FIRST AMENDMENT TO THE AUSTIN GREEN IMPROVEMENT DISTRICT NO. 1 CONSENT AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This Consent Agreement (this "*Agreement*") is entered into between the **City of Austin, Texas**, a home-rule municipality located in Travis, Hays and Williamson Counties, Texas ("*the City*"), and **Martin Marietta Materials, Inc., a North Carolina corporation, its successors and assigns** (the "*Developer*"), effective as of <DATE, 2020> (the "*Effective Date*"). At the organizational meeting of **Austin Green Improvement District No. 1** (the "*District*") (formerly Rio de Vida Municipal Utility District No. 1), a proposed municipal utility district to be created under the authority of Chapter 8013, Subtitle F, Title 6, Texas Special District Local Laws (the "*Enabling Legislation*") and City Ordinance No. <2020####-###> (the "*Consent Ordinance*"), as contemplated by this Agreement, the District will join in and agree to be bound by this Agreement.

INTRODUCTION

The Enabling Legislation became effective on June 12, 2017, and created the District, subject to the consent of the City to the creation. Pursuant to the Consent Ordinance, the City Council of the City has granted its consent to the creation of the District over the approximately 2,122 acre tract or parcel of land more fully described on the attached **Exhibits A-1** through **A-5** (the "*Land*"). The property in the District described in the Enabling Legislation included the Land and an additional six acres, more or less, that is no longer owned by Developer, and is more fully described in **Exhibit A-6**. The Board of Directors of the District and the City agree that prior to the issuance of bonds by the District, the District may disannex the six acre tract identified as Exhibit A-6 as set forth in this Agreement. The District agrees to finalize the District's boundaries within ninety days after the effective date of this Agreement.

As a condition to its consent, the City has required that the Developer and, at the organizational meeting of its Board of Directors, the District enter into this Agreement in order to set forth certain agreements between the City, the Developer, and the District. The City further desires to negotiate and enter into a strategic partnership agreement with the District in order to set forth the terms and conditions of the City's annexation of the Land and on which the District will continue to exist as a limited district in accordance with Section 43.0751, Texas Local Government Code, and the Enabling Legislation following the City's full purpose annexation of the Land as provided in Article IV of this Agreement.

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The Land will be developed as part of a master-planned, mixed-use community that constitutes a significant development that will occur in phases under a master development plan. The Developer and the City wish to enter into this Agreement in order to provide certainty with regard to the regulatory requirements applicable to the District and to provide the City with assurance of a superior quality of development for the benefit of the present and future residents of the City and the District.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. In addition to the terms defined in the introduction to this Agreement, the following terms and phrases, when used in this Agreement, will have the meanings set out below:

Agreement: This Consent Agreement between the City, the Developer, and the District.

Applicable Rules: The provisions of the City Code and City Rules that are applicable to the District.

Board: The duly qualified and acting Board of Directors of the District.

Bonds: Bonds, notes, and other indebtedness issued by the District under Article VIII of this Agreement.

CCN: A certificate of convenience and necessity issued by the Commission.

City Charter: The City Charter of the City.

City Code: The Austin, Texas Code of Ordinances.

City Council: The City Council of the City.

City Manager: The City Manager of the City, or his designee.

City Rules: The administrative rules and technical criteria manuals related to the ordinances contained in the City Code.

Commission: The Texas Commission on Environmental Quality or its successor agency.

Constructing Party: The Developer or the District, whichever has contracted for and is causing the construction of any Internal Water and Wastewater Facilities or Major Water and Wastewater Facilities or Reclamation or transportation improvements or other applicable improvements as provided in this Agreement.

County: Travis County, Texas.

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Drainage Facilities: Any drainage improvements designed and constructed to serve the District, or that naturally receive and convey drainage through the District, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

Effective Date: <DATE, 2020.>

EPA: The United States Environmental Protection Agency.

ESD: Travis County Emergency Services District No. 4 or any successor entity created to provide fire protection services to the Land.

Finance Director: The director of the City's finance department, or its successor department within the City.

Impact Fees: Water, reclaimed water, and wastewater capital recovery fees, drainage fees or impact fees imposed by the City or applicable agencies/companies providing water and waste water services, against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions in accordance with State law.

Internal Water and Wastewater Facilities: All City water and wastewater improvements, including City Reclaimed Water improvements, located within and sized only to serve the District.

Land: The land contained within the boundaries of the District, currently consisting of the 2,122 acres of land more or less described by metes and bounds on **Exhibit A**, as such boundaries may be revised from time to time in accordance with the terms of this Agreement or otherwise with the consent of the City.

Limited District: Austin Green Limited District No. 1, which will be created upon the City's full purpose annexation of the District, in accordance with the SPA.

Limited Purpose Annexation: Annexation by the City for the limited purposes of planning and zoning, as authorized by Article I, Section 7 of the City Charter.

Major Water and Wastewater Facilities: Any City water and wastewater improvements, including City Reclaimed Water improvements, designed and constructed to serve, in addition to the District, areas outside of the District and to be dedicated to the City.

Mining: The use of a site for on-site extraction of surface or sub-surface mineral products or natural resources. This use includes quarries, borrow pits, sand or gravel or similar operations, mining operations and construction material processing and production (such as concrete).

Post-Annexation Surcharge: A surcharge on the City's water, reclaimed water, and wastewater rates that may be charged to customers within the Land after the full purpose annexation of the District as authorized by Section 54.016(h), Texas Water Code.

PAZ Director: The director of the City's Planning and Zoning Department, or its successor department within the City.

PUD: The Planned Unit Development for the District, which will provide for a superior quality of development for the District.

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Ready-Mix Plant. A plant used for the processing of sand and gravel and other minerals into concrete, cement or other construction materials.

Reclamation: Reclaiming or grading land to prepare the Land for a non-mining use in or out of the flood plain, including the construction, acquisition, improvement, maintenance, or operation of a facility or improvement related to reclaiming, revegetating, stabilizing, compacting, dewatering or grading land.

Reclaimed Water: Domestic or municipal wastewater that has been treated to a quality suitable for a Type I Reclaimed Water Use pursuant to the requirements of the Commission under 30 Texas Administrative Code 210 and any other applicable regulatory entities with jurisdiction.

Reimbursement Agreement: An agreement between the District and a developer (its successors or assigns) within the District, including the Developer, that provides for the District's repayment of costs incurred for capital improvements and other costs which are eligible for reimbursement under the rules of the Commission.

Roadway Improvements: The roadways required for the development of the Land, including off-site improvements required in an approved traffic impact analysis.

Southwest Water: Southwest Water Company, which will provide water and wastewater service to a portion of the development.

SPA: The strategic partnership agreement with a minimum term of 30 years to be negotiated and entered into by the City and the District to provide for the limited purpose and full purpose annexation of the District.

TCEQ: The Texas Commission on Environmental Quality.

Title 30: Title 30 of the City Code, which establishes the Austin/Travis County Subdivision Regulations, as amended from time to time.

Type I Reclaimed Water Use: The use of Reclaimed Water where contact between humans and the Reclaimed Water is likely.

UIR: A utility infrastructure review.

Utility Director: The director of Austin Water, or its successor department within the City.

ARTICLE II
CONSENT ORDINANCE; INITIAL DISTRICT BOUNDARIES

Section 2.01 Consent Ordinance; Conditions to Effectiveness. The City, through the Consent Ordinance, has consented to the inclusion of the Land within the District. Anything herein to the contrary notwithstanding, the Consent Ordinance and this Agreement will be void and of no force or effect if (a) an original of this Agreement, executed by the District and the Developer, is not returned to the City on or before December 31, 2020; or (b) the SPA is not negotiated by the City and the District and an original SPA, executed by the District, returned to the City on or before

December 31, 2020. The District shall have all powers and authorities granted by the Texas Constitution, Chapters 49 and 54 of the Water Code, the Enabling Legislation and this Agreement.

Section 2.02 Public Hearing. The parties confirm that, prior to the execution of this Agreement, the City has conducted a public hearing for the purpose of considering the adoption of this Agreement.

Section 2.03 Other Annexations to District. If the District desires to annex additional territory outside of the Land, such annexation will be subject to City's review and approval, as described in the City Code. The landowner will be required to request and participate in the voluntary Limited Purpose Annexation by the City of the additional territory; to waive the requirements of Sections 43.016, 43.071(e)(1)(b), 43.121(b)(2), and 43.127(a), Texas Local Government Code; to agree to the postponement of the date for full purpose annexation; and to execute any documents reasonably required by the City in connection with such Limited Purpose Annexation.

ARTICLE III
GOVERNANCE

Section 3.01 City-Appointed Board Member. In accordance with the Enabling Legislation, the City will have the right to appoint one member to the District's permanent Board. In making its appointments to the Board, the City will follow the procedure set forth in Section 2-1-4 of the City Code for appointment of a board with fewer than eleven members. The City will make its initial appointment and deliver a copy of the resolution setting forth the appointment to the District on or before February 14, 2020. The City's initial appointed Board member will take office at the first Board meeting following the date of his or her appointment. Thereafter, the City will appoint a replacement Board member to fill any vacancy in the City's appointed director position and deliver a copy of the resolution setting forth its appointment to the District within 60 days of the date the vacancy is created. If the City does not provide a resolution to the District setting forth its initial Board member appointment on or before February 14, 2020, or does not provide a resolution approving a replacement Board member appointment within 60 days of the date any vacancy in its appointed director position is created, the City agrees that the remaining members of the Board may fill the vacancy in accordance with Section 49.105(a), Texas Water Code.

Section 3.02 Term Limits for Permanent Directors. No member of the District's permanent Board may serve more than two four-year terms of office.

Section 3.03 Maximum Fees of Office. Notwithstanding any contrary provision of applicable law, no member of the District's Board may receive fees of office for more than 16 days of service in any District fiscal year.

Section 3.04 District Information to be Provided to City.

a. Agendas. The District agrees to provide a copy of the agenda for each meeting of its Board to the PAZ Director and the Utility Director, in the manner provided in Section 9.01(b), concurrently with the posting of the agenda at the Travis County Courthouse.

b. Minutes. The District agrees to provide a copy of the minutes of each meeting of its Board

to the PAZ Director and the Utility Director, in the manner provided in Section 9.01(b), within 15 business days of the date of approval of such minutes by the Board.

c. **Financial Dormancy Affidavit, Financial Report or Audit.** The District agrees to file a copy of its annual financial dormancy affidavit, annual financial report or annual audit of its debt service and general fund accounts, whichever is required under the Texas Water Code, with the PAZ Director and the Utility Director, in the manner provided in Section 9.01(b), within 30 days after approval of each financial dormancy affidavit, financial report or audit by the Board. Any required audit must be prepared by an independent certified public accountant.

d. **Budgets**. The District agrees to file a copy of its approved budget for each fiscal year with the PAZ Director and the Utility Director, in the manner provided in Section 9.01(b), within 30 days after approval of such budget by the Board.

Section 3.05 Interlocal Agreements. The District is authorized to enter into interlocal agreements with Travis County and the City for purposes permitted by the Interlocal Cooperation Act, Chapter 791, Texas Government Code; the Enabling Legislation; and this Agreement. Any other interlocal agreements must be submitted to the PAZ Director and the Utility Director and will be subject to their review and approval prior to execution, which approval will not be unreasonably withheld, conditioned or delayed. The PAZ Director and the Utility Director will timely review all interlocal agreements submitted under this Section and either approve them or provide written comments specifically identifying any changes required for approval within 45 days of receipt.

