISD. Staff can currently collaborate with the other local school districts within the City of Austin, if needed.

- 39. Agenda Item #39:** Approve a resolution initiating amendments to the North Burnet/Gateway Regulating Plan relating to alternative equivalent compliance with front and street side upper-story building façade setback development standards.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?
COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

The approximate time spent by the Planning and Zoning Department to complete a code amendment without stakeholder input is 25-30 hours. This would include time to draft language in coordination with the Law Department. PAZ can complete this code amendment with current resources as part of normal responsibilities.

- 40. Agenda Item #40:** Approve a resolution initiating site specific amendments to the Land Development Code, including Chapter 25-8, Subchapter A, Article 13 (Save Our Springs Initiative), as minimally required to address proposed redevelopment of 5811 Southwest Parkway, located within the Barton Springs Zone, while maximizing environmental protection.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

If the owners submit an application for a site development permit for this property, staff's work on this amendment would be part of the review process assumed in our current staffing and is funded through our cost of service fee schedules.

This resolution would require staff resources from the Watershed Protection, Law, Planning and Zoning, and Development Services departments, but is anticipated to be coordinated by the Environmental Officer. Staff time is needed to research the location, meet with the owner, coordinate with affected departments, prepare a draft ordinance, and move the draft ordinance through the public process. The amount of time varies depending on the complexity of the site conditions and the degree to which the owner is willing to collaborate with staff to minimize the departure from the current Land Development Code requirements. Watershed Protection Department staff estimate a total of 30 person hours on average for an amendment of this type.

- 63. Agenda Item #63:** C814-2012-0152.02 - Pilot Knob PUD-2nd Amendment - Conduct a public hearing and approve an ordinance amending City Code Title 25 by zoning property locally known as 7612, 7725, 7901, and 8100-½ Colton Bluff Springs Road; 7600, 7604, 7608, 7612, 7700, 7704, and 7708 Hillock Terrace; 8321 Thaxton Road; 8100 Sassman Road (Cottonmouth Creek Watershed; Marble Creek Watershed; North Fork Dry Creek Watershed; South Fork Dry Creek Watershed) from unzoned (UNZ) to planned unit development (PUD) district zoning, to add seven tracts of land. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.

QUESTION: Does this action include any waiver of fees? If so, please provide additional details.

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The seven tracts proposed for zoning would be subject to the Affordable Housing Program provisions for the Pilot Knob PUD as Council approved on November 10, 2016 (not the original Affordable Housing Program approved by Council on December 15, 2015). The Affordable Housing Program is outlined on Part 8 of the November 10, 2016 ordinance (please refer to pages 23-26 of the agenda backup).

- 77. Agenda Item #77:** Approve a resolution directing the City Manager to retain a qualified third-party that will comprehensively evaluate the Austin Police Department's processing and investigation of reported sexual assaults and that will provide a written report detailing its findings and recommendations.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

The resolution will require APD to establish the scope of work necessary to carry out the resolution and we are unable at this time to estimate the amount of staff time required for this resolution. As proposed, the resolution calls for a significant level of case review, and the overall impact on staff time will be partially dependent upon the level of involvement they have in the preparation of this review, and the review itself.

- 78. Agenda Item #78:** Approve a resolution relating to a pilot project to provide immediate shelter and support services for those experiencing homelessness.

QUESTION:

Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

At this time we do not have a work plan or an estimate required to accomplish this pilot program. The impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution, if approved, cannot be developed at this time.



Recommendation for Action

File #: 19-1190, Agenda Item #: 2.

1/31/2019

Agenda Item

Agenda Item #2: Approve an ordinance amending City Code Chapter 15-5 related to on-site sewage facilities.

QUESTION: Please provide a summary of the stakeholder input referenced in the RCA, and the changes that were made to reflect that input.

COUNCIL MEMBER ALTER'S OFFICE

REVISED ANSWER:

Austin Water hosted several opportunities for stakeholder input and involvement related to the proposed ordinance updates.

These included several notices of intent to update rules published on the following dates: From June 21- June 24, 2018 (four times), July 12 to July 15, 2018 (four times), August 1 to August 4, 2018 (four times), and January 19 to January 22, 2019 (four times)

- 1) Two stakeholder meeting(s) were held on the following dates (October 25 and October 28, 2017)
- 2) Coordination with Watershed Protection Staff.
- 3) Follow-up meeting and numerous emails with various individual stake holders on the following dates.
- 4) Presentation to and input from Water and Wastewater Commission and Environmental Commission.
- 5) Met with TCEQ OSSF staff and legal group in January 2018 to discuss stakeholder input.
- 6) It should also be noted that the TCEQ preliminary approved the proposed ordinance in November 2018.

The following changes resulted from stakeholder feedback:

- Articles 1 (Regulation of On-Site Sewage Facilities) and 2 (Liquid Waste Haulers) were separated for the purposes of this ordinance, the first draft included both articles. Certain stakeholders representing OSSF maintenance providers and septage haulers indicated that presenting both articles under one ordinance was confusing. As a result, proposed changes for both articles will be presented separately for Council consideration.
- The word "professional" was removed and replaced with the term TCEQ-licensed maintenance provider. Previous versions of the ordinance included the term "Professional Maintenance Providers" to differentiate between TCEQ-licensed maintenance providers and homeowners maintaining their own system. Certain stakeholders requested that the word "professional" be removed from "Professional Maintenance Provider" as he did not agree all providers should be called professionals.
- Proposed revisions to item 15-5-10(F)(7) were removed from the proposed ordinance. Certain stake holders raised concerns regarding proposed language to this item as it appeared to limit the City's authority to require pre-treatment tanks for aerobic treatment units. After consulting with the City's Legal Department, it was determined that the paragraph should remain unchanged.

No recommendations for changes were received from the Water and Wastewater Commission or the Environmental Board. Both groups approved the changes unanimously.

Recommendation for Action

File #: 19-1199, Agenda Item #: 4.

1/31/2019

Agenda Item

Agenda Item #4: Authorize award and execution of a construction contract with Austin Underground, Inc. (MBE), for Exposition Boulevard from West 35th Street to Enfield Road Water and Wastewater Pipeline Renewal Project in the amount of \$3,255,398 plus a \$325,539.80 contingency, for a total contract amount not to exceed \$3,580,937.80.

QUESTION:

Please explain how this project is going to be coordinated with other ongoing or upcoming projects in other departments/programs, including Safe Routes to School.

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The proposed Exposition Boulevard Water and Wastewater Pipeline Renewal Project has been coordinated with other City departments and there will not be any conflicts with other proposed constructions. The proposed sidewalk for Exposition Boulevard will be constructed when the Water line construction is completed, and the O'Henry sidewalk is outside the Exposition Blvd project construction limits (the sidewalk construction is East of Exposition).

Below are current coordination efforts made through the project team.

- Established project webpage and email sign-up form <http://austintexas.gov/expositionblvd>
[<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Faustintexas.gov%2F](https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Faustintexas.gov%2F)
- Notified Council Member Alter's office
- Mailed notification to addresses within 500 feet of project in Oct. 2018
- Project notification sent to neighborhood groups and posted to NextDoor
- Door-to-door outreach to businesses, churches, schools (staff spoke to 30+ businesses and institutions)
- Held public meeting on Oct. 25, 2018
- Interviews with West Austin News

The following communications are planned for the project during the construction phase:

- Meet the Contractor Meeting in early March 2019
- Explainer video to provide project information for those unable to attend meetings (The video is in production, and staff plans to release it before construction starts.)
- Ongoing construction updates published through email, website, NextDoor and neighborhood groups.

The proposed Exposition Boulevard Water and Wastewater Pipeline Renewal Project will have long term traffic controls (24 hrs) to contain construction activities and will be constructed in phases. Our intent is to schedule construction in front of Casis Elementary during the summer (school) break of 2020 to minimize safety concerns for students. While many factors can impact the schedule, the project team will work with the contractor to make every effort to schedule this portion of the work during the summer. The project team will continue the public outreach efforts including the nearby schools and neighborhood groups and work with the Contractor to mitigate impacts related to the proposed

construction including the safe routes to schools.



Recommendation for Action

File #: 19-1196, **Agenda Item #:** 7.

1/31/2019

Agenda Item

Agenda Item #7: Authorize negotiation and execution of a 12-month contract with Six Square to provide educational, heritage preservation, and economic development programs and services in the African American Cultural Heritage District in an amount not to exceed \$300,000, with two additional 12-month extension options in an estimated amount not to exceed \$300,000 per extension option, for a total estimated contract amount not to exceed \$900,000.

QUESTION: Would any portion of this contract be eligible for utilizing HOT funding?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

Yes, a portion of the proposed scope of work could be eligible for funding using Hotel Occupancy Tax allowed by Texas Tax Code section 351.103(c) and 351.101(a)(5) which set the funding allowable for historic preservation activities that promote tourism and the convention and hotel industry through advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums. Six Square could apply through the Heritage Tourism Grant Program in the same manner as other applicants. The revised Heritage Grant Program will open up for applications later this year.

Six Square does receive cultural arts funding (HOT) for District Day Festival. These funds are separate from this contract.



Recommendation for Action

File #: 19-1167, **Agenda Item #:** 10.

1/31/2019

Agenda Item

Agenda Item #10: Authorize dedication of approximately 56.932 acres of City-owned land as parkland, located along Harold Court, North of Boggy Creek, East of Lott Avenue and West of US 183, and the execution and recording of an instrument evidencing the dedication

QUESTION/ANSWER: COUNCIL MEMBER FLANNIGAN'S OFFICE

1) Has City Staff, including Neighborhood Housing and Community Development (NHCD), evaluated the possibility of using a portion of these tracts for affordable housing? If so, please provide the analysis.

NHCD has conducted a preliminary review of the site and believes there may be approximately 6 to 7 acres of developable land; further evaluations would be needed to determine the ability to develop the tract. Please see the attached maps and the characteristics below.

- **Gentrification Typology:** Dynamic (Exhibits demographic change indicative of gentrification)
- **Distance from Transit:** 0.67 miles
- **Distance from IA Corridor and Center:** 0.55 miles
- **Distance from Healthy Food:** 1.05 miles
- **Distance from Elementary School:** 0.15 miles (Ortega Elementary - Met standard according to TEA)
- **Opportunity Area Status:** Located in an Emerging Opportunity Area

2) In order to be managed, programed, and maintained by the Parks and Recreation Department is the land required to be dedicated as parkland or does Council have the option to transfer the land to the Parks and Recreation Department without dedicating it as parkland?

If there is an expectation by Council and the community of PARD spending operating and capital dollars on property improvements, it is best for the Council to dedicate it as parkland. Without this dedication, PARD will be limited from spending Park Bond or Parkland Dedication dollars for improvements. Improvements would have to be funded through the General Fund. If Council does not dedicate it as parkland and the property is used by the public for recreational purposes and, over time, PARD uses General Fund dollars for maintenance and programming, this could be considered an implied dedication.

3) What issues could arise if the City later wants to program or develop this land for public use after it is dedicated as parkland?

The property could not be used for non-recreational uses once it is dedicated parkland. Once this land becomes dedicated parkland, the City could not lease or sell the property without a voter referendum. If the City does decide to use the property for non-recreational uses, a Chapter 26 public hearing and Council action would be required before the use is changed to another city use.



Recommendation for Action

File #: 19-1147, Agenda Item #: 11.

1/31/2019

Agenda Item

Agenda Item #11: Authorize negotiation and execution of a sublease from the City of Austin to Austin Creative Reuse, a Texas nonprofit corporation, for approximately 4,758 square feet of retail space from the Austin Public Library Recycled Reads Store located at 5335 Burnet Road for a 36-month term.

QUESTION/ANSWER:

- 1) *Will book sales by APL continue at the Burnet road location?*
Yes
- 2) *Please provide additional information on the “new strategy” staff is referencing in the statement, “at the same time give it the opportunity to phase out its operations as it progresses with its new strategy”*
The new strategy will focus on bringing the Recycled Reads experience to each and every library location through the provision of enhanced book sale opportunities at each site.
- 3) *How will this impact library FTE roles at this location? Will the same number of FTE positions continue at this location? If not, where and what will their reassigned duties be?*
The same number of FTEs will be required at the site to process and route donated and withdrawn books and other materials for sale at Recycled Reads and at the other twenty-one (21) library locations.
- 4) *Does staff intend to not recommend renewal of the lease after the current lease expires?*
The Austin Public Library does not intend to renew this lease when it expires in 2022.
- 5) *Please provide a copy of the current lease for Recycled Reads.*
The original lease and all amendments thereto are attached.
- 6) *Please provide the square footage that will be used by APL for book sales at the Burnet Road location.*
Attached is a diagram of the space at 5335 Burnet Road. As shown thereon APL will occupy 2020 square feet of the existing space and will also occupy shared space totaling 1825 square feet. As a percentage, APL will occupy a total of 38% of the lease space.
- 7) *Please provide the estimated monthly revenue generated by Recycled Reads in 2016 and 2017.*
FY 16 monthly average revenue = \$12,863
FY 17 monthly average revenue = \$11,432
- 8) *What proportion of the space that will continue to be leased by APL will be in the current retail area of the bookstore, and what proportion of the space that will continue to be leased by APL will be in the area currently used as office space or space to process used books for re-sale?*
Attached is a diagram of the space at 5335 Burnet Road. As shown thereon, APL will continue to exclusively occupy 360 square feet of the current retail area. They will also continue to have shared use of 1100 square feet of the current retail area. APL will continue to exclusively occupy 1660 square feet of the office space or space

to process used books for resale. It will also have shared use as to 725 square feet of the office space or space to process used books for resale.

COUNCIL MEMBER ALTER'S OFFICE

QUESTION: What is the total square footage of the current leased space for Austin Public Library Recycled Reads Store, and what percentage of that total is proposed to be sub-let?

COUNCIL MEMBER POOL'S OFFICE

ANSWER:

See attachment.

QUESTION:

Does ARR still pay Recycled Reads based on the volume of materials the store diverts from the landfill as part of the city's zero-waste goals?

Please provide a financial history of ARR's partnership with Recycled Reads.

COUNCIL MEMBER POOL'S OFFICE

ANSWER:

No. The agreement between ARR and APL providing for payments to APL for landfill tonnage diversion expired in 2017 and was not renewed. The payments prior to the expiration of the agreement are as follows:

FY2009-2010	\$ 3,112.52
FY2010-2011	\$ 7,735.36
FY2011-2012	\$ 9,554.08
FY2012-2013	\$ 47,952.50
FY2013-2014	\$ 56,430.50
FY2014-2015	\$ 60,819.40
FY2015-2016	\$ 60,584.42
FY2016-2017	\$ 54,714.00.

Audin Creative Reuse/Recycled Reads Apartment

Recycled Reads	2020 sf
ACR	3830 sf
Shared	1825 sf
Total	7675 sf



1:16



Recycled Reads Floor Area Usage = 38%
 ACR Floor Area Usage = 62%

FIRST AMENDMENT OF LEASE AGREEMENT

This First Amendment of Lease Agreement ("First Amendment") is entered into as of this 24 day of October, 2008, by and between the City of Austin ("Lessee") and Pajo Properties Ltd., a Texas limited partnership, ("Lessor") for the purposes and considerations hereinafter described:

WITNESSETH:

WHEREAS, Lessee and Lessor entered into that certain Lease Agreement dated March 15, 2008 (the Original "Lease"); and

WHEREAS, Lessee and Lessor desire to make certain amendments to the Original Lease regarding the payment of Tenant Improvement Allowance (as defined in the Original Lease);

AGREEMENTS:

NOW THEREFORE, in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend the Original Lease as follows:

1. Defined Terms. Unless defined differently in this First Amendment, all capitalized terms used in this First Amendment shall have the same meaning ascribed to it under the Original Lease.
2. Tenant Improvement Allowance. The second sentence of the second section in Item 12 (Special Provisions) of the Original Lease is deleted and replaced with the following sentences:

For each additional \$1.00 per square foot of Tenant Improvement Allowance (up to a maximum amount of \$16.91 per square foot), the Monthly Rent shall be increased by \$.24 per square foot per year, which is based on an amortization of 8% APR. If Tenant does not increase the Tenant Improvement Allowance in \$1.00 increments (causing a \$.24 per square foot per year increase in Monthly Rent), the Monthly Rent shall be increased on the same pro rata basis as the Tenant Improvement Allowance was increased. Within 30 days of Substantial Completion, Lessor and Lessee shall execute an amendment documenting the increased Monthly Rent that includes the amortized amount of the additional Tenant Improvement Allowance.
3. Ratification. All other terms and conditions of the Lease by and between the Lessee and Lessor shall remain as provided thereunder except to the extent modified in this First Amendment of Lease.
4. Authority; Future Amendments. The undersigned representatives of the Lessor and Lessee have full authority to enter into this Lease without the joinder of any other party, and have obtained any and all requisite consents prior to its execution. The "Lease" shall hereby mean the Original Lease as amended by this First Amendment. The Lease can only be further modified or varied by written instrument executed by all parties hereto.
5. Counterparts. This First Amendment may be executed in multiple counterparts, each of which shall have the force and effect of an original, on the date and year first set forth above. Facsimile signatures shall have the same force and effect as original signatures.


025

SIGNATURE PAGE TO FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN
PAJO PROPERTIES LTD., AS LESSOR, AND THE CITY OF AUSTIN, AS LESSEE

LESSOR:


Pajo Properties Ltd.,
a Texas limited partnership

By: PS Brougher, L.L.C.
A Texas Limited Liability Company
Its General Partner

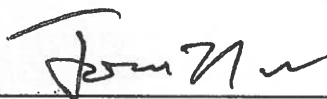
By: 
David Brougher,
Member

LESSEE:

City of Austin,
a home rule corporation

By: 
Lauraine Rizer, Manager
Real Estate Services Division,
Office of Contract and Land Management

APPROVED AS TO FORM:


Thomas Nuckols
Assistant City Attorney

Date Approved _____
By Council N/A Admin. Authority

Item Number _____

pas

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE (this "*Amendment*") is made this 20th day of August, 2012 (the "*Effective Date*") between the CITY OF AUSTIN, a Texas home-rule city and municipal corporation (the "*Lessee*"), and PAJO PROPERTIES LTD., a Texas limited partnership ("*Lessor*").

RECITALS

WHEREAS, Lessee and Lessor are parties to that certain Lease Agreement dated March 15, 2008, as amended by that certain First Amendment of Lease Agreement dated October 24, 2008 and that certain Second Amendment of Lease Agreement dated April 17, 2012 (as amended, the "*Lease*") under which Lessee leases from Lessor the real property and improvements located at 5335 Burnet Road, Austin, Texas (the "*Property*"); and

WHEREAS, Lessee and Lessor desire to make certain modifications to the Lease as provided in this Amendment;

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements of Lessee and Lessor set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and Lessor agree as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not otherwise defined in this Amendment will have the meanings ascribed to them in the Lease.

2. Lease Term. 24 months (the "*Extended Term*").

3. Monthly Rent. As follows:

	Annual Rate/SF	Monthly Rent
Months 1-24	\$14.02	\$8,007.58

4. Ratification of Lease; Conflict. The Lease, as modified by this Amendment, is hereby ratified and confirmed and is in full force and effect. If a conflict arises between the terms of this Amendment and the terms of the Lease, the terms of this Amendment will control.

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together will constitute one and the same document. The delivery of counterpart signatures to this

DWS
LR

Amendment by facsimile transmission or electronic mail will have the same force and effect as the delivery of a signed original hard copy.

IN WITNESS WHEREOF, Lessee and Lessor have executed this Amendment to be effective on the Effective Date.

LESSEE:

CITY OF AUSTIN, a Texas home-rule city and municipal corporation

By: Lauraine Rizer
Lauraine Rizer, Officer
Office of Real Estate Services

LESSOR:

PAJO PROPERTIES LTD., a Texas limited partnership

By: PS Brougher, L.L.C., a Texas limited liability company, its general partner

By: David Brougher 8/20/12
David Brougher, Member

APPROVED AS TO FORM:

Susan Groce 8-14-2012
Susan Groce, Assistant City Attorney

Date Approved
By Council 8/16/2012

Item Number 22

DWS
LE

FOURTH AMENDMENT TO LEASE AGREEMENT

THIS FOURTH AMENDMENT TO LEASE AGREEMENT (this "*Amendment*") is made as of this 31st day of March, 2015 (the "*Effective Date*") between the CITY OF AUSTIN, a Texas home-rule city and municipal corporation ("*Lessee*"), and PAJO PROPERTIES LTD., a Texas limited partnership ("*Lessor*").

RECITALS

WHEREAS, Lessee and Lessor are parties to that certain Lease Agreement, dated as of March 15, 2008, as amended by that certain First Amendment of Lease Agreement, dated as of October 24, 2008, as further amended by that certain Second Amendment of Lease Agreement, dated as of April 17, 2012, as further amended by that certain Third Amendment to Lease, dated as of August 20, 2012, as further amended by that certain Corrected Third Amendment to Lease, dated as of October 17, 2012 (as amended, the "*Lease*"), pursuant to which Lessee leases from Lessor the real property and improvements located at 5335 Burnet Road, Austin, Texas (the "*Leased Premises*"); and

WHEREAS, Lessee and Lessor desire to make certain modifications to the Lease as provided in this Amendment;

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements of Lessee and Lessor set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and Lessor agree as follows:

AGREEMENT

1. Lease Term. The Lease is hereby extended for an additional eighty-four (84) month term (the "*Extended Term*"), expiring on March 31, 2022 and subject to the appropriation provision set forth in Section 4 hereof.

2. Monthly Rent. Monthly Rent for the Extended Term shall be as follows:

	<u>Annual Rate/SF</u>	<u>Monthly Rent</u>
April 1, 2015 – March 31, 2016	\$14.44	\$9,235.97
April 1, 2016 – March 31, 2017	\$14.87	\$9,513.05
April 1, 2017 – March 31, 2018	\$15.32	\$9,798.44
April 1, 2018 – March 31, 2019	\$15.78	\$10,092.39
April 1, 2019 – March 31, 2020	\$16.25	\$10,395.16
April 1, 2020 – March 31, 2021	\$16.74	\$10,707.02
April 1, 2021 – March 31, 2022	\$17.24	\$11,028.23

3. Lessee Improvements. Lessor hereby agrees (i) to repair the roof and ceiling of the Leased Premises within thirty (30) days after the date hereof, (i) to repair the fire detection systems within the Leased Premises immediately, and (iii) to install an outdoor hose bib to facilitate cleaning of the rooftop air conditioning units within thirty (30) days after the date hereof.

4. Appropriations. Lessee's payment obligations are payable only and solely from funds appropriated by the City Council of the City of Austin ("Appropriated") and available for the purpose of this Lease. The absence of Appropriated or other lawfully available funds shall render this Lease null and void to the extent funds are not Appropriated or available.

5. Capitalized Words. All capitalized words used in this Amendment and not otherwise defined herein shall have the respective meanings given to such words in the Lease. The Lease is incorporated herein by reference for all purposes.

6. Ratification and Compliance. Except as expressly amended or modified by this Amendment, the Lease shall continue in full force and effect. Lessor and Lessee each hereby ratify, affirm, and agree that the Lease, as herein modified, represents the valid, binding and enforceable obligations of Lessor and Lessee respectively. Lessor and Lessee each promise and agree to perform and comply with the terms, provisions and conditions of and the agreements in the Lease, as modified by this Amendment. In the event of any conflict or inconsistency between the provisions of the Lease and this Amendment, the provisions of this Amendment shall control and govern.

7. Entire Agreement and Amendments. The Lease, as expressly modified by this Amendment, constitutes the sole and only agreement of the parties to the Lease, and supersedes any prior agreements between the parties concerning the lease of the Leased Premises. The Lease may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

8. Lessee Authority. Lessee and the person signing on behalf of it jointly and severally warrant and represent to Lessor that (i) Lessee has the full right, power and authority to enter into this Amendment, (ii) all requisite action to authorize Lessee to enter into this Amendment and to carry out Lessee's obligations hereunder has been taken, and (iii) the person signing on behalf of Lessee has been duly authorized by Lessee to sign this Amendment on its behalf.

9. City Authority. Lessor and the person signing on behalf of Lessor jointly and severally warrant and represent to Lessee that (i) Lessor has the full right, power and authority to enter into this Amendment, (ii) all requisite action to authorize Lessor to enter into this Amendment and to carry out Lessor's obligations hereunder has been taken, and (iii) the person signing on behalf of Lessor has been duly authorized by Lessor to sign this Amendment on its behalf.

10. Binding. This Amendment shall be binding on and inure to the benefit of Lessor, Lessee and their respective heirs, executors, administrators, legal representatives,

JWB

successors and assigns.

11. Governing Law. This Amendment shall be construed and governed by the laws of the State of Texas in effect from time to time.

12. Section Headings. The section headings used herein are intended for reference purposes only and shall not be considered in the interpretation of the terms and conditions hereof.

13. Construction. Each party acknowledges that it and its counsel have had the opportunity to review this Amendment; that the normal rule of construction shall not be applicable and there shall be no presumption that any ambiguities will be resolved against the drafting party in interpretation of this Amendment.

14. Counterparts. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any of the parties to this Amendment may execute the Amendment by signing any of the counterparts. The parties hereby acknowledge and agree that facsimile signatures or signatures transmitted by electronic mail in so-called "PDF" format shall be legal and binding and shall have the same full force and effect as if an original of this Amendment had been delivered. Lessor and Lessee (i) intend to be bound by the signatures on any document sent by facsimile or electronic mail, (ii) are aware that the other party will rely on such signatures, and (iii) hereby waive any defenses to the enforcement of the terms of this Amendment based on the foregoing forms of signature.

[Signature Page follows]

OWS

IN WITNESS WHEREOF, Lessee and Lessor have executed this Amendment to be effective on the Effective Date

LESSEE:

CITY OF AUSTIN,
a Texas home-rule city and
municipal corporation

By Lauraine Rizer
Lauraine Rizer, Officer
Office of Real Estate Services

APPROVED AS TO FORM

Nick Goodling
Nick Goodling, Assistant City Attorney

LESSOR:

PAJO PROPERTIES LTD, a Texas
limited partnership

By PS Brougher, L L C., a Texas
limited liability company, its
general partner

By David Brougher
David Brougher, Member

gws

CORRECTED THIRD AMENDMENT TO LEASE

THIS CORRECTED THIRD AMENDMENT TO LEASE (this "*Amendment*") is made this 17th day of OCTOBER, 2012 (the "*Effective Date*") between the CITY OF AUSTIN, a Texas home-rule city and municipal corporation (the "*Lessee*"), and PAJO PROPERTIES LTD., a Texas limited partnership ("*Lessor*").

RECITALS

WHEREAS, Lessee and Lessor are parties to that certain Lease Agreement dated March 15, 2008, as amended by that certain First Amendment of Lease Agreement dated October 24, 2008 and that certain Second Amendment of Lease Agreement dated April 17, 2012 and that certain Third Amendment of Lease Agreement dated August 20, 2012 (as amended, the "*Lease*") under which Lessee leases from Lessor the real property and improvements located at 5335 Burnet Road, Austin, Texas (the "*Property*");

WHEREAS, Lessee and Lessor desire to make certain modifications to the Lease as provided in this Amendment; and

WHEREAS, the Third Amendment to Lease, dated effective August 20, 2012, contained an error and the Lessee and Lessor intend to rescind and replace the Third Amendment to Lease with this Corrected Third Amendment to Lease.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements of Lessee and Lessor set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and Lessor agree as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not otherwise defined in this Amendment will have the meanings ascribed to them in the Lease.

2. Lease Term. 24 months (the "*Extended Term*").

3. Monthly Rent. As follows:

	Annual Rate/SF	Monthly Rent
Months 1-24	\$14.02	\$8,966.96

4. Ratification of Lease; Conflict. The Lease, as modified by this Amendment, is hereby ratified and confirmed and is in full force and effect. If a conflict arises between the terms of this Amendment and the terms of the Lease, the terms of this Amendment will control.

003
10

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together will constitute one and the same document. The delivery of counterpart signatures to this Amendment by facsimile transmission or electronic mail will have the same force and effect as the delivery of a signed original hard copy.

6. Corrected Third Amendment to Lease. This Corrected Third Amendment to Lease is intended to rescind and replace that Third Amendment to Lease, and such Third Amendment to Lease is hereby rescinded and replaced and is of no further force and effect.

IN WITNESS WHEREOF, Lessee and Lessor have executed this Amendment to be effective on the Effective Date.

LESSEE:

CITY OF AUSTIN, a Texas home-rule city and municipal corporation

By: Lauraine Rizer
Lauraine Rizer, Officer
Office of Real Estate Services

LESSOR:

PAJO PROPERTIES LTD., a Texas limited partnership

By: PS Brougher, L.L.C., a Texas limited liability company, its general partner

By: David Brougher
David Brougher, Member

APPROVED AS TO FORM:

Susan Groce
Susan Groce, Assistant City Attorney

Date Approved
By Council 8/16/2012

Item Number 22

003
27

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (this "*Amendment*") is made this 17th day of APRIL, 2012 (the "*Effective Date*") between the CITY OF AUSTIN, a Texas home-rule city and municipal corporation (the "*Lessee*"), and PAJO PROPERTIES LTD., a Texas limited partnership ("*Lessor*").

RECITALS

WHEREAS, Lessee and Lessor are parties to that certain Lease Agreement dated March 15, 2008, as amended by that certain First Amendment of Lease Agreement dated October 24, 2008 (as amended, the "*Lease*") under which Lessee leases from Lessor the real property and improvements located at 5335 Burnet Road, Austin, Texas (the "*Property*"); and

WHEREAS, Lessee and Lessor desire to make certain modifications to the Lease as provided in this Amendment;

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements of Lessee and Lessor set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and Lessor agree as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not otherwise defined in this Amendment will have the meanings ascribed to them in the Lease.

2. Solicitation and Business. Article 19.1 of the Lease is hereby deleted in its entirety and replaced with the following text:

"19.1 Lessee may place a sign on the façade of the Leased Premises advertising the Austin Public Library's Recycled Reads program during the Lease Term. Additionally, Lessee, at Lessee's expense, may remove the existing sign pole depicted on Exhibit "D" and replace it with a new pole constructed and installed substantially in accordance with the plans and specifications attached as Exhibit "E" and located in approximately the same location as the existing pole. Lessee may also install and maintain on such pole a sign advertising the Austin Public Library's Recycled Reads program. Lessee shall have the right to remove the sign on the façade of the Leased Premises, or the sign on the sign pole at Lease expiration, or at any time with 90 days advance written notice to Lessor. Except as otherwise provided in this Article 19.1, Lessee, its employees,

DWS

officers, agents, licensees, and invitees will not advertise in or on the Property."

3. Exhibit "D". The photograph attached to this Amendment as Exhibit "D" depicts the existing sign pole located on the Property. The Lease is hereby amended to incorporate the photograph as Exhibit D to the Lease.

4. Exhibit "E". The plans and specifications attached to this Amendment as Exhibit "E" depict the new sign pole to be located on the Property at the approximate location as the existing pole shown in Exhibit "D". The Lease is hereby amended to incorporate the plans and specifications as Exhibit "E" to the Lease.

5. Ratification of Lease; Conflict. The Lease, as modified by this Amendment, is hereby ratified and confirmed and is in full force and effect. If a conflict arises between the terms of this Amendment and the terms of the Lease, the terms of this Amendment will control.

6. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together will constitute one and the same document. The delivery of counterpart signatures to this Amendment by facsimile transmission or electronic mail will have the same force and effect as the delivery of a signed original hard copy.

[The signature page follows.]

0WS

IN WITNESS WHEREOF, Lessee and Lessor have executed this Amendment to be effective on the Effective Date.

LESSEE:

CITY OF AUSTIN, a Texas home-rule city and municipal corporation

By: Lauraine Rizer
Lauraine Rizer, Officer
Office of Real Estate Services

LESSOR:

PAJO PROPERTIES LTD., a Texas limited partnership

By: PS Brougher, L.L.C., a Texas limited liability company, its general partner

By: David Brougher
David Brougher, Member

APPROVED AS TO FORM:

Judd L. Leach
Judd L. Leach, Assistant City Attorney

Date: 04-16-2012

Date Approved

By Council N/A - Admin. Authority
(no funds involved)

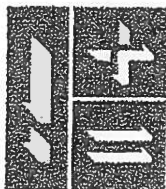
Item Number _____

04/16/12

EXHIBIT "D"



DWS



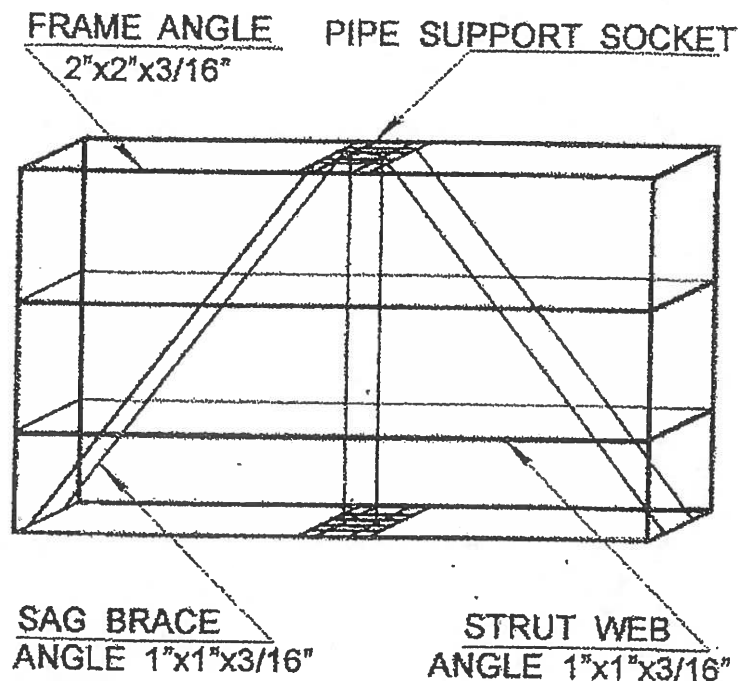
SIGN
Ideas
RESOURCE
+ Resources
MANAGEMENT
= Solutions

CITY OF AUSTIN
RECYCLED READS
POLE SIGN DETAIL

8-2-11

EXHIBIT "E"

page 1 of 2



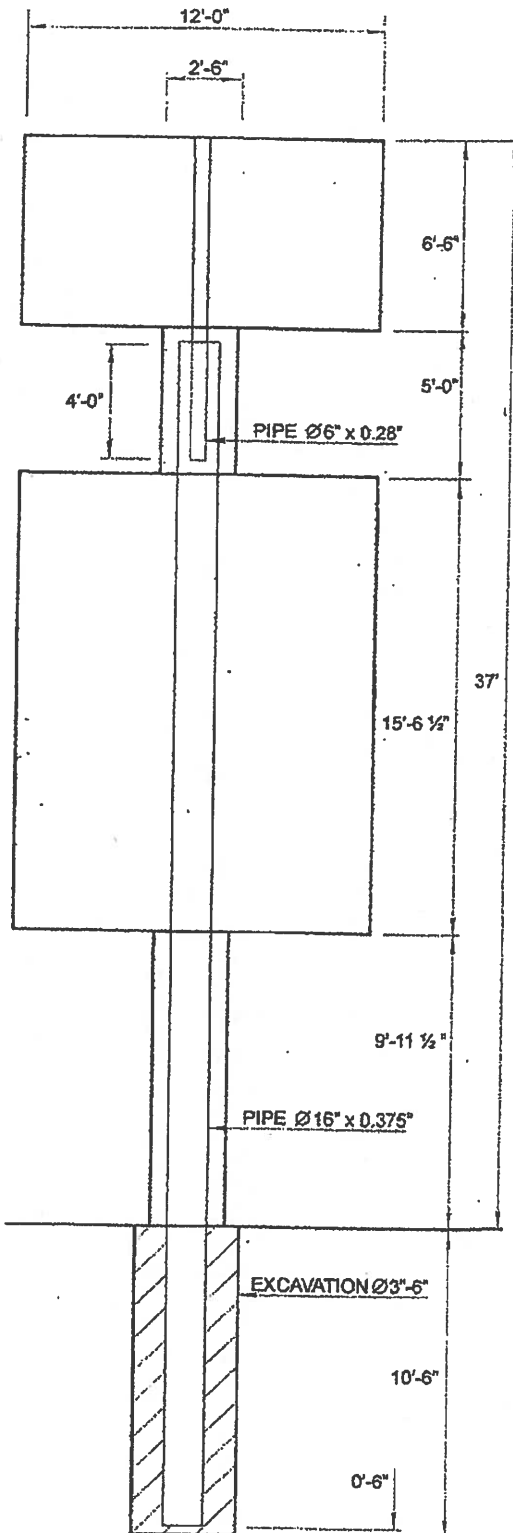
MOUNTING POLE FOR 72" x 42" x 12" is typically 6" diameter.
CURRENT POLE IS APPROXIMATELY 13-1/4" diameter, based on the 41.5" circumference;
cabinet would need to be a minimum of about 20" in depth for this pole to be usable.
APPROXIMATE WEIGHT is 300-350 lbs.
WIND LOAD depends in part on the foundation depth/structure and pole size.

Sign Resource Management, Inc.
3613 Williams Drive, Suite 802
Georgetown, TX 78628

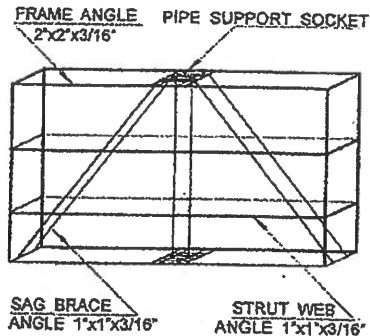
Phone: 512-863-9929
Fax: 512-863-9939
Web: www.signresourcemanagement.com

01/13

EXHIBIT 'E' page 2 of 2



CABINET CONSTRUCTION DETAILS




04-12-11P02:01 NCVD

NOTES:

- STEEL: PIPE ASTM A53 GRADE B OR EQUIVALENT
ROLLED STEEL FOR PLATE, ANGLE ASTM A36
BOLTS FOR BEARING TYPE OF CONNECTIONS ASTM A325
MACHINE BOLTS ASTM A307
- CONCRETE: ACI 318-08
MINIMUM COMPRESSIVE STRENGTH 3000 PSI
RUPTURE MODULUS 300 PSI
- SOIL: LATERAL SOIL BEARING VALUE 150 PSF/FT
- LOADS: WIND LEEWARD PRESSURE 32 PSF (SPEED 95 MPH)
WIND STAGNATION PRESSURE 23 PSF
EXPOSURE C
AXIAL COMPRESSION FORCE 6901 LB
- STRESSES: YIELD STRESS 35000 PSI
TORSION DUE TO ECCENTRICITY 0 PSI
ALLOWABLE SHEAR STRESS 1400 PSI
TOTAL DIRECT SHEAR 470 PSI, SATISFACTORY
BENDING 27260 PSI
ALLOWABLE COMPRESSION 4005 PSI
ACTUAL COMPRESSION 430 PSI, SATISFACTORY
COMBINED STRESS RATIO 0.99 < 1, SATISFACTORY
- FOUNDATION: $1.97 \times \left[1 + \sqrt{1 + \frac{6.51 \times 1200 \times 16.23}{7459}} \right] = 10.2 \text{ FT}$
APPLY: EXCAVATION WIDTH 3 FT 8 IN; DEPTH 10 FT 6 IN
- POLES: BASE LEVEL: SECTION MODULUS REQUIRED 55 IN³
ESTIMATION: NOMINAL D16" OUTSIDE D16" WALL 0.375"
SLENDERNESS RATIO 183 < 200, SATISFACTORY
UPPER LEVEL: SECTION MODULUS REQUIRED 8 IN³
ESTIMATION: NOMINAL D6" OUTSIDE D6.625" WALL 0.28"
SLENDERNESS RATIO 104 < 200, SATISFACTORY

04/07/2011

 <p>ALTECOR ENGINEERING TX REGISTRATION F-10807 MCALLEN, TX 78504 P: (956) 687-7389 F: (956) 687-7390</p>	<p>DESIGNED FOR: COMET SIGNS CO. 285 WEST TURBO SAN ANTONIO, TX 78216 P: (210) 341-7244 F: (210) 341-7279</p>
<p>INSEPARABLE ASSEMBLY OUTLINE DRAWING</p>	<p>TITLE: HER # 27</p>
<p>POLE SIGN, TWO CABINETS, ILLUMINATED</p>	<p>LOCATION: MARGACH & LOOP 410, SAN ANTONIO</p>
<p>MEASUREMENTS: CUSTOMARY SYSTEM, FT-IN</p>	<p>NON-DESTRUCTIVE TESTING: NOT REQUIRED</p>
<p>PROJECTION: ORTHOGRAPHIC</p>	<p>CODE: IBC 2009 / ICC STANDARD: ASCE / SEI-7 SPECIFICATIONS: ANSI / ASTM PAGE 1 OF 1</p>

JWS

LEASE AGREEMENT

1. This Lease agreement ("Lease") is made and entered by and between:

Lessor: Pajo Properties Ltd., Texas limited partnership ("Lessor")
Mailing Address: 700 Young Ranch Road
Georgetown, Texas 78628

Lessee: City of Austin (the "City" or "Lessee")

Mailing Address: Department of Public Works
Real Estate Services Division
P.O. Box 1088
Austin, Texas 78767-8839

2. **Property Name:**

Property Address: 5335 Burnet Road
Austin, Texas 78757 (the "Property")

3. **Leased Premises:** 5335 Burnet Road, being 7,675 rentable square feet (the "Leased Premises").

4. **Monthly Rent:** subject to Item 12 below, per month for the Lease Term (the "Monthly Rent") as follows.

	Annual Rate/SF	Monthly Cost
Year 1	\$12.52	\$8,007.58
Year 2	\$12.52	\$8,007.58
Year 3	\$13.02	\$8,327.38
Year 4	\$13.02	\$8,327.37
Year 5	\$13.52	\$8,647.17

Prepaid Rent: Lessee shall tender within twenty-one (21) days after lease execution a check equal to the first month's total rental payment as Prepaid Rent.

If the Commencement Date does not fall on the first day of the month, then beginning on the Commencement Date and ending on the last day of that same month, the Monthly Rent will be prorated on a daily basis for that period.

5. **Lessee Operating Expenses:** this item intentionally left blank

6. **Lessor Operating Expenses:** this item intentionally left blank

7. Commencement Date: March 15, 2008.

8. Lease Term: 60 months (the "Lease Term"). If the Commencement Date is not on the first day of the month, the Lease Term is deemed to begin on the first day of the month that follows the Commencement Date and continuing for 60 months.

The "Lease Term", as used in this Lease, shall be deemed to include any Lease term extensions and renewals.

9. Expiration Date: Upon the last day of the 60th month of the Lease Term.

10. Parking: Unreserved use of spaces on the premises at no additional charge.

11. Extension Option: this line intentionally left blank

12. Special Provisions: Lessor shall provide Lessee with an allowance of up to a total of \$13.00 per square foot toward the actual cost of remodeling the Leased Premises upon completion and acceptance of the Finish Out (see Rental Adjustment below). Lessor would be separately responsible for any structural repairs required in order to complete the Finish Out (defined below).

The above quoted Annual Rate Per Square Foot includes a "Tenant Improvement Allowance" of \$8.00 per square foot. For each additional \$1.00 per square foot of Tenant Improvement Allowance (up to \$13.00 per square foot), the Monthly Rent rate shall be increased by \$0.24 per square foot per year, which is based on amortization of 8% APR.

Turn-key construction of Finish Out will be handled by Lessor at cost plus a fee of 5% of cost payable to Yancey-Hausman Interest for construction management services.

13. City Operating Budget. In the event that Lease Funding is not appropriated, budgeted, and approved by the Austin City Council in the City Operating Budget, this Lease shall terminate automatically on the last day of the fiscal year for which sufficient funds were budgeted and appropriated. The parties stipulate that Lease termination due to non-appropriation of funds in the City operating budget shall not constitute an act of Lessee default under this Lease. For the purposes of this Article, Lessor and Lessee agree that should Lessee terminate this Lease during the Lease Term, Lessee shall reimburse Lessor for the unamortized cost of the tenant finishout and transaction costs on a straight-line basis.

ARTICLE 1. Leased Premises

1.1 In consideration of Lessee's covenant to pay rent, and in consideration of Lessee's and Lessor's Lease obligations and covenants, Lessor hereby leases, demises, and lets to Lessee, and Lessee does hereby lease and take from Lessor the Leased Premises. The Leased Premises and Property are leased subject to all liens, covenants, easements, agreements, and restrictions of record. The Leased Premises Plan, marked Exhibit "A", is attached and incorporated for all purposes.

ARTICLE 2. Lease Term

2.1 This Lease shall commence on the Commencement Date, and shall terminate on the Expiration Date, at midnight, unless sooner terminated as provided in the Lease.

ARTICLE 3. Monthly Rent

3.1 Subject to Article 3.4 below, Lessee agrees to pay Lessor the Monthly Rent, without any offset, abatement, or deduction, unless otherwise specifically provided in this Lease, at Lessor's current Mailing Address, on the first day of each calendar month, in advance without demand.

3.2 If Lessee fails to timely pay the Monthly Rent, Lessee shall pay a late charge of 5% of Monthly Rent not paid ("Late Charge") within ten (10) calendar days after said Monthly Rent is due and payable.

3.3 Lessor acknowledges that, due to the City of Austin budgeting process, Monthly Rent payments to Lessor for the month of October shall be made not later than the 25th of each October without penalty or Late Charge. Lessor agrees to provide federal tax identification number(s), property ownership, and other property information required by Lessee in order to process payments to Lessor and vendors.

3.4 Lessor and Lessee agree that Lessee's obligation to pay Monthly Rent shall commence on the Commencement Date; provided, however, the Monthly Rent shall be abated for the period commencing on the date of Lessor's receipt of a building permit from the City of Austin that enables Lessor to begin construction of the Finish Out (defined below) and continuing until Substantial Completion.

ARTICLE 4. Security Deposit

4.1 No security deposit shall be required of Lessee.

ARTICLE 5. Use of the Leased Premises

5.1 Lessee shall use and occupy the Leased Premises for book sales, office and administrative use and for no other purpose, without the prior written consent of Lessor.

5.2 Lessee shall use and occupy the Leased Premises only for those purposes authorized by this Lease. Lessee shall obtain Lessor's written consent before making any major alterations or physical additions in the Leased Premises. No structural changes to the Leased Premises shall be made by Lessee without Lessor's prior written consent. Lessor consent under this paragraph shall not be unreasonably withheld.

5.3 Any equipment owned by Lessee, whether installed by Lessee or Lessor, shall remain the property of Lessee, including, but not limited to: removable trade fixtures; special equipment located in mechanical rooms, or on the roof, or in areas other than the Leased Premises; Lessee's telephone or communications systems and equipment, including wiring and cabling; additional air conditioning equipment installed by Lessee; antennas; wiring; movable partitions; and other computer and communication equipment.

5.4 Lessee shall be installing certain items described on Exhibit "B" of this Lease (the "Fixtures") in the Leased Premises. These Fixtures shall become property of Lessor upon installation and shall be surrendered to Lessor upon the expiration or earlier termination of this Lease in good condition, normal wear and tear excepted. However, Lessee agrees to remove the Fixtures designated in written notice from Lessor. Lessee shall remove the designated Fixtures prior to the expiration of the Lease, at Lessee's sole cost and expense, and repair any damage caused to the Leased Premises by removal of the fixtures.

5.5 Lessee shall not use, occupy, or permit the use or occupancy of the Leased Premises for any purpose that is: (a) forbidden by law, statute, ordinance, governmental or municipal regulation or order, (b) dangerous to life, limb, or property, (c) commission of waste; (d) a public or private nuisance; or (e) an action or omission that would increase the fire and extended coverage insurance rates on the Leased Premises or Property.

ARTICLE 6. Condition of Premises; Repairs; Finish Out

6.1 Lessor Duties. Lessor shall keep the foundation; roof; exterior walls; building systems and components, plumbing and electrical systems; building envelope of the Property and Leased Premises in good repair; including treatment for any wood-infesting insects ("Repairs"). Repairs made by Lessor shall be completed in a good, workmanlike, and timely manner. In accordance with Article 6.2 set forth below, Lessee shall be responsible for maintaining the HVAC system in good working order, but Lessor shall pay the excess cost of any repair to the HVAC system over \$750.00 per incident or occurrence.

6.2 Lessee Duties. Lessee shall keep the Leased Premises in good repair and tenantable condition, and shall promptly notify Lessor of any damage to the Leased Premises. Lessee shall maintain the HVAC system and keep it in good working order. Provided, however, if Lessee enters into a maintenance agreement for the HVAC or otherwise performs and documents HVAC maintenance with City of Austin employees, sufficiently qualified to perform such maintenance, in Lessor's sole opinion, Lessee's liability for the cost of any HVAC repair or replacement shall not exceed \$750.00 per incident or occurrence. In the event such repairs or replacements are necessary, Lessee agrees to obtain and provide to Lessor a minimum of two (2) bids for Lessor's determination of the entity to perform the work.

6.3 No Duty to Repair. Lessor shall not be required to repair damage caused by the negligent actions of Lessee, its agents, employees, subtenants, invitees, and licensees.

6.4 Lessor Repairs. Lessee shall give Lessor notice in writing of the need for Repairs. If completion of the Repairs requires more than 5 (five) days, Lessor shall have a reasonable time to complete the Repairs. If Lessor fails to commence the Repairs within three (3) days after receipt of notice, Lessee may make the needed Repairs. Lessor will promptly reimburse Lessee for the cost of Repairs and for damages to Lessee's property incurred as a result of Lessor's failure to timely repair.

6.5 This line is intentionally left blank.

6.6 Lessee Requested Work within Scope of Lease. All work and materials required to be provided by Lessor under this Lease, including Finish Out, as defined in paragraph 6.13 below, labor and materials for physical alterations, physical additions, improvements and installation of fixtures to the Property and Leased Premises, and all attendant expenditures, services, labor, and purchases, are NOT subject to the City Purchasing Guidelines.

After completion of work under this paragraph 6.6, Lessor shall notify Lessee of completion, and submit its invoice for the work to Lessee. It is understood and agreed that Lessor shall directly pay its contractors, subcontractors, materialmen and/or vendors for the work. Lessor shall be reimbursed the agreed cost of the work within thirty (30) calendar days of Lessee's receipt of Lessor's invoice.

6.7 Utilities. Lessee shall make all arrangements for and shall pay, prior to delinquency, (i) all charges for all utilities and all other services furnished to or used by Lessee in connection with the Leased Premises and (ii) all other expenses of operating Lessee's business from the Leased Premises. Lessor shall not be required to render any service of any kind to Lessee. Lessor is not responsible for any service interruptions caused by repairs, renewal, improvements, changes of service, alterations, strikes, lockouts, labor controversies, accidents, or other causes beyond Lessor's control. No such interruption shall be deemed an eviction or disturbance of Lessee's use and possession of the Leased Premises, or a breach by Lessor of its obligations or render Lessor liable for damages, by abatement of rent or otherwise, or relieve Lessee from any obligation under this Lease. Lessor shall exercise reasonable due diligence to restore such interrupted service.

6.8 Force Majeure. Performance by Lessor and Lessee of Lease obligations will be excused for delays due to strikes; lockouts; labor controversies; inability to procure labor or materials or reasonable substitutes for them; or other causes beyond Lessor's and Lessee's reasonable control ("Delayed Performance"). Reasonable control shall specifically exclude delays due to changes in economic or market conditions; financial or internal problems of a party; or problems that can be satisfied by the payment of money.

As a condition to the right to claim Delayed Performance, the delayed party will notify the other in writing of the Delayed Performance, and provide weekly updates as to the nature and status of its efforts to end Delayed Performance. Performance may be delayed for so long as the delayed party uses due diligence to resume performance and reduce the delay.

No Delayed Performance shall be deemed an eviction or disturbance of Lessee's use and possession, or a breach by Lessor or Lessee of its respective Lease obligations, render Lessor or Lessee liable for damages, or relieve either party from any obligation under this Lease.

6.9 This area intentionally left blank.

6.10 Keys. Lessor shall furnish to Lessee, free of charge, keys and other access devices as may be required for Lessee to access the Property and occupy the Leased Premises. Lessor acknowledges that Lessee must restrict access to certain areas of the Leased Premises for security reasons, and shall allow Lessee to install additional locks and security systems as it deems necessary to properly secure the Leased Premises, so long as Lessor is provided with 24-hour, up to date, emergency contact phone numbers.

6.11 Entry. Lessor, its employees, contractors, agents and representatives, shall have the right to enter the Leased Premises at all reasonable hours to inspect; clean; and make repairs, alterations, and additions to the Leased Premises. Lessor acknowledges that Lessee, for security reasons, must restrict access to certain areas of the Leased Premises. Lessor agrees not to enter or demand access to restricted areas except in cases of emergency.

6.12 Noninterference. All work performed by Lessor shall be diligently performed and conducted so as to minimize any interference with Lessee's normal business operations.

6.13 Finish Out. Lessor agrees that it will use diligent efforts to complete the work agreed upon by Lessor and Lessee and described on Exhibit "C" ("Finish Out") in a timely, good and workmanlike manner and in accordance with the Lessor-approved plans. The Finish Out will be paid for with the Tenant Improvement Allowance. Lessor and Lessee stipulate and agree that the Finish Out is a Lessor obligation under the Lease, and shall be governed by paragraph 6.6 and Item 12 of the basic Lease provisions set forth above. Lessee shall be responsible for the excess cost of any Finish Out that is above the Tenant Improvement Allowance. "Substantial Completion" of the Finish Out shall be defined as the date upon which Lessor's architect, general contractor, or consultant managing the Finish Out furnishes Lessor and Lessee with a certificate stating that the Finish Out has been substantially completed, except for such items that constitute minor defects or adjustments which can be completed after occupancy without causing any material interference with Lessee's use of the Leased Premises.

6.14 Additional Rent. Lessor shall keep the Common Areas of the shopping center on the Property ("Shopping Center") in a clean and neat condition. In addition to Monthly Rent, Lessee shall pay Additional Rent hereunder. "Additional Rent" means a monthly amount calculated by multiplying Lessee's Share (defined below) by the aggregate of (i) the Taxes (defined below), (ii) any insurance maintained by Lessor under this Lease, and (iii) the annual Common Areas Cost (defined below), and dividing the amount so determined by twelve (12). The term "Common Areas Cost" means the cost of operating and maintaining the Common Areas, improvements within the Shopping Center which benefit generally the tenants of the Shopping Center (e.g., roofs, floors and structural elements of the building), and any improvements or easements benefiting the Shopping Center (regardless of whether

located thereon), and includes, but is not limited to, the cost incurred by Lessor, in Lessor's discretion, for water; electricity; gardening; landscaping (including plant replacement); repair and maintenance (including paving, utility services, line painting, lighting, sanitary control, cleaning, drainage, exterior painting of the building, graffiti removal, repair and maintenance of the multi-tenant pylon sign, and roof maintenance and repair); sewer; trash removal from the Common Areas; depreciation on machinery and equipment used in connection with the maintenance of the Common Areas; personnel to implement such services, to direct parking, and if Lessor elects, to police the Common Areas; the cost of capital improvements to the Common Areas if the capital improvements are required or recommended by federal, state or local law, ordinance, statute, rule or regulation (but such improvements will be amortized upon a reasonable basis selected by Lessor); directional signs and markers; janitorial services; repairs to lighting fixtures and equipment; legal services attributable to the operations of the Shopping Center; outside professional services such as security, direction of parking, landscaping or pest treatment; and an administrative charge or a management fee to cover Lessor's cost of managing the Shopping Center. Monthly payments of the Additional Rent will be based upon Lessor's estimate of the annual Taxes, insurance and Common Areas Cost for the year in question and shall be adjusted from time to time, based upon Lessor's most current estimate of such items. Any adjustment in the monthly amount paid hereunder shall take effect on the first day of the month after the month in which Lessor notifies Lessee of any adjustment. Amounts paid on the basis of the estimated Taxes, insurance and Common Areas Cost will be adjusted when the actual amount of such items is available. For any partial calendar year during the Lease Term, Lessee's Additional Rent for such year shall be calculated by multiplying the actual Taxes, insurance and Common Areas Cost incurred for such year by a fraction, the denominator of which is 365 and the numerator of which is the number of days during that year which fall within the Term. Lessor shall not pay interest on Lessee's Additional Rent account, nor shall Lessor be required to keep the funds in such account separate from Lessor's general funds.

ARTICLE 7. Quiet Possession

7.1 Lessor agrees that Lessee shall peaceably and quietly hold, possess, and enjoy the Leased Premises for the Lease Term.

ARTICLE 8. Control of Common Areas and Parking Facilities

8.1 During the Lease Term, all parking areas, driveways, entrances and exits, truck ways, loading areas, pedestrian walkways and ramps, landscaped areas, stairways, other areas and improvements (the "Common Areas") shall be at all times subject to the exclusive control of Lessor.

8.2 Lessor warrants that Lessee, its employees, agents, invitees and permittees shall, during the Lease Term, have unrestricted access to the Common Areas appurtenant to the Property and Leased Premises; provided, however, Lessor may temporarily close access for any type of maintenance or repairs to be performed to the Property or Common Areas.

ARTICLE 9. Insurance Requirements

9.1 General Requirements. Lessor shall carry insurance in the types and amounts as set forth in this Article 9 for the Lease Term. Prior to execution of this Lease, Lessor shall obtain the required insurance and provide Lessee a Certificate of Insurance as proof of coverage. If the forms of policies, endorsements, certificates, or evidence of insurance required by this Article are superseded or discontinued, Lessee will have the right to require other equivalent or better forms.

If the insurance coverage period ends during the Lease Term, Lessor must forward a new Certificate of Insurance to Lessee as verification of continuing coverage for the Lease Term, thirty (30) days prior to the end of the coverage period. No policy will be cancelled, non-renewed, or materially modified without thirty (30) days advance written notice by Lessor and insurance company to Lessee

Approval of insurance by the Lessee shall not be construed to be a limitation of liability on the part of the Lessor. Insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policy is issued and shall be written by companies with an A.M. Best rating of B+VII or better. All endorsements naming the Lessee as additional insured, notices of cancellation, waivers of subrogation, and the Certificate of Insurance shall indicate Lessee as follows:

City of Austin
Real Estate Services
Attention: Property Management
505 Barton Springs Road, Suite 1350
Austin, Texas 78704

The "other" insurance clause shall not apply to the Lessee where the Lessee is an additional insured on any policy. It is intended that policies required in this Lease, covering both the Lessee and Lessor, shall be considered primary coverage as applicable. If insurance policies are not written for amounts specified in this Article, Lessor shall carry Umbrella or Excess Liability Insurance to meet Lease requirements. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

Lessee shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements. Lessee may make any reasonable requests for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulations. Lessee reserves the right to review the insurance requirements during the Lease Term, and to make reasonable adjustments, in Lessee's sole discretion, to insurance coverage, limits, and exclusions when deemed necessary and prudent by Lessee, whether based upon changes in statutory law, court decisions, the claims history of the industry, the financial condition of the insurance company, or the financial condition of Lessor.

Lessor shall not cause or permit any insurance to lapse or to be canceled during the Lease Term. Lessor shall be solely responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

9.2 Specific Coverage.

(a) Property Insurance. The Lessor shall provide property coverage for the building and other structures on the Property in an "All Risk of Physical Loss" form. The coverage shall be provided on a replacement cost basis for the 100% value of the Property. Lessor shall not be responsible for providing property insurance coverage for Lessee's furniture, equipment, machinery, goods or supplies in the Leased Premises.

(b) Commercial General Liability Insurance. The Policy shall contain the following provisions:

1. Blanket contractual liability coverage for liability assumed under the Lease and all contracts relative to this Lease;
2. this line intentionally left blank;
3. Lessee listed as an additional insured, endorsement CG 2010;
4. Thirty (30) Day Notice of Cancellation to Lessee, endorsement CG 0205;
5. Waiver of Transfer of Recovery Against Others in favor of Lessee, endorsement CG 2404;
6. Provide overages A (Bodily Injury and Property Damage) and B (Personal and Advertising) for a combined single limitation of not less than One Million Dollars (\$1,000,000) per occurrence.

ARTICLE 10. Lessee's Liability Insurance

10.1 Lessor understands and agrees that Lessee is self-insured and does not maintain commercial general liability insurance coverage.

ARTICLE 11. Damage by Fire or Other Casualty

11.1 If the Property should be totally destroyed by fire, flood or other casualty ("Casualty"), or if the Leased Premises should be so badly damaged by Casualty that the Leased Premises are untenable, then Lessor shall have the option to (a) terminate this Lease, as of the date of the occurrence, by written notice delivered to Lessee within thirty

(30) days following the damage or destruction, thereafter neither party shall have any further obligations under this Lease; or (b) continue this Lease in full force and effect, in which event Lessor shall promptly and diligently repair and restore the damaged or destroyed Leased Premises and Property to substantially the same condition existing prior to Casualty.

If the Casualty damage cannot be repaired within one-hundred and eighty (180) days from the date of Casualty, this Lease may be terminated by either Lessor or Lessee.

Beginning on the date of the Casualty up to the date of restoration of the Leased Premises to substantially the same condition existing prior to the Casualty, the Monthly Rent shall be proportionately abated, prorated on a daily basis. For the purposes of this Article 12.1, "untenantable" shall mean that the Leased Premises have been made totally inaccessible or unfit for use under the terms of this Lease.

11.2 If the Leased Premises are damaged by Casualty, but are not made untenantable, this Lease shall continue in full force and effect, and Lessor shall promptly and diligently repair and restore the damage to the Leased Premises to substantially the same condition prior to the Casualty. For the period Lessee is deprived of any part of the Leased Premises by reason of Casualty repair or restoration, the Monthly Rental shall be proportionately abated and prorated on a daily basis.

11.3 In the event this Lease is terminated as provided in this Article 11, the Monthly Rent shall be adjusted as of the date of Lease termination, and any Monthly Rent paid for any period beyond the Lease termination date shall be promptly refunded to Lessee by Lessor.

11.4 In the event fifty percent (50%) or more of the Property has been damaged or destroyed and Lessor elects not to rebuild or repair, Lessor may, by notice to Lessee within 30 days, terminate this Lease.

11.5 If the Casualty repair or reconstruction shall render the Leased Premises untenantable in whole or in part, (a) the Monthly Rent shall be prorated on a daily basis for the part of the Lease year in which the Leased Premises are tenantable, and (b) the Monthly Rent shall be abated, prorated on a daily basis, during the part of the Lease year the Leased Premises are untenantable.

ARTICLE 12. Risk and Indemnification

12.1 All personal property of Lessee located in the Leased Premises shall be kept and stored at Lessee's sole risk.

12.2 Except to the extent covered by Lessee's self-insurance, Lessor shall indemnify and hold harmless Lessee, its employees, agents, successors, and assigns from and against all injury, loss, claims, or damages to any third party or property arising from, related to, or in connection with, use and occupancy of the Common Areas and Property unless and to the extent caused in whole or in part by the negligence or willful misconduct of Lessee, its employees, successors, invitees, contractors, and assigns.

12.3 It is specifically understood and agreed that Lessor's liability under this Lease is strictly limited to Lessor's property interests in the Property.

ARTICLE 13. Title to Leased Premises/Non-disturbance

13.1 Lessor warrants that it has good and marketable title to the Property, including the parking facilities. Lessor shall warrant and defend Lessee against the claims of all persons against Lessee's Lease interests and the Leased Premises.

13.2 Upon Lessor's request, Lessee agrees to timely execute a Subordination, Non Disturbance and Attornment Agreement ("SNDA Agreement"), with any person, company, or banking institution ("Lien Holder") holding a mortgage lien or deed of trust lien on the Property ("Lien"). As consideration for Lessee's execution of a SNDA Agreement, the Lien Holder will covenant and agree that, in the event of a foreclosure or deed in lieu of foreclosure of a Lien, the Lien Holder, its successors and assigns, will not terminate or disturb Lessee's occupancy and quiet possession of the Leased Premises, so long as Lessee is not in default under the Lease.

13.3 Within 30 calendar days of written request in a notice from Lessee, Lessor shall furnish to Lessee a certificate of non-disturbance executed by a Lien Holder, indicating that, in the event of a foreclosure or deed in lieu of foreclosure, and as long as Lessee is not in default under the Lease, the Lien Holder will recognize this Lease and shall not disturb Lessee's occupancy and quiet enjoyment of the Leased Premises. Lessor agrees to use its best efforts to obtain a certificate of non-disturbance. If a certificate of non-disturbance is not furnished by Lessor within 30 days of Lessee's request, Lessee reserves the right to (a) terminate this Lease, relieving Lessor and Lessee of all obligations under this Lease, OR (b) abate Monthly Rental payments, until an executed certificate of non-disturbance is delivered to Lessee in accordance with this Lease.

ARTICLE 14. Eminent Domain

14.1 If, during the Lease Term, any part of the Leased Premises shall be taken by eminent domain, and the taking would prevent or materially interfere with Lessee's use of the Leased Premises, Lessee may elect either to (a) terminate this Lease, relieving Lessor and Lessee of all obligations under this Lease, or (b) continue this Lease in full force and effect.

14.2 If Lessee elects to continue the Lease, the Monthly Rent shall be reduced in proportion to the area of the Leased Premises taken by eminent domain and to the extent of the condemnation proceeds awarded to Lessor, and Lessor shall repair any damage to the Leased Premises resulting from the taking. Lessor shall be entitled to recover from the condemning authority the full amount of Lessor's interest in the Property taken in condemnation; Lessee shall be entitled to recover the value of Lessee's remaining Lease interest and the value of Lessee's improvements in the Leased Premises, if any, taken.

ARTICLE 15. Assignment or Sublease

15.1 In the event Lessee should desire to assign this Lease or sublet any or all of the Leased Premises (the "Sublease") Lessee shall give Lessor written notice at least sixty (60) calendar days in advance of the date of the proposed sublease or assignment (the "Sublease Notice").

15.2 The Sublease Notice will include (a) the name and address of the proposed sublessee or assignee, (b) all information regarding the proposed sublease or assignment, (c) the proposed effective date, (d) whether an assignment or sublease is proposed, (e) copies of the proposed assignment or sublease document, and (f) current financial status of the proposed assignee or sublessee, and (h) any other information requested by Lessor.

15.3 Within thirty (30) calendar days following receipt of the Sublease Notice, Lessor shall notify Lessee in writing that Lessor elects either (a) to terminate this Lease as of the proposed Sublease effective date as specified by Lessee, thereby relieving Lessee of all further Lease obligations, or (b) to permit Lessee's Sublease, subject, however, to Lessor's written approval of the proposed assignee or sublessee. Lessor agrees that approval of the assignee or sublessee, and proposed form of the sublease or assignment shall not be unreasonably withheld. Any attempted Sublease by Lessee in violation of this Article 15 shall be void. Any assignee or sublessee will carry commercial general liability insurance with Lessor listed as an additional insured and all principals of the assignee or sublessee will guaranty the obligations of assignee or sublessee under this Lease.

ARTICLE 16. Assignment by Lessor

16.1 In the event the Property is sold, transferred in a like kind exchange, or otherwise conveyed ("Conveyance"), by Lessor to a buyer or transferee ("Buyer"), Lessor agrees it shall have the obligation to assign this Lease to the Buyer of the Property ("Assignment of Lease") in compliance with this Article 16.

16.2 Lessor shall provide written notice to Lessee of (a) a pending Conveyance to a Buyer, (b) the proposed date of the Conveyance; and (c) a proposed copy of the Assignment of Lease, within ten (10) days following the execution of a Contract of Sale of the Property between Lessor and Buyer.

16.3 As a condition precedent to Conveyance of the Property, Lessor agrees and stipulates that Buyer, prior to or on the date of closing, will (a) join in execution of the Assignment of Lease, (b) assume all Lessor's obligations under the Lease, and (c) covenant that Buyer will not disturb Lessee's quiet possession. Upon written notice to Lessee, with a true and correct copy of the executed Assignment of Lease attached, and provided the Assignment of Lease conforms to the requirements of this Article 16, Lessee will attorn to Buyer as Property owner and Lessor of the Leased Premises. As of the date of Conveyance, Lessor shall have no further liability under this Lease.

ARTICLE 17. Rules and Regulations

17.1 Lessee agrees to comply with all reasonable rules and regulations that Lessor may adopt from time to time for operation, protection and welfare of the Leased Premises, Property, Common Areas, and tenants, visitors, and occupants. Copies of all Rules and Regulations must be timely provided to Lessee. Lessor stipulates that all Rules and Regulations will not be inconsistent with the provisions of this Lease.

ARTICLE 18. Governmental Regulations

18.1 The Leased Premises is being leased "AS IS," "WHERE IS", and "WITH ALL FAULTS" with Lessee accepting all defects, except for structural defects in the building on the Property, if any.

18.2 Lessor warrants that, at the time of construction, renovation and/or improvements to the Property, handicapped accessibility to the Property and Leased Premises complied with accessibility requirements as required by the Americans with Disabilities Act of 1990, the Texas Accessibility Standards (TAS), and Chapter 5-2 of the Austin City Code, as those requirements may be amended ("Legal Requirements"). Lessor further warrants that all future reconstruction, renovation or improvements to the Property and Leased Premises will also comply with Legal Requirements.

18.3 Lessee agrees to comply with all applicable laws, rules, and regulations of county, municipal, state, federal, and other applicable governmental authorities in its use of the Leased Premises.

18.4 Lessor represents and warrants to Lessee that on the Commencement Date, the Property will be in compliance with all laws, ordinances, orders, rules, regulations and other governmental requirements relating to the use, condition and occupancy of the Leased Premises, and that no conditions exist that after discovery or notice or the passage of time would not be in compliance with laws, ordinances, orders, rules and regulations requirements.

18.5 Lessor agrees to maintain and operate the Property and Leased Premises in compliance with all applicable laws, rules, and regulations of county, municipal, state, federal, and other applicable governmental authorities.

ARTICLE 19. Solicitation of Business

19.1 Lessee, its employees, officers, agents, licensees, and invitees shall not advertise in or on the Property.

19.2 Lessor, its employees, officers, agents, licensees, and invitees shall not advertise in or on the Leased Premises.

ARTICLE 20. Taxes

20.1 Lessee agrees to pay Lessee's Share (defined below) of ad valorem taxes and assessments levied against the Property during the Lease Term ("Taxes"). Lessee shall pay an amount as estimated by Lessor to be one-twelfth (1/12) of such taxes on the first (1st) day of each and every calendar month during the initial Lease Term of this Lease (and any extension period, if applicable). Lessor may adjust from time to time during the Lease Term hereof the estimated amount required to be paid each month based on increases in the ad valorem tax appraised value of the Leased Premises and changes in the tax rates as reflected on the most current information available to Lessor. If the amount of the actual taxes is more than the total amount paid by Lessee for any calendar year, Lessee shall pay the deficiency amount to Lessor within thirty (30) days after notice to Lessee of the amount of taxes, together with the tax statements reflecting the actual amount of the taxes. If the amount of the actual taxes is less than the total amount paid by Lessee, Lessor, at Lessee's option, may either refund such difference to Lessee or credit the amount of such excess against the monthly payments due for the following calendar year. Lessee shall also pay before delinquency all taxes, assessments, license fees, and other charges that are levied and assessed against Lessee's personal property installed or located in or on the Leased Premises. On demand by Lessor, Lessee shall furnish Lessor with satisfactory evidence of such payment. "Lessee's Share" shall be calculated by dividing the number of useable square feet in the Leased Premises by the number of useable square feet in the Shopping Center. The number of useable square feet in the Leased Premises is calculated by measuring from the exterior faces of exterior walls (or from the center of any shared or party walls) of all floors, including mezzanines, show cases, and entrances within the exterior footprint of the Leased Premises. The useable square feet of the Leased Premises shall conclusively be deemed to be the number of square footage of the Leased Premises set forth above. The useable square feet in the Shopping Center shall be the aggregate of the useable square feet in all premises leased or available for lease in the Shopping Center. If the useable square feet in the shopping center changes, Lessee's Share shall be recalculated by Lessor, and all payments to be made by Lessee based on Lessee's Share shall be adjusted as of the first day of the month immediately following the month in which the change occurs. If there is any dispute as to the number of useable square feet in the Shopping Center, the certification of Lessor's architect shall be deemed conclusive.

DWS
JR

ARTICLE 21. Discharge of All Liens

21.1 Lessee and Lessor shall pay promptly all contractors, subcontractors and materialmen, in accordance with the terms of the Lease, to avoid any lien from attaching to the Leased Premises or Property.

ARTICLE 22. Lessee's Covenants

22.1 Lessee hereby covenants and agrees as follows:

(a) Lessee shall pay Monthly Rent, and other sums due Lessor under the Lease, to Lessor as it becomes due and payable under the terms of this Lease.

(b) At Lease termination and surrender of possession of the Leased Premises, Lessee shall remove, at its sole expense, any of Lessee's property specified to be removed in a written notice by Lessor to Lessee. Lessee shall repair any damage to the Leased Premises caused by Lessee's removal of its property.

(c) Lessee shall observe and perform all of the terms, conditions, and obligations of this Lease.

ARTICLE 23. Lessor's Covenants

23.1 Lessor hereby covenants and agrees as follows:

(a) Lessor shall not advertise the business, profession, or activities of Lessee in any manner, nor make disclosures of any kind to third parties regarding Lessee, the Lease, or the Leased Premises.

(b) Lessor shall observe and timely perform all the terms, conditions, and obligations of this Lease.

(c) Lessor shall not use or permit the use of the Lessee's tenancy for advertising or similar purposes.

ARTICLE 24. Default by Lessee; Lessor's Remedies

24.1 Each of the following acts or omissions by Lessee shall constitute an event of default (a "Lessee Default"):

(a) Failure or refusal by Lessee to make the timely and punctual payment of any Monthly Rent or other sums payable under the Lease.

(b) Failure by Lessee to perform or comply with any of the terms, covenants, or conditions in this Lease.

24.2 Upon Lessee Default, Lessor shall give Lessee written notice specifying the Lessee Default, and Lessee shall cure its default within thirty (30) days of receipt of written notice, plus any additional time as may be reasonable necessary for cure. If Lessee shall fail to cure a Lessee Default within 30 days, Lessor may, at its option, in addition to all other rights and remedies available under this Lease, at law, or in equity, (a) continue this Lease in full force and affect, OR (b) terminate this Lease, in which event Lessee shall immediately surrender possession of the Leased Premises to Lessor, OR (c) elect not to terminate this Lease, and Lessor may relet the Leased Premises and terminate the Lease upon reletting. Lessor shall use best efforts to relet the Leased Premises. Upon relet of the Leased Premises, Lessee shall not be entitled to share with Lessor any rents in excess of the Monthly Rent.

24.3 Exercise by Lessor of any of its remedies available under this Lease shall not be deemed to be surrender of the Leased Premises by Lessee, whether by agreement or by operation of law, it being understood that surrender of the Leased Premises must be by written agreement between Lessor and Lessee.

24.4 Upon Lessee Default, if Lessor elects to terminate this Lease, Lessee shall be liable for the sum of all Monthly Rent, any other indebtedness accruing under the Lease, and all expenses incurred by Lessor incident to Lessee's Default, up to the date of Lease termination.

24.5 Unless otherwise provided in the Lease, if Lessee should fail to timely make any payment or cure any Lessee Default, Lessor, without being under any obligation to do so and without waiving the Lessee Default, may make such payment and/or remedy the default for the account of Lessee. Lessee agrees to pay Lessor upon demand all costs, expenses, disbursements, repossession costs, and expenses incurred by Lessor incident to Lessee Default, including those necessary to prepare the Leased Premises for reletting.

24.6 All costs and expenses incurred by Lessor incident to Lessee Default shall be paid by Lessee to Lessor at its current Mailing Address.

ARTICLE 25. Default by Lessor; Lessee's Remedies

25.1 In the event of any default by Lessor ("Lessor Default"), Lessee shall give Lessor written notice specifying the Lessor Default, and Lessor shall have thirty (30) days to cure same, plus any additional time as may be reasonable necessary for cure. If Lessor fails to timely cure its Default, Lessee may (a) file an action for damages, and/or (b) terminate the Lease, and Lessee shall have no further obligation to Lessor under the Lease post-termination.

25.2 Upon the written request of any Lien Holder, Lessee agrees to give the Lien Holder a copy of all Notices of Lessor Default. A Lien Holder shall have the right, but not the obligation, to cure or remedy Lessor Default during the cure period permitted under this

Lease, plus an additional period of thirty (30) days. Lessee agrees to accept the curative or remedial action taken by Lien Holder, with the same effect as if the action had been undertaken by Lessor.

25.3 All costs and expenses incurred by Lessee incident to Lessor Default shall be paid on demand by Lessor to Lessee at its current Mailing Address.

ARTICLE 26. Relinquishment of Lien for Rent

26.1 Lessor hereby waives any and all rights it may have to fix a lien on, and/or perfect a security interest, in any property of Lessee in Leased Premises, including, but not limited to, all trade fixtures, machinery, equipment, furnishings, and other personal property; title to all said property shall remain in the Lessee.

ARTICLE 27. Law Governing

27.1 This Lease shall be subject to, governed by and construed in accordance with all applicable federal, state, county, and municipal laws.

27.2 This Lease shall be contingent upon approval by the Austin City Council of the City Operating Budget for each City fiscal year that identifies sufficient funds appropriated for payment of Monthly Rent under this Lease ("Lease Funding").

ARTICLE 28. Prior Occupancy

28.1 If Lessee, with Lessor's prior written consent, shall occupy the Leased Premises prior to the beginning of the Lease Term, all provisions of this Lease shall be in full force and effect commencing upon the date of occupancy.

ARTICLE 29. Estoppel Certificate

29.1 Upon not less than thirty (30) days prior written request by Lessor, Lessee shall prepare, execute, and deliver to Lessor a statement in writing certifying (a) the Commencement Date and Lease Termination date; (b) the date through which Monthly Rent and any additional rent has been paid; (c) the amount of any Security Deposit; (d) that Lessee has accepted and occupied the Leased Premises; (e) that the Lease is in full force and effect and has not been modified or amended; (f) that all improvements to the Leased Premises have been satisfactorily completed; (g) that there are no uncured Lessor defaults under the Lease, or any existing conditions that constitute Lessor Default upon notice from Lessee; (h) that Lessee has not received any concessions from Lessor; (i) that Lessee has received no notice from any insurance company of any defects or inadequacies affecting coverage on the Leased Premises; (j) that Lessee has no options or rights other than those set

forth in the Lease; and (k) any other information that Lessor may reasonably request (an "Estoppel Certificate"). Lessee acknowledges that a Buyer may rely on an Estoppel Certificate.

29.2 If an Estoppel Certificate is to be delivered to a prospective buyer of the Property ("Buyer"), it shall include Lessee's agreement to (a) recognize Buyer as Lessor under the Lease, and (b) pay rent to Buyer or its designee after sale and closing in accordance with the terms of this Lease, as consideration of Buyer's execution of a non-disturbance agreement in favor of Lessee, covenanting non-disturbance and quiet possession of the Leased Premises in Lessee.

ARTICLE 30. Memorandum of Lease

30.1 Lessee and Lessor agree, within seven (7) days of written notice of request by the other party, to execute a Memorandum of Lease in recordable form, setting forth the names of the parties, the Lease Term, Commencement Date, Termination Date, and the description of the Leased Premises. The Memorandum of Lease may be recorded in order to give record notice of this Lease to third parties.

ARTICLE 31. Tender and Delivery of Lease Instrument

31.1 Submission of this instrument to either party for examination does not constitute an offer, reservation of or option for the Leased Premises. This instrument becomes enforceable only upon execution and delivery of the Lease by both Lessor and Lessee.

ARTICLE 32. Time is of the Essence

32.1 In all instances where Lessor or Lessee are required under the terms of this Lease to pay any sum or timely take any action, it is understood and agreed that time is of the essence in this Lease.

ARTICLE 33. Notice

33.1 Notices required under the Lease shall be in writing and shall be delivered by hand, or sent by United States Registered or Certified Mail, postage prepaid, return receipt requested, to the Mailing Addresses for Lessor and Lessee, as may be changed from time to time by either party by giving notice to the other party as provided in this Article 33 ("Current Mailing Address" or "Mailing Address").

ARTICLE 34. Entire Agreement and Binding Effect

34.1 This Lease embodies the entire agreement of the parties hereto, and incorporates all previous correspondence or communication, whether written or oral. The Lease can only be modified or varied by written instrument executed by all parties hereto.

ARTICLE 35. Authority

35.1 The parties to this Lease warrant and represent that each has the power and authority to enter into this Lease in the name, title, and capacity stated; on behalf of the entity, person, or firm represented; and all prerequisites necessary to authorize, negotiate, and enter into the Lease have been fully completed without the joinder of any other party.

35.2 If Lessor is a corporation, Lessor shall be required to deliver to Lessee, contemporaneous with the execution of this Lease, a certified Board of Directors' resolution evidencing the authority of Lessor and the individual executing this Lease on behalf of Lessor, to enter into this Lease and perform Lessor's attendant Lease obligations.

ARTICLE 36. Venue

36.1 This Lease is to be performed in Travis County, Texas. Venue and jurisdiction of any suit, right, or cause of action arising under or in connection with this Lease shall be exclusively in Travis County, Texas.

ARTICLE 37. Terminology

37.1 Whenever required by the context, as used in this Lease, the singular shall include the plural, and the masculine gender shall include the feminine and neuter. Titles of Articles are for convenience only, and shall neither limit nor amplify the provisions of this Lease. Any reference to an "Article" shall be deemed to include all provisions of this Lease unless expressly provided to the contrary.

ARTICLE 38. Holding Over

38.1 If Lessee should remain in possession of the Leased Premises after the expiration or termination of this Lease, without the execution by Lessor and Lessee of a new lease, then the Lease shall be deemed to be extended on a day to day basis for the period of possession, and the parties to this Lease shall continue to be subject to all the covenants and obligations of this Lease. Monthly rent during a hold-over period shall be prorated on a daily basis.

ARTICLE 39. Non-Waiver

39.1 The failure of Lessor or Lessee to complain of any action, omission, or default under the Lease, whether singular or repetitive, shall not constitute a waiver of any of Lessor's or Lessee's rights and obligations under the Lease. Failure of Lessor or Lessee to insist on a strict performance of any of the Lease covenants and/or obligations of this Lease shall not constitute a waiver or relinquishment of any right or obligation in the future.

ARTICLE 40. Severability; Interpretation

40.1 This Lease is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations of the City of Austin, Travis County, and the State of Texas. If any provision of the Lease, or its application, shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, that Lease provision shall be stricken from this Lease; the remainder of the Lease shall remain valid and enforceable to the extent permitted by law.

40.2 Should a dispute arise under this Agreement, any interpretation of the Agreement shall not favor either party.

ARTICLE 41. Reimbursement

41.1 Except to the extent covered by Lessor's insurance required to be carried herein, Lessee shall reimburse Lessor for the cost to defend and the liabilities incurred by Lessor to third parties for injuries occurring at, in or around the Leased Premises to the extent caused in whole or in part by the acts or omissions of Lessee or persons for which it has responsibility, including if the liabilities are caused in whole or in part by the concurrent or sole negligence of Lessee or persons for which it has legal liability.

ARTICLE 42. Counterparts; Facsimiles

42.1 This Lease may be executed in multiple counterparts, which, when combined together, shall constitute an original of this Lease. In addition, facsimile signatures of the parties shall be effective on all counterparts of this Lease.

THIS LEASE IS EXECUTED by Lessor in multiple originals, effective on March 15, 2008 (the "Effective Date"). Facsimile signatures shall have the same force and effect as original signatures.

LESSOR:


Pajo Properties Ltd.,
A Texas limited partnership

By: PS Brougher, L.L.C.
A Texas Limited Liability Company
Its General Partner


By: 
David Brougher,
Member

LESSEE:

City of Austin
A home rule corporation

By: 
Lauraine Rizer, Manager
Real Estate Services Division, Public
Works Department

APPROVED AS TO FORM:


Tom Nuckols
Assistant City Attorney

Date Approved 11/8/07
By Council

Item Number 40

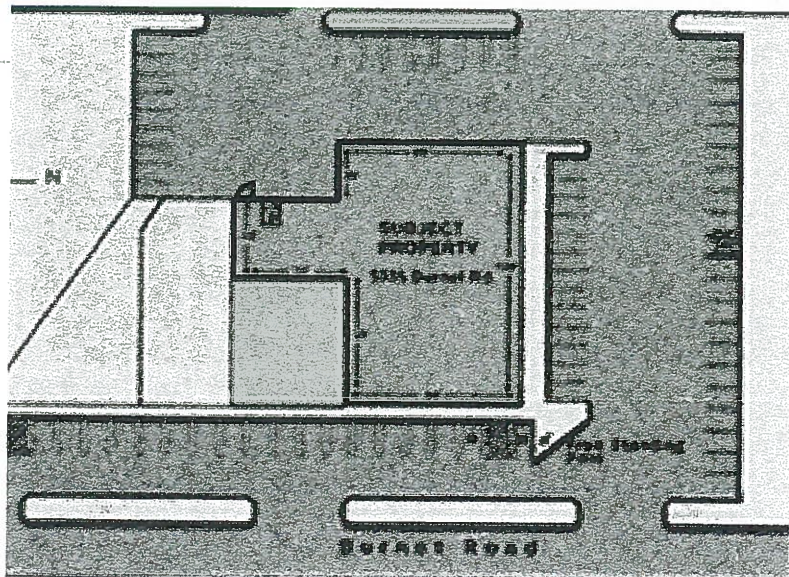
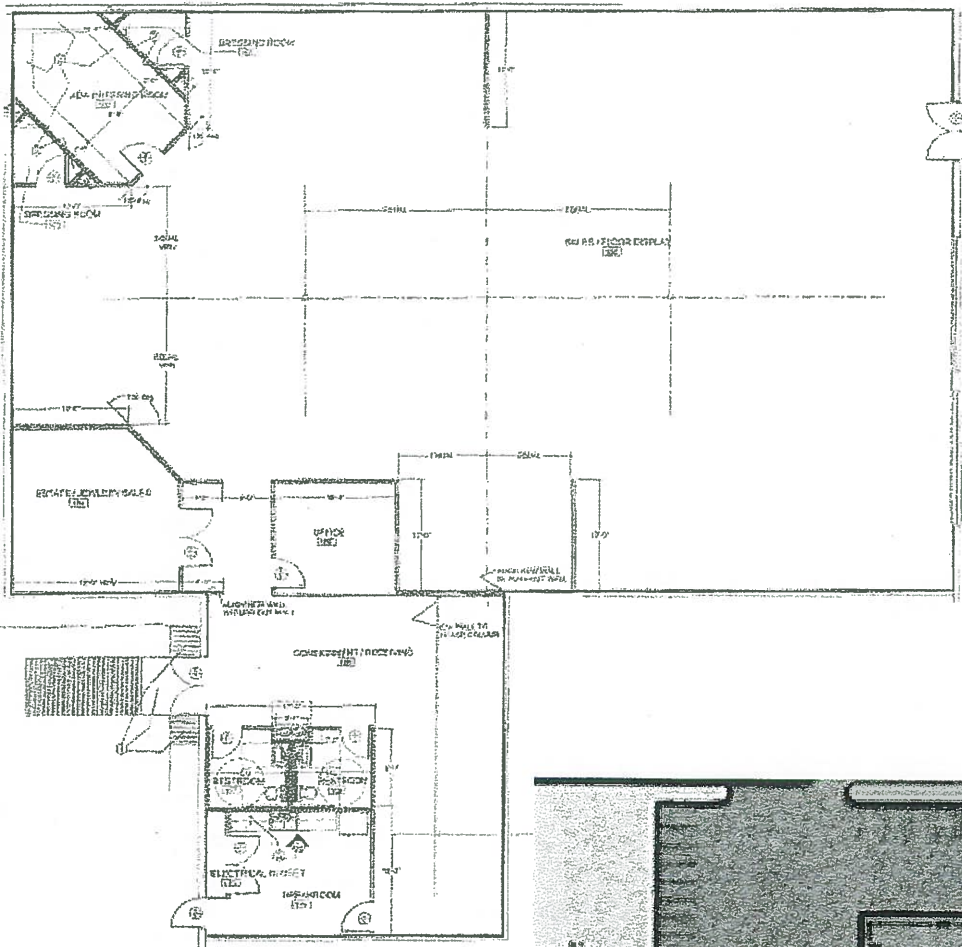


YANCEY HAUSMAN
COMMERCIAL REAL ESTATE SERVICES

Exhibit "A"
Leased Premises Plan

FLOOR PLAN

5335 Burnet Road
Austin, Texas



*Not to Scale

003

EXHIBIT "B"

Description of Fixtures

[INTENTIONALLY DELETED]

OWS
JR

Exhibit "C"
Finish Out

Wall/Floor Finishes

1. Paint walls throughout suite. Two coats low VOC paint.
2. Provide new 4" rubber cove base throughout.
3. Provide 1-way mirrored glass window at Store Manager's Office.

Lighting

1. Provide 2 x 4 acrylic lens fluorescent fixtures throughout space.
2. Replace/repair any damaged bulbs and/or ballasts throughout the space.

Plumbing

1. Make water fountain ADA compliant.
2. Provide grab bars as per ADA/TAS requirements, paper towel dispensers, soap dispensers, trash receptacles, sanitary napkin dispensers and toilet paper dispensers in all restrooms as shown on plans.

Electrical

1. Provide 120 volt electrical duplex wall outlets as follows: Walls in excess of twenty feet in length will require one every twenty feet. A minimum of one in each hallway.
2. Provide ring and string for telecommunication and automation station wiring in walls, ceiling or power poles as applicable.
3. Provide conduit from access point on building exterior to the data/telecom IDF closet for telephone lines and data circuits.
4. All branch circuit ground wires must be tied to a common ground at the distribution panel, to a service ground, or suitable building ground. The conduit must not be the sole means of the building ground station. All branch circuits shall be on the same primary transformer. All dedicated circuits shall be identifiable by use of orange colored plates on the outlets.
5. Provide adequate electrical for an 8-wire cube for all work stations. Provide j-boxes in the ceiling to feed into power-poles when furniture is not adjacent to a wall or column.
6. Provide (2) 120 volt duplex outlets in each office.
7. Provide (4) 120 volt duplex outlets in Staff Lounge.
8. Provide (1) 120 volt duplex outlets in each hallway every 25'.

OWS
JR

9. Provide (6) 120 volt duplex outlets in Music area.
10. Provide (4) 120 volt duplex outlets in Check Out/Customer Service Area.
11. Provide (1) 120 volt duplex outlets in each j-box at each exterior door for tenant provided security system.
12. Relocated and provide additional light fixtures to provide normal office lighting coverage as necessary.
13. Each room and area to have a light switch.
14. All lighting and electrical accessories shall comply with all Municipal, County, State and Federal ordinances, rules and regulations for any new construction. All electrical work shall conform to the standards and requirements of the latest editions and applicable sections of the National Electrical Code (NEC) Handbook. All lighting fixtures shall have light diffusing panels or elements. Fluorescent lighting fixtures shall have energy efficient ballasts.
15. Provide all life safety equipment, including but not limited to fire extinguishers and smoke alarms, in accordance with the requirements of all applicable municipal building codes.
16. Provide 1 dedicated outlet per copier at copier locations.
17. Provide conduit / wire pull to boxes for Tenant's security system.

Mechanical

1. All units will be cleaned to eliminate any debris in all ducts.
2. Thermostats to be added or relocated as needed.
3. Landlord Mechanical Contractor to balance HVAC system as required

Doors/Hardware

1. Use building standard doors, frames, and lever hardware throughout.

Signage

1. Provide interior "way finding" signage.

06/3
LR

Agenda Item #11

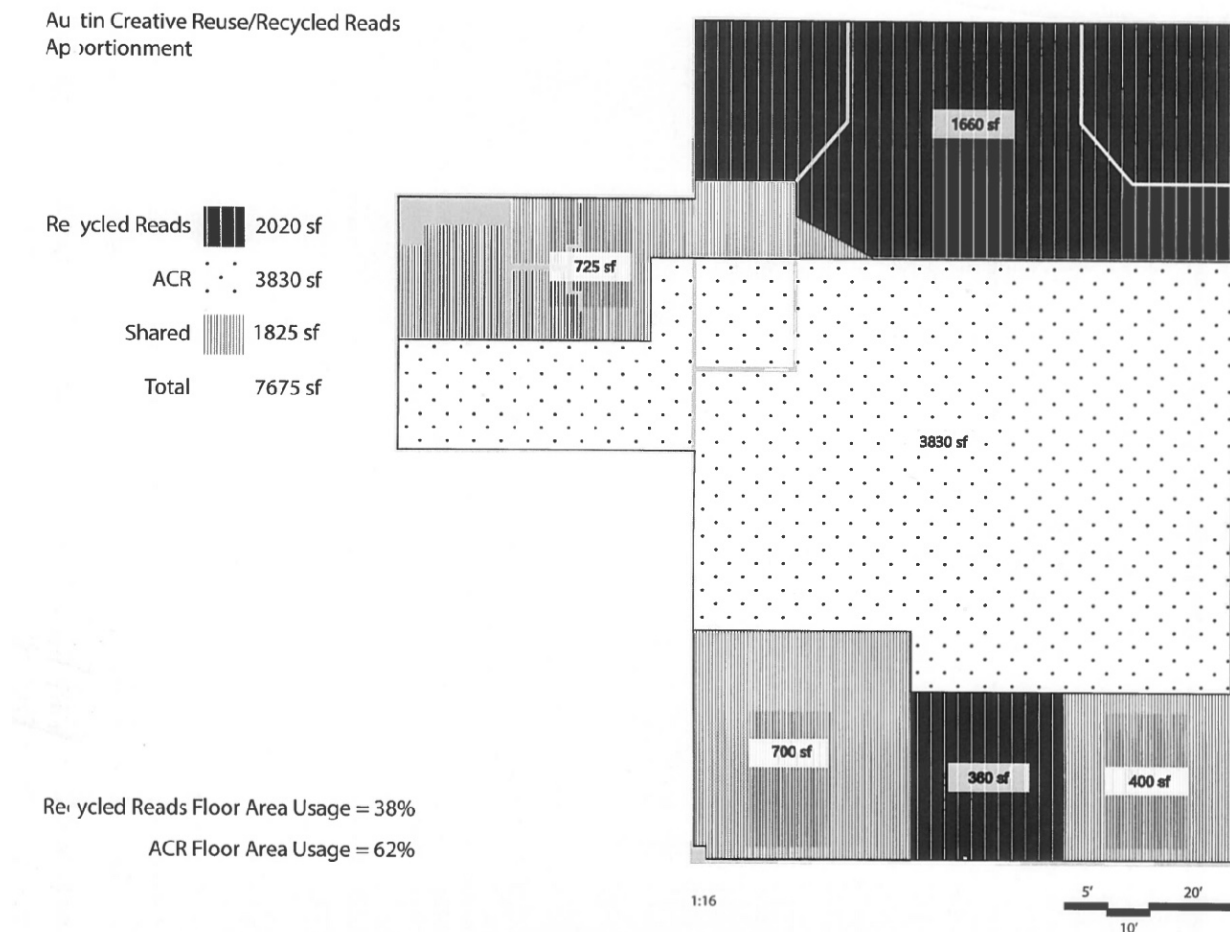
Authorize negotiation and execution of a sublease from the City of Austin to Austin Creative Reuse, a Texas nonprofit corporation, for approximately 4,758 square feet of retail space from the Austin Public Library Recycled Reads Store located at 5335 Burnet Road for a 36-month term.

QUESTION:

What is the total square footage of the current leased space for Austin Public Library Recycled Reads Store, and what percentage of that total is proposed to be sub-let?

ANSWER:

The total gross square footage of the Austin Public Library Recycled Reads Store is 7,675 square feet. The below the line language of the Request for Council Action incorrectly states 7,265 square feet. The correct square footage is 7,675 of which, 62% ($4,758 = 7,675 \times 0.62$) is proposed to be subleased, as indicated on the floor plan below, and includes the portion of the shared space.





Recommendation for Action

File #: 19-1164, **Agenda Item #:** 20.

1/31/2019

Agenda Item

Agenda Item #20: Authorize negotiation and execution of agreements for HIV social services each for an initial 42-month term, with two optional 12-month extensions with: AIDS Services of Austin in an amount not to exceed \$1,105,881 for the initial term and \$315,966 for each extension option, for a total agreement amount not to exceed \$1,737,813; Austin Travis County Mental Health Mental Retardation Center dba Integral Care in an amount not to exceed \$497,000 for the initial term and \$142,000 for each extension option, for a total agreement amount not to exceed \$781,000; Project Transitions, Inc. in an amount not to exceed \$427,791 for the initial term and \$122,226 for each extension option, for a total agreement amount not to exceed \$672,243; and The Wright House Wellness Center dba ASHWell in an amount not to exceed \$175,000 for the initial term and \$50,000 for each extension option, for a total agreement amount not to exceed \$275,000.

QUESTION: Please provide a list of anyone who submitted a solicitation for this item.
COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

All applicants are recommended for an award.



Recommendation for Action

File #: 19-1184, **Agenda Item #:** 22.

1/31/2019

Agenda Item

Agenda Item #22: Authorize amendments to the existing contracts with Champion National Security, Inc., Securitas Security Services USA Inc., and Whelan Security Co., for continued security guard services, for an increase in the amount of \$12,492,937, and to extend the term for up to three years, for revised contract amounts not to exceed \$20,900,000 divided among the contractors.

QUESTION: Please provide additional background information on the performance of the current security guard services contract, including the number of regular hours and overtime hours included.

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The weekly estimated security contract service hours for Building Services Department are 694 regular hours and 20 overtime hours. Austin Water averages 1,842 hours per month, (460.5 per week) and do not incur overtime. Municipal Court - 136 hours billed per week and The Downtown Austin Community Court (DACC) - 100 hours billed per week for a combined weekly total of 236 hours per week and normally do not incur overtime.



Recommendation for Action

File #: 19-1197, Agenda Item #: 25.

1/31/2019

Agenda Item

Agenda Item #25: Authorize negotiation and execution of three multi-term contracts with Austin Arborist Company D/B/A Austin Tree Experts, Clean Scapes L.P., and Unity Contractor Services, Inc. (MBE), to provide tree and brush maintenance services, each for up to five years, for total contract amounts not to exceed \$12,250,000 divided among the contractors.

QUESTION:

- 1) Please provide additional information on how the funding amount was determined.
- 2) Please provide information on how frequently trees in city parks receive this type of maintenance.
- 3) How does our current urban forestry maintenance compare to national best practices and recommended standards?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

1) Funding was determined by departmental requests and by estimating future project needs. Several new departments joined the current contract within the past year with greater future estimates than their current spend allotment. Per Council's recent directive, Public Works requested additional funding in order to perform more preventative maintenance services than what was performed in the past, such as overgrowth clearance work along sidewalks.

2) Based on estimates from Fiscal Year 2014, individual park trees receive maintenance on average every 42 years and individual street trees receive maintenance every 45 years.

3) Public Works Forestry services meet or exceeds requirements in the American National Standards Institute national standards for forestry maintenance. Public Works is staffed with International Society of Arboriculture (ISA) certified arborists and hold contractors to the standard of ISA best practices and require contractors to staff ISA certified arborists.

Internal arborists maintain their credentials with annual training that keeps City arborists in close contact with the Texas Forest Service and the Texas Chapter of ISA, as well as national and international trends in tree health care.



Recommendation for Action

File #: 19-1146, **Agenda Item #:** 28.

1/31/2019

Agenda Item

Agenda Item #28: Authorize negotiation and execution of a multi-term contract with Front Steps Inc., to provide shelter operations and services for the Austin Resource Center for the Homeless, for up to five years for a total contract amount not to exceed \$13,500,000.

QUESTION: One of National Alliance to End Homelessness (NAEH)'s recommendations for the re-design of shelters in Austin was to "change staff job descriptions and job titles to align with Housing First principles and housing-focused activities" and that "salaries should match the higher level of skills needed to perform housing-focused services." Are these recommendations incorporated within the proposed contract?

COUNCIL MEMBER TOVO'S OFFICE

ANSWER:

Austin Public Health staff will be negotiating the new agreement for ARCH operations in conjunction with contracted technical assistance and training from the National Alliance to End Homelessness over the next few months. Due to changing operations and services at the ARCH, some job descriptions and job titles will be changing to include higher skilled positions. The recommended contractor, Front Steps, Inc., has acknowledged these changes are necessary to align with the new service delivery model, and budget shifts coinciding with personnel shifts will allow for higher skilled positions to be compensated at a higher rate.



Recommendation for Action

File #: 19-1189, **Agenda Item #:** 34.

1/31/2019

Agenda Item

Agenda Item #34: Authorize negotiation and execution of an agreement with the Texas Department of Transportation to collaborate on stormwater management and environmental protection for state highway projects within the city limits or extraterritorial jurisdiction.

QUESTION: Please provide: 1) a map of the proposed stormwater controls; 2) schematic of proposed stormwater controls; 3) the area to receive additional tree protection including iconic trees.

COUNCIL MEMBER POOL'S OFFICE

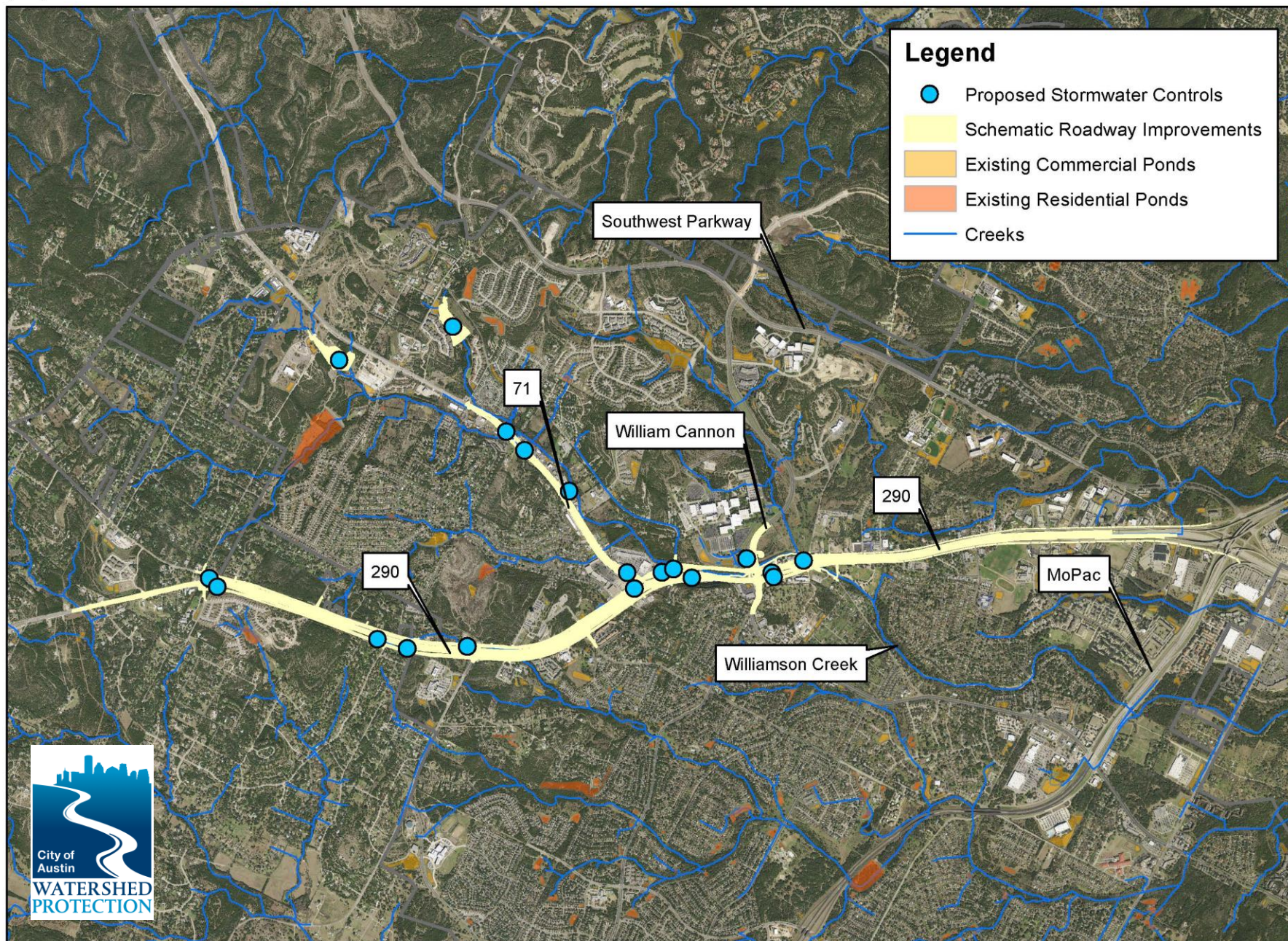
ANSWER:

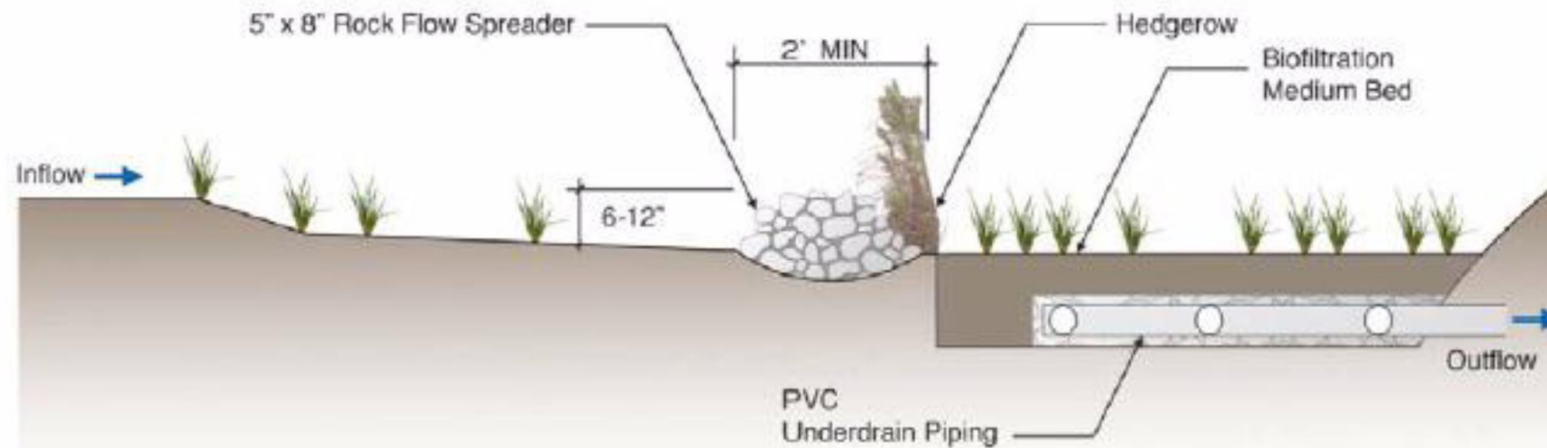
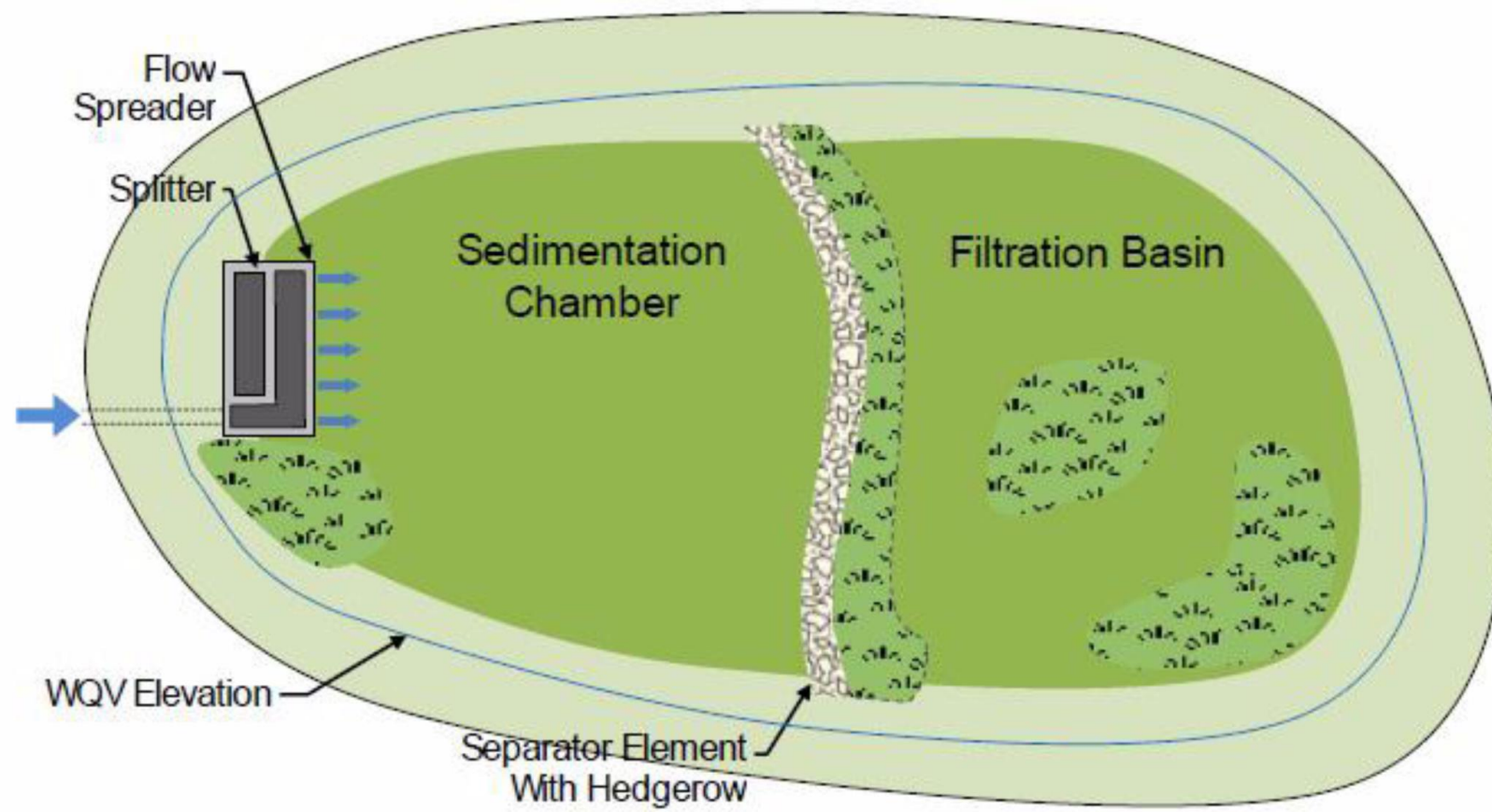
See attached.



Oak Hill Parkway Schematic: Proposed Stormwater Controls

0 0.25 0.5 1 Miles

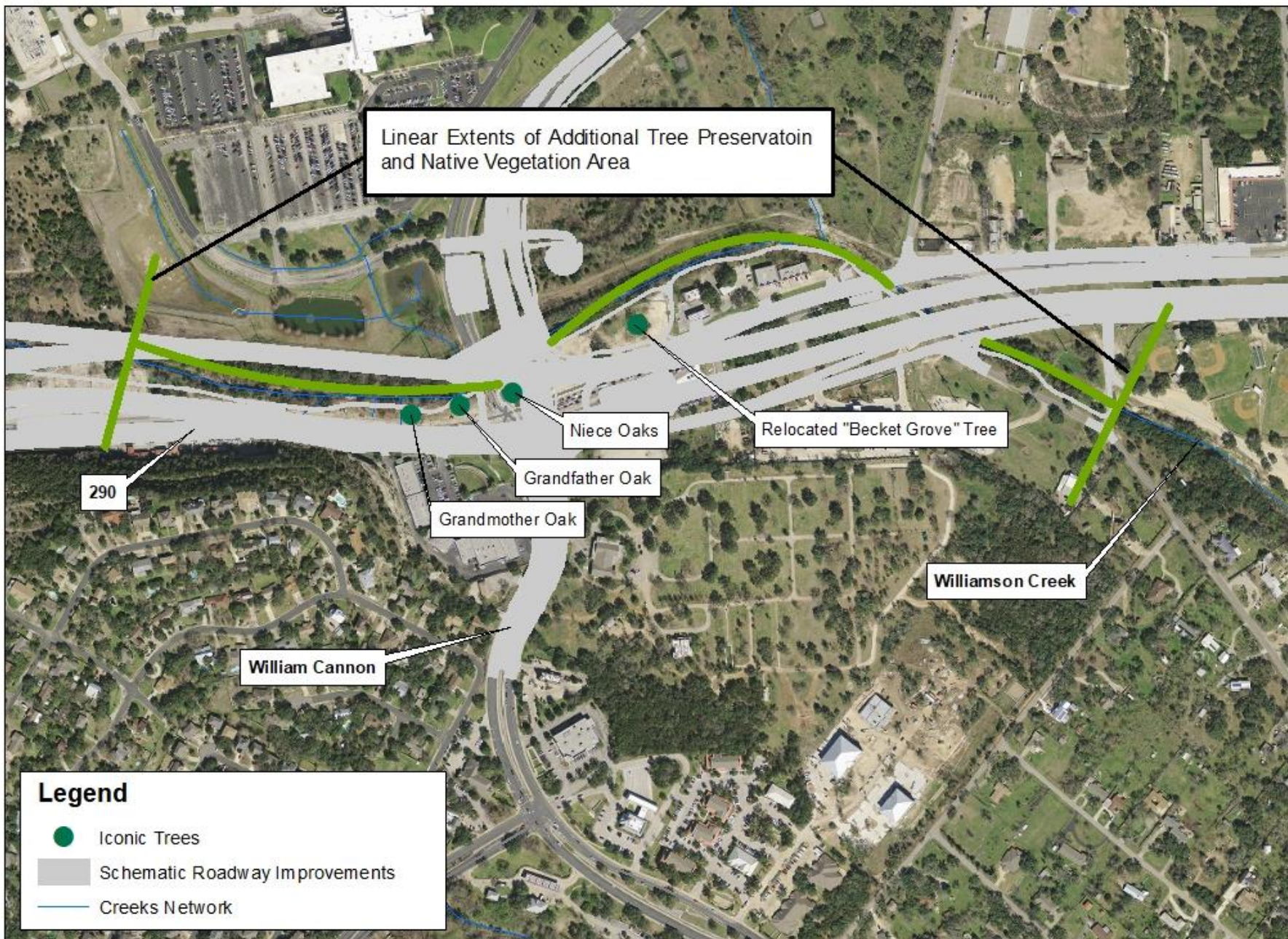






Oak Hill Parkway: Additional Tree Preservation and Native Vegetation Areas

0 250 500 1,000 Feet





Recommendation for Action

File #: 19-1168, **Agenda Item #:** 37.

1/31/2019

Agenda Item

Agenda Item #37: Approve a resolution to initiate code amendments to Chapter 25-10 (Sign Regulations) to provide limited allowances for off-premise signage at schools and transit facilities in public right-of-way.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGANS OFFICE

ANSWER:

Austin Code Department (ACD) would expect to see little if any impact to department resources as a result of the proposed change, as the resolution would relax current sign regulations and allow signage in new locations.

Since the Land Development Code and sign permitting process would be affected by this change, we highly recommend Planning and Zoning (PAZ) and the Department of Development Services (DSD) be consulted as internal stakeholders, as this action will directly impact the resources of their departments.

Once the resolution language is finalized and approved, ACD may be included in the broader stakeholder engagement process as an internal stakeholder, and would be required to educate staff on the ordinance change in regards to the enforcement of offsite signage as part of the Property Maintenance Code..



Recommendation for Action

File #: 19-1169, **Agenda Item #:** 38.

1/31/2019

Agenda Item

Agenda Item #38: Approve a resolution affirming the City Council's support of AISD and directing the City Manager to prioritize collaborative planning with an emphasis on opportunities to achieve community benefits on publicly owned land.

QUESTION:

- 1) Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?
- 2) If this resolution is approved as drafted does City Staff believe they have the authority to offer similar assistance and support described in this resolution to the eight other local school districts within the City of Austin in the future if needed?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

- 1) Due to the broad nature of the resolution, an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution cannot be developed at this time.
- 2) The resolution appears to be specific to collaboration with AISD. Staff can currently collaborate with the other local school districts within the City of Austin, if needed.



Recommendation for Action

File #: 19-1170, **Agenda Item #:** 39.

1/31/2019

Agenda Item

Agenda Item #39: Approve a resolution initiating amendments to the North Burnet/Gateway Regulating Plan relating to alternative equivalent compliance with front and street side upper-story building façade stepback development standards.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

The approximate time spent by the Planning and Zoning Department to complete a code amendment without stakeholder input is 25-30 hours. This would include time to draft language in coordination with the Law Department. PAZ can complete this code amendment with current resources as part of normal responsibilities.



Recommendation for Action

File #: 19-1171, **Agenda Item #:** 40.

1/31/2019

Agenda Item

Agenda Item #40: Approve a resolution initiating site specific amendments to the Land Development Code, including Chapter 25-8, Subchapter A, Article 13 (Save Our Springs Initiative), as minimally required to address proposed redevelopment of 5811 Southwest Parkway, located within the Barton Springs Zone, while maximizing environmental protection.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

If the owners submit an application for a site development permit for this property, staff's work on this amendment would be part of the review process assumed in our current staffing and is funded through our cost of service fee schedules.

This resolution would require staff resources from the Watershed Protection, Law, Planning and Zoning, and Development Services departments, but is anticipated to be coordinated by the Environmental Officer. Staff time is needed to research the location, meet with the owner, coordinate with affected departments, prepare a draft ordinance, and move the draft ordinance through the public process. The amount of time varies depending on the complexity of the site conditions and the degree to which the owner is willing to collaborate with staff to minimize the departure from the current Land Development Code requirements. Watershed Protection Department staff estimate a total of 30 person hours on average for an amendment of this type.



Recommendation for Action

File #: 19-1148, **Agenda Item #:** 63.

1/31/2019

Agenda Item

Agenda Item #63: C814-2012-0152.02 - Pilot Knob PUD-2nd Amendment - Conduct a public hearing and approve an ordinance amending City Code Title 25 by zoning property locally known as 7612, 7725, 7901, and 8100-½ Colton Bluff Springs Road; 7600, 7604, 7608, 7612, 7700, 7704, and 7708 Hillock Terrace; 8321 Thaxton Road; 8100 Sassman Road (Cottonmouth Creek Watershed; Marble Creek Watershed; North Fork Dry Creek Watershed; South Fork Dry Creek Watershed) from unzoned (UNZ) to planned unit development (PUD) district zoning, to add seven tracts of land. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.

QUESTION: Does this action include any waiver of fees? If so, please provide additional details.
COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The seven tracts proposed for zoning would be subject to the Affordable Housing Program provisions for the Pilot Knob PUD as Council approved on November 10, 2016 (not the original Affordable Housing Program approved by Council on December 15, 2015). The Affordable Housing Program is outlined on Part 8 of the November 10, 2016 ordinance (please refer to pages 23-26 of the agenda backup).



Recommendation for Action

File #: 19-1185, **Agenda Item #:** 77.

1/31/2019

Agenda Item

Agenda Item #77: Approve a resolution directing the City Manager to retain a qualified third-party that will comprehensively evaluate the Austin Police Department's processing and investigation of reported sexual assaults and that will provide a written report detailing its findings and recommendations.

QUESTION: Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

The resolution will require APD to establish the scope of work necessary to carry out the resolution and we are unable at this time to estimate the amount of staff time required for this resolution. As proposed, the resolution calls for a significant level of case review, and the overall impact on staff time will be partially dependent upon the level of involvement they have in the preparation of this review, and the review itself.



Recommendation for Action

File #: 19-1187, **Agenda Item #:** 78.

1/31/2019

Agenda Item

Agenda Item #78: Approve a resolution relating to a pilot project to provide immediate shelter and support services for those experiencing homelessness.

QUESTION:

Can City Staff please provide an estimate on the impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution if approved?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

At this time we do not have a work plan or an estimate required to accomplish this pilot program. The impact to City resources, including City Staff time, required to accomplish the task(s) required in this resolution, if approved, cannot be developed at this time.