

**ORDINANCE NO. 20240404-048**

**AN ORDINANCE ADOPTING THE FIFTH AMENDMENT TO THE AGREEMENT CONCERNING THE CREATION AND OPERATION OF MOORE'S CROSSING MUNICIPAL UTILITY DISTRICT RELATING TO BOND REIMBURSEMENT, AFFORDABLE HOUSING REQUIREMENTS, AND INVESTMENT IN PARK FACILITIES.**

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

**PART 1.** The Council finds that:

- (A) Moore's Crossing Municipal Utility District (MUD) is a conservation and reclamation district, and a governmental agency of the State of Texas created under Article XVI, Sec. 59 of the Texas Constitution by an order of the Texas Commission on Environmental Quality (formerly Texas Water Commission). The MUD operates under Chapter 54 and 49 of the Texas Water Code.
- (B) The City previously granted its consent to the creation of the MUD and the City, the MUD and Moore's Crossing Joint Venture, original developer of the MUD, entered into an "Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" ("Consent Agreement"), which sets forth terms and conditions for creation and operation of the MUD.
- (C) The creation of the MUD was confirmed by an election held within the MUD on November 3, 1987.
- (D) The Developer and the District have proposed to amend the terms and conditions of the Consent Agreement relating to bond reimbursement, affordable housing requirements, and investment in the district's park facilities.
- (E) All relevant City departments have reviewed and approved the proposed amendment to the Consent Agreement.

**PART 2.** The Fifth Amendment to the Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District (Fifth Amendment) relating to bond reimbursement, affordable housing requirements, and investment in park facilities, is approved. The Fifth Amendment is attached as Exhibit A and incorporated as part of this ordinance.

**PART 3.** The City Manager may execute the amendment and do all things necessary to implement the Fifth Amendment.

**PART 4.** This ordinance takes effect on April 15, 2024.

**PASSED AND APPROVED**

\_\_\_\_ April 4 \_\_\_\_\_, 2024

§  
§  
§  
\_\_\_\_\_  
Kirk Watson  
Mayor

**APPROVED:**

\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

\_\_\_\_\_  
Myrna Rios  
City Clerk

# EXHIBIT A

## FIFTH AMENDMENT TO AGREEMENT CONCERNING CREATION AND OPERATION OF MOORE'S CROSSING MUNICIPAL UTILITY DISTRICT

THE STATE OF TEXAS    )  
  )  
COUNTY OF TRAVIS     )

KNOW ALL BY THESE PRESENTS

This Fifth Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District (the "**Fifth Amendment**") is made and entered into by and between the City of Austin, a home rule municipal corporation (the "**City**"); Moore's Crossing Municipal Utility District, a conservation and reclamation district and political subdivision of the State of Texas created and operating as a municipal utility district pursuant to Chapters 54 and 49, Texas Water Code (the "**District**"); and SRMC Investments, Inc., a Texas corporation, formerly known as SR Development, Inc. ("**SRMC**"), and MC Joint Venture, a Texas joint venture comprised of William G. Gurasich and BC Partnership ("**MCJV**"), a Texas general partnership, successor in interest to Moore's Crossing Joint Venture, the original owner and developer of the remaining lands comprising the District (SRMC and MCJV sometimes collectively referred to as the "**Developer**").

### I. RECITALS

**1.01** By adoption of Ordinance No. 860206-N, the City Council consented to the creation of the District subject to certain conditions as more particularly stated therein and authorized the execution of that certain "Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "**Original Consent Agreement**") by and among the City, the District, and the original developer of the District. The Original Consent Agreement was executed by the City on or about March 13, 1986; and

**1.02** By adoption of Ordinance No. 931014-D, the City Council approved that certain "First Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" ("**First Amendment**"). The First Amendment became effective on June 10, 1994; and

**1.03** By adoption of Ordinance No. 981021-D, the City Council approved that certain "Second Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "**Second Amendment**"), relating to the amount of the reimbursements to the Developer for internal water, wastewater, drainage, and water quality facilities. The Second Amendment became effective on October 26, 1998; and

**1.04** By adoption of Ordinance No. 20030925-008, the City Council approved that certain "Third Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "**Third Amendment**"), which provided, among other things, that the Developer shall dedicate a six acre site for a joint fire station, emergency medical services, and library facility, additional acreage for greenbelt and parkland, and seven acres "to be used for City-sponsored low-to-moderate income owner-occupied housing"; and