Section 3.06 Other Contracts. The District will not, without the prior approval of the PAZ Director and the Utility Director, enter into any service contracts with terms that would extend beyond the date of the City's full purpose annexation of the District and (a) that require the payment of a termination fee upon their termination or (b) that are not terminable upon 60 days' notice or less. The prohibition contained in the preceding sentence will not apply to contracts with utility providers or contracts that will be assumed by the Limited District after full purpose annexation. The PAZ Director and the Utility Director will timely review all contracts submitted under this Section and either approve them or provide written comments specifically identifying any changes required for approval within 45 days of receipt.

Section 3.07 District Property. The District may not sell, convey, lease, mortgage, transfer, assign or otherwise alienate any of its water, Reclaimed Water, or wastewater facilities or other District property, including any facilities or property deemed to be surplus, to any third party other than the City or to Southwest Water within the area served by Southwest Water without the prior approval of the City Manager, which approval will not be unreasonably withheld, conditioned or delayed. The foregoing prohibition will not apply to the District's disposal or recycling of equipment or material that has passed its useful life or the grant of easements necessary in connection with the development of the District, for which no approval will be required.

Section 3.08 City Services. The City will not provide City services other than services related to planning and zoning (including environmental quality); enforcement of planning and zoning regulations (including environmental regulations); retail Reclaimed Water; retail water and retail

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wastewater services within its CCN; solid waste services; and other services that the City agrees to provide under separate contract with the District or the Developer to any area within the District boundaries prior to the City's annexation of such land for full purposes.

The City will be the sole provider of residential solid waste services, as defined in Chapter 15-6 of the City Code, within the District. The District will contract with the City to provide solid waste services to all the District's residences, commercial and park uses. The City will provide solid waste services to the District's residences for the same rates, in the same manner and on the same terms and conditions that the City provides solid waste services to residences located within the City limits. The City's charges for solid waste services will be included on the City's regular monthly bills to customers within the District and the District will have no liability for such charges.

ARTICLE IV
STRATEGIC PARTNERSHIP AGREEMENT; POST-ANNEXATION SURCHARGE

Section 4.01 Strategic Partnership Agreement. At the organizational meeting of the District's Board, the Board will authorize the negotiation and execution of a SPA setting forth the terms and conditions of the City's annexation of the Land and the terms and conditions upon which the District will be converted to the Limited District and continue to exist following the City's full purpose annexation of all of the land within the District in accordance with Section 43.0751, Texas Local Government Code, and the Enabling Legislation. The SPA must be approved by the District and an original, executed by the District, returned to the City on or before December 31, 2020.

Section 4.02 Election on Operation and Maintenance Tax for the Limited District. Concurrently with the District's confirmation election, which will be held as required by the Enabling Legislation, the District must conduct an election on a proposition to authorize the Limited District to levy an operation and maintenance tax, as authorized by Section 49.107, Texas Water Code, to provide funds to operate the Limited District and to operate and maintain the facilities of the Limited District following full purpose annexation of the District. The District agrees that it may not issue bonds until this proposition has been submitted to and approved by the voters within the District.

Section 4.03 Post-Annexation Surcharge. After the date the District is annexed by the City for full purposes, the City may charge customers within the District a Post-Annexation Surcharge, as permitted by Section 54.016(h), Texas Water Code, to compensate the City for its assumption of the obligations of the District, provided that, at the time of annexation, at least 90% of the facilities for which District Bonds are authorized have been installed. The District agrees that at least 90% of the facilities for which District Bonds are authorized will be installed on or before December 31, 2050. If 90% of such facilities are not installed by that date, then the City will have the right to revoke the District's authority to issue its remaining authorized but unissued Bonds and to proceed with annexation of the District for full purposes at any time thereafter. For purposes of this Section, 90% of the facilities for which District Bonds are authorized will be deemed to have been installed when such facilities required to serve 90% of the Land have been constructed. The Post-Annexation Surcharge will be calculated based on the criteria and in accordance with the formula attached as **Exhibit B**. The Post-Annexation Surcharge may be charged and collected by the City,

in addition to the City's water and sewer rates, until the bonded indebtedness of the District has been retired or for a period of 30 years after the date of full purpose annexation of the District, whichever occurs first. The City will have the right to recalculate the amount of the Post-Annexation Surcharge if necessary to compensate the City for additional outstanding obligations of the District assumed by the City or if the variables used to calculate the Post-Annexation Surcharge change, and such recalculated surcharge may be charged and collected as provided herein. The provisions of this Section will be disclosed at closing to each purchaser of land within the District. The parties agree that the formula set forth on **Exhibit B** meets the requirements of Section 54.016(h)(4), Texas Water Code.

ARTICLE V
SUPERIOR DEVELOPMENT; DEVELOPMENT RIGHTS

Section 5.01 Applicable Rules; Application of Title 30. The Developer will be entitled to take advantage of all rights conferred under Chapter 245, Texas Local Government Code, without forfeiting any rights under this Agreement. Except as specifically modified by this Consent Agreement or as provided below, all development shall comply with development regulations in effect at the time of approval of the PUD. If there is any conflict or inconsistency between the requirements of this Agreement and the provisions of Title 30, the provisions of Title 30 will control over any conflicting or inconsistent requirement of this Agreement to the extent consistent with state law, including Chapter 245 of the Texas Local Government Code. Nothing in this Agreement shall be construed to impede, restrict or impose additional standards or obligations on the Developer's right to continue the existing use of the Land in accordance with the regulations applicable to that use.

Section 5.02 Planned Unit Development. The Developer has submitted a proposed PUD for the Land for the City's review and consideration in accordance with the City Code and this Agreement. The PUD will provide for a mixed use, compact, connected community in accordance with the City's comprehensive plan and will meet the superior development standards. A reference to this Agreement will be included on the face of all preliminary plans covering portions of the Land. All changes to the PUD will be subject to review and approval by the City in accordance with the process set forth in City Code, which approval will not be unreasonably withheld, conditioned or delayed. In support of superior development, the Developer has agreed to the following conditions which will be described in further detail along with other development related regulations in the Austin Green PUD Ordinance.

Parks and Recreational Facilities. The District will be developed as a master-planned community with parkland, open space, native and ecological restoration, greenbelts, trails, and park improvements. Parkland and open space will be developed and dedicated as described in the Austin Green PUD Ordinance. All open space and parkland shall be reclaimed and restored per the approved Austin Green PUD Ordinance, as amended. All Park amenities including but not limited to sidewalk trails, benches, trash receptacles, and kayak launch piers shall be built or installed. Until the time of full purpose annexation, the District agrees to operate and maintain the parks and recreational facilities conveyed to it in a good state of repair and in a manner so as not to create a nuisance or danger to the public health and safety. Until the time of full purpose

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annexation or the dissolving of the District at the City's request, the City will have no obligation to operate or maintain the parks and recreational facilities dedicated to the District. Any easements needed by the City across parkland for future water, reclaimed water, or wastewater improvements shall be dedicated to the City prior to dedication of parkland, unless otherwise agreed by City and Developer. All rights for the Developer to reclaim and restore land dedicated to the City shall be provided without delay.

Fire Protection. The Developer agrees to donate a 2.5 net-buildable acre site for a Fire/EMS Station which has access to major roadways and collector streets. Final site selection must be approved by the City.

Drainage System. All detention/retention ponds and proposed creek channels shall be built and revegetated with native grasses and tree plantings per the approved Austin Green PUD Ordinance.

Water Quality/Floodplain Mitigation. All areas of proposed floodplain shall be constructed and restored to contain flood flows per the approved Austin Green PUD Ordinance as amended and the current Land Development Code at time of site plan.

Earthwork/Site Reclaiming. All land shall be reclaimed and restored per the approved Austin Green PUD Ordinance as amended. This includes the restoration described in the proposed landscape character exhibit.

Alternate Water for Non-potable Applications. All commercial, industrial, and multi-family properties, street medians, public open space, parks, and private parks and recreational facilities within the District shall use an approved alternate water source, including but not limited to rainwater harvesting, air conditioning condensate or reclaimed water, as the primary water sources for all landscape irrigation. Potable water shall only be used as a backup supply if the primary sources are depleted.

Southwest Water Company Wastewater Treatment Plant. The District will pursue water and wastewater service from Southwest Water Company pursuant to the CCN boundary, as more fully described in **Exhibit C** and in accordance with Section 6.03 below. Southwest Water Company may require the District or Developer to construct a wastewater treatment plant that will be owned, operated and maintained by Southwest Water Company. Southwest Water and the Developer have offered, and the City has accepted the following minimum standards for wastewater treatment in their permit application to the Texas Commission on Environmental Quality:

1. Effluent quality in all permit phases shall be at least 5 mg/L Carbonaceous Biochemical (5-day) Oxygen Demand, 5 mg/L Total Suspended Solids, 2 mg/L Ammonia as Nitrogen, 1 mg/L Total Phosphorous (5/5/2/1) and 10 mg/L Total Nitrogen.

2. Ultraviolet disinfection shall be the preferred method of disinfection. Dechlorination shall be required in all permit phases if chlorine disinfection is utilized instead of Ultraviolet disinfection.

3. The discharge outfall shall either be directly into the Colorado River, or the discharge may be routed to ponds in close proximity to the Colorado River for additional pollutant removal and thence to the Colorado River. The discharge outfall shall not be to a creek. If the discharge is routed to ponds, the required effluent standard in condition #1 shall be achieved prior to discharge to any pond.

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Section 5.03 Development and Construction Standards. The Developer agrees that all development, construction, and infrastructure within the District will comply with City design standards, specifications, and requirements in effect at the time of application for the first permit in the series of permits for a project, unless otherwise provided in this Agreement, approved by the City, or otherwise governed by Travis County, Southwest Water and/or TCEQ. The Developer agrees that the Restrictive Covenants for the Land will require that all buildings within the District be constructed in a manner sufficient to achieve a two star rating under the City's Austin Energy Green Building Program using the applicable ratings versions in effect at the time the ratings applications are submitted for individual buildings, except for the Ready-Mix Plants.

5.04 Mining and Reclamation Standards. The existing Mining operations and Ready-Mix Plants will continue to operate under the rules and regulations in place at the time those projects were initiated. In addition, the existing Ready-Mix Plants may be relocated anywhere within the Land and be modified, repaired, maintained and operated under the existing rules and standards applicable to the existing Ready-Mix Plants. Reclamation will comply with the standards set forth in the existing, approved site plans for the Mining operations. All current city and county permits that allow for ready-mix or other mining-related activities shall continue to govern development in a specific area until new site development permits are issued for development of residential and/or commercial projects in that same specific area. No future site development permits in a specific area shall alter or override continued ready-mix and other activities occurring in other areas.

ARTICLE VI
WATER, RECLAIMED WATER, AND WASTEWATER FACILITIES AND SERVICES

Section 6.01 City To Provide Retail Water, Reclaimed Water, and Wastewater Utility Services within its CCN. In accordance with its applicable CCNs and at the request of the District and the Developer, the City will provide retail water, reclaimed water, and wastewater services within its CCNs, as more fully described in **Exhibit C** and will provide those services to customers within the District in the same manner and on the same terms and conditions as the City provides service to retail customers inside its corporate limits. The City's consent to creation of the District is not conditioned on the District, or any resident of the District, taking or receiving City water, wastewater, or reclaimed water services. Except as otherwise provided in this Agreement, the City's standard water, reclaimed water, and wastewater rates, charges, and other fees, including engineering review and inspection fees, that are applicable within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within the District. The City's Impact Fees applicable to areas within the City's extraterritorial jurisdiction will be applicable to development within the District. The foregoing notwithstanding, the City acknowledges that it would not be equitable for the District or the Developer to construct and fully finance the water, reclaimed water, and wastewater facilities under this Agreement and to also pay costs associated with the same facilities through Impact Fees. Accordingly, if costs of any Internal Water and Wastewater Facilities and/or Major Water and Wastewater Facilities (other than costs associated with replacement or refurbishment) are, now or in the future, included in the City's Impact Fees, the City agrees that, until the full purpose annexation of the District, the Developer will receive a credit, which may only be applied to Impact Fees payable for development within the

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District, against the City's Impact Fees in an amount equal to the portion of the cost of Internal Water and Wastewater Facilities and/or Major Water and Wastewater Facilities included in the Impact Fees. All fees, rates, and charges for water, reclaimed water, and wastewater service will be billed and collected by the City.

Section 6.02 City to Provide Retail Reclaimed Water Services within the Southwest Water Company CCN. Except as otherwise provided in this Agreement, the City will be the sole provider of retail reclaimed water services within the Southwest Water Company CCN within the District as authorized by Southwest Water Company and as more fully described in **Exhibits C and D** and will provide reclaimed water service to customers within the District in the same manner and on the same terms and conditions as the City provides service to retail customers inside its corporate limits. Except as otherwise provided in this Agreement, the City's standard reclaimed water rates, charges, and other fees, including engineering review and inspection fees, that are applicable within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within the District. The City's Impact Fees, as applicable and authorized by Austin City Council, applicable to areas within the City's extraterritorial jurisdiction will be applicable to development within the District. The foregoing notwithstanding, the City acknowledges that it would not be equitable for the District or the Developer to construct and fully finance the reclaimed water facilities under this Agreement and to also pay costs associated with the same facilities through Impact Fees. Accordingly, if costs of any Internal Water and Wastewater Facilities and/or Major Water and Wastewater Facilities (other than costs associated with replacement or refurbishment) are, now or in the future, included in the City's Impact Fees, the City agrees that, until the full purpose annexation of the District, the Developer will receive a credit, which may only be applied to Impact Fees payable for development within the District, against the City's Impact Fees in an amount equal to the portion of the cost of Internal Water and Wastewater Facilities and/or Major Water and Wastewater Facilities included in the Impact Fees. All fees, rates, and charges for reclaimed water service will be billed and collected by the City.

Section 6.03 Southwest Water Company To Provide Retail Water and Wastewater Utility Services within its CCN. The District will pursue service from Southwest Water Company pursuant to the CCN boundary, as more fully described in **Exhibit C** for water or wastewater services. The District or the Developer will negotiate terms of those services by separate agreement.

Section 6.04 Service Level. The City agrees and commits to provide City water, reclaimed water, and wastewater service in the time and manner required for the full build-out of all of the Land within its CCN. The City agrees and commits to provide City reclaimed water service in the time and manner required for the full build-out of all of the Land within the Southwest Water Company CCN, as described in Section 6.02. The City agrees to provide written confirmation of the availability of City service upon the District's request if required within its CCN or within the Southwest Water Company CCN for reclaimed water service only, in connection with any District bond sale.

Section 6.05 Responsibility for Design, Financing and Construction. Unless otherwise specifically provided in this Agreement, the District or the Developer will design, finance,

construct, and convey to the City all Internal Water and Wastewater Facilities required to provide City retail water, reclaimed water and wastewater services to the District. The Developer or the District will also design, finance, construct, and convey to the City the Major Water and Wastewater Facilities required to serve the District as set forth on the conceptual utility plan attached as **Exhibits E-1, E-2 and E-3**, as amended from time to time, all at no cost to the City except as provided on **Exhibit F**. All Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities will be bid in accordance with the requirements applicable to the District under the rules of the Commission and Chapters 49 and 54, Texas Water Code. If, in the future, the City cost participates with the District or the Developer in any oversized City water, reclaimed water or wastewater facilities not currently contemplated by this Agreement, those facilities will be bid in accordance with applicable City requirements.

Section 6.06 Utility Planning and Phasing. The City approves the conceptual plan for the type, sizing, and alignment of the Major Water and Wastewater Facilities required for the full-build out shown on the conceptual utility plan attached as **Exhibits E-1, E-2 and E-3** and the cost reimbursement and participation described in **Exhibit F**. The conceptual utility plan has been developed by the Developer and the City in consideration of water, wastewater, and reclaimed water Service Extension Requests (SER) numbers 4345, 4346 and 4347, respectively, and approved by the Developer and the City based on current conditions and anticipated future utility requirements. Prior to submittal of the first UIR, the District will provide the Utility Director, for their concurrence, a comprehensive master utility plan including a proposed phasing plan (the "Master Plan") reflecting the level of City service requested is consistent with the SER projections and providing additional design considerations for the Major Water and Wastewater Facilities. The Developer and the District will work collaboratively with the City to finalize the Master Plan. If, in the future, the City's or the Developer's requirements change, changes to **Exhibits E-1, E-2 and E-3** that are acceptable to the Developer, the District, and the Utility Director may be approved administratively by the Utility Director on behalf of the City. For each phase of development to receive City water, reclaimed water, or wastewater service, the Constructing Party will be required to submit a UIR for the applicable service type that is consistent with **Exhibits E-1, E-2 and E-3**, as amended from time to time. Prior to submittal of any UIR within the District, the District will provide the Utility Director a comprehensive master utility plan and proposed phasing plan (the "Master Plan"). In conjunction with each UIR, the Constructing Party will provide the Utility Director with all information pertaining to the related phase of development that is necessary for the Utility Director to confirm the level of City service and the appropriateness of the type, sizing, and alignment of the City water, reclaimed water and wastewater infrastructure. The City agrees that no fees will be required for filing or processing any UIR under this Section. The Utility Director will timely review all UIRs submitted under this Section and either approve them or provide written comments specifically identifying the changes required for approval within 90 days of receiving a complete UIR from the Constructing Party. The City will utilize the City infrastructure constructed pursuant to each approved UIR to provide service to the related phase of development at the requested level of City service. The City will not require that the Developer or the District to oversize any Internal Water and Wastewater Facilities or to finance or construct any Major Water and Wastewater Facilities in addition to those identified on **Exhibits E-1, E-2, E-3 and F,** as amended from time to time, for any phase of development unless (a) the Developer or the District has materially modified its requested level of City service in a manner that would reasonably

require additional Major Water and Wastewater Facilities; or (b) the City has identified oversizing requirements other than those set forth on **Exhibits E-1, E-2, E-3 and F**, as amended from time to time, in its response. If subsection (b) of the preceding sentence of this Section applies, the City agrees to pay the cost of such additional oversizing in accordance with City ordinances.

Section 6.07 Design of City Water, Reclaimed Water, and Wastewater Facilities; Points of Connection. All City water, reclaimed water, and wastewater facilities required to serve the District will be designed in accordance with applicable City requirements and design standards as well as any applicable regulations of other governmental entities with jurisdiction. The plans and specifications for such facilities will be subject to review and approval by the City prior to the commencement of construction, and the City will collect all applicable fees in accordance with its policies and procedures, subject to the terms of this Agreement. The sizing and routing of all such facilities will be consistent with **Exhibits E-1, E-2 and E-3**. The initial points of connection are shown conceptually on **Exhibits E-1, E-2 and E-3.** All other points of connection to the City's water, reclaimed water, and wastewater system will be subject to approval by the City.

Section 6.08 Easements and Land. All public utility service lines to the customer side of the meter will be constructed within dedicated utility easements or public rights-of-way and all easements required for Internal Water and Wastewater Facilities will be dedicated to the City on forms approved by and at no cost to the City upon the City's approval of construction plans for the facilities or a final plat for the land within which the facilities will be constructed, whichever occurs first. Land and easements required for Major Water and Wastewater Facilities and easements identified in **Exhibit F** will be conveyed to the City, in lengths and widths that are consistent with the City's Utility Design Criteria as applicable and this Agreement, on forms approved by the City and at no cost to the City, upon the City's approval of construction plans for the facilities or a final plat for the land within which the facilities will be constructed, whichever occurs first, but the Developer will be entitled to reimbursement for such lands and easements from the District as permitted under the rules of the Commission, except as otherwise provided in Section 8.12. The Developer and the District agree to use reasonable, good faith efforts to acquire all easements required for Major Water and Wastewater Facilities located outside the District through negotiation; however, if the Developer and the District are unable to obtain any required easement by agreement, the City agrees, upon request, to promptly evaluate the easement in question and to promptly initiate and diligently pursue potential alternative routing options, if necessary. The City agrees that its approval of such alternative routing will not be unreasonably withheld, conditioned or delayed. The Developer will be entitled to reimbursement by the District for all costs paid by the Developer for offsite easement acquisition as permitted by the rules of the Commission.

Section 6.09 City's Reimbursement and Cost Participation Policies; Oversizing. To the extent the City requires that any Internal Water and Wastewater Facilities be oversized to serve areas outside of the District, requires any Major Water and Wastewater Facilities to be oversized beyond what is indicated on **Exhibits E-1, E-2 and E-3**, or requires that any easements for Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities be sized for facilities larger than or in addition to the facilities required to serve the District or set forth on **Exhibits E-1, E-2, E-3 and F**, the City will reimburse the Developer for such easements and oversizing in accordance with **Exhibit F**.

Section 6.10 Major Water and Wastewater Facilities. All Major Water and Wastewater

Facilities will be constructed in phases as development occurs and will be extended through each tract within the District that is being developed to the boundary of any adjacent, undeveloped land within the District in order to allow service to be extended in an orderly and consistent manner to the adjoining land at the time it is developed. The phasing plan for any Major Water and Wastewater Facilities will be subject to approval of the Utility Director, which approval will not be unreasonably withheld, conditioned, or delayed as long as it is consistent with the Developer's development plan. The District and the Developer agree to cooperate with the City in order to ensure that Major Water and Wastewater Facilities in which the District participates are accessible through right-of-way or easement in order to allow service to be extended in accordance with applicable City requirements and design standards to areas outside the District. The District and the Developer agree to cooperate with the City in order to assure that Major Water and Wastewater Facilities in which the District participates are extended in a manner that does not result in the City becoming responsible for the completion of any Major Water and Wastewater Facilities after full purpose annexation of the District. If the Developer sells any tract out of the District prior to (a) recordation of a final subdivision plat covering such tract and (b) dedicating all of the easements required to extend the Major Water and Wastewater Facilities through that tract as provided in Section 6.08, above, the Developer will, prior to the closing of such sale, either (a) convey the easement or easements in question to the City as provided in Section 6.08, or (b) convey the tract subject to a restrictive covenant, in the form attached as **Exhibit G**, which requires the purchaser to donate the easement or easements in question as provided in that Section. If the Developer conveys any tract in violation of this provision, the City, at its sole discretion, may withhold City water, reclaimed water, and wastewater service to the tract until the required easement is conveyed or restrictive covenant is recorded or may pursue any other remedy available to the City for a default by the Developer under this Agreement.

Section 6.11 Construction by City. The City reserves the right, at its discretion, to construct or require a third party to construct any portion of the Major Water and Wastewater Facilities. The City will notify the Developer and the District of its intention to do so, however, and no construction by the City or a third party will be permitted if it would materially impair the construction of Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities by the Developer or the District, or materially delay the availability of service to the District.

Section 6.12 Commencement of Construction; Notice; Inspections. Following City approval of the plans and specifications for each City water, reclaimed water, and wastewater utility project and prior to the commencement of construction, the Constructing Party will give written notice to the Utility Director in order to allow the City to assign an inspector. The City will inspect all Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities for compliance with the approved plans and specifications. The City will also, for each City connection, conduct the series of plumbing inspections required by the Texas Plumbing License Law and issue a customer service inspection certificate when all inspections are satisfactorily completed. The City will provide the inspections contemplated by this Section for the standard fees charged by the City for inspections inside the City limits, which fees will be collected by the City from the customer requesting the inspection. The City will retain copies of all inspection reports for the City's applicable records retention period, and provide them to the District upon request.

Section 6.13 Record Drawings. The Constructing Party will provide one set of record drawings

of all Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities that it constructs to the City, at no cost to the City. The Constructing Party will use good faith efforts to obtain and furnish such drawings within 30 days of approval of the final pay estimate for each project.

Section 6.14 Conveyance to City; **Ownership, Operation, and Maintenance of Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities.** Following a Constructing Party's completion of any Major Water and Wastewater Facilities or Internal Water and Wastewater Facilities and the City's issuance of a letter to the Constructing Party confirming acceptance of such facilities, the Constructing Party will promptly convey those facilities to the City, on forms approved by and at no cost to the City, subject to the City's obligation to provide service to the land within the District as provided in this Agreement. Any failure of a Constructing Party to promptly convey facilities as required in this Section will constitute a default by the Constructing Party under this Agreement. The Constructing Party will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the City facilities conveyed to the City, at no cost to the City and on forms approved by the City. The City agrees that its acceptance of City facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed as long as the City facilities have been constructed in accordance with the plans approved by the City and all outstanding "punch list" items have been resolved. Upon any such conveyance and acceptance, the City agrees to operate and maintain such facilities to provide service to the Land within the District in accordance with this Agreement. Conveyance will not affect the Developer's right to reimbursement from the District for the cost of any facilities or capacity in facilities constructed or financed by the Developer.

Section 6.15 Availability of City Service. The City agrees to provide City service to the Land within the District in accordance with this Agreement and as required for development within the Land including City water service at flow rates and pressures sufficient to meet the minimum requirements of the Commission and provide sufficient fire flows. The Developer and the District agree that the City may use the Major Water and Wastewater Facilities and Internal Water and Wastewater Facilities to serve third parties, so long as such use does not impair the City's commitment of and ability to provide City water, reclaimed water, and wastewater to the Land as and when required. The City further agrees that, upon the payment of the City's Impact Fees as required by this Agreement, the City will guarantee the District service from the City's water, reclaimed water, and wastewater utility system for the Land as requested in accordance with the applicable UIR and this Agreement.

Section 6.16 Water Conservation. Water Conservation measures shall be in compliance with the Austin Green PUD Ordinance.

Section 6.17 **Alternate Water for Non-potable Applications**. Use of alternate water sources and installation of dual plumbing within buildings shall be in compliance with Section 5.02 of this Agreement and the Austin Green PUD Ordinance.

Section 6.18 Fire Hydrants. The City will maintain any fire hydrants that are a part of the City public water system serving the Land and are conveyed to the City. The Developer agrees that the Restrictive Covenants will require that any privately-owned fire hydrants, such as those located within commercial developments, including apartment complexes, located outside of a water

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easement dedicated to the City will be owned, operated, and maintained by the owner of the property on which the hydrants are located. The Restrictive Covenants will also require that commercial property owners perform maintenance of all privately-owned fire hydrants on their property in accordance with the City's maintenance recommendations applicable to City-owned fire hydrants. The City agrees to include a note on the construction plans for any commercial property within the Land that identifies any fire hydrants on that property that will be owned and must be maintained by the property owner. The City will have no responsibility for maintenance of privately-owned fire hydrants, but may require the reservation of appropriate easements on all properties on which privately-owned fire hydrants will be located in order to assure access to the fire hydrants for fire-fighting purposes. The City will have no responsibility for maintenance of Southwest Water Company-owned fire hydrants, but may require the reservation of appropriate easements on all properties on which Southwest Water Company-owned fire hydrants will be located in order to assure access to the fire hydrants for fire-fighting purposes.

ARTICLE VII
FINANCIAL AND BONDS

Section 7.01 Tax Rate. The District agrees to adopt its annual tax rate in compliance with the legal requirements applicable to municipal utility districts, to report the tax rate set by the District each year to the District's tax assessor/collector and to perform all acts required by law for its tax rate to be effective.

Section 7.02 District Fees. The District agrees that the City will be exempt from, and will not be assessed, any District fees.

Section 7.03 Authority to Issue Bonds. The District will have the authority to issue Bonds:

a. for the purchase, construction, acquisition, repair, extension, and improvement of land, floodplain and mining reclamation, ecological restoration, easements, works, improvements, facilities, plants, equipment, and appliances, undivided interests in facilities, and/or contract rights, reimbursement of Impact Fees, and all other rights identified in the Enabling Legislation necessary to:

    1. provide a water supply for municipal uses, domestic uses, and commercial purposes;

    2. collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state (other than solid waste, as defined in Chapter 15-6 of the City Code); and

    3. gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District;

b. to pay expenses authorized by Section 49.155, Texas Water Code, as amended;

c. to develop and maintain Parks and Recreational Facilities as authorized by Subchapter N of Chapter 49 (Sections 49.461, et seq.), Texas Water Code, as amended; and

d. in accordance with the Enabling Legislation, to design, acquire, construct, and finance Road Projects.

The District must issue its Bonds for the purpose of financing reimbursable expenses under Section 49.155, Texas Water Code, and the cost of purchasing, acquiring or constructing water, wastewater, and drainage facilities, interests in facilities, and/or contract rights prior to or simultaneously with issuance of Bonds for any other purpose. The City agrees that the District may issue its Bonds to finance, pay or reimburse 100% of all costs and expenses that it is authorized to finance, pay or reimburse under applicable rules of the Commission, and any conflicting, inconsistent or limiting provisions of Ordinance No. 810819-E, other City ordinances, or any other Applicable Rules are hereby waived.

Section 7.04 Maximum Amount of New Money Bonds. The District agrees that the total principal amount of new money Bonds that may be authorized for issuance by the District may not, without City Council approval, exceed $995,000,000. This total principal amount of Bonds will be exclusive of the principal amount of any authorized refunding Bonds. At such time as the District canvasses the results of its bond election, it will provide a copy of the Board's order canvassing the returns of such election to the City.

Section 7.05 Timing of Issuance; Amortization Period; Maturities. In order to provide the City with some assurance as to the timing of the District's issuance and retirement of its debt, the District will use good faith efforts, subject to market conditions and sufficient existing tax base, to sell its last issue of Bonds on or before December 30, 2050. If the District fails or is unable to do so, the City will have the authority to revoke the District's authority to issue its remaining authorized but unissued Bonds and to proceed with annexation of the District for full purposes. All Bonds must be amortized over a period that does not exceed 25 years from the date of issuance, and each Bond issue must include an optional redemption date no later than 10 years after the date of issuance. These requirements may only be modified if the modification is approved in writing by the Finance Director following receipt of a written application from the District, setting forth the justification for the requested modification. The Finance Director will have no obligation to approve any such application**.**

Section 7.06 Notification for Bond Reviews. The District agrees to include the terms and conditions of this Agreement related to bond issuance in each application for the approval of the issuance of Bonds. The Developer agrees that it will not request reimbursement of and the District agrees it will not request authorization to reimburse any expenses not authorized by this Agreement.

Section 7.07 Notice to City. The District agrees to give notice to the City of its intention to issue Bonds by filing the information described in this Section with the Finance Director.

Section 7.08 Bonds Requiring Commission Approval. The District must give written notice to the Finance Director at the time the District submits any application to the Commission for approval of the issuance of Bonds.

Section 7.09 Refunding Bonds. In connection with: (a) an advance refunding that (i) has a final maturity no longer than the final maturity on the obligations refunded, (ii) will achieve a net present

value savings in an amount consistent with the City's financial policies for City refundings, and (iii) has savings that are substantially or fairly uniform over each maturity being refunded; or (b) a current refunding that (i) has a final maturity no longer than the final maturity on the refunded obligations, (ii) will achieve a net present value savings, and (iii) has savings that are substantially or fairly uniform over each maturity of obligations being refunded, no prior notice to or City review or approval will be required; however, the District must deliver a certificate from its financial advisor that demonstrates that the proposed refunding will comply with this Section at least three business days before execution of the purchase agreement for the refunding and must deliver evidence of its compliance with the requirements of this Section to the City within three business days after the execution of the purchase agreement for the refunding.

Section 7.10 City Review and Approval. Upon Commission approval of any issuance of Bonds, the District must submit a copy of its application to the Commission including the engineering report and projected debt service schedule, a copy of the Commission order approving the issuance of the Bonds, and any other information reasonably required by the PAZ Director to the City for review. The City's approval of any District Bond issue will not be unreasonably withheld, conditioned or delayed. The City will have the right to disapprove any proposed Bond issue only if the District or the Developer is not in compliance with any material term of this Agreement or the SPA. If the District is requested to provide evidence of compliance with this Section 7.10 at the time of the sale of its Bonds, the City agrees that the PAZ Director will be authorized to and will provide written confirmation of City approval to the District promptly upon the District's request.

Section 7.11 Other Funds. The District may use funds obtained from any available, lawful source to acquire, construct, own, operate, and maintain its facilities, as well as to accomplish any purpose or to exercise any function, act, power, or right authorized by law and not prohibited by this Agreement. Such funds may include revenues from any of the systems, facilities, properties, and assets of the District that are not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants, and donations from public or private sources; and revenues from any other lawfully available source.

Section 7.12 Expenses Not Eligible for Reimbursement. A District Bond issue may not include more than two years of capitalized interest. Proceeds from a District Bond issue may not be used to reimburse a developer for more than two years of developer interest or land costs for the following:

a. Easements for water, reclaimed water, and wastewater facilities within the boundary of the District that are granted to the City or Southwest Water Company;
b. Sites for lift stations, pump stations, and other water, reclaimed water, and wastewater infrastructure located within the boundary of the District that are conveyed to the City or Southwest Water Company, except for sites for Major Water and Wastewater Facilities that are eligible for reimbursement under the rules of the Commission; and
c. Sites for fire and emergency services stations, and library buildings.

Section 7.13 District Debt Service Tax. The District agrees to levy a tax to pay debt service on the District's Bonds in accordance with the terms of each resolution or order approving the

issuance of its Bonds in each year while such Bonds are outstanding until the full purpose annexation of the District. All debt service tax revenues will be maintained in a separate account or accounts from the District's general operating funds. The District will require that its bookkeeper provide an accounting allocation of the debt service fund among the various categories of bonded facilities in order to simplify the City's internal allocation of the debt service fund following the full purpose annexation of the District and transfer of the fund to the City.

Section 7.14 Assumption of the District's Outstanding Obligations, Liabilities, and Assets Upon Full Purpose Annexation. Upon the City's full purpose annexation of the District, the District's outstanding obligations, indebtedness, other liabilities, and assets will be transferred and assumed as provided in the SPA.

Section 7.15 Reimbursement Agreements; Payment to Developer Following Full Purpose Annexation. The District agrees that any Reimbursement Agreements that it enters into with a developer within the District will include the following provision relating to any sums payable by the City upon full purpose annexation of the District under Section 43.0715, Texas Local Government Code:

> If, at the time of full purpose annexation of the District, the developer has completed the construction of or financed any facilities or undivided interests in facilities on behalf of the District in accordance with the terms of this agreement, but the District has not issued Bonds to reimburse the developer for the cost of the facilities or undivided interests in facilities, the developer agrees that it will convey the facilities or undivided interests in question to the City, free and clear of any liens, claims or encumbrances, subject to the developer's right to reimbursement under Section 43.0715, Texas Local Government Code, modified as provided in this section. The developer agrees that the amount payable by the City will be determined based on costs and expenses that are eligible for reimbursement under Commission rules, without any waivers or variances, but will be payable to the developer in three equal annual installments, with the first payment being made within 30 days of the date of the City's full purpose annexation.

Section 7.16 Tax Abatement Reinvestment Zone. All or part of the area of the district is eligible to be included in a tax abatement reinvestment zone under Chapter 312, Tax Code.

Section 7.17 The City consents to the adoption of a sales and use tax and to the use of revenue from the sales and use tax in accordance with Subchapter G of the Enabling Legislation.

ARTICLE VIII
TERM, EFFECTIVENESS; ASSIGNMENT AND REMEDIES

Section 8.01 Term. The term of this Agreement will commence on the Effective Date and will

end upon the City's full purpose annexation of the entire District, which will occur as provided in the SPA, unless this Agreement is sooner terminated under the provisions hereof.

Section 8.02 Effectiveness. The City and District acknowledge that this Agreement relates to the City's consent to the creation of the District and, as provided in the Enabling Legislation, the provisions of this Agreement are valid and enforceable.

Section 8.03 Termination and Amendment by Agreement. This Agreement may be terminated or amended as to all of the Land at any time by mutual written agreement of the City, the Developer and, after its creation, the District, or may be terminated or amended only as to a portion of the Land by the mutual written agreement of the City, the owners of a majority of the portion of the Land affected by the amendment or termination and, after its creation, the District. At such time as the Developer no longer owns land within the District, this Agreement may be amended by mutual written agreement of the District and the City, and the joinder of the Developer will not be required.

Section 8.04 Agreement Running with the Land; Assignment.

a. The terms of this Agreement will run with the land within the District and be binding upon and insure to the benefit of the Developer and its successors and assigns. This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer to a purchaser of all or a portion of the land within the District. Any assignment must be in writing, specifically set forth the assigned rights and obligations without modification, hypothecation, or amendment, and be executed by the proposed assignee and a copy of the assignment must be provided to the City.

b. If the Developer assigns its rights and obligations hereunder as to a portion of the land within the District, then the rights and obligations of any assignee and the Developer will be severable, and the Developer will not be liable for the nonperformance of the assignee and vice versa. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance.

c. This Agreement is not intended to and will not be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Land.

Section 8.05 Cooperation; Agreement Not to Contest or Support Negative Legislation.

a. The City, the District, and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder and provide to the other parties any other documents necessary to effectuate the terms of this Agreement.
b. The City agrees to cooperate with the Developer in connection with any waivers or approvals the Developer may desire from Travis County in order to avoid the duplication of processes or services in connection with the development of the Land.
c. Neither the Developer nor the District will engage in any litigation or legislative processes to challenge the terms of this Agreement, or to resolve any disputes related to the

annexation process established by this Agreement or any related service plan. If any future legislation would have the effect of prohibiting the annexation of the District or requiring further approval of the District's residents to the annexation of the District as contemplated by this Agreement, it is the intent of the parties that annexation of the District be governed by the provisions of this Agreement notwithstanding such legislation. Neither the Developer nor District will seek or support legislation to incorporate all or any part of the District as a municipality. Neither the Developer nor the District will contest any efforts of the City to assure that future legislation does not prohibit or impose additional requirements on the City's right and ability to annex the District in accordance with this Agreement.

d. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, the Developer, the District, and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement.

Section 8.06 Default and Remedies.

a. **Notice of Default; Opportunity to Cure.** If a party defaults in the performance of any obligation under this Agreement, the non-defaulting party may give written notice to the other parties to this Agreement, specifying the alleged event of default and extending to the defaulting party 30 days from the date of the notice in order to cure the default complained of or, if the curative action cannot reasonably be completed within 30 days, 30 days to commence the curative action and a reasonable additional period to diligently pursue the curative action to completion.

b. **Dispute Resolution.** If any default is not cured within the curative period specified above, the parties agree to use good faith, reasonable efforts to resolve any dispute among them by agreement, including engaging in mediation or other non-binding alternative dispute resolution methods, before initiating any lawsuit to enforce their respective rights under this Agreement. The parties will share the costs of any mediation or arbitration equally. The parties further agree that the City is not obligated to resolve any dispute based on an arbitration decision under this Agreement if the arbitration decision compromises the City's sovereign immunity.

c. **Other Legal or Equitable Remedies.** If the parties are unable to resolve their dispute through mediation or arbitration, the non-defaulting party will have the right to enforce the terms and provisions of this Agreement by a suit seeking specific performance or such other legal or equitable relief as to which the non-defaulting party may be entitled. Any remedy or relief described in this Agreement will be cumulative of, and in addition to, any other remedies and relief available to such party. The parties acknowledge that the City's remedies will include the right, in the City's sole discretion, to terminate this Agreement and proceed with full purpose annexation of the District. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation, or to the annexation ordinance.

d. **Waiver of District Sovereign Immunity upon Issuance of Bonds.** In accordance with

the Enabling Legislation, upon the issuance of Bonds by the District, the District waives sovereign immunity to suit by the City for purposes of adjudicating a claim by the City for the District's breach of this Agreement.

Section 8.07 Notices to Purchasers. In addition to the notice to purchasers required by Section 49.452, Texas Water Code, the District will promulgate and record in the Official Public Records of Travis County, Texas, and the Restrictive Covenants will require that each seller of land within the District provide to each purchaser of land within the District, a supplemental "plain speak" notice in the form attached as **Exhibit H**, which summarizes and gives notice of certain terms of this Agreement. This notice, with appropriate modifications, will also be included in the notice to purchasers included in the District's Information Form required to be recorded in the Official Public Records of Travis County, Texas, pursuant to Section 49.455 of the Texas Water Code, as amended from time to time.

Section 8.08 Dissolution of the District. If the District is dissolved without the prior written approval of the City, this Agreement will automatically terminate and the City will have the right to annex all of the territory within the District for full purposes without restriction. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation and dissolution, or to the annexation and dissolution ordinance. If the District is dissolved, the City, as the successor to the District, will have the authority to execute any documents and to do any and all acts or things necessary to transfer the District's assets, obligations, indebtedness, and liabilities to the City.

ARTICLE IX
MISCELLANEOUS PROVISIONS

Section 9.01 Notice.

(a) Except as provided in Subsection (b), any notice given under this Agreement must be in writing, and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement; or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth above. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

The City:	City of Austin P.O. Box 1088 Austin, Texas 78767-1088 Attn: City Manager
With Required Copy to:	City of Austin P.O. Box 1088

	Austin, Texas 78767-1088 Attn: City Attorney
The Developer:	Martin Marietta Materials, Inc. Attn: Kate Glaze 2710 Wycliff Road Raleigh, NC 27607-3033
With Required Copy to:	Pam Madere Jackson Walker LLP 100 Congress Ave., Suite 1100 Austin, Texas 78701
With Required Copy to:	MG Realty Investments, LCC Attn: Steven Spears 1711 East Cesar Chavez Ave., Suite B Austin, TX 78702
The District:	Austin Green Improvement District No. 1 <address>

(b) Copies of meeting agendas, minutes, budgets; annual financial dormancy affidavits, financial reports, or audits required under Section 3.04 and other notices or submittals given to the PAZ Director, the Utility Director and/or the Finance Director may be delivered by email to the following addresses, until changed as provided in Subsection (c):

If to the PAZ Director:	City of Austin Attn: PAZ Director Email: jerry.rusthoven@austintexas.gov
If to the Utility Director:	City of Austin Attn: Austin Water Email: greg.meszaros@austintexas.gov
If to the Finance Director:	City of Austin Attn: Finance Director Email: Elaine.hart@austintexas.gov

(c) Each of the parties may change its respective address to any other address within the United States of America by giving at least five days' written notice to the other parties. The Developer may, by giving at least five days' written notice to the City, designate additional parties to receive copies of notices under this Agreement. At such time as the Developer no longer owns land within the District, no further notice to the Developer under this Agreement will be required.

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Section 9.02 Severability. If any part of this Agreement or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the parties agree that they will amend or revise this Agreement to accomplish to the greatest degree practical the same purpose as the part determined to be invalid or unconstitutional, including, without limitation, amendments or revisions to the terms and conditions of this Agreement pertaining to or affecting the rights and authority of the parties in areas of the District annexed by the City pursuant to this Agreement, whether for limited or full purposes. If the parties cannot agree on any such amendment or revision within 90 days of the final judgment of the trial court or any state appellate court that reviews the matter, then either party may proceed in accordance with the procedures specified in this Agreement.

Section 9.03 Frustration of Purpose. If any part of this Agreement is modified as a result of amendments to the underlying State law and statutory authority for this Agreement, the parties agree that such modification may frustrate the purpose of this Agreement. The parties agree that, in such event, they will attempt to amend or revise this Agreement to accomplish to the greatest degree practical (i) the same purpose and objective of the part of this Agreement affected by the modification of the underlying State law and statutory authority and (ii) the original intent and purpose of this Agreement. If the parties cannot agree on any such amendment or revision within 90 days from the effective date of amendment of the State law and statutory authority for this Agreement, then this Agreement will terminate, unless the parties agree to an extension of time for negotiation of the modification.

If this Agreement is to be terminated as a result of the operation of this Section, the City will have the right, for a 90-day period prior to the effective date of termination, in its sole discretion, to annex the District for full purposes and dissolve the District. No additional procedural or substantive requirements of State or local annexation law will apply to such annexation and dissolution, or to the annexation and dissolution ordinance.

Section 9.04 Non-Waiver. Any failure by a party to insist upon strict performance by another party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 9.05 Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.

Section 9.06 Entire Agreement. This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement supersedes all other agreements between the parties concerning the subject matter.

Section 9.07 Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender include the feminine or neuter, and the singular includes the plural, and

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vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation and drafting of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and any otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 9.08 Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Section 9.09 Authority for Execution. The City certifies, represents, and warrants that the execution of this Agreement has been duly authorized in conformity with its City Charter and City ordinances. The Developer certifies, represents, and warrants that the execution of this Agreement has been duly authorized in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on its behalf. The District certifies, represents and warrants that this Agreement has been duly authorized in conformity with all applicable laws and regulations.

Section 9.10 Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A	-	The Land
Exhibit B	-	Post-Annexation Surcharge Formula
Exhibit C	-	CCN Boundaries
Exhibit D	-	Reclaimed Water Service Authorization Letter
Exhibit E	-	Conceptual Major Water and Wastewater Facilities
Exhibit F	-	Terms of Cost Reimbursement and Participation
Exhibit G	-	Form of Covenant Requiring Dedication of Easements
Exhibit H	-	"Plain Speak" Notice Form

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IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the dates indicated below.

CITY:

City of Austin, Texas, a home-rule municipal corporation

By: _____
Name: Spencer Cronk
Title: City Manager
Date: _____

APPROVED AS TO FORM:

By: _____
Name: Lee Simmons
Title: Assistant City Attorney

DEVELOPER:

Martin Marietta Materials, Inc.

By: _____
Name: Kate Glaze
Title:_____
Date:_____

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DISTRICT:

Austin Green Improvement District No. 1

By:_____
Name:_____
Title: President, Board of Directors
Date:_____

ATTEST:

By:_____
Name:_____
Title: Secretary, Board of Directors
Date:_____

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Austin Green MUD No. 1
Index of Exhibits to Consent Agreement

Exhibit A	-	The Land
Exhibit B	-	Post-Annexation Surcharge Formula
Exhibit C	-	CCN Boundaries
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Exhibit H	-	"Plain Speak" Notice Form

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EXHIBIT A

THE LAND

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EXHIBIT B

POST-ANNEXATION SURCHARGE FORMULA

The following calculation is intended to allow the City to collect sufficient funds for payment of the debt service remaining on the District's Bonds at the time of annexation, as authorized by Section 54.016(h), Texas Water Code. After annexation, the water and wastewater rates charged to customers receiving water and sewer services at properties that were within the territorial boundary of the District at the time of annexation may vary from the water and wastewater rates charged to customers receiving services at other properties within the City in order to compensate the City for the assumption of the debt on the District's Bonds. These water and wastewater rates will be reflected as a post annexation surcharge on the customers' monthly utility bills and will be stated as a percentage of the water and sewer rates of the City. The amount of the post-annexation surcharge and the percentage of the City's water and wastewater rates will vary as the City's rates are amended, but in no event will the rates of customers charged the post annexation surcharge exceed 125% of the water and wastewater rates charged to other customers within the City who are not otherwise subject to a post-annexation surcharge.

FORMULA FOR SURCHARGE CALCULATION:

1.	A	=	$\frac{P \times I}{1 - [(1 + I)^{-n}]}$
2.	S	=	$\frac{A}{12 \times ESCFs}$

where:

A = total annual post annexation surcharge

P = principal outstanding on the District's Bonds, less any reduction provided for by Note 1, below

I = average annual effective interest rate on the District's outstanding Bonds

n = years remaining in debt retirement period

ESFCs = total number of equivalent single family customer connections within the territorial boundary of the District

S = monthly post annexation surcharge per equivalent single family connection, but in no event will S exceed 125% of the water and sewer rates charged to other customers within the City

Note 1: P will be reduced by the amount of District funds transferred to the City at the time of annexation or received by the City after annexation, including any debt service taxes paid to the City for the year of annexation as provided in this Agreement.

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EXHIBIT C

CCN Boundaries

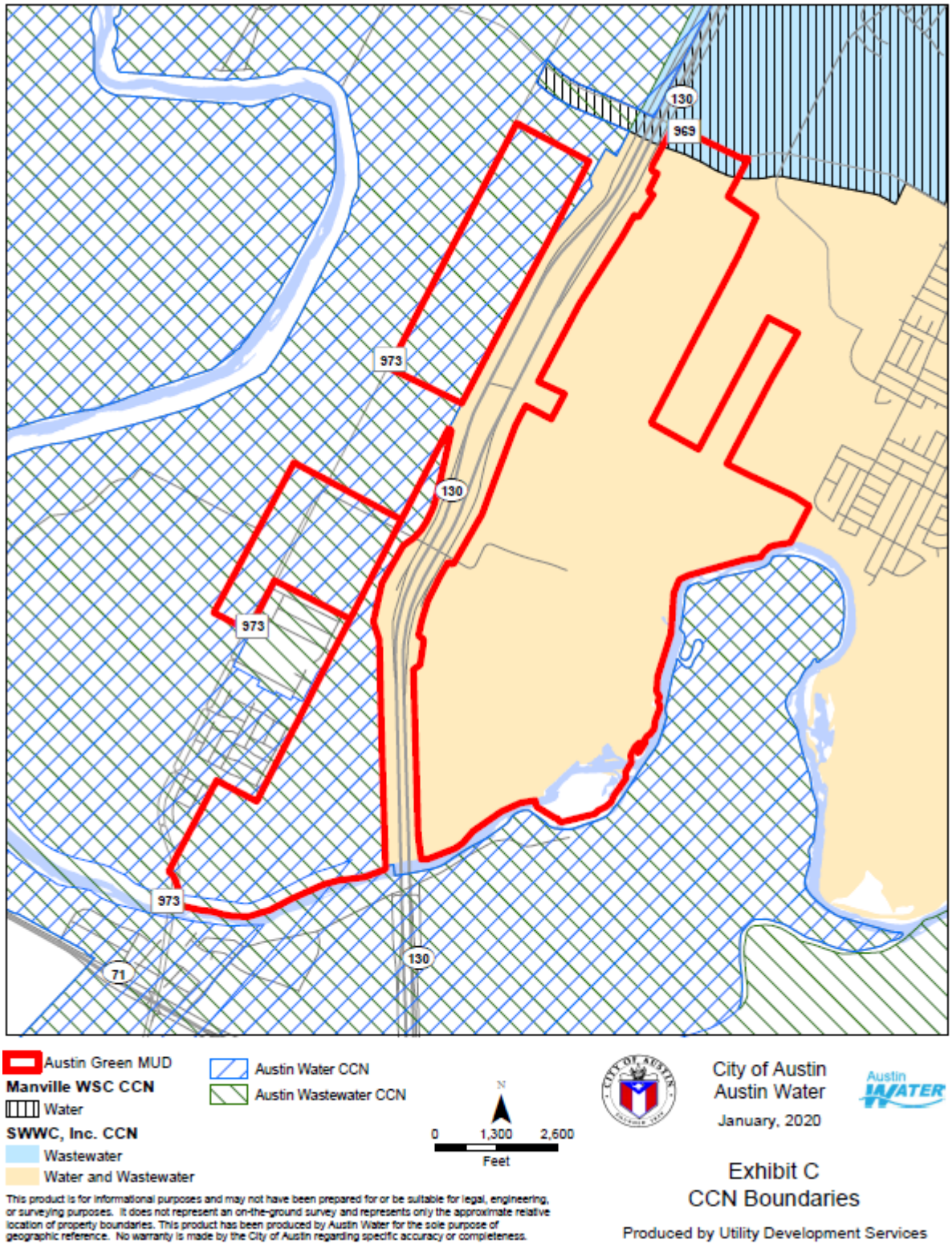


EXHIBIT D

Reclaimed Water Authorization Letter



SouthWest Water Company

SWWC Utilities, Inc.
1620 Grand Avenue Parkway
Suite 140
Pflugerville, TX 78660
Phone 866.454.2334
Fax 512.252.8782
www.swwc.com

October 7, 2019

Mr. Steven Spears
MG Realty Investments, LLC
1711 E Cesar Chavez St Suite B
Austin, TX 78702

Subject: Austin Green Development Irrigation

Dear Mr. Spears:

We have had discussions with the City of Austin concerning reclaimed water. We have assured the City that we support the utilization of reclaimed COA water for irrigation purposes throughout the entire Austin Green project, including the development east of 130.

Regards,

Gary Rose
Vice President, SWWC Utilities, Inc.
SouthWest Water Company

CC Mr. Charles W. Profilet, Jr. P.E.
Mr. Brian Parker, P.E.

EXHIBIT E

Conceptual Major Water and Wastewater Facilities

Exhibit E includes the attached **Exhibit E-1**: Conceptual Major Water Facilities; **Exhibit E-2**: Conceptual Major Wastewater Facilities; and **Exhibit E-3**: Conceptual Major Reclaimed Water Facilities. These are conceptual in nature. The Major Water and Wastewater Facilities identified in **Exhibits E-1, E-2 and E-3** are based upon the Service Extension Request (SER) applications prepared on behalf of the District, submitted by Kimley-Horn, Inc. on September 27, 2018 as amended from time to time, and the SERs approved by the City on November 18, 2019. The facilities' sizing required for the Project and the City's oversizing are based upon the District's requested level of service as proposed in the SER.

The size and capacity of the Major Water and Wastewater Facilities depicted on **Exhibits E-1, E-2 and E-3** may be decreased, at the City's sole discretion, if it is determined later that demands within the Project or City's service area on particular facilities will be less than originally estimated.

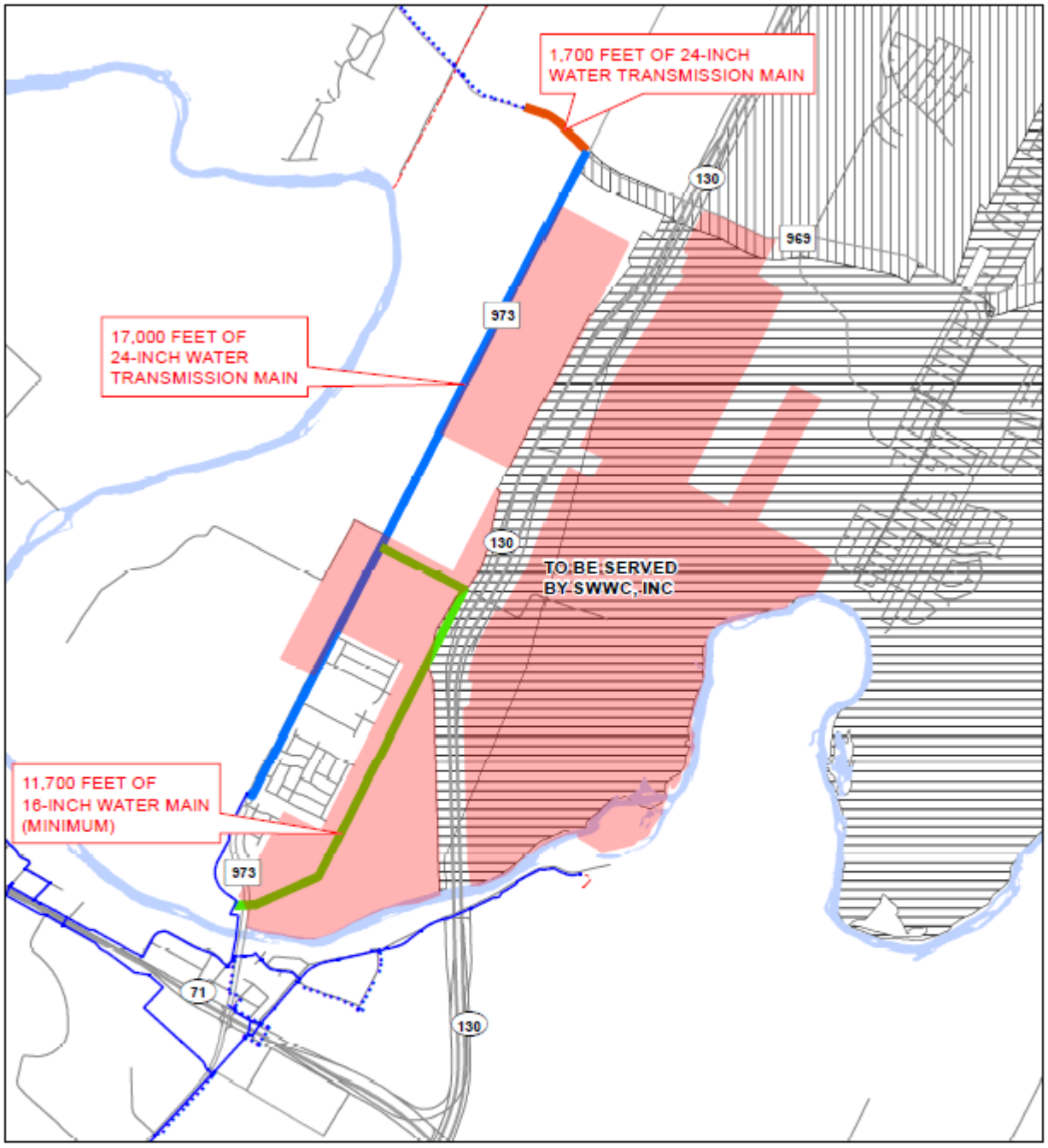
See the following attachments:

Exhibit E-1: Austin Green MUD Conceptual Major Water Facilities

Exhibit E-2: Austin Green MUD Conceptual Major Wastewater Facilities

Exhibit E-3: Austin Green MUD Conceptual Major Reclaimed Water Facilities

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Austin Green MUD

Manville WSC CCN

Water

SWWC, Inc. CCN

Water and Wastewater

N

0 1,500 3,000

Feet

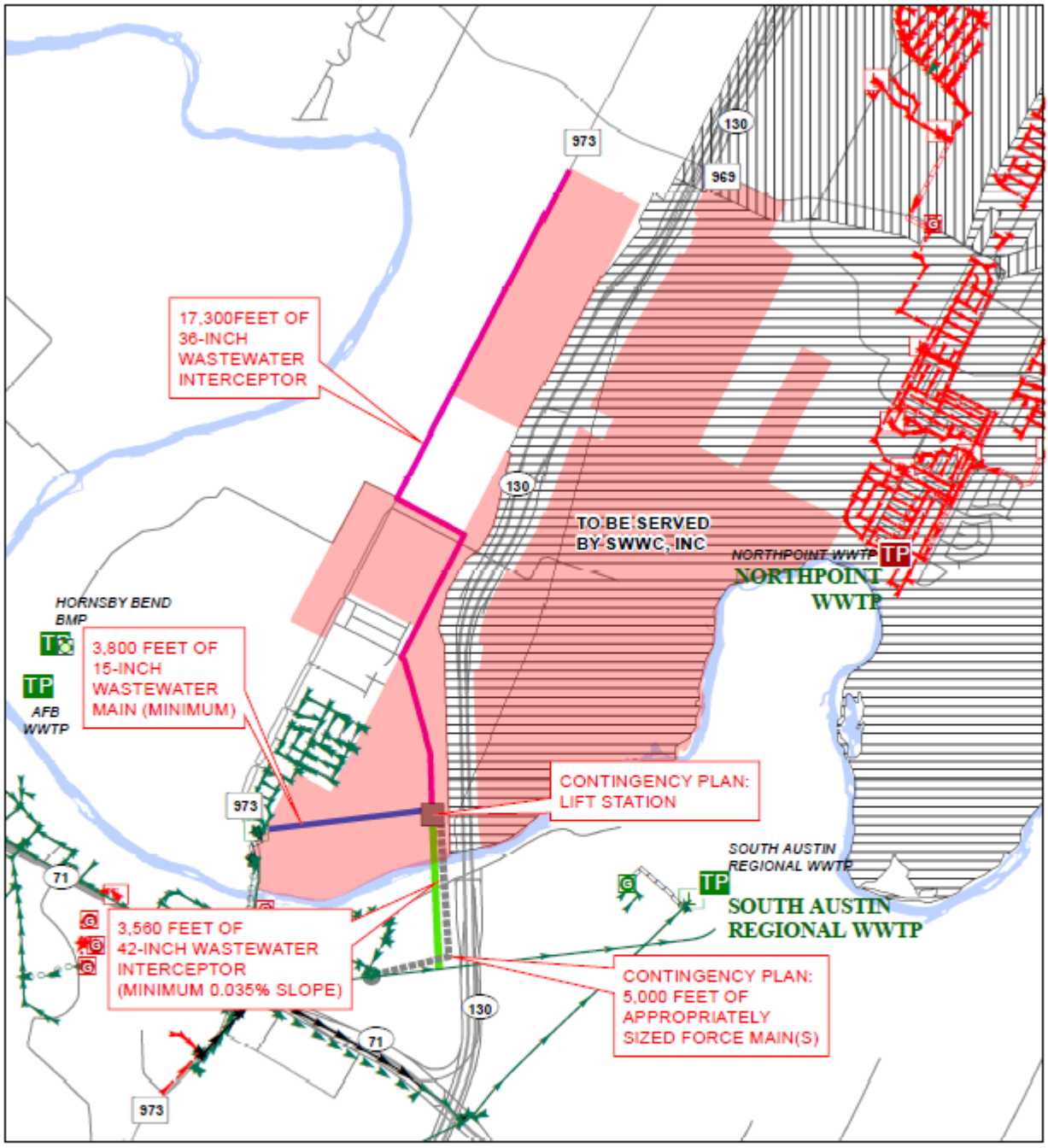
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by Austin Water for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

City of Austin
Austin Water

January, 2020

Exhibit E-1
Austin Green MUD
Conceptual Major Water Facilities

Produced by Utility Development Services



Austin Green MUD

SWWC, Inc. CCN

Wastewater

Water and Wastewater

N

0 1,500 3,000

Feet

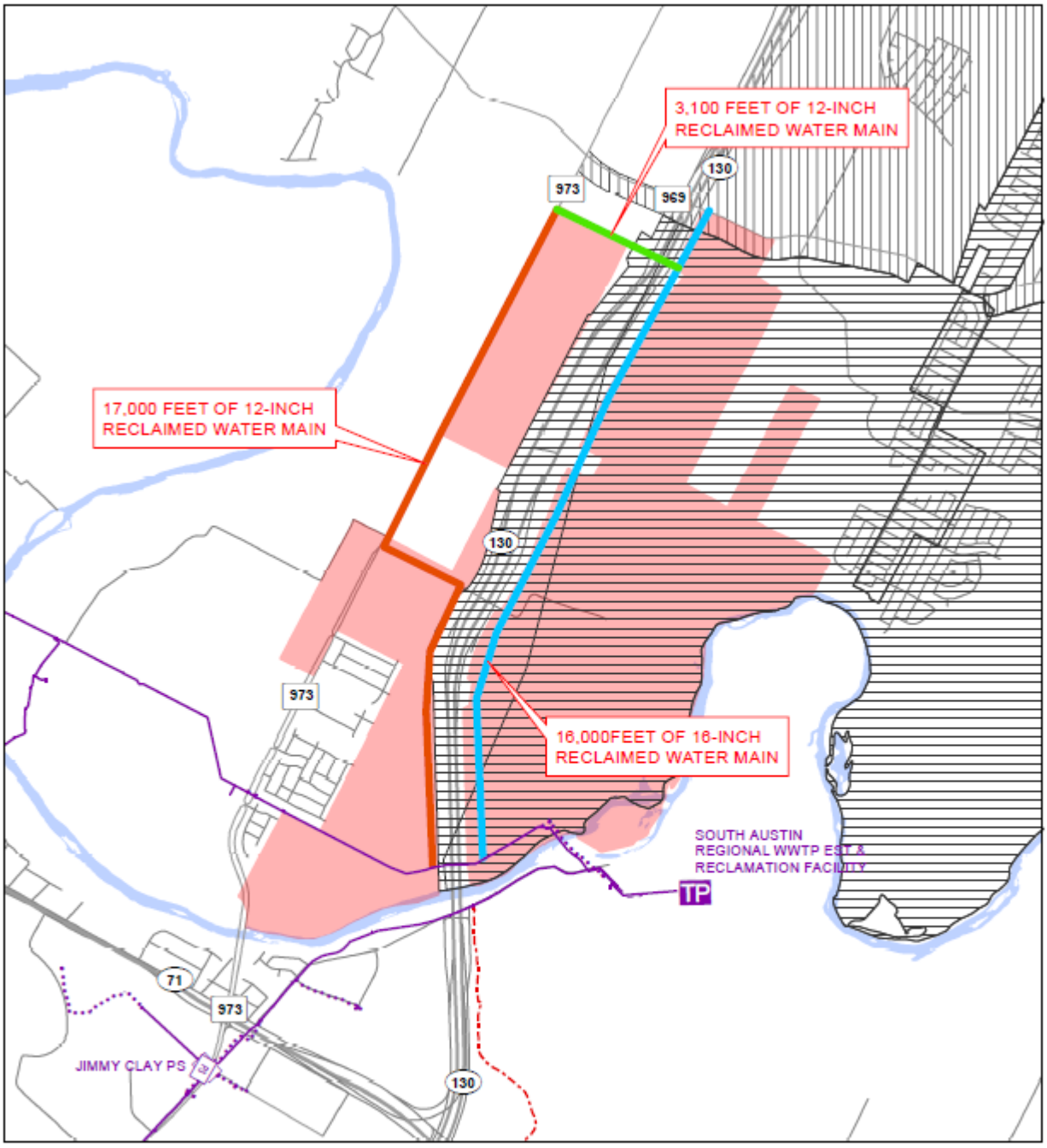
City of Austin
Austin Water

January, 2020

Exhibit E-2
Austin Green MUD
Conceptual Major Wastewater Facilities

Produced by Utility Development Services

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by Austin Water for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Austin Green MUD

SWWC, Inc. CCN

Water and Wastewater

Manville WSC CCN

Water

N

0 1,500 3,000

Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by Austin Water for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

City of Austin
Austin Water
January, 2020

Exhibit E-3
Austin Green MUD
Conceptual Major
Reclaimed Water Facilities

Produced by Utility Development Services

EXHIBIT F

Terms of Cost Reimbursement and Participation

1. Exhibits	**Exhibits C, E-1, E-2 and E-3** are conceptual in nature, and the alignments and lengths of pipe shown thereon may increase or decrease as appropriate while maintaining the integrity of the overall distribution/collection systems. The size and capacity of Major Water and Wastewater Facilities may be decreased, at the City's sole discretion, if it is determined later that demands within the Districts on particular facilities will be less than originally estimated. The Major Water and Wastewater Facilities identified in **Exhibits E-1, E-2 and E-3** are based upon the Service Extension Request (SER) applications prepared on behalf of the District, submitted by Kimley-Horn on September 27, 2018 as amended from time to time, and the SERs approved by the City on November 18, 2019. The facilities' sizing required for the Project and the City's oversizing are based upon the District's requested level of service as proposed in the SER.
2. Easements in General	All easements will be exclusive for water and wastewater and not for other utilities' or entities' use. All easements related to lift stations (the Contingency Plan Lift Station or other unanticipated lift stations) will extend to the edge of the District's outer boundary so that the City may send wastewater flows to each of the lift stations.
3. Easements (temporary and permanent) for Internal Water and Wastewater Facilities, and Major Water and Wastewater Facilities	The Developer and the District will convey easements to the City at no cost to the City. Width and length of the easements will be determined by the City in accordance with City design criteria, specifications, and policies. The Developer and the District, at its cost, are responsible for providing additional easements, if determined by the City, as a result of the Developer or the District increasing the capacity or to reach the ultimate capacity of any of the Major Water and Wastewater Facilities.
4. Additional easements (temporary and permanent) for future extension of infrastructure by the City	The City anticipates that it will require additional easements in the future in order to extend the Internal Water and Wastewater Facilities and Major Water and Wastewater Facilities. The Developer and the District will convey to City, at no cost to City, (i) the easements required for the Major Water and Wastewater Facilities as indicated on **Exhibits E-1, E-2 and E-3**, (ii) the easements required for the Internal Water and Wastewater Facilities, and (ii) easements that are located on property owned by the Developer or the District for future extension of infrastructure by the City. The Developer and the District will work cooperatively with the City to identify a utility alignment on property at the submittal of the UIR. Width and length of the easements will be determined by the City in accordance with City design criteria, specifications, and policies. Because the size and depth of the future infrastructure cannot be determined at this time, the Developer and the District agree that the easements will be sufficient to meet the City's future needs and will be conveyed to the City prior to the

	earlier to occur of City approval of construction plans or final plat for that portion of any District that will be affected by such easement.
5. Internal Water and Wastewater Facilities, and Major Water and Wastewater Facilities	City's cost reimbursement ordinances and policies (where the City would pay more than just for its proportional share of costs for oversizing) will not be applied or used in any manner for any water, Reclaimed Water, and wastewater infrastructure (Austin City Code Chapter 25-9). For those Major Water and Wastewater Facilities identified on **Exhibits E-1, E-2 and E-3** which have been oversized at the request of the City, the Developer will pay 100% of all costs associated with the oversizing without reimbursement by the City or the District, but only up to the extent of the pipe diameters expressly set forth on **Exhibits E-1, E-2 and E-3**. The Developer may seek reimbursement by the District for all infrastructure required to provide utility service to the development within the District.
6. Easements (temporary and permanent) or land for Major Water and Wastewater Facilities oversized by the City in the future	If the City requests oversizing for Major Water and Wastewater Facilities that (i) results in facility sizing that is in excess of the sizing identified in **Exhibits E-1, E-2 and E-3**, or (ii) have not been identified in **Exhibits E-1, E-2 and E-3**, the City will pay its proportionate share of costs based upon the increased amount of easement/land necessary, if any, to accommodate the City's increase in size of the Major Water and Wastewater Facilities. Width and length of the easement/land will be determined by the City in accordance with City design criteria, specifications, and policies.
7. Major Water and Wastewater Facilities oversized by the City in the future	If the City requests oversizing for Major Water and Wastewater Facilities that (i) results in facility sizing that is in excess of the sizing identified in **Exhibits E-1, E-2 and E-3**, or (ii) have not been identified in **Exhibits E-1, E-2 and E-3**, the City will pay its proportionate share of costs for the City's oversizing in accordance with City ordinances.
8. Lift Stations	If it is determined at the time of the UIR that lift station(s) are needed within the District, the Developer and the District agree to provide lawn maintenance, at its cost and discretion, for that portion of all lift stations that is located outside of the fencing of the lift station. Lift station sizing will be based on peak wet-weather flow. The Developer or the District will donate a minimum one-acre developable easement for each lift station, prior to any City approval of construction plans for any District that would require such lift station to be constructed. The City, at its sole discretion, can agree to reduce the acreage for the easements if it determines that a smaller easement is sufficient in light of the use of adjacent property. All mechanical and electrical components of the lift stations and access to such lift stations must be elevated out of the floodplain; however, portions of the easements may be located within the 100-year floodplain, subject to the City's approval, which approval will not be unreasonably withheld, conditioned or delayed. Developable acreage calculations shall include

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	portions of the floodplain to the extent that the lift station buffer area and facilities can be located therein. The Developer will design and construct, at its sole cost, all lift stations required for the District. The Developer or the District will donate to the City any additional easements if the Developer designs and constructs a lift station in phases and in such a manner that does not provide, in the City's reasonable determination, the same buffer as would be provided by a single lift station designed for the ultimate build-out wastewater flows for that lift station. The City will design and construct, at its sole cost, any infrastructure required to convey waste generated outside of the District to the lift station(s). If the City requires, for its sole use, additional capacity above that needed to serve within the District, then the City will pay its proportionate share of costs for the City's oversizing in accordance with City ordinances.
9. Original Plan Interceptor	The Original Plan Interceptor is the City's preferred service option. The Original Plan Interceptor shall be designed as a 42-inch wastewater main at a minimum 0.035% slope with a target design capacity of approximately 6,760 gpm (peak wet weather flow). Wastewater capacity for the District, as proposed by the District and Developer in SER-4346 is approximately 2,900 gpm (peak wet weather flow). The Original Plan Interceptor shall not encroach into the erosion hazard zone of the Colorado River, unless the encroachment is minimal and determined acceptable by Austin Water. Actual connection location and connection requirements to the existing 96-inch Govalle Tunnel shall be coordinated with Austin Water and confirmed in the UIR.
10. Contingency Plan Lift Station	If the Developer is unsuccessful in achieving a design acceptable to the City for the Original Plan Interceptor across the Colorado River, then the Developer or the District, at its discretion, may use the Contingency Plan Lift Station to provide wastewater service. Prior to this determination, the Developer shall coordinate preliminary engineering and design meetings with the City and display good faith effort towards achieving an acceptable design of the Original Plan Interceptor. The Developer will design and construct the Contingency Plan Lift Station to include 95 gpm Average Daily Flow or 380 gpm Peak Wet Weather Flow designated for the City's use outside of the District to accommodate future relief of the City's Kale Lift Station. The Contingency Plan Lift Station shall have an approximately 3,280 gpm firm capacity. If the City requires, for its sole use, additional capacity above the 380 gpm Peak Wet Weather Flow, then the City will be responsible for associated expansion costs for its additional capacity. If the Contingency Plan Lift Station is constructed in phases, initial design to show layout of ultimate size. At the City's discretion, the Developer, at its cost, will also simultaneously construct with the initial phase a parallel

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	force main for ultimate conditions in addition to the force main required for initial phase of the lift station. The parallel force main will be sized to accommodate future increases in pumping capacity. The Developer will be responsible for lift station expansion unless the City requires additional capacity beyond the City's designated capacity available at that time. The lift station wet well shall be sized to accommodate 2-hours of additional storage and shall include an installed spare pump.
11. Water Facilities	If the 24-inch water main along FM 973 depicted on **Exhibit E-1** is constructed by the Developer in phases, up to a total of 600 LUEs of water service within the District (subject to fire flow limitations) will be provided to the Project prior to establishing looping of the 24-inch water main along FM 973 between the existing 24-inch water main in FM 973 and the existing 16-inch water main in FM 969 as depicted on **Exhibit E-1**. The City will not be required to provide more than 600 LUEs of water service to the Project prior to the above described looping is constructed by the Developer and accepted by the City. The City will provide up to 600 LUEs of water service to the Project regardless of whether the City provides water service to other properties outside of the Project through the 24-inch water main. The LUEs of water service being provided to the Project will be calculated by the City based upon the total number of LUEs required for service to all approved site plans or final plats for the Project. If the full length of the 24-inch water main is not operational after the City has approved the 600th LUEs of water service for the Project, then the City will not be required to approve any further construction plans or final plats for the Project until the full length of 24-inch water main shown on **Exhibit E-1** is constructed, looped, and accepted by the City. The Developer agrees to initiate the design of the remaining portion of 24-inch water main on or before the date on which the Developer files a site plan or final plat which would, in combination with all previously approved site plans or final plats for the Project, require in excess of a total of 400 LUEs of water service within the District be provided to the Project. The Developer agrees to begin construction of the remainder of the 24-inch water main on or before the date on which the Developer files a site plan or final plat which would, in combination with all previously approved site plans or final plats for the Project, require in excess of a total of 500 LUEs of water service within the District be provided to the Project.

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EXHIBIT G

Form of Covenant Requiring Dedication of Easements

RESTRICTIVE COVENANT

OWNER: _____, a Texas limited liability company (the "Owner")

ADDRESS: _____

CONSIDERATION: Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

PROPERTY: _____ (the "Property")

A. Owner, the City of Austin, Texas (the "*City*"), and Austin Green Municipal Utility District No. __ (the "*District*") previously entered into the Consent Agreement for Austin Green Municipal Utility District No. ___, dated as of _____, 2012 (the "*Consent Agreement*").

B. Section 6.10 of the Consent Agreement requires that, if the easements necessary to extend the Major Water and Wastewater Facilities (as defined in the Consent Agreement) across any portion of the Land (as defined in the Consent Agreement) have not been dedicated or conveyed to the City prior to sale by Owner, that portion of the Land must be impressed with a restrictive covenant requiring the purchaser to donate the easements in question to the City.

C. Owner desires to sell the Property, and all easements across the Property required by Section 6.10 of the Consent Agreement have not yet been dedicated or conveyed to the City.

THEREFORE, for good and valuable consideration, and in compliance with Section 6.10 of the Consent Agreement, Owner hereby declares that the Property is subject to the following covenants and restrictions, which run with the land, and bind upon Owner, and its successors and assigns:

1. Capitalized terms not otherwise defined herein will have the meanings ascribed to them in the Consent Agreement, a copy of which is on file with the City.

2. Land and easements within the Property that are required for the Major Water and Wastewater Facilities must be conveyed to the City, in lengths and widths which are consistent with the City's Utility Design Criteria and the Consent Agreement, on forms approved by the City and at no cost to the City, at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed.

3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

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5. If at any time the City fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppels of the right to enforce it.

6. This agreement may be modified, amended or terminated only by joint action of both (a) the Director of the Austin Water Utility, or his successor, and (b) the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

7. This agreement will automatically terminate and be of no force or effect as to any of the Property for which the City has approved construction plans or for which a final plat, approved by the City, has been recorded.

EXECUTED this the ___ day of _____, 20___.

OWNER:

_____,
a Texas limited liability company
By: _____,
its sole member

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

_____
Assistant City Attorney
City of Austin

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this ___ day of _____, 20___, by _____, the _____ of _____, a Texas limited liability company and the sole member of _____, a Texas limited liability company, on behalf of such limited liability company.

_____
Notary Public
State of T E X A S

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EXHIBIT H

"PLAIN SPEAK" NOTICE FORM

CURRENT TAX RATES FOR YEAR _____
CITY TAX RATE: _____ % MUD TAX RATE: _____ %

This property is located within Austin Green Improvement District No. 1 (the "*District*"). The District is a governmental entity with taxing powers created by the Texas Legislature with the consent of the City of Austin (the "*City*). Until full purpose annexation, the District is **not** in the City limits and residents **will not** receive most City services. The District and the City have entered into a Consent Agreement (the "*Consent Agreement")* that may affect you as a property owner. The following summary describes key provisions of the Consent Agreement but does not include every provision that may affect you or this property. You may obtain a full and complete copy of the Consent Agreement from the District upon your request.

1. Governance. The District is governed by a five-member Board of Directors. The City is authorized to appoint one member of the Board; the other Board members are elected by the residents of the District. No Board member may serve more than two four-year terms of office or receive fees of office for more than 16 days of service in any fiscal year.

2. City Services. The City provides retail water, reclaimed water, and wastewater service and residential solid waste and recycling services within the District. Prior to full purpose annexation, the City will only provide those City services provided for by the Consent Agreement, and any other services the City may agree to provide under a separate contract to areas within the District.

3. District Services. The District will own and operate certain park and open space land and related facilities.

3. District Tax Rate. The District is authorized to issue bonds and levy a tax in accordance with the Consent Agreement.

4. Annexation; Creation of Limited District. All of the land in the District has been annexed for the limited purposes of planning and zoning. When the District is annexed by the City for full purposes, the District will be converted to a "limited district" that will continue to own and operate certain park and open space land and related facilities. This limited district will levy and collect a tax, which will be in addition to the City's ad valorem tax, to provide the limited district with funds for operation and maintenance.

8. Post Annexation Surcharge. After full purpose annexation of the District, the Consent Agreement authorizes the City to charge and collect water and wastewater rates to customers within the boundaries of the District at the time of its annexation that vary from the City's standard rates in order to compensate the City for the assumption of the debt on the District's bonds. These rates will be reflected as a post annexation surcharge on the customers' monthly utility bills and will be stated as a percentage of the water and sewer rates of the City.

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