**1.05** By adoption of Ordinance No. 20170323-024, the City Council approved that certain "Fourth



Amendment to Agreement Concerning Creation and Operation of Moore's Crossing Municipal Utility District" (the "**Fourth Amendment**"), modifying Developer's obligations for traffic mitigation in connection with the development of land within the District, including the dedication of right-of-way and construction of certain roadway improvements as more particularly stated therein. The Original Consent Agreement, as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, is referred to herein as the "**Consent Agreement**"; and

**1.06** The District and the City acknowledge that Developer has satisfied all past obligations for contribution of affordable housing units set forth in Section 1.1 of the Consent Agreement and will satisfy remaining obligations related to affordable housing with a contribution totaling 8% of the net cash proceeds from such Bond Issue to the City of Austin Housing and Community Development as set forth in Section 2.03 hereinbelow; and

**1.07** The District and the City further acknowledge that Developer's contribution of a total of 2% of the net cash proceeds from such Bond Issue to be invested in District park facilities will benefit current and future residents of the District as set forth in Section 2.05 hereinbelow; and

**1.08** The District and the City further acknowledge that Developer is entitled to receive a maximum of 100% of all eligible reimbursements for the design and construction of the District's internal water, wastewater, drainage and water quality facilities; and

**1.09** The Developer has satisfied the requirement of Section 2.04 of the Third Amendment to dedicate a six-acre site to the City of Austin suitable for construction of a joint fire station, emergency medical services (EMS), and library facility, and the Fire and EMS station have been operational since 2020; and

**1.10** The City, the District, and the Developer desire to amend the Consent Agreement to set forth in writing the agreed amendments to the Consent Agreement; and

**NOW, THEREFORE**, in consideration of the foregoing recitals, which shall be incorporated herein as if a part of this Fifth Amendment, and the mutual promises and undertakings herein described, the City, the District, and Developer hereby amend the Consent Agreement as follows:

## **II. AMENDMENTS TO CONSENT AGREEMENT**

**2.01** Section 2.01 of the Second Amendment is hereby deleted in its entirety.

**2.02** Notwithstanding anything to the contrary in the Consent Agreement, Developer shall be entitled to receive a maximum reimbursement of 100% of the costs of design and construction of the District's water, wastewater and drainage facilities pursuant to the rules and regulations of the Texas Commission on Environmental Quality (TCEQ) as it relates to the issuance of tax-exempt unlimited tax bonds issued by the District after the effective date of this Fifth Amendment (each, a "Bond Issue").

**2.03** Upon a Bond Issue, Developer shall pay to the City of Austin Housing and Community Development a total of 8% of the net cash proceeds from such Bond Issue.

**2.04** Section 8.10.d. of the Consent Agreement, as amended in Section 2.04 of the Third Amendment, is hereby deleted in its entirety.

**2.05** The Developer shall pay to the District a total of 2% of the net cash proceeds from each Bond Issue to be invested in District park facilities, including, without limitation, addition of multi- purpose trails and connectivity through the District on City or District-owned land (such as park gateway and parking facilities on land previously dedicated by Developer) and repair of existing parking and recreational and park facilities.

### **III. GENERAL PROVISIONS**

**3.01** Except as set forth above, all other provisions of the Consent Agreement shall remain in force and effect as written.

**3.02** This Fifth Amendment to the Consent Agreement may be executed in duplicate originals each of equal dignity.

IN WITNESS WHEREOF, the authorized representative of each party has signed this Fifth Amendment as of the date(s) indicated below.

[Signature pages follow]

APPROVED AS TO FORM:

\_\_\_\_\_

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Assistant City Manager

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

MOORE'S CROSSING MUNICIPAL  
UTILITY DISTRICT

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: President, Board of Directors

Date: \_\_\_\_\_

SRMC INVESTMENTS, INC.,  
a Texas corporation

By: \_\_\_\_\_

Printed Name: John Gurasich

Title: Vice President

Date: \_\_\_\_\_

MC JOINT VENTURE,  
a Texas Joint Venture

By: \_\_\_\_\_

Printed Name: John Gurasich

Title: Vice President

Date: \_\_\_\_\_

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, Assistant City Manager of the City of Austin, Texas, a  
municipal corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, President of the Board of Directors of Moore's Crossing  
Municipal Utility District, a conservation and reclamation district of the State of Texas, on behalf  
of said district.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, Vice President of SRMC Investment, Inc., a Texas  
corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, Vice President of MC Joint Venture, a Texas joint  
venture, on behalf of said joint venture.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary