

CAUSE NO. D-1-GN-17-002447LAKE AUSTIN COLLECTIVE, INC.  
*Plaintiff*§  
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IN THE DISTRICT COURT

v.

TRAVIS COUNTY

THE CITY OF AUSTIN  
*Defendant*419TH JUDICIAL DISTRICT**PLAINTIFF'S ORIGINAL PETITION FOR MANDAMUS  
AND DISCOVERY REQUESTS**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Lake Austin Collective, Inc. files this Original petition against Defendant City of Austin ("City") seeking to enforce the Texas Open Meetings Act and allege as follows:

**NATURE OF THE CASE AND DISCOVERY CONTROL PLAN**

1. a. Discovery will be conducted under TRCP 190.3, Level 2.
- b. Chalk this case up to the category, "Some People Just Never Learn." The Austin City Council has struggled for years *to avoid* compliance with the Texas Open Meetings Act.<sup>1</sup> The Council's most recent tactic is approving land developments that adversely affect adjoining neighbors, taxpayers generally, or environmental protection while using deceitfully incomplete descriptions in Council meeting notices of the actions they are contemplating. Thankfully, the Texas Open Meetings Act<sup>2</sup> (TOMA) requires fair notice to the public of the "subject" of Council's deliberation, a requirement the Council violated ...again... on November 10, 2016 when it approved waivers of environmental laws and regulations with no mention of that in its meeting notice. The actions concerned the so-called Champion Tract #3 on City Park Road.

<sup>1</sup> For example, in October 2012, the entire City Council was placed on 2 years of deferred prosecution by the Travis County Attorney for criminal violation of TOMA.

<sup>2</sup> Tex. Gov't Code ch. 551. References to sections of the Open Meetings Act refer to Chapter 551.

c. Ironically, and tellingly as to Council's commitment to TOMA compliance, that same day (November 10, 2016), the Council reconsidered its prior vote on the Pilot Knob development that had been declared void—for violation of the TOMA notice requirement—from a lawsuit brought by Austin resident Brian Rodgers. *Rodgers v. City of Austin*, CAUSE NO. D-1-GN-16-000615, 345<sup>th</sup> Judicial District, Travis County Texas. Just a few weeks earlier, on October 14, 2016, District Judge Yelenosky informed the City by letter that he found the prior meeting notice for Pilot Knob zoning violated TOMA because it failed to alert the public that Council was also granting waivers and exemptions from non-zoning ordinances. Final Judgment against the City in that case was signed on October 28, 2016. Then, on November 10, 2016, Council re-posted the Pilot Knob matter, and to comply with the Court's judgment the City added the following information that was not included in the original meeting notice:

**....The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.**

Exhibit P-1 - Austin Council Agenda, Item 32, November 10, 2016.

d. Instead of learning the lesson from the Pilot Knob TOMA violation and including similar wording for the Champion agenda item on the same November 10<sup>th</sup> agenda, the Council again failed to give adequate notice. Agenda Item 6 said:

6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #43.

Exhibit P-1 - Austin Council Agenda, Item 6, November 10, 2016.

There is not even a hint in that agenda wording that would alert the public about what action the Council was contemplating. To determine whether a meeting notice meets TOMA requirements,

the court compares the agenda wording with the action taken. This TOMA violation becomes even more obvious by noting the additional wording that was included in caption of the Ordinance 20161110-006 that Council adopted under Agenda Item No. 6:

An Ordinance adopting and authorizing execution of the First Amendment to the Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al. v. City of Austin in the 353<sup>rd</sup> Judicial District Court of Travis County; amending Ordinance No. 960613-J; **and waiving certain sections of City Code Chapter 25-2 and Lake Austin Watershed Regulations from Ordinance No. 840301-F.**

Exhibit P-3, page 1 (attached): Ordinance No. 20161110-006, Caption, adopted November 10, 2016, Agenda Item 6. (emphasis added)

If it was necessary and appropriate to mention the environmental waivers in the *caption* of the Ordinance when it was adopted, why wasn't that subject included in the meeting agenda *notice*?

### **CLAIM FOR RELIEF**

2. Plaintiff seeks monetary relief of \$100,000 or less and nonmonetary mandamus and injunctive relief. TRCP 47(c)(2).

### **PARTIES**

3. a. Plaintiff Lake Austin Collective, Inc. is a nonprofit corporation whose purpose includes, but is not limited to, promoting the public good for people who rely on Lake Austin for potable water, encouraging comprehensive planning for sustainable growth, and promoting open government and effective public oversight of governmental actions affecting the Lake Austin area. Lake Austin Collective, Inc. is an interested person for purposes of TOMA plaintiff status. Lake Austin Collective, Inc. can be served through its attorney-of-record in this case.

b. Defendant City of Austin is a defendant pursuant to TOMA section 551.142 as the governmental body who violated the meeting notice requirement of TOMA Section 551.041. Pursuant to Tex. Civ. Prac. & Rem. Code section 17.024(b), the City can be served through its

Mayor, The Honorable Steve Adler, at the Mayor's office located at 301 W. 2<sup>nd</sup> Street, Austin, Texas 78701.

### **JURISDICTION & VENUE**

4. The Court has jurisdiction over this case under TOMA section 551.142 which also makes venue mandatory in this Court.

### **FACTS**

#### **CONCEALING WAIVERS OF ENVIRONMENTAL RULES IS NOT ADEQUATE PUBLIC NOTICE UNDER TOMA**

5. a. The facts stated in Paragraph 1 above are incorporated herein.

b. The facts demonstrate that the TOMA notice of the "subject" of Austin Council agenda item No. 6 (Ordinance No. 20161110-006), November 10, 2016 did not comply with TOMA section 551.041. Plaintiff seeks to have the Council's action on that agenda item declared void, pursuant to TOMA section 551.141.

c. Despite giving only vague notice that Agenda Item No. 6 involved amending Ordinance No. 960613-J and amending a settlement agreement, what the Council actually did—without mention in the agenda item wording—was to amend Ordinance No. 840301-F granting a waiver to the developer of provisions of the Lake Austin Watershed Regulations and amended City Code Chapter 25-2, Subchapter C, Articles 9 and 11 (the Hill Country Roadway requirements). Significantly, Ordinance No. 960613-J made no mention of the Hill Country Roadway requirements, so even if someone reviewed that prior ordinance before the Council met, there was no hint that waivers of the Hill Country Roadway requirements were at issue. The agenda—like the Ordinance caption—should have provided that notice. The Council's action was highly significant because it endangers the Lake Austin water supply, increases traffic dangers, sets a



precedent for granting waivers and variances that were never considered by the appropriate city commissions.

d. The City may claim in this lawsuit that including notice in its agenda items that Council will consider waivers is too cumbersome. But in addition to the Pilot Knob item, at the Council's November 10, 2016 meeting, and since, Council has posted development project zoning items on its regular meeting agenda *where it did give public notice of its consideration of waivers.*

1. November 10, 2016, Item 50 (and December 15, 2016, Item 84):

50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. **The ordinance may include waiver of fees.** Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.

2. November 10, 2016, Item 63 (and December 15, 2016, Item 75):

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. **The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.** First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

3. January 26, 2017, Item 72 (and February 2, 2017, Item 56):

72. C14-2016-0023.SH - Elysium Park - District 7 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally

known as 3300 Oak Creek Drive (Walnut Creek Watershed) from industrial park-conditional overlay (IP-CO) combining district zoning and rural residence (RR) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density conditional overlay (MF-4-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence moderate-high density-conditional overlay (MF-4-CO) combining district zoning. **The ordinance may include waiver of fees.** Owner/Applicant: Two-Way Land, L.P. (John K. Condon). Agent: Waeltz & Prete, Inc. (Antonio A. Prete). City Staff: Sherri Sirwaitis, 512-974-3057. *A valid petition has been filed on opposition to this rezoning request.*

4. Even after Plaintiff notified the City (letter to City Attorney dated April 3, 2017) that this lawsuit would be filed if the Council did not voluntarily repost and correct the Champion Tract agenda posting, the Council agenda continued to give public notice of its consideration of waivers on some agenda items. For example, on April 13, 2017, the Council agenda had the following Item #36 (which also appeared on November 10, 2016, Item 62; December 15, 2016, Item 89; February 2, 2017, Item 57; February 16, 2017, Item 63; March 2, 2017, Item 76; March 23, 2017, Item 83):

36. C814-2014-0120 – Austin Oaks PUD – District 10 – Conduct a public hearing and approve 3rd reading of an ordinance amending City Code Title 25-2 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning. **The ordinance may include waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.** Zoning and Platting Commission Recommendation: To approve PUD zoning with conditions. City Council: Approved First reading PUD zoning with conditions, December 15, 2016, vote 6-3 Council Members Casar, Gallo and Zimmerman voting nay. Approved 2nd reading PUD zoning with conditions, March 23, 2017 vote 7-4 Council Members Alter, Houston, Pool and Tovo against]. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604. *A valid petition has been filed in opposition to this zoning case.*

**THE CITY COUNCIL DECEIVED THE NEIGHBORHOODS AND GAMED THE  
SYSTEM OF CITIZEN REVIEW OF SUCH DEVELOPMENTS**

6. a. When the Council approved Agenda Item No. 6 (Ordinance No. 20161110-006), it did so in one motion that also approved a zoning change under Agenda Item No. 43 (Ordinance No. 20161110-043). Exhibit P-2 – Minutes of the Council Meeting, November 10, 2016. As explained below, it is significant that the Council vote was a simple majority of 7-to-4, not a super-majority. Council Members Gallo, Houston, Kitchen and Pool voted against the action, with Mayor Adler, Mayor Pro Tem Tovo, and Council Members Casar, Garza, Renteria, Troxclair, and Zimmerman voting in favor.

b. When there is a valid petition by property owners within 200 feet opposing development approval such as the Champion item, both state law (Tex. Loc. Gov't Code § 211.006(d)) and Austin Code (§ 25-2-284(A) require a vote of 3/4<sup>th</sup> of the Council (9 out of 11). Throughout the entire process—from staff review, to the Zoning & Planning Commission, to Council consideration—the proposed zoning area of the Champion tract equaled the property boundary. Plaintiff's members, including property owners whose property is within 200 feet of the Champion tract, submitted a valid petition before the November 10, 2016 Council meeting.

c. Apparently, the Champion developer realized there was sufficient opposition on the Council to block approval by the super-majority requirement. So, unbeknownst to the Champion tract neighbors, right before the November 10, 2016 Council meeting (on November 8, 2016), Champion added, as Exhibit B, a revised map showing the area subject to the zoning ordinance pushing the area back to 205 feet from the protesting neighbors' property. Ironically, the Exhibit A map that had previously accompanied the zoning ordinance as approved on 1<sup>st</sup> Reading does not

resemble the map attached to the executed zoning ordinance. *See* Exhibit P-4 attached. Shamefully, the Council majority went along with this tactic, denying this neighborhood its rights to the protection of the super-majority vote requirement of state and local law.

7. Because the Council majority condoned the surreptitious tactics, with only last-minute exposure of what was really being done, not only did the super-majority-vote not apply, but Plaintiff's members and others were barred from providing formal input before the Council voted on the final ordinances.

8. The adopted Ordinance under Agenda Item No. 6, gave variances and waivers that were not only not mentioned in the meeting notice but that, incredibly, were never reviewed by the Land Use Commission and will never be reviewed in the normal process! *See* Exhibit P-3 - Ordinance No. 20161110-006 at page 2 (Part 4(1)(e), granting variances to the Lake Austin Watershed Ordinance "without Planning Commission approval"); and page 3 (Part 4(2)(d) and (e) granting modifications to Building Height and Development Bonus standards "without a determination that an unusual circumstance exists"; and Part 4(2)(f) granting the waivers "without Land Use Commission approval." Council not only violated the TOMA notice provision but the importance of the action the Council took is enhanced because it bypassed the City lay-person commissions for review and recommendation before such variances and waivers are granted.

#### **COUNT 1 – SUIT FOR MANDAMUS/INJUNCTIVE RELIEF**

9. The facts stated above are incorporated here as the basis for this cause of action for mandamus and injunctive relief. *See* TOMA, Tex. Gov't Code section 551.142(a) ("Sec. 551.142. MANDAMUS; INJUNCTION. (a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.")). Plaintiff brings this

suit for mandamus against the City of Austin and asks the Court to declare void all actions the Council took regarding Agenda Item No. 6 on November 10, 2016.

### **CONDITIONS PRECEDENT**

10. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

### **ATTORNEY FEES**

11. Plaintiff has retained the under-signed attorney to bring this action. Plaintiff asks the court to award costs and reasonable and necessary attorney fees pursuant to TOMA section 551.142(b).

### **PRAYER**

For these reasons, Plaintiff asks the Court to set this matter for hearing on mandamus to declare void the Council's actions on Agenda Item No. 6 on November 10, 2016 as enumerated above, and grant an injunction to prevent such Council actions in the future, pursuant to Tex. Gov't Code section 551.142 for violation of section 551.041. Plaintiff asks the Court to award Plaintiff costs and reasonable and necessary attorney fees, and to grant Plaintiff all other relief to which it may be entitled.

Respectfully submitted,



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Bill Aleshire  
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ATTACHED: Plaintiff's First Discovery Requests

CAUSE NO. \_\_\_\_\_

LAKE AUSTIN COLLECTIVE, INC.  
*Plaintiff*

v.

THE CITY OF AUSTIN  
*Defendant*

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IN THE DISTRICT COURT

TRAVIS COUNTY

\_\_\_\_\_ JUDICIAL DISTRICT

**ATTACHED TO AND SERVED WITH ORIGINAL PETITION:  
PLAINTIFF'S REQUEST FOR DISCLOSURE, REQUEST FOR ADMISSIONS,  
AND REQUEST FOR PRODUCTION**

TO: Defendant City of Austin [SERVED WITH ORIGINAL PETITION].

I. Instructions

Plaintiff serves these Request for Disclosure, Requests for Admissions, and Requests for Production pursuant to Texas Rule of Civil Procedure 194, 198, and 196. Defendant must admit or deny each Request for Admission. Defendant must produce all requested documents (as they are kept in the ordinary course of business or organized and labeled to correspond with categories in each request) that are in Defendant's actual or constructive possession, custody, control, for inspection and copying. Defendant must serve the answers on Plaintiff's attorney of record, Bill Aleshire, AleshireLAW, P.C., at 700 Lavaca, Suite 1400, Austin, Texas 78701 not more than fifty (50) days after service.

**REQUEST FOR DISCLOSURE**

Under Texas Rule of Civil Procedure 190 and 194, Plaintiff requests that defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2(a thru f and i) and Rule 190.2(b)(6) all documents, electronic information, and tangible items that Defendant has in its possession, custody, or control and that it may use to support its claims or defenses in this case.

**REQUEST FOR ADMISSIONS**

Pursuant to rule 198 of the Texas Rules of Civil Procedure, each Defendant is requested to admit the truth of each of the relevant matters stated in the following list of facts requested to be admitted. **Each of the matters of which an admission is requested will be deemed admitted unless, within 50 (fifty) days after service, you deliver or cause to be delivered to Plaintiff's attorney,**

**Bill Aleshire, AleshireLAW, PC, 700 Lavaca, Suite 1400, Austin, Texas 78701, a statement denying specifically each matter of which an admission is requested, objecting to the admission and stating the reason(s) for your objection, or stating in detail the reason(s) you cannot truthfully admit or deny the matter.** Please note that if, after you submit your responses to these requests for admissions, you learn that any such response was either incomplete when made, or, although complete and correct when made, it is no longer complete and correct, you must amend or supplement your response reasonably promptly after you discover the necessity for such a response. Any amended or supplemental response made less than thirty days before trial will be presumed not to have been made reasonably promptly. A failure to make, amend, or supplement a response in a timely manner may result in your not being able to introduce into evidence the material or information not timely disclosed.

REQUEST FOR ADMISSION No. 1. Admit or Deny

Exhibit P-1, attached to Plaintiff's Original Petition, is a genuine copy of the Austin City Council meeting agenda for November 10, 2016.

REQUEST FOR ADMISSION No. 2. Admit or Deny

Exhibit P-2, attached to Plaintiff's Original Petition, is a genuine copy of the Austin City Council meeting minutes for November 10, 2016.

REQUEST FOR ADMISSION No. 3. Admit or Deny

Exhibit P-3, attached to Plaintiff's Original Petition, is a genuine copy of City of Austin Ordinance No. 20161110-006 as adopted by the Austin City Council at its meeting on November 10, 2016.

REQUEST FOR ADMISSION No. 4. Admit or Deny

Exhibit P-4, attached to Plaintiff's Original Petition, is a genuine copy of City of Austin Ordinance No. 20161110-043 as adopted by the Austin City Council at its meeting on November 10, 2016.

## **REQUESTS FOR PRODUCTION**

REQUEST FOR PRODUCTION No. 1. If you did not admit Request for Admission No. 1, produce a copy of the Austin City Council meeting agenda for November 10, 2016.

REQUEST FOR PRODUCTION No. 2. If you did not admit Request for Admission No. 2, produce a copy of the Austin City Council meeting minutes for November 10, 2016.

REQUEST FOR PRODUCTION No. 3. If you did not admit Request for Admission No. 3, produce a copy of City of Austin Ordinance No. 20161110-006 as adopted by the Austin City

Council at its meeting on November 10, 2016.

REQUEST FOR PRODUCTION No. 3. If you did not admit Request for Admission No. 3, produce a copy of City of Austin Ordinance No. 20161110-043 as adopted by the Austin City Council at its meeting on November 10, 2016.

Respectfully submitted,



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**ATTORNEY FOR PLAINTIFF**





**Thursday, November 10, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, November 10, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino “Pio” Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

## **10:00 AM – City Council Convenes**

### **Consent**

#### **Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of November 1, 2016 and regular meeting of November 3, 2016.

#### **Animal Services Office**

2. Approve an ordinance amending City Section Code 3-1-29 (Sterilization) related to the sterilization of animals at the Austin Animal Shelter.

#### **Economic Development Department**

3. Approve a resolution to nominate Samsung Austin Semiconductor, LLC for designation by the Governor's Office of Economic Development and Tourism as a single Texas Enterprise Project in accordance with Chapter 2303 of the Texas Government Code.

#### **Health and Human Services**

4. Approve the negotiation and execution of an agreement with Latino Healthcare Forum to implement community health improvement strategies for an 11-month term from November 1, 2016 through September 30, 2017, in an amount not to exceed \$175,000, for a total contract amount not to exceed \$175,000.

#### **Law**

5. Authorize negotiation and execution of a legal services contract with the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. in an amount not to exceed \$700,000.00, to represent the City in the rate case filed with the Public Utility Commission by Shady Hollow MUD appealing wholesale water and wastewater rates.
6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park

Road (Champion Tract). Related to Item #43

### **Management Services**

7. Approve an ordinance setting the council meeting schedule for calendar year 2017.

### **Neighborhood Housing and Community Development**

8. Authorize the execution of an Affordable Housing Agreement for the Pilot Knob Planned Unit Development. (District 2). Related to Item #32

### **Planning and Zoning**

9. Amend Ordinance No. 20090827-078 to correct a reference to zoning for property described in zoning file C14-2009-0055.
10. Approve an ordinance amending City Code Chapter 9-2 relating to the requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.

### **Purchasing Office**

11. Authorize a negotiation and execution of an agreement with Aero Solutions LLC, for professional services related to licensing right-of-way and city property for small cell antenna, for an amount not to exceed \$205,200. ( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement there were insufficient subcontracting opportunities; therefore, no subcontraction goals were established. )

### **Transportation**

12. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.

### **Item(s) from Council**

13. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
14. Approve an ordinance waiving or reimbursing certain fees for the

Shakespeare in the Park event sponsored by the Something for Nothing Theater which was held October 14-29, 2016 at Ramsay Park.

( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Ann Kitchen CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Leslie Pool )

15. Approve an ordinance waiving or reimbursing certain fees for the Truth be Told fundraising event sponsored by Truth be Told which was held Thursday, October 27th, 2016 at the Asian American Resource Center.  
( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston CO 4: Council Member Delia Garza )
16. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool )
17. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Travis Country 5K event sponsored by Travis Country Homeowner's Association which was held May 1, 2016 on Travis Country Circle and Republic of Texas Boulevard.  
( Notes: SPONSOR: Council Member Ellen Troxclair CO 1: Council Member Ora Houston CO 2: Council Member Sheri Gallo CO 3: Council Member Don Zimmerman )

#### **Item(s) to Set Public Hearing(s)**

18. Set a public hearing to consider an ordinance regarding floodplain variances for the construction of a new single family residence at 4515 Avenue D as requested by the owner of the property. The property is located in the 25-year and 100-year floodplains of Waller Creek. (District 9) (Suggested date and time: December 8, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street).

#### **Non-Consent**

#### **Action on Item(s) with Closed Public Hearings - per City Code Section 2-5-27, additional speakers will not be registered**

19. C7a-2016-0003 – Entrada – Approve an ordinance to annex the Entrada annexation area for full purposes (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

20. C7a-2016-0005 – Malone Preliminary Plan – Approve an ordinance to annex the Malone Preliminary Plan annexation area for full purposes (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Billbrook Place; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
21. C7a-2016-0006 – Mooreland Addition – Approve an ordinance to annex the Mooreland Addition annexation area for full purposes (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
22. C7a-2016-0007 – Smithfield/Frate Barker – Approve an ordinance to annex the Smithfield/Frate Barker annexation area for full purposes (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
23. C7a-2016-0008 – Upper East End Subdivision – Approve an ordinance to annex the Upper East End Subdivision annexation area for full purposes (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THESE ITEMS WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

**10:00 AM - Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)**

24. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Approve second and third readings of an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry land use to Mixed Use land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, 512-974-2695.
25. C14-2016-0041 - East Sixth Street Village South - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake

Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.

26. C14-2016-0043 - East Sixth Street Village North - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.
27. NPA-2016-0025.01 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.
28. C14-2016-0011 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
29. NPA-2016-0016.03 – Casa Lara – District 3 – Approve second and third readings of an ordinance amending Ordinance No. 030327-12, the Govalle/Johnston Terrace Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6011 Bolm

Road (Boggy Creek Watershed) from Commercial land use to Mixed Use land use. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Jeanette Lara Lewis. Agent: Oakland Urban (Christopher Oakland). City Staff: Maureen Meredith, 512-974-2695.

30. C14-2016-0082 - Casa Lara - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6011 Bolm Road (Boggy Creek Watershed) from community commercial-neighborhood plan (GR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner: Jeanette Lara Lewis. Applicant: Oakland Urban (Christopher Oakland). City Staff: Heather Chaffin, 512-974-2122.
31. C14-2016-0037 – Scofield Apartments – District 7 – Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Ridge Parkway (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning, with conditions. First Reading approved on October 13, 2016. Vote: 9-0, Council Member Renteria and Council Member Troxclair were off the dais. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirwaitis, 512-974-3057.
32. C814-2012-0152 - Pilot Knob Planned Unit Development - District 2 - Approve third reading of an ordinance amending City Code Title 25 by zoning property locally known as east and southeast of the intersection of East William Cannon Drive and McKinney Falls Parkway, and west of South U.S. Highway 183 and FM 1625 (Cottonmouth Creek Watershed; North Fork Creek Watershed; South Fork Creek Watershed) from interim-rural residence (I-RR) district zoning and interim-single family residence-standard lot (SF-4A) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 8, 2015. Vote: 10-0, Council Member Pool was off the dais. Second Reading approved on November 19, 2015. Vote: 11-0. Owner/Applicant: Carma Easton, Inc. (Logan Kimble). Agent: Armbrust & Brown, L.L.P. (Lynn Ann Carley). City Staff: Wendy Rhoades, 512-974-7719. Related to Item #8

**10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

33. C14-85-288.8 (RCA3) - Lantana Tract 33 - District 8 - Conduct a public hearing to amend a restrictive covenant on property locally known as 6701,

6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

34. NPA-2015-0015.03 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending Ordinance No. 021107-Z-11 the East MLK Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from Single Family land use to High Density Single Family land use. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Kathleen Fox, 512-974-787.
35. C14-2015-0114 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from single family residence-small lot-neighborhood plan (SF-4A-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Heather Chaffin, 512- 974-2122.
36. NPA-2015-0005.04 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. First Reading approved on September 22, 2016. Vote: 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &



Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.

37. C14-2015-0104 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604. First Reading approved on September 22, 2016. Vote 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: UT Land Company, Ltd. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &

Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

38. NPA-2016-0013.01 - Bouldin Courts - District 9 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20020533-32, the Bouldin Creek Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 908, 1000, & 1002 South 2nd Street (East Bouldin Watershed) from Single Family to Higher Density Single Family land use. Staff Recommendation: To grant Higher Density Single Family land use. Planning Commission Recommendation: To grant Higher Density Single Family land use. Owner/Applicant: PSW Homes, LLC (Jarrod Corbell). City Staff: Maureen Meredith, (512) 974-2695.
39. C14-2016-0077 – Bouldin Courts – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 900, 904, 908, 1000 & 1002 South 2nd Street and 705 Christopher Street (East Bouldin Creek Watershed) community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning and family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Agent: PSW Homes (Jarred Corbell). Owner: 1st Street Highlands LP (PSW Homes). City Staff: Andrew Moore, 512-974-7604.
40. NPA-2016-0021.01 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20061116-055 of the East Riverside/Oltorf Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the future land use designation on the future land use map (FLUM) on property locally known as 5016 ½ E. Ben White Blvd. (Country Club West/Carson Creek Watershed) from Commercial land use to Mixed Use land use. Staff Recommendation: To grant Commercial land use and Mixed Use land use. Planning Commission Recommendation: To grant Commercial land use and Mixed Use land use. Owner/Applicant: Ashley Gibson). Agent: Brown and Gay Engineers (Steven Buffum, P.E.). City Staff: Maureen Meredith, 512-974-2695.
41. C14-2016-0069 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 5016 ½ East Ben White Boulevard (West Country Club and Carson Creek Watersheds) from general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-

neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-mixed use-conditional overlay -neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning for Tract 1, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning for Tract 2 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU- CO-NP) combining district zoning for Tract 3. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Applicant: Brown & Gay Engineers (Steven Buffum). Owner: Azur Property Investment. City Staff: Andrew Moore, 512-974-7604.

42. C14-2015-0052 – Removal of Historic (H) overlay and removal of Conditional Overlay (CO) – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 507 West 23rd Street (Shoal Creek Watershed) from general office-conditional overlay-historic-neighborhood plan (GO-CO-H-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner: 23 Nueces LLC (Edward Johnson). Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512- 974-2122.
43. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #6
44. C14-2016-0020 - Lantana IV - District 8 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan

(LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on December 13, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.

45. C14-2016-0021 - Double Creek Residences - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 420 East FM 1626 Road (Onion Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning, and community commercial (GR-CO) combining district zoning to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Staff Recommendation: Pending. Zoning and Platting Commission Recommendation: To be reviewed on December 6, 2016. Owner/Applicant: Riddell Family Limited Partnership (Jim Henry). Agent: Walters Southwest (Amanda Swor). City Staff: Wendy Rhoades, 512-974-7719.
46. C14-2016-0039 - Thornton II - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2413 Thornton Road (West Bouldin Creek Watershed) from general commercial services (CS) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Applicant: South Llano Strategies (Glen Coleman). Owner: John & Susan Hoberman. City Staff: Andrew Moore, 512-974-7604.
47. C14-2016-0050 - Plaza Saltillo Tract 1/2/3 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 901, 1011, and 1109 E. 5th Street (Waller Creek Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
48. C14-2016-0049 - Plaza Saltillo Tract 4/5 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1211 and 1301 E. 5th Street (Waller Creek Watershed; Lady Bird Lake Watershed) from transit oriented development-

neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.

49. C14-2016-0051 - Plaza Saltillo Tract 6 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 413 Navasota Street (Lady Bird Lake Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
  
50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. The ordinance may include waiver of fees. Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.
  
51. C14-2016-0065 - Pioneer Bank on W. 38th St. - District 9 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy).

City Staff: Heather Chaffin, 512- 974-2122.

52. C14-2016-0068 - 1308 E. Braker Lane Rezoning - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1308 East Braker Lane (Walnut Creek Watershed) from single family residence-standard lot (SF-2) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Owner: Sinh Trong Le. Applicant: Thrower Design (Ron Thrower). City Staff: Heather Chaffin, 512-974-2122.
53. C14-2016-0072 – 39th Street Apartments – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 405-407 West 39th Street (Waller Creek Watershed) from family residence-neighborhood conservation combining district-neighborhood plan (SF-3-NCCD-NP) combining district zoning to multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Owner: 405 West 39th Street LLC. Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512-974-2122.
54. C14-2016-0078 – 1114 Kramer Lane Rezoning – District 4 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1114 Kramer Lane and 11107 Plains Trail and 11109 Plains Trail (Little Walnut Creek Watershed) from neighborhood commercial-conditional overlay (LR-CO) combining district zoning and neighborhood office (NO) district zoning to multifamily residence-medium density (MF-3) district zoning. Staff Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Owner/Applicant: Octavian Herescu. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Sherri Sirwaitis, 512-974-3057.
55. C14-2016-0086 – La Mexicana Supermercado Rezoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2004 East William Cannon Drive (Williamson Creek Watershed) from neighborhood commercial (LR) district zoning and multifamily residence-medium density (MF-3) district zoning to neighborhood commercial (LR) district zoning for Tract 1 and

multifamily residence-medium density (MF-3) district zoning for Tract 2. Staff Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Owner/Applicant: TATI Investments Group, LLC (Zulfiqar Maknojia). Agent: Cuatro Consultants, Ltd. (Hugo Elizondo, Jr.). City Staff: Wendy Rhoades, 512-974-7719.

56. C14-2016-0091 – ACS/Bearcreek Properties – District 5 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4001 S. Lamar Boulevard (Williamson Creek Watershed; Barton Creek Watershed-Barton Springs Zone) from general commercial services-vertical mixed use building (CS-V) combining district zoning to commercial-liquor sales-vertical mixed use building (CS-1-V) combining district zoning. Staff Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Planning Commission Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Agent: Thrower Design (Ron Thrower). Owner: ACS/Bearcreek Properties Ltd. (Manny Frahani). City Staff: Andrew Moore, 512-974-7604.
57. C14-2016-0095 – Completion of Lot 6 Zoning – District 8 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 9100 West State Highway 71 (Williamson Creek Watershed-Barton Springs Zone) from single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner/Applicant: River City Partners Management Ltd. (Lee Raines). Agent: Sprouse Shrader Smith, PLLC (Terrence Irion). City Staff: Wendy Rhoades, 512-974-7719.
58. C14-2016-0096 – 7901 Ranch Road 2222 – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7901 Ranch to Market Road 2222 (West Bull Creek Watershed) from limited office-conditional overlay (LO-CO) combining district zoning to general office-mixed use (GO-MU) combining district zoning. Staff Recommendation: To grant general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on November 15, 2016. Owner/Applicant: Malamae/Dentastic, LP (James V. Potter). Agent: John Stinson. City Staff: Sherri Sirwaitis, 512-974-3057.

59. C14-2016-0101 – 3900 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3900 Pearce Road (Lake Austin Watershed) from rural residence (RR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
60. C14-2016-0102 – 3906 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3906 Pearce Road (Lake Austin Watershed) from development reserve (DR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
61. C814-2012-0128.01.SH – thinkEAST Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1141 Shady Lane and 5300 Jain Lane (Boggy Creek Watershed) from planned unit development-neighborhood plan (PUD-NP) combining district zoning to planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. The ordinance may include modification of city regulations. Owner/Applicant: thinkEAST Austin Management, LLC (Richard deVarga). City Staff: Heather Chaffin, 512-974-2122.
62. C814-2014-0120 - Austin Oaks PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter Title 25 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning. Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and



acquisition of property. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604.

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

#### **12:00 PM - Citizen Communications: General**

Carlos León - 1) God, Jesus Christ, and the Holy Spirit are the most high and mighty; 2) Eradicate Austin's alien chemtrails; 3) Losing your marbles Vol. II, Part ?

Gus Peña - 1) Happy Veterans Day to all my Military veterans. Veterans Day is Nov. 11, 2016. We veterans gave it our all. 2) You all will have the day off. Many of our veterans are homeless or unemployed. Please thank a veteran for his or her service to our country's freedom, safety and democracy and for other countries freedom, safety, and democracy. 3) Especially recognize, thank, and support our female veterans for their service to our country, and other countries freedom safety and democracy. November 10, 2016 is my United States Marine Corps Birthday. We (our U.S.M.C.) is 241 years old Semper Fi to all my fellow Marines. We gave it our all. 4) My dad Lucio WWI vet. my step brother Lucio World War II , Pilar, Edward, me Gus, United States Marines, Gilbert, Lucio III Navy, Jesse Air Force. Peña family well represented and fought for our country USA.

CAROLANNE ROSE KENNEDY - BLACKCHRISTMAS.

Asad Halai - Tax Property purchase - previous lien payout.

Moses Saldana - Pledge of Allegiance.

Sara Black - Oral response to Citizen survey.

Lisa Hinley - Restore Rundberg final report.

Zenobia Joseph - Public Information Requests, Greater Austin Black Chamber of Commerce- \$171K Accountability, FY 2017 Budget Recommendation.

Kyle Hoskins - TBA.

Reedy Spigner - East Austin Land Survey.

### **Executive Session**

64. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
65. Discuss legal issues related to the application of anti-lobbying regulations to Request For Proposals CDL2003, for the management of biosolids reuse and Request For Proposals JXP0501, for the sale and removal of compost material. (Private consultation with legal counsel - Section 551.071 of the Government Code)
66. Discuss legal issues related to Chapter 245 of the Texas Local Government Code and proposed approval of a Project Consent Agreement for property located at 2636 Bliss Spillar Road and 12501 Hewitt Lane. (Private consultation with legal counsel - Section 551.071 of the Government Code)

### **4:00 PM - Public Hearings and Possible Actions**

67. Conduct a public hearing and consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9)
68. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).
69. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.
70. Conduct a public hearing and consider an appeal of an outdoor music venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.
71. Conduct a public hearing and consider second and third readings of an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

## Adjourn



*The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*



*For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

**AUSTIN CITY COUNCIL  
MINUTES****REGULAR MEETING  
THURSDAY, NOVEMBER 10, 2016**

The following represents the actions taken by the Austin City Council in the order they occurred during the meeting. While the minutes are not in sequential order, all agenda items were discussed. The City Council of Austin, Texas, convened in a regular meeting on Thursday, November 10, 2016 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Adler called the Council Meeting to order at 10:15 a.m.

**CONSENT AGENDA**

The following items were acted on by one motion.

1. Approve the minutes of the Austin City Council work session of November 1, 2016 and regular meeting of November 3, 2016.  
**The minutes from the City Council work session of November 1, 2016 and regular meeting of November 3, 2016 were approved on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

**Item 2 was pulled for discussion.**

3. Approve a resolution to nominate Samsung Austin Semiconductor, LLC for designation by the Governor's Office of Economic Development and Tourism as a single Texas Enterprise Project in accordance with Chapter 2303 of the Texas Government Code.  
**Resolution No. 20161110-003 was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 9-1 vote. Council Member Zimmerman voted nay. Council Member Troxclair abstained.**
4. Approve the negotiation and execution of an agreement with Latino Healthcare Forum to implement community health improvement strategies for an 11-month term from November 1, 2016 through September 30, 2017, in an amount not to exceed \$175,000, for a total contract amount not to exceed \$175,000.  
**The motion approving the negotiation and execution of an agreement with Latino Healthcare Forum was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 9-1 vote. Council Member Zimmerman voted nay. Council Member Troxclair abstained.**
5. Authorize negotiation and execution of a legal services contract with the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. in an amount not to exceed \$700,000.00, to represent the

City in the rate case filed with the Public Utility Commission by Shady Hollow MUD appealing wholesale water and wastewater rates.

**The motion authorizing negotiation and execution of a contract with Lloyd Gosselink Rochelle and Townsend, P.C. was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 9-2 vote. Those voting aye were: Mayo Adler, Mayor Pro Tem Tovo, Council Members Casar, Gallo, Garza, Houston, Kitchen, Pool, and Renteria. Those voting nay were: Council Members Troxclair and Zimmerman.**

**Item 6 pulled for discussion.**

7. Approve an ordinance setting the council meeting schedule for calendar year 2017.  
**The motion to approve the ordinance was made by Council Member Renteria and seconded by Council Member Pool.**

**A motion to amend the ordinance was made by Council Member Gallo. The motion was accepted without objection. The amendment was to cancel the March 7, 2017 work session, March 8, 2017 budget work session and March 9, 2017 regular meeting.**

**Ordinance No. 20161110-007 was approved as amended above on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

**Item 8 was pulled for discussion.**

9. Amend Ordinance No. 20090827-078 to correct a reference to zoning for property described in zoning file C14-2009-0055.  
**Ordinance No. 20161110-009 was approved on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

10. Approve an ordinance amending City Code Chapter 9-2 relating to the requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.  
**A motion to approve the ordinance was made by Council Member Renteria and seconded by Council Member Pool.**

**A motion to revise the ordinance was made without objection. The amendment was to:**

- **Revise § 9-2-21 (B) (1) (a) to read: Maximum sound level: 83 decibels unless further restricted by the sound management plan.**
- **Revise § 9-2-21 (B) (2) (a) to read: Maximum sound level: 78 decibels unless further restricted by the sound management plan.**
- **Revise § 9-2-21 (B) (5) to read: If a neighbor adjacent to a site with an active permit under this section alleges a violation of the applicable decibel limit, the accountable official shall deploy sound monitoring equipment to the site and document whether or not the applicable decibel restriction has been violated. The sound data provided by the sound monitoring equipment will be made available in real time if possible.**
- **Revise § 9-2-21 (E) (1) (b) to read: provided to representatives of property owners and residents within 600 feet.**

**Ordinance No. 20161110-010 was approved as amended above on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

11. Authorize a negotiation and execution of an agreement with Aero Solutions LLC, for professional services related to licensing right-of-way and city property for small cell antenna, for an amount not to exceed \$205,200. (Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established.)  
**The motion authorizing negotiation and execution of an agreement with Aero Solutions LLC was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair abstained.**
12. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.  
**This item was postponed to December 8, 2016 on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**
13. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.  
**The following appointments and certain related waivers were approved on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

#### Nominations

##### Board/Nominee

##### Nominated by

##### Animal Advisory Commission

Nancy Nemer

Travis County Commissioners Court

##### Visitor Impact Task Force

Bill Worsham

Public Safety Commission

14. Approve an ordinance waiving or reimbursing certain fees for the Shakespeare in the Park event sponsored by the Something for Nothing Theater which was held October 14-29, 2016 at Ramsay Park. (Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Ann Kitchen CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Leslie Pool)  
**Ordinance No. 20161110-014 was approved on consent on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**
15. Approve an ordinance waiving or reimbursing certain fees for the Truth be Told fundraising event sponsored by Truth be Told which was held Thursday, October 27th, 2016 at the Asian American Resource Center. (Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston CO 4: Council Member Delia Garza)  
**Ordinance No. 20161110-015 was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair abstained.**

**Item 16 was pulled for discussion.**

17. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Travis Country 5K event sponsored by Travis Country Homeowner's Association which was held May 1, 2016 on Travis Country Circle and Republic of Texas Boulevard. (Notes: SPONSOR: Council Member Ellen Troxclair CO 1: Council Member Ora Houston CO 2: Council Member Sheri Gallo CO 3: Council Member Don Zimmerman)

**The motion approving the waiver or reimbursement of certain fees for the Travis Country 5K event was approved on consent on Council Member Renteria's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair abstained.**

18. Set a public hearing to consider an ordinance regarding floodplain variances for the construction of a new single family residence at 4515 Avenue D as requested by the owner of the property. The property is located in the 25-year and 100-year floodplains of Waller Creek. (District 9) (Suggested date and time: December 8, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street).

**The public hearing was set on consent for December 8, 2016 4:00 p.m. at 301 W. Second Street, Austin, TX on Council Member Renteria's motion, Council Member Pool's second on an 11-0 vote.**

Items 19 through 23 were closed for Public Hearings Items.

Items 24 through 32 were Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)

Items 33 through 63 were a Zoning and Neighborhood Plan Amendment (Public Hearing and Possible Action).

Items 64 through 66 were Executive Session Items.

Items 67 through 71 were public hearing items set for 4:00 p.m.

**DISCUSSION ITEMS**

24. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Approve second and third readings of an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry land use to Mixed Use land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, 512-974-2695.

**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

25. C14-2016-0041 - East Sixth Street Village South - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair

was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.

**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

26. C14-2016-0043 - East Sixth Street Village North - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.

**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

27. NPA-2016-0025.01 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.

**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

28. C14-2016-0011 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density- conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

29. NPA-2016-0016.03 – Casa Lara – District 3 – Approve second and third readings of an ordinance amending Ordinance No. 030327-12, the Govalle/Johnston Terrace Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6011 Bolm Road (Boggy Creek Watershed) from Commercial land use to Mixed Use land use. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Jeanette Lara Lewis. Agent: Oakland Urban (Christopher Oakland). City Staff: Maureen Meredith, 512-974-2695.

**Ordinance No. 20161110-029 to change the land use designation on the future land use map (FLUM) to Mixed Use land use was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**



30. C14-2016-0082 - Casa Lara - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6011 Bolm Road (Boggy Creek Watershed) from community commercial-neighborhood plan (GR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner: Jeanette Lara Lewis. Applicant: Oakland Urban (Christopher Oakland). City Staff: Heather Chaffin, 512-974-2122.  
**Ordinance No. 20161110-030 for community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
31. C14-2016-0037 – Scofield Apartments – District 7 – Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Ridge Parkway (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning, with conditions. First Reading approved on October 13, 2016. Vote: 9-0, Council Member Renteria and Council Member Troxclair were off the dais. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirwaitis, 512-974-3057.  
**Ordinance No. 20161110-031 for community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning, with conditions was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

**Item 32 was pulled for discussion.**

33. C14-85-288.8 (RCA3) - Lantana Tract 33 - District 8 - Conduct a public hearing to amend a restrictive covenant on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.  
**This item was postponed to December 8, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
34. NPA-2015-0015.03 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending Ordinance No. 021107-Z-11 the East MLK Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from Single Family land use to High Density Single Family land use. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Kathleen Fox, 512-974-787.  
**This item was withdrawn without objection.**

35. C14-2015-0114 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from single family residence-small lot-neighborhood plan (SF-4A-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Heather Chaffin, 512- 974-2122.

**This item was withdrawn without objection.**

**Item 36 and 37 were pulled for discussion.**

38. NPA-2016-0013.01 - Bouldin Courts - District 9 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20020533-32, the Bouldin Creek Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 908, 1000, & 1002 South 2nd Street (East Bouldin Watershed) from Single Family to Higher Density Single Family land use. Staff Recommendation: To grant Higher Density Single Family land use. Planning Commission Recommendation: To grant Higher Density Single Family land use. Owner/Applicant: PSW Homes, LLC (Jarrod Corbell). City Staff: Maureen Meredith, (512) 974-2695.

**This item was postponed to December 1, 2016 at the request of the applicant on Council Member Zimmerman's motion, Council Member Houston's second on a 10-0 vote. Mayor Pro Tem Tovo recused herself.**

39. C14-2016-0077 – Bouldin Courts – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 900, 904, 908, 1000 & 1002 South 2nd Street and 705 Christopher Street (East Bouldin Creek Watershed) community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning and family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Agent: PSW Homes (Jarred Corbell). Owner: 1st Street Highlands LP (PSW Homes). City Staff: Andrew Moore, 512-974-7604.

**This item was postponed to December 1, 2016 at the request of the applicant on Council Member Zimmerman's motion, Council Member Houston's second on a 10-0 vote. Mayor Pro Tem Tovo recused herself.**

40. NPA-2016-0021.01 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20061116-055 of the East Riverside/Oltorf Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the future land use designation on the future land use map (FLUM) on property locally known as 5016 ½ E. Ben White Blvd. (Country Club West/Carson Creek Watershed) from Commercial land use to Mixed Use land use. Staff Recommendation: To grant Commercial land use and Mixed Use land use. Planning Commission Recommendation: To grant Commercial land use and Mixed Use land use. Owner/Applicant: Ashley Gibson). Agent: Brown and Gay Engineers (Steven Buffum, P.E.). City Staff: Maureen Meredith, 512-974-2695.

**This item was postponed to December 8, 2016 at the request of the applicant on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

41. C14-2016-0069 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 5016 ½ East Ben White Boulevard (West Country Club and Carson Creek Watersheds) from general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-mixed use-conditional overlay -neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning for Tract 1, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning for Tract 2 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU- CO-NP) combining district zoning for Tract 3. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Applicant: Brown & Gay Engineers (Steven Buffum). Owner: Azur Property Investment. City Staff: Andrew Moore, 512-974-7604.

**This item was postponed to December 8, 2016 at the request of the applicant on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

**Items 42 and 43 were pulled for discussion.**

44. C14-2016-0020 - Lantana IV - District 8 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan (LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on December 13, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.

**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

45. C14-2016-0021 - Double Creek Residences - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 420 East FM 1626 Road (Onion Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning, and community commercial (GR-CO) combining district zoning to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Staff Recommendation: Pending. Zoning and Platting Commission Recommendation: To be reviewed on December 6, 2016. Owner/Applicant: Riddell Family Limited Partnership (Jim Henry). Agent: Walters Southwest (Amanda Swor). City Staff: Wendy Rhoades, 512-974-7719.

**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

**Item 46 was pulled for discussion.**

47. C14-2016-0050 - Plaza Saltillo Tract 1/2/3 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 901, 1011, and 1109 E. 5th Street (Waller Creek Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.  
**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
48. C14-2016-0049 - Plaza Saltillo Tract 4/5 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1211 and 1301 E. 5th Street (Waller Creek Watershed; Lady Bird Lake Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.  
**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
49. C14-2016-0051 - Plaza Saltillo Tract 6 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 413 Navasota Street (Lady Bird Lake Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.  
**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. The ordinance may include waiver of fees. Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.

**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

51. C14-2016-0065 - Pioneer Bank on W. 38th St. - District 9 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy). City Staff: Heather Chaffin, 512- 974-2122.

**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

52. C14-2016-0068 - 1308 E. Braker Lane Rezoning - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1308 East Braker Lane (Walnut Creek Watershed) from single family residence-standard lot (SF-2) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Owner: Sinh Trong Le. Applicant: Thrower Design (Ron Thrower). City Staff: Heather Chaffin, 512-974-2122.

**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-052 as amended for multifamily residence-low density (MF-2-CO) with a conditional overlay prohibiting multi-family residential uses, allowing all other permitted uses under multi-family residence-low density (MF-2-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

**Item 53 was pulled for discussion.**

54. C14-2016-0078 – 1114 Kramer Lane Rezoning – District 4 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1114 Kramer Lane and 11107 Plains Trail and 11109 Plains Trail (Little Walnut Creek Watershed) from neighborhood commercial-conditional overlay (LR-CO) combining district zoning and neighborhood office (NO) district zoning to multifamily residence-medium density (MF-3) district zoning. Staff Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Owner/Applicant: Octavian Herescu. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Sherri Sirwaitis, 512-974-3057.

**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-054 for multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

55. C14-2016-0086 – La Mexicana Supermercado Rezoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2004 East William Cannon Drive (Williamson Creek Watershed) from neighborhood commercial

(LR) district zoning and multifamily residence-medium density (MF-3) district zoning to neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Staff Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Owner/Applicant: TATI Investments Group, LLC (Zulfiqar Maknojia). Agent: Cuatro Consultants, Ltd. (Hugo Elizondo, Jr.). City Staff: Wendy Rhoades, 512-974-7719.

**This item was postponed to December 15, 2016 at the request of the neighborhood on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

56. C14-2016-0091 – ACS/Bearcreek Properties – District 5 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4001 S. Lamar Boulevard (Williamson Creek Watershed; Barton Creek Watershed-Barton Springs Zone) from general commercial services-vertical mixed use building (CS-V) combining district zoning to commercial-liquor sales-vertical mixed use building (CS-1-V) combining district zoning. Staff Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Planning Commission Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Agent: Thrower Design (Ron Thrower). Owner: ACS/Bearcreek Properties Ltd. (Manny Frahani). City Staff: Andrew Moore, 512-974-7604.

**The public hearing was conducted and a motion to close the public hearing and approve the ordinance on first reading only for commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

57. C14-2016-0095 – Completion of Lot 6 Zoning – District 8 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 9100 West State Highway 71 (Williamson Creek Watershed-Barton Springs Zone) from single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner/Applicant: River City Partners Management Ltd. (Lee Raines). Agent: Sprouse Shrader Smith, PLLC (Terrence Irion). City Staff: Wendy Rhoades, 512-974-7719.

**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-057 for general office-neighborhood plan (GO-NP) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

58. C14-2016-0096 – 7901 Ranch Road 2222 – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7901 Ranch to Market Road 2222 (West Bull Creek Watershed) from limited office-conditional overlay (LO-CO) combining district zoning to general office-mixed use (GO-MU) combining district zoning. Staff Recommendation: To grant general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on November 15, 2016. Owner/Applicant: Malamae/Dentastic, LP (James V. Potter). Agent: John Stinson. City Staff: Sherri Sirwaitis, 512-974-3057.

**This item was postponed to December 15, 2016 at the request of staff on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

59. C14-2016-0101 – 3900 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3900 Pearce Road (Lake Austin Watershed) from rural residence (RR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.  
**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-059 for single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
60. C14-2016-0102 – 3906 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3906 Pearce Road (Lake Austin Watershed) from development reserve (DR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.  
**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-060 for single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
61. C814-2012-0128.01.SH – thinkEAST Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1141 Shady Lane and 5300 Jain Lane (Boggy Creek Watershed) from planned unit development-neighborhood plan (PUD-NP) combining district zoning to planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. The ordinance may include modification of city regulations. Owner/Applicant: thinkEAST Austin Management, LLC (Richard deVarga). City Staff: Heather Chaffin, 512-974-2122.  
**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-061 for planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning was approved on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**
62. C814-2014-0120 - Austin Oaks PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter Title 25 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning.

Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604.

**This item was postponed to December 15, 2016 at the request of the neighborhood on Council Member Zimmerman's motion, Council Member Houston's second on an 11-0 vote.**

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

**This item was postponed to December 6, 2016 at the request of Council on Council Member Zimmerman's motion, Council Member Houston's second on a 9-2 vote. Those voting aye were: Mayor Adler, Council Members Casar, Gallo, Houston, Kitchen, Pool, Renteria, Troxclair, and Zimmerman. Those voting nay were: Mayor Pro Tem Tovo and Council Member Garza.**

### **DISCUSSION ITEM**

21. C7a-2016-0006 – Mooreland Addition – Approve an ordinance to annex the Mooreland Addition annexation area for full purposes (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

**The motion to deny the annexation request was approved on Council Member Kitchen's motion, Council Member Renteria's second on a 7-4 vote. Those voting aye were: Mayor Adler, Council Members Houston, Kitchen, Pool, Renteria, Troxclair, and Zimmerman. Those voting nay were: Mayor Pro Tem Tovo, Council Members Casar, Garza, and Pool.**

**Mayor Adler recessed the meeting at 11:27 a.m.**

**Mayor Pro Tem Tovo reconvened the meeting at 12:07 p.m.**

### **CITIZENS COMMUNICATIONS: GENERAL**

Carlos León - 1) God, Jesus Christ, and the Holy Spirit are the most high and mighty; 2) Eradicate Austin's alien chemtrails; 3) Losing your marbles Vol. II, Part ?

Gus Peña - 1) Happy Veterans Day to all my Military veterans. Veterans Day is Nov. 11, 2016. We veterans gave it our all. 2) You all will have the day off. Many of our veterans are homeless or unemployed. Please thank a veteran for his or her service to our country's freedom, safety and democracy and for other countries freedom, safety, and democracy. 3) Especially recognize, thank, and support our female veterans for their service to our country, and other countries



freedom safety and democracy. November 10, 2016 is my United States Marine Corps Birthday. We (our U.S.M.C.) is 241 years old Semper Fi to all my fellow Marines. We gave it our all. 4) My dad Lucio WWI vet. my step brother Lucio World War II , Pilar, Edward, me Gus, United States Marines, Gilbert, Lucio III Navy, Jesse Air Force. Peña family well represented and fought for our country USA.

CAROLANNE ROSE KENNEDY - BLACKCHRISTMAS. – **Not Present.**

Asad Halai - Tax Property purchase - previous lien payout.

Moses Saldana - Pledge of Allegiance.

Sara Black - Oral response to Citizen survey.

Lisa Hinley - Restore Rundberg final report.

Zenobia Joseph - Public Information Requests, Greater Austin Black Chamber of Commerce-\$171K Accountability, FY 2017 Budget Recommendation.

Kyle Hoskins - TBA. – **Not Present.**

Reedy Spigner - East Austin Land Survey

**Mayor Adler recessed the Council Meeting to go into Executive Session at 12:32 p.m.**

### **EXECUTIVE SESSION**

**The City Council went into Executive Session, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda and to receive advice from Legal Counsel regarding any other item on this agenda.**

64. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).  
**This item was withdrawn.**
65. Discuss legal issues related to the application of anti-lobbying regulations to Request For Proposals CDL2003, for the management of biosolids reuse and Request For Proposals JXP0501, for the sale and removal of compost material. (Private consultation with legal counsel - Section 551.071 of the Government Code)
66. Discuss legal issues related to Chapter 245 of the Texas Local Government Code and proposed approval of a Project Consent Agreement for property located at 2636 Bliss Spillar Road and 12501 Hewitt Lane. (Private consultation with legal counsel - Section 551.071 of the Government Code)

**Mayor Adler reconvened the meeting at 2:55 p.m.**

### **DISCUSSION ITEMS CONTINUED**

16. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits. (Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool)  
**The motion to approve the item failed on Mayor Pro Tem Tovo's motion, Council Member Pool's second on a 3-8 vote. Those voting aye were: Mayor Pro Tem Tovo, Council Members Houston and Pool. Those voting nay were: Mayor Adler, Council Members Casar, Gallo, Garza, Kitchen, Renteria, Troxclair, and Zimmerman,**
8. Authorize the execution of an Affordable Housing Agreement for the Pilot Knob Planned Unit Development. (District 2). Related to Item #32  
**No action was taken on this item.**
32. C814-2012-0152 - Pilot Knob Planned Unit Development - District 2 - Approve third reading of an ordinance amending City Code Title 25 by zoning property locally known as east and southeast of the intersection of East William Cannon Drive and McKinney Falls Parkway, and west of South U.S. Highway 183 and FM 1625 (Cottonmouth Creek Watershed; North Fork Creek Watershed; South Fork Creek Watershed) from interim-rural residence (I-RR) district zoning and interim-single family residence-standard lot (SF-4A) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 8, 2015. Vote: 10-0, Council Member Pool was off the dais. Second Reading approved on November 19, 2015. Vote: 11-0. Owner/Applicant: Carma Easton, Inc. (Logan Kimble). Agent: Armbrust & Brown, L.L.P. (Lynn Ann Carley). City Staff: Wendy Rhoades, 512-974-7719. Related to Item #8  
**A motion was made by Mayor Adler and seconded by Council Member Garza to approve the ordinance with the following amendments:**

**To revise Part 8 (B) to read:**

**B. Owner-occupied Housing.**

**At least 10 percent of the total number of units sold as owner-occupied residential housing units located within the Pilot Knob PUD will be made permanently available at a price affordable to households with incomes at 80 percent of or below the median family income in the Austin metropolitan statistical area ("Affordable Ownership Unit(s)") (collectively, the "Ownership Affordability Requirement").**

**In addition the Landowner agrees to comply with the following:**

1. **The City and Landowner will enter into an Affordable Housing Agreement, approved by City Council, to document how permanent affordability will be implemented.**
2. **All lots transferred by the Landowner to AHFC, or other entity designated by the City, are subject to approval by AHFC or other entity designated by the City. The lots must be fully developed, buildable, and the subdivision accepted by the City of Austin, and integrated throughout the Pilot Knob PUD.**
3. **The Affordable Ownership Units constructed on any lot shall have substantially similar architectural design and restrictions as other residential units offered for sale to the general public.**
4. **Affordable Ownership units must:**
  - a. **Be sold to an income eligible household at 80 percent of or below median family income in the Austin metropolitan statistical area;**

- b. Include resale restrictions that require that resale of the affordable units must be to a household at 80 percent of or below median family income in the Austin metropolitan statistical area;
- c. Contain restrictions that will cap the equity that can be achieved upon resale of the affordable unit. Equity will be capped at the lesser of fair market value or 2 percent annually based on the original affordable sales price; and
- d. Contain a Right of First Refusal to AHFC or other entity designated by the City. If AHFC or other entity designated by the City does not exercise the right of first refusal, then Affordable Ownership units must be sold to income eligible purchasers.

The funding mechanism necessary to achieve the permanently affordable owner-occupied housing will be adopted by separate ordinance or other action and may include:

- 1. Waiver of all or a portion of fees of any kind;
- 2. A monetary contribution by the landowner if the property or development is of a type that is exempt from capital recovery or other fees that would otherwise have been paid under the existing MUD Consent Agreements (either under existing or future ordinance); and
- 3. Another affordable housing funding mechanism identified and established by the City Council.

If a funding mechanism for owner-occupied affordable housing is not approved by City Council in subsequent action, no agreement is reached with the Landowner, or an adopted mechanism disallowed by a court or any other reason, then the Affordable Ownership Units will be priced, at the time of their initial offering for sale, at a price that is affordable to a household with an income level of 80 percent of the median family income in the Austin metropolitan statistical area, as specified in Exhibit L of the Consent Agreements.

To delete Part 12 (H) (2).

Ordinance No. 20161110-032 for planned unit development (PUD) district zoning as amended above was approved on Mayor Adler's motion, Council Member Garza's second on a 9-1 vote. Council Member Zimmerman voted nay. Council Member Troxclair abstained.

19. C7a-2016-0003 – Entrada – Approve an ordinance to annex the Entrada annexation area for full purposes (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

The motion to approve the ordinance on first reading only and to direct staff to bring back the ordinance for second and third readings at the January 26, 2017 Council meeting was approved on Council Member Houston's motion, Council Member Pool's second on a 9-2 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo and Council Members Casar, Gallo, Garza, Houston, Kitchen, Pool and Renteria. Those voting nay were: Council Members Troxclair and Zimmerman.

Items 20, 22, and 23 were acted on in a combined motion.

20. C7a-2016-0005 – Malone Preliminary Plan – Approve an ordinance to annex the Malone Preliminary Plan annexation area for full purposes (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Bilbrook Place; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.  
**Ordinance No. 20161110-020 was approved on Council Member Houston’s motion on a 9-2 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo, Council Members Casar, Gallo, Garza, Houston, Kitchen, Pool, and Renteria. Those voting nay were: Council Members Troxclair and Zimmerman.**
22. C7a-2016-0007 – Smithfield/Frate Barker – Approve an ordinance to annex the Smithfield/Frate Barker annexation area for full purposes (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.  
**Ordinance No. 20161110-022 was approved on Council Member Houston’s motion on a 9-2 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo, Council Members Casar, Gallo, Garza, Houston, Kitchen, Pool, and Renteria. Those voting nay were: Council Members Troxclair and Zimmerman.**
23. C7a-2016-0008 – Upper East End Subdivision – Approve an ordinance to annex the Upper East End Subdivision annexation area for full purposes (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THESE ITEMS WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.  
**Ordinance No. 20161110-023 was approved on Council Member Houston’s motion on a 9-2 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo, Council Members Casar, Gallo, Garza, Houston, Kitchen, Pool, and Renteria. Those voting nay were: Council Members Troxclair and Zimmerman.**
2. Approve an ordinance amending City Section Code 3-1-29 (Sterilization) related to the sterilization of animals at the Austin Animal Shelter.  
**This item was postponed to December 8, 2016 at the request of council on Council Member Houston’s motion, Council Member Zimmerman’s second on a 7-4 vote. Those voting aye were: Mayor Adler, Council Members Casar, Houston, Kitchen, Renteria, Troxclair, and Zimmerman. Those voting nay were: Mayor Pro Tem Tovo, Council Members Gallo, Garza, and Pool.**
42. C14-2015-0052 – Removal of Historic (H) overlay and removal of Conditional Overlay (CO) – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 507 West 23rd Street (Shoal Creek Watershed) from general office-conditional overlay-historic-neighborhood plan (GO-CO-H-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner: 23 ueces LLC (Edward Johnson). Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512- 974-2122.  
**The public hearing was conducted and a motion to close the public hearing and approve the ordinance on first reading only for general office-neighborhood plan (GO-NP) combining**

**district zoning was approved on Council Member Renteria's motion, Council Member Garza's second on an 11-0 vote.**

53. C14-2016-0072 – 39th Street Apartments – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 405-407 West 39th Street (Waller Creek Watershed) from family residence-neighborhood conservation combining district-neighborhood plan (SF-3-NCCD-NP) combining district zoning to multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Owner: 405 West 39th Street LLC. Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512-974-2122.

**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-053 for multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning was approved on Council Member Renteria's motion, Council Member Zimmerman's second on an 11-0 vote.**

**Items 6 and 43 were acted on in a combined motion.**

6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #43 **Ordinance No. 20161110-006 was approved on Council Member Zimmerman's motion, Council Member Casar's second on a 7-4 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo, Council Members Casar, Garza, Renteria, Troxclair, and Zimmerman. Those voting nay were: Council Members Gallo, Houston, Kitchen, and Pool.**
43. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #6 **The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-043 for multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning was approved on Council Member Zimmerman's motion, Council Member Casar's second on a 7-4 vote. Those voting aye were: Mayor Adler, Mayor Pro Tem Tovo, Council Members Casar, Garza, Renteria, Troxclair, and Zimmerman. Those voting nay were: Council Members Gallo, Houston, Kitchen, and Pool.**

## **PUBLIC HEARINGS**

69. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.  
**This item was postponed to December 15, 2016 at the request of staff on Mayor Pro Tem Tovo's motion, Council Member Houston's second on an 11-0 vote.**
70. Conduct a public hearing and consider an appeal of an outdoor music venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.  
**This item was postponed to December 1, 2016 at the request of staff on Mayor Pro Tem Tovo's motion, Council Member Gallo's second on an 11-0 vote.**

#### **DISCUSSION ITEMS CONTINUED**

36. NPA-2015-0005.04 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. First Reading approved on September 22, 2016. Vote: 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott & Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.  
**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-036 to change the land use designation on the future land use map (FLUM) to Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses was approved for on Council Member Renteria's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair was off the dais.**
37. C14-2015-0104 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-

neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604. First Reading approved on September 22, 2016. Vote 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: UT Land Company, Ltd. (Jimmy Nassour). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

**The public hearing was conducted and a motion to close the public hearing and approve the ordinance as amended below for general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, for Tract 1; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning for Tract 2; neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 3; General Office-Mixed Use (GO-MU) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5 was made by Council Member Renteria and seconded by Council Member Pool.**

**A motion to separate the question and vote separately on the Ponca Road extension question was approved without objection at Council Member Garza's request.**

**A motion to exclude the Ponca Road extension was approved on Council Member Renteria's motion, Council Member Pool's second on a 9-1 vote. Council Member Garza voted nay. Council Member Troxclair was off the dais.**

**The motion to close the public hearing and approve Ordinance 20161110-037 as amended above was approved on Council Member Renteria's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair was off the dais.**

#### **PUBLIC HEARINGS CONTINUED**

68. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).  
**The public hearing was conducted and a motion to close the public hearing was approved on Mayor Pro Tem Tovo's motion, Council Member Zimmerman's second on a 10-0 vote. Council Member Troxclair was off the dais.**

#### **DISCUSSION ITEMS CONTINUED**

46. C14-2016-0039 - Thornton II - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2413 Thornton Road (West Bouldin Creek Watershed) from general commercial services (CS) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Applicant: South Llano Strategies (Glen Coleman). Owner: John & Susan Hoberman. City Staff: Andrew Moore, 512-974-7604.  
**The motion approve the ordinance for multifamily residence-low density (MF-2) district zoning and keep the public hearing open was approved on Council Member Kitchen's motion, Council Member Pool's second on a 10-0 vote. Council Member Troxclair was off the dais.**

**Mayor Adler recessed the meeting at 7:23 p.m.**

**Mayor Adler reconvened the meeting at 8:02 p.m.**

#### **PUBLIC HEARINGS CONTINUED**

67. Conduct a public hearing and consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9)  
**This item was postponed to December 8, 2016 on Mayor Adler's motion, Council Member Zimmerman's second on an 8-0 vote. Council Members Gallo, Garza and Troxclair were off the dais.**
71. Conduct a public hearing and consider second and third readings of an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.  
**The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161110-071 with the findings of fact listed below was approved on Council Member Kitchen's motion, Council Member Houston's second on an 8-2 vote. Those voting aye were: Mayor Adler and Council Members Casar, Gallo, Houston, Kitchen, Pool and Renteria. Those voting nay were Mayor Pro Tem Tovo and Council Member Garza. Council Member Troxclair was off the dais.**

**The Findings of Fact that have been agreed upon were:**

- 1. Language that both the applicant and affected neighbors will enter into an agreement to ensure that the lighting will not spill beyond the parcel.**
- 2. Language that addresses noise ordinance restrictions to ensure that if there are gas pumps they are not the type with loud video or audio.**
- 3. Language addressing enhanced landscaping buffers at the edges of the parcel to mitigate light and views from the development and surrounding residences.**

**Mayor Adler adjourned the meeting at 8:16 p.m. without objection.**

**The minutes were approved on this the 1<sup>st</sup> day of December 2016 on Council Member Pool's motion, Council Member Gallo's second on an 8-0 vote. Mayor Adler, Council Members Renteria and Troxclair were absent.**



**ORDINANCE NO. 20161110-006**

**AN ORDINANCE ADOPTING AND AUTHORIZING EXECUTION OF THE FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT RELATED TO CAUSE NO. 94-07160, JOSIE ELLEN CHAMPION, ET AL V. CITY OF AUSTIN IN THE 353<sup>RD</sup> JUDICIAL DISTRICT COURT OF TRAVIS COUNTY; AMENDING ORDINANCE NO. 960613-J; AND WAIVING CERTAIN SECTIONS OF CITY CODE CHAPTER 25-2 AND LAKE AUSTIN WATERSHED REGULATIONS FROM ORDINANCE NO. 840301-F.**

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

**PART 1.** In this ordinance:

- (1) ORIGINAL AGREEMENT means the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County.
- (2) FIRST AMENDMENT means the First Amendment to the Original Agreement attached as **Exhibit "1"** to this ordinance.
- (3) PROPERTY means Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas, locally known as 6409 City Park Road in the City of Austin, Travis County, Texas and referred to as Tract 3 in the Original Agreement.
- (4) OWNER means Champion Assets, Ltd., Champion-Meier Assets, Ltd., and Champion Legacy Partners, L.P., successors to Josie Ellen Champion, Juanita Champion Meier, and Mary Margaret Champion Roberson.

**PART 2.** City Council adopts the First Amendment, which is attached as **Exhibit "1"** and incorporated herein by reference, and authorizes execution by the City Manager. City Council further authorizes the City Manager to accept the Restrictive Covenant associated with the First Amendment.

**PART 3.** To the extent that a conflict exists, Ordinance No. 960613-J is amended by the First Amendment.

**PART 4.** City Council modifies the following City Code provisions:

**(1) Lake Austin Watershed Regulations (Ordinance No. 840301-F.)**

- (a) Impervious Cover Limitations: Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.
- (b) Impervious Cover Limitations: Section 9-10-383 (a) (2) and (3) (*Multi-Family Residential Development*) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.
- (c) In no case may impervious cover on the Property exceed 5.49 acres.
- (d) Erosion and Sedimentation Control: Section 9-10-409 (a) and (b) (*Cut and Fill*) are modified to allow:
  - (i) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet;
  - (ii) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet;
  - (iii) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet;
  - (iv) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet;
  - (v) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet; and
  - (vi) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.
- (e) City Council modifies Section 9-10-377 (*Variances*) to grant variances from Lake Austin Watershed Ordinance No. 840301-F consistent with (a), (b), (c), and (d) as stated above without Planning Commission approval.

(2) **Hill Country Roadway Requirements. City Code Chapter 25-2, Subchapter C, Articles 9 and 11.**

- (a) Landscaping: Section 25-2-1023 (D) (2) (*Roadway Vegetative Buffer*) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.
- (b) City Council modifies provisions of Section 25-2-1001 (*Procedures*) to allow City Council approval of alternatives to compliance with Article 9 without Land Use Commission approval.
- (c) Development Standards: Section 25-2-1123(B) (1) and (2), (C), and (D) (*Construction on Slopes*) are modified to allow:
  - (i) additional construction methods beyond pier & beam;
  - (ii) the placement of walls lower than the finish floor elevation for the garage;
  - (iii) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet); and
  - (iv) 8 foot tall terraced walls.
- (d) Development Standards: Section 25-2-1124(A) (1) (*Building Height*) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.
- (e) Development Standards: Section 25-2-1128 (B)(2) (*Development Bonuses*) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:
  - (i) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
  - (ii) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.
- (f) City Council modifies Section 25-2-1105 (*Waivers*) to grant waivers consistent with (c), (d), and (e) as stated above without Land Use Commission approval.

**PART 5.** The variances and waivers in Part 4 are conditioned on implementation and compliance with the following environmental controls during the construction phase of the development. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- (1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- (2) Install rough cut of water quality ponds before any other grading, except grading necessary to create the ponds, and grade so that all disturbed areas drain to these ponds.
- (3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- (4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- (5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- (6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- (7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- (10) Comply with current erosion hazard zone code and criteria.
- (11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of  $\frac{1}{2}$ " or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report

with recommendations to the general contractor and Owner and such report must be made available to the City upon request.

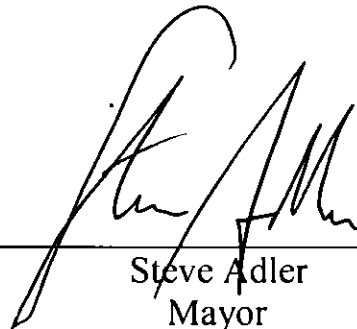
- (12) Grading shall be phased to limit disturbed areas with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- (13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark.
- (14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.
- (15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit "2"**.

**PART 6.** This ordinance takes effect on November 21, 2016.

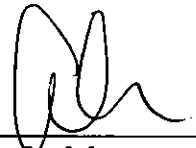
**PASSED AND APPROVED**

\_\_\_\_\_, November 10, 2016

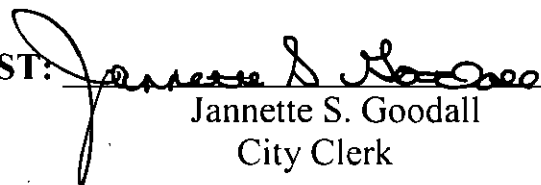
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\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

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

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk

**EXHIBIT 1**  
**THE FIRST AMENDMENT TO THE COMPROMISE**  
**SETTLEMENT AGREEMENT**

**FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT  
AGREEMENT REGARDING CHAMPIONS TRACT 3**

This First Amendment to the Compromise Settlement Agreement (the "**First Amendment**") is made and entered into by and between Champion Assets, Ltd., a Texas limited partnership; Champion-Meier Assets, Ltd., a Texas limited partnership; and Champion Legacy Partners, L.P., a Texas limited partnership, successors to Josie Ellen Champion, Juanita Champion Meier and, Mary Margaret Champion Roberson (the "**Champions**"), and the City of Austin (the "**City**") for the purposes and on the terms specified herein and operates in conjunction with the Compromise Settlement Agreement (the "**Original Agreement**"), effective July 11, 1996.

**RECITALS**

WHEREAS, the City approved an ordinance adopting the Original Agreement between the Champions and the City on June 13, 1996; and

WHEREAS, the Champions seek approval to zone for multi-family use 32.262 acres of land being a portion of the land referred to in the Original Agreement as Tract 3, located at 6409 City Park Road, and described as Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas ("**Tract 3**"); and

WHEREAS, the Champions are the owners of Tract 3; and

WHEREAS, the Champions seek variances to City environmental regulations and site development regulations applicable to Tract 3; and

WHEREAS, the Champions are willing to place restrictions on Tract 3 included in this First Amendment and a Restrictive Covenant of even date; and

WHEREAS, in accordance with Paragraph 7 of the Original Agreement, the City and the Champions are executing this First Amendment and a Restrictive Covenant to amend the provisions regarding site development and use of Tract 3;

NOW, THEREFORE, in consideration of the recitals, the mutual covenants and agreements contained in this First Amendment, Owner and the City agree as follows:

**TERMS OF AMENDMENT**

I. The Original Agreement is amended to add a new Section 13 to read:

13. The Champions have executed and delivered to the City a Restrictive Covenant in the form attached and incorporated herein as **Exhibit A**. The Restrictive Covenant restricts development activity within a portion of Tract 3 more particularly described in the attached and incorporated **Exhibit B** (the "**Undeveloped Property**").

II. Section 2 c of the Original Agreement is amended to delete reference to Tract 3.

III. The Original Agreement is amended to add a new Section 2 g to read:

g. During the term of this Agreement, the modifications to City regulations and the conditions established for the modifications listed in this subsection apply to the initial multi-family development on Tract 3. The modifications do not apply to any subsequent development or redevelopment of Tract 3.

1. Modifications to Lake Austin watershed regulations (Ordinance No. 840301-F).

A. Impervious cover modifications.

1) Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.

2) Section 9-10-383 (*Multi-Family Residential Development*), subsections (a) (2) and (3) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.

3) In no case may impervious cover on Tract 3 exceed 5.49 acres.

B. Cut and fill modifications. Section 9-10-409 (*Cut and Fill*), subsections (a) and (b) are modified to allow:

1) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet,

2) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet,

3) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet,

4) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet,

5) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet,

6) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.



2. Modifications to Hill Country Roadway regulations. (City Code Chapter 25-2, subchapter C, Articles 9 and 11).

A. Section 25-2-1023 (*Roadway Vegetative Buffer*), subsection (D) (2) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.

B. Section 25-2-1123 (*Construction on Slopes*), subsections (B) (1), (B) (2), (C), and (D) are modified to allow:

- 1) additional construction methods beyond pier & beam,
- 2) the placement of walls lower than the finish floor elevation for the garage,
- 3) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet), and
- 4) 8 foot tall terraced walls.

C. Section 25-2-1124 (*Building Height*), subsection (A) (1) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.

D. Section 25-2-1128 (B)(2) (*Development Bonuses*) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:

- 1) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
- 2) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.

3. The modifications listed in subsection g 1 and 2 of this Agreement are conditioned on implementation and compliance with the environmental controls listed in this subsection during the construction phase. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- 1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- 2) Install rough cut of water quality ponds before any other grading and grade so that all disturbed areas drain to these ponds:

- 3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- 4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- 5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- 6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- 7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- 10) Comply with current erosion hazard zone code and criteria.
- 11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of ½" or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report with recommendations to the general contractor and Owner and such report must be made available to the City upon request.
- 12) Grading should be phased with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- 13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark and there should be no fill inside the tributary. A complete span from high water mark to high water mark is preferred, however, a single support is allowed within the channel.

14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.

15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit C**.

#### IV. Miscellaneous Provisions

- A. **Designation of Department or Official.** Designation by this Agreement of a particular City department, director, official, or commission includes any other City department, director, official, or commission to which the City's duties or responsibilities may be assigned under this First Amendment.
- B. **Designation of City Codes.** Designation of a city code chapter or section includes any successor or replacement code section or chapter.
- C. **Binding.** This Agreement will be binding upon the heirs, representatives, successors and assigns of each of the parties to this First Amendment.
- D. **Effective Date.** The effective date of this Agreement will be the latest date that both parties have signed and executed this First Amendment.
- E. **Applicable Law and Venue.** The construction and validity of this First Amendment shall be governed by the laws of the State of Texas. This First Amendment is performable in Travis County, Texas.
- F. **No Party To Be Deemed Drafter.** Owner and the City have both had the opportunity to have legal counsel examine this First Amendment. Accordingly, this First Amendment will not be interpreted for or against either party due solely to the fact that one party was the principal author of this First Amendment.
- G. **Term; Termination.** This First Amendment shall be effective as of the date signed by all parties and shall terminate upon completion of the initial Multi-family development, or ten years after the effective date, whichever is sooner. Notwithstanding the foregoing, the restrictive covenant will survive expiration of the contract.
- H. **Filing.** This First Amendment shall be filed of record.
- I. **Authority.** The parties warrant that they have authority to execute this First Amendment.
- J. **Assignment of Owner Rights.** Owner may assign in whole or part its rights and obligations under this First Amendment to persons purchasing all or part of the Property.
- K. **Ratification of Original Agreement.** Any and all terms and provisions of the Original Agreement shall, except as and to the extent expressly amended and modified by this First Amendment, remain in full force and effect.

- L. **Severability.** If a court of competent jurisdiction determines that a term or provision of this Agreement is void or unenforceable, the remainder of this Agreement remains effective to the extent permitted by law.

EXECUTED to be effective the \_\_\_\_ day of \_\_\_\_\_, 2016

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

CITY OF AUSTIN

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**THE STATE OF TEXAS           §**  
**§**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

**THE STATE OF TEXAS           §**  
**§**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

**THE STATE OF TEXAS           §**  
**§**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

Attached:  
EXHIBIT A – the Restrictive Covenant  
EXHIBIT B – the Legal Description for the Undeveloped Property  
EXHIBIT C – the Critical Environmental Feature Buffers

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT A  
THE RESTRICTIVE COVENANT**

## RESTRICTIVE COVENANT

OWNER: Champion Assets, Ltd., a Texas limited partnership;  
Champion-Meier Assets, Ltd., a Texas limited partnership;  
Champion Legacy Partners, L.P., a Texas limited partnership

PROPERTY ADDRESS: 6409 City Park Road, Austin, Texas 78702

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas (the "Property"),

WHEREAS, Owner (the "Owner", whether one or more) of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

WHEREAS, Owner and the City of Austin have agreed to amend the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County and execute the First Amendment to the Compromise Settlement Agreement;

NOW, THEREFORE, it is declared that Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on Owner of the Property, their heirs, successors, and assigns.

1. Owner agrees not to construct any improvements or allow any development, other than for unimproved hiking trails less than 3 feet in width, wildfire management, or security concerns, on the portion of the Property described by metes and bounds in Exhibit "A" attached and incorporated into this covenant, provided that such allowed improvements or development comply with the City Code requirements in effect at the time of application. Such activities are limited to removal of brush and trees smaller than 8 inches in diameter.
2. Impervious cover on Tract 3 may not, under any circumstance, exceed 5.49 acres.
3. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such



person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this Agreement 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.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This Agreement may be modified, amended, or terminated only by joint action of both a majority of the members of the City Council of the City of Austin, and the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT B**  
**LEGAL DESCRIPTION FOR THE UNDEVELOPED PROPERTY**



**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

EXHIBIT " \_\_\_\_ "

**PORTION OF LOT 1, BLOCK A,  
CHAMPION CITY PARK EAST SUBDIVISION**

**30.071 ACRES**

**JAMES JETT SURVEY NO. 1, ABSTRACT NO. 437**

**CITY OF AUSTIN FULL PURPOSE LIMITS, TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 30.071 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a fence post found in the southwest right-of-way line of R.M. 2222 (right-of-way width varies), being the easternmost corner of said Lot 1, being also an angle point in the northeast line of Lot 2, Shepherd Mountain Phase One, a subdivision of record in Volume 83, Pages 200A-200B of the Plat Records of Travis County, Texas;

**THENCE** with the southwest line of said Lot 1, the northeast line of said Lot 2 and the northeast line of Block B, Shepherd Mountain Phase Two, a subdivision of record in Volume 86, Pages 155D-156C of the Plat Records of Travis County, Texas, the following six (6) courses and distances:

1. North 62°31'47" West, a distance of 1852.62 feet to a 1/2" rebar found;
2. North 62°33'18" West, a distance of 180.16 feet to a 1/2" rebar found;
3. North 62°29'53" West, a distance of 172.97 feet to a 1/2" rebar found;
4. North 62°31'03" West, a distance of 307.12 feet to a 1/2" rebar found;
5. North 62°21'57" West, a distance of 220.31 feet to a 1/2" rebar found;
6. North 62°22'35" West, a distance of 137.31 feet to a mag nail with "Chaparral" washer set for an angle point in the southeast right-of-way line of City Park Road (right-of-way width varies), being the westernmost corner of said Lot 1;

**THENCE** North 37°40'26" East with the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, a distance of 310.01 feet to a calculated point, from which a 1/2" rebar with "Chaparral" cap found in the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, bears North 37°40'26" East, a distance of 42.25 feet;

**THENCE** crossing said Lot 1, the following seven (7) courses and distances:

1. South 39°42'47" East, a distance of 362.04 feet to a calculated point;
2. North 50°17'13" East, a distance of 377.11 feet to a calculated point;
3. South 61°55'29" East, a distance of 172.35 feet to a calculated point;
4. South 28°00'15" East, a distance of 127.03 feet to a calculated point;
5. South 80°32'48" East, a distance of 299.33 feet to a calculated point;
6. North 61°59'45" East, a distance of 196.58 feet to a calculated point;
7. North 21°08'43" East, a distance of 281.69 feet to a calculated point in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, from which a TXDOT type II disk found in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, bears North 28°12'39" West, a distance of 256.85 feet;

**THENCE** with the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, the following eight (8) courses and distances:

1. South 28°12'39" East, a distance of 251.22 feet to a TXDOT type II disk found;
2. With a curve to the left, having a radius of 2984.79 feet, a delta angle of 11°42'31", an arc length of 609.95 feet, and a chord which bears South 34°03'51" East, a distance of 608.89 feet to a TXDOT type II disk found;
3. South 39°54'05" East, a distance of 420.62 feet to a TXDOT type II disk found;
4. South 53°27'25" West, a distance of 49.50 feet to a TXDOT type II disk found;
5. South 36°27'24" East, a distance of 208.76 feet to a TXDOT type II disk found;
6. North 52°37'20" East, a distance of 62.31 feet to a TXDOT type II disk found;
7. South 39°52'38" East, a distance of 249.41 feet to a TXDOT type II disk found;

8. South 06°56'39" East, a distance of 247.90 feet to the **POINT OF BEGINNING**, containing 30.071 acres of land, more or less.

Surveyed on the ground on September 8, 2015

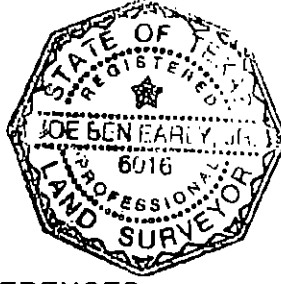
Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS Solutions from The National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS).

Attachments: Survey Drawing No. 586-002-30.071AC.



9/26/16

Joe Ben Early, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 6016  
TBPLS Firm No. 10124500



#### REFERENCES

- TCAD Property ID #: 564848
- Austin Grid Map F30

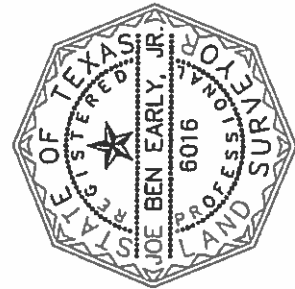
SKETCH TO ACCOMPANY A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N62°31'47"W	1852.62'
L2	N62°33'18"W	180.16'
L3	N62°29'53"W	172.97'
L4	N62°31'03"W	307.12'
L5	N62°21'57"W	220.31'
L6	N62°22'35"W	137.31'
L7	N37°40'26"E	310.01'
L8	S39°42'47"E	362.04'
L9	N50°17'13"E	377.11'
L10	S61°55'29"E	172.35'
L11	S28°00'15"E	127.03'
L12	S80°32'48"E	299.33'
L13	N61°59'45"E	196.58'
L14	N21°08'43"E	281.69'
L15	S28°12'39"E	251.22'
L16	S39°54'05"E	420.62'
L17	S53°27'25"W	49.50'
L18	S36°27'24"E	208.76'
L19	N52°37'20"E	62.31'
L20	S39°52'38"E	249.41'
L21	S06°56'39"E	247.90'

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	BEARING	CHORD
C1	2984.79'	11°42'31"	609.95'	S34°03'51"E	608.89'

# LEGEND

- 1/2" REBAR FOUND (OR AS NOTED)
- CH 1/2" REBAR WITH "CHAPARRAL BOUNDARY" CAP FOUND
- ⊙ TxDOT TYPE II DISK FOUND
- ⊙ FENCE POST FOUND
- △ MAG NAIL WITH "CHAPARRAL" WASHER FOUND
- △ CALCULATED POINT
- ( ) RECORD INFORMATION



*[Signature]*  
9/26/16

DATE OF SURVEY: 9/8/15  
PLOT DATE: 9/26/16  
DRAWING NO.: 586-002-30.071AC  
T.B.P.L.S. FIRM NO. 10124500  
DRAWN BY: JBE  
SHEET 1 OF 2

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS).

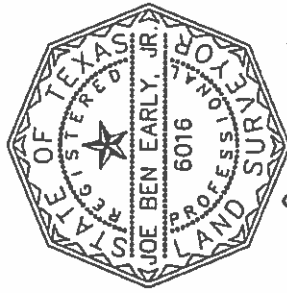
ATTACHMENTS: METES AND BOUNDS DESCRIPTION 586-002-30.071AC

*Chaparral*

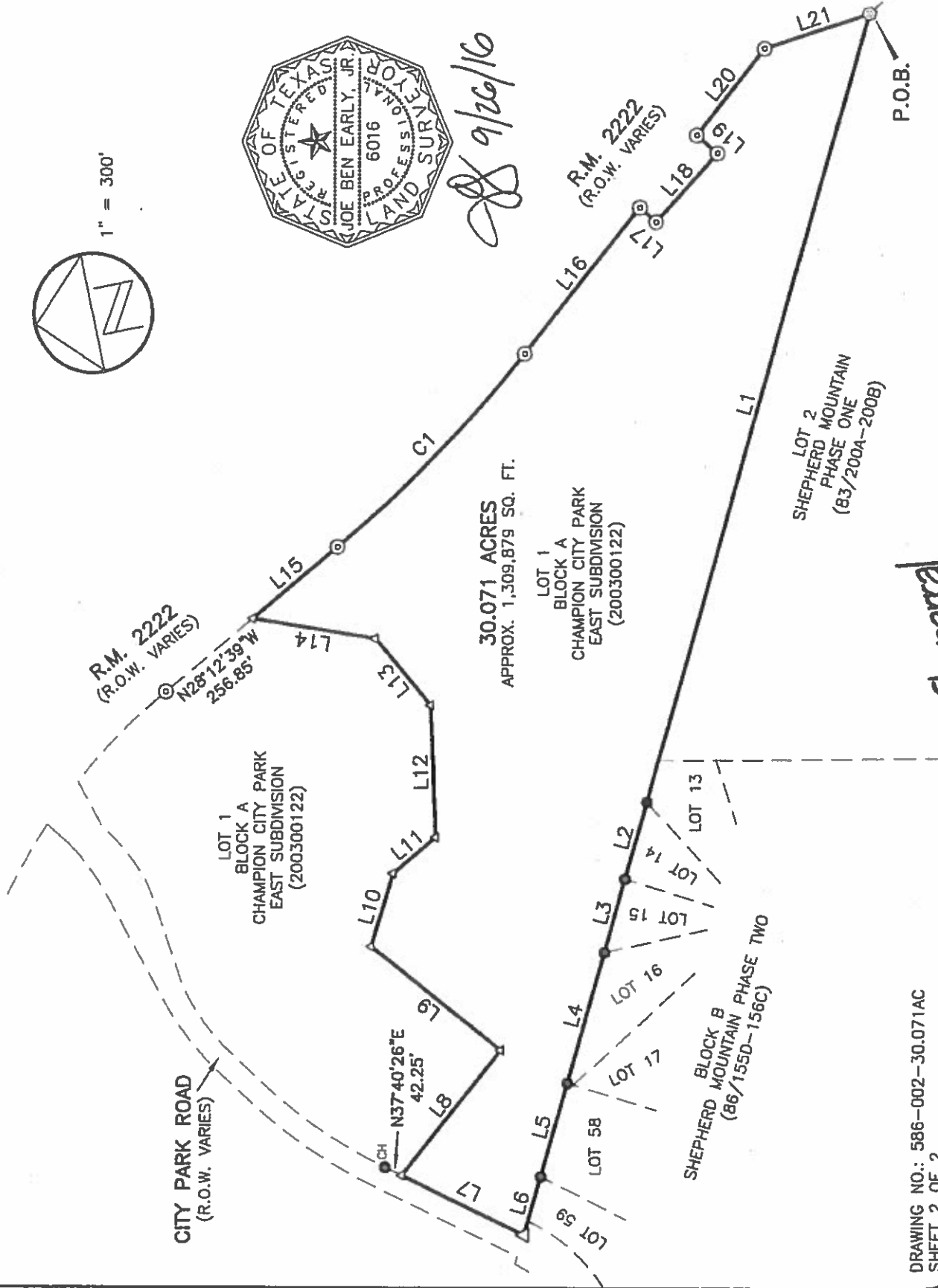




1" = 300'



9/26/16

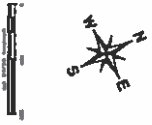


Chaparral

DRAWING NO.: 586-002-30.071AC  
SHEET 2 OF 2

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

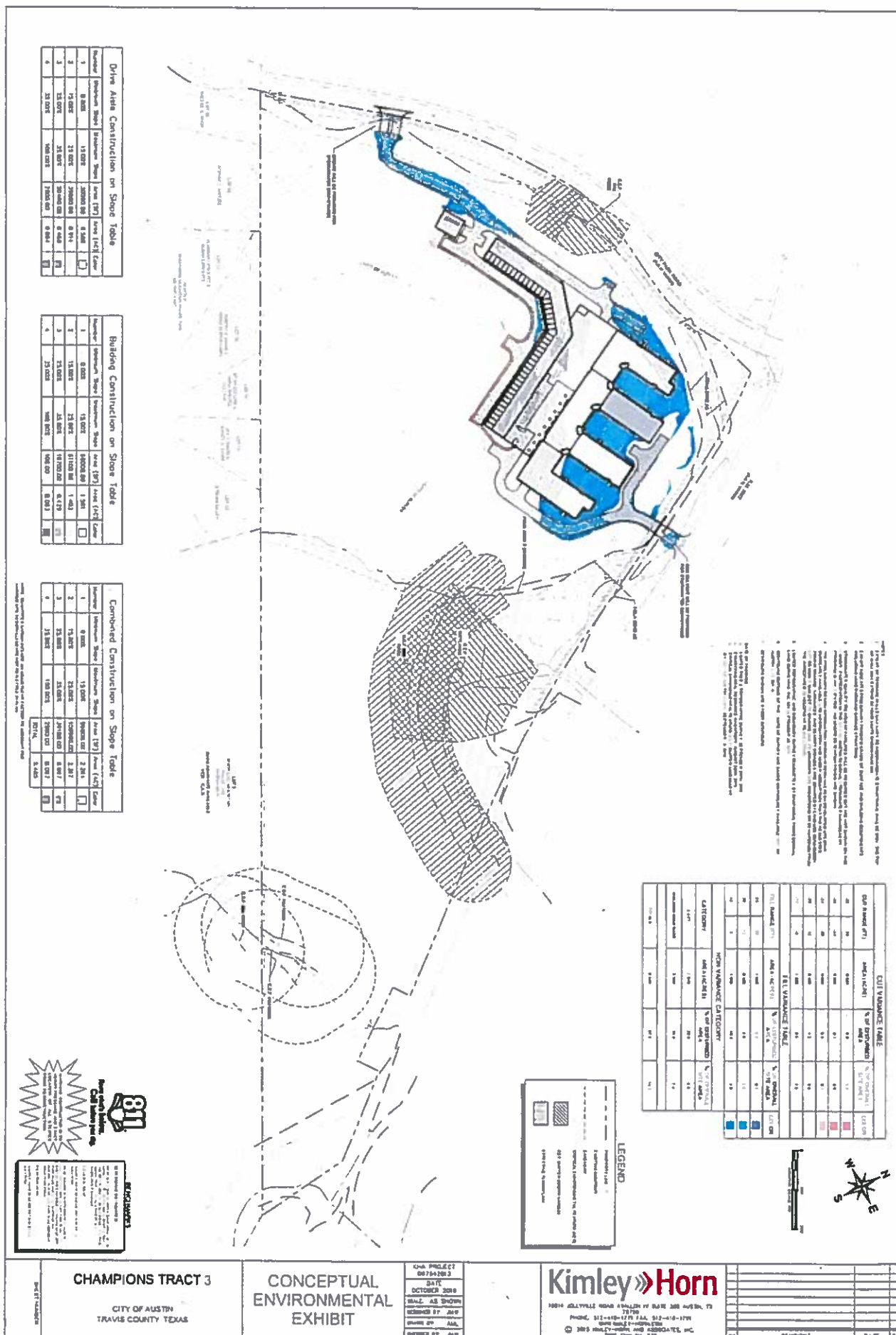
**EXHIBIT C  
CEF/WETLAND BUFFERS**



Runway	Minimum Slope	Maximum Slope	Area (sq ft)	Cost
1	0.00%	11.00%	104,000 sq ft	2.74%
2	11.00%	23.00%	10,000 sq ft	2.31%
3	23.00%	35.00%	3,000 sq ft	0.81%
4	35.00%	47.00%	1,000 sq ft	0.64%

[illegible]

**EXHIBIT 2**  
**CEF/WETLAND BUFFERS**



**ORDINANCE NO. 20161110-043**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 6409 CITY PARK ROAD FROM GENERAL OFFICE-CONDITIONAL OVERLAY (GO-CO) COMBINING DISTRICT TO MULTIFAMILY RESIDENCE MODERATE-HIGH DENSITY-CONDITIONAL OVERLAY (MF-4-CO) COMBINING DISTRICT.**

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

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general office-conditional overlay (GO-CO) combining district to multifamily residence moderate-high density-conditional overlay (MF-4-CO) combining district on the property described in Zoning Case No. C14-2015-0160, on file at the Planning and Zoning Department, as follows:

32.262 acres of land being a portion of Lot 1, Block A, Champions City Park East Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas, said acreage being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 6409 City Park Road in the City of Austin, Travis County, Texas, generally identified in the map attached as Exhibit "B".

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

- A. The maximum height of a building or structure on the Property shall not exceed 53 feet.
- B. Development of the Property shall not exceed 325 residential units.
- C. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,100 trips per day.

**PART 3.** A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with

all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Kimley-Horn, dated April 20, 2016, or as amended and approved by the Director of the Development Services Department. All development on the Property is subject to the Development Services Department, Transportation Review Section's staff memorandum ("memorandum") dated June 6, 2016. The TIA shall be kept on file at the Development Services Department.


Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the multifamily residence moderate-high density (MF-4) district and other applicable requirements of the City Code.

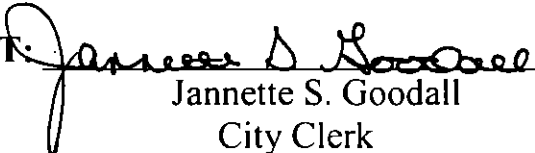
**PART 4.** This ordinance takes effect on November 21, 2016.

**PASSED AND APPROVED**

\_\_\_\_\_, November 10, 2016

§  
§  
§ Kathryne B. Joo for  
Steve Adler  
Mayor

**APPROVED:**   
Anne L. Morgan  
City Attorney

**ATTEST:**   
Jannette S. Goodall  
City Clerk

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**32.262 ACRES**  
**OF LAND**

32.262 acres of land being a portion of Lot 1, Block A, Champions City Park East Subdivision, according to the map or plat thereof recorded in Document Number 200300122, Official Public Records of Travis County, Texas; said 32.262 acres being more particularly described as follows:

**BEGINNING**, at a point marking the intersection of the southwesterly right of way line of F.M. 2222 North with the southeasterly right of way line of City Park Road;

**THENCE**, along the southwesterly right of way line of F.M. 2222 North, the following courses:

Southeasterly, along the arc of a curve to the right having a radius of 1407.89 feet, a central angle of 11deg 40' 47", an arc length of 287.00 feet and a chord bearing: S 34deg 04' 07" E, 286.50 feet, to a point;

South 28deg 13' 43" East, a distance of 508.09 feet, to a point;

Southeasterly, along the arc of a curve to the left having a radius of 2984.79 feet, a central angle of 11deg 42' 31", an arc length of 609.96 feet and a chord bearing: S 34deg 04' 59" E, 608.90 feet, to a point;

South 39deg 55' 09" East, a distance of 420.82 feet, to a point;

South 53deg 25' 39" West, a distance of 49.48 feet, to a point;

South 36deg 29' 05" East, a distance of 208.70 feet, to a point;

North 52deg 35' 24" East, a distance of 62.31 feet, to a point;

South 39deg 54' 50" East, a distance of 245.53 feet, to a point;

**THENCE**, leaving the southwesterly right of way line of F.M. 2222 North and crossing said Lot 1, Block A, 205.00 feet northeasterly of and parallel to the southwesterly line of said Lot 1, Block A, the following courses:

North 62deg 34' 50" West, a distance of 1709.00 feet, to a point;

North 62deg 34' 04" West, a distance of 180.07 feet, to a point;

North 62deg 32' 18" West, a distance of 172.85 feet, to a point;

North 62deg 33' 14" West, a distance of 306.93 feet, to a point;

North 62deg 23' 41" West, a distance of 321.17 feet, to a point located in the southeasterly right of way line of City Park Road;

**THENCE**, along the southeasterly right of way line of said City Park Road, the following courses:

North 37deg 39' 20" East, a distance of 143.99 feet, to a point;

Northeasterly, along the arc of a curve to the right having a radius of 1127.47 feet, a central angle of 16deg 54' 28", an arc length of 332.71 feet and a chord bearing: N 46deg 06' 34" E, 331.50 feet, to a point;



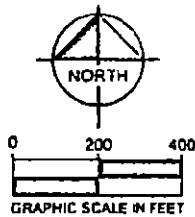
North 54deg 33' 46" East, a distance of 94.96 feet, to a point;  
Northeasterly, along the arc of a curve to the right having a radius of 578.11 feet, a central angle of 10deg 21' 53", an arc length of 104.58 feet and a chord bearing: N 59deg 44' 43" E, 104.44 feet, to a point;  
Northeasterly, along the arc of a curve to the right having a radius of 381.97 feet, a central angle of 18deg 25' 39", an arc length of 122.85 feet and a chord bearing: N 74deg 08' 29" E, 122.32 feet, to a point;  
North 83deg 21' 22" East, a distance of 166.43 feet, to a point;  
Northeasterly, along the arc of a curve to the left having a radius of 381.97 feet, a central angle of 25deg 50' 10", an arc length of 172.24 feet and a chord bearing: N 70deg 26' 17" E, 170.78 feet, to a point;  
North 57deg 31' 15" East, a distance of 46.55 feet, to a point;  
North 72deg 29' 31" East, a distance of 111.26 feet, to the **POINT OF BEGINNING** and containing 32.262 acres (1,405,322 square feet) of land, more or less.

No boundary survey was performed. Basis of Bearings is the plat of Champions City Park East Subdivision, according to the map or plat thereof recorded in Document Number 200300122, Official Public Records of Travis County, Texas;

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

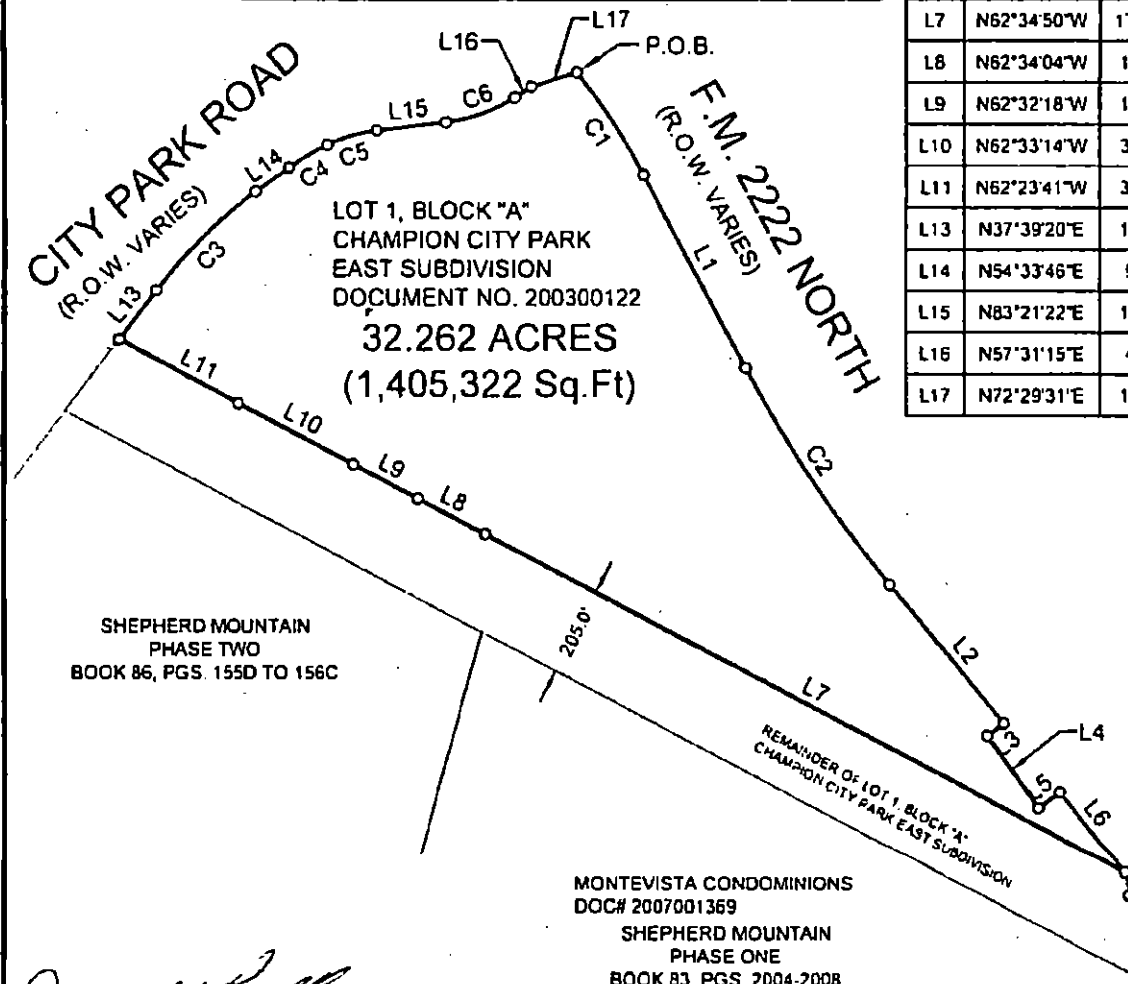
James W. Russell  
Registered Professional Land Surveyor No. 4230  
Kimley-Horn and Associates, Inc.  
601 NW Loop 410, Suite 350  
San Antonio, Texas 78216  
Ph. 210-541-9166  
[jim.russell@kimley-horn.com](mailto:jim.russell@kimley-horn.com)  
TBPLS Firm No. 10193973





CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	11°40'47"	1407.89'	287.00'	S34°04'07"E	286.50'
C2	11°42'31"	2984.79'	609.96'	S34°04'59"E	608.90'
C3	16°54'28"	1127.47'	332.71'	N46°06'34"E	331.50'
C4	10°21'53"	578.11'	104.58'	N59°44'43"E	104.44'
C5	18°25'39"	381.97'	122.85'	N74°08'29"E	122.32'
C6	25°50'10"	381.97'	172.24'	N70°26'17"E	170.78'

LINE TABLE		
NO.	BEARING	LENGTH
L1	S28°13'43"E	508.09'
L2	S39°55'09"E	420.82'
L3	S53°25'39"W	49.48'
L4	S36°29'05"E	208.70'
L5	N52°35'24"E	62.31'
L6	S39°54'50"E	245.53'
L7	N62°34'50"W	1709.00'
L8	N62°34'04"W	180.07'
L9	N62°32'18"W	172.85'
L10	N62°33'14"W	306.93'
L11	N62°23'41"W	321.17'
L13	N37°39'20"E	143.99'
L14	N54°33'46"E	94.96'
L15	N83°21'22"E	166.43'
L16	N57°31'15"E	46.55'
L17	N72°29'31"E	111.26'



*James W. Russell*  
11/8/14

JAMES W. RUSSELL  
REGISTERED PROFESSIONAL  
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MONTEVISTA CONDOMINIUMS  
DOC# 2007001369  
SHEPHERD MOUNTAIN  
PHASE ONE  
BOOK 83, PGS 2004-2008

EXHIBIT "B"

**Kimley»Horn**

601 NW Loop 410 Suite 350  
San Antonio, Texas 78216

FIRM # 10103273

Tel No (210) 541-9166  
www.kimley-horn.com

Scale  
1" = 400'

Drawn by  
MAV

Checked by  
JWR

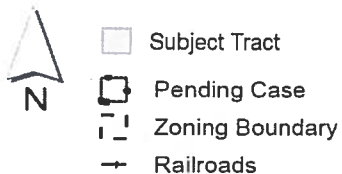
Date  
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Project No.  
061242000

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2 OF 2

VILLARREAL, MIGUEL 11/7/2016 2:56 PM K:\SNA\_SURVEY\061242000-CHAMPIONS CITY PARK\DWG\GCSOS-RE-ZONING EXHIBIT DWG

## EXHIBIT B



## ZONING

ZONING CASE#: C14-2015-0160



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.

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Created 11/10/16

**CAUSE NO. D-1-GN-17-002447**

**LAKE AUSTIN COLLECTIVE, INC.,  
Plaintiff,**

**v.**

**THE CITY OF AUSTIN, TEXAS,  
Defendant.**

§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT  
  
OF TRAVIS COUNTY, TEXAS  
  
419<sup>TH</sup> JUDICIAL DISTRICT**

**DEFENDANT CITY OF AUSTIN'S MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF THE DISTRICT COURT:

COMES NOW, the City of Austin and files this Traditional Motion for Summary Judgment pursuant to Rule 166a(c) of the Texas Rules of Civil Procedure. In support the City respectfully submits as follows:

**I. INTRODUCTION**

The Austin City Council is the elected legislative body for the City of Austin. The Council's duties include the approval and/or amendment of settlement agreements arising from litigation filed against the City and/or City personnel acting in their official capacities. Consideration of any official action regarding these agreements is posted on the publically available agenda prior to scheduled Council meetings. The statutory requirements for all agenda postings for the public meetings of governmental bodies in Texas are included in §551.041 of the Tex. Gov't. Code, otherwise known as the Texas Open Meetings Act ("TOMA").<sup>1</sup> Forming the basis of this litigation, an item was placed on Council agenda requesting amendment to an existing settlement agreement involving land use regulations and restrictions on several related parcels of land in west Austin. On November 10, 2016 Council approved this amendment and

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<sup>1</sup> Relevant sections of TOMA are referenced by specific section number herein.

signed Ordinance No. 20161110-006 into law. The Plaintiff is a neighborhood-based non-profit corporation that took issue with the level of detail used by the City in the posting language for the amendment to the settlement agreement. Plaintiff claims that the posting violated the requirements of §551.041 and filed this suit seeking to invalidate the Council's action and the resulting City ordinance.

## **I. FACTUAL BACKGROUND**

In 1996 the City of Austin entered into a settlement agreement related to Cause No. 94-07160, Josie Ellen Champion et. al. v. City of Austin, 353<sup>rd</sup> Judicial District Court of Travis County, Texas.<sup>2</sup> This was a land use lawsuit regarding property located near the intersection of R.M. 2222 and Loop 360 in Austin, Texas. This agreement set out the specific site plan development criteria that applied to this property as divided into five (5) specific tracts. The agreement also waived certain development requirements and processes for this particular property and for projects proposed by the parties in this area. In addition, the agreement required certain water quality protections above and beyond standard City requirements. Finally, the terms of the agreement defined the duration and scope of applicability to projects on the property.

Twenty years after this initial agreement, City Council received a request for Council action to amend the terms of the original agreement as it applied to "Tract 3" of the property in question. This proposed amendment was first posted, along with a related zoning case, on the City Council agenda for September 22, 2016. After public testimony, and discussion by members of Council, the item received initial unanimous approval. The matter was subsequently set for second and third readings at Council meetings on October 6 and November 3 but was

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<sup>2</sup> A true and correct copy of the settlement agreement, as codified in City Ordinance No. 960613-J is attached as **Exhibit C**.

postponed on both occasions. Finally, the item was moved forward for final consideration by Council during the meeting on November 10, 2016. After additional public comment and discussion the item received a final vote of approval and the proposed ordinance reflecting the amendment to the settlement agreement was signed into law.<sup>3</sup>

## II. SUMMARY OF THE PLAINTIFF'S CLAIMS

The Plaintiff seeks Mandamus and Injunctive relief for alleged violations of the Texas Open Meetings Act as defined in §551.142(a) of the Tex. Gov't. Code.<sup>4</sup> Specifically, the Plaintiff argues that *Item No. 6* included on the City Council Agenda on November 10, 2016 was inadequately posted and did not comply with the requirements of §551.041.<sup>5</sup> Plaintiff supports their claim of inadequacy with four points; (1) the posting for *Item No. 6* was incomplete because it did not cite the ordinances involved in the proposed amendment, (2) items and ordinances considered for amendment through agenda *Item No. 6* were not part of the original agreement, (3) the posting of *Item No. 6* was contrary to the tradition and common practice of the Austin City Council, and (4) the City Council failed to acknowledge “petition rights” in the approval of the agenda item. For this alleged breach of posting requirements under TOMA the Plaintiff requests that the Council action taken on November 10, 2016 regarding *Item No. 6.*, including the final approval and execution of the resulting City ordinance (Ord. 2016110-006), be invalidated and declared void by the Court.<sup>6</sup>

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<sup>3</sup> A true and correct copy of the ordinance reflecting the approved amendment to the original settlement agreement is attached as **Exhibit B**.

<sup>4</sup> Plaintiff's Original Petition at 8-9

<sup>5</sup> *Id.* at 4

<sup>6</sup> *Id.* at 9

### **III. EVIDENCE**

In support of this Motion for Summary Judgment, Defendant relies upon and incorporates by reference all pleadings and the evidence that have been filed with the Court by parties in this matter. Specifically, but without limitation, Defendant also relies upon and incorporates by reference the following exhibits, attached hereto:

- Exhibit A: Certified City Council Agendas
  - (A-1): November 10, 2016
  - (A-2): November 3, 2016
  - (A-3): October 6, 2016
  - (A-4): September 22, 2016
- Exhibit B: City of Austin Ordinance No. 2016110-006
- Exhibit C: City of Austin Ordinance No. 960613-J
- Exhibit D: City of Austin Ordinance No. 840301-F
- Exhibit E: City of Austin Ordinance No. 860116-J
- Exhibit F: City of Austin Code, Chapter 25, Subchapter C, Articles 9 & 11

### **IV. SUMMARY JUDGMENT STANDARD**

Summary judgment motions are appropriate when, as here, there is “no genuine issue as to any material fact.” Tex. R. Civ. Proc. 166a(c). A defendant whose summary judgment evidence conclusively negates at least one of the elements of Plaintiff’s cause of action, or whose evidence conclusively proves all of the elements of an affirmative defense, is entitled to summary judgment as a matter of law. *Cathey v. Booth*, 900 S.W.2d 339, 341 (Tex. 1995).

With specific regard to the issues involved in this matter, when the time, place, and manner of a public meeting notice is undisputed, adequacy of the posting language under the requirements of TOMA becomes a question of law. *See Rettberg v. Texas Dep’t of Health*, 873 S.W.2d 408, 413 (Tex. App. – Austin 1994, no writ). Further, summary judgment is the appropriate vehicle for evaluation when a dispositive question of law is at issue. *See Lear Siegler, Inc. v. Perez*, 819 S.W.2d 470 (Tex. 1991).

## V. ARGUMENT AND AUTHORITIES

The City's posting of *Item No. 6* on the November 10 Council agenda substantially satisfies the subject matter posting requirements of TOMA under §551.041. The presented language provided the appropriate level of detail regarding the items that were up for discussion through the proposed amendment so as to provide an adequate opportunity for meaningful public input. The Plaintiff's claims fail to establish any issue of material fact regarding the sufficiency of the notice in question. In addition, a portion of the claims presented by the Plaintiff fall outside relevant consideration of posting sufficiency. As a result, the Plaintiff has failed to meet their legal burden to establish a violation of TOMA and the City's motion should be granted in its entirety.

### **1. The subject-matter posting requirements under TOMA are well-established in Texas case law.**

The Texas Supreme Court first fully addressed the issue of subject matter posting sufficiency in the 1986 opinion from *Cox Enterprises Inc. v. Board of Trustees of Austin Independent School District*. 706 S.W.2d 956 (Tex. 1986).<sup>7</sup> In *Cox* the court acknowledged that on two (2) previous occasions they completed an introductory analysis of this standard resulting in a conclusion that substantial compliance with the notice requirements of the statute was sufficient. *Id.* at 958; *See Texas Turnpike Authority v. City of Fort Worth*, 554 S.W.2d 675 (Tex.1977); *Lower Colorado River Authority (LCRA) v. City of San Marcos*, 523 S.W.2d 641 (Tex.1975). Notably, the Court opined that substantial compliance was adequate where the language used would alert the reader that some action was being considered with regard to the

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<sup>7</sup> This case considered the requirements of Tex. Rev. Civ. Stat. Art. 6252-17 which served as the predecessor to Chapter 551 of the Tex. Gov't. Code. The language and requirements of both statutory schemes are indistinguishable and the analysis in *Cox* has been subsequently applied more contemporary Supreme Court decisions regarding TOMA.



subject. *LCRA*, 523 S.W.2d at 646. In addition, the Court emphasized that it is unnecessary for a notice to include all potential consequences that “may flow from the consideration of the topic”. *Texas Tpk. Auth.*, 554 S.W.2d at 676. In *Cox* the Court adopted these previous determinations and ultimately resolved that notice need not be as specific as possible and only something less than full disclosure would not qualify as substantial compliance. *Cox*, 706 S.W.2d at 959-60 (internal citations omitted).

Following *Cox*, the Supreme Court took the opportunity to clarify the requirements of “full disclosure” under open meetings law in *City of San Antonio v. Fourth Court of Appeals*. 820 S.W.2d 762 (Tex. 1991). Here the Court began by addressing the required level of detail in meeting notice stating, “[t]he Open Meetings Act is not a legislative scheme for service of process” and “it has no due process implications”. *Id.* at 765. The Court went on to acknowledge that the core purpose of TOMA is to provide openness of governmental process but that any particular notice need not be “tailored to reach those specific individuals whose private interests are most likely affected”. *Id.* In conclusion, the Court held that if a member of the public is given notice of the topic of discussion the “subject” matter posting requirement of the Act is satisfied. *Id.* at 766.

Texas case law has continued to apply and interpret Supreme Court precedent to further define what TOMA requires for adequate disclosure. The most relevant opinions crystalized this standard through decisions issued after the contemporary embodiment of TOMA in Chapter 551 of the Tex. Gov’t. Code.<sup>8</sup> The 3<sup>rd</sup> Court of Appeals took the lead in this endeavor, issuing the first of two (2) guiding opinions in *Friends of Canyon Lake Inc. v. Guadalupe-Blanco River Authority*. 96 S.W.3d 519 (Tex. App. – Austin 2002, pet. denied). In this matter the court

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<sup>8</sup> See 1993 Tex. Sess. Law. Serv. Ch. 268 (S.B. 248); Acts 1993, 73rd Leg., Ch. 268, § 1, eff. Sept. 1, 1993.

conducted an extensive review of prior case law to reach their conclusion that the subject include in any notice of a public meeting should “alert readers to the particular issue that the governing bodies would address”. *Id.* at 531. The court also cautioned that absolute specificity is not required, only something more descriptive than “broad topics” need be included. *Id.* Descriptions in the notice are not required to “inform the casual reader of the precise consequences” of any action that may be taken. *Id.* Nor is it necessary to provide all of the possible outcomes that may flow from the governmental body’s consideration of the subject. *Id.* (citing *Texas Tpk. Auth.*, 554 S.W.2d at 676). The court concluded that a determination of whether more could have been posted regarding the subject is not relevant to determine compliance with the Act. *Id.* at 532.

Eight years after the decision in *Canyon Lake*, the Austin Court of Appeals revisited the issue of posting adequacy in *Save Our Springs Alliance, Inc. v. City of Dripping Springs*. 304 S.W.3d 871, 878 (Tex. App. – Austin 2010, pet. denied). In this matter the court expounded on the principal requirements presented in *Canyon Lake* to articulate specific criteria examined by a court to determine posting sufficiency for land use or development matters. *Id.* at 899. To this end, the court explained that notice will be considered compliant with the requirements of the Act if the language: (1) identifies the type of issue to be considered by the body, (2) references the area that will be affected, (3) identifies the parties involved in the issue, and (4) provides some indication of the duration or the scope of the topic of discussion.<sup>9</sup> *Id.* at 889. (“SOS Test”). The court also specified that listing all consequences that may flow from the topic would

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<sup>9</sup> In *Save Our Springs* the court applied all of the previous case law to determine that notice was sufficient where is identified the agreement at issue, the area in question – through reference to a section of the Tex. Loc. Gov’t. Code, the duration of the agreement – through reference to the same statute, and the developers involved in the project. The court specifically stated that compliance with the Act does not require including variances that may be considered in relation to the development agreements at issue. See *Save Our Springs*, 304 S.W.3d at 889.

be contrary to the purpose of the Act and would “overwhelm, rather than inform”. *Id.*, citing *City of San Antonio*, 820 S.W.2d at 766 (“Far from serving the purposes of the Act, this degree of specificity would so overwhelm readers that it would prove even less informative than the current notice.”); and *Texas Tpk Auth.*, 554 S.W.2d at 676 (not necessary to “post copies of proposed resolutions”).

**2. The City is entitled to summary judgment relief because review of the relevant evidence conclusive establishes compliance with notice posting requirements.**

Summary judgment is proper when the Defendant disproves at least one element of the Plaintiff's theory of recovery or pleads and conclusively establishes each essential element of an affirmative defense, thereby rebutting the Plaintiff's cause of action. *Science Spectrum, Inc. v. Martinez*, 941 S.W.2d 910, 911 (Tex. 1997). The City has plead, and now proves, that they have substantially complied with the express criteria necessary to satisfy subject posting requirements under TOMA. The evidence produced in connection with this motion, when considered in reference to the applicable case law, affirmatively establishes this compliance and the City's entitlement to summary judgment relief.

The Plaintiff has not, nor could they, dispute that the City posted the public notice for the November 10 regular City Council meeting in accordance with the time, place, and manner requirements of TOMA. Plaintiff's only point of contention under §551.041 is a claim that the subject matter of the issue to be addressed in agenda *Item No. 6* was not adequately identified. On Thursday, November 10, 2016 the City Council for the City of Austin convened a regular meeting of the governmental body. On the agenda for this meeting, and relevant to the issues at hand, there were two items posted regarding 6409 City Park Road – otherwise known as “Champion's Tract #3”. The first of these items stated as follows in its posting:

*Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #43.<sup>10</sup>*

This was *Item No. 6* on the November 10 agenda and represents the target of the Plaintiff's alleged deficiency. *Item No. 43*, identified as related to *Item No. 6*, stated as follows:

*C14-2015-0160 – Champions Tract #3 – District 10 – Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Ower/ Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rustoven, 512-974-3207. Related to Item #6.<sup>11</sup>*

*Item No. 43* is a zoning case that was subject to a separate process and consideration by Council.

The propriety of this posting is not being challenged by the Plaintiff. *Item No. 6* was first posted on the Council agenda on September 22, 2016 for initial approval.<sup>12</sup> After discussion and receipt of public comment the item was approved on first reading by a vote of 9-0 in favor.<sup>13</sup> It was subsequently posted for second and third reading on October 6 and November 3 using the exact same language utilized by the challenged posting and the approved ordinance.<sup>14</sup> Following

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<sup>10</sup> See **Exhibit A-1** at 3-4.

<sup>11</sup> See **Exhibit A-1** at 12.

<sup>12</sup> See **Exhibit A-4** at 5.

<sup>13</sup> The approved council minutes for the September 22, 2016 meeting may be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=265417>. The Defendant asks that the Court take judicial notice of this public document.

<sup>14</sup> See **Exhibit A-3** at 6 and **Exhibit A-2** at 6.

extensive public involvement and staff analysis, the amendment to the 1996 settlement agreement came back to Council on November 10 and received final approval.<sup>15</sup> As established from controlling Texas case law, the posting for *Item No. 6* is sufficient if it fulfills the core purpose of the Act and identifies the item up for discussion, the area or individuals impacted, the scope or duration of the decision, and the parties involved. (“SOS Test”). With regard to the challenged item, the City satisfied each condition necessary to establish compliance with the legislative language and purpose of TOMA.

There is no question that the issue to be considered under *Item No. 6* is properly identified – satisfying the first element of the “SOS Test”. The agenda clearly stated that the item under consideration was a proposed amendment of a settlement agreement that had been previously executed with regard to a property including 6409 City Park Road. The original ordinance (960613-J), reflecting the settlement agreement, was identified in the posting and is publically available on the website of the Austin City Clerk.<sup>16</sup> This original ordinance was signed into law and became effective on June 13, 1996. Under TOMA, it is sufficient to reference law or statute in a posting and have the terms of that reference included in the consideration of compliance with posting requirements. *See Save Our Springs*, 304 S.W.3d at 889 (reference to the definitions and contextual terms of §42.004 of the Tex. Loc. Gov’t Code were considered by the court in determining sufficient compliance with TOMA). In this case, the relevant elements of the original settlement agreement, codified as City of Austin Ordinance No. 960613-J, alerted the reader to the general areas that could be subject to possible amendment

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<sup>15</sup> The approved council minutes for the November 10, 2016 meeting may be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=268286>. The Defendant asks that the Court take judicial notice of this public document.

<sup>16</sup> *See Exhibit C*; the ordinance reflecting the original settlement agreement (Ord. No. 960613-J) may also be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=50708>.

through the ordinance proposed in *Item No. 6*. The original settlement agreement identified the property at issue and included four (4) subject matter areas: application of the Lake Austin Watershed Ordinance, Water Quality Protections, application of the Hill Country Roadways Regulations, and the term/duration of the application of the agreement to projects undertaken on the subject property. A reader would reasonably be on notice that the proposed amendment to the settlement agreement may modify one or more of these areas. A reader would also be adequately aware of the property that was subject to the proposed action by identification in both the original settlement agreement and the November 10 posting for both *Item No. 6* and in related *Item No. 43* (6409 City Park Road) – completing item (2) of the “SOS Test”. In addition, items (3) and (4) of the “SOS Test” are satisfied by the original settlement and November 10 postings because they both identify the parties involved in the proposed subject matter and reference the duration of the potential action.

Based on the City’s November 10 posting language a reader would be on notice that City Council was going to consider an amendment to a settlement agreement that originally established land development regulations for the “Champion Tract” located at 6409 City Park Road in Austin, Texas. Further, knowledge of the content of the original settlement agreement reasonable imputed upon a reader would inform them that the amendment may involve action flowing from the application of the Lake Austin Watershed Ordinance and Hill Country Roadway Regulations, water quality protections, and/or the duration of application to development projects on the subject property. Readers would also understand that the parties involved in this matter include the Champions’ and their agents. The action taken by Council regarding agenda *Item No. 6* was articulated in the approval of an ordinance stating as follows:

ORDINANCE ADOPTING AND AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT RELATED TO CAUSE NO. 94-07160, JOSIE ELLEN CHAMPION, ET AL V. CITY OF AUSTIN IN THE 353<sup>RD</sup> JUDICIAL DISTRICT COURT OF TRAVIS COUNTY; AMENDING ORDINANCE NO. 960613-J; AND WAIVING CERTAIN SECTIONS OF CITY CODE CHAPTER 25-2 AND LAKE AUSTIN WATERSHED REGULATIONS FROM ORDINANCE NO. 840301-F.<sup>17</sup>

Generally, the focus of the court’s analysis regarding the sufficiency of notice insists upon “a comparison between the content of the notice given and the action taken at the meeting.”

*Rettberg v. Texas Dep’t of Health*, 873 S.W.2d 408, 413 (Tex. App. – Austin 1994, no writ); *see also Point Isabel I.S.D. v. Hinojosa*, 797 S.W.2d 176, 180 (Tex. App.—Corpus Christi 1990, writ denied). In the matter at hand, the final action taken by the Austin City Council on November 10 accurately reflects the adequate notice provided the City’s pursuant to each element of the “SOS Test”. As such, the posting language for *Item No. 6* is compliant with the subject matter posting requirements of TOMA and the Defendant is entitled to summary judgment as a matter of law.

**3. Summary judgment in favor of the City is appropriate because evidence produced negates one or more of the Plaintiff’s claims.**

In their original petition, the Plaintiff has levied four (4) allegations against the City that they believe represent a failure to comply with the subject matter posting requirements of TOMA. The evidence presented by the Defendant affirmatively defeats each and every one of these claims and conclusive shows the City properly posted agenda *Item No. 6* in accordance with the applicable conditions of Tex. Gov’t. Code §551.041.

The first of the Plaintiff’s challenges claims the City failed to provide an adequate level of information regarding the regulatory ordinances subject to possible modification by the

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<sup>17</sup> See **Exhibit B**; the ordinance reflecting the amended settlement agreement may also be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=267150>.

proposed settlement agreement.<sup>18</sup> Specifically, Plaintiff insists that the posting was entirely devoid of any reference to possible modification to the Lake Austin Watershed Ordinance (No. 840301-F)<sup>19</sup>. This ordinance in was passed and signed into law by the Austin City Council on March 1, 1984. The purpose of the ordinance was to amend the City Charter by adopting new design standards for site development within the Lake Austin watershed area. The original settlement agreement explicitly references the Lake Austin Watershed Ordinance and describes the applicability to the subject properties (Champion Tracts).

“Those residing in or having business dealings with a city are presumed to know its ordinances.” *Board of Adjustment of the City of San Antonio v. Nelson*, 577 S.W.2d 783, 786 (Tex. App. – San Antonio 1979), *aff’d*, 584 S.W.2d 701 (Tex. 1979); *see also Trail Enters., Inc. v. City of Houston*, 957 S.W.2d 625, 634 (Tex. App.-Houston [14th Dist.] 1997, *pet. denied*). In addition, one is charged with constructive notice of the actual knowledge that could have been acquired by examining public records. *Mooney v. Harlin*, 622 S.W.2d 83, 85 (Tex. 1981). The Lake Austin Watershed Ordinance and the ordinance representing the original settlement agreement are both duly executed and filed public documents. They represent valid City enactments and are made publicly available through the Austin City Clerk’s office. Interested parties, including the Plaintiff, are expressly charged with knowledge of their content. As a result, the Plaintiff cannot suggest that they had no idea that the proposed amendment to the original settlement agreement would consider possible modification to the Lake Austin Watershed Ordinance on the property in question.<sup>20</sup> Any claimed ignorance is a matter of

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<sup>18</sup> Plaintiff’s Original Petition at 4

<sup>19</sup> *See Exhibit D*; the Lake Austin Watershed Ordinance (840301-F) may also be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=12242>.

<sup>20</sup> Plaintiff’s Original Petition at 2-4.



convenience for the Plaintiff's present claim. A greater level of detail is not required and the posting is entirely sufficient to satisfy the requirements of TOMA. *See Save Our Springs*, 304 S.W.3d at 889.<sup>21</sup>

The Plaintiff next contends that other modifications articulated in the amendment, specifically concerning City Code Chapter 25-2, Subchapter C, Articles 9 & 11, were entirely absent from the original agreement. These sections of the current City Code are collectively known as the Hill Country Roadway Requirements ("HCRR")<sup>22</sup>. They lay out specific site plan requirements for development bordering certain roadway corridors in west Austin. These requirements were included in the original settlement agreement as modifications to roadway setback requirements delineated by City of Austin Ordinance No. 860116-J.<sup>23</sup> If a reader reviewed the original settlement agreement they would have had adequate notice that an amendment to the settlement agreement could consider modification of the conditions of Ordinance No. 860116-J and/or HCRR regarding application to the subject property. The Plaintiff's oversight is ineffective to establish alleged non-compliance with the Act.

Plaintiff's following challenge takes aim at the tradition and practice of the City's posting of settlement agreements or subsequent modification of the same.<sup>24</sup> To this end, the Plaintiff

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<sup>21</sup> It is sufficient, under TOMA, to reference law or code for the purpose of incorporating conditions without restating those conditions in the posting. In addition, compliance with TOMA does not require including all of the potential consequences or variances that may flow from development agreements in the posting itself.

<sup>22</sup> *See Exhibit F*; the specific provisions in question for Art. 9 may be accessed at: [https://library.municode.com/tx/austin/codes/code\\_of\\_ordinances?nodeId=TIT25LADE\\_CH25-2ZO\\_SUBCHAPTER\\_CUSDERE\\_ART9LA\\_DIV3ADSIPLREHICOROCO](https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE_ART9LA_DIV3ADSIPLREHICOROCO). Art. 11 may be viewed at: [https://library.municode.com/tx/austin/codes/code\\_of\\_ordinances?nodeId=TIT25LADE\\_CH25-2ZO\\_SUBCHAPTER\\_CUSDERE\\_ART11HICORORE](https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE_ART11HICORORE).

<sup>23</sup> *See Exhibit E*; the Hill Country Roadway Ordinance (860116-J) may also be accessed at: <http://www.austintexas.gov/edims/document.cfm?id=3944>. This ordinance has now been codified as provided in *Exhibit F*.

<sup>24</sup> Plaintiff's Original Petition at 5-6.

insists the breadth and detail posting for agenda *Item No. 6* was contrary to the normal practice of the City. It is the Plaintiff's position that settlement agreements referenced on City Council agendas traditionally include detail regarding the specifics of the terms and conditions considered. As support, Plaintiff presents other postings on the November 10 City Council agenda as well as subsequent postings occurring between December 2016 and April 2017. The Plaintiff's support is both dissimilar and irrelevant to evaluation of the matter at hand.

Descriptions provided for public meetings can be deemed deficient under TOMA if they are contrary to "well established custom and practice". *River Road Neighborhood Ass'n v. South Texas Sports*, 720 S.W.2d 551, 557 (Tex. App. – San Antonio 1986, writ dismissed w.o.j.). To define a "well-established" practice there must be a repetitive showing of meetings involving similar subject matter that would create an expectation of the public as to what would be considered. *See Save Our Springs*, 304 S.W.3d at 890.

Plaintiff's argument in this area has two glaring flaws. First, as a matter of common sense, it is illogical to attempt to define a "well-established custom and practice", as applied to the November 10 agenda posting for *Item No. 6*, by referencing postings that were contemporaneous with, or occurred after, the challenged posting. With this "evidence" the best Plaintiff could attempt would be to identify City custom and practice relevant to a future claim. Second, the Plaintiff cites entirely dissimilar postings as further support for their "custom and practice" claim. Of the other agenda items provided by the Plaintiff, three of the four involve Planned Unit Developments (PUDs) and all of the items specifically involve zoning cases before the City Council. It cannot be disputed that the challenged agenda item involves amendment to a settlement agreement that concerns site plan development regulations – it does not involve zoning. In *Save Our Springs* the court opined on this exact issue, determining that a well-

established custom cannot be defined through the offering or comparison of dissimilar postings.

*Id.* The Plaintiff has failed to produce any evidence that could establish a custom and practice for the City. Nor has the Plaintiff made any showing that the particular posting language for agenda *Item No. 6* on November 10, 2016 was contrary to any such custom.

Plaintiff's final attempt to prove a violation of TOMA posting requirements by the City in their November 10 agenda is perhaps widest of the mark. In a last ditch effort to establish non-compliance with TOMA, the Plaintiff argues that the City failed to acknowledge the "petition rights" of the neighborhood in the agenda posting language of *Item No. 6*.<sup>25</sup> "Petition rights" are a creation of §211.006(d) of the Tex. Loc. Gov't. Code. The code section states:

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

- (1) the area of the lots or land covered by the proposed change; or
- (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

The City of Austin reflects this legislative designation in §25-2-284(A) of the City Code as follows:

(A) The affirmative vote of three-fourths of the members of council is required to approve:

- (1) rezoning property to a planned unit development if the Land Use Commission recommends denial of the application;
- (2) zoning previously unzoned property to a planned unit development if the Land Use Commission recommends denial of the application by a vote of at least three-fourths of the members of the Land Use Commission; or
- (3) a proposed rezoning that is protested in writing by the owners of not less than 20 percent of the area of land:

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<sup>25</sup> Plaintiff's Original Petition at 7-8.

- (a) included in the proposed change; or
- (b) immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.

The provision of the Tex. Loc. Gov't. Code cited by the Plaintiff is only applicable to zoning cases and specifically to situations where there is a proposed change in zoning.<sup>26</sup> Further, the application of the City Code section referencing “petition rights” and three-fourths voting expressly only applies to zoning or rezoning matters only.<sup>27</sup> There is no question that agenda *Item No. 6* is not a zoning item within either of the operative definitions and therefore the cited provisions of the Tex. Loc. Gov't. Code and the Austin City Code are inapplicable. Further, the Plaintiff presents no argument or evidence as to how “petition rights” relate to subject matter posting requirements under TOMA. As a result, the Plaintiff’s final challenge is unrelated and unpersuasive to establish grounds supporting a claim of non-compliance with the Act.

## VI. CONCLUSION

Texas law is entirely clear when it comes to the establishment of posting requirements for public meetings under the legislative criteria identified in TOMA. In an effort to establish and preserve open and accessible government, posting language must be specific enough to allow a member of the public a meaningful opportunity to participate in matters in which they are interested. To facilitate this access, language used by the governmental body must generally describe the issue to be discussed. However, it is unnecessary, and wholly disfavored, to require posting of a level of detail or quantity of information that may confuse or confound the interested public.

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<sup>26</sup> The provision of “petition rights” is controlled by section (a) under the statute and applies only where the City undertakes a zoning change. *See* Tex. Loc. Gov't. Code §211.006 (a) (“governing body of a municipality wishing to exercise the authority related to zoning and zoning district boundaries...”)

<sup>27</sup> The language of the City Code section incorporating Section 211.006(d) specifically defines the limited application of the provision to a “proposed rezoning”. *See* Austin City Code §25-2-284(A)(3)

When the agenda posting specifically considers land development, the 3<sup>rd</sup> Court of Appeals has articulated four (4) specific criteria requiring satisfaction in order to conclusively establish compliance with TOMA. If the posting identifies the issue to be discussed, area affected, parties involved in the matter, and the duration or scope of application, TOMA is sufficiently satisfied and challenges predicated on §551.041 must fail. In this matter, the City provided clear indication that they were prepared to discuss an amendment to a settlement agreement involving 6409 City Park Road, with specific regard to development regulations applicable to the property, identifying the parties involved, and establishing the term of the agreement.

Based on the information set forth above, the Defendant has convincingly shown that the posting language for agenda *Item No. 6* was in complete compliance with the subject matter posting requirements of TOMA. Additionally, the Defendant has presented evidence, case law, and argument that affirmatively negates all of the sufficiency challenges presented by the Plaintiff. As such, the City is entitled to summary judgment relief as a matter of law.

#### **PRAYER**

WHEREFORE PREMISES CONSIDERED, Defendant City of Austin respectfully requests that this Court grant their Motion for Summary Judgment, enter a judgment dismissing Plaintiffs' claims with prejudice, and grant such other or further relief to which they may be justly entitled.

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN L. RILEY, CHIEF LITIGATION

/s/ Matthew W. Tynan  
MATTHEW W. TYNAN  
State Bar No. 24072489  
matthew.tynan@austintexas.gov

City of Austin – Law Department  
P. O. Box 1546  
Austin, Texas 78767-1546  
Telephone: (512) 974-2185  
Facsimile: (512) 974-1311

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing on all parties, or their attorneys of record, in compliance with the Texas Rules of Civil Procedure, on this the 11th day of September 2017, as follows:

**Via e-Service to:**

Bill Aleshire  
State Bar No. 24031810  
Bill@AleshireLaw.com  
Aleshire Law P.C.  
700 Lavaca Street, Suite 1400  
Austin, Texas 78701  
512.320.9155 (telephone)  
512.320.9156 (facsimile)  
**ATTORNEYS FOR PLAINTIFF**

/s/ Matthew W. Tynan  
MATTHEW W. TYNAN

# **Exhibit A**

## **(1-4)**



# **Exhibit A-1**

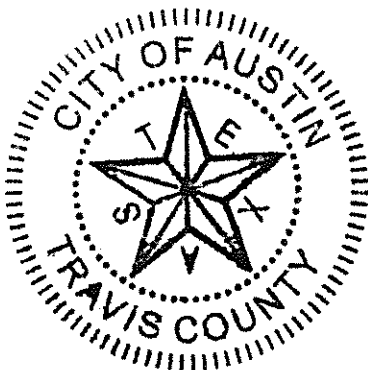


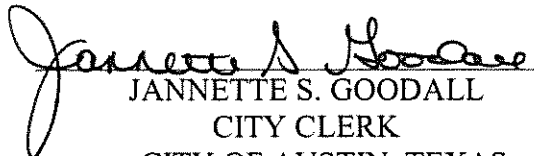
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, November, 10, 2016, consisting of a total of nineteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS



**Thursday, November 10, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, November 10, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of November 1, 2016 and regular meeting of November 3, 2016.

**Animal Services Office**

2. Approve an ordinance amending City Section Code 3-1-29 (Sterilization) related to the sterilization of animals at the Austin Animal Shelter.

**Economic Development Department**

3. Approve a resolution to nominate Samsung Austin Semiconductor, LLC for designation by the Governor's Office of Economic Development and Tourism as a single Texas Enterprise Project in accordance with Chapter 2303 of the Texas Government Code.

**Health and Human Services**

4. Approve the negotiation and execution of an agreement with Latino Healthcare Forum to implement community health improvement strategies for an 11-month term from November 1, 2016 through September 30, 2017, in an amount not to exceed \$175,000, for a total contract amount not to exceed \$175,000.

**Law**

5. Authorize negotiation and execution of a legal services contract with the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. in an amount not to exceed \$700,000.00, to represent the City in the rate case filed with the Public Utility Commission by Shady Hollow MUD appealing wholesale water and wastewater rates.
6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park

Road (Champion Tract). Related to Item #43

#### **Management Services**

7. Approve an ordinance setting the council meeting schedule for calendar year 2017.

#### **Neighborhood Housing and Community Development**

8. Authorize the execution of an Affordable Housing Agreement for the Pilot Knob Planned Unit Development. (District 2). Related to Item #32

#### **Planning and Zoning**

9. Amend Ordinance No. 20090827-078 to correct a reference to zoning for property described in zoning file C14-2009-0055.
10. Approve an ordinance amending City Code Chapter 9-2 relating to the requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.

#### **Purchasing Office**

11. Authorize a negotiation and execution of an agreement with Aero Solutions LLC, for professional services related to licensing right-of-way and city property for small cell antenna, for an amount not to exceed \$205,200. ( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement there were insufficient subcontracting opportunities; therefore, no subcontraction goals were established. )

#### **Transportation**

12. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.

#### **Item(s) from Council**

13. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
14. Approve an ordinance waiving or reimbursing certain fees for the

Shakespeare in the Park event sponsored by the Something for Nothing Theater which was held October 14-29, 2016 at Ramsay Park.

( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Ann Kitchen CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Leslie Pool )

15. Approve an ordinance waiving or reimbursing certain fees for the Truth be Told fundraising event sponsored by Truth be Told which was held Thursday, October 27th, 2016 at the Asian American Resource Center.  
( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston CO 4: Council Member Delia Garza )
16. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool )
17. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Travis Country 5K event sponsored by Travis Country Homeowner's Association which was held May 1, 2016 on Travis Country Circle and Republic of Texas Boulevard.  
( Notes: SPONSOR: Council Member Ellen Troxclair CO 1: Council Member Ora Houston CO 2: Council Member Sheri Gallo CO 3: Council Member Don Zimmerman )

#### **Item(s) to Set Public Hearing(s)**

18. Set a public hearing to consider an ordinance regarding floodplain variances for the construction of a new single family residence at 4515 Avenue D as requested by the owner of the property. The property is located in the 25-year and 100-year floodplains of Waller Creek. (District 9) (Suggested date and time: December 8, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street).

#### **Non-Consent**

#### **Action on Item(s) with Closed Public Hearings - per City Code Section 2-5-27, additional speakers will not be registered**

19. C7a-2016-0003 – Entrada – Approve an ordinance to annex the Entrada annexation area for full purposes (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

20. C7a-2016-0005 – Malone Preliminary Plan – Approve an ordinance to annex the Malone Preliminary Plan annexation area for full purposes (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Bilbrook Place; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
21. C7a-2016-0006 – Mooreland Addition – Approve an ordinance to annex the Mooreland Addition annexation area for full purposes (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
22. C7a-2016-0007 – Smithfield/Frate Barker – Approve an ordinance to annex the Smithfield/Frate Barker annexation area for full purposes (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
23. C7a-2016-0008 – Upper East End Subdivision – Approve an ordinance to annex the Upper East End Subdivision annexation area for full purposes (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THESE ITEMS WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

**10:00 AM - Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)**

24. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Approve second and third readings of an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry land use to Mixed Use land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, 512-974-2695.
25. C14-2016-0041 - East Sixth Street Village South - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake

Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.

26. C14-2016-0043 - East Sixth Street Village North - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.
27. NPA-2016-0025.01 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.
28. C14-2016-0011 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
29. NPA-2016-0016.03 – Casa Lara – District 3 – Approve second and third readings of an ordinance amending Ordinance No. 030327-12, the Govalle/Johnston Terrace Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6011 Bolm



Road (Boggy Creek Watershed) from Commercial land use to Mixed Use land use. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Jeanette Lara Lewis. Agent: Oakland Urban (Christopher Oakland). City Staff: Maureen Meredith, 512-974-2695.

30. C14-2016-0082 - Casa Lara - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6011 Bolm Road (Boggy Creek Watershed) from community commercial-neighborhood plan (GR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner: Jeanette Lara Lewis. Applicant: Oakland Urban (Christopher Oakland). City Staff: Heather Chaffin, 512-974-2122.
31. C14-2016-0037 – Scofield Apartments – District 7 – Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Ridge Parkway (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning, with conditions. First Reading approved on October 13, 2016. Vote: 9-0, Council Member Renteria and Council Member Troxclair were off the dais. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirwaitis, 512-974-3057.
32. C814-2012-0152 - Pilot Knob Planned Unit Development - District 2 - Approve third reading of an ordinance amending City Code Title 25 by zoning property locally known as east and southeast of the intersection of East William Cannon Drive and McKinney Falls Parkway, and west of South U.S. Highway 183 and FM 1625 (Cottonmouth Creek Watershed; North Fork Creek Watershed; South Fork Creek Watershed) from interim-rural residence (I-RR) district zoning and interim-single family residence-standard lot (SF-4A) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 8, 2015. Vote: 10-0, Council Member Pool was off the dais. Second Reading approved on November 19, 2015. Vote: 11-0. Owner/Applicant: Carma Easton, Inc. (Logan Kimble). Agent: Armbrust & Brown, L.L.P. (Lynn Ann Carley). City Staff: Wendy Rhoades, 512-974-7719. Related to Item #8

**10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

33. C14-85-288.8 (RCA3) - Lantana Tract 33 - District 8 - Conduct a public hearing to amend a restrictive covenant on property locally known as 6701,

6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

34. NPA-2015-0015.03 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending Ordinance No. 021107-Z-11 the East MLK Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from Single Family land use to High Density Single Family land use. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Kathleen Fox, 512-974-787.
35. C14-2015-0114 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from single family residence-small lot-neighborhood plan (SF-4A-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Heather Chaffin, 512- 974-2122.
36. NPA-2015-0005.04 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. First Reading approved on September 22, 2016. Vote: 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &

Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.

37. C14-2015-0104 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604. First Reading approved on September 22, 2016. Vote 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: UT Land Company, Ltd. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &

Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

38. NPA-2016-0013.01 - Bouldin Courts - District 9 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20020533-32, the Bouldin Creek Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 908, 1000, & 1002 South 2nd Street (East Bouldin Watershed) from Single Family to Higher Density Single Family land use. Staff Recommendation: To grant Higher Density Single Family land use. Planning Commission Recommendation: To grant Higher Density Single Family land use. Owner/Applicant: PSW Homes, LLC (Jarrod Corbell). City Staff: Maureen Meredith, (512) 974-2695.
39. C14-2016-0077 – Bouldin Courts – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 900, 904, 908, 1000 & 1002 South 2nd Street and 705 Christopher Street (East Bouldin Creek Watershed) community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning and family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Agent: PSW Homes (Jarred Corbell). Owner: 1st Street Highlands LP (PSW Homes). City Staff: Andrew Moore, 512-974-7604.
40. NPA-2016-0021.01 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20061116-055 of the East Riverside/Oltorf Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the future land use designation on the future land use map (FLUM) on property locally known as 5016 ½ E. Ben White Blvd. (Country Club West/Carson Creek Watershed) from Commercial land use to Mixed Use land use. Staff Recommendation: To grant Commercial land use and Mixed Use land use. Planning Commission Recommendation: To grant Commercial land use and Mixed Use land use. Owner/Applicant: Ashley Gibson). Agent: Brown and Gay Engineers (Steven Buffum, P.E.). City Staff: Maureen Meredith, 512-974-2695.
41. C14-2016-0069 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 5016 ½ East Ben White Boulevard (West Country Club and Carson Creek Watersheds) from general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-

neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-mixed use-conditional overlay -neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning for Tract 1, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning for Tract 2 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU- CO-NP) combining district zoning for Tract 3. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Applicant: Brown & Gay Engineers (Steven Buffum). Owner: Azur Property Investment. City Staff: Andrew Moore, 512-974-7604.

42. C14-2015-0052 – Removal of Historic (H) overlay and removal of Conditional Overlay (CO) – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 507 West 23rd Street (Shoal Creek Watershed) from general office-conditional overlay-historic-neighborhood plan (GO-CO-H-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner: 23 Nueces LLC (Edward Johnson). Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512- 974-2122.
43. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #6
44. C14-2016-0020 - Lantana IV - District 8 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan

(LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on December 13, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.

45. C14-2016-0021 - Double Creek Residences - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 420 East FM 1626 Road (Onion Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning, and community commercial (GR-CO) combining district zoning to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Staff Recommendation: Pending. Zoning and Platting Commission Recommendation: To be reviewed on December 6, 2016. Owner/Applicant: Riddell Family Limited Partnership (Jim Henry). Agent: Walters Southwest (Amanda Swor). City Staff: Wendy Rhoades, 512-974-7719.
46. C14-2016-0039 - Thornton II - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2413 Thornton Road (West Bouldin Creek Watershed) from general commercial services (CS) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Applicant: South Llano Strategies (Glen Coleman). Owner: John & Susan Hoberman. City Staff: Andrew Moore, 512-974-7604.
47. C14-2016-0050 - Plaza Saltillo Tract 1/2/3 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 901, 1011, and 1109 E. 5th Street (Waller Creek Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
48. C14-2016-0049 - Plaza Saltillo Tract 4/5 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1211 and 1301 E. 5th Street (Waller Creek Watershed; Lady Bird Lake Watershed) from transit oriented development-

neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.

49. C14-2016-0051 - Plaza Saltillo Tract 6 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 413 Navasota Street (Lady Bird Lake Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
  
50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. The ordinance may include waiver of fees. Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.
  
51. C14-2016-0065 - Pioneer Bank on W. 38th St. - District 9 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy).

City Staff: Heather Chaffin, 512- 974-2122.

52. C14-2016-0068 - 1308 E. Braker Lane Rezoning - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1308 East Braker Lane (Walnut Creek Watershed) from single family residence-standard lot (SF-2) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Owner: Sinh Trong Le. Applicant: Thrower Design (Ron Thrower). City Staff: Heather Chaffin, 512-974-2122.
53. C14-2016-0072 – 39th Street Apartments – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 405-407 West 39th Street (Waller Creek Watershed) from family residence-neighborhood conservation combining district-neighborhood plan (SF-3-NCCD-NP) combining district zoning to multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Owner: 405 West 39th Street LLC. Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512-974-2122.
54. C14-2016-0078 – 1114 Kramer Lane Rezoning – District 4 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1114 Kramer Lane and 11107 Plains Trail and 11109 Plains Trail (Little Walnut Creek Watershed) from neighborhood commercial-conditional overlay (LR-CO) combining district zoning and neighborhood office (NO) district zoning to multifamily residence-medium density (MF-3) district zoning. Staff Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Owner/Applicant: Octavian Herescu. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Sherri Sirwaitis, 512-974-3057.
55. C14-2016-0086 – La Mexicana Supermercado Rezoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2004 East William Cannon Drive (Williamson Creek Watershed) from neighborhood commercial (LR) district zoning and multifamily residence-medium density (MF-3) district zoning to neighborhood commercial (LR) district zoning for Tract 1 and



multifamily residence-medium density (MF-3) district zoning for Tract 2. Staff Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Owner/Applicant: TATI Investments Group, LLC (Zulfiqar Maknojia). Agent: Cuatro Consultants, Ltd. (Hugo Elizondo, Jr.). City Staff: Wendy Rhoades, 512-974-7719.

56. C14-2016-0091 – ACS/Bearcreek Properties – District 5 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4001 S. Lamar Boulevard (Williamson Creek Watershed; Barton Creek Watershed-Barton Springs Zone) from general commercial services-vertical mixed use building (CS-V) combining district zoning to commercial-liquor sales-vertical mixed use building (CS-1-V) combining district zoning. Staff Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Planning Commission Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Agent: Thrower Design (Ron Thrower). Owner: ACS/Bearcreek Properties Ltd. (Manny Frahani). City Staff: Andrew Moore, 512-974-7604.
57. C14-2016-0095 – Completion of Lot 6 Zoning – District 8 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 9100 West State Highway 71 (Williamson Creek Watershed-Barton Springs Zone) from single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner/Applicant: River City Partners Management Ltd. (Lee Raines). Agent: Sprouse Shrader Smith, PLLC (Terrence Irion). City Staff: Wendy Rhoades, 512-974-7719.
58. C14-2016-0096 – 7901 Ranch Road 2222 – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7901 Ranch to Market Road 2222 (West Bull Creek Watershed) from limited office-conditional overlay (LO-CO) combining district zoning to general office-mixed use (GO-MU) combining district zoning. Staff Recommendation: To grant general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on November 15, 2016. Owner/Applicant: Malamae/Dentastic, LP (James V. Potter). Agent: John Stinson. City Staff: Sherri Sirwaitis, 512-974-3057.

59. C14-2016-0101 – 3900 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3900 Pearce Road (Lake Austin Watershed) from rural residence (RR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
60. C14-2016-0102 – 3906 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3906 Pearce Road (Lake Austin Watershed) from development reserve (DR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
61. C814-2012-0128.01.SH – thinkEAST Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1141 Shady Lane and 5300 Jain Lane (Boggy Creek Watershed) from planned unit development-neighborhood plan (PUD-NP) combining district zoning to planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. The ordinance may include modification of city regulations. Owner/Applicant: thinkEAST Austin Management, LLC (Richard deVarga). City Staff: Heather Chaffin, 512-974-2122.
62. C814-2014-0120 - Austin Oaks PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter Title 25 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning. Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and

acquisition of property. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604.

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

#### **12:00 PM - Citizen Communications: General**

Carlos León - 1) God, Jesus Christ, and the Holy Spirit are the most high and mighty; 2) Eradicate Austin's alien chemtrails; 3) Losing your marbles Vol. II, Part ?

Gus Peña - 1) Happy Veterans Day to all my Military veterans. Veterans Day is Nov. 11, 2016. We veterans gave it our all. 2) You all will have the day off. Many of our veterans are homeless or unemployed. Please thank a veteran for his or her service to our country's freedom, safety and democracy and for other countries freedom, safety, and democracy. 3)Especially recognize, thank, and support our female veterans for their service to our country, and other countries freedom safety and democracy. November 10, 2016 is my United States Marine Corps Birthday. We (our U.S.M.C.) is 241 years old Semper Fi to all my fellow Marines. We gave it our all. 4) My dad Lucio WWI vet. my step brother Lucio World War II , Pilar, Edward, me Gus, United States Marines, Gilbert, Lucio III Navy, Jesse Air Force. Peña family well represented and fought for our country USA.

CAROLANNE ROSE KENNEDY - BLACKCHRISTMAS.

Asad Halai - Tax Property purchase - previous lien payout.

Moses Saldana - Pledge of Allegiance.

Sara Black - Oral response to Citizen survey.

Lisa Hinley - Restore Rundberg final report.

Zenobia Joseph - Public Information Requests, Greater Austin Black Chamber of Commerce- \$171K Accountability, FY 2017 Budget Recommendation.

Kyle Hoskins - TBA.

Reedy Spigner - East Austin Land Survey.


### **Executive Session**


64. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
65. Discuss legal issues related to the application of anti-lobbying regulations to Request For Proposals CDL2003, for the management of biosolids reuse and Request For Proposals JXP0501, for the sale and removal of compost material. (Private consultation with legal counsel - Section 551.071 of the Government Code)
66. Discuss legal issues related to Chapter 245 of the Texas Local Government Code and proposed approval of a Project Consent Agreement for property located at 2636 Bliss Spillar Road and 12501 Hewitt Lane. (Private consultation with legal counsel - Section 551.071 of the Government Code)

### **4:00 PM - Public Hearings and Possible Actions**

67. Conduct a public hearing and consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9)
68. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).
69. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.
70. Conduct a public hearing and consider an appeal of an outdoor music venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.
71. Conduct a public hearing and consider second and third readings of an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

## Adjourn

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-2**

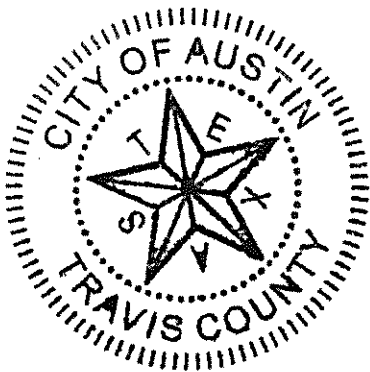


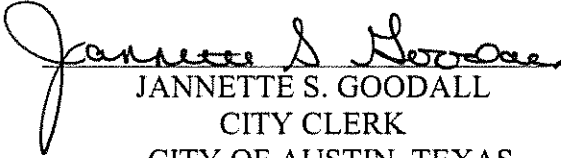
THE STATE OF TEXAS §

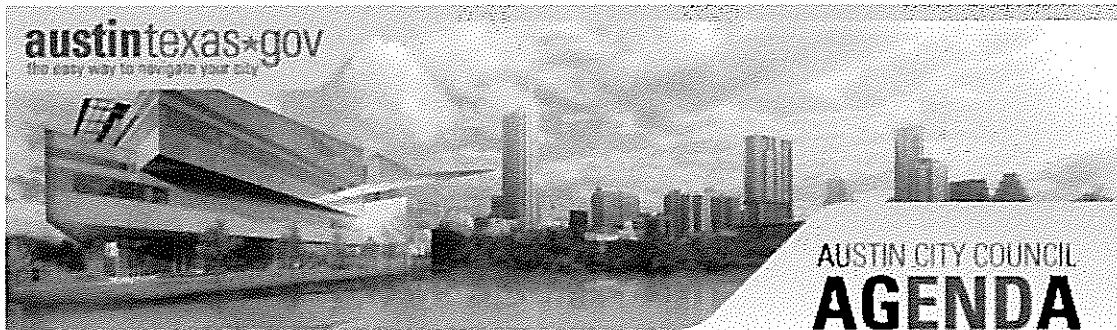
COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, November, 3, 2016, consisting of a total of fifteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS



**Thursday, November 03, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, November 03, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210



*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**9:55 AM – Invocation**

Rabbi Neil Blumofe, Congregation Agudas Achim

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of October 18, 2016, special called meeting of October 19, 2016, regular meeting of October 20, 2016, and Council discussion of October 21, 2016.

**Austin Energy**

2. Authorize issuance of a rebate to 78741 Holdings, LP, for the installation of solar electric systems on 20 residential units at its Las Cimas mixed-use development at 2101 Montopolis Drive, for a total amount not to exceed \$101,760. (District 3)
3. Approve issuance of a rebate to Henderson Global Investors, for energy efficiency improvements at the Argosy at Crestview apartment community located at 1003 Justin Lane, in an amount not to exceed \$95,279 (District 7).
4. Authorize negotiation and execution of a 12-month agreement with THE UNIVERSITY OF TEXAS, through its Austin Technology Incubator, for mutual assistance in the clean energy field, in the amount of \$195,000, with one 12-month extension option in the amount of \$195,000, for a total amount not to exceed \$390,000.

**Capital Contracting Office**

5. Authorize negotiation and execution of a professional services agreement with LANDRUM & BROWN, INC., (staff recommendation) or one of the other qualified responders for Request for Qualifications Solicitation No. CLMP206 to provide professional services for the 2017 Austin-Bergstrom International Airport Master Plan for a total contract amount not to exceed \$4,000,000. (District 2)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement

Program) by meeting the goals with 17.70% MBE and 15.80% WBE participation. )

6. Authorize execution of change order #6 to the construction contract with JAY-REESE CONTRACTORS, INC., for the Boardwalk Trail at Lady Bird Lake American Disabilities Act Fishing Pier project in the amount of \$616,811.76, for a total contract amount not to exceed \$22,388,252.06. (Districts 3 and 9)  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievement of good faith efforts with 1.26% MBE and 20.64% WBE participation. )
7. Authorize negotiation and execution of a professional services agreement with SASAKI ASSOCIATES INC., (staff recommendation) or one of the other qualified responders for Request for Qualifications Solicitation No. CLMP199 to provide Urban Design services for the Congress Avenue Streetscape Improvements – Urban Design Initiative Project for a total contract amount not to exceed \$500,000. (District 1 and 9)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 19.00% MBE and 22.00% WBE participation. )
8. Authorize award and execution of a construction contract with FACILITIES REHABILITATION, INC., for Austin Energy's 4th and Rio Grande Chilled Water Transmission Main Project, in an amount not to exceed \$1,564,885 plus a \$312,977 contingency, for a total contract amount not to exceed \$1,877,862. (District 9)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 88.28% MBE and 1.60% WBE participation. )
9. Authorize negotiation and execution of a competitive sealed proposal agreement with R.S. ELLIS, INC dba SOUTHWEST CORPORATION, for construction improvements to multiple Austin Fire Department facilities for Women's Locker Room Additions Phase 5 and multiple Emergency Medical Service stations for vehicle bay expansions in the amount not to exceed \$4,598,345. (Districts 1,2,3,5,8 and 10)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 14.34 MBE and 0.13% WBE participation. )

#### **Controller's Office**

10. Approve an ordinance approving the proposed 2017 assessment roll for the

Indian Hills Public Improvement District. Related to Items #11 and #59.

11. Approve a resolution adopting the Indian Hills Public Improvement District Annual Service and Assessment Plan update for 2017. Related to Items #10 and #59.
12. Approve an ordinance approving the proposed 2017 assessment roll for the Whisper Valley Public Improvement District. Related to Items #13 and #60.
13. Approve a resolution adopting the Whisper Valley Public Improvement District Annual Service and Assessment Plan Update for 2017. Related to Items #12 and #60.
14. Approve an ordinance approving the proposed 2017 assessment roll for the Estancia Hill Country Public Improvement District (PID). Related to Items #15 and #61.
15. Approve a resolution adopting the Estancia Hill Country Public Improvement District (PID) Annual Service and Assessment Plan Update for 2017 and 2016 Addendum to Estancia Hill Country PID Service and Assessment Plan. Related to Items #14 and #61.

#### **Economic Development Department**

16. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the Austin Downtown Public Improvement District. Related to Items #17 and #58.
17. Approve a resolution adopting the Austin Downtown Public Improvement District Service and Assessment Plan and Budget update for 2017-2018. Related to Items #16 and #58.
18. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the East Sixth Street Public Improvement District. Related to Items #19 and #57.
19. Approve a resolution adopting the East Sixth Street Public Improvement District Service and Assessment Plan and Budget update for 2017. Related to Items #18 and #57.
20. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the South Congress Preservation and Improvement District. Related to Items #21 and #56.
21. Approve a resolution adopting the South Congress Preservation and Improvement District Service and Assessment Plan and Budget update for 2017. Related to Items #20 and #56.

#### **Emergency Medical Services**

22. Authorize negotiation and execution of an interlocal agreement with Travis County Emergency Services District (ESD) #2 that authorizes the Emergency Medical Services Department to provide dispatch services for ambulances being added by ESD #2 for a 12 month term beginning on October 1, 2016 in exchange for payment of \$20,000 per unit per year by ESD #2.

#### **Financial Services**

23. Approve a resolution authorizing issuance by Northtown Municipal Utility District of Unlimited Tax and Revenue Refunding Bonds, Series 2016, in an amount not to exceed \$8,315,000.

#### **Health and Human Services**

24. Approve an ordinance authorizing acceptance of \$65,192 in grant funds from the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, and amending the Fiscal Year 2016-2017 Health and Human Services Department Operating Budget Special Revenue Fund (Ordinance No. 20160914-001) to appropriate \$65,192 for the delivery of basic needs, case management, employment support and preventive health services to low-income residents.
25. Approve negotiation and execution of Amendment No. 3 for a 12-month extension of an interlocal agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT for the provision of educational and skill-building services in an amount not to exceed \$1,282,485, for a total agreement amount not to exceed \$3,216,485.

#### **Law**

26. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #67.

#### **Management Services**

27. Approve the cancellation of the November 8, 2016 work session.

#### **Office of Real Estate Services**

28. Authorize negotiation and execution of a 60-month lease renewal for approximately 964 square feet of office space and three boat slips for the Lake Patrol Unit of the Austin Police Department, located at 2215 Westlake Drive, from LAKE AUSTIN MARINA I L.P., a Texas limited partnership, in an amount not to exceed \$226,214 (District 10).

## **Police**

29. Authorize execution of a 12-month interlocal agreement with Dallas County Texas acting through the Southwestern Institute of Forensic Sciences at Dallas, for forensic services in an estimated amount not to exceed \$1,600,000 with five 12-month extension options not to exceed \$400,000 per extension option, for a total estimated contract amount not to exceed \$3,600,000.

## **Purchasing Office**

30. Authorize award and execution of a 36-month contract with JOHN BEAN TECHNOLOGIES CORPORATION DBA JBT AEROTECH, JETWAY SYSTEMS, to provide JetAire pre-conditioned air units inspection, maintenance, repair services, and training, in an amount not to exceed \$339,000, with three 12-month extension options in an amount not to exceed \$113,000 per extension option, for a total contract amount not to exceed \$678,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
31. Authorize negotiation and execution of a contract with IER, INC., for the purchase and installation of keypad and new barcode/passport readers for the common use self-service kiosk at Austin-Bergstrom International Airport, in an amount not to exceed \$117,360.  
( Notes: This contract is exempt from the City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established.)
32. Authorize negotiation and execution of a 12-month contract with OPEN TEXT CORPORATION to provide additional licenses, continued software maintenance and support, and services related to the Enterprise Document and Image Management System, in an amount not to exceed \$229,368, with four 12-month extension options in an amount not to exceed \$199,213 for the first extension option, \$207,299 for the second extension option, \$215,385 for the third extension option, \$223,470 for the fourth extension option, for a total contract amount not to exceed \$1,074,735.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
33. Authorize negotiation and execution of a 60-month contract with TECHLINE INC., to provide lighting control system devices, in an amount not to exceed \$2,408,250.  
( Notes: This contract is exempt from the City Code Chapter 2-9D Minority

Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )

34. Authorize negotiation and execution of a 14-month contract through the HOUSTON-GALVESTON AREA COUNCIL cooperative purchasing program with TOTER INCORPORATED, to provide residential refuse, recycling, and organics containers, in an amount not to exceed \$4,910,000, with four 12-month extension options in an amount not to exceed \$4,400,000 for the first extension option, \$5,100,000 for the second extension option, \$4,725,000 for the third extension option, and \$2,100,000 for the fourth extension option, for a total contract amount not to exceed \$21,235,000.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
35. Authorize negotiation and execution of a 24-month contract with SUEZ TREATMENT SOLUTIONS, INC., or one of the other qualified offerors to Request For Proposals CAK0008, for the rental of mobile demineralizer and water treatment equipment, in an amount not to exceed \$600,000, with two 24-month extension options in an amount not to exceed \$600,000 per extension option, for a total contract amount not to exceed \$1,800,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
36. Authorize negotiation and execution of a 12-month contract with CAPITAL AREA OCCUPATIONAL MEDICINE DBA ST. DAVID'S OCCUPATIONAL HEALTH SERVICES, to provide medical services, in an amount not to exceed \$106,450, with three 12-month extension options in an amount not to exceed \$106,450 per extension option, for a total contract amount not to exceed \$425,800.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
37. Authorize negotiation and execution of 60-month contract through the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES cooperative purchasing program with CDW-GOVERNMENT LLC, to provide Austin Energy with Cisco products and services including maintenance and support, in an amount not to exceed \$10,000,000.  
( Notes: This contract will be awarded by a cooperative purchase agreement

with the Texas Department of Information Resources (DIR) in accordance with Chapter 2054 of the Texas Government Code; therefore, goals were not established. )

38. Authorize negotiation and execution of a 12-month contract with MATRIX CONSULTING GROUP, LTD., to provide a comprehensive fee study for the Development Services Department's fee structure, schedule and related operations, in an amount not to exceed \$98,300, with two 12-month extension options in an amount not to exceed \$50,000 per extension option, for a total contract amount not to exceed \$198,300.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C, Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
39. Approve ratification of two 12-month emergency contracts to provide grounds maintenance for right of ways, medians and urban trails with PAMPERED LAWNS AUSTIN, INC. in an amount not to exceed \$267,750 and with GREATER TEXAS LANDSCAPES, INC. in an amount not to exceed \$327,250, for a total amount not to exceed \$595,000.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )

#### **Transportation**

40. Approve an ordinance amending the Fiscal Year 2016-2017 Austin Transportation Department Operating Budget Special Revenue Fund (Ordinance No. 20160914-001) to accept \$26,022 grant funds from the Capital Area Council of Governments Regional Air Quality Grant Program; and amending the Fiscal Year 2016-2017 Austin Transportation Department Capital Budget (Ordinance No. 20160914-002) to transfer in and appropriate the grant funds to purchase a tool to track data for the City's program to reduce employee commutes in motor vehicles and improve employee health, reduce vehicle emissions, and increase parking availability at City buildings.
41. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.

#### **Watershed Protection Department**

42. Authorize the negotiation and execution of a community facilities agreement with AC 811 W Live Oak, LLC, a Texas limited liability company, in an amount not to exceed \$1,000,000, for a public storm drain infrastructure

improvement project to be constructed as part of a development located at 811 West Live Oak. (District 9)

**Item(s) from Council**

43. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
44. Approve a resolution relating to commercial demolitions and notice.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Delia Garza )
45. Approve a resolution directing the City Manager to develop a process for coordinating with other governmental and quasi-governmental entities to strategically leverage real estate opportunities to advance community policy priorities.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Delia Garza CO 2: Council Member Ora Houston CO 3: Council Member Leslie Pool CO 4: Mayor Steve Adler )
46. Approve an ordinance waiving or reimbursing certain fees for the Dia de los Muertos musical festival benefitting and sponsored by Easter Seals Central Texas which was held on Saturday, October 15 at Fiesta Gardens.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Council Member Delia Garza CO 2: Council Member Sheri Gallo CO 3: Council Member Leslie Pool )
47. Approve a resolution relating to community meetings and on-site supervision for children.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Delia Garza CO 3: Council Member Ora Houston CO 4: Mayor Steve Adler )
48. Approve an ordinance waiving or reimbursing certain fees for the House the Homeless Memorial event sponsored by House the Homeless which is to be held Sunday, November 13, 2016 at Vic Mathias Shores.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Gregorio Casar CO 2: Council Member Leslie Pool CO 3: Council Member Sabino "Pio" Renteria )
49. Approve a resolution adopting the Age-Friendly Austin Plan (AFAP), and directing the city manager to amend the Imagine Austin Comprehensive Plan to include the AFAP.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Mayor Pro Tem Kathie Tovo CO 2: Mayor Steve Adler CO 3: Council Member Leslie



Pool CO 4: Council Member Gregorio Casar )

50. Approve a resolution directing the City Manager to prepare a report regarding options for increasing connectivity and accessibility for the areas surrounding parkland located in the North Lamar and Georgian Acres Planning Area.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Council Member Ora Houston CO 2: Council Member Leslie Pool CO 3: Council Member Sabino "Pio" Renteria )
51. Approve a resolution directing the City Manager to develop a Smart Cities Strategic Roadmap with recommendations to improve city services and efficiency, and identify potential public and private funding opportunities.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Mayor Steve Adler CO 2: Council Member Leslie Pool CO 3: Council Member Sheri Gallo )
52. Approve a resolution related to improving access to municipal services for residents with limited English proficiency.  
( Notes: SPONSOR: Council Member Delia Garza CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Sabino "Pio" Renteria )
53. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool )
54. Approve an ordinance waiving or reimbursing certain fees and waiving certain requirements for the Festival de las Artes Latinamericanas event sponsored by Voces Latinas which was held Saturday, October 22, 2016 at the Emma S. Barrientos Mexican American Cultural Center.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Mayor Steve Adler CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza CO 4: Council Member Leslie Pool )
55. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the AIDS Walk Austin event sponsored by AIDS Services of Austin which was held Sunday, October 16, 2016 at Palm Park.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Mayor Steve Adler CO 2: Council Member Sabino "Pio" Renteria CO 3: Mayor Pro Tem Kathie Tovo )

**Item(s) to Set Public Hearing(s)**

56. Set a public hearing to consider the South Congress Preservation and

Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #20 and #21.

57. Set a public hearing to consider the East Sixth Street Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #18 and #19.
58. Set a public hearing to consider the Austin Downtown Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #16 and #17.
59. Set a public hearing to consider the Indian Hills Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 pm, at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #10 and #11.
60. Set a public hearing to consider the Whisper Valley Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 pm, at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #12 and #13.
61. Set a public hearing to consider the Estancia Hill Country Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #14 and #15.
62. Set a public hearing to consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9) (Suggested date and time: November 10, 2016, 4:00 p.m., at Austin City Hall, 301 West Second Street, Austin, TX)
63. Set a public hearing to consider a resolution supporting an application to be submitted to the Texas Department of Housing and Community Affairs by Harris Ridge Apartments, Ltd., or an affiliated entity, for the new construction of an affordable multi-family development to be located at the Southwest corner of Howard Lane and Dessau Road. (District 7) (Suggested date and time: December 1, 2016 beginning at 4:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX.)

## **Non-Consent**

### **Item(s) Referred from Council Committee(s)**

Audit and Finance Committee

64. Approve an ordinance amending City Code Chapter 2-1 (City Boards) relating to the Parks and Recreation Board.
65. Approve a resolution amending Resolution No. 20150618-081 to designate the East Cesar Chavez Neighborhood Planning Team as the responsible organization to conduct the nomination and election process for a representative from the East Austin area.

#### Health and Human Services Committee

66. Approve a resolution related to the sterilization of animals impounded at the Austin Animal Shelter, and directing the City Manager to return to Council with a related City Code amendment.  
( Notes: Committee )

#### **10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

67. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #26.

#### **10:30 AM - Morning Briefings**

68. City of Dripping Springs Draft Wastewater Discharge Permit

#### **12:00 PM - Citizen Communications: General**

Paul Robbins - City issues including Electric Utility bills.

Timothy Miller - New right turn only lane on Anderson and 183.  
(Videoconference from District 6 field office)

Mark Rogers - Growth. (Videoconference from District 6 field office)

Osayekeme Ebomwonyi - Gang violence and rape in the community.

Koo Hyun Kim - Democracy at City Hall

Sylvia Mendoza - Toll Roads.

Travis Duncan - Renewable energy.

Chiomi Okon - Cognitive homeless population and education.

Iris Leija - TBA.

Krystal Johnson - Upcoming events at Planet K.

### **Executive Session**

69. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
70. Discuss legal issues related to Brian Rodgers v. City of Austin, Cause No. D-1-GN-16-000615 in the 345th Judicial District, Travis County, Texas (Private consultation with legal counsel - Section 551.071 of the Government Code).
71. Discuss legal issues related to Texas Gas Service's proposal to increase retail customer rates.
72. Discuss legal issues related to proposed state highway projects, including SH 45 Southwest, located over the Barton Springs portion of the Edwards Aquifer Recharge and Contributing Zones (Private consultation with legal counsel - Section 551.071 of the Government Code).

### **3:00 PM - Austin Housing and Finance Corporation Meeting**

73. The Mayor will recess the City Council meeting to conduct a Board of Directors' Meeting of the Austin Housing Finance Corporation. Following adjournment of the AHFC Board meeting the City Council will reconvene. (The AHFC agenda is temporarily located at <https://austin.siretechnologies.com/sirepub/mtgviewer.aspx?meetid=1287&doctype=Agenda>)

### **4:00 PM - Public Hearings and Possible Actions**

74. Conduct a public hearing and consider an ordinance amending City Code Title 25 relating to right-of-way dedications and transportation improvements required as a condition to mitigate the impacts of development.
75. Conduct a public hearing and consider an appeal regarding the Planning Commission's approval of two compatibility waivers for development at 2510 South Congress Avenue (Site Plan No. SP-2015-0300C)(District 3).
76. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).

77. Conduct a public hearing and consider an ordinance regarding Texas Gas Service's proposal to increase customer rates.
78. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.
79. Conduct a public hearing and consider a resolution regarding a request by Kyle Hill (Martin, Frost & Hill) for Snarf's Sandwiches located at 1404 S. 1st St. for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a school.

**5:30 PM - Live Music**

Ruben Ramos

**5:30 PM - Proclamations**

Proclamation - Rainforest Partnership - To be presented by Mayor Steve Adler and to be accepted by Niyanta Spelman

Proclamation - Austin Opera 30th season - To be presented by Mayor Steve Adler


Proclamation - Dr. Mitchel Wong and Dr. Shannon Wong - To be presented by Council Member Sheri Gallo and to be accepted by the honorees


Proclamation - Weather-Ready Nation Ambassadors - To be presented by Mayor Steve Adler and to be accepted by Joe Pantalione, Director, Watershed Protection Department

Proclamation - Diabetes Awareness Month - To be presented by Mayor Steve Adler and to be accepted by Shannon Jones, Director, Health and Human Services Department

Proclamation - Municipal Court Week - To be presented by Mayor Steve Adler and to be accepted by Sherry Statman, Municipal Court Presiding Judge, and Mary Jane Grubb, Municipal Court Clerk

**Adjourn**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-3**

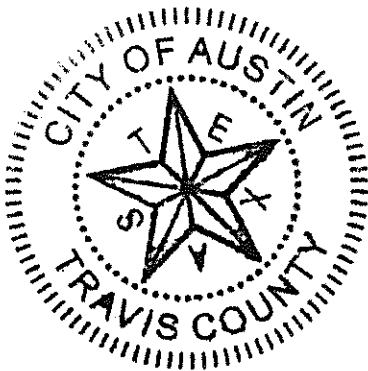


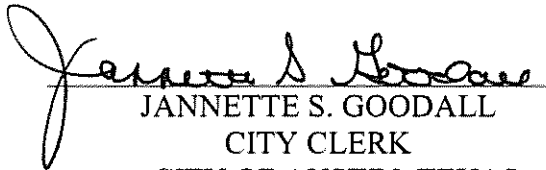
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

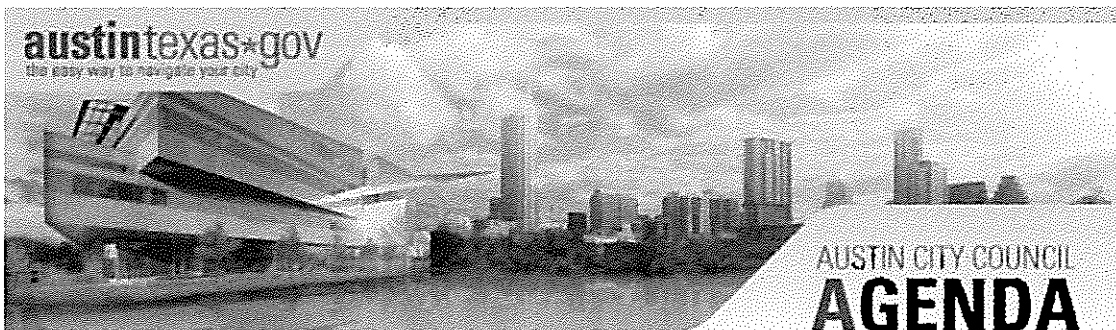
I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, October, 6, 2016, consisting of a total of fourteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



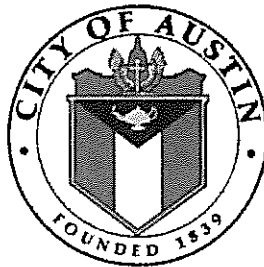
  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS





**Thursday, October 06, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, October 06, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



Mayor Steve Adler  
Mayor Pro Tem Kathie Tovo, District 9  
Council Member Ora Houston, District 1  
Council Member Delia Garza, District 2  
Council Member Sabino "Pio" Renteria, District 3  
Council Member Gregorio Casar, District 4  
Council Member Ann Kitchen, District 5  
Council Member Don Zimmerman, District 6  
Council Member Leslie Pool, District 7  
Council Member Ellen Troxclair, District 8  
Council Member Sheri Gallo, District 10

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**9:55 AM – Invocation**

Pastor Bob Bolender, Austin Bible Church

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council Budget and Tax Rate adoption meetings of September 12, 13 and 14, 2016, work session of September 20, 2016 and regular meeting of September 22, 2016.

**Animal Services Office**

2. Authorize negotiation and execution of a one-year interlocal agreement with Texas A&M Agrilife Extension Services – Wildlife Services to provide assistance and response for coyotes within the City of Austin in accordance with the City of Austin's coyote management policy.
3. Authorize negotiation and execution of an amendment to an interlocal agreement with Travis County related to the City's provision of animal services to exercise the third of four renewal options, and to update the cost model and work statement in exchange for Travis County's payment of \$1,641,082, for a 12-month period beginning October 1, 2016.

**Austin Water**

4. Approve the issuance of a rebate to NXP SEMICONDUCTORS for the installation of water conservation measures, in an amount not to exceed \$100,000.
5. Approve an ordinance waiving City Code Section 15-5-10 (D) (2) relating to the minimum lot size required for an on-site sewage facility for property located at 1750 Channel Road, Austin, Texas. (District 10)

**Aviation**

6. Approve a resolution authorizing acceptance of grants from the Federal Aviation Administration, the Department of Homeland Security, and other

state and federal agencies to the City of Austin, Department of Aviation, for Austin-Bergstrom International Airport for Fiscal Year 2016-2017 in an amount not to exceed \$30,000,000.

### **Capital Contracting Office**

7. Authorize award and execution of a construction contract with FLINTCO, LLC, for Austin Energy's Domain District Cooling Plant Cooling Tower Improvements Project, in the amount of \$11,360,000 plus a \$1,136,000 contingency, for a total contract amount not to exceed \$12,496,000. (District 7)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 6.17% MBE and 0.00% WBE participation. )
8. Authorize execution of change order #3 plus additional contingency to the construction contract with PEPPER-LAWSON WATERWORKS, LLC for the Ullrich Water Treatment Plant Hydraulic and Energy Efficiency Improvements project in the amount of \$912,396 for a total contract amount not to exceed \$8,118,196. (District 8).  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 27.05% MBE and 1.52% WBE participation. )
9. Authorize award and execution of a construction contract with TOTAL DEMOLITION, INC., for the Austin-Bergstrom International Airport Demolish Buildings and Fence project in the amount of \$97,000 plus a \$9,700 contingency, for a total contract amount not to exceed \$106,700. (District 2)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 15.18% MBE and 0.27% WBE participation. )
10. Authorize negotiation and execution of a Job Order Assignment with Warden Construction Corporation, one of the City's Facilities Improvement Job Order Contractors, for the Asian American Resource Center - Kitchen Renovation project for a total amount not-to-exceed \$600,000, inclusive of contingency. (District 1)  
( Notes: This 2013 Job Order Contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 8.20% MBE and 3.10% WBE participation. )

### **City Clerk**

11. Approve an ordinance repealing Exhibits A,B,C,D, E, F and G of Ordinance

No. 20160818-023 ordering the November 2016 general and special municipal election, and replacing them with new Exhibits A, B, C, D, E, F, and G that adopt changes to election day and early voting polling places, that list election day judges, that list central counting station staff, that list the early voting ballot board, and that attach executed joint election agreements; and declaring an emergency.

#### **Economic Development Department**

12. Authorize execution of cultural arts services contracts for Fiscal Year 2016-2017 in an amount not to exceed \$1,598,200.

#### **Emergency Medical Services**

13. Approve an ordinance establishing classifications and positions in the classified service of the Emergency Medical Services Department, creating certain positions; establishing pay rates; and repealing Ordinance No. 20160912-006 relating to Emergency Medical Services Department classifications and positions.

#### **Financial Services**

14. Approve an ordinance authorizing the issuance and sale of tax-exempt City of Austin, Electric Utility System Revenue Refunding Bonds, Series 2016, in an amount not to exceed \$120,000,000, in accordance with the parameters set out in the ordinance, authorizing related documents, approving the payment of the costs of issuance, and providing that the issuance and sale be accomplished by April 6, 2017.
15. Approve a resolution adopting the City of Austin Fiscal Year 2016-2017 Investment Policy.
16. Approve an ordinance accepting grant funds from the Texas Department of Public Safety, and amending the Fiscal Year 2015-2016 Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) in the amount of \$1,293,446 for the following departments: Austin Code, Austin Energy, Emergency Medical Services, Fleet, Management Services, Parks and Recreation, and Police for repairs to city facilities and replacement of city property damaged or destroyed by the flooding of May 2015.
17. Approve an ordinance amending the Fiscal Year 2016-2017 Capital Budget (Ordinance No. 20160914-002) to increase appropriations by \$70,500 for the Parks and Recreation Department and \$8,748 for the Austin Transportation Department for capital improvements that have municipal purposes.

#### **Health and Human Services**

18. Authorize negotiation and execution of an agreement with AUSTIN

TRAVIS COUNTY MENTAL HEALTH MENTAL RETARDATION CENTER, dba AUSTIN TRAVIS COUNTY INTEGRAL CARE for mental health and intellectual and developmental disability services for an initial 12-month term beginning on October 1, 2016 and ending on September 30, 2017, in an amount not to exceed \$1,817,670, with four 12-month renewal options in an amount not to exceed \$1,817,670 for a total contract amount of \$9,088,350.

19. Authorize negotiation and execution of an agreement with the University of Texas for the provision of behavioral health services at the Sandra Joy Anderson Health and Wellness Center in an amount not to exceed \$50,000, for a 12-month term beginning on October 1, 2016.
20. Authorize negotiation and execution of an agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT for case management services and community outreach in an amount not to exceed \$108,120 for an initial 12-month term, with five 12-month renewal options in an amount not to exceed \$108,120 for a total contract amount not to exceed \$648,720.
21. Approve the negotiation and execution of Amendment No. 10 with WRIGHT HOUSE WELLNESS CENTER, a provider of HIV services under the Ryan White Part A HIV Emergency Relief Program, in an amount not to exceed \$47,812 for a revised current 12-month term amount not to exceed \$273,508, for a total contract amount not to exceed \$1,100,631.

#### **Human Resources**

22. Approve a resolution confirming the re-appointment of Andrew Harris to the Firefighters', Police Officers' and Emergency Medical Services Personnel's Civil Service Commission for a term expiring December 5, 2019.

#### **Law**

23. Authorize payment of a judgment in Canarios Inc. v. City of Austin, Cause No. D-1-GN-13-003779 in the 250th District Court for Travis County, Texas in an amount not to exceed \$126,400.
24. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract).  
(Related to Item 53)

#### **Planning and Zoning**

25. Approve an ordinance adopting the Twelfth Amendment to the Agreement Concerning Creation and Operation of Northtown Municipal Utility District to accommodate a driveway cut on Howard Lane specific to property located

at 2800 S. Heatherwilde Boulevard.

### **Purchasing Office**

26. Authorize negotiation and execution of a 60-month contract with SYNAGRO OF TEXAS-CDR, INC., or one of the other qualified offerors to Request For Proposals CDL2003, for the management of biosolids reuse in an amount not to exceed \$9,424,778, with five 12-month extension options in an amount not to exceed \$2,185,180 per extension option, for a total contract amount not to exceed \$20,350,678.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities and an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
27. Authorize negotiation and execution of a 12-month revenue contract with ALLEN CLICK, or one of the other qualified offerors to Request For Proposals JXP0501, for the sale and removal of compost material for an estimated revenue amount of \$64,500, with five 12-month extension options with an estimated revenue of \$64,500 per extension option, for a total estimated revenue amount of \$387,000.  
( Notes: This revenue generating contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
28. Authorize award and execution of a 36-month contract with 360TXC LLC (WBE), to provide glass repair and replacement, in an amount not to exceed \$1,006,683, with three 12-month extension options in an amount not to exceed \$335,561 per extension option, for a total contract amount not to exceed \$2,013,366.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program and subcontractor goals were applied to the solicitation. The subcontracting goals were exceeded and the resulting contract will include 2.11% MBE and 97.89% WBE participation. )
29. Authorize negotiation and execution of a 16-month contract through the TEXAS MULTIPLE AWARD SCHEDULE cooperative purchasing program with THE SHERWIN WILLIAMS COMPANY, to provide paint and paint supplies, in an amount not to exceed \$380,000, with two 12-month extension options in an amount not to exceed \$285,000 per extension option, for a total contract amount not to exceed \$950,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and

services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

30. Authorize negotiation and execution of an 84-month contract with TEXAS ELECTRIC COOPERATIVES, to provide electric meters for Austin Energy's residential meter replacement project, in an amount not to exceed \$29,100,000.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
31. Authorize award and execution of a 12-month contract with INTEGRATED ENVIRONMENT, to provide maintenance and repair of stormwater ponds, in an amount not to exceed \$102,620, with four 12-month extension options in an amount not to exceed \$102,620 per extension option, for a total contract amount not to exceed \$513,100.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities, therefore, no subcontracting goals were established. )
32. Authorize negotiation and execution of a contract with MARK E. VAN GELDER DBA ART CONSERVATION SERVICES OF AUSTIN, to provide art preservation and restoration services, for a total contract amount not to exceed \$67,825.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
33. Authorize negotiation and execution of a 120-month contract with RYAN SANDERS SPORTS SERVICES, LLC, or one of the other qualified offerors to Request For Proposals SMB0104, to provide food and beverage concessions at Clay/Kizer Golf Complex, for an estimated revenue amount of \$1,265,000, with two 60-month extension options for an estimated revenue amount of \$840,000 per extension option, for a total estimated revenue amount of \$2,945,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
34. Authorize award and execution of two 60-month contracts with AUSTIN SCREEN PRINTING, LP and EAGLE GROUP SPORTSWEAR, to provide athletic and recreational apparel, in an amount not to exceed

\$1,114,919, with one 60-month extension option in an amount not to exceed \$1,292,496, for total contract amounts not to exceed \$2,407,415.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

35. Authorize award and execution of a contract with WOODS FUN CENTER, INC. DBA BMW MOTORCYCLES OF AUSTIN, for police motorcycles, for a total contract amount not to exceed \$150,332.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were no subcontracting opportunities; therefore, no subcontracting goals were established. )
36. Authorize award and execution of a contract with TSE INTERNATIONAL, INC., for a cable puller/tensioner, in an amount not to exceed \$130,576.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the item required for this solicitation, there were no subcontracting opportunities and no certified M/WBEs; therefore, no subcontracting goals were established. )
37. Authorize award and execution of a contract with CANNON INSTRUMENT COMPANY, to provide an automatic kinematic viscometer, in an amount not to exceed \$71,136.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
38. Authorize award and execution of a 12-month contract with GREAT WESTERN MANAGED SERVICES CORP. (WBE), to provide grounds maintenance services at various Austin Energy locations, in an amount not to exceed \$125,070, with four 12-month extension options in an amount not to exceed \$125,070 per extension option, for a total contract amount not to exceed \$625,350.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
39. Authorize award and execution of a 24-month contract with ON SITE AUTO TRIM INC. DBA AUSTIN AUTO INTERIORS, to provide vehicle



and equipment upholstery repair services, in an amount not to exceed \$282,844, with four 12-month extension options in an amount not to exceed \$141,422 per extension option, for a total contract amount not to exceed \$848,532.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were no subcontracting opportunities; therefore, no subcontracting goals were established. )

40. Authorize negotiation and execution of a contract with SHEN MILSOM & WILKE, LLC., or one of the other qualified offerors to Request For Proposals PAX0134, to provide consultant services for a video management plan which includes video switch replacement for a total contract amount not to exceed \$160,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

41. Authorize negotiation and execution of a 12-month contract with ECLINICALWORKS, LLC., or one of the other qualified offerors to Request For Proposals PAX0133, to provide integrated electronic health records system, in an amount not to exceed \$ 1,192,125, with five 12-month extension options in an amount not to exceed \$350,000 per extension option, for a total contract amount not to exceed \$ 2,942,125.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities and an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )

42. Authorize negotiation and execution of a 12-month contract with BRYMER COMMUNICATION SERVICES, LLC, DBA BRYCOMM, LLC, or one of the other qualified offerors to Request For Proposals PAX0135, to provide cabling infrastructure maintenance and repair services, in an amount not to exceed \$350,000, with four 12-month extension options in an amount not to exceed \$350,000 per extension option, for a total contract amount not to exceed \$1,750,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program and subcontractor goals were applied to the solicitation. The subcontracting goals were met and the resulting contract will include 3.47% MBE and 1.73% WBE participation. )

43. Authorize negotiation and execution of two 24-month contracts with

MEGAWATT MACHINE SERVICES, LLC and SETPOINT INTEGRATED SOLUTIONS, INC., or one of the other qualified offerors to Request For Proposals CAK0003REBID, to provide power plant valve repair, replacement, testing, and maintenance, in an amount not to exceed \$1,000,000, with two 24-month extension options in an amount not to exceed \$750,000 per extension option, for a total contract amount not to exceed \$2,500,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )

44. Authorize negotiation and execution of a contract with AIRPORT & AVIATION PROFESSIONALS, INC. DBA AVAIR PROS, to provide airline technical representation services, in an amount not to exceed \$86,600.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
45. Authorize negotiation and execution of a 60-month contract with Lincoln Property Company Commercial, Inc., or one of the other qualified offerors to Request For Proposals JRD0314, to provide property management services at One Texas Center with five 12-month extension options, in an amount not to exceed \$400,000 for the initial contract term and escalating annually thereafter at 3.5% per year, plus reimbursement of authorized annual operating and maintenance expenses.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
46. Authorize negotiation and execution of a contract with STEM, INC., to provide integrated energy storage systems and control software implementation services for Austin Energy's SHINES project, in an amount not to exceed \$750,000.  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program by exceeding the goals with 4.0% MBE and 2.0% WBE participation. )

**Item(s) from Council**

47. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies

and removal and replacement of members; and amendments to board and commission bylaws.

48. Approve a resolution directing the City Manager to research the feasibility of a Request for Proposals process, or best solicitation method, to find candidates to revitalize a portion of park property which was decommissioned from the Holly Power Plant, in accordance with applicable master plans.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Steve Adler CO 2: Council Member Leslie Pool CO 3: Council Member Gregorio Casar )
49. Approve an ordinance waiving or reimbursing certain fees and certain requirements for the Taste of India 2016 event sponsored by the India Catholic Association of Central Texas to be held Saturday, October 22, 2016 at the Asian American Resource Center.  
( Notes: SPONSOR: Council Member Ora Houston CO 1: Council Member Leslie Pool CO 2: Council Member Sheri Gallo CO 3: Mayor Pro Tem Kathie Tovo )
50. Approve a resolution directing the City Manager to create a housing lending advisory group to develop recommendations for programs to provide new lending tools for current and new homeowners and report back to Council.  
( Notes: SPONSOR: Council Member Delia Garza CO 1: Council Member Sheri Gallo CO 2: Council Member Gregorio Casar CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Ora Houston)

#### **Item(s) to Set Public Hearing(s)**

51. Set a public hearing regarding Texas Gas Service's proposal to increase customer gas rates. (Suggested date and time, October 13, 2016, 4:00 p.m. at City Hall; 301 W. Second Street, Austin, TX)

#### **Non-Consent**

##### **Item(s) Referred from Council Committee(s)**

Audit and Finance Committee

52. Approve the City Auditor's Fiscal Year 2017 Audit Plan.  
( Notes: Auditor's Office )

##### **10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

53. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-

CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. (Related to Item 24)

#### **12:00 PM - Citizen Communications: General**

Paul Robbins - Austin Energy rates and other City issues.

Sharon Blythe - City Business ( Video conference from District 6 )

Koo - Hyun Kim - Crimes committed by Governments in the City of Austin in 2000 - up until today 9-22-2016, but City Police and City Attorney David refused to prosecute or investigate and resigned.

Robert Rivera - TBA.

Susana Almanza - Cactus Rose Mobile Home Park Agreement.

Carol Biedrzycki - Code Enforcement in rental properties.

Jim Brennan - Veterans Business Initiative.

Iris Leija - Workers retention policy for Austin Airport workers.

Joe Zamecki - TBA.

Darnell Franklin - United here assistance at the Airport.

#### **Executive Session**

54. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).

#### **4:00 PM - Public Hearings and Possible Actions**

55. Conduct a public hearing and consider an ordinance amending Title 25 of the City Code to change regulations related to Subchapter F gross floor area exemptions for garages and carports.
56. Conduct a public hearing and consider an ordinance amending the Imagine Austin Comprehensive Plan.
57. Conduct a public hearing for the full purpose annexation of the Entrada

annexation area (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1).

58. Conduct a public hearing for the full purpose annexation of the HOLT CAT Subdivision annexation area (approximately 27 acres in southern Travis County along Interstate Highway-35 approximately three-tenths of a mile south of Slaughter Lane; contiguous to District 5).
59. Conduct a public hearing for the full purpose annexation of the Malone Preliminary Plan annexation area (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Billbrook Place; contiguous to District 5).
60. Conduct a public hearing for the full purpose annexation of the Mooreland Addition annexation area (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5).
61. Conduct a public hearing for the full purpose annexation of the Smithfield/Frate Barker annexation area (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5).
62. Conduct a public hearing for the full purpose annexation of the Upper East End Subdivision annexation area (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two-tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1).
63. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

#### **5:30 PM - Live Music**

Keeper

#### **5:30 PM - Proclamations**

Proclamation – Archives Month – To be presented by Mayor Pro Tem Kathie Tovo and to be accepted by Mike Miller, Director, Austin History Center

Proclamation – Dyslexia Month - To be presented by Mayor Steve Adler and to be accepted by Heather Hardeman on behalf of the Dyslexia Parent Network


Proclamation – 14th Annual Disability Mentoring Day - To be presented by Mayor Steve Adler and to be accepted by Tanya Winters, Vice Chair, Mayor's Committee for People With Disabilities


Distinguished Service Award – Cathy Gerac – To be presented by Mayor Steve Adler and to be accepted by the honoree

Proclamation – Domestic Violence Awareness Month – To be presented by Council Member Delia Garza and to be accepted by Kirsha Haverlah, Austin/Travis County Family Violence Task Force.

Proclamation – Susan G. Komen Day - To be presented by Mayor Steve Adler and to be accepted by Suzanne Stone, Executive Director, Susan G. Komen Austin

## Adjourn

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-4**

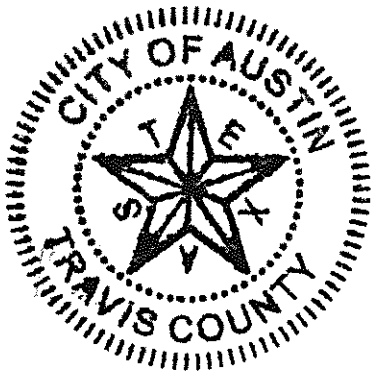


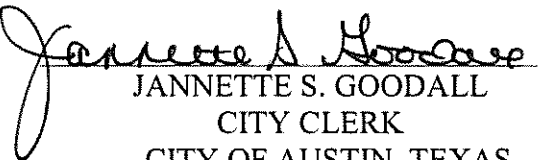
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

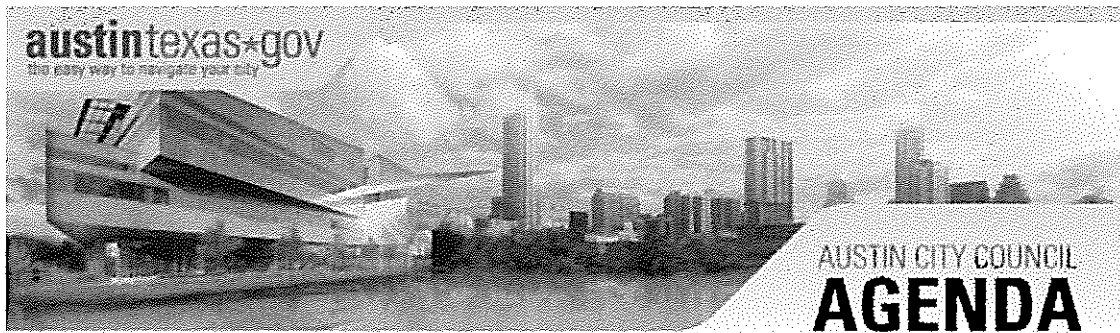
I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, September 22, 2016, consisting of a total of seventeen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS





**Thursday, September 22, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, September 22, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council special called budget work session of August 22, 2016, special called work sessions of August 23, 2016, August 25, 2016 and August 29, 2016, work session of August 30, 2016, budget work session of August 31, 2016; regular council meeting of September 1, 2016 and special called budget work sessions of September 8, 2016 and September 9, 2016.

**Budget**

2. Approve an ordinance amending the Fiscal Year 2015-2016 Council Operating Budget (Ordinance No. 20150908-001) as requested to direct funds from council offices to other city departments for municipal purposes.

**Capital Contracting Office**

3. Authorize negotiation and execution of a competitive sealed proposal agreement with IE2 CONSTRUCTION, LTD, for the expansion and renovation of the Austin Shelter for Women and Children project in an amount not to exceed \$5,376,528. (District 1)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through through the achievement of good faith efforts with 1.36% MBE and .65% WBE participation. )
4. Authorize negotiation and execution of an amendment to the professional services agreement with OPTICOS DESIGN, INC., for additional architectural, urban design, planning, and engineering services for Phase III of the CodeNEXT, the Land Development Code revision project, in the amount of \$1,296,858 for a total contract amount not to exceed \$4,621,858.  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 15.80% MBE and 15.80% WBE participation. )

**City Clerk**

5. Approve second and third readings of an ordinance repealing and replacing City Code Chapter 4-8 relating to the regulation of lobbyists, setting fees related to the regulation of lobbyists, amending City Code Chapter 2-7 relating to the Ethics Review Commission, and amending City Code Section 2-2-62 relating to funding for the Austin Fair Campaign Finance Fund.

#### **Convention Center**

6. Approve a resolution adopting the Austin Convention and Visitors Bureau 2016-2017 marketing plan and proposed budget of \$19,282,933, setting the contract payment in an amount not to exceed \$16,467,574; and authorizing the City Manager to file the approved documents with the City Clerk's Office as required by the Texas Tax Code.

#### **Economic Development Department**

7. Authorize negotiation and execution of a design and commission agreement with New American Public Art for artwork at the Green Water Treatment Plant Redevelopment Project for a total contract amount not to exceed \$327,000. (District 9)
8. Authorize negotiation and execution of a design and commission agreement with Josef Kristofletti for artwork at the Austin Convention Center 2nd Street Garage Project at 2nd Street and Brazos Street for a total contract amount not to exceed \$74,000. (District 9)
9. Approve a resolution authorizing the City Manager to award, negotiate and execute cultural arts services contracts for Fiscal Year 2016-2017 in an amount not to exceed \$7,906,244, and authorizing payment in the amount of \$60,000 for Zachary Scott Theatre Center maintenance required under a separate operations agreement.
10. Authorize negotiation and execution of a Family Business Loan Program loan in an amount not to exceed \$477,760, funded with proceeds of a U.S. Department of Housing and Urban Development Section 108 loan to the City, to JOSE LUIS SALON DOMAIN LLC to finance machinery, working capital, and soft costs associated with the lease space located at 3100 Esperanza Crossing, Suite 124, Austin, Texas.

#### **Health and Human Services**

11. Approve an amendment to an interlocal agreement with the TEXAS DEPARTMENT OF STATE HEALTH SERVICES to purchase human immunodeficiency virus medication as part of the Ryan White Part A HIV Emergency Relief Project grant, for a six-month term from January 1, 2017 through June 30, 2017, in an amount not to exceed \$400,000, for a total contract amount not to exceed \$800,000.

12. Approve the negotiation and execution of Amendment No. 14 to a contract with AIDS SERVICES OF AUSTIN, INC. to increase funding for HIV services under the Ryan White Part A HIV Emergency Relief Program in an amount not to exceed \$85,340.
13. Approve negotiation and execution of Amendment No. 4 to a contract with FOUNDATION COMMUNITIES to provide permanent supportive housing services and add one twelve-month extension option beginning September 30, 2016, in an amount not to exceed \$106,000.
14. Approve negotiation and execution of Amendment No. 5 to the contract with FRONT STEPS, INC to add one twelve-month extension option to provide permanent supportive housing services beginning September 30, 2016, in an amount not to exceed \$106,000.
15. Authorize negotiation and execution of a 24-month interlocal agreement with the Health And Human Services Commission for the Community Partner Program, to assist citizens apply for benefits electronically at six neighborhood centers and one outreach location.
16. Authorize negotiation and execution of an amendment to an interlocal agreement with Travis County to exercise the third of four renewal options and to update the cost model and work statements for the City's provision of public health services in exchange for Travis County's payment of \$4,034,822, for a 12-month period beginning October 1, 2016.
17. Approve negotiation and execution of an interlocal agreement with the University of Texas at Austin to evaluate the youth and young adult programming under the Peer-to-Peer Project in high schools, community centers and organizations, for a total contract amount not to exceed \$60,000.

#### **Law**

18. Approve an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). (Related to Item # 61)

#### **Library**

19. Approve an ordinance authorizing acceptance of \$9,500 in grant funds from the Texas State Library and Archives Commission; and amending the Fiscal Year 2015-2016 Austin Public Library Department Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) to appropriate these funds for the Interlibrary Loan Lending Reimbursement Program.

#### **Management Services**

20. Approve a resolution creating the Austin/Travis County Sobriety Center Local Government Corporation under Subchapter D, Chapter 431, Texas Transportation Code; approving and adopting the corporation's Articles of Incorporation and Bylaws; and appointing initial directors.

### **Neighborhood Housing and Community Development**

21. Authorize negotiation and execution of a one-year service agreement with the AUSTIN HOUSING FINANCE CORPORATION to manage and operate various housing programs on the City's behalf during Fiscal Year 2016 -2017 using funds received by the City from the U.S. Department of Housing and Urban Development, in addition to local City funds, in an amount not to exceed \$23,554,297.
22. Authorize execution of a 12-month interlocal agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT to fund and administer the CDBG Teen Parent Services Program in an amount not to exceed \$179,644, with three 12-month extension options in amounts not to exceed \$179,644 per extension option, for a total amount not to exceed \$718,576.
23. Authorize negotiation and execution of a 12-month interlocal agreement with AUSTIN TRAVIS COUNTY INTEGRAL CARE to fund and administer the CDBG Youth Services Program in an amount not to exceed \$203,700, with three 12-month extension options in amounts not to exceed \$203,700 per extension option, for a total contract amount not to exceed \$814,800.
24. Authorize negotiation and execution of a 12-month social services contract with CHILD, INC. to fund and administer the Early Head Start Child Care Program in an amount not to exceed \$84,928, with three 12-month extension options in amounts not to exceed \$84,928 per extension option, for a total contract amount not to exceed \$339,712.
25. Authorize negotiation and execution of a 12-month social services contract with GENERATIONS CHILD DEVELOPMENT to fund and administer the Teen Parent Child Care Program in an amount not to exceed \$102,156, with three 12-month extension options in amounts not to exceed \$102,156 per extension option, for a total contract amount not to exceed \$408,624.
26. Authorize negotiation and execution of a 12-month social services contract with YOUNG WOMEN'S CHRISTIAN ASSOCIATION GREATER AUSTIN to fund and administer the Child Care Voucher Services Program in an amount not to exceed \$283,272, with three 12-month extension options in amounts not to exceed \$283,272 per extension option, for a total contract amount not to exceed \$1,133,088.
27. Authorize negotiation and execution of a one-year contract with AUSTIN TENANTS' COUNCIL to fund and administer the Tenants' Rights

Assistance Program for community education and information about tenant protection laws in an amount not to exceed \$288,729.

28. Authorize the negotiation and execution of a one-year contract with FAMILY ELDERCARE, INC. to fund and administer the Senior Services Program in an amount not to exceed \$134,000.
29. Authorize negotiation and execution of a 12-month contract with PEOPLEFUND to fund and administer the Community Development Bank program, to support job creation and expansion of small businesses by providing loan services, in an amount not to exceed \$150,000.

#### **Office of Real Estate Services**

30. Authorize negotiation and execution of an encroachment agreement with John Coleman Horton, III, for the encroachment of right-of-way by a portion of an existing structure located at 500 Congress Avenue (District 9).
31. Authorize negotiation and execution of a 3-year interlocal agreement with Austin Community College for equipment maintenance, and buildout of up to 7,500 square feet of facility space and small business services for a fashion incubator, located at 6101 Airport Boulevard, Austin, Travis County, Texas, in an amount not to exceed \$355,000. (District 4)

#### **Parks and Recreation**

32. Authorize the amendment of Resolution No. 20151015-035 to repeal portions related to the Trail of Lights event entrance fees and to authorize the City Manager to negotiate and execute an amendment to the agreement with the Trail of Lights Foundation related to fees and maintenance of funding.
33. Approve a resolution authorizing the application for up to \$500,000 in grant funding from the Texas Parks and Wildlife Department's Local Park Urban Indoor Grant Program for the Dove Springs Recreation Center Expansion.
34. Approve a resolution authorizing the application for up to \$1,000,000 in grant funding from the Texas Parks and Wildlife Department's Local Park Urban Outdoor Grant Program for the Emma Long Metropolitan Park Redevelopment.

#### **Planning and Zoning**

35. Approve the execution of an amendment to an interlocal agreement regarding the release of extraterritorial jurisdiction to the City of Bee Cave.

#### **Police**

36. Approve a resolution authorizing the acceptance of \$521,145.35 in grant funds from the State of Texas, Governor's Office, Criminal Justice Division to implement the Austin Police Department Victim Crisis Intervention Project.

**Item(s) from Council**

37. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
38. Approve a resolution initiating an amendment to City Code Title 25 regarding out-of-cycle neighborhood plan amendments.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Council Member Delia Garza CO 2: Council Member Sheri Gallo CO 3: Council Member Ann Kitchen )
39. Approve a resolution extending the due date in Resolution No. 20160609-047 for the City Manager to present options for the preservation of the historical significance of Rosewood Courts.  
( Notes: SPONSOR: Council Member Ora Houston CO 1: Council Member Ann Kitchen CO 2: Mayor Pro Tem Kathie Tovo CO 3: Council Member Leslie Pool )
40. Approve an ordinance amending Ordinance No. 20160623-072, amended by Ordinance No. 20160811-029, to waive or reimburse additional fees for the Annual Garden Party sponsored by the Umlauf Sculpture Garden and Museum which took place Thursday, April 28, 2016 at the Umlauf Sculpture Garden and Museum.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Council Member Leslie Pool CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza )
41. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Onion Creek Homeowner's Association July 4th Independence Day Parade sponsored by Onion Creek Homeowner's Association which was held on Monday, July 4, 2016 on the streets of the Onion Creek neighborhood.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Council Member Leslie Pool CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza )
42. Approve an ordinance proclaiming Wednesday, September 28, 2016 as Barton Springs University Day and waiving admission fees to Barton Springs on that date.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Leslie Pool CO 2: Council Member Ann Kitchen CO 3: Mayor

Steve Adler CO 4: Council Member Gregorio Casar )

43. Approve an ordinance amending Ordinance No. 20160901-027 to authorize waiving or reimbursing additional fees for the Cristo Rey Jamaica 2016 event sponsored by Cristo Rey Parish which was held Sunday, June 12 at the Cristo Rey Church.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1:  
Council Member Ann Kitchen CO 2: Council Member Delia Garza CO 3:  
Council Member Sheri Gallo )
44. Approve an ordinance waiving or reimbursing fees for the AIA-LIA Roundtable Discussion which will take place at the Blackbox Theater at the Emma S. Barrientos – Mexican American Cultural Center on September 29, 2016.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1:  
Council Member Delia Garza CO 2: Council Member Ora Houston CO 3:  
Mayor Pro Tem Kathie Tovo )
45. Discussion and action on the compensation, benefits and transition plan for the interim City Manager and City Manager. (Notes: SPONSOR: Mayor Steve Adler CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston)

**Item(s) to Set Public Hearing(s)**

46. Set a public hearing to consider a resolution regarding a request by Kyle Hill (Martin, Frost & Hill) for Snarf's Sandwiches, located at 1404 S. 1st St., for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a school. (Suggested date and time: October 20, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX).
47. Set public hearings for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 103 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1) (Suggested dates and times: November 3, 2016, 4:00 p.m. and November 10, 2016 4:00 p.m. at Austin City Hall, 301 West Second Street, Austin, TX).

**Non-Consent**

**Action on Item(s) with Closed Public Hearings - per City Code Section 2-5-27, additional speakers will not be registered**

48. Approve second and third readings of an ordinance amending City Code Chapters 25-2, 25-8, and 30-5 relating to development regulations for boat docks and lake front development. (THE PUBLIC HEARING FOR THIS ITEM WAS HELD AND CLOSED ON JUNE 23, 2016.)



**10:00 AM - Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)**

49. C14-2016-0032 – Smithers RV Storage – District 4 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 10400 North Lamar Boulevard (Little Walnut Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning. First Reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: Ben F. Smithers. City Staff: Sherri Sirwaitis, 512-974-3057.
50. C14-2016-0046 – 7720 & 7800 South 1st St – District 2 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 7720 and 7800 South 1st Street (South Boggy Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning for Tract 2, to change conditions of zoning. First Reading approved on August 11, 2016. Vote: 11-0. Owner/Applicant: Adam Diaz. City Staff: Wendy Rhoades, 512-974-7719.
51. C14-2016-0058 – KKG2 Rezoning – District 9 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 1911 ½ University Avenue (Waller Creek Watershed) from multifamily residence-moderate-high density-neighborhood plan (MF-4-NP) combining district zoning to general office-conditional overlay-neighborhood plan (GO-CO-NP) combining district zoning. First reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: House Association of Beta XI Chapter of Kappa Kappa Gamma (Ellen Morrison). Agent: Thrower Design (Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.
52. C14-2016-0059 – KKG1 Rezoning – District 9 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 2001 University Avenue (Waller Creek Watershed) from multifamily residence-moderate-high density-historic landmark-neighborhood plan (MF-4-H-NP) combining district zoning to general office-historic landmark-conditional overlay-neighborhood plan (GO-H-CO-NP) combining district zoning. First reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: House Association of Beta XI Chapter of Kappa Kappa Gamma (Ellen Morrison). Agent: Thrower Design (Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

**10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

53. NPA-2015-0005.04 - Lenox Oaks - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use land use. Staff Recommendation: To grant Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott & Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.
54. C14-2015-0104 - Lenox Oaks - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district

zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

55. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry to Mixed Use land use. Staff Recommendation: To grant Mixed Use land use. Planning Commission Recommendation: To grant Mixed Use land use. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, (512) 974-2695.
56. C14-2016-0041 - East Sixth Street Village South - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Planning Commission Recommendation: To grant general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512- 974-2122.
57. C14-2016-0043 - East Sixth Street Village North - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood

plan (CS-MU-CO-NP) combining district zoning. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512- 974-2122.

58. NPA-2016-0025.01 – Lantana Tract 33 – District 8 – Conduct a public hearing and consider approval of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. Staff Recommendation: To grant Multifamily land use. Planning Commission Recommendation: To grant Multifamily land use. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.
59. C14-85-288.8 (RCA3) – Lantana Tract 33 – District 8 – Conduct a public hearing to amend a restrictive covenant on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
60. C14-2016-0011 – Lantana Tract 33 – District 8 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) district zoning. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
61. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6409 City

Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. First reading approved for multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning on June 23, 2016. Vote: 11-0. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207.  
(Related to Item #18)

62. C14-2016-0013 – Foremost Zoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 135 Foremost Drive (South Boggy Creek Watershed) from community commercial (GR) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Owner/Applicant: Foremost Partners, Ltd. (John McCormack). Agent: Coats Rose (John M. Joseph). City Staff: Wendy Rhoades, 512-974-7719.
63. C14-2016-0017 – Driveway Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 8400 and 8401 Delwau Lane (Colorado River Watershed) from general office (GO) district zoning to community commercial (GR) district zoning. Staff Recommendation: To grant community commercial (GR) district zoning. Planning Commission Recommendation: To grant community commercial (GR) district zoning. Owner: Interest Partners, LLC (William Dollahite). Applicant: Coats Rose (John Joseph). City Staff: Heather Chaffin, 512- 974-2122.
64. C14-2016-0020 – Lantana IV – District 8 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan (LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on October 11, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.
65. C14-2016-0025 - St. James Missionary Baptist Church - District 1 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 3417 East Martin Luther King, Jr.

Boulevard (Tannehill Branch Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay- neighborhood plan (SF-6-CO-NP) combining district zoning. Owner: St. James Missionary Baptist Church (Thomas J. Owens). Applicant: Urban Design Group (Laura Toups). City Staff: Heather Chaffin, 512- 974-2122. A valid petition has been filed in opposition to this rezoning request.

66. C14-2016-0037 – Scofield Apartments – District 7 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Farms Drive (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use (GR-MU) combining district zoning. Staff Recommendation: To grant community commercial-mixed use (GR-MU) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on September 20, 2016. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirvaitis, 512-974-3057.
67. C14-2016-0038 – ATCIC Braker – District 1 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 1120 E. Braker Lane (Walnut Creek Watershed) from townhouse and condominium residence (SF-6) district zoning to limited office (LO) district zoning. Staff Recommendation: Not applicable; Case withdrawn by the Applicant. Zoning and Platting Commission Recommendation: Not applicable; Case withdrawn by the Applicant. Owner: Tran Group, LLC. (David Tran). Applicant: Southwest Strategies Group (Lawson Pedder). City Staff: Heather Chaffin, 512- 974-2122.
68. C14-2016-0057 – Ross Road Homes – District 2 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as the 6101 Ross Road (Dry Creek East Watershed) from development reserve (DR) district zoning to mobile home residence (MH) district zoning. Staff Recommendation: To grant mobile home residence (MH) district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-small lot (SF-4A) district zoning. Owner/Applicant: Najib F. Wehbe. Agent: Alice Glasco Consulting (Alice Glasco). City Staff: Wendy Rhoades, 512-974-7719.
69. C14-2016-0063.SH – Villas at Vinson Oak Rezone – District 3 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan

(SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed October 25, 2016. Owner/Applicant: Notigius LLC – Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.

70. C14-2016-0065 – Pioneer Bank on W. 38th St. – District 9 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed October 11, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy). City Staff: Heather Chaffin, 512- 974-2122.
71. C14-2016-0074 - Element Hotel - District 7 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 10728 Burnet Road (Walnut Creek Watershed) from major industry-planned development area (MI-PDA) combining district zoning to major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Owner/Applicant: DBG Austin Domain, LLC. Agent: Bennett Consulting (Rodney Bennett). City Staff: Sherri Sirwaitis, 512-974-3057.
72. C14-79-065(RCT) - Earl M. McClure - District 9 - Conduct a public hearing to amend a restrictive covenant on property locally known as 80 Red River Street (Waller Creek Watershed). Staff Recommendation: To grant termination of the restrictive covenant. Planning Commission Recommendation: To grant termination of the restrictive covenant. Owner/Applicant: Villas of Town Lake HOA (Gary L. Johnson). Agent: Consort, Inc. (Ben Turner). City Staff: Wendy Rhoades, 512-974-7719.
73. C814-2015-0074 - The Grove at Shoal Creek PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by zoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit

development (PUD) district zoning. Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

#### **12:00 PM - Citizen Communications: General**

Karen Flanagan - Continuing neighborhood issues in District 6.

Dani Tristan - Tenant Relocation Ordinance.

Robert Corbin - Animal subsidies, Barf - Barf.

Volma Overton III - Traffic solutions.

Lillian Young - Improving Downtown.

Rakiem Rashad Henderson Stuckey - Treatment and or rights civilly without discrimination due to poverty and or race of a well know ethnic background and or petitioning rights.

Frank Harren - Affordability/Code NEXT.

Latreese Cooke - Being Black.

Renee Fuqua - To rename Vic Mathias Auditorium Shores for Stevie Ray Vaughan.

Karen Steines - No Kill Austin.

#### **Executive Session**

74. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
75. Discuss legal issues related to Utility Associates, Inc. v. City of Austin et al, Texas, Cause No. D-1-GN-16-002931 in the 126th Judicial District for Travis County, Texas (lawsuit related to the City's purchase of body-worn cameras for the Austin Police Department) (Private consultation with legal counsel - Section 551.071).
76. Discuss the compensation and benefits for the Interim City Manager and the City Manager (Personnel matters - Section 551.074 of the Government Code).

#### **3:00 PM - Austin Housing and Finance Corporation Meeting**





77. The Mayor will recess the City Council meeting to conduct a Board of Directors' Meeting of the Austin Housing Finance Corporation. Following adjournment of the AHFC Board meeting the City Council will reconvene. (The AHFC agenda is temporarily located at <https://austin.siretechnologies.com/sirepub/mtgviewer.aspx?meetid=1279&doctype=Agenda>)

#### **4:00 PM - Public Hearings and Possible Actions**

78. Conduct a public hearing and consider an appeal of an Outdoor Music Venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.
79. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.
80. Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2 to require properties zoned historic landmark (H) combining district or historic area (HD) combining district to comply with the City's compatibility standards.
81. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

#### **Adjourn**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit B**

**ORDINANCE NO. 20161110-006**

**AN ORDINANCE ADOPTING AND AUTHORIZING EXECUTION OF THE FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT RELATED TO CAUSE NO. 94-07160, JOSIE ELLEN CHAMPION, ET AL V. CITY OF AUSTIN IN THE 353<sup>RD</sup> JUDICIAL DISTRICT COURT OF TRAVIS COUNTY; AMENDING ORDINANCE NO. 960613-J; AND WAIVING CERTAIN SECTIONS OF CITY CODE CHAPTER 25-2 AND LAKE AUSTIN WATERSHED REGULATIONS FROM ORDINANCE NO. 840301-F.**

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

**PART 1.** In this ordinance:

- (1) **ORIGINAL AGREEMENT** means the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County.
- (2) **FIRST AMENDMENT** means the First Amendment to the Original Agreement attached as **Exhibit "1"** to this ordinance.
- (3) **PROPERTY** means Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas, locally known as 6409 City Park Road in the City of Austin, Travis County, Texas and referred to as Tract 3 in the Original Agreement.
- (4) **OWNER** means Champion Assets, Ltd., Champion-Meier Assets, Ltd., and Champion Legacy Partners, L.P., successors to Josie Ellen Champion, Juanita Champion Meier, and Mary Margaret Champion Roberson.

**PART 2.** City Council adopts the First Amendment, which is attached as **Exhibit "1"** and incorporated herein by reference, and authorizes execution by the City Manager. City Council further authorizes the City Manager to accept the Restrictive Covenant associated with the First Amendment.

**PART 3.** To the extent that a conflict exists, Ordinance No. 960613-J is amended by the First Amendment.

**PART 4. City Council modifies the following City Code provisions:**

**(1) Lake Austin Watershed Regulations (Ordinance No. 840301-F.)**

- (a) Impervious Cover Limitations: Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.
- (b) Impervious Cover Limitations: Section 9-10-383 (a) (2) and (3) (*Multi-Family Residential Development*) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.
- (c) In no case may impervious cover on the Property exceed 5.49 acres.
- (d) Erosion and Sedimentation Control: Section 9-10-409 (a) and (b) (*Cut and Fill*) are modified to allow:
  - (i) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet;
  - (ii) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet;
  - (iii) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet;
  - (iv) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet;
  - (v) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet; and
  - (vi) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.
- (e) City Council modifies Section 9-10-377 (*Variances*) to grant variances from Lake Austin Watershed Ordinance No. 840301-F consistent with (a), (b), (c), and (d) as stated above without Planning Commission approval.

(2) **Hill Country Roadway Requirements. City Code Chapter 25-2, Subchapter C, Articles 9 and 11.**

- (a) Landscaping: Section 25-2-1023 (D) (2) (*Roadway Vegetative Buffer*) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.
- (b) City Council modifies provisions of Section 25-2-1001 (*Procedures*) to allow City Council approval of alternatives to compliance with Article 9 without Land Use Commission approval.
- (c) Development Standards: Section 25-2-1123(B) (1) and (2), (C), and (D) (*Construction on Slopes*) are modified to allow:
  - (i) additional construction methods beyond pier & beam;
  - (ii) the placement of walls lower than the finish floor elevation for the garage;
  - (iii) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet); and
  - (iv) 8 foot tall terraced walls.
- (d) Development Standards: Section 25-2-1124(A) (1) (*Building Height*) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.
- (e) Development Standards: Section 25-2-1128 (B)(2) (*Development Bonuses*) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:
  - (i) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
  - (ii) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.
- (f) City Council modifies Section 25-2-1105 (*Waivers*) to grant waivers consistent with (c), (d), and (e) as stated above without Land Use Commission approval.

**PART 5.** The variances and waivers in Part 4 are conditioned on implementation and compliance with the following environmental controls during the construction phase of the development. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- (1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- (2) Install rough cut of water quality ponds before any other grading, except grading necessary to create the ponds, and grade so that all disturbed areas drain to these ponds.
- (3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- (4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- (5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- (6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- (7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- (10) Comply with current erosion hazard zone code and criteria.
- (11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of ½" or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report

with recommendations to the general contractor and Owner and such report must be made available to the City upon request.

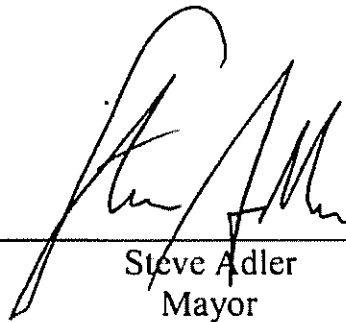
- (12) Grading shall be phased to limit disturbed areas with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- (13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark.
- (14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.
- (15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit "2"**.

**PART 6.** This ordinance takes effect on November 21, 2016.

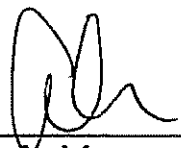
**PASSED AND APPROVED**

\_\_\_\_\_, November 10, 2016

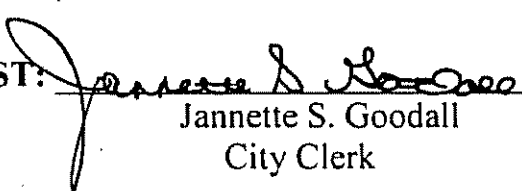
§  
§  
§

  
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

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

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk

**EXHIBIT 1**

**THE FIRST AMENDMENT TO THE COMPROMISE  
SETTLEMENT AGREEMENT**



**FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT  
AGREEMENT REGARDING CHAMPIONS TRACT 3**

This First Amendment to the Compromise Settlement Agreement (the "**First Amendment**") is made and entered into by and between Champion Assets, Ltd., a Texas limited partnership; Champion-Meier Assets, Ltd., a Texas limited partnership; and Champion Legacy Partners, L.P., a Texas limited partnership, successors to Josie Ellen Champion, Juanita Champion Meier and, Mary Margaret Champion Roberson (the "**Champions**"), and the City of Austin (the "**City**") for the purposes and on the terms specified herein and operates in conjunction with the Compromise Settlement Agreement (the "**Original Agreement**"), effective July 11, 1996.

**RECITALS**

WHEREAS, the City approved an ordinance adopting the Original Agreement between the Champions and the City on June 13, 1996; and

WHEREAS, the Champions seek approval to zone for multi-family use 32.262 acres of land being a portion of the land referred to in the Original Agreement as Tract 3, located at 6409 City Park Road, and described as Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas ("**Tract 3**"); and

WHEREAS, the Champions are the owners of Tract 3; and

WHEREAS, the Champions seek variances to City environmental regulations and site development regulations applicable to Tract 3; and

WHEREAS, the Champions are willing to place restrictions on Tract 3 included in this First Amendment and a Restrictive Covenant of even date; and

WHEREAS, in accordance with Paragraph 7 of the Original Agreement, the City and the Champions are executing this First Amendment and a Restrictive Covenant to amend the provisions regarding site development and use of Tract 3;

NOW, THEREFORE, in consideration of the recitals, the mutual covenants and agreements contained in this First Amendment, Owner and the City agree as follows:

**TERMS OF AMENDMENT**

1. The Original Agreement is amended to add a new Section 13 to read:
  13. The Champions have executed and delivered to the City a Restrictive Covenant in the form attached and incorporated herein as **Exhibit A**. The Restrictive Covenant restricts development activity within a portion of Tract 3 more particularly described in the attached and incorporated **Exhibit B** (the "**Undeveloped Property**").

II. Section 2 c of the Original Agreement is amended to delete reference to Tract 3.

III. The Original Agreement is amended to add a new Section 2 g to read:

g. During the term of this Agreement, the modifications to City regulations and the conditions established for the modifications listed in this subsection apply to the initial multi-family development on Tract 3. The modifications do not apply to any subsequent development or redevelopment of Tract 3.

I. Modifications to Lake Austin watershed regulations (Ordinance No. 840301-F).

A. Impervious cover modifications.

1) Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.

2) Section 9-10-383 (*Multi-Family Residential Development*), subsections (a) (2) and (3) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.

3) In no case may impervious cover on Tract 3 exceed 5.49 acres.

B. Cut and fill modifications. Section 9-10-409 (*Cut and Fill*), subsections (a) and (b) are modified to allow:

1) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet,

2) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet,

3) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet,

4) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet,

5) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet,

6) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.

2. Modifications to Hill Country Roadway regulations. (City Code Chapter 25-2, subchapter C, Articles 9 and 11).

A. Section 25-2-1023 (*Roadway Vegetative Buffer*), subsection (D) (2) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.

B. Section 25-2-1123 (*Construction on Slopes*), subsections (B) (1), (B) (2), (C), and (D) are modified to allow:

- 1) additional construction methods beyond pier & beam,
- 2) the placement of walls lower than the finish floor elevation for the garage,
- 3) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet), and
- 4) 8 foot tall terraced walls.

C. Section 25-2-1124 (*Building Height*), subsection (A) (1) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.

D. Section 25-2-1128 (B)(2) (Development Bonuses) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:

- 1) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
- 2) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.

3. The modifications listed in subsection g 1 and 2 of this Agreement are conditioned on implementation and compliance with the environmental controls listed in this subsection during the construction phase. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- 1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- 2) Install rough cut of water quality ponds before any other grading and grade so that all disturbed areas drain to these ponds:

- 3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- 4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- 5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- 6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- 7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- 10) Comply with current erosion hazard zone code and criteria.
- 11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of  $\frac{1}{2}$ " or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report with recommendations to the general contractor and Owner and such report must be made available to the City upon request.
- 12) Grading should be phased with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- 13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark and there should be no fill inside the tributary. A complete span from high water mark to high water mark is preferred, however, a single support is allowed within the channel.

14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.

15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit C**.

#### IV. Miscellaneous Provisions

- A. **Designation of Department or Official.** Designation by this Agreement of a particular City department, director, official, or commission includes any other City department, director, official, or commission to which the City's duties or responsibilities may be assigned under this First Amendment.
- B. **Designation of City Codes.** Designation of a city code chapter or section includes any successor or replacement code section or chapter.
- C. **Binding.** This Agreement will be binding upon the heirs, representatives, successors and assigns of each of the parties to this First Amendment.
- D. **Effective Date.** The effective date of this Agreement will be the latest date that both parties have signed and executed this First Amendment.
- E. **Applicable Law and Venue.** The construction and validity of this First Amendment shall be governed by the laws of the State of Texas. This First Amendment is performable in Travis County, Texas.
- F. **No Party To Be Deemed Drafter.** Owner and the City have both had the opportunity to have legal counsel examine this First Amendment. Accordingly, this First Amendment will not be interpreted for or against either party due solely to the fact that one party was the principal author of this First Amendment.
- G. **Term; Termination.** This First Amendment shall be effective as of the date signed by all parties and shall terminate upon completion of the initial Multi-family development, or ten years after the effective date, whichever is sooner. Notwithstanding the foregoing, the restrictive covenant will survive expiration of the contract.
- H. **Filing.** This First Amendment shall be filed of record.
- I. **Authority.** The parties warrant that they have authority to execute this First Amendment.
- J. **Assignment of Owner Rights.** Owner may assign in whole or part its rights and obligations under this First Amendment to persons purchasing all or part of the Property.
- K. **Ratification of Original Agreement.** Any and all terms and provisions of the Original Agreement shall, except as and to the extent expressly amended and modified by this First Amendment, remain in full force and effect.

- L. **Severability.** If a court of competent jurisdiction determines that a term or provision of this Agreement is void or unenforceable, the remainder of this Agreement remains effective to the extent permitted by law.

EXECUTED to be effective the \_\_\_\_ day of \_\_\_\_\_, 2016

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

CITY OF AUSTIN

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

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

Its: \_\_\_\_\_

THE STATE OF TEXAS       §  
                                      §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                      §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                      §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

Attached:  
EXHIBIT A – the Restrictive Covenant  
EXHIBIT B – the Legal Description for the Undeveloped Property  
EXHIBIT C – the Critical Environmental Feature Buffers



**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT A  
THE RESTRICTIVE COVENANT**

## RESTRICTIVE COVENANT

OWNER: Champion Assets, Ltd., a Texas limited partnership;  
Champion-Meier Assets, Ltd., a Texas limited partnership;  
Champion Legacy Partners, L.P., a Texas limited partnership

PROPERTY ADDRESS: 6409 City Park Road, Austin, Texas 78702

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas (the "Property"),

WHEREAS, Owner (the "Owner", whether one or more) of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

WHEREAS, Owner and the City of Austin have agreed to amend the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County and execute the First Amendment to the Compromise Settlement Agreement;

NOW, THEREFORE, it is declared that Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on Owner of the Property, their heirs, successors, and assigns.

1. Owner agrees not to construct any improvements or allow any development, other than for unimproved hiking trails less than 3 feet in width, wildfire management, or security concerns, on the portion of the Property described by metes and bounds in Exhibit "A" attached and incorporated into this covenant, provided that such allowed improvements or development comply with the City Code requirements in effect at the time of application. Such activities are limited to removal of brush and trees smaller than 8 inches in diameter.
2. Impervious cover on Tract 3 may not, under any circumstance, exceed 5.49 acres.
3. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such

person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this Agreement 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.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This Agreement may be modified, amended, or terminated only by joint action of both a majority of the members of the City Council of the City of Austin, and the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT B  
LEGAL DESCRIPTION FOR THE UNDEVELOPED PROPERTY**



**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

EXHIBIT " \_\_\_\_ "

**PORTION OF LOT 1, BLOCK A,  
CHAMPION CITY PARK EAST SUBDIVISION**

**30.071 ACRES**

**JAMES JETT SURVEY NO. 1, ABSTRACT NO. 437**

**CITY OF AUSTIN FULL PURPOSE LIMITS, TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 30.071 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a fence post found in the southwest right-of-way line of R.M. 2222 (right-of-way width varies), being the easternmost corner of said Lot 1, being also an angle point in the northeast line of Lot 2, Shepherd Mountain Phase One, a subdivision of record in Volume 83, Pages 200A-200B of the Plat Records of Travis County, Texas;

**THENCE** with the southwest line of said Lot 1, the northeast line of said Lot 2 and the northeast line of Block B, Shepherd Mountain Phase Two, a subdivision of record in Volume 86, Pages 155D-156C of the Plat Records of Travis County, Texas, the following six (6) courses and distances:

1. North 62°31'47" West, a distance of 1852.62 feet to a 1/2" rebar found;
2. North 62°33'18" West, a distance of 180.16 feet to a 1/2" rebar found;
3. North 62°29'53" West, a distance of 172.97 feet to a 1/2" rebar found;
4. North 62°31'03" West, a distance of 307.12 feet to a 1/2" rebar found;
5. North 62°21'57" West, a distance of 220.31 feet to a 1/2" rebar found;
6. North 62°22'35" West, a distance of 137.31 feet to a mag nail with "Chaparral" washer set for an angle point in the southeast right-of-way line of City Park Road (right-of-way width varies), being the westernmost corner of said Lot 1;

**THENCE** North 37°40'26" East with the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, a distance of 310.01 feet to a calculated point, from which a 1/2" rebar with "Chaparral" cap found in the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, bears North 37°40'26" East, a distance of 42.25 feet;

**THENCE** crossing said Lot 1, the following seven (7) courses and distances:

1. South 39°42'47" East, a distance of 362.04 feet to a calculated point;
2. North 50°17'13" East, a distance of 377.11 feet to a calculated point;
3. South 61°55'29" East, a distance of 172.35 feet to a calculated point;
4. South 28°00'15" East, a distance of 127.03 feet to a calculated point;
5. South 80°32'48" East, a distance of 299.33 feet to a calculated point;
6. North 61°59'45" East, a distance of 196.58 feet to a calculated point;
7. North 21°08'43" East, a distance of 281.69 feet to a calculated point in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, from which a TXDOT type II disk found in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, bears North 28°12'39" West, a distance of 256.85 feet;

**THENCE** with the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, the following eight (8) courses and distances:

1. South 28°12'39" East, a distance of 251.22 feet to a TXDOT type II disk found;
2. With a curve to the left, having a radius of 2984.79 feet, a delta angle of 11°42'31", an arc length of 609.95 feet, and a chord which bears South 34°03'51" East, a distance of 608.89 feet to a TXDOT type II disk found;
3. South 39°54'05" East, a distance of 420.62 feet to a TXDOT type II disk found;
4. South 53°27'25" West, a distance of 49.50 feet to a TXDOT type II disk found;
5. South 36°27'24" East, a distance of 208.76 feet to a TXDOT type II disk found;
6. North 52°37'20" East, a distance of 62.31 feet to a TXDOT type II disk found;
7. South 39°52'38" East, a distance of 249.41 feet to a TXDOT type II disk found;




8. South 06°56'39" East, a distance of 247.90 feet to the **POINT OF BEGINNING**, containing 30.071 acres of land, more or less.

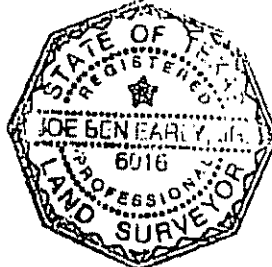
Surveyed on the ground on September 8, 2015

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS Solutions from The National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS).

Attachments: Survey Drawing No. 586-002-30.071AC.

  
Joe Ben Early, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 6016  
TBPLS Firm No. 10124500

9/26/16



REFERENCES

TCAD Property ID #: 564848  
Austin Grid Map F30

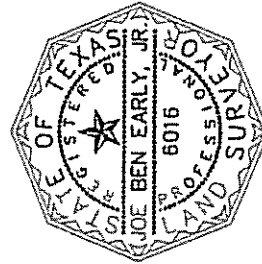
SKETCH TO ACCOMPANY A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N62°31'47"W	1852.62'
L2	N62°33'18"W	180.16'
L3	N62°29'53"W	172.97'
L4	N62°31'03"W	307.12'
L5	N62°21'57"W	220.31'
L6	N62°22'35"W	137.31'
L7	N37°40'26"E	310.01'
L8	S39°42'47"E	362.04'
L9	N50°17'13"E	377.11'
L10	S61°55'29"E	172.35'
L11	S28°00'15"E	127.03'
L12	S80°32'48"E	299.33'
L13	N61°59'45"E	196.58'
L14	N21°08'43"E	281.69'
L15	S28°12'39"E	251.22'
L16	S39°54'05"E	420.62'
L17	S53°27'25"W	49.50'
L18	S36°27'24"E	208.76'
L19	N52°37'20"E	62.31'
L20	S39°52'38"E	249.41'
L21	S06°56'39"E	247.90'

CURVE TABLE			
CURVE	RADIUS	DELTA	ARC
C1	2984.79'	11°42'31"	609.95'
			BEARING S34°03'51"E
			CHORD 608.89'

# LEGEND

- 1/2" REBAR FOUND (OR AS NOTED)
- ⊙ 1/2" REBAR WITH "CHAPARRAL BOUNDARY" CAP FOUND
- ⊙ TxDOT TYPE II DISK FOUND
- ⊙ FENCE POST FOUND
- △ MAG NAIL WITH "CHAPARRAL" WASHER FOUND
- △ CALCULATED POINT
- ( ) RECORD INFORMATION



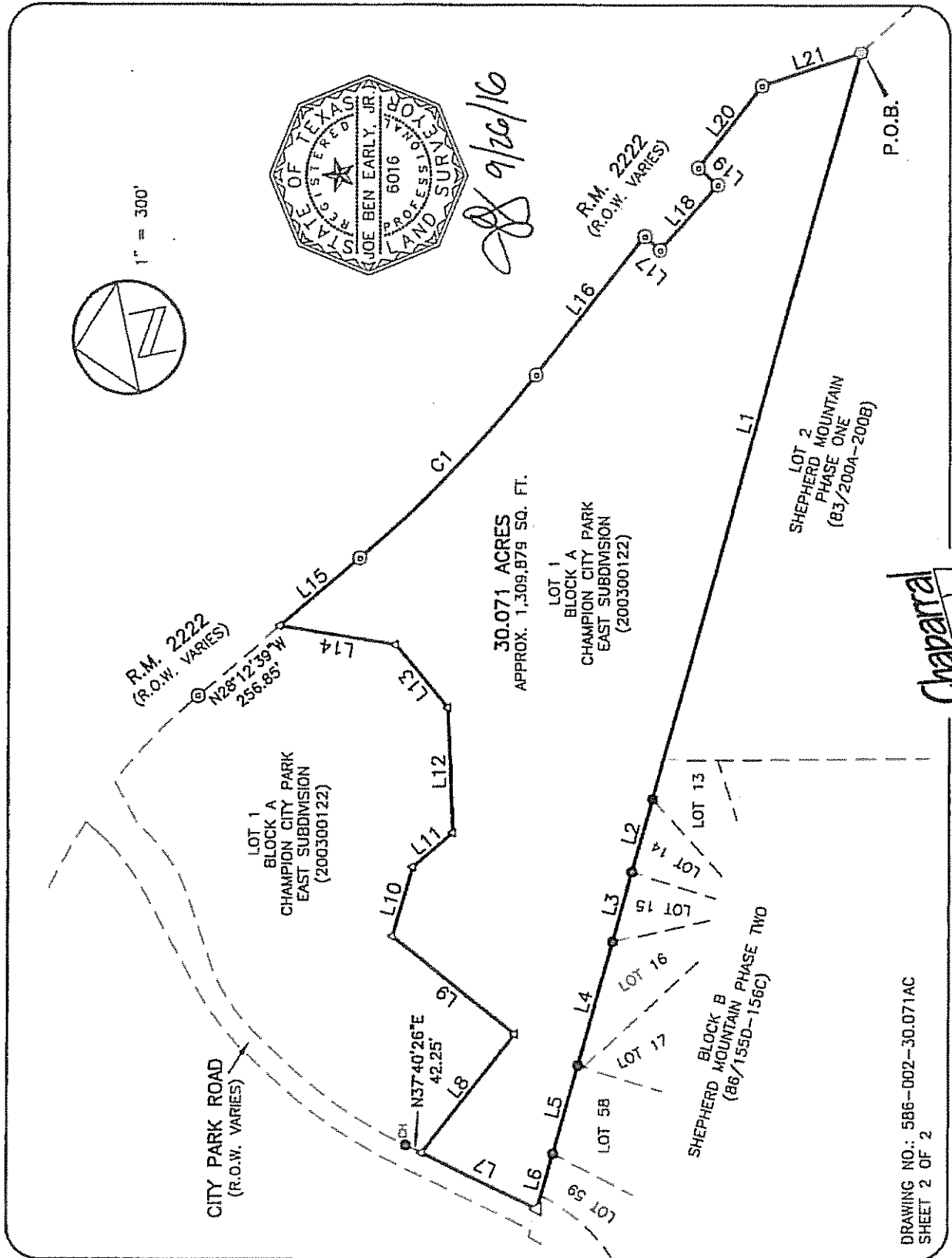
*[Signature]*  
9/26/16

DATE OF SURVEY: 9/8/15  
PLOT DATE: 9/26/16  
DRAWING NO.: 586-002-30.071AC  
T.B.P.L.S. FIRM NO. 10124500  
DRAWN BY: JBE  
SHEET 1 OF 2

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS).

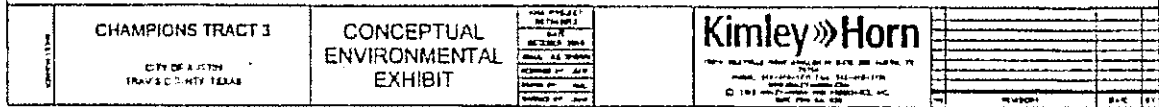
ATTACHMENTS: METES AND BOUNDS DESCRIPTION 586-002-30.071AC

*Chaparral*



**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT C  
CEF/WETLAND BUFFERS**



**EXHIBIT 2**  
**CEF/WETLAND BUFFERS**

Other Area Construction on Stage 100a

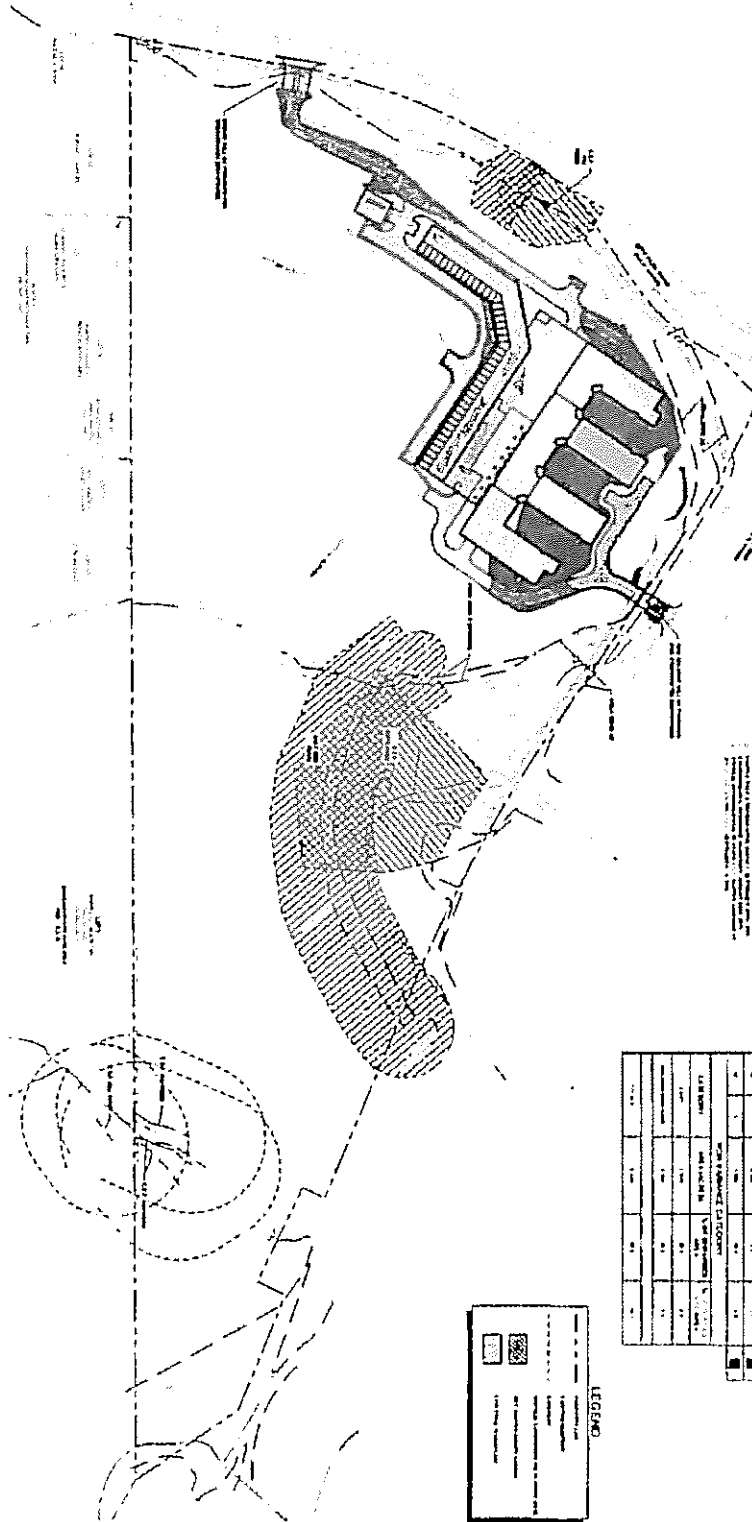
Area	Structure Name	Structure Type	Area (sq ft)	Area (sq ft)	Area (sq ft)
1	10000	10000	10000	10000	10000
2	10000	10000	10000	10000	10000
3	10000	10000	10000	10000	10000
4	10000	10000	10000	10000	10000

Building Construction on Stage 100a

Area	Structure Name	Structure Type	Area (sq ft)	Area (sq ft)	Area (sq ft)
1	10000	10000	10000	10000	10000
2	10000	10000	10000	10000	10000
3	10000	10000	10000	10000	10000
4	10000	10000	10000	10000	10000

Component Construction on Stage 100a

Area	Structure Name	Structure Type	Area (sq ft)	Area (sq ft)	Area (sq ft)
1	10000	10000	10000	10000	10000
2	10000	10000	10000	10000	10000
3	10000	10000	10000	10000	10000
4	10000	10000	10000	10000	10000



1. The map shows the proposed construction areas for the project. The areas are labeled with numbers 1 through 4. The map also shows the existing infrastructure, including roads and utilities. The map is intended to provide a visual representation of the project's impact on the environment.

Table with 4 columns: Area, Structure Name, Structure Type, and Area (sq ft). The table contains data for various construction areas and components.

Area	Structure Name	Structure Type	Area (sq ft)
1	10000	10000	10000
2	10000	10000	10000
3	10000	10000	10000
4	10000	10000	10000

**LEGEND**

- Proposed Construction Areas
- Existing Infrastructure
- Other Areas

**NOTES**

1. The map shows the proposed construction areas for the project.
2. The map also shows the existing infrastructure, including roads and utilities.
3. The map is intended to provide a visual representation of the project's impact on the environment.

# Exhibit C

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CITY OF AUSTIN, TEXAS

ORDINANCE NO. 96 0613-J

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR DEVELOPMENT OF FIVE (5) TRACTS OF LAND: TRACT 1: BEING 153.75 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, BEING MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-020; TRACT 2: BEING A 20.59 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-021; TRACT 3: BEING 49.70 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; TRACT 4: BEING 9 ACRES, MORE OR LESS, OUT OF T.J. CHAMBERS SURVEY, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-023; AND TRACT 5: BEING 26 ACRES, MORE OR LESS, OUT OF THE JAMES JETT SURVEY NO. 1 AND THOMAS JEFFERSON CHAMBERS GRANT, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-024; GRANTING A SPECIAL EXCEPTION UNDER DIVISION 3 OF ARTICLE V OF CHAPTER 13-1, ARTICLE 1 OF CHAPTER 13-7, AND ARTICLE V OF CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; IMPOSING WATER QUALITY PROTECTIONS ON DEVELOPMENT OF THE PROPERTY; WAIVING THE REQUIREMENTS OF SECTIONS 2-2-3, 2-2-5, 2-2-7, 13-1-301 AND 13-1-302 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; ESTABLISHING AN EXPIRATION DATE; AND ESTABLISHING AN EFFECTIVE DATE.

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

**PART 1.** That a special exception from the Austin City Code of 1992, as amended, is granted for development on the Champion property, (the "Property") more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes; provided that the following conditions are met:

(1) The development of the Property must comply with the provisions of the Austin City Code in effect on December 8, 1993 including (the Lake Austin Watershed Ordinance) with the exception that development of the Property shall provide additional water quality control as set forth in (2) below.

(2) For any development of the Property, applicant shall construct properly engineered water-quality controls, including at minimum, water-quality filtration ponds with full sedimentation chambers as described in the City of Austin Environmental Criteria Manual. The ponds shall be sized to capture the first one-half (.50) inch of stormwater plus one-tenth (.10) of an inch for each additional 10% of impervious cover above 20% from the contributing drainage areas of the project which include impervious cover. In the event that any cut and fill variances necessary for the construction of these ponds are not granted the applicant shall not be required to comply with this paragraph (2). Detention of the 2-year storm will not be required.

## CITY OF AUSTIN, TEXAS

(3) Any agreements, restrictions, covenants, or other legal documentation necessary to construct and maintain the water quality controls required by conditions (1) and (2) above shall be reviewed by the City Law Department prior to execution, and shall include a provision requiring written City approval prior to termination or assignment.

(4) Prior to the issuance of a certificate of occupancy or return of fiscal security for development on all or part of the Property, construction of the water-quality controls required by conditions (1) and (2) above shall be completed, as determined by City of Austin inspection, for the portion of the Property for which a Certificate of Occupancy or return of fiscal security is requested.

(5) The set-backs from Loop 360 and RR 2222 required by the Hill Country Roadways Ordinance (No. 860116-J) shall be reduced from 100 feet to 25 feet.

**PART 2.** Tracts 4 and 5 (excluding that portion of Tract 5 not made subject to zoning ordinance No. 930513-R). The exception granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 4 and 5 (excluding that portion of Tract 5 not made subject to zoning ordinance No. 930513-R) within ten years by the filing and approval of an application for preliminary subdivision (if applicable) and by the filing and approval of a site plan. In the event that said subdivision and site plan approval are not obtained within the ten year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Tracts 1, 2, 3, and that portion of Tract 5 not made subject to zoning ordinance 930513-R. The exceptions granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 1, 2, and 3, and that portion of Tract 5 not made subject to zoning ordinance 930513-R within six years by the filing of an application for preliminary subdivision plan or any other development permit. Provided, however, that any application filed within six years will be subject to expirations contained in the Austin City Code in effect as of December 8, 1993. In the event that said development permit is not filed within the six year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Notwithstanding the foregoing, should the owners elect, applications filed during the first six years from the effective date of this Ordinance may be governed by the provisions of state law and the Austin City Code in effect at the time of the filing of said applications.

**PART 3.** Unless otherwise specifically provided in this Agreement, during the term of Part 2 above, all applications relating to development of the Property will be governed solely by the Lake Austin Watershed Ordinance and other applicable ordinances, rules or other regulations in effect on December 8, 1993 immediately prior to the enactment of City of Austin Ordinance No. 931209-H, (the "Bull Creek Ordinance"). Such development applications shall include, but not be limited to, all applications for subdivisions preliminary plans and final plats, resubdivisions or replats, site plans, site development permits, and zoning and rezoning (only to the extent that zoning and rezoning ordinances affect size, lot dimensions, lot coverage or building size), relating to the Subject Property, and all revisions and amendments thereto (other than applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the

## CITY OF AUSTIN, TEXAS

provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit).

During the term of Part 2 above it is expressly agreed that the Property may be subdivided and resubdivided under the requirements of the Lake Austin Watershed Ordinance so that each Tract may be comprised of one or more separate tracts without compliance with any ordinance, rule, regulation or other permitting or approval requirement adopted after December 8, 1993, including specifically, but without limitation, the Comprehensive Watersheds Ordinance (Ordinance No. 860508-V) as the same has been codified and amended, which ordinance was not applicable by exemption to the Property on December 8, 1993, and that further resubdivisions or replatting of the Property during the term of Part 2 will not trigger the necessity of compliance with the Comprehensive Watersheds Ordinance or any other ordinance, regulation or rule in effect after December 8, 1993, except with respect to all applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit.

During the term of Part 2 above, the total amount of impervious cover that may be constructed within Tracts 1, 2, and 3, and that portion of Tract 5 not made subject to Zoning Ordinance No. 930513-R will be the maximum impervious cover permitted by the Lake Austin Watershed Ordinance and other ordinances governing such tracts prior to the enactment of the Bull Creek Ordinance, and the amount of impervious cover will not be restricted to an amount less than that permitted by those ordinances.

**PART 4.** That the approval of this special exception does not constitute approval of any development permit nor does it constitute a commitment to any specified land use, intensity of land use, or utility services.

**PART 5.** That the requirements imposed by Sections 13-1-301 and 13-1-302 of the Austin City Code of 1992, as amended, (Land Development Code) regarding notice and hearing requirements and procedures for a Special Exception are hereby waived.

**PART 6.** That the requirement imposed by Sections 2-2-3, 2-2-5 and 2-2-7 of the Austin City Code of 1992, as amended, regarding the presentation and adoption of ordinances are hereby waived by the affirmative vote of at least five members of the Austin City Council.

CITY OF AUSTIN, TEXAS

**PART 7.** That this ordinance shall become effective upon the expiration of ten days following the date of its final passage, as provided by the City Charter of the City of Austin.

**PASSED AND APPROVED:**

June 13, 1996.

§  
§  
§



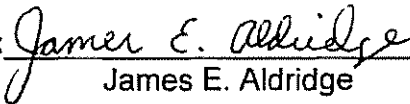
Bruce Todd  
Mayor

**APPROVED:**



Andrew Martin  
City Attorney

**ATTEST:**



James E. Aldridge  
City Clerk

HCN/alc/H:\COUNCIL\CHAMPION.ORD

EXHIBIT "A"

To Ordinance No. \_\_\_\_\_

The Tracts made the subject of this ordinance are those tracts having the metes and bounds set forth in the attached survey notes, as follows:

TRACT 1: The property described in the attached as "PARCEL A"

TRACT 2: The property described in the attached as "PARCEL B"

TRACT 3: The property described in the attached as "PARCEL C"

TRACT 4: The property described in the attached as "PARCEL D"

TRACT 5: The property described in the attached as "PARCEL E"

960613-3

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

A FIELD NOTE DESCRIPTION OF 252.06 ACRES OF LAND OUT OF THE JAMES JETT SURVEY NO. 1 AND THE THOMAS JEFFERSON CHAMBERS GRANT IN TRAVIS COUNTY, TEXAS; BEING COMPRISED OF A 153.75 ACRE PARCEL (A), A 20.59 ACRE PARCEL (B), A 49.70 ACRE PARCEL (C), A 9.20 ACRE PARCEL (D), AND AN 18.82 ACRE PARCEL (E); THE SAID 252.06 ACRES BEING THE REMAINDER PORTION OF TWO TRACTS OF LAND, DESCRIBED AS 260 ACRES AND 43.32 ACRES, GRANTED TO C. C. CHAMPION BY A DEED OF PARTITION WITH MRS. JOSIE CHAMPION HILL EXECUTED ON SEPTEMBER 12, 1932 AND RECORDED IN VOLUME 482, PAGE 627 OF THE DEED RECORDS OF THE SAID TRAVIS COUNTY, TEXAS; THE SAID 252.06 ACRES, AS SHOWN ON EH&A PLAT NO. 14970-5371-2, BEING MORE PARTICULARLY DESCRIBED BY THE SAID FIVE (5) SEPARATE PARCELS, AS FOLLOWS:

PARCEL A

BEGINNING at an iron pipe found, being the most northerly corner of the said 260 acre tract, also being a point on the southwest line of Lot 33, Block A, of The Jester Estate, Section 1, Phase 1, a subdivision recorded in Plat Book 78, Page 385-389 of the Plat Records of Travis County, same also being the most easterly corner of that certain 3.81 acre tract of land conveyed to Howard L. Burris, Jr., Agent, referred to as Tract Two, by warranty deed recorded in Volume 7948, Page 824 of the said Deed Records of Travis County, said iron pipe also being the most northerly corner of the herein described parcel;

THENCE, with the northeast line of the said 260 acre tract, being the said southwest line of Lot 33, Block A of The Jester Estate, Section 1, Phase 1, S 59° 48' 01" E, a distance of 651.65 feet to an iron rod found in concrete, being the most southerly corner of the said Lot 33, Block A, of The Jester Estate, Section 1, Phase 1, also being the most southerly southwest corner of Lot 6, Block B of Jester Point 2, Section 2, Phase A, a subdivision recorded in Plat Book 84, Page 2A-2B of the said Plat Records of Travis County;

THENCE, leaving the said southwest line of Lot 33, Block A of The Jester Estate, Section 1, Phase 1, continuing with the said northeast line of the 260 acre tract, being the southwest line of the said Lot 6, Block B of Jester Point 2, Section 2, Phase A, S 59° 51' 19" E, a distance of 99.99 feet to an iron rod found, being the most southerly corner of the said Lot 6, Block B of Jester Point 2, Section 2, Phase A, also being the most westerly corner of that certain 18.213 acre tract of land conveyed to Alvin J. Golden, Trustee, by deed of trust recorded in Volume 8286, Page 255 of the said Deed Records of Travis County;

THENCE, leaving the said southwest line of Lot 6, Block B of Jester Point 2, Section 2, Phase A, continuing with the said northeast line of the 260 acre tract, being the southwest line of the said Golden 18.213 acre tract, the following two (2) courses and distances:

1. S 59° 58' 51" E, a distance of 728.97 feet to an iron rod found in a rock mound, and
2. S 60° 13' 14" E, a distance of 1321.87 feet to an iron rod found, being the most southerly southeast corner of the said Golden 18.213 acre tract, same being the intersection of the said northeast line of the 260 acre tract and the west right-of-way line of State Highway Loop 360;

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

THENCE, leaving the said northeast line of the 260 acre tract and leaving the said southwest line of the Golden 18.213 acre tract, with the said west right-of-way line of State Highway Loop 360, over and across the said 260 acre tract, the following twelve (12) courses and distances:

1. S 37° 07' 34" W, a distance of 303.59 feet to a concrete monument found,
2. S 16° 02' 28" W, a distance of 441.39 feet to a concrete monument found, being 290 feet right of the State Highway Loop 360 centerline station 329+85.8,
3. S 05° 06' 38" W, a distance of 314.45 feet to a concrete monument found,
4. S 01° 06' 51" E, a distance of 603.26 feet to a concrete monument found, being 225 feet right of the State Highway Loop 360 centerline station 339+00.0,
5. S 05° 05' 53" W, a distance of 406.78 feet to a concrete monument found,
6. S 17° 38' 07" W, a distance of 370.27 feet to a concrete monument found,
7. S 31° 58' 24" W, a distance of 200.55 feet to a concrete monument found,
8. S 17° 43' 46" W, a distance of 282.13 feet to a concrete monument found,
9. S 55° 14' 05" W, a distance of 136.29 feet to a concrete monument found,
10. N 47° 01' 53" W, a distance of 164.83 feet to a calculated point,
11. N 26° 59' 56" W, a distance of 232.25 feet to a concrete monument found, and
12. S 63° 13' 18" W, a distance of 149.55 feet to a concrete monument found, being the intersection of the said west right-of-way line of State Highway Loop 360 and the curving north right-of-way line of RM Highway 2222;

THENCE, leaving the said west right-of-way line of State Highway Loop 360, continuing over and across the said 260 acre tract, with the said north right-of-way line of RM Highway 2222, the following nine (9) courses and distances:

1. with a curve to the left having a radius of 1190.85 feet, a central angle of 29° 30' 28" and an arc length of 613.30 feet, along the chord bearing N 41° 29' 46" W, a chord distance of 606.54 feet to a calculated point at a point of tangency,
2. N 56° 15' 00" W, a distance of 121.14 feet to a calculated point at a point of curvature,

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

3. with a curve to the right having a radius of 666.20 feet, a central angle of  $35^{\circ} 34' 00''$  and an arc length of 413.55 feet, along the chord bearing  $N 38^{\circ} 28' 00'' W$ , a chord distance of 406.94 feet to a calculated point at a point of tangency,
4.  $N 20^{\circ} 41' 00'' W$ , a distance of 52.74 feet to a calculated point at a point of curvature,
5. with a curve to the right having a radius of 1379.29 feet, a central angle of  $16^{\circ} 43' 45''$  and an arc length of 402.72 feet, along the chord bearing  $N 12^{\circ} 19' 07'' W$ , a chord distance of 401.29 feet to an iron rod found in concrete at a point of tangency, being 50 feet left of the RM Highway 2222 centerline station 252+90.0,
6.  $N 03^{\circ} 57' 15'' W$ , a distance of 302.32 feet to an iron rod found in concrete at a point of curvature,
7. with a curve to the left having a radius of 622.93 feet, a central angle of  $69^{\circ} 27' 44''$  and an arc length of 755.21 feet, along the chord bearing  $N 38^{\circ} 41' 08'' W$ , a chord distance of 709.80 feet to a calculated point at a point of tangency,
8.  $N 73^{\circ} 25' 00'' W$ , a distance of 347.37 feet to an iron rod found in concrete at a point of curvature, being 50 feet left of the RM Highway 2222 centerline station 239+52.4, and
9. with a curve to the right having a radius of 665.04 feet, a central angle of  $11^{\circ} 58' 09''$  and an arc length of 138.93 feet, along the chord bearing  $N 67^{\circ} 25' 55'' W$ , a chord distance of 138.68 feet to a calculated point, being the intersection of the said north right-of-way line of RM Highway 2222 and the southeast line of that certain 1 acre tract of land conveyed to D. W. Williams by warranty deed recorded in Volume 2507, Page 17 of the said Deed Records of Travis County;

THENCE, leaving the said north right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the east and north lines of the said Williams 1 acre tract, the following three (3) courses and distances:

1.  $N 29^{\circ} 48' 54'' E$ , a distance of 194.70 feet to a calculated point, being the most easterly corner of said Williams 1 acre tract,
2.  $N 58^{\circ} 11' 06'' W$ , a distance of 208.70 feet to a calculated point, being the most northerly corner of said Williams 1 acre tract, and
3.  $S 29^{\circ} 48' 54'' W$ , a distance of 198.07 feet to a calculated point, being the intersection of the northwest line of the said Williams 1 acre tract and the said north right-of-way line of RM Highway 2222;

THENCE, leaving the said northwest line of the Williams 1 acre tract, with the said north right-of-way line of RM Highway 2222,  $N 58^{\circ} 56' 06'' W$ , a distance of 10.00 feet to a calculated point, being the intersection of the said north right-of-way line of RM Highway 2222 and the southeast line of that certain 1 acre tract of land conveyed to L. W. Taylor and wife by deed recorded in Volume 1946, Page 255 of the said Deed Records of Travis County;



Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

THENCE, leaving the said north right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the east line of the said Taylor 1 acre tract, the following two (2) courses and distances:

1. N 29° 48' 54" E, a distance of 198.20 feet to a calculated point, being the most easterly corner of the said Taylor 1 acre tract, and
2. N 58° 11' 06" W, a distance of 208.70 feet to a calculated point, being the most northerly corner of the said Taylor 1 acre tract, same being a point on the northwest line of the said 260 acre tract, same also being a point on the southeast line of that certain 2.641 acre tract of land conveyed to Jim B. Beard and wife by deed recorded in Volume 6448, Page 64 of the said Deed Records of Travis County, and from the said calculated point an iron rod found, being the most westerly corner of the said Taylor 1 acre tract, same being the most southerly corner of the said Beard 2.641 acre tract, bears S 29° 48' 54" W, a distance of 200.18 feet;

THENCE, leaving the said east line of the Taylor 1 acre tract, with said northwest line of the 260 acre tract, being the said southeast line of the Beard 2.641 acre tract, N 29° 48' 54" E, a distance of 918.44 feet to an iron rod found, being the most easterly northeast corner of the said Beard 2.641 acre tract, same being the most southerly corner of the said Burris 3.81 acre tract;

THENCE, leaving the said southeast line of the Beard 2.641 acre tract, continuing with the said northwest line of the 260 acre tract, being the southeast line of the said Burris 3.81 acre tract, the following two (2) courses and distances:

1. N 29° 47' 28" E, a distance of 596.25 feet to an iron rod found, and
2. N 33° 52' 19" E, a distance of 7.60 feet to the POINT OF BEGINNING, containing 153.75 acres of land.

#### PARCEL B

BEGINNING at a 3/8-inch iron rod found in a rock mound, being a point on the northwest line of the said 260 acre tract, same being a point on the southeast line of that certain 12.51 acre tract of land conveyed to Henry R. Schotz and wife by deed recorded in Volume 2681, Page 136 of the said Deed Records of Travis County, same also being the most northerly corner of that certain 1.92 acre tract of land conveyed to Grover C. Phinney and wife by deed recorded in Volume 700, Page 57 of the said Deed Records of Travis County, said iron rod found being the most westerly corner of the herein described parcel, from which a 7/8-inch iron pipe found in a rock mound, being the most westerly corner of the said 260 acre tract, same being the most southerly corner of the said Schotz 12.51 acre tract, same also being the most westerly corner of the said Phinney 1.92 acre tract, bears S 29° 26' 47" W, a distance of 207.59 feet;

THENCE, with said northwest line of the 260 acre tract, being the said southeast line of the Schotz 12.51 acre tract, N 29° 24' 45" E, passing at a distance of 809.89 feet a nail set in a fence corner post, a total distance of 853.45 feet to a calculated point, being an interior corner on the said southeast line of the Schotz 12.51 acre tract;

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THENCE, leaving the said northwest line of the 260 acre tract, continuing with the said southeast line of the Schotz 12.51 acre tract, over and across the said 260 acre tract, S 58° 34' 40" E, a distance of 105.53 feet to a calculated point, being the most southerly northeast corner of the said Schotz 12.51 acre tract;

THENCE, with the east line of the said Schotz 12.51 acre tract, N 30° 25' 20" E, passing at a distance of 59.00 feet a 1 1/4-inch iron pipe found, a total distance of 456.51 feet to a calculated point, being the intersection of the said east line of the Schotz 12.51 acre tract and the south right-of-way line of RM Highway 2222;

THENCE, leaving the said east line of the Schotz 12.51 acre tract, continuing over and across the said 260 acre tract, with the said south right-of-way line of RM Highway 2222, the following four (4) courses and distances:

1. S 58° 56' 06" E, a distance of 280.28 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 237+71.6,
2. with a curve to the left having a radius of 765.04 feet, a central angle of 14° 28' 54" and an arc length of 193.36 feet, along the chord bearing S 66° 10' 33" E, a chord distance of 192.85 feet to an iron rod found in concrete at a point of tangency, being 50 feet right of the RM Highway 2222 centerline station 239+52.4,
3. S 73° 25' 00" E, a distance of 347.37 feet to a calculated point at a point of curvature, and
4. with a curve to the right having a radius of 522.93 feet, a central angle of 05° 56' 17" and an arc length of 54.20 feet, along the chord bearing S 70° 26' 51" E, a chord distance of 54.17 feet to a calculated point, being the intersection of the said south right-of-way line of RM Highway 2222 and the west line of that certain 2 acre tract of land conveyed from C. C. Champion to Roy W. Cowan by deed recorded in Volume 556, Page 439 of the said Deed Records of Travis County, same being the west line of that certain tract of land conveyed from the said Roy W. Cowan to Thomas R. Williams by deed recorded in Volume 936, Page 279 of the said Deed Records of Travis County;

THENCE, leaving the said south right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the said west line of the Cowan 2 acre tract, being the stone ledge at the brow of a cliff, same being, consecutively, the said west line of the Williams tract, the west line of the remainder portion of the said Cowan 2 acre tract, and the west line of that certain 0.27 acre tract of land conveyed to George Randall Baird by deed recorded in Volume 5959, Page 1987 of the said Deed Records of Travis County, the following five (5) courses and distances:

1. S 53° 58' 33" W, a distance of 35.84 feet to an angle point in the said stone ledge,
2. S 42° 49' 12" W, a distance of 47.98 feet to a 3/8-inch iron rod found at an angle point in the said stone ledge,
3. S 28° 04' 39" W, a distance of 71.27 feet to an angle point in the said stone ledge,
4. S 11° 54' 43" W, a distance of 97.00 feet to an iron rod found at an angle point in the said stone ledge, and

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5. S 35° 09' 03" W, a distance of 101.18 feet to a 3/8-inch iron rod found, being the most westerly corner of the said Baird 0.27 acre tract;

THENCE, leaving the said stone ledge, with the southwest line of the said Cowan 2 acre tract, being the southwest line of the said Baird 0.27 acre tract, S 33° 31' 40" E, a distance of 85.48 feet to a calculated point, being the intersection of the said southwest line of the Cowan 2 acre tract, same being the said southwest line of the Baird 0.27 acre tract, and a calculated line for the southeast line of the herein described parcel, being a 30-foot perpendicular offset from, and parallel and concentric with, the approximate centerline of the existing pavement of a county road known as City Park Road, and from the said calculated point, a 3/8-inch iron rod found, being the southwest corner of the said Baird 0.27 acre tract, bears S 33° 31' 40" E, a distance of 10.91 feet;

THENCE, leaving the said southwest line of the Cowan 2 acre tract and southwest line of the Baird 0.27 acre tract, continuing over and across the said 260 acre tract, with the said calculated line for the southeast line hereof, the following seven (7) courses and distances:

1. S 73° 57' 57" W, a distance of 151.64 feet to a calculated point at a point of curvature,
2. with a curve to the right having a radius of 950.00 feet, a central angle of 07° 19' 48" and an arc length of 121.54 feet, along the chord bearing S 77° 37' 51" W, a chord distance of 121.45 feet to a calculated point at a point of tangency,
3. S 81° 17' 44" W, a distance of 93.74 feet to a calculated point at a point of curvature,
4. with a curve to the left having a radius of 582.77 feet, a central angle of 20° 44' 03" and an arc length of 210.89 feet, along the chord bearing S 70° 55' 43" W, a chord distance of 209.74 feet to a calculated point at a point of compound curvature,
5. with a curve to the left having a radius of 1604.11 feet, a central angle of 09° 12' 00" and an arc length of 257.57 feet, along the chord bearing S 55° 57' 43" W, a chord distance of 257.29 feet to a calculated point at a point of compound curvature,
6. with a curve to the left having a radius of 1286.75 feet, a central angle of 12° 50' 14" and an arc length of 288.30 feet, along the chord bearing S 44° 56' 36" W, a chord distance of 287.69 feet to a calculated point at a point of tangency, and
7. S 38° 31' 29" W, a distance of 106.35 feet to a calculated point, being the intersection of the said calculated line for the southeast line hereof and the northeast line of the said Phinney 1.92 acre tract, from which a 3/8-inch iron rod found, being the most easterly corner of the said Phinney 1.92 acre tract, bears S 61° 10' 58" E, a distance of 0.36 feet;

THENCE, leaving the said calculated line for the southeast line hereof, continuing over and across the said 260 acre tract, with the said northeast line of the Phinney 1.92 acre tract, being the southwest line of the herein described parcel, N 61° 10' 58" W, a distance of 429.93 feet to the POINT OF BEGINNING, containing 20.59 acres of land.

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PARCEL C

BEGINNING at a nail set in a fence post, being a point on the southwest line of the said 260 acre tract, same being an angle point on the west right-of-way line of State Highway Loop 360, same also being the most northerly northeast corner of the remainder portion of Lot 2 of Shepherd Mountain, Phase One, a subdivision recorded in Plat Book 83, Page 200A-200B of the Plat Records of Travis County, said nail in a fence post also being the most southerly southeast corner of the herein described parcel, from which a concrete monument found, being an angle point on the said west right-of-way line of State Highway Loop 360, also being 461.43 feet right of the State Highway Loop 360 centerline station 359+67.82, bears S 30° 16' 45" E, a distance of 329.77 feet;

THENCE, with the said southwest line of the 260 acre tract, being, consecutively, the northeast line of the said remainder portion of Lot 2 of Shepherd Mountain, Phase One, the northeast line of that certain 19.947 acre tract of land out of the said Shepherd Mountain, Phase One conveyed to Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 75 of the said Deed Records of Travis County, the northeast line of that certain 40.38 acre tract of land conveyed to the said Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 72 of the said Deed Records of Travis County, and the northeast line of that certain 33.88 acre tract of land conveyed to the said Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 227 of the said Deed Records of Travis County, N 60° 48' 45" W, a distance of 2858.70 feet to a 3/8-inch iron rod found, being the most northerly northeast corner of the said Shepherd Mountain Venture 33.88 acre tract;

THENCE, leaving the said northeast line of Shepherd Mountain Venture 33.88 acre tract, continuing with said southwest line of the 260 acre tract, N 60° 38' 58" W, a distance of 5.61 feet to a calculated point, being the intersection of the said southwest line of the 260 acre tract and a calculated line for the northwest line of the herein described parcel, being a 30-foot perpendicular offset from, and parallel and concentric with, the approximate centerline of the existing pavement of a county road known as City Park Road, and from the said calculated point a 7/8-inch iron pipe found in a rock mound, being the most westerly corner of the said 260 acre tract, bears N 60° 38' 58" W, a distance of 64.36 feet and N 60° 45' 39" W, a distance of 392.21 feet;

THENCE, leaving the said southwest line of the 260 acre tract, with the said calculated line for the northwest line hereof, over and across the said 260 acre tract, the following eleven (11) courses and distances:

1. with a curve to the left having a radius of 410.00 feet, a central angle of 02° 33' 00" and an arc length of 18.25 feet, along the chord bearing N 39° 47' 59" E, a chord distance of 18.25 feet to a calculated point at a point of tangency,
2. N 38° 31' 29" E, a distance of 292.05 feet to a calculated point at a point of curvature,
3. with a curve to the right having a radius of 1226.75 feet, a central angle of 12° 50' 14" and an arc length of 274.85 feet, along the chord bearing N 44° 56' 36" E, a chord distance of 274.28 feet to a calculated point at a point of compound curvature,

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4. with a curve to the right having a radius of 1544.11 feet, a central angle of  $09^{\circ} 12' 00''$  and an arc length of 247.94 feet, along the chord bearing  $N 55^{\circ} 57' 43'' E$ , a chord distance of 247.67 feet to a calculated point at a point of compound curvature,
5. with a curve to the right having a radius of 522.77 feet, a central angle of  $20^{\circ} 44' 03''$  and an arc length of 189.18 feet, along the chord bearing  $N 70^{\circ} 55' 43'' E$ , a chord distance of 188.15 feet to a calculated point at a point of tangency,
6.  $N 81^{\circ} 17' 44'' E$ , a distance of 93.74 feet to a calculated point at a point of curvature,
7. with a curve to the left having a radius of 1010.00 feet, a central angle of  $07^{\circ} 19' 48''$  and an arc length of 129.21 feet, along the chord bearing  $N 77^{\circ} 37' 51'' E$ , a chord distance of 129.12 feet to a calculated point at a point of tangency,
8.  $N 73^{\circ} 57' 57'' E$ , a distance of 156.63 feet to a calculated point at a point of curvature,
9. with a curve to the right having a radius of 688.40 feet, a central angle of  $16^{\circ} 44' 01''$  and an arc length of 201.05 feet, along the chord bearing  $N 82^{\circ} 19' 57'' E$ , a chord distance of 200.34 feet to a calculated point at a point of reverse curvature,
10. with a curve to the left having a radius of 4944.96 feet, a central angle of  $02^{\circ} 20' 35''$  and an arc length of 202.22 feet, along the chord bearing  $N 89^{\circ} 31' 40'' E$ , a chord distance of 202.21 feet to a calculated point at a point of tangency, and
11.  $N 88^{\circ} 21' 23'' E$ , a distance of 19.31 feet to a calculated point, being the intersection of the said calculated line for the northwest line hereof, and the curving southwest right-of-way line of RM Highway 2222;

THENCE, leaving the said calculated line for the northwest line hereof, continuing over and across the said 260 acre tract, with the said southwest right-of-way line of RM Highway 2222, being the northeast line of the herein described parcel, the following seven (7) courses and distances:

1. with a curve to the right having a radius of 522.93 feet, a central angle of  $05^{\circ} 41' 51''$  and an arc length of 52.00 feet, along the chord bearing  $S 06^{\circ} 48' 11'' E$ , a chord distance of 51.98 feet to an iron rod found in concrete at a point of tangency,
2.  $S 03^{\circ} 57' 15'' E$ , a distance of 302.32 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 252+90.0,
3. with a curve to the left having a radius of 1479.29 feet, a central angle of  $16^{\circ} 43' 45''$  and an arc length of 431.92 feet, along the chord bearing  $S 12^{\circ} 19' 07'' E$ , a chord distance of 430.39 feet to a calculated point at a point of tangency,
4.  $S 20^{\circ} 41' 00'' E$ , a distance of 52.74 feet to a calculated point at a point of curvature,

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5. with a curve to the left having a radius of 766.20 feet, a central angle of  $35^{\circ} 34' 00''$  and an arc length of 475.62 feet, along the chord bearing  $S 38^{\circ} 28' 00'' E$ , a chord distance of 468.02 feet to a calculated point at a point of tangency,
6.  $S 56^{\circ} 15' 00'' E$ , a distance of 121.14 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 263+26.2, and
7. with a curve to the right having a radius of 1090.85 feet, a central angle of  $15^{\circ} 54' 41''$  and an arc length of 302.93 feet, along the chord bearing  $S 48^{\circ} 17' 40'' E$ , a chord distance of 301.96 feet to a calculated point, being the intersection of the said curving southwest right-of-way line of RM Highway 2222 and the northwest line of that certain 0.956 acre tract of land conveyed to Jones-Reynolds Joint Venture by warranty deed recorded in Volume 7764, Page 826 of the said Deed Records of Travis County;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, continuing over and across said 260 acre tract, with, consecutively, the northwest, the southwest and the southeast lines of the said Jones-Reynolds Joint Venture 0.956 acre tract, the following three (3) courses and distances:

1.  $S 55^{\circ} 13' 16'' W$ , passing at a distance of 71.52 feet a 3/8-inch iron rod found, a total distance of 195.86 feet to a 3/8-inch iron rod found,
2.  $S 34^{\circ} 46' 44'' E$ , a distance of 208.78 feet to a 3/8-inch iron rod found, and
3.  $N 55^{\circ} 13' 16'' E$ , a distance of 196.11 feet to a calculated point, being the intersection of the said southeast line of the Jones-Reynolds Joint Venture 0.956 acre tract and the said curving southwest right-of-way line of RM Highway 2222;

THENCE, leaving the said southeast line of the Jones-Reynolds Joint Venture 0.956 acre tract, continuing over and across the said 260 acre tract, with the said southwest right-of-way line of RM Highway 2222, with a curve to the right having a radius of 1090.85 feet, a central angle of  $02^{\circ} 37' 41''$  and an arc length of 50.04 feet, along the chord bearing  $S 28^{\circ} 02' 32'' E$ , a chord distance of 50.03 feet to a concrete monument found, being the intersection of the said curving southwest right-of-way line of RM Highway 2222 and the said west right-of-way line of State Highway Loop 360;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the said west right-of-way line of State Highway Loop 360,  $S 05^{\circ} 12' 45'' E$ , a distance of 476.44 feet to the POINT OF BEGINNING, containing 49.70 acres of land.

#### PARCEL D

BEGINNING at a concrete monument found, being the intersection of the east right-of-way line of State Highway Loop 360 and the southwest right-of-way line of RM Highway 2222, same being a point within the said 43.32 acre tract, same also being the most northerly corner of the herein described parcel, the said concrete monument also being 50 feet right of the RM Highway 2222 centerline station 287+10.7;

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THENCE, with the said southwest right-of-way line of RM Highway 2222, over and across the said 43.32 acre tract, S 72° 53' 58" E, a distance of 105.98 feet to a calculated point, being the intersection of the said southwest right-of-way line of RM Highway 2222 and the southwest line of the said 43.32 acre tract, same being the northwest corner of the remainder portion of that certain 65.56 acre tract of land granted to the said Josie Champion Hill by the said deed of partition recorded in Volume 482, Page 627 of the said Deed Records of Travis County;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, with the said southwest line of the 43.32 acre tract, being the west line of the said remainder portion of the Hill 65.56 acre tract, also being approximately with an old fence line along the top of the west bank of Bull Creek, the following three (3) courses and distances:

1. S 19° 50' 00" E, passing at a distance of 1.81 feet a 3/8-inch iron rod found, a total distance of 319.98 feet to a calculated point,
2. S 03° 50' 00" E, a distance of 102.82 feet to a fence post found, being an angle point in the said old fence line, and
3. S 14° 20' 00" E, a distance of 182.79 feet to a calculated point, being the most southeasterly point on the said southwest line of the 43.32 acre tract, same being the southwest corner of the said remainder portion of the Hill 65.56 acre tract, same also being a point on the north line of Lot 52 of The Courtyard Phase 3-D, a subdivision recorded in Plat Book 82, Pages 90-91 of the Plat Records of Travis County, and from the said calculated point a 3/8-inch iron rod found, being a point on the south line of the said remainder portion of the Hill 65.56 acre tract, same being an angle point on the said north line of Lot 52 of The Courtyard Phase 3-D, bears S 86° 56' 19" E, a distance of 6.55 feet;

THENCE, leaving the said west line of the remainder portion of the Hill 65.56 acre tract, continuing with the said southwest line of the 43.32 acre tract, being the said north line of Lot 52 of The Courtyard Phase 3-D, the following eleven (11) courses and distances:

1. N 86° 56' 19" W, a distance of 98.13 feet to a calculated point,
2. N 83° 58' 18" W, a distance of 83.75 feet to a 3/8-inch iron rod found,
3. N 85° 33' 31" W, a distance of 94.02 feet to a 3/8-inch iron rod found,
4. N 81° 03' 32" W, a distance of 86.45 feet to a 3/8-inch iron rod found,
5. N 83° 58' 53" W, a distance of 174.73 feet to a 3/8-inch iron rod found,
6. N 83° 06' 35" W, a distance of 78.21 feet to a 3/8-inch iron rod found,

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7. N 73° 17' 32" W, a distance of 30.48 feet to a 3/8-inch iron rod found,
8. N 68° 38' 43" W, a distance of 68.97 feet to a 3/8-inch iron rod found,
9. N 60° 27' 31" W, a distance of 55.52 feet to a 3/8-inch iron rod found,
10. N 55° 41' 26" W, a distance of 70.14 feet to a 3/8-inch iron rod found, and
11. N 49° 39' 52" W, a distance of 125.09 feet to a calculated point, being the most northerly northwest corner of said Lot 52 of The Courtyard Phase 3-D, same being the intersection of the said southwest line of the 43.32 acre tract and the said east right-of-way line of State Highway Loop 360, and from the said calculated point a concrete monument found, being an angle point in the said east right-of-way line of State Highway Loop 360, bears S 25° 34' 08" W, a distance of 462.07 feet;

THENCE, leaving the said north line of Lot 52 of The Courtyard Phase 3-D and leaving the said southwest line of the 43.32 acre tract, with the said east right-of-way line of State Highway Loop 360, over and across the said 43.32 acre tract, the following three (3) courses and distances:

1. N 25° 34' 08" E, a distance of 289.82 feet to a concrete monument found, being 307.46 feet left of the State Highway Loop 360 centerline station 356+86.42,
2. N 72° 57' 37" E, a distance of 331.35 feet to a concrete monument found, and
3. N 87° 25' 43" E, a distance of 203.16 feet to the POINT OF BEGINNING, containing 9.20 acres of land.

#### PARCEL E

BEGINNING at an iron rod found, being the intersection of the northeast line of the said 260 acre tract and the east right-of-way line of State Highway Loop 360, same being the most westerly corner of that certain 7.3795 acre tract of land conveyed to C. A. Davis, Trustee, by warranty deed recorded in Volume 7027, Page 2091 of the said Deed Records of Travis County, same also being the most northerly corner of the herein described parcel;

THENCE, with the said northeast line of the 260 acre tract, being the southwest line of the said Davis 7.3795 acre tract, the following four (4) courses and distances:

1. S 60° 06' 22" E, a distance of 42.94 feet to an iron rod found,
2. S 60° 32' 39" E, a distance of 166.95 feet to a 3/8-inch iron rod found,
3. S 59° 28' 48" E, a distance of 265.74 feet to a 3/8-inch iron rod found, and



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4. S 62° 34' 14" E, a distance of 79.87 feet to a 3/8-inch iron rod found, being the most northerly corner of that certain 0.998 acre tract of land conveyed to Josie Ellen Champion by deed recorded in Volume 4189, Page 77 of the said Deed Records of Travis County;

THENCE, leaving the said southwest line of the Davis 7.3795 acre tract and leaving the said northeast line of the 260 acre tract, with the west line of the said Champion 0.998 acre tract, over and across the said 260 acre tract, the following two (2) courses and distances:

1. S 30° 20' 12" W, passing at a distance of 50.15 feet a 3/8-inch iron rod found, a total distance of 186.62 feet to a 3/8-inch iron rod found, and
2. S 04° 59' 51" E, a distance of 96.97 feet to a 1/4-inch iron rod found, being the southwest corner of the said Champion 0.998 acre tract, same being a point on the east line of the said 260 acre tract, same also being a point on the northwest line of that certain 3.35 acre tract of land conveyed to Joe T. Robertson, Jr., Daniel B. Robertson, and Thomas H. Robertson by deed recorded in Volume 5536, Page 303 of the said Deed Records of Travis County, the said iron rod also being on the approximate centerline of Bull Creek, from which an iron rod found, being an angle point on the south line of the said Champion 0.998 acre tract, also being an angle point on the said northwest line of the Robertson 3.35 acre tract, bears N 76° 41' 32" E, a distance of 102.46 feet;

THENCE, leaving the said west line of the Champion 0.998 acre tract, with the said east line of the 260 acre tract, being the said northwest line of the Robertson 3.35 acre tract, same being with the meanders of the approximate centerline of Bull Creek, the following seven (7) courses and distances:

1. S 76° 41' 32" W, a distance of 73.63 feet to a calculated point,
2. S 86° 55' 00" W, a distance of 103.20 feet to a calculated point,
3. S 47° 50' 00" W, a distance of 70.29 feet to a calculated point,
4. S 25° 05' 00" W, a distance of 322.30 feet to a calculated point,
5. S 36° 20' 00" W, a distance of 235.03 feet to a calculated point,
6. S 00° 10' 00" E, a distance of 241.83 feet to a calculated point, and
7. S 09° 52' 00" E, a distance of 5.80 feet to a calculated point, being the southwest corner of the said Robertson 3.35 acre tract, same being the northwest corner of Lot 75 of Lakewood Village, a subdivision recorded in Plat Book 8, Page 24 of the Plat Records of Travis County, and from the said calculated point a 3/8-inch iron rod found, being the northwest corner of Lot 20, Block B of the said Lakewood Village, same being the southwest corner of Lot 21, Block B of Lakewood Park, Section 1, a subdivision recorded in Plat Book 9, Page 107 of the said Plat Records of Travis County, same also being a point on the east right-of-way line of a 60-foot wide county road known as Lakewood Drive, bears N 87° 16' 00" E, a distance of 161.24 feet;

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THENCE, leaving the said northwest line of the Robertson 3.35 acre tract, continuing with the said east line of the 260 acre tract, being the west line of the said Lot 75 of Lakewood Village, same being with the said meanders of the approximate centerline of Bull Creek, the following two (2) courses and distances:

1. S 09° 52' 00" E, a distance of 572.31 feet to a calculated point, and
2. S 16° 27' 00" E, a distance of 412.47 feet to a calculated point, being the most easterly southeast corner of the said 260 acre tract;

THENCE, leaving the said west line of Lot 75 of Lakewood Village and leaving the said approximate centerline of Bull Creek, continuing with the said east line of the 260 acre tract, S 43° 57' 06" W, a distance of 566.26 feet to a calculated point, being the intersection of the said east line of the 260 acre tract and the north line of the said 43.32 acre tract, from which an old fence corner found, being the northeast corner of the said 43.32 acre tract, same being the southeast corner of the said Lakewood Village, same also being the northeast corner of Parkhill, a subdivision recorded in Plat Book 81, Pages 307-308 of the said Plat Records of Travis County, bears N 89° 51' 41" E, a distance of 1537.65 feet;

THENCE, leaving the said east line of the 260 acre tract, with the said north line of the 43.32 acre tract, N 89° 51' 41" E, a distance of 509.63 feet to a calculated point, being the intersection of the said north line of the 43.32 acre tract and the said west line of Lot 75 of Lakewood Village, same being on the approximate centerline of Bull Creek;

THENCE, leaving the said north line of the 43.32 acre tract, with the said west line of Lot 75 of Lakewood Village, being with the meanders of the approximate centerline of Bull Creek, over and across the said 43.32 acre tract, S 14° 30' 31" E, a distance of 12.87 feet to a calculated point, being the southwest corner of the said Lot 75 of Lakewood Village;

THENCE, leaving the said west line of Lot 75 of Lakewood Village and leaving the said approximate centerline of Bull Creek, with the said south line of Lot 75 of Lakewood Village, continuing over and across the said 43.32 acre tract, N 84° 47' 00" E, a distance of 54.85 feet to a calculated point, being the southeast corner of said Lot 75 of Lakewood Village, same being a point on the west right-of-way line of the said Lakewood Drive, from which a 3/8-inch iron rod found, being a point of tangency on the east right-of-way line of the said Lakewood Drive, same being a point of tangency on the west line of Lot 4, Block A of the said Lakewood Village, bears N 14° 48' 58" W, a distance of 354.98 feet and N 75° 11' 02" W, a distance of 60.00 feet;

THENCE, leaving said south line of Lot 75 of Lakewood Village, continuing over and across the said 43.32 acre tract, with the said west right-of-way line of Lakewood Drive, the following three (3) courses and distances:

1. S 14° 48' 58" E, a distance of 20.19 feet to a calculated point at a point of curvature,
2. with a curve to the right having a radius of 603.82 feet, a central angle of 09° 59' 52" and an arc length of 105.36 feet, along the chord bearing S 09° 49' 02" E, a chord distance of 105.23 feet to a calculated point at a point of tangency, from which a 1 3/4-inch iron pipe found, being a point of tangency on the said east right-of-way line of Lakewood Drive, same being a point of tangency on the west line of Lot 3, Block A of the said Parkhill, bears N 85° 10' 54" E, a distance of 60.00 feet, and

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

3. S 04° 49' 06" E, a distance of 345.92 feet to a calculated point, being the intersection of the said west right-of-way line of Lakewood Drive and the north right-of-way line of RM Highway 2222, from which an iron rod found in concrete, being the intersection of the said east right-of-way line of Lakewood Drive and the said north right-of-way line of RM Highway 2222, same being the southwest corner of Lot 6, Block A of the said Parkhill, bears S 72° 53' 58" E, a distance of 64.68 feet;

THENCE, leaving the said west right-of-way line of Lakewood Drive, continuing over and across the said 43.32 acre tract, with the said north right-of-way line of RM Highway 2222, N 72° 53' 58" W, a distance of 269.32 feet to a concrete monument found, being the intersection of the said north right-of-way line of RM Highway 2222 and the said east right-of-way line of State Highway Loop 360;

THENCE, leaving the said north right-of-way line of RM Highway 2222, over and across, consecutively, the said 43.32 acre tract and the said 260 acre tract, with the said east right-of-way line of State Highway Loop 360, the following seven (7) courses and distances:

1. N 59° 26' 47" W, a distance of 427.04 feet to a concrete monument found,
2. N 24° 18' 12" W, a distance of 89.75 feet to a concrete monument found,
3. N 15° 08' 18" E, a distance of 462.64 feet to a concrete monument found,
4. N 01° 28' 16" E, a distance of 885.09 feet to a concrete monument found, being 190 feet left of the State Highway Loop 360 centerline station 339+00,
5. N 06° 15' 33" W, a distance of 203.87 feet to a concrete monument found,
6. N 05° 04' 31" E, a distance of 713.98 feet to a concrete monument found at a point of curvature, being 150 feet left of the State Highway Loop 360 centerline station 329+85.8, and

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2


7. with a curve to the right having a radius of 1759.27 feet, a central angle of  $18^{\circ} 32' 54''$  and an arc length of 569.52 feet, along the chord bearing  $N 14^{\circ} 20' 58'' E$ , a chord distance of 567.04 feet to the POINT OF BEGINNING, containing 18.82 acres of land.

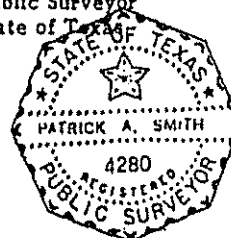
THE STATE OF TEXAS I  
COUNTY OF TRAVIS I KNOW ALL MEN BY THESE PRESENTS:

That I, Patrick A. Smith, a Registered Public Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the  
27<sup>TH</sup> day of JUNE, 1985, A.D.

ESPEY, HUSTON & ASSOCIATES, INC.  
Engineering & Environmental Consultants  
P.O. Box 519  
Austin, Texas 78767

  
Patrick A. Smith  
Registered Public Surveyor  
No. 4280 - State of Texas



PO#: 960613J

Ad ID#: 72QZ01400

Acct #: 4992499

**Austin American-Statesman**

Acct. Name: City Clerk

**AFFIDAVIT OF PUBLICATION**

**THE STATE OF TEXAS  
COUNTY OF TRAVIS**

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared:

David DeVargas

Classified Advertising Agent of the *Austin American-Statesman*, a daily newspaper published in said County and State that is generally circulated in Travis, Hays, Burnet and Williamson Counties, who being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit:

Date (s): July 3, 1996

Class: 9980 Lines: 46 Cost: \$113.16

and that the attached is a true copy of said advertisement.

*[Signature]*

SWORN AND SUBSCRIBED TO BEFORE ME, this the 3rd day of July 1996.



*[Signature]*  
Notary Public in and for  
TRAVIS COUNTY, TEXAS

Sharon Janak  
(Type or Print Name of Notary)

My Commission Expires: 11/10/99

ORDINANCE NO. 960613-J  
AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR DEVELOPMENT OF FIVE (5) TRACTS OF LAND, TRACT 1: BEING 153.75 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, BEING MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-020; TRACT 2: BEING A 21.59 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; TRACT 3: BEING .4970 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; TRACT 4: BEING 9 ACRES, MORE OR LESS, OUT OF T.J. CHAMBERS SURVEY, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-023; AND TRACT 5: BEING 26 ACRES, MORE OR LESS, OUT OF THE JAMES JETT SURVEY NO. 1 AND THOMAS JEFFERSON CHAMBERS GRANT, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-024; GRANTING A SPECIAL EXCEPTION UNDER DIVISION 3 OF ARTICLE V OF CHAPTER 131, ARTICLE 1 OF CHAPTER 13-1, AND ARTICLE V OF CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; IMPOSING WATER QUALITY PROTECTIONS ON DEVELOPMENT OF THE PROPERTY; WAIVING THE REQUIREMENTS OF SECTIONS 2-2.3, 2-2.5, 2-2.7, 13-1.301 AND 13-1.302 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; ESTABLISHING AN EXPIRATION DATE; AND ESTABLISHING AN EFFECTIVE DATE.  
MAYOR BRUCE TODD  
AUSTIN, TEXAS

# Exhibit D

ORDINANCE NO. 840301-F

AN ORDINANCE AMENDING CHAPTER 9-10 (RIVERS, LAKES AND WATERCOURSES) OF THE AUSTIN CITY CODE OF 1981; ADOPTING NEW STANDARDS FOR SITE DEVELOPMENT IN THE LAKE AUSTIN WATERSHED; DESIGNATING THE SAME AS A NEW DIVISION 5 OF ARTICLE V (SPECIAL REQUIREMENTS FOR SITE DEVELOPMENT AND USE IN WATER QUALITY RELATED ENVIRONMENTALLY SENSITIVE AREAS) OF SAID CHAPTER 9-10; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. That a new Division 5, Article V be and is hereby added to Chapter 9-10 of the Austin City Code of 1981 which shall read as follows:

DIVISION 5. LAKE AUSTIN WATERSHED

PART A. General Provisions

Sec. 9-10-356. Findings and Objectives.

(a) The City Council hereby makes the following findings:

- (1) The City Council is the trustee of the natural environment and recreational potential of Lake Austin for future generations of Austinites;
- (2) The Lake Austin Watershed, compared to other watersheds within Austin's jurisdiction, is mostly undeveloped;
- (3) The Lake Austin Watershed, due to abrupt topography, thin and easily disturbed soil, natural springs, unique biotic communities, and sparse but significant vegetation, is different from other watersheds within Austin's jurisdiction;
- (4) Lake Austin is a primary source of Austin's water supply;
- (5) The continued economic growth of Austin is enhanced by recreational opportunities in close proximity to Lake Austin;
- (6) Lake Austin, as an integral part of the Highland Lakes, is a significant source of pride and attraction, and the lake and its environment must be preserved and protected to promote Austin's economic well being;
- (7) Lake Austin is one of the most significant sources of public recreation for Austinites, and must be

- protected in order to preserve the health and welfare of Austin citizens;
- (8) Lake Austin is comparatively shallow and narrow, and thus extremely vulnerable to pollution and sedimentation resulting from development activities within its watershed which are not related to single sources of pollution;
  - (9) The Lake Austin Watershed is undergoing rapid development;
  - (10) If the Lake Austin Watershed is not developed in a sensitive and innovative manner, the recreational benefits of Lake Austin will be irreparably damaged.
- (b) The City Council further finds that minimum standards should be adopted as an application of the general principles for conservation and development that are embodied in the Lake Austin Growth Management Plan, which principles are intended to protect the water quality of Lake Austin as a source of the City's drinking water and a recreational resource, and to encourage innovative planning and design of urban development which responds to the unique and sensitive environments of the Lake Austin Watershed, the purposes of which standards are:
- (1) To avoid or compensate for increases in soil erosion and sedimentation during and after construction activities;
  - (2) To avoid or compensate for increases in runoff volumes and velocities;
  - (3) To prevent indiscriminate stripping of vegetation and unnecessary loss of soils;
  - (4) To mitigate increases in the pollutant concentrations and total pollutant loading of runoff drainage;
  - (5) To prevent structural deficiencies or failures of buildings built on slopes or on earthen fill;
  - (6) To prevent construction activity that may precipitate mass movement, slumping, or erosion of land surfaces; and,
  - (7) To prevent unacceptable wastewater discharges from reaching Lake Austin.

Sec. 9-10-357. Application of Division and Coordination with Other Ordinances.

- (a) This division sets out special requirements for the development of land located in the Lake Austin Watershed,



which for the purposes of this division shall mean all land within the following boundaries:

BEGINNING at the intersection of the centerline of State Highway 71 with the centerline of Farm-to-Market Road 620, for the most southerly southwest corner of the herein described tract of land;

THENCE, with said centerline of State Highway 71 in a southeasterly direction to a point in the centerline of Bee Caves Road;

THENCE, with said centerline of Bee Caves Road in an easterly direction to a point in the southerly prolongation of the east right-of-way line of Capitol of Texas Highway South;

THENCE, with said east right-of-way line of Capitol of Texas Highway South and its southerly prolongation in a northerly direction to a point in the present corporate limit line of West Lake Hills;

THENCE, with said present corporate limit line of West Lake Hills in a northerly, easterly and southerly direction to a point in the present corporate limit line of the City of Austin as adopted by ordinance dated July 29, 1976;

THENCE, continuing with the present corporate limit line of West Lake Hills, same being said present corporate limit line of the City of Austin as adopted by ordinance dated July 29, 1976, in a southeasterly direction to the corporate limit line of the City of Austin, same being a contour line along Lake Austin whose elevation is 504.9 feet above mean sea level;

THENCE, with said present corporate limit line of the City of Austin, same being said 504.9 contour line of Lake Austin, in an easterly and southerly direction to a point on the north face of Tom Miller Dam;

THENCE, with said north face of Tom Miller Dam in an easterly direction to a point in a line whose elevation is 492.3 feet above mean sea level;

THENCE, with said contour line whose elevation is 492.3 feet in an easterly and northerly direction to a point in the westerly prolongation of the centerline of Windsor Road;

THENCE, with the centerline of Windsor Road and its westerly prolongation in an easterly direction to a point in the Ridge Line of the Lake Austin Watershed;

THENCE, with said Ridge Line of Lake Austin Watershed in a northerly direction to a point in the reference line of U.S. Highway 183, for the most easterly corner of the herein described tract of land;

THENCE, with the reference line of U.S. Highway 183 in a northwesterly direction to a point in the Travis and Williamson County Lines;

THENCE, with said county line of Travis and Williamson Counties in a westerly direction to a point in the centerline of Farm-to-Market Road 620, for the most northerly corner of the herein described tract of land;

THENCE, with said centerline of Farm-to-Market Road 620 in a southwesterly direction to the point of beginning.

The boundaries of the Lake Austin Watershed are also depicted for purposes of illustration on the map attached hereto and made a part hereof as Exhibit "A". Copies of such map shall be available for inspection at the offices of the City Clerk, Planning Department and Public Works Department. All questions concerning the exact boundary lines of the Lake Austin Watershed as herein described and as shown on such Exhibit "A" shall be determined by the Director of Public Works.

- (b) A person wishing to develop land in the Lake Austin Watershed must comply both with these special requirements and with the requirements of such other provisions of this Chapter as may be applicable in the given case. When the land being developed is located partially within and partially beyond the Lake Austin Watershed, this division shall apply only to that portion of the land within the Lake Austin Watershed.
- (c) In case of conflict between the requirements of this division and any other ordinance, the requirements of this division govern.
- (d) The Director of Public Works, in cooperation with the Directors of Planning and Environmental Management, shall design and administer a system, including necessary forms, that coordinates the requirements of both this division and the other provisions of this Chapter and Chapter 13-3, minimizes duplication of requirements and conflict between same and facilitates the expeditious processing of site development permit applications.

Sec. 9-10-358. Exemptions From Division.

- (a) The requirements of this division shall not apply to the construction of single-family or duplex residential housing structures or appurtenances thereto where only

one such structure is built per legal lot, tract or parcel.

- (b) The requirements of this division shall not apply to development of land in lawfully platted subdivisions which were specifically exempted from Ordinance No. 831020-H.
- (c) The requirements of this division shall not apply to development of land in lawfully platted subdivisions which were approved under the City of Austin's special requirements for the subdivision of land in the Lake Austin Watershed which were in effect prior to the adoption of Ordinance No. 831020-H.
- (d) Development exempt from this division under (b) or (c) above shall be governed by the rules and requirements of City of Austin Ordinance No. 800103-N. Applications for site development permits on file on the effective date of this division shall be governed by the Lake Austin Watershed Site Development Ordinance in effect on the date of application. Provided, however, in no case shall any prior ordinance be applied in such a manner as to exempt any lot, tract, parcel or other land from the cut and fill limitations of Sec. 9-10-409.

Sec. 9-10-359. Exemption From Waterway Development Permit.

No waterway development permit is required where a site development permit has been issued for a site within the city limits, such site development permit has become effective and where all requirements of Article IV, Division 2 of this Chapter are met.

Sec. 9-10-360. Definitions.

- (a) The definitions in Section 9-10-1 of this Chapter also apply to this division insofar as they do not conflict with the definitions contained herein.
- (b) In this division the terms set forth in this section shall have the following meanings:

Commercial Development: Development for uses other than residential.

Development: Buildings and other structures; construction and excavation, dredging, grading, filling, and clearing or removing vegetation.

Impervious Cover: Roads, parking areas, buildings and other impermeable construction covering the natural land surface shall be considered as impervious cover. Water quality basins, swales, peak shaving detention ponds, and

other conveyances for drainage (excluding roadways, curb and gutter) shall not be calculated as impervious cover.

Individual On-Site Wastewater System: A system of on-site wastewater treatment for an individual lot, including but not limited to: septic tanks and drainfields, evapotranspiration systems, aerobic systems, and pressure-dosing trench fields and other approved innovative systems.

Multi-Family Development: Residential development other than detached single-family dwellings or duplexes on an individual lot.

Spoil: Material such as rocks, dirt, vegetation, debris, etc. generated as a result of development.

Sec. 9-10-361. Certification of Plans and Specifications.

No plans and specifications called for in this division shall be accepted, reviewed, or approved by the Director of Public Works unless accompanied by the certification of a registered Texas professional engineer that:

- (1) The development plan is complete;
- (2) The technical data are accurate; and,
- (3) The requirements of this division are met.

Sec. 9-10-362. Inspections.

Any person who has filed a site development plan for approval pursuant to this division shall agree to allow entry on the land or premises which is the subject of such application for the purpose of inspection of conditions on the premises by duly authorized agents and employees of the City, as may be necessary to assure compliance with this division.

Sec. 9-10-363. Certificate of Compliance or Occupancy.

No City utilities may be connected to a site unless a certificate of compliance is issued by the Department of Public Works when the development is completed pursuant to requirements of this division for areas outside the city limits or until the Building Inspection Department issues a certificate of occupancy with the written concurrence of the Director of Public Works for areas within the City limits. Requests by the developer/owner for a certificate of compliance or occupancy for development other than single-family or duplex residential housing construction shall be accompanied by a certificate prepared and signed by a registered professional engineer attesting to the completion

of the project in substantial conformance with the site development permit.

Sec. 9-10-364. Penalty for Violations.

Any person violating any of the provisions of this division, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00). Each day that the violation continues shall constitute a separate offense.

Sec. 9-10-365. Other Remedies for Violations.

- (a) When the Director of Public Works determines that there has been noncompliance with any material terms, condition, requirement or agreement under this division, the person developing pursuant to an approved site development permit shall be ordered in writing to cease and desist from further development or construction relevant to the alleged noncompliance until corrected by compliance. Said person may appeal an order to cease and desist to the Director of Public Works by giving written notice. Said director shall hear the appeal within ten (10) working days of receiving such notice. Said person may appeal in writing a negative ruling by the director to the Planning Commission, which shall hear the appeal at the next regular subdivision meeting following receipt of the notice.
- (b) The City shall bring suit in a court of competent jurisdiction to restrain and enjoin any person who attempts to carry out any plan for development and construction without first obtaining approval of said plan as required by the law and the ordinances of the City or any person who fails to cease and desist from further development or construction under subsection (a) above.
- (c) Any right, privilege or remedy granted by this division to the person obtaining or holding plat or plan approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this division shall also inure as to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the directions of any of the foregoing, or under color of the same.

Sec. 9-10-366. - 9-10-369. Reserved.

PART B. Site Development Permit

Sec. 9-10-370. Required.

No development shall be undertaken on any land, tract, parcel or lot within the Lake Austin Watershed until the effective date of a site development permit for said development issued by the Director of Public Works.

Sec. 9-10-371. Application.

Application for a site development permit shall be submitted to the Director of Public Works and shall be accompanied by a site development plan. The application and site development plan shall contain the following information unless the Director of Public Works determines that due to the scope and nature of the proposed development some of the information is unnecessary:

- (a) The date, scale, north point and key plan showing the location of the tract on which the development is to take place. The minimum scale of site plans shall be one inch equals forty (40) feet. All accompanying maps and plans shall be to a comparable scale.
- (b) The existing boundary lines and acreage of the tract on which the development is to take place, and the common boundary lines and names of the owners of adjacent properties.
- (c) The location and maximum height and depth of all proposed cuts and fills in excess of four (4) feet.
- (d) The limits of the one-hundred (100) and twenty-five (25) year flood plains, based on existing conditions, of all creeks and major drainage channels prior to any alteration of land assuming fully developed watershed conditions exist.
- (e) A description of the structure types or uses proposed, and total percentage of proposed and existing impervious cover on the site.
- (f) A slope map drawn from available topographic material which shall separate the proposed development site into the following four slope classes:
  - (1) Slopes of greater than thirty-five (35) percent gradient;
  - (2) Slopes of greater than twenty-five (25) and up to thirty-five (35) percent gradient;

- (3) Slopes of greater than fifteen (15) and up to twenty-five (25) percent gradient; and,
  - (4) Slopes less than fifteen (15) percent gradient.
- (g) A display of data which shall show the following information.
- (1) The land area calculated in acres for each slope class within the site as delineated on the slope map.
  - (2) The total maximum area of impervious surfaces proposed in the development within each slope class. The total area shall be separated into areas of streets, off-street parking, commercial areas, multi-family areas, tennis courts and other recreational areas, and other residential areas. All pedestrian sidewalks within street rights-of-way, or parallel to the private streets shall be included in the impervious cover calculations, but shall be excluded from the impervious cover limitations of this division.
- (h) A topographic map, with two foot contour intervals, meeting national map accuracy standards, showing:
- (1) Existing topographic features including faults, fractures, sinkholes, and bluffs;
  - (2) The location of all temporary and permanent runoff detention basins, constructed and altered waterways, rock and brush berms, and other structural facilities to be installed to comply with the erosion and sedimentation control guidelines;
  - (3) All roadways;
  - (4) The proposed building site(s);
  - (5) Building setback lines as may already be lawfully established or as may be proposed;
  - (6) For commercial sites a vegetative survey which shows the approximate location and identifies all significant plant material on the site;
  - (7) Drainage easements;
  - (8) Wastewater drain fields, if applicable.

- (i) A drainage study to address the purposes and design criteria set forth in part E of this division and which shall include, among other pertinent information, the following:
  - (1) The justification to use enclosed storm sewers if they are being proposed;
  - (2) For developments within the City limits or developments within subdivisions approved by the City when a Waterway Development Permit was required for such subdivision approval, Waterway Development Permit information which, in addition to the information otherwise required by this Chapter, shall include:
    - a. The location of all drainage easements;
    - b. Location and description of any drainage structures;
    - c. The location of the twenty-five (25) and one-hundred (100) year flood plains;
    - d. Effect of development on adjacent and downstream property;
    - e. Detention requirements;
    - f. Building slab elevations;
    - g. Effect of the project on the natural and traditional character of the waterway.
  - (3) Plans and specifications detailing structural water quality and quantity controls.
- (j) A grading and erosion-sedimentation control plan. The data requirements for this plan shall include:
  - (1) The location and description of existing topographic features and soil characteristics of the site using best available information;
  - (2) A description of proposed changes to the site;
  - (3) A description of measures which shall be taken for the control of soil erosion and sedimentation;
  - (4) Restoration/slope stabilization techniques, including vegetative types, and acceptability note stating the degree of restoration expected at the time of restoration acceptance by the City;
  - (5) A sequencing of construction.
- (k) An indication of possible disposal sites of all excess spoil and the probable depth and origin of the fill material. For each plan, an environmental assessment



provided by the applicant shall address the following items:

- (1) Estimated quantities of excess material requiring disposal;
  - (2) Alternative sites for spoil disposal, including on-site locations, other sites within the Lake Austin Watershed and sites outside of the Lake Austin Watershed if proposed;
  - (3) A proposed location (s) for spoil disposal and justification in light of the alternatives above, environmental considerations, and public benefits to be provided;
  - (4) A description of the dimensions of the fill, restoration measures proposed and provisions for drainage.
  - (5) The location of haul roads to and from the site.
- (l) An indication of proposed joint-use driveways as provided by Sec. 9-10-405.
  - (m) Such restrictive covenants, easements or contracts as may be necessary and appropriate to ensure adequate property owner maintenance of water quality basins under subsection 9-10-389 and/or to facilitate the use of joint-use driveways under Sec. 9-10-405.
  - (n) The name and address of the person or entity to whom notice shall be given after a City conducted construction phase inspection has been made.
  - (o) Variance requests.

Sec. 9-10-372. Fee.

Applications for permits required by the provisions of this division shall be accepted only upon payment of the appropriate fee as established by ordinance.

Sec. 9-10-373. Burden of Proof.

An applicant for a site development permit under this division must establish that his/her plans comply with the requirements of this division and with other applicable requirements of this chapter.

Sec. 9-10-374. Advertising Application.

- (a) Within two (2) days of the filing of any application for a site development permit, the City shall place signs on

property under application for the purposes of advertising said permit. The signs shall meet the following requirements:

- (1) Each sign shall be no smaller than eighteen (18) inches by thirty (30) inches.
- (2) Each sign shall include the words "Proposed Site Development Permit", plus such other information as may be determined necessary by the Director of Public Works.
- (b) Signs placed on the property involved must be within ten (10) feet of any property line paralleling any established or proposed street and must be visible from that street.
- (c) All required signs shall remain on the property until final disposition of the permit request is determined.

Sec. 9-10-375. Review of Application.

- (a) On receipt of an application for a site development permit, accompanied by the correct filing fee, the Director of Public Works shall file the application and send a copy to the Director of Environmental Resource Management for review and recommendations. The Director of Public Works may not act on an application (except to deny or request more information) until he or she receives a report on the application from the Director of Environmental Resource Management.
- (b) The Director of Environmental Resource Management shall review the application and send a written report thereon to the Director of Public Works within fifteen (15) working days after the date on which the application was filed. Included in such report shall be the recommendation of the Director of Environmental Resource Management to:
  - (1) Grant the permit; or
  - (2) Deny the permit; or
  - (3) Disapprove the permit pending the receipt of additional information.

Sec. 9-10-376. Action on Application.

- (a) The Director of Public Works must grant the permit, deny the permit, or disapprove the permit with the request for additional information within twenty (20) working days after the date on which the application was filed.

- (b) If the Director denies the permit or disapproves the permit with the request for additional information, he or she must within the twenty working day period notify the applicant of the denial or disapproval and explain each ground of denial or describe the additional information requested, in either case identifying the requirements of this Chapter that justify the denial or necessitate additional information.
- (c) If the Director of Public Works does not deny or disapprove the permit, within the time period and in the manner specified in subsections (a) and (b), the permit is automatically granted on the twentieth working day after the date on which the application was filed.
- (d) A site development permit is effective on the tenth working day after the date on which it is granted unless an appeal is timely delivered under Section 9-10-378.

Sec. 9-10-377. Variances.

- (a) Variances from the terms of this division may be granted by the Planning Commission only if it is found that, because of special circumstances applicable to the property involved, a strict application deprives such property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where such conditions are found the variance permitted shall be the minimum departure necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. Provided, however, in no case may a variance be granted that will provide the applicant with any special privileges not enjoyed by other similarly situated properties with similarly timed development. Provided, further, that the Planning Commission shall have no authority to grant a variance based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after October 20, 1983. The Planning Commission may consider written reports from appropriate City departments and may request such further information from City departments which is relevant and necessary to its decision.
- (b) The Planning Commission shall justify the grant or denial of a variance in writing for the application file.
- (c) The Director of Public Works shall prepare and maintain in the Public Works Department for public inspection:
  - (1) A written summary of variances granted and denied under subsection (a); and

- (2) The contents of the files, including the appeal record if there was an appeal, for each variance acted on by the Planning Commission.

Sec. 9-10-378. Appeal to city Council.

- (a) Any person may appeal in writing to the City Council the grant or denial (but not disapproval pending the receipt of additional information) of a site development permit under Section 9-10-376 or the grant or denial of a variance under Section 9-10-377. The appeal must be delivered to the Director of Public Works on or before the ninth working day after the date on which the permit or variance was granted or denied.
- (b) On receipt the Director of Public Works shall deliver the appeal, together with the permit application file to the City Clerk for placing on the Council agenda. The City Clerk shall notify the appellant, the applicant (if different), and the Directors of Public Works and Environmental Resource Management of the hearing date.
- (c) The City Council must decide the appeal at a public hearing on or before the thirtieth day after the date on which the appeal was filed with the Director of Public Works. If both the grant or denial of a permit, or the grant or denial of a variance for the same site area are appealed, or if there are multiple appeals of the same grant or denial, the Council shall decide them at the hearing.
- (d) The appellant has the burden of proof on appeal and the Council must decide the appeal solely on the basis of the permit application file, the written appeal, the written response to the appeal, if any, from the applicant, oral argument at the Council hearing, written reports from appropriate City departments and such further information which is relevant and necessary to the Council's decision as may be requested from appropriate City departments by the Council.
- (e) After considering the appeal the Council may affirm the grant or denial, reverse it, or modify it to comply with the requirements of this division.

Sec. 9-10-379. - 9-10-380. Reserved.

PART C. Impervious Cover Limitations

Sec. 9-10-381. Purpose.

Impervious cover must be limited to reduce and compensate for the impacts of erosion, reduce the volume and rate of runoff, attenuate the harm of contaminants collected and transported by stormwater, and reduce the quantity of wastewater effluent discharged within the Lake Austin Watershed, the primary source of drinking water for the City of Austin.

Sec. 9-10-382. Prohibited on Steep Slopes.

No impervious cover except for roads shall be permitted on slopes over thirty-five (35) percent gradient.

Sec. 9-10-383. Multi-Family Residential Development.

- (a) No development of land for multi-family residential purposes shall create impervious cover exceeding the following limitations within each slope category:
  - (1) Forty (40) percent impervious cover on slopes under fifteen (15) percent gradient;
  - (2) Ten (10) percent impervious cover on slopes of fifteen (15) to twenty-five (25) percent gradient;
  - (3) Five (5) percent impervious cover on slopes of over twenty-five (25) and up to thirty-five (35) percent gradient.
- (b) The transfer of allowable impervious cover from slopes in excess of fifteen (15) percent gradient to slopes under fifteen (15) percent gradient and to slopes of fifteen (15) to twenty-five (25) percent gradient shall be permitted within individual lots, tracts or parcels. In such cases of transfer, the impervious cover allowed on slopes under fifteen (15) percent gradient may be permitted to exceed forty (40) percent but shall not exceed fifty (50) percent; and in such cases of transfer the impervious cover allowed on slopes of fifteen (15) to twenty-five (25) percent gradient may be permitted to exceed ten (10) percent but shall not exceed fifteen (15) percent (see Transfer Table).

Transfer Table Multi-Family

<u>Slope Category</u>	<u>Standard Impervious Cover Limit</u>	<u>Max. Impervious Cover With Transfer</u>
Under 15% gradient	40%	50%
15-25% gradient	10%	15%
25-35% gradient	5%	5%

- (c) Notwithstanding any of the foregoing, however, impervious cover allocations, limitations, restrictions or transfers imposed on land as a result of the process of subdividing the land under the City of Austin's special requirements for subdivision in the Lake Austin Watershed shall be controlling when in conflict with the provisions of this section.

## Sec. 9-10-384. Commercial Development.

- (a) No development of land for commercial purposes shall create impervious cover exceeding the following limitations within each slope category:

- (1) Sixty-five (65) percent impervious cover on slopes under fifteen (15) percent gradient;
- (2) Fifteen (15) percent impervious cover on slopes of fifteen (15) to twenty-five (25) percent gradient;
- (3) Five (5) percent impervious cover on slopes of over twenty-five (25) and up to thirty-five (35) percent gradient.

- (b) The transfer of allowable impervious cover from slopes in excess of fifteen (15) percent gradient to slopes under fifteen (15) percent gradient shall be permitted within individual lots, tracts or parcels. In such cases of transfer, the impervious cover allowed on slopes of under fifteen (15) percent gradient may be permitted to exceed sixty-five (65) percent but shall not exceed seventy (70) percent; and in such cases of transfer the impervious cover allowed on slopes of fifteen (15) percent to twenty-five (25) percent gradient may not be permitted to exceed ten (10) percent (see Transfer Table).

Transfer Table Commercial

<u>Slope Category</u>	<u>Standard Impervious Cover Limit</u>	<u>Max. Impervious Cover With Transfer</u>
Under 15% gradient	65%	70%

15-25% gradient	15%	10%
25-35% gradient	5%	5%

- (c) Notwithstanding any of the foregoing, however, impervious cover allocations, limitations, restrictions or transfers imposed on land as a result of the process of subdividing the land under the City of Austin's special requirements for subdivision in the Lake Austin Watershed shall be controlling when in conflict with the provisions of this section.

Sec. 9-10-385. - 9-10-386. Reserved.

#### PART D. Structural Water Quality Controls

##### Sec. 9-10-387. Compliance.

All developments of land within the Lake Austin Watershed with projected impervious cover exceeding eighteen (18) percent on slopes of twenty-five (25) percent gradient and under shall comply with the provisions of this Part D. in addition to other requirements of this division.

##### Sec. 9-10-388. Water Quality Detention-Sedimentation Basins.

- (a) Water quality detention-sedimentation basins which release all water through a filter medium shall be situated and constructed to capture and hold at least the first one-half inch ( $\frac{1}{2}$ " ) of runoff from all impervious cover.
- (b) Water quality detention-sedimentation basins shall not be required for greenbelts, open space, golf courses and other similar uses, provided, however that if golf courses are irrigated with effluent, water quality detention-sedimentation basins which release all water through a filter medium shall be situated and constructed to capture and hold at least the first one-half inch ( $\frac{1}{2}$ " ) of runoff from such area. The runoff coefficient for such detention-sedimentation-filtration basins shall be determined under wet conditions.
- (c) The basins and drainage into the basins shall be designed to capture and isolate the first flush runoff. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the Drainage Criteria Manual.

- (d) The design of all detention-sedimentation basins shall allow an average resident time of twenty-four (24) hours for the first one-half inch ( $\frac{1}{2}$ " ) of runoff.
- (e) Input to and release from detention basins shall utilize grass-lined swales and/or overland flow dispersion measures where feasible.
- (f) Water quality and peak shaving basins shall not be located in waterways, draws or ravines. Exceptions to this may be considered if:
  - (1) A regional facility is being proposed which will minimize the total disturbance or damage which would otherwise result from the construction of several smaller facilities; or,
  - (2) An environmental assessment illustrates that the impact of locating the facility in the waterway will be substantially less than keeping such a facility out of the waterway. The assessment shall be prepared by the applicant and reviewed and commented on by Environmental Resource Management prior to Public Works Department approval. Such assessment shall consider the intrinsic value of leaving waterways in an undisturbed state if the associated vegetation, slopes, grade, rock outcropping and other qualities make them worthy of preservation in their natural state.
- (g) Regional basins for use by many different property owners and properties are encouraged.

Sec. 9-10-389. Maintenance.

- (a) All basins and their appurtenances required for commercial and multi-family development shall be maintained by the property owner.
- (b) The basins shall be cleaned at least every twenty-four (24) months. Ponds shall be inspected every twelve (12) months, at least every June through August. Exceptions may be made by Directors of Public Works and Environmental Resource Management for basins requiring more or less frequent cleaning.

In the event that any basins need cleaning more than twice in each calendar year, the Planning Commission shall review and approve such additional requirement.

- (c) The maintenance required above shall be to the standards and specifications contained in this division and other ordinances and resolutions of the City and shall retain the effectiveness of each design feature.



Sec. 9-10-390. - 9-10-391. Reserved.

PART E. Drainage

Sec. 9-10-392. Natural Drainage and Overland Sheet Flow.

The objective of the drainage plan shall be to utilize the natural drainage patterns of the area. Overland sheet flow shall be maintained wherever possible and the dispersion of runoff back to sheet flow shall be a primary objective of drainage design for the site, as opposed to concentrating flows in storm sewers and drainage ditches. Drainage design standards shall be implemented based on engineering and environmental considerations to meet the above requirements.

Sec. 9-10-393. Reserved.

PART F. Construction on Steep Slopes

Sec. 9-10-394. Building Foundations on Steep Slopes.

- (a) All building foundations on slopes of fifteen (15) percent gradient and over and on fill placed upon slopes fifteen (15) percent gradient and over must utilize design and construction practices certified by a registered professional engineer qualified to practice in this field.
- (b) No buildings shall be constructed on slopes in excess of thirty-five (35) percent gradient.

Sec. 9-10-395. Reserved.

PART G. Roadways

Sec. 9-10-396. Roadway Locations.

- (a) Roadways, whether public or private, shall not be constructed on terrain with a gradient of greater than twenty-five (25) percent except where it is necessary to do so in order to provide primary access to an area of terrain with slope of less than twenty-five (25) percent gradient. In determining whether a roadway should be placed on a slope of over twenty-five (25) percent gradient, factors to be taken into consideration shall include the size of the area of less than twenty-five (25) percent gradient proposed to be accessed, distance over which the roadway shall be on a slope of greater

than twenty-five (25) percent gradient, and the availability of alternative roadway alignments which would eliminate or minimize the amount of roadway located on slopes of greater than twenty-five (25) percent gradient.

- (b) Roadway locations shall be based on the need to preserve topographic features and to minimize to the maximum extent feasible the construction of roadway cuts and fills as well as a professional engineering analysis of generally accepted geometric standards for vehicular and pedestrian safety.

Sec. 9-10-397. Clearing for Roadways.

- (a) Clearing for road construction shall not be permitted before the effective date of the approved site development permit. Minimal clearing for the purposes of surveying and testing may be permitted, however, provided significant natural ground cover is not removed.
- (b) Roadway clearing width shall not exceed twice the roadway surface width or the width of the dedicated right-of-way, whichever is less. Right-of-way widths shall not be increased to provide additional clearing under this provision. Such roadway clearing width may be varied by the Planning Commission where, in the Commission's opinion, unusual topographic conditions necessitate such a variance. Clearing for short run road (300 feet or less) construction problem areas may be increased to two and one-half times the roadway width, right-of-way permitting. In cases where, due to slopes, clearing activities would normally result in cleared materials sliding onto areas beyond the clearing widths specified above, retaining walls or other methods shall be utilized to prevent such sliding.

Sec. 9-10-398. Cut and Fill for Roadways.

Cut and fill sections for roadways shall not exceed allowable roadway clearing widths.

Sec. 9-10-399. Roadway Standards.

- (a) Roadway standards, other than pavement and construction standards, may be varied by the Planning Commission for areas located within the Lake Austin Watershed after the Commission has considered:
  - (1) Reports from the Directors of the Departments of Public Works, Urban Transportation, and Environmental Management, in which the adequacy of proposed alternative standards have been assessed;

- (2) The developer's written justification for the variance; and,
  - (3) The developer's preliminary plans for the streets proposed to be built under the proposed variances.
- (b) Low density alternative urban street standards, as provided by Section 13-3-155 through 13-3-159 of this Code may be used in the Lake Austin Watershed.

Sec. 9-10-400. Completion of Roadways.

The length of time between roughcutting and final surfacing of roadways may not exceed eighteen (18) months. If an applicant does not meet this deadline, the Director of Public Works shall notify him in writing that the City will complete the streets or revegetate the disturbed area at his expense unless he does so within sixty (60) days after the date of the notice.

Sec. 9-10-401. - 9-10-403. Reserved.

PART H. Driveways

Sec. 9-10-404. Location and Design.

Every lot shall be reasonably accessible by vehicle from the roadway to the probable building site. For a minimum travel distance of twenty-five (25) feet from the roadway edge, the driveway grade may exceed fourteen (14) percent only with specific approval of surface and geometric design proposals by the Director of the Public Works Department or his designee.

Sec. 9-10-405. Joint-Use Driveways.

A joint-use driveway may be utilized to access up to eight (8) lots, tracts or parcels as an alternative to a public or private street. For joint-use driveways, paving width shall be no less than sixteen (16) feet. Such driveways may utilize a design speed no lower than ten (10) mph. The Public Works Department shall consider the recommendations of the Department of Urban Transportation on driveway grades and length for each site prior to approving a joint-use driveway.

Sec. 9-10-406. Reserved.

PART I. Erosion and Sedimentation Control

## Sec. 9-10-407. Purpose.

The volume, rate, and quality of stormwater run-off originating from development must be controlled to prevent soil erosion and water quality degradation in the Lake Austin Watershed. Stormwater transported sediment is of primary concern because it provides a transport medium for contaminants and because excessive sedimentation can increase the dangers of flooding by reducing channel capacity and can also severely impact the vegetation and ecosystem of the waterways.

## Sec. 9-10-408. Site Disturbance Prior to Permit Approval.

Work done on the ground in preparation of site development permit approval shall be limited to surveying and testing. Areas cleared for surveying and testing shall not exceed a width of fifteen (15) feet.

## Sec. 9-10-409. Cut and Fill.

- (a) No fill on any lot, tract, parcel or other land shall exceed a maximum of four (4) feet of depth except as approved by the Director of the Public Works Department in the areas designated as permanent on-site spoils disposal sites. Fill placed under foundations with sides perpendicular to the ground, or with pier and beam construction, need not comply with this requirement.
- (b) Except for structural excavation, no cut on any lot, tract, parcel or other land shall be greater than four feet. For the purposes of this subsection, structural excavation means excavation required for construction of building foundations, but shall not include cuts for private or public roads or driveways where structural side-slope stabilization (containment) is proposed.
- (c) In all cases, slopes generated by cut and fill shall be stable, giving full consideration to soil characteristics and erosion potential. Techniques to be used are to be specified. Slopes exceeding a 3 to 1 ratio must be stabilized by permanent structural means (e.g., dry stack walls, terraces, exposed aggregate concrete walls, etc.).

## Sec. 9-10-410. Compliance with Control Measures.

- (a) Erosion and sedimentation controls as specified in the Erosion and Sedimentation Control Manual, (dated September 28, 1982) are required for all construction and development in the Lake Austin Watershed, including but not limited to, commercial and multi-family construction.

Moreover, the construction of all roads, utilities, parks, golf courses, impervious cover, water quality and detention basins; and all other activities utilizing clearing, trenching, grading, or other construction techniques shall comply with the Manual.

- (b) Final construction plans shall be accompanied by a proposed construction sequence to demonstrate an acceptable plan for erosion control during the construction period and restoration of the land after the construction period and shall be submitted to the Department of Public Works and Department of Environmental Resources Management for review. All measures for erosion control and restoration shall be performed in accordance with the Erosion and Sedimentation Control Manual.
- (c) Projects shall not be considered complete until restoration has been made, the required vegetation established, and certified by the Public Works Department for acceptance as installed.

In the event the City accepts maintenance responsibility for the streets, drainage facilities and utilities prior to completion of restoration requirements, a separate and enforceable agreement to ensure completion of all restoration requirements shall be entered into by the City of Austin and the developer.

- (d) After two (2) days written notice to the person holding approval of the plan, modifications from the approved erosion control and construction sequencing plans may be made in the field if the City inspector deems the controls or sequencing inappropriate or inadequate and has confirmed his/her findings with the Director of Public Works and the Director of the Environmental Management Department, and has their written approval.

Sec. 9-10-411. ~ 9-10-413.. Reserved.

#### PART J. Spoil Disposal

##### Sec. 9-10-414. Temporary Site Disturbances.

Clearing for the temporary storage of spoils or construction equipment shall be designated on the construction plans and shall be restored in accordance with the Erosion and Sedimentation Control Manual. The topsoil should be protected against erosion during and after the site grading operations. Where practical, the existing vegetation should be left in place or be replaced by a better grade of ground cover to protect existing or new topsoil against erosion.

## Sec. 9-10-415. Location of Spoil Sites.

Spoil disposal sites shall not be located within the one-hundred (100) year flood plain or on slopes greater than twenty (20) percent gradient unless the Planning Commission finds that a necessary public benefit is derived from the use of the spoil. Such benefits may include, but are not limited to:

- (a) Roadways approved as part of a roadway plan for the area.
- (b) Stormwater detention facilities, after consideration of reports from the Public Works Department and the Environmental Management Department.
- (c) Public or private park sites, after consideration of reports from the Environmental Management Department and the Parks and Recreation Department.

## Sec. 9-10-416. Access to Spoil Sites.

Spoil disposal sites shall be located such that reasonable access to the site is available. Access routes shall utilize existing and approved roadways wherever possible and shall not be located within waterways except where no reasonable alternative is available, or when used to construct water quality and/or peak-shaving detention basins. Plans should address the restoration of such access roads and basins.

## Sec. 9-10-417. Restoration of Spoil Sites.

Restoration shall be carried out in conformance with the Erosion and Sedimentation Control Manual, with particular emphasis on the section entitled Standards for Land Grading.

## Sec. 9-10-418. Reserved.

PART K. Other Requirements

## Sec. 9-10-419. Sanitary Sewer Line Location.

It is the intent of this section to assure that waterways are preserved in their natural state except under limited circumstances. The fragile nature of the waterways within the basin make them inherently inappropriate for use as the location for wastewater lines. While waterways may be the most economical location for sewer lines, in this case environmental constraints require that alternative locations be utilized whenever possible. This will entail the use of increased numbers of lift stations as total gravity systems may not be feasible.

Sewer lines shall not be located in waterways except upon approval of a variance from this section by the Planning Commission which shall be considered pursuant to an environmental assessment from Environmental Resource Management and the applicant evaluating the environmental impacts of alternative sewer alignments. At the request of Environmental Resource Management the applicant shall examine and evaluate alignments proposed by Environmental Resource Management prior to the Planning Commission hearing on the variance request. Approval or denial of the variance shall be based solely on the environmental impacts of the alternatives. Economic considerations should not be a significant factor. In the event it is concluded the wastewater line should be in the waterway it shall be located outside of the two (2) year flood plain.

Sec. 9-10-420. Individual On-site Wastewater Systems.

Residential lots, tracts or parcels utilizing individual on-site wastewater systems shall be at least one (1) acre in size and shall either have at least one-half ( $\frac{1}{2}$ ) acre of contiguous land with slope of less than fifteen (15) percent gradient or have at least three-quarters ( $\frac{3}{4}$ ) of an acre of contiguous land with slope of less than twenty-five (25) percent gradient. All other development utilizing on-site wastewater systems or collective systems shall comply with the applicable City and County requirements concerning same.

Sec. 9-10-421. Package Treatment Plants.

Projects utilizing wastewater package treatment plants for sewage disposal shall have at least eight-thousand (8,000) square feet of irrigated land per living unit. No irrigation shall be allowed on slopes of greater than twenty (20) percent gradient or in the one-hundred (100) year flood plain.

The applicant shall apply for an irrigation permit from the State meeting a TSS/BOD standard of no more than 15/15 or such more restrictive standard as the State may impose. Package treatment plants shall have one hundred (100) days of storage capacity available in the event of wet weather conditions or plant failure. No irrigation shall take place during wet weather conditions.

PART 2. That Sections 9-10-136 through 9-10-145 of the Austin City Code of 1981 be and are hereby deleted from said Code in their entirety.

PART 3. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected

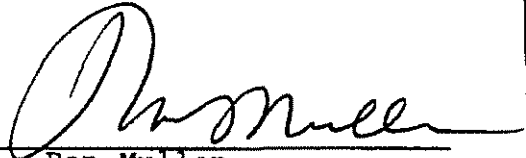
thereby, it being the intent of the City Council in adopting this ordinance that no portion thereof or provisions, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this ordinance are declared to be severable for that purpose.

PART 4. WHEREAS, the necessity to preserve the water quality of Lake Austin and the environmental integrity of the Lake Austin Watershed creates an emergency calling for immediate action to preserve the peace, health, safety and general welfare of the public, an emergency is hereby declared to exist; therefore, the rule requiring that ordinances be read on three separate days is hereby suspended, and this ordinance shall become effective immediately upon its adoption as provided by the Charter of the City of Austin.


PASSED AND APPROVED

March 1, 1984


§  
§  
§  
§

  
Ron Mullen  
Mayor

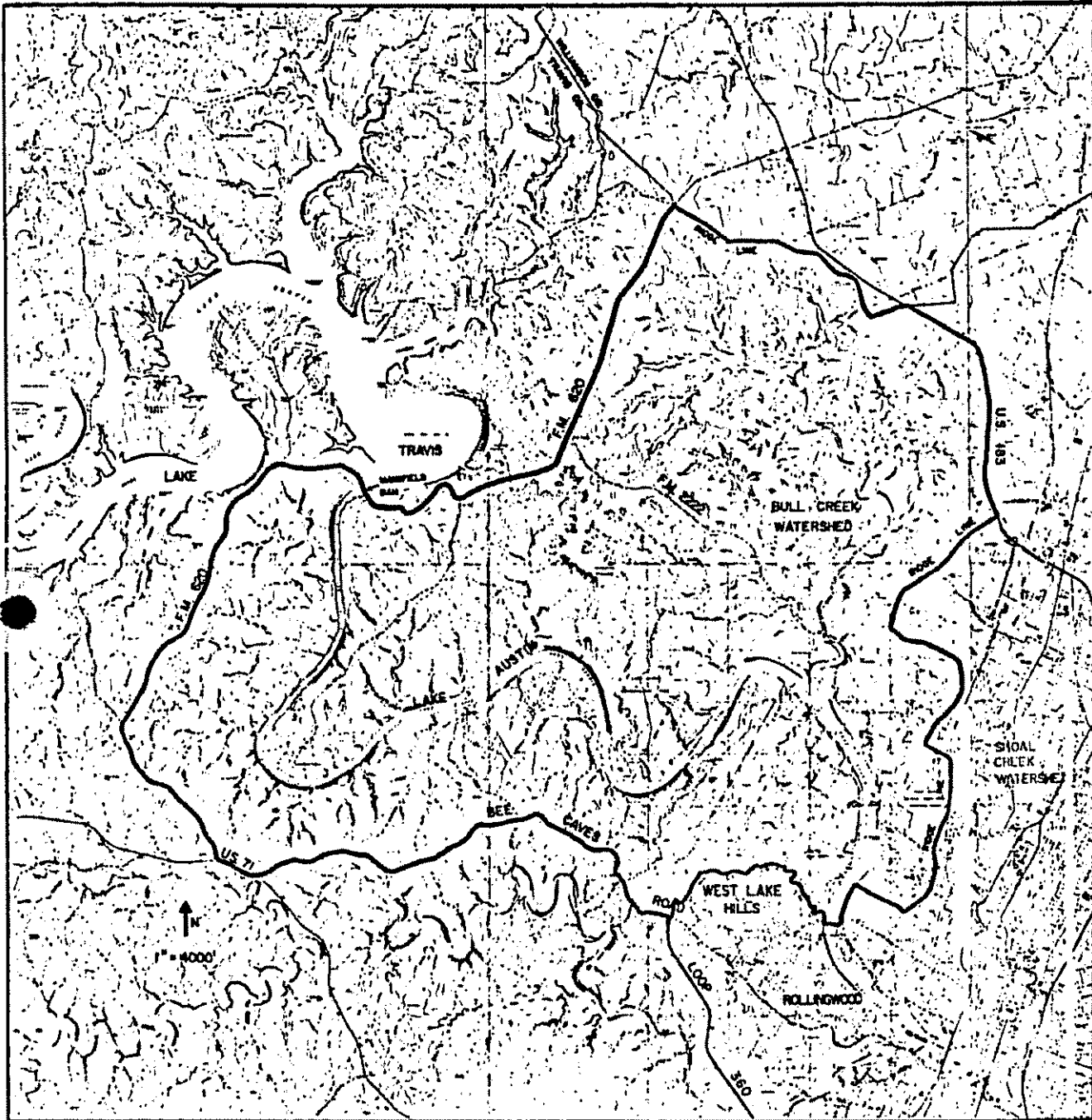
APPROVED:

  
Paul C. Isham  
City Attorney

ATTEST:

  
James E. Aldridge  
City Clerk





\* THE TERM "LAKE AUSTIN WATERSHED" IS NOT MEANT OR INTENDED TO ENCOMPASS THE LAKE AUSTIN WATERSHED IN ITS ENTIRETY, BUT ONLY THAT PORTION OF THE LAKE AUSTIN WATERSHED AS SHOWN HEREON.

BOUNDARY MAP OF THE LAKE AUSTIN WATERSHED \*  
FOR THE PURPOSES OF THE  
LAKE AUSTIN GROWTH MANAGEMENT ORDINANCES  
AS CONTAINED IN CHAPTERS 13-2 OF THE AUSTIN CITY CODE

CITY OF AUSTIN  
DEPARTMENT OF PLANNING  
JUNE 88  
K.B.R.

9-10

**EXHIBIT "A"**

Austin American-Statesman

City of Austin

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS  
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the  
County of Travis, State of Texas, on this day personally appeared:

Susana Martinez,

Classified Advertising Agent of the Austin American-Statesman, a daily  
newspaper published in said County and State, who being duly sworn by  
me states that the attached advertisement was published in said newspaper  
on the following dates, to wit:

March 13, 1984

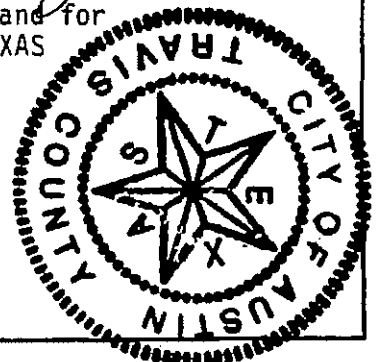
and that the attached is a true copy of said advertisement.

Susana Martinez

SWORN AND SUBSCRIBED TO BEFORE ME, this the 14th

Day of March A.D. 198 4.

Denise Steyer  
Notary Public in and for  
TRAVIS COUNTY, TEXAS



# Exhibit E

ORDINANCE NO. 86 0116-J

AN ORDINANCE AMENDING CHAPTER 13-2A (ZONING ORDINANCE) OF THE AUSTIN CITY CODE OF 1981; PROVIDING FOR A DEFINITION OF "HILL COUNTRY ROADWAY CORRIDOR"; ADDING NEW SECTIONS 5180 - 5199; PROVIDING REQUIREMENTS AND CRITERIA FOR DEVELOPMENT WITHIN THE "HILL COUNTRY ROADWAY CORRIDOR"; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Austin is of the opinion that continued pressure for westward growth of the City shall bring an explosive on-rush of development along major highways to the west of the City; and,

WHEREAS, the City Council recognizes the potential of designated Hill Country Roadways to be an asset to the entire City and the motoring public because of their dramatic scenic qualities with magnificent views; and,

WHEREAS, it is necessary to protect and preserve the unique physical beauty of these highways so they will continue to be an attraction to tourists thereby benefitting the Capital City's economic climate; and,

WHEREAS, the City Council is concerned about traffic safety and congestion along its major highways and that the traffic capacity of Hill Country Roadways is limited; and,

WHEREAS, the environmental disruption and economic cost associated with the improvement and expansion of Hill Country Roadways is considerable and may be minimized by appropriate restrictions on land use and future development of property adjacent to Hill Country Roadways; NOW THEREFORE,

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

PART 1. That a new Section 1227 of Chapter 13-2A (Zoning) be and is hereby added to the Austin City Code of 1981 and shall read as follows:

1227 HILL COUNTRY ROADWAY CORRIDORS

The Hill Country Roadway Corridors shall consist, for each of the following roadways, of all land located within one thousand feet (1000') on each side of the dedicated public right-of-way which is within the city limits of the City of Austin or which is annexed thereto at a subsequent date.

- a. Loop 360 (U.S. 290 W. - U.S. 183)
- b. RR 2222/Bull Creek Rd. (Highland Hills Dr. - FM 620)
- c. RR 2244/Bee Cave Rd. (Loop 360 - SH 71)
- d. FM 620 (SH 71 - Anderson Mill Road)

PART 2. That new Sections 5180-5199 of Chapter 13-2A (Zoning) be and are hereby added to the Austin City Code of 1981 and shall read as follows:

5180 HILL COUNTRY ROADWAY CORRIDORS

5185 TITLE AND PURPOSES

Sections 5180 through 5199 shall be known as the Hill Country Roadway Corridors regulations and are designed to achieve the following purposes:

- a. To maintain the rugged natural beauty of the eastern edge of the Texas Hill Country as currently exists along Hill Country Roadways;
- b. To encourage development which is compatible with and, wherever possible, enhances such natural beauty;
- c. To allow people of the City of Austin to be able to live, work, and enjoy recreation within the area without reducing its natural beauty;
- d. To encourage safe and efficient traffic flow along Hill Country Roadways;
- e. To preserve the environment by providing clean air, clean water and greenbelts of natural vegetation and wildlife;
- f. To preserve the scenic character of the Hill Country Roadway Corridors and, where possible, scenic vistas from the roadways;
- g. To encourage only orderly and sensitive development as appropriate in the City's environmentally-sensitive watersheds; and,
- h. To accomplish the foregoing goals through thoughtful and cooperative planning in order to benefit all the people of Austin.

5186 APPLICATION

- a. Unless otherwise provided by this Section, in a Hill Country Roadway Corridor, notwithstanding the zoning classification, no tract shall be developed and no building shall be erected or structurally altered in violation of this Section. The provisions of this Section shall apply in addition to other ordinance requirements. In case of conflict therewith, the most restrictive provisions shall govern except as otherwise expressly provided in this Section.
- b. The site plan submitted pursuant to this Section may, at the option of the applicant, include land not located within the Hill Country Roadway Corridor.

## 5187 SITE PLAN REQUIRED

No zoning change shall be approved and no structure shall be erected unless a site plan as provided for in this Section and in Section 5100 (Principal Roadway Area) has been approved by the City Council after recommendation of the Planning Commission. Site plans submitted under the provisions of this Section shall comply with all requirements set out by other provisions of this Code as well as the following:

- a. The location of all improvements on the site plan shall be specific and no alteration or movement of proposed improvements in excess of twenty-five feet (25') shall be permitted without the approval of the City Council.
- b. The site plan shall include a tree survey. A construction line shall be delineated on each site plan submitted for City approval. This limit line shall include all building, parking, and vehicular use areas, and all areas of required cut and fill. Within this area, the requirements of Section 5189 (Landscaping) shall be shown. Outside this limit line, no tree survey shall be required and the project developer shall be required to leave undisturbed all areas of native vegetation including trees, shrubs, and understory vegetation to a reasonable and feasible extent.
- c. The site plan shall illustrate the location of all trash receptacles, air conditioning and heating equipment, loading areas, parking areas, lighting and an indication of the methods to be used to screen all such areas from all public views. If air conditioning, heating units, penthouses, parapet walls, or water storage reservoirs for fire safety must be located on roofs of structures, they shall be screened from view, both horizontally and vertically.
- d. The site plan shall illustrate the height calculation as provided for in Section 5188 by showing the cross sections required to demonstrate that each building complies with height limitations.
- e. For projects requesting performance incentives for scenic vista protection as per Sec. 5192, the site plan shall illustrate the location and nature of any existing or potential scenic vistas from or in close proximity to public roadways or recreation areas, and shall show how such vistas would be impacted by the proposed development. For the purposes of this ordinance, a scenic vista shall be defined as a generally recognizable, noteworthy view of Lake Travis, Lake Austin, the valleys of the Colorado River, Barton Creek, Bull Creek, and West Bull Creek, or the downtown area of Austin. Protection of scenic vistas may be demonstrated through use of:
  1. Photographs of all existing scenic vistas at the site.

Areas of cut not hidden from view shall be effectively screened by additional landscaping.

3. Hillside vegetation shall not be disturbed other than that necessary to locate the structure. All disturbed areas shall be restored with native vegetation as per Section 5189.
  4. If terraces are not provided, cuts and fills are to be restored to 3 to 1 slopes and with vegetation. Naturally restored slopes are limited to eight feet (8') in length. Terraces are to be installed in between the slopes if more than a single 8' slope is required.
- d. Height. The height of buildings shall be limited but the permitted height may increase as the distance from the right-of-way increases. Within two hundred feet (200') of the right-of-way of a Hill Country Roadway, no building shall exceed twenty-eight feet (28'). Beyond two hundred feet (200') from the right of way of a Hill Country Roadway, height may increase but shall not be permitted to exceed twenty-eight (28') in Low Intensity areas, forty feet (40') in Moderate Intensity areas, or fifty-three feet (53') in High Intensity areas, except as provided in Sec. 5192.
  - e. Underground Utilities. All on-site utilities shall be located underground unless required by the utility to be otherwise located.
  - f. Building Materials. Buildings shall be designed to utilize, to the greatest extent feasible, building materials such as rock, stone, brick, and wood, which are compatible with the Hill Country environment. No mirrored glass with a reflectance greater than twenty percent (20%) shall be permitted.

5189 LANDSCAPE REQUIREMENTS.

- a. Tree Removal. For each tree removed with a trunk greater in diameter than six inches (6"), (measured at a point four and one-half feet above ground level), or for each cluster of three (3) or more trees located within ten feet (10') of each other with trunk diameters greater than two inches (2"), of live oak, Spanish oak, cedar elm, shin oak, bald cypress, post oak, pecan, bur oak, or black walnut, and for small native trees such as Texas madrone, black cherry, Texas mountain laurel, evergreen sumac, Mexican buckeye, flameleaf sumac, or Texas persimmon, the developer must compensate by planting a sufficient amount of native species mentioned above within disturbed areas that will reasonably compensate for the loss of existing trees.

- b. Nonresidential Floor to Area Ratio. All nonresidential buildings shall be limited to a maximum Floor-to-Area Ratio computed by reference to slope gradients and intensity level as follows:

Slope Gradient of Land	Intensity Level		
	Low	Moderate	High
0-15%	.20	.25	.30
15-25%	.08	.10	.12
25-35%	.04	.05	.06

"Floor to Area Ratio" shall be defined as the ratio of gross floor area (exclusive of parking structures and atriums) to site area within the appropriate slope class within the Hill Country Roadway Corridor. For purposes of calculating allowable floor area and impervious cover (where applicable), the gross site area shall exclude additional dedicated right-of-way only to a maximum of sixty feet (60') from the centerline of a Hill Country Roadway. In no event shall the Floor-to-Area Ratio on the 0-15% slopes exceed the following maximums including any additional credits added by Section 5192:

Intensity Level		
Low	Moderate	High
.25	.30	.35

- c. Construction on Steep Slopes. No roadways or driveways shall be constructed on slopes in excess of fifteen (15%), except where necessary to provide access to areas of flatter slopes. Cuts and fills on roadways or driveways are to be restored as described herein. No building or parking areas shall be constructed on slopes in excess of fifteen percent (15%), provided, however, that buildings and parking structures may be located on slopes of 15%-25% when the following criteria are met:

1. Structures located upslope of slopes over fifteen percent (15%) area shall be constructed utilizing pier and beam techniques. Fill shall be placed to blend with the natural contour. No vertical walls shall extend beyond the lowest finished floor elevation, other than necessary to screen mechanical appurtenances, and shall be stepped, if appropriate. Terraced fill and walls shall be 1 to 1 grade limited to four feet (4') in height for each terrace. More than one level of terrace is permitted.
2. Structures located downslope of slopes over fifteen percent (15%) are is encouraged to be terraced and consolidated into the hillside. Structural excavation shall not exceed a maximum of eight feet (8') in depth.



2. Schematic plans and sections showing clearly the impact development will have on scenic vistas.
3. Elevations or perspective sketches showing the proposed development from the adjacent roadway.

The Office of Land Development Services shall develop a map indicating segments of Hill Country Roadways along which scenic vistas are prevalent.

5188 SITE DEVELOPMENT REGULATIONS

All land and buildings within a Hill Country Roadway Corridor shall comply with all requirements of Section 5100 (Principal Roadway Areas) as well as the following:

- a. Intensity Zones. Floor-to-Area Ratios and height shall be determined relative to low, moderate, and high intensity zones indicated below, consistent with the applicable comprehensive plan.
  1. High Intensity - All land within one thousand feet (1000') of the right-of-way of two intersecting State-maintained roadways, and with frontage on both highways or on one highway and an intersecting arterial or collector roadway, as well as all land along Loop 360 within three thousand five hundred feet (3500') from its intersection with U.S. 290.
  2. Moderate Intensity - All land not included in the High Intensity designation and with frontage on:
    - (a) Loop 360 (excluding RR 2244 - RR 2222 except as per (b)).
    - (b) Loop 360 (1200 feet north and south of Westlake Drive).
    - (c) RR 2222 (FM 620 - 2.1 miles east of RM 620)
    - (d) FM 620 (Comanche Trail - Anderson Mill Road and Lohman's Crossing - Stewart Rd.)
    - (e) A Hill Country Roadway and an intersecting arterial or collector street, limited to land within five hundred feet (500') of the right-of-way of the intersecting street, but excluding intersections along RM 2222 east of Loop 360.
    - (f) A Low Intensity roadway segment where the sole access to such a tract is from an arterial or collector roadway other than the Hill Country roadway.
  3. Low Intensity - All land not included in the Moderate or High Intensity designation.

- b. Highway Vegetative Buffer. Except for clearing necessary to provide utilities and access to the site, no clearing of vegetation shall be permitted within one hundred feet (100') of the dedicated right-of-way of a Hill Country Roadway; provided, however, that in no case shall such vegetative buffer exceed twenty percent (20%) of the acreage of the applicant's property. In cases where the buffer area has previously been substantially disturbed, it shall be revegetated with native trees, shrubs, and grasses and up to fifty percent (50%) of the buffer may be utilized for detention/sedimentation ponds and wastewater drainfields, subject to such restoration.
- c. Natural Area. At least forty percent (40%) of the site, excluding dedicated right-of-way, shall be left in a natural state. Priority shall be given to protection of natural critical areas identified in the City's Comprehensive Plan in meeting this requirement. Natural areas located within parking medians and the required Highway Vegetative buffer may count toward such forty percent (40%) requirement. In the event that the natural area requirement conflicts with the requirements of another applicable ordinance, such conflict shall be resolved with the minimum departure from the terms hereof and approved by the City Council after recommendation of the Planning Commission. Up to twenty-five percent (25%) of the area required to be kept in a natural state may be used for sewage disposal fields; provided that such areas are appropriately revegetated.
- d. Landscaped Screening. All parking areas and detention/sedimentation ponds shall use existing vegetation or installed landscaping to screen pavement, vehicles, and ponds from the roadway and from adjacent properties. This screening shall include dense massing of trees in addition to existing native understory vegetation or shrubs massing or berms. Topographic changes shall be considered in reviewing this provision. A median of not less than ten feet (10') in width containing existing native trees or dense massing of installed trees, shall be placed between each parking bay.

5190

## SIGNS

In addition to applicable provisions of the City's sign ordinance, the following requirements shall apply to signs within a Hill Country Roadway Corridor:

a. Permitted Signs.

- 1. One (1) freestanding berm or monument sign of up to sixty-four (64) square feet in area shall be permitted for each street frontage. Where street frontage exceeds six hundred feet (600'), two such signs shall be permitted. Such signs shall not exceed twelve feet (12') in

height or the square root of the distance from the sign to the right-of-way, whichever is less.

2. In multi-tenant projects, one (1) wall sign shall also be permitted for each individual business establishment, with lettering not to exceed twenty-four inches (24") in height.

- b. Prohibited Signs. Internal lighting of signs, neon or flashing signs, building floodlighting, and freestanding pole or post signs shall not be permitted. All spotlights and exterior lighting shall be concealed from view and oriented away from adjacent properties and roadways.

#### 5191 TRAFFIC REQUIREMENTS.

- a. Access. Access to a Hill Country Roadway may be prohibited from any tract having access to a street intersecting with a Hill Country Roadway or any tract with frontage on a Hill Country Roadway which has access through an existing joint-use access easement or driveway. Otherwise, access to a Hill Country Roadway shall be limited to one driveway except as follows:

1. the estimated daily traffic volume for the single driveway exceeds five thousand (5,000) vehicles per day;
2. the traffic using the single driveway would exceed the capacity of a stop sign controlled intersection during one peak street traffic hour or the peak site traffic hour; or
3. a competent traffic analysis demonstrates the need for an additional driveway due to traffic conditions and the Director of Office of Land Development Services agrees that an additional driveway is required.

No more than two access points shall be permitted from any one development onto a Hill Country Roadway.

- b. Driveway Location. Maximum practical spacing between driveways shall be provided. Unless otherwise approved by the Director of Urban Transportation, no driveway accessing a Hill Country Roadway shall be located:

1. closer than three hundred feet (300') from the nearest adjacent driveway, unless no other access is available to a tract of land;
2. where the sight distance is less than five hundred fifty feet (550');
3. on the inside radius of a curve; or
4. where the roadway grade of the Hill Country Roadway exceeds eight percent (8%).

- c. Joint Use Driveways. For purposes of this Section, a joint-use driveway means a driveway located entirely or partially on one tract of land which is available for use as access to and from a public street from an adjoining tract of land. Unless otherwise waived by the City Council and subject to the Highway Vegetative Buffer provisions hereof, each applicant may be required to provide a joint-use access easement across his or her tract from property line to property line generally parallel with the right-of-way of the Hill Country Roadway for the use of adjacent property owners when the adjacent lots have insufficient frontage, as determined under the provisions of this ordinance, by the Director of Land Development Services. No access to a Hill Country Roadway will be permitted for tracts which do not have frontage on a Hill Country Roadway, unless recommended by the Director of Land Development Services. The City Council may waive this requirement upon the recommendation of the Director of Urban Transportation or when the topography of the tract makes such joint-use impractical or undesirable. If the applicant is required by the City of Austin to construct improvements such as providing wider driveways or additional driveways for use as a joint-use driveway, the landowner(s) of the adjoining tract(s) benefited by such joint-use driveway shall be required by the City of Austin to participate in the cost of such improvements on a pro rata basis as follows:

1. If the owner of the tract benefiting from such joint-use driveway is not ready to participate in the cost of such improvements at the time of the construction of those improvements, the owner of the tract upon which the improvements are to be constructed may elect not to construct them to accommodate the adjacent tract but shall leave sufficient area for such construction.
2. If the applicant elects to construct such improvements to serve an adjoining tract, the City shall require the owner of a benefited tract to share in such cost at the time such adjoining tract is developed.

In computing the amount of impervious cover on the site, there shall be excluded from such computation: (i) one hundred-ten percent (110%) of impervious cover required for the sole purpose of providing access from adjoining land to a joint-use driveway (excluding parking spaces and aisles serving parking spaces) located entirely on the site; and (ii) fifty percent (50%) of the impervious cover required for the sole purpose of providing a joint-use driveway (excluding parking spaces and aisles serving parking spaces) where no portion of such driveway is located on adjoining land.

- d. Streets and Intersections. Minimum spacing between local streets shall be six hundred feet (600') and between collector streets shall be thirteen hundred and twenty feet (1320').

Arterial streets must conform to the Austin Metropolitan Area Roadway Plan.

Improvements to intersections with a Hill Country Roadway will be required when determined from a review of the Traffic Impact Analysis. The construction of grade separated interchanges which provide fifty percent (50%) of the access required for an individual project are discouraged unless the interchange is also located at the intersection of an arterial street, as shown in the Austin Metropolitan Area Roadway Plan, or is located based on appropriate spacing for weaving maneuvers at ramps and resulting capacity considerations.

- e. Median Breaks. The number of median breaks on Hill Country Roadways should be minimized. Additional median breaks on Loop 360 are prohibited and future connecting streets should align with median breaks to the greatest extent practicable.
- f. Driveway Permits. City of Austin driveway permit applications for a Hill Country Roadway must be approved prior to consideration of site plan and zoning changes by the Planning Commission.
- g. Procedure Where Applicant Requests Construction in Proposed Right-of-Way. Where the applicant requests site plan approval for construction of improvements in a proposed right-of-way in accordance with standards set forth in this Section, the Planning Commission shall notify the Director of Public Works that an application has been filed requesting construction of improvements in the proposed right-of-way and refer the request to the City Council, who shall determine whether construction of improvements in the proposed right-of-way should be permitted.

#### 5192. PERFORMANCE INCENTIVES

- a. The Planning Commission and City Council shall, as appropriate, approve any individual or combination of the following development bonuses in order to recognize innovative design beyond that required to comply with this and other City ordinances, and which is considered to better further the goals of the Hill Country Roadway Ordinance:
  1. Floor-to-Area ratio increases of up to .05 to 1 for land of 0-15% slope.
  2. Building height increases not to result in a maximum height exceeding forty feet (40') in Low Intensity areas, fifty-three feet (53') in Moderate Intensity areas, and sixty-three feet (63') in High Intensity areas.
  3. Reduced setbacks of up to twenty-five feet (25') less than those required.

b. Performance criteria to be considered in recommending bonuses should relate reasonably to the bonuses being approved and may include the following:

1. Preserving scenic vistas, including the provision of public observation points. This incentive is allowed only where a view can be preserved.
2. Limiting access to roadways other than Hill Country Roadways where such roadways do not encourage traffic through residential areas.
3. Reducing impervious cover by 15% or more beyond the minimum standards allowed by this or other ordinances.
4. Increasing landscaping or setbacks by more than 50%, and increasing natural areas.
5. Providing mixed-use development, particularly those that include residential uses and community facilities.
6. Reducing building mass by breaking up buildings.
7. Using "pervious pavers" when not receiving impervious cover credit.
8. Consolidating small lots to create parcels with a minimum of three hundred feet (300') of frontage on a Hill Country Roadway.
9. Using pitched roof design features.
10. Constructing and/or dedicating public facilities such as parks, roadways and right-of-way, police, fire, or EMS sites, regional drainage facilities or other facilities in excess of that required by City ordinances.
11. Maintaining the construction of all buildings and parking areas on 0-15% slopes.
12. Using energy-conserving and/or water conserving devices which reduce consumption below what is required by City ordinances.

c. In order to qualify for bonuses under this section of the ordinance, a development should demonstrate compliance with at least fifty percent (50%) of the above criteria. The use of bonuses shall be limited to unusual circumstances which involve:

1. An undue hardship imposed on a tract by the ordinance or the cumulative effect of several ordinances due to its peculiar configuration, topography, or location; or
2. Demonstration of highly innovative architectural, site planning, and land use design of a caliber not previously utilized in the Austin area, and of such a quality as to set an excellent example for subsequent developments.

5193. HILL COUNTRY ROADWAY CORRIDOR MASTER FILE

- a. The Office of Land Development Services of the City of Austin shall compile and maintain a current Master File of the Hill Country Roadway Corridors consisting of the following:

1. A master contour map of all of the Hill Country Roadway Corridor indicating all proposed and approved land uses.
  2. A master file of all site plans for the Hill Country Roadway Corridors including all submitted site plans whether ultimately approved, disapproved or withdrawn.
  3. A master map showing all specific existing or potential scenic vistas, scenic overlooks, etc. as identified by the Office of Land Development Services and by the scenic view analysis.
- b. Immediately prior to the consideration of any project located within a Hill Country Roadway Corridor by the Planning Commission or City Council, the Office of Land Development Services shall present a summary of the current status of the Master File. In addition, at least ten (10) days prior to the Planning Commission public hearing on a proposed zoning change or site plan approval within the Hill Country Roadway Corridor, the Office of Land Development Services shall notify the two registered neighborhood groups that are closest to the proposed site of the date, time, and location of such public hearing.

## 5194      WAIVERS

An applicant presenting a site plan for approval as required by this Article may request in writing a waiver from one or more of the specific requirements upon a showing by the applicant that this ordinance imposes an undue hardship on the tract due to its peculiar configuration, topography or location or that the proposed project demonstrates the use of highly innovative architectural, site planning or land use techniques. The City Council may approve any waiver to the minimum extent necessary to allow the project to be constructed. The applicant for any such waiver shall have the burden of showing that the proposed project, with such waiver granted, will be as good or better than a project developed under the standards of this Article in terms of environmental protection, aesthetic enhancement, land use compatibility, and traffic considerations.

## 5195      EXEMPTIONS.

- a. The provisions of this Section shall not apply to any site plan which has been approved on or before the effective date of this ordinance, by the City Council. Modifications to such approved site plans which include moving a structure more than twenty-five feet (25') or increasing the height or square footage of a building are not exempted from this Section, unless a zoning change has been granted allowing such changes.

CITY OF AUSTIN, TEXAS

- b. Site plans for which City of Austin site development permits have been issued on or before the effective date of this ordinance, shall be exempted from the provisions of this Section; provided, however, that such development shall be required to comply with the requirements set forth in Section 5600 (Landscaping Requirements) and Chapter 9-12 (Trees) of the Austin City Code of 1981, as amended.
- c. Site plans which were recommended for approval by the Planning Commission prior to November 6, 1985, and site plans which were submitted prior to May 23, 1985, shall be exempted from the provisions of this ordinance; provided, however, that such projects remain subject to applicable ordinances in effect at the time of submittal.
- d. Single-family homes and duplexes on platted lots shall be exempt from the provisions of this Section.
- e. Development on tracts abutting a Hill Country Roadway in segments designated in the Austin Metropolitan Area Roadway Plan as "Parkway" is exempt from Section 5189(b) (Highway Vegetative Buffer) of this ordinance. Provided, however, that on such tracts a minimum twenty-five foot (25') natural or landscaped buffer shall be provided with no buildings located closer than fifty feet (50') to the proposed right-of-way of the Hill Country Roadway, as specified in the Roadway Plan.
- f. Any Planned Development Area (PDA) approved by the City Council prior to the effective date of this ordinance, is exempt from the provisions of this Article.
- g. Notwithstanding any language to the contrary herein, this Article shall not apply to development located within one thousand feet (1000') of the dedicated public right-of-way of U.S. 183 or U.S. 290 West.
- h. A landowner otherwise exempt from the provisions of this Ordinance may file a request with the Director of OLDS to come under the provisions hereof. The Director of OLDS shall make a recommendation to the Planning Commission and City Council with respect to the appropriate provisions that should be applied to the applicant's tract as well as any waivers that are appropriate taking into consideration the land use approvals that already exist for the applicant's tract, it being the intention of the City to attempt to bring such tracts into voluntary compliance as close as reasonably possible to the provisions of this Ordinance without creating an undue hardship on such applicant. The Council shall approve waivers as may be appropriate to the minimum extent necessary based upon the recommendations of the Planning Commission and the Director of OLDS.
- i. Zone change applications which were filed prior to November 6, 1985 and which are recommended for approval by the Planning Commission prior to April 1, 1986, for properties located along the FM 620 corridor between RR 2222 and Anderson Mill Road may be processed without submission of a site plan; provided, however,



that such projects must meet the site plan requirements of this ordinance prior to final reading of the rezoning ordinance.

5196 ORDINANCES SUPERCEDED

Sections 5180 through 5199 supercede the following ordinance sections for all projects subject to their provisions:

Capital of Texas Highway Corridor Regulations - Sections 5120 through 5139

2222 Highway Corridor Regulations - Sections 5140 through 5153

2244 Highway Corridor Regulations - Sections 5160 through 5173

and the provisions of Ordinance No. 850506-B (RM 620 Interim Regulations).

PART 3. This Ordinance shall be reviewed by the City Council within 30 days prior to one (1) year after its effective date.

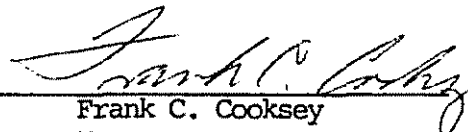
PART 4. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Austin adopting, and of the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

PART 5. The rule requiring the reading of an ordinance on three separate days is hereby suspended, and this Ordinance shall become effective ten (10) days following the date of its passage as provided by the Charter of the City of Austin.


PASSED AND APPROVED

January 16, 1986

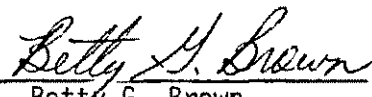
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§  
§  
§

  
Frank C. Cooksey  
Mayor

APPROVED:

  
Paul C. Isham  
City Attorney

ATTEST:

  
Betty G. Brown  
Deputy City Clerk

TM/saf  
hill country ord3  
ibmird

# **Exhibit F**

Division 3. - Additional Site Plan Requirements in Hill Country Roadway Corridors.

§ 25-2-1021 - APPLICABILITY OF DIVISION.

The requirements of this division are cumulative, and apply to a site in a Hill Country roadway corridor described in Section 25-2-1103 ( Hill Country Roadway Corridors Identified ).

Source: Section 13-7-66; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1022 - NATIVE TREES.

(A)

In this section:

(1)

NATIVE TREE means live oak, Spanish oak, cedar elm, shin oak, bald cypress, post oak, pecan, bur oak, or black walnut.

(2)

SMALL NATIVE TREE means Texas madrone, black cherry, Texas mountain laurel, evergreen sumac, Mexican buckeye, flameleaf sumac, or Texas persimmon.

(B)

A site plan must provide a sufficient number of native or small native trees to reasonably compensate for the removal of:

(1)

each small native tree;

(2)

each native tree with a trunk diameter greater than six inches; and

(3)

each cluster of three or more native trees located within ten feet of each other with trunk diameters greater than two inches.

Source: Section 13-7-66(a); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1023 - ROADWAY VEGETATIVE BUFFER.

(A)

Except as otherwise provided by this section, vegetation within 100 feet of the dedicated right-of-way may not be cleared, unless the clearing is necessary to provide utilities and access to the site.

(B)

Except as otherwise provided by Subsection (D), in the roadway corridor along the Southwest Parkway:

(1)

vegetation within 50 feet of the dedicated right-of-way or drainage easement may not be cleared, unless the clearing is necessary to provide utilities and access to the site; and

(2)

a building must be at least 75 feet from the dedicated right-of-way or drainage easement.

(C)

The council may, after a public hearing, waive the requirements of Subsection (B) for a site if the owner dedicated the right-of-way or a drainage easement to the public at no cost.

(D)

Except as otherwise provided in Subsection (E), in a roadway corridor along a parkway identified in the Transportation Plan, other than Southwest Parkway:

(1)

vegetation within 25 feet of the dedicated right-of-way or drainage easement may not be cleared, unless the clearing is necessary to provide utilities and access to the site; and

(2)

a building must be at least 50 feet from the dedicated right-of-way or drainage easement.

(E)

An area described in this section in which clearing is prohibited may not exceed 20 percent of the acreage of an applicant's property.

Source: Sections 13-7-66(b)(2) and (3) and 13-2-781(d); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1024 - RESTORING ROADWAY VEGETATIVE BUFFER.

(A)

If vegetation in an area in which clearing is prohibited by Section 25-2-1023 ( Roadway Vegetative Buffer ) has been substantially disturbed, it must be revegetated with native trees, shrubs, and grasses.

(B)

Not more than 50 percent of the area in which clearing is prohibited may be used for detention or sedimentation ponds or wastewater drain fields.

Source: Section 13-7-66(b)(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1025 - NATURAL AREA.

(A)

At least 40 percent of a site, excluding dedicated right-of-way, must be left in a natural state. Natural areas within parking medians and in an area in which clearing is prohibited by Section 25-2-1023 ( Roadway Vegetative Buffer ) count toward this requirement.

(B)

In complying with this section, priority must be given to the protection of natural critical areas identified in the City's Comprehensive Plan.

(C)

If this section conflicts with another provision of this title, the conflict must be resolved with the minimum departure from the requirement of this section. The resolution must receive approval from the council. The council must receive a recommendation from the Land Use Commission.

(D)

If an area required to be kept in a natural state by this section is revegetated, not more than 25 percent of the area may be used for sewage disposal fields.

Source: Section 13-7-66(c); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1026 - PARKING LOT MEDIANS.

A parking lot must have a median at least ten feet wide containing existing native trees or dense massing of installed trees between each distinct parking area.

Source: 13-7-66(d); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1027 - VISUAL SCREENING.

Visual screening required by this article must:

(1)

use existing vegetation or installed landscaping;

(2)

include dense massing of trees, native understory vegetation, shrub massing, or berms; and

(3)

allow for topographic changes.

Source: Section 13-7-67(b); Ord. 990225-70; Ord. 031211-11.

ARTICLE 11. - HILL COUNTRY ROADWAY REQUIREMENTS.  
Division 1. - General Provisions.

§ 25-2-1101 - DEFINITIONS.

In this article:

SCENIC VISTA means a generally recognizable, noteworthy view of:

(1)

Barton Creek;

(2)

Bull Creek;

(3)

West Bull Creek;

(4)

Lake Austin;

(5)

Lake Travis;

(6)

a valley of the Colorado River; or

(7)

the downtown area of Austin.

Source: Section 13-2-783(b)(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1102 - APPLICABILITY.

Except as provided in Section 25-2-1104 ( Exceptions ), this article applies to development on a site in a hill country roadway corridor.

Source: Section 13-2-782 ; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1103 - HILL COUNTRY ROADWAY CORRIDORS IDENTIFIED.

A hill country roadway corridor is the land within the City's zoning jurisdiction located 1,000 feet or less from each side of the right-of-way of the following roadways:

(1)

Loop 360, from US 290 West to US 183;

(2)

RM 620, from SH 71 to Anderson Mill Road;

(3)

RM 2222, from Highland Hills Drive to RM 620;

(4)

RM 2244, from Loop 360 to SH 71; and

(5)

Southwest Parkway.

Source: Section 13-2-1; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1104 - EXCEPTIONS.

(A)

This article does not apply to development that occurs 1,000 feet or less from the dedicated right-of-way of:

(1)

US 183; or

(2)

US 290 West.

(B)

This article does not apply to development that complies with a site plan approved by council before January 27, 1986 or to a modification of the approved site plan if a zoning change was approved to allow the modification.

(C)

This article does not apply to development that complies with a site plan for which a development permit was issued by the City before January 27, 1986.

(D)

This article does not apply to development that complies with a site plan that was submitted for approval before May 23, 1985, or that was recommended for approval by the Planning Commission before November 6, 1985. The development must comply with City requirements in effect on the date the site plan was submitted for approval.

(E)

This article does not apply to development that complies with a planned development area agreement approved by the council before January 26, 1986.

Source: Section 13-2-781(a), (b), (c), (e) and (f); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1105 - WAIVERS.

(A)

Subject to Subsection (B), the Land Use Commission may approve the waiver of a provision in this article if the person applying for the waiver demonstrates that:

(1)

the provision imposes an undue hardship on a development because of the location, topography, or peculiar configuration of the tract; or

(2)

a proposed development incorporates the use of highly innovative architectural, site planning, or land use technique; and

(3)

if the waiver is approved, a proposed development will equal or exceed a development that is in compliance with this article in terms of:

(a)

environmental protection;

(b)

aesthetic enhancement;

(c)

land use compatibility; and

(d)

traffic considerations.

(B)

The Land Use Commission may waive a provision only to the extent necessary to allow the development to occur.

(C)



The approval or disapproval of a waiver by the Land Use Commission under this section may be appealed to the council.

Source: Section 13-2-785; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1106 - VOLUNTARY COMPLIANCE.

(A)

This section applies to development that is:

(1)

on a site in a hill county roadway corridor; and

(2)

excepted from the application of this article.

(B)

The owner of a site may file a request with the director to apply this article to the development.

(C)

If an owner requests that this article apply to a development, the council may approve a waiver or a provision of this article.

(D)

The director shall recommend to the Land Use Commission and council each provision of this article that should be:

(1)

applied to the development; or

(2)

waived by the council.

(E)

The Land Use Commission shall review a request filed under Subsection (B) and shall prepare a recommendation on the request.

(F)

In making a recommendation under Subsection (D), the director shall take into consideration each existing land use approved for the site.

(G)

The council may approve a waiver of a provision of this article to the minimum extent necessary to allow development to occur, based on the recommendations of the director and the Land Use Commission.

Source: Section 13-2-781(g); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1107 - HILL COUNTRY ROADWAY CORRIDOR FILES AND MAPS.

The Watershed Protection and Development Review Department shall maintain a file on the hill country roadway corridors. The file must contain:

(1)

a contour map of each corridor that shows each proposed or approved land use in a corridor;

(2)

a copy of each site plan submitted in connection with development in each corridor, whether the site plan was subsequently approved, disapproved, or withdrawn;

(3)

a map that shows each scenic vista or overlook in each corridor that the Watershed Protection and Development Review Department has identified; and

(4)

a map that shows each segment of a hill country roadway along which scenic vistas are prevalent.

Source: Sections 13-2-783(b)(1) and 13-2-784; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

Division 2. - Development Standards.

§ 25-2-1121 - INTENSITY ZONES.

(A)

Property is in a high intensity zone, if the property:

(1)

is along Loop 360 and within 3,500 feet of the intersection of Loop 360 with US 290; or

(2)

is within 1,000 feet of the right-of-way of two intersecting highways that are maintained by the state; and

(a)

has frontage on:

(i)

both highways; or

(ii)

one highway and an intersecting arterial or collector street.

(B)

Property is in a moderate intensity zone, if the property:

(1)

is not in a high intensity zone; and

(2)

has frontage on:

(a)

Loop 360, north of RM 2222 and south of RM 2244;

(b)

the segment of Loop 360 that is 1,200 feet or less from Westlake Drive;

(c)

the segment of RM 2222 that extends east from RM 620 for 2.1 miles;

(d)

the segment of RM 620 that extends from Comanche Trail to Anderson Mill Road;

(e)

the segment of RM 620 that extends from Lohman's Crossing to Steward Road; or

(f)

a segment of a roadway that would otherwise place the property in a low intensity zone, if access to the property is solely from an arterial or collector street that is not a hill country roadway.

(C)

Property is in a moderate intensity zone, if the property is not in a high intensity zone, has frontage on a hill country roadway and on an intersecting arterial or collector street, and is located 500 feet or less from the right-of-way boundary of the arterial or collector street. This subsection does not apply to an intersection on RM 2222 east of Loop 360.

(D)

Property is in a low intensity zone if the property is not in a high intensity zone or a moderate intensity zone.

Source: Section 13-2-782(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1122 - FLOOR-TO-AREA RATIO OF A NONRESIDENTIAL BUILDING.

(A)

Except as provided in Subsection (B), the floor-to-area ratio of a nonresidential building may not exceed:

(1)

in a low intensity zone:

(a)

0.20 for a building on property with a slope gradient of 15 percent or less;

(b)

0.08 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.04 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent;

(2)

in a moderate intensity zone:

(a)

0.25 for a building on property with a slope gradient of 15 percent or less;

(b)

0.10 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.05 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent; or

(3)

in a high intensity zone:

(a)

0.30 for a building on property with a slope gradient of 15 percent or less;

(b)

0.12 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.06 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent.

(B)

If the Land Use Commission grants a development bonus under Section 25-2-1128 ( Development Bonuses ), the floor-to-area ratio of a building on a slope that has a gradient of not more than 15 percent may not exceed:

(1)

0.25 if the property is a low intensity zone;

(2)

0.30 if the property is in a moderate intensity zone; or

(3)

0.35 if the property is in a high intensity zone.

(C)

If a portion of developed property or property covered by an approved site plan is condemned for right-of-way and if the development complies with other applicable requirements, the gross square footage permitted before the condemnation is the gross square footage permitted for the portion of the property remaining after the condemnation.

(D)

To calculate allowable floor area under this section, gross site area includes all land dedicated for right-of-way under Section 25-6-55 ( Dedication Of Right-Of-Way ) that is more than 60 feet from the centerline of a hill country roadway.

(E)

This section does not apply to property in the Southwest Parkway hill country roadway corridor.

Source: Section 13-2-782(2); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1123 - CONSTRUCTION ON SLOPES.

(A)

Development of property in a hill country roadway corridor must comply with Chapter 25-8, Subchapter A, Article 7, Division 3 ( Construction On Slopes ) and this section. If a conflict exists between this section and another section of this title, the more restrictive provision applies.

(B)

A person who constructs a structure uphill of a slope with a gradient of 15 percent or more:

(1)

must use a pier and beam technique to construct the structure; and

(2)

may not extend a vertical wall below the lowest finished floor elevation of the structure, except as necessary to screen mechanical equipment.

(C)

A person who constructs a structure downhill of a slope with a gradient of 15 percent or more may not exceed a depth of eight feet for structural excavation.

(D)

To restore a cut or fill for a roadway, driveway, or structure, a person may construct a terraced wall and fill with a finished gradient of 100 percent. The wall may not exceed a height of four feet. More than one level of terracing may be constructed.

(E)

If a person does not use terracing to restore a cut or fill, the person must revegetate and restore the cut or fill to a slope have a finished gradient of 33 percent.

(F)

A cut or fill restored under Subsection (E) may not exceed eight feet in length. If additional restoration is required, a terrace that complies with Subsection (D) must be constructed between each eight-foot slope segment.

(G)

A person must place fill to blend with the natural contour of the slope.

Source: Section 13-2-782; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1124 - BUILDING HEIGHT.

(A)

Except as provided in Subsection (C) or Section 25-2-1128 ( Development Bonuses ), a person may not construct a building that is more than 28 feet in height, if the building is:

(1)

200 feet or less from the nearest right-of-way boundary of a hill country roadway; or

(2)

in a low intensity zone.

(B)

If a building is more than 200 feet from the nearest right-of-way boundary of a hill country roadway, a person may construct a building that is not more than:

(1)

40 feet in height in a moderate intensity zone; or

(2)

53 feet in a high intensity zone.

(C)

The height of a building in the Southwest Parkway roadway corridor may not exceed the lesser of:

(1)

the height permitted by the zoning or the site plan approved for the property; or

(2)

60 feet.

Source: Section 13-2-782(4); Ord. 990225-70; Ord. 031211-11.

#### § 25-2-1125 - LOCATION OF ON-SITE UTILITIES.

Each on-site utility must be located underground, unless otherwise required by the utility provider.

Source: Section 13-2-782(5); Ord. 990225-70; Ord. 031211-11.

#### § 25-2-1126 - BUILDING MATERIALS.

(A)

Each building shall be designed to use, to the greatest extent feasible, building materials that are compatible with the environment of the hill country, including rock, stone, brick, and wood.

(B)

A person may not construct a building that has mirrored glass with a reflectance of more than 20 percent.

Source: Section 13-2-782(6); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1127 - IMPERVIOUS COVER.

To calculate impervious cover under this article, gross site area includes all land dedicated for right-of-way under Section 25-6-55 ( Dedication Of Right-Of-Way ) that is more than 60 feet from the centerline of a hill country roadway.

Source: Section 13-2-782(2); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1128 - DEVELOPMENT BONUSES.

(A)

The Land Use Commission shall grant a development bonus to a proposed development if the Land Use Commission determines that:

(1)

an unusual circumstance exists, as defined in Subsection (C); and

(2)

the proposed development as constructed will comply with at least 50 percent of the criteria identified in Section 25-2-1129 ( Criteria For Approval Of A Development Bonus ).

(B)

A development bonus approved by the Land Use Commission for a proposed development may:

(1)

for property on a slope with a gradient of 15 percent or less, increase the floor-to-area ratio up to .05 to 1;

(2)

increase building height up to:

(a)

40 feet in a low intensity zone;

(b)

53 feet in a moderate intensity zone; or

(c)



63 feet in a high intensity zone; or

(3)

reduce a required setback by 25 feet or less.

(C)

In Subsection (A), an unusual circumstance must involve:

(1)

an undue hardship caused by this article, or by the cumulative effects of this title, because of the configuration, topography, or location of the tract;

(2)

the demonstration of an innovative architectural, site planning, or land use design that:

(a)

has not been used in the Austin area before; and

(b)

will serve as an excellent example for a subsequent development; or

(3)

a condemnation for right-of-way, if a bonus allows the property owner to recapture square footage potential that was lost because of that condemnation.

(D)

Notwithstanding Subsection (A)(2), if an unusual circumstance exists, the Land Use Commission may approve a development bonus if the proposed development does not comply with at least 50 percent of the criteria in Section 25-2-1129 ( Criteria For Approval Of A Development Bonus ).

Source: Sections 13-2-783(a) and (c); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

#### § 25-2-1129 - CRITERIA FOR APPROVAL OF A DEVELOPMENT BONUS.

In determining whether to approve a development bonus for a proposed development, the Land Use Commission may consider criteria that reasonably relate to the development bonus, including if the proposed development:

(1)

preserves a scenic vista and provides a place where the public can view the scenic vista;

(2)

limits access to a roadway that is not a hill country roadway if use of the roadway does not increase traffic in a residential area;

(3)

reduces by at least 15 percent the amount of impervious cover otherwise required for the development;

(4)

increases landscaping or a setback by more than 50 percent above the amount required for the development or increases a natural area;

(5)

is a mixed-use development, particularly a mixed-use development that includes a residential use and community facility;

(6)

reduces building mass by breaking up buildings;

(7)

uses pervious pavers although the development is not entitled to receive an impervious cover credit;

(8)

consolidates small lots to create a parcel that has at least 300 feet of frontage on a hill country roadway;

(9)

uses pitched roof design features;

(10)

includes the construction or dedication of a public facility that is not required by a City ordinance, including a park, roadway and right-of-way, Police Department site, Fire Department site, emergency medical services facility site, or a regional drainage facility;

(11)

limits the construction of a building or parking area to an area with a slope that has a gradient of not more than 15 percent; or

(12)

uses an energy-conserving or a water-conserving device that reduces energy or water consumption below City requirements.

Source: Section 13-2-783(b); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

**CAUSE NO. D-1-GN-17-002447**

<b>LAKE AUSTIN COLLECTIVE, INC.</b>	§	<b>IN THE DISTRICT COURT</b>
<i>Plaintiff</i>	§	
	§	
<b>v.</b>	§	<b>TRAVIS COUNTY</b>
	§	
<b>THE CITY OF AUSTIN</b>	§	
<i>Defendant</i>	§	<b>419<sup>th</sup> JUDICIAL DISTRICT</b>

**PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT  
ON OPEN MEETINGS CLAIM**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Lake Austin Collective (LAC) asks the Court to sign a summary judgment under Texas Rule of Civil Procedure 166a granting LAC’s Open Meetings Act claim against the City of Austin.

**INRODUCTION**

1. LAC sued the City of Austin for declaratory and injunctive relief alleging that the City Council violated Tex. Gov’t Code section 551.041, the public notice requirements of the Texas Open Meetings Act (TOMA). LAC alleges Agenda Item 6 of the Austin Council meeting on November 10, 2016 violates TOMA because the agenda wording failed to give the public notice that Council would consider granting waivers of two important environmental ordinances <sup>1</sup> of special interest to the public. The City of Austin answered and has filed a motion for summary judgment.

**SUMMARY OF MOTION**

2. TOMA requires a governmental body to give notice of the “subject” of each meeting. Tex. Gov’t Code section 551.041. “The notice ... must be sufficiently specific to alert the general public

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<sup>1</sup> The Lake Austin Watershed Ordinance and the Hill Country Roadway Ordinance.

to the topics to be considered at the upcoming meeting.” *City of Laredo v. Escamilla*, 219 S.W.#d 14, 19 (Tex. App.—San Antonio 2006 pet. denied). “To determine if the notice sufficiently informs the public of the topic under discussion, the court will focus its analysis on comparing the content of the notice given and the action taken at the meeting.” *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.—Waco 1997, no writ) (citing *Rettberg*, 873 S.W.2d at 412; *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 180 (Tex.App.—Corpus Christi 1990, writ denied). “The notice must be more specific if the public has a special interest in the topic under discussion.” *Id.* The Austin public has a special interest in waivers to these environmental regulations. <sup>2</sup>

3. The “subject” notice at issue in this case fails to give sufficiently specific notice to the public that Council was going to grant the developer of the Champion Tract #3 on FM 2222 waivers from the Lake Austin Watershed Ordinance (LAWO) and the Hill Country Roadway Ordinance (HCRO), and when one compares the agenda wording to the Ordinance that Council adopted, this omission is clearly obvious:

(Austin Council Agenda, Item 6, November 10, 2016)

6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #43. <sup>3</sup>

Despite giving only vague notice that Agenda Item No. 6 involved amending Ordinance No. 960613-J and amending a settlement agreement, what the Council actually did—without mention in the agenda item wording—was to amend Ordinance No. 840301-F granting a waiver to the

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<sup>2</sup> See attached Affidavit of Carol Lee.

<sup>3</sup> Plaintiff’s Exhibit A-1 at 5, 6.

developer of provisions of the Lake Austin Watershed Regulations and amended City Code Chapter 25-2, Subchapter C, Articles 9 and 11 granting waivers of the Hill Country Roadway Ordinance. Comparing this agenda notice to the actual ordinance adopted, the TOMA violation becomes even more obvious by noting the additional wording that was included in caption of the Ordinance 20161110-006 that Council adopted under Agenda Item No. 6:

An Ordinance adopting and authorizing execution of the First Amendment to the Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al. v. City of Austin in the 353<sup>rd</sup> Judicial District Court of Travis County; amending Ordinance No. 960613-J; **and waiving certain sections of City Code Chapter 25-2 and Lake Austin Watershed Regulations from Ordinance No. 840301-F.**<sup>4</sup>

If it was necessary and appropriate to mention the environmental waivers in the *caption* of the Ordinance when it was adopted, why wasn't that subject included in the meeting agenda *notice*?

4. Significantly, Ordinance No. 960613-J (the ordinance Council said it would be amending) made no mention at all of the Hill Country Roadway Ordinance. So even if someone reviewed that prior ordinance before the Council met, there was no hint that waivers of the Hill Country Roadway Ordinance were at issue. The agenda—like the Ordinance caption—should have provided that notice. TOMA requires specificity of the “subject” notice to be greater when the public has a special interest in the topic, as they do with these two environmental ordinances. So, to comply with the TOMA notice requirement, the agenda item should have *at least* included language like “... *and waiving environmental regulations*” or—due to the public’s special interest in the HCRO and LAWO, the agenda item should have said, “...*and waiving regulations under the Hill Country Roadway Ordinance and Lake Austin Watershed Ordinance.*”

5. LAC asks the Court to declare the Council’s action on Agenda Item 6 void, pursuant to

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<sup>4</sup> Plaintiff’s Exhibit B at 76.

TOMA section 551.141, for failure of the City to provide adequate public notice of the “subject” of the Council’s deliberation as required by the Texas Open Meetings Act (TOMA) section 551.041. LAC is an organization of Austin property owners in the area of the Champion Tract development and is an “interested person” who has standing to bring this action pursuant to TOMA section 551.142.

### **SUMMARY-JUDGMENT EVIDENCE**

6. To support the facts in this motion, LAC offers the following summary-judgment evidence attached to this motion and incorporates the evidence into this motion by reference.<sup>5</sup>

Exhibit A: Austin City Council Agendas

Exhibit A-1: November 10, 2016 (Page 1 – 22)

Exhibit A-2: November 3, 2016 (Page 23 – 39)

Exhibit A-3: October 6, 2016 (Page 40 – 55)

Exhibit A-4: September 22, 2016 (Page 56 – 74)

Exhibit B: City of Austin Ordinance No. 2016110-006 (Page 75 – 104)

Exhibit C: City of Austin Ordinance No. 960613-J (Page 105 – 126)

Exhibit D: City of Austin Ordinance No. 840301-F (Page 127 – 155)

Exhibit E: City of Austin Ordinance No. 860116-J (Page 156 – 170)

Exhibit F: City of Austin Code, Chapter 25,  
Subchapter C, Articles 9 & 11 (Page 171 – 188)

Affidavit of Carol Lee, Director, Lake Austin Collective, Inc.

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<sup>5</sup> Plaintiffs exhibits are sequentially numbered on the lower right side of each page.

**TRADITIONAL SUMMARY JUDGMENT  
PLAINTIFF’S CAUSE OF ACTION FOR OPEN MEETINGS ACT VIOLATION**

7. To succeed on a traditional motion for summary judgment on its cause of action, the plaintiff must show that there is no genuine issue of material fact and that it is entitled to summary judgment as a matter of law. Tex. R. Civ. P. 166a(c). To meet this burden, the plaintiff must conclusively prove all essential elements of its claim. A matter is conclusively established if reasonable people could not differ on the conclusion to be drawn from the evidence. If the plaintiff establishes its right to summary judgment as a matter of law, the burden shifts to the defendant to present evidence that raises a genuine issue of material fact.

8. Where, as in this case, the contents of a meeting notice are undisputed, its adequacy is a question of law. *Weatherford v. City of San Marcos*, 157 S.W.3d 473, 486 (Tex. App.-Austin 2004, pet. denied).

Standard for Adequate Open Meeting Notice of “Subject”

9. The standard for a meeting notice that is applicable to this case is well-stated in *City of Laredo v. Escamilla*:

General notice in certain cases is considered substantial compliance with the statute even though the notice is not as specific as it could be. *Cox*, 706 S.W.2d at 959–60. “*The notice must be more specific if the public has a special interest in the topic under discussion.*” *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex.App.-Waco 1997, writ denied) (emphasis added); *see also Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 180 (Tex.App.-Corpus Christi 1990, writ denied).

“The provisions of TOMA are mandatory and are to be liberally construed in favor of open government.” *Willmann*, 123 S.W.3d at 473. If a governmental body violates TOMA, any actions taken by the body are voidable. Tex. Gov’t Code Ann. § 551.141.

*City of Laredo v. Escamilla*, 219 S.W.3d 14, 19 (Tex. App.—San Antonio 2006, pet. denied). (emphasis added).

In *Markowski*, for example, the challenged agenda item just said:

EXECUTIVE SESSION: In accordance with VACTS, Article 6252–17, Sec. 2(g)  
Personnel

A. Grievance of Firefighter Keggins.

Action if any to be taken on grievance of firefighter Keggins.

But the action taken was to suspend the Fire Chief and a Fire Captain. The Court held this meeting notice to be inadequate and the action to suspend the Fire Chief and Fire Captain to be invalid. *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.—Waco 1997, no writ). TOMA does not permit a governmental body to avoid adequate public notice of its intended deliberation of significant topics just because the governmental body otherwise has the authority to take such action.

10. “To determine if the notice sufficiently informs the public of the topic under discussion, the court will focus its analysis on comparing the content of the notice given and the action taken at the meeting.” *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.—Waco 1997, no writ) (citing *Rettberg*, 873 S.W.2d at 412; *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 180 (Tex.App.—Corpus Christi 1990, writ denied). Based on this comparison standard, the meeting notice of the Agenda Item 6, compared to the additional unannounced and controversial waivers to the LAWO and HCRO granted by the Council’s action, Agenda Item 6 does not meet the TOMA notice standard.

11. The adopted Ordinance under Agenda Item No. 6, gave variances and waivers that were not only not mentioned in the meeting notice but that, incredibly, were never reviewed by the Land Use Commission and will never be reviewed in the normal process! *See* Plaintiff’s Exhibit B - Ordinance No. 20161110-006 (at page 77) (Part 4(1)(e), granting variances to the Lake Austin Watershed Ordinance “without Planning Commission approval”); and (at page 78( (Part 4(2)(d) and (e) granting modifications to Building Height and Development Bonus standards “without a



determination that an unusual circumstance exists”; and Part 4(2)(f) granting the waivers “without Land Use Commission approval.”

12. The notice was not specific enough nor inclusive enough for Council to take the waiver actions based on a meeting agenda notice that only announced that Council would consider amendments to a settlement agreement and an old ordinance. The TOMA notice provision does not say that once the meeting notice cites consideration of amending a particular City ordinance, then that notice is adequate for any other action the Council has authority to take. If the City’s Agenda Item 6 meeting notice was acceptable, then a notice that “*Council will consider adopting or amending any ordinance the Austin City Charter allows*” would be adequate notice for everything the Council did during a meeting. It is exactly this kind of shell game that TOMA prohibits. Council cannot hide its controversial intentions behind agenda wording merely citing an ordinance number without plainly disclosing that Council will consider waivers to other environmental ordinances that are not even mentioned in the cited ordinance.

The Public’s “Special Interest” Requires More Specific Notice

13. When a subject of the Council’s action is of special interest to the public, then the meeting agenda wording must be more specific. *See Cox Enterprises, Inc. v. Bd. of Trustees of AISD*, 706 S.W.2d 956, 959 (Tex. 1986) (“personnel” is not adequate notice for hiring a new school superintendent; “litigation” is not adequate notice for deliberating about a major desegregation lawsuit); *Mayes v. City of De Leon*, 922 S.W.2d 200, 203 (Tex. App.—Eastland 1996 writ denied) (“personnel” is not adequate notice to terminate the city police chief); *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.—Waco 1997, pet denied) (“Grievance of Firefighter Keggins” is not adequate notice to terminate the Fire Chief and Fire Captain).

14. It is hard to imagine a topic of more “special interest” to Austinites than waivers of environmental protection ordinances the public has strongly supported. This is so obvious to anyone who has lived in Austin very long that the Court could take judicial notice of this fact. In Austin, it goes without saying after the “wars” that have occurred over environmental issues, that environmental ordinances are of special interest to both those who support the ordinances and to those who opposed such ordinances. *Also See* attached Affidavit of Carol Lee. Yet there was no mention in Agenda Item 6 that Council was even considering waivers of the LAWO and the HCRO.

15. Even the Council’s “findings” in the LAWO and HCRO when they were adopted demonstrates the enormous public interest in these ordinances that the Council waived for the Champion Tract developers without mention in the meeting notice. The Austin Council has officially recognized the special importance of the LAWO. *See* LAWO, Plaintiff’s Exhibit D at 128-29:

The City Council hereby makes the following findings:

[...] (3) the Lake Austin Watershed ... is different from other watersheds within Austin’s jurisdiction;

(4) Lake Austin is the primary source of Austin’s water supply;

[...] (6) Lake Austin, as an integral part of the Highland Lakes, is a significant source of pride and attraction, and the lake and its environment must be preserved and protected to promote Austin economic well being;

(7) Lake Austin is one of the most significant sources of public recreation for Austinites and must be protected in order to preserve the health and welfare of Austin citizens;

[...] (10) If the Lake Austin Watershed is not developed in a sensitive and innovative manner, the recreational benefits of Lake Austin will be irreparably damaged.

The special importance of Lake Austin and its protection is reflected on the City of Austin's own website (<http://www.austintexas.gov/page/watershed-protection-ordinance>) says:

Austin's water features are a source of immense pride for its residents and a powerful magnet for visitors, new residents and businesses. Austin's citizens were among the first in the nation to recognize the connection between well-planned development and continued high water quality from flooding and erosion.

16. Likewise, the Austin City Council itself has endorsed and recognized the special importance to the public of the HCRO. Plaintiff's Exhibit E at 157:

[...] WHEREAS, the City Council recognizes the potential of designated Hill Country Roadways to be an asset to the entire City and the motoring public because of their dramatic scenic qualities with magnificent views; and,

WHEREAS, it is necessary to protect and preserve the unique physical identity of these highways so they will continue to be an attraction to tourists thereby benefitting the Capital City's economic climate; and,

WHEREAS, the City Council is concerned about traffic safety and congestion along its major highways and that the traffic capacity of Hill Country Roadways is limited; and,

WHEREAS, the environmental disruption and economic cost associated with the improvement and expansion of Hill Country Roadways is considerable and may be minimized by appropriate restrictions on land use and future development of property adjacent to Hill Country Roadways ....

17. The City's own words and the attached evidence shows that waivers of these environmental regulations are of special interest to people in Austin, and TOMA required more specific mention in the Council's meeting agenda that such waivers were going to be deliberated by Council. The wording of Agenda Item 6 was inadequate even generally because it failed to give even a hint of what topics were included, but certainly considering the public's special interest in these environmental ordinances, Agenda Item 6 should have mentioned that waivers of environmental regulations was also to be deliberated. Otherwise, that is not adequate TOMA notice.

### The Council Knows How to Give Adequate Notice

18. Ironically, at the same November 10, 2016 Council meeting, the Council reconsidered its prior vote on the Pilot Knob development that had been declared void—for violation of the TOMA notice requirement—from a lawsuit brought by Austin resident Brian Rodgers. *Rodgers v. City of Austin*, CAUSE NO. D-1-GN-16-000615, 345<sup>th</sup> Judicial District, Travis County Texas. Just a few weeks earlier, on October 14, 2016, District Judge Yelenosky informed the City by letter that he found the prior meeting notice for Pilot Knob zoning violated TOMA because it failed to alert the public that Council was also granting waivers and exemptions from non-zoning ordinances. Final Judgment against the City in that case was signed on October 28, 2016. Then, on November 10, 2016, Council re-posted the Pilot Knob matter, and, to comply with the Court’s judgment, the City added the following information that was not included in the original meeting notice:

**....The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.**

Plaintiff’s Exhibit A-1 at 10 - Austin Council Agenda, Item 32, November 10, 2016.

In addition to the Pilot Knob item, at the Council’s November 10, 2016 meeting, and since, Council has posted development project zoning items on its regular meeting agenda *where it did give public notice of its consideration of waivers.*

1. Plaintiff’s Exhibit A-1 at 16, November 10, 2016, Item 50 (and December 15, 2016, Item 84):

50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning

Commission Recommendation: To be reviewed December 13, 2016. **The ordinance may include waiver of fees.** Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.

2. Plaintiff's Exhibit A-1 at 19, November 10, 2016, Item 36 (and December 15, 2016, Item 89; February 2, 2017, Item 57; February 16, 2017, Item 63; March 2, 2017, Item 76; March 23, 2017, Item 83 and April 13, 2017, Item #36):

36. C814-2014-0120 – Austin Oaks PUD – District 10 – Conduct a public hearing and approve 3rd reading of an ordinance amending City Code Title 25-2 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning. **The ordinance may include waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.** Zoning and Platting Commission Recommendation: To approve PUD zoning with conditions. City Council: Approved First reading PUD zoning with conditions, December 15, 2016, vote 6-3 Council Members Casar, Gallo and Zimmerman voting nay. Approved 2nd reading PUD zoning with conditions, March 23, 2017 vote 7-4 Council Members Alter, Houston, Pool and Tovo against]. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604. *A valid petition has been filed in opposition to this zoning case.*

3. Plaintiff's Exhibit A-1 at 20, November 10, 2016, Item 63 (and December 15, 2016, Item 75):

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. **The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property.** First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

4. January 26, 2017, Item 72 (and February 2, 2017, Item 56) (available at <http://www.austintexas.gov/departments/city-council/2017/20170126-reg.htm> :

72. C14-2016-0023.SH - Elysium Park - District 7 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3300 Oak Creek Drive (Walnut Creek Watershed) from industrial park-conditional overlay (IP-CO) combining district zoning and rural residence (RR) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density conditional overlay (MF-4-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence moderate-high density-conditional overlay (MF-4-CO) combining district zoning. **The ordinance may include waiver of fees.** Owner/Applicant: Two-Way Land, L.P. (John K. Condon). Agent: Waeltz & Prete, Inc. (Antonio A. Prete). City Staff: Sherri Sirwaitis, 512-974-3057. *A valid petition has been filed on opposition to this rezoning request.*

## **CONCLUSION**

19. The evidence and a straight-up comparison of the November 10, 2016 meeting notice for Agenda Item 6 with the action taken on the Champion Tract Ordinance demonstrates, as a matter of law, that the meeting notice fails to meet the standards required by TOMA section 551.041. Without giving public notice, the Council considered the especially significant topics of waivers of the LAWO and HCRO environmental restrictions. Therefore, the action by the Council in adopting that Ordinance is invalid and should be declared void pursuant to TOMA section 551.141 and section 551.142.

## **ALTERNATIVE RELIEF**

20. In the alternative, if the Court denies any part of plaintiff's motion for partial summary judgment, plaintiff asks the Court to sign an order specifying the facts that are established as a matter of law and directing any further proceedings as are just. Tex. R. Civ. P. 166a(e).

## **PRAYER**

For these reasons, plaintiff asks the Court to grant this motion and sign an order for summary judgment to declare void the Council's action to approve Champion Tract Ordinance

No. 20161110-006 and the settlement agreement at its meeting on November 10, 2016, Item 6, as enumerated above, and to grant Plaintiff all other relief to which they may be entitled.

Respectfully submitted,



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Bill Aleshire  
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AleshireLAW, P.C.  
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Austin, Texas 78701  
Telephone: (512) 320-9155  
Cell: (512) 750-5854  
Facsimile: (512) 320-9156  
[Bill@AleshireLaw.com](mailto:Bill@AleshireLaw.com)

**ATTORNEY FOR PLAINTIFF**

## NOTICE OF HEARING

Please be advised that a hearing on Plaintiff's Motion for Summary Judgment on Open Meetings Claim is set for a two-hour hearing on Thursday, October 5, 2016, at 9:00 a.m., in the Travis County District Court, 1000 Guadalupe Street, Austin, Texas 78701.



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Bill Aleshire

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was e-served on September 13, 2017 on the following:

### COUNSEL FOR DEFENDANT

Matthew W. Tynan, Assistant City Attorney  
State Bar No. 24072489  
City of Austin-Law Department  
Post Office Box 1546  
Austin, Texas 78767-1546  
(512) 974-2185  
(512) 974-1311 [FAX]  
[Matthew.Tynan@austintexas.gov](mailto:Matthew.Tynan@austintexas.gov)



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Bill Aleshire



# **Exhibit A**

## **(1-4)**

# **Exhibit A-1**

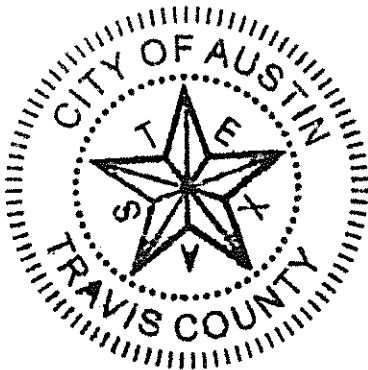


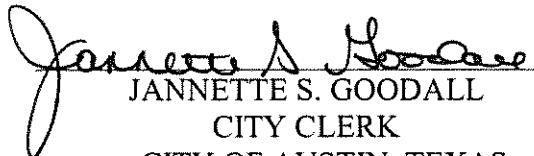
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, November, 10, 2016, consisting of a total of nineteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.

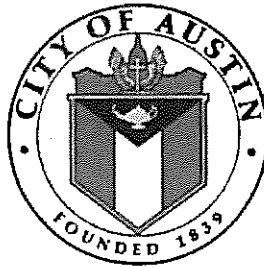


  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS



**Thursday, November 10, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, November 10, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of November 1, 2016 and regular meeting of November 3, 2016.

**Animal Services Office**

2. Approve an ordinance amending City Section Code 3-1-29 (Sterilization) related to the sterilization of animals at the Austin Animal Shelter.

**Economic Development Department**

3. Approve a resolution to nominate Samsung Austin Semiconductor, LLC for designation by the Governor's Office of Economic Development and Tourism as a single Texas Enterprise Project in accordance with Chapter 2303 of the Texas Government Code.

**Health and Human Services**

4. Approve the negotiation and execution of an agreement with Latino Healthcare Forum to implement community health improvement strategies for an 11-month term from November 1, 2016 through September 30, 2017, in an amount not to exceed \$175,000, for a total contract amount not to exceed \$175,000.

**Law**

5. Authorize negotiation and execution of a legal services contract with the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. in an amount not to exceed \$700,000.00, to represent the City in the rate case filed with the Public Utility Commission by Shady Hollow MUD appealing wholesale water and wastewater rates.
6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park

Road (Champion Tract). Related to Item #43

#### **Management Services**

7. Approve an ordinance setting the council meeting schedule for calendar year 2017.

#### **Neighborhood Housing and Community Development**

8. Authorize the execution of an Affordable Housing Agreement for the Pilot Knob Planned Unit Development. (District 2). Related to Item #32

#### **Planning and Zoning**

9. Amend Ordinance No. 20090827-078 to correct a reference to zoning for property described in zoning file C14-2009-0055.
10. Approve an ordinance amending City Code Chapter 9-2 relating to the requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.

#### **Purchasing Office**

11. Authorize a negotiation and execution of an agreement with Aero Solutions LLC, for professional services related to licensing right-of-way and city property for small cell antenna, for an amount not to exceed \$205,200. ( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

#### **Transportation**

12. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.

#### **Item(s) from Council**

13. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
14. Approve an ordinance waiving or reimbursing certain fees for the

Shakespeare in the Park event sponsored by the Something for Nothing Theater which was held October 14-29, 2016 at Ramsay Park.

( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Ann Kitchen CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Leslie Pool )

15. Approve an ordinance waiving or reimbursing certain fees for the Truth be Told fundraising event sponsored by Truth be Told which was held Thursday, October 27th, 2016 at the Asian American Resource Center.  
( Notes: SPONSOR: Council Member Sheri Gallo CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston CO 4: Council Member Delia Garza )
16. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool )
17. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Travis Country 5K event sponsored by Travis Country Homeowner's Association which was held May 1, 2016 on Travis Country Circle and Republic of Texas Boulevard.  
( Notes: SPONSOR: Council Member Ellen Troxclair CO 1: Council Member Ora Houston CO 2: Council Member Sheri Gallo CO 3: Council Member Don Zimmerman )

#### **Item(s) to Set Public Hearing(s)**

18. Set a public hearing to consider an ordinance regarding floodplain variances for the construction of a new single family residence at 4515 Avenue D as requested by the owner of the property. The property is located in the 25-year and 100-year floodplains of Waller Creek. (District 9) (Suggested date and time: December 8, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street).

#### **Non-Consent**

#### **Action on Item(s) with Closed Public Hearings - per City Code Section 2-5-27, additional speakers will not be registered**

19. C7a-2016-0003 – Entrada – Approve an ordinance to annex the Entrada annexation area for full purposes (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

20. C7a-2016-0005 – Malone Preliminary Plan – Approve an ordinance to annex the Malone Preliminary Plan annexation area for full purposes (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Bilbrook Place; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
21. C7a-2016-0006 – Mooreland Addition – Approve an ordinance to annex the Mooreland Addition annexation area for full purposes (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
22. C7a-2016-0007 – Smithfield/Frate Barker – Approve an ordinance to annex the Smithfield/Frate Barker annexation area for full purposes (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5). THE PUBLIC HEARINGS FOR THIS ITEM WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.
23. C7a-2016-0008 – Upper East End Subdivision – Approve an ordinance to annex the Upper East End Subdivision annexation area for full purposes (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1). THE PUBLIC HEARINGS FOR THESE ITEMS WERE HELD AND CLOSED ON OCTOBER 6 AND 13, 2016.

**10:00 AM - Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)**

24. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Approve second and third readings of an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry land use to Mixed Use land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, 512-974-2695.
25. C14-2016-0041 - East Sixth Street Village South - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake



Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.

26. C14-2016-0043 - East Sixth Street Village North - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512-974-2122.
27. NPA-2016-0025.01 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.
28. C14-2016-0011 - Lantana Tract 33 - District 8 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. First Reading approved on September 22, 2016. Vote: 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
29. NPA-2016-0016.03 – Casa Lara – District 3 – Approve second and third readings of an ordinance amending Ordinance No. 030327-12, the Govalle/Johnston Terrace Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6011 Bolm

Road (Boggy Creek Watershed) from Commercial land use to Mixed Use land use. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner/Applicant: Jeanette Lara Lewis. Agent: Oakland Urban (Christopher Oakland). City Staff: Maureen Meredith, 512-974-2695.

30. C14-2016-0082 - Casa Lara - District 3 - Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6011 Bolm Road (Boggy Creek Watershed) from community commercial-neighborhood plan (GR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. First Reading approved on October 13, 2016. Vote 10-0, Council Member Troxclair was off the dais. Owner: Jeanette Lara Lewis. Applicant: Oakland Urban (Christopher Oakland). City Staff: Heather Chaffin, 512-974-2122.
31. C14-2016-0037 – Scofield Apartments – District 7 – Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Ridge Parkway (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning, with conditions. First Reading approved on October 13, 2016. Vote: 9-0, Council Member Renteria and Council Member Troxclair were off the dais. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirwaitis, 512-974-3057.
32. C814-2012-0152 - Pilot Knob Planned Unit Development - District 2 - Approve third reading of an ordinance amending City Code Title 25 by zoning property locally known as east and southeast of the intersection of East William Cannon Drive and McKinney Falls Parkway, and west of South U.S. Highway 183 and FM 1625 (Cottonmouth Creek Watershed; North Fork Creek Watershed; South Fork Creek Watershed) from interim-rural residence (I-RR) district zoning and interim-single family residence-standard lot (SF-4A) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 8, 2015. Vote: 10-0, Council Member Pool was off the dais. Second Reading approved on November 19, 2015. Vote: 11-0. Owner/Applicant: Carma Easton, Inc. (Logan Kimble). Agent: Armbrust & Brown, L.L.P. (Lynn Ann Carley). City Staff: Wendy Rhoades, 512-974-7719. Related to Item #8

**10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

33. C14-85-288.8 (RCA3) - Lantana Tract 33 - District 8 - Conduct a public hearing to amend a restrictive covenant on property locally known as 6701,

6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

34. NPA-2015-0015.03 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending Ordinance No. 021107-Z-11 the East MLK Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from Single Family land use to High Density Single Family land use. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Kathleen Fox, 512-974-787.
35. C14-2015-0114 - 5010 & 5012 Heflin Lane - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 5010 and 5012 Heflin Lane (Fort Branch Creek Watershed) from single family residence-small lot-neighborhood plan (SF-4A-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: Not applicable; Case withdrawn by Applicant. Planning Commission Recommendation: Not applicable; Case withdrawn by Applicant. Owner: Heflin Phase I, LLC and Shirley Green (Lynn Yuan). Applicant: Metcalfe Wolff Stuart & Williams, LLP (Michele Rogerson Lynch). City Staff: Heather Chaffin, 512- 974-2122.
36. NPA-2015-0005.04 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. First Reading approved on September 22, 2016. Vote: 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &

Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.

37. C14-2015-0104 – Lenox Oaks – District 3 – Conduct a public hearing and approve second and third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604. First Reading approved on September 22, 2016. Vote 9-1, Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: UT Land Company, Ltd. (Jimmy Nassour). Agent: Smith, Robertson, Elliott &

Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

38. NPA-2016-0013.01 - Bouldin Courts - District 9 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20020533-32, the Bouldin Creek Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 908, 1000, & 1002 South 2nd Street (East Bouldin Watershed) from Single Family to Higher Density Single Family land use. Staff Recommendation: To grant Higher Density Single Family land use. Planning Commission Recommendation: To grant Higher Density Single Family land use. Owner/Applicant: PSW Homes, LLC (Jarrod Corbell). City Staff: Maureen Meredith, (512) 974-2695.
39. C14-2016-0077 – Bouldin Courts – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 900, 904, 908, 1000 & 1002 South 2nd Street and 705 Christopher Street (East Bouldin Creek Watershed) community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning and family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Agent: PSW Homes (Jarred Corbell). Owner: 1st Street Highlands LP (PSW Homes). City Staff: Andrew Moore, 512-974-7604.
40. NPA-2016-0021.01 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20061116-055 of the East Riverside/Oltorf Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the future land use designation on the future land use map (FLUM) on property locally known as 5016 ½ E. Ben White Blvd. (Country Club West/Carson Creek Watershed) from Commercial land use to Mixed Use land use. Staff Recommendation: To grant Commercial land use and Mixed Use land use. Planning Commission Recommendation: To grant Commercial land use and Mixed Use land use. Owner/Applicant: Ashley Gibson). Agent: Brown and Gay Engineers (Steven Buffum, P.E.). City Staff: Maureen Meredith, 512-974-2695.
41. C14-2016-0069 - Ben White Zoning - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 5016 ½ East Ben White Boulevard (West Country Club and Carson Creek Watersheds) from general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-

neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-mixed use-conditional overlay -neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning for Tract 1, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning for Tract 2 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU- CO-NP) combining district zoning for Tract 3. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning for Tract 2. Applicant: Brown & Gay Engineers (Steven Buffum). Owner: Azur Property Investment. City Staff: Andrew Moore, 512-974-7604.

42. C14-2015-0052 – Removal of Historic (H) overlay and removal of Conditional Overlay (CO) – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 507 West 23rd Street (Shoal Creek Watershed) from general office-conditional overlay-historic-neighborhood plan (GO-CO-H-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner: 23 Nueces LLC (Edward Johnson). Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512- 974-2122.
43. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #6
44. C14-2016-0020 - Lantana IV - District 8 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan

(LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on December 13, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.

45. C14-2016-0021 - Double Creek Residences - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 420 East FM 1626 Road (Onion Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning, and community commercial (GR-CO) combining district zoning to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Staff Recommendation: Pending. Zoning and Platting Commission Recommendation: To be reviewed on December 6, 2016. Owner/Applicant: Riddell Family Limited Partnership (Jim Henry). Agent: Walters Southwest (Amanda Swor). City Staff: Wendy Rhoades, 512-974-7719.
46. C14-2016-0039 - Thornton II - District 5 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2413 Thornton Road (West Bouldin Creek Watershed) from general commercial services (CS) district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Applicant: South Llano Strategies (Glen Coleman). Owner: John & Susan Hoberman. City Staff: Andrew Moore, 512-974-7604.
47. C14-2016-0050 - Plaza Saltillo Tract 1/2/3 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 901, 1011, and 1109 E. 5th Street (Waller Creek Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
48. C14-2016-0049 - Plaza Saltillo Tract 4/5 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1211 and 1301 E. 5th Street (Waller Creek Watershed; Lady Bird Lake Watershed) from transit oriented development-

neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.

49. C14-2016-0051 - Plaza Saltillo Tract 6 - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 413 Navasota Street (Lady Bird Lake Watershed) from transit oriented development-neighborhood plan (TOD-NP) combining district zoning to transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Staff Recommendation: To grant transit oriented development-central urban redevelopment-neighborhood plan (TOD-CURE-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on November 8, 2016. Owner: Capital Metro Transportation Authority (Shanea Davis). Applicant: Land Use Solutions, LLC (Michele Haussmann). City Staff: Heather Chaffin, 512-974-2122.
  
50. C14-2016-0063.SH - Villas at Vinson Oak Rezone - District 3 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. The ordinance may include waiver of fees. Owner/Applicant: Notigius LLC - Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.
  
51. C14-2016-0065 - Pioneer Bank on W. 38th St. - District 9 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed December 13, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy).



City Staff: Heather Chaffin, 512- 974-2122.

52. C14-2016-0068 - 1308 E. Braker Lane Rezoning - District 1 - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1308 East Braker Lane (Walnut Creek Watershed) from single family residence-standard lot (SF-2) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-low density (MF-2) district zoning. Owner: Sinh Trong Le. Applicant: Thrower Design (Ron Thrower). City Staff: Heather Chaffin, 512-974-2122.
53. C14-2016-0072 – 39th Street Apartments – District 9 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 405-407 West 39th Street (Waller Creek Watershed) from family residence-neighborhood conservation combining district-neighborhood plan (SF-3-NCCD-NP) combining district zoning to multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-neighborhood conservation combining district-neighborhood plan (MF-4-NCCD-NP) combining district zoning. Owner: 405 West 39th Street LLC. Applicant: Mike McHone Real Estate (Mike McHone). City Staff: Heather Chaffin, 512-974-2122.
54. C14-2016-0078 – 1114 Kramer Lane Rezoning – District 4 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1114 Kramer Lane and 11107 Plains Trail and 11109 Plains Trail (Little Walnut Creek Watershed) from neighborhood commercial-conditional overlay (LR-CO) combining district zoning and neighborhood office (NO) district zoning to multifamily residence-medium density (MF-3) district zoning. Staff Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Owner/Applicant: Octavian Herescu. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Sherri Sirwaitis, 512-974-3057.
55. C14-2016-0086 – La Mexicana Supermercado Rezoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 2004 East William Cannon Drive (Williamson Creek Watershed) from neighborhood commercial (LR) district zoning and multifamily residence-medium density (MF-3) district zoning to neighborhood commercial (LR) district zoning for Tract 1 and

multifamily residence-medium density (MF-3) district zoning for Tract 2. Staff Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning for Tract 1 and multifamily residence-medium density (MF-3) district zoning for Tract 2. Owner/Applicant: TATI Investments Group, LLC (Zulfiqar Maknojia). Agent: Cuatro Consultants, Ltd. (Hugo Elizondo, Jr.). City Staff: Wendy Rhoades, 512-974-7719.

56. C14-2016-0091 – ACS/Bearcreek Properties – District 5 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 4001 S. Lamar Boulevard (Williamson Creek Watershed; Barton Creek Watershed-Barton Springs Zone) from general commercial services-vertical mixed use building (CS-V) combining district zoning to commercial-liquor sales-vertical mixed use building (CS-1-V) combining district zoning. Staff Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Planning Commission Recommendation: To grant commercial-liquor sales-vertical mixed use building-conditional overlay (CS-1-V-CO) combining district zoning. Agent: Thrower Design (Ron Thrower). Owner: ACS/Bearcreek Properties Ltd. (Manny Frahani). City Staff: Andrew Moore, 512-974-7604.
57. C14-2016-0095 – Completion of Lot 6 Zoning – District 8 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 9100 West State Highway 71 (Williamson Creek Watershed-Barton Springs Zone) from single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general office-neighborhood plan (GO-NP) combining district zoning. Staff Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Planning Commission Recommendation: To grant general office-neighborhood plan (GO-NP) combining district zoning. Owner/Applicant: River City Partners Management Ltd. (Lee Raines). Agent: Sprouse Shrader Smith, PLLC (Terrence Irion). City Staff: Wendy Rhoades, 512-974-7719.
58. C14-2016-0096 – 7901 Ranch Road 2222 – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 7901 Ranch to Market Road 2222 (West Bull Creek Watershed) from limited office-conditional overlay (LO-CO) combining district zoning to general office-mixed use (GO-MU) combining district zoning. Staff Recommendation: To grant general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on November 15, 2016. Owner/Applicant: Malamae/Dentastic, LP (James V. Potter). Agent: John Stinson. City Staff: Sherri Sirvaitis, 512-974-3057.

59. C14-2016-0101 – 3900 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3900 Pearce Road (Lake Austin Watershed) from rural residence (RR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
60. C14-2016-0102 – 3906 Pearce Road – District 10 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3906 Pearce Road (Lake Austin Watershed) from development reserve (DR) district zoning to single family residence-large lot (SF-1) district zoning. Staff Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-large lot-conditional overlay (SF-1-CO) combining district zoning. Applicant: Luxor Custom Homes (Denise Perry). Owner: Luxor Custom Homes (Blair Drenner). City Staff: Andrew Moore, 512-974-7604.
61. C814-2012-0128.01.SH – thinkEAST Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 1141 Shady Lane and 5300 Jain Lane (Boggy Creek Watershed) from planned unit development-neighborhood plan (PUD-NP) combining district zoning to planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant planned unit development-neighborhood plan (PUD-NP) combining district zoning, to change a condition of zoning. The ordinance may include modification of city regulations. Owner/Applicant: thinkEAST Austin Management, LLC (Richard deVarga). City Staff: Heather Chaffin, 512-974-2122.
62. C814-2014-0120 - Austin Oaks PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter Title 25 by rezoning property locally known as 3409, 3420, 3429, 3445, 3520, 3636, 3701, 3721, 3724, and 3737 Executive Center Drive and 7601, 7718 and 7719 Wood Hollow Drive (Shoal Creek Watershed) from community commercial (GR) district zoning, neighborhood commercial (LR) district zoning, limited office (LO) district zoning and family residence (SF-3) district zoning to planned unit development (PUD) district zoning. Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and

acquisition of property. Applicant: Graves Dougherty Hearon & Moody (Michael Whellan). Owner: Twelve Lakes LLC, Jon Ruff. City Staff: Andrew Moore, 512-974-7604.

63. C814-2015-0074 – The Grove at Shoal Creek PUD – District 10 – Conduct a public hearing and approve second reading of an ordinance amending City Code Title 25 by rezoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit development (PUD) district zoning. The ordinance may include exemption from or waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. First Reading approved on October 20, 2016. Vote: 8-2, Council Member Houston and Mayor Pro Tem Tovo voted nay; Council Member Troxclair was off the dais. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

#### **12:00 PM - Citizen Communications: General**

Carlos León - 1) God, Jesus Christ, and the Holy Spirit are the most high and mighty; 2) Eradicate Austin's alien chemtrails; 3) Losing your marbles Vol. II, Part ?

Gus Peña - 1) Happy Veterans Day to all my Military veterans. Veterans Day is Nov. 11, 2016. We veterans gave it our all. 2) You all will have the day off. Many of our veterans are homeless or unemployed. Please thank a veteran for his or her service to our country's freedom, safety and democracy and for other countries freedom, safety, and democracy. 3) Especially recognize, thank, and support our female veterans for their service to our country, and other countries freedom safety and democracy. November 10, 2016 is my United States Marine Corps Birthday. We (our U.S.M.C.) is 241 years old Semper Fi to all my fellow Marines. We gave it our all. 4) My dad Lucio WWI vet. my step brother Lucio World War II , Pilar, Edward, me Gus, United States Marines, Gilbert, Lucio III Navy, Jesse Air Force. Peña family well represented and fought for our country USA.

CAROLANNE ROSE KENNEDY - BLACKCHRISTMAS.

Asad Halai - Tax Property purchase - previous lien payout.

Moses Saldana - Pledge of Allegiance.

Sara Black - Oral response to Citizen survey.

Lisa Hinley - Restore Rundberg final report.

Zenobia Joseph - Public Information Requests, Greater Austin Black Chamber of Commerce- \$171K Accountability, FY 2017 Budget Recommendation.

Kyle Hoskins - TBA.

Reedy Spigner - East Austin Land Survey.


#### **Executive Session**


64. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
65. Discuss legal issues related to the application of anti-lobbying regulations to Request For Proposals CDL2003, for the management of biosolids reuse and Request For Proposals JXP0501, for the sale and removal of compost material. (Private consultation with legal counsel - Section 551.071 of the Government Code)
66. Discuss legal issues related to Chapter 245 of the Texas Local Government Code and proposed approval of a Project Consent Agreement for property located at 2636 Bliss Spillar Road and 12501 Hewitt Lane. (Private consultation with legal counsel - Section 551.071 of the Government Code)

#### **4:00 PM - Public Hearings and Possible Actions**

67. Conduct a public hearing and consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9)
68. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).
69. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.
70. Conduct a public hearing and consider an appeal of an outdoor music venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.
71. Conduct a public hearing and consider second and third readings of an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

## Adjourn

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-2**

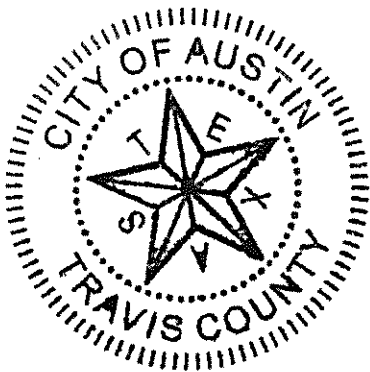


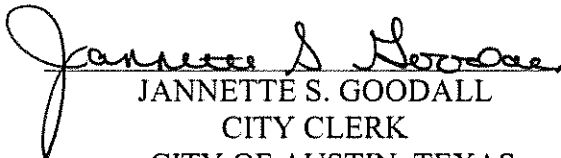
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

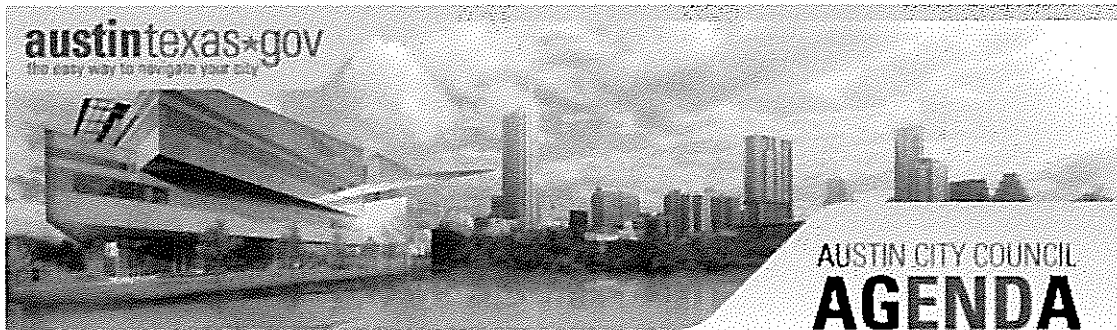
I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, November, 3, 2016, consisting of a total of fifteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



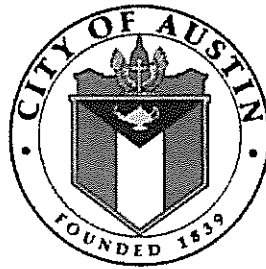
  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS





**Thursday, November 03, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, November 03, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**9:55 AM – Invocation**

Rabbi Neil Blumofe, Congregation Agudas Achim

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of October 18, 2016, special called meeting of October 19, 2016, regular meeting of October 20, 2016, and Council discussion of October 21, 2016.

**Austin Energy**

2. Authorize issuance of a rebate to 78741 Holdings, LP, for the installation of solar electric systems on 20 residential units at its Las Cimas mixed-use development at 2101 Montopolis Drive, for a total amount not to exceed \$101,760. (District 3)
3. Approve issuance of a rebate to Henderson Global Investors, for energy efficiency improvements at the Argosy at Crestview apartment community located at 1003 Justin Lane, in an amount not to exceed \$95,279 (District 7).
4. Authorize negotiation and execution of a 12-month agreement with THE UNIVERSITY OF TEXAS, through its Austin Technology Incubator, for mutual assistance in the clean energy field, in the amount of \$195,000, with one 12-month extension option in the amount of \$195,000, for a total amount not to exceed \$390,000.

**Capital Contracting Office**

5. Authorize negotiation and execution of a professional services agreement with LANDRUM & BROWN, INC., (staff recommendation) or one of the other qualified responders for Request for Qualifications Solicitation No. CLMP206 to provide professional services for the 2017 Austin-Bergstrom International Airport Master Plan for a total contract amount not to exceed \$4,000,000. (District 2)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement

Program) by meeting the goals with 17.70% MBE and 15.80% WBE participation. )

6. Authorize execution of change order #6 to the construction contract with JAY-REESE CONTRACTORS, INC., for the Boardwalk Trail at Lady Bird Lake American Disabilities Act Fishing Pier project in the amount of \$616,811.76, for a total contract amount not to exceed \$22,388,252.06. (Districts 3 and 9)  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievement of good faith efforts with 1.26% MBE and 20.64% WBE participation. )
7. Authorize negotiation and execution of a professional services agreement with SASAKI ASSOCIATES INC., (staff recommendation) or one of the other qualified responders for Request for Qualifications Solicitation No. CLMP199 to provide Urban Design services for the Congress Avenue Streetscape Improvements – Urban Design Initiative Project for a total contract amount not to exceed \$500,000. (District 1 and 9)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 19.00% MBE and 22.00% WBE participation. )
8. Authorize award and execution of a construction contract with FACILITIES REHABILITATION, INC., for Austin Energy's 4th and Rio Grande Chilled Water Transmission Main Project, in an amount not to exceed \$1,564,885 plus a \$312,977 contingency, for a total contract amount not to exceed \$1,877,862. (District 9)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 88.28% MBE and 1.60% WBE participation. )
9. Authorize negotiation and execution of a competitive sealed proposal agreement with R.S. ELLIS, INC dba SOUTHWEST CORPORATION, for construction improvements to multiple Austin Fire Department facilities for Women's Locker Room Additions Phase 5 and multiple Emergency Medical Service stations for vehicle bay expansions in the amount not to exceed \$4,598,345. (Districts 1,2,3,5,8 and 10)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 14.34 MBE and 0.13% WBE participation. )

#### **Controller's Office**

10. Approve an ordinance approving the proposed 2017 assessment roll for the

Indian Hills Public Improvement District. Related to Items #11 and #59.

11. Approve a resolution adopting the Indian Hills Public Improvement District Annual Service and Assessment Plan update for 2017. Related to Items #10 and #59.
12. Approve an ordinance approving the proposed 2017 assessment roll for the Whisper Valley Public Improvement District. Related to Items #13 and #60.
13. Approve a resolution adopting the Whisper Valley Public Improvement District Annual Service and Assessment Plan Update for 2017. Related to Items #12 and #60.
14. Approve an ordinance approving the proposed 2017 assessment roll for the Estancia Hill Country Public Improvement District (PID). Related to Items #15 and #61.
15. Approve a resolution adopting the Estancia Hill Country Public Improvement District (PID) Annual Service and Assessment Plan Update for 2017 and 2016 Addendum to Estancia Hill Country PID Service and Assessment Plan. Related to Items #14 and #61.

#### **Economic Development Department**

16. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the Austin Downtown Public Improvement District. Related to Items #17 and #58.
17. Approve a resolution adopting the Austin Downtown Public Improvement District Service and Assessment Plan and Budget update for 2017-2018. Related to Items #16 and #58.
18. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the East Sixth Street Public Improvement District. Related to Items #19 and #57.
19. Approve a resolution adopting the East Sixth Street Public Improvement District Service and Assessment Plan and Budget update for 2017. Related to Items #18 and #57.
20. Approve an ordinance setting the assessment rate and approving a proposed 2017 assessment roll for the South Congress Preservation and Improvement District. Related to Items #21 and #56.
21. Approve a resolution adopting the South Congress Preservation and Improvement District Service and Assessment Plan and Budget update for 2017. Related to Items #20 and #56.

#### **Emergency Medical Services**

22. Authorize negotiation and execution of an interlocal agreement with Travis County Emergency Services District (ESD) #2 that authorizes the Emergency Medical Services Department to provide dispatch services for ambulances being added by ESD #2 for a 12 month term beginning on October 1, 2016 in exchange for payment of \$20,000 per unit per year by ESD #2.

#### **Financial Services**

23. Approve a resolution authorizing issuance by Northtown Municipal Utility District of Unlimited Tax and Revenue Refunding Bonds, Series 2016, in an amount not to exceed \$8,315,000.

#### **Health and Human Services**

24. Approve an ordinance authorizing acceptance of \$65,192 in grant funds from the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, and amending the Fiscal Year 2016-2017 Health and Human Services Department Operating Budget Special Revenue Fund (Ordinance No. 20160914-001) to appropriate \$65,192 for the delivery of basic needs, case management, employment support and preventive health services to low-income residents.
25. Approve negotiation and execution of Amendment No. 3 for a 12-month extension of an interlocal agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT for the provision of educational and skill-building services in an amount not to exceed \$1,282,485, for a total agreement amount not to exceed \$3,216,485.

#### **Law**

26. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #67.

#### **Management Services**

27. Approve the cancellation of the November 8, 2016 work session.

#### **Office of Real Estate Services**

28. Authorize negotiation and execution of a 60-month lease renewal for approximately 964 square feet of office space and three boat slips for the Lake Patrol Unit of the Austin Police Department, located at 2215 Westlake Drive, from LAKE AUSTIN MARINA I L.P., a Texas limited partnership, in an amount not to exceed \$226,214 (District 10).

## **Police**

29. Authorize execution of a 12-month interlocal agreement with Dallas County Texas acting through the Southwestern Institute of Forensic Sciences at Dallas, for forensic services in an estimated amount not to exceed \$1,600,000 with five 12-month extension options not to exceed \$400,000 per extension option, for a total estimated contract amount not to exceed \$3,600,000.

## **Purchasing Office**

30. Authorize award and execution of a 36-month contract with JOHN BEAN TECHNOLOGIES CORPORATION DBA JBT AEROTECH, JETWAY SYSTEMS, to provide JetAire pre-conditioned air units inspection, maintenance, repair services, and training, in an amount not to exceed \$339,000, with three 12-month extension options in an amount not to exceed \$113,000 per extension option, for a total contract amount not to exceed \$678,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
31. Authorize negotiation and execution of a contract with IER, INC., for the purchase and installation of keypad and new barcode/passport readers for the common use self-service kiosk at Austin-Bergstrom International Airport, in an amount not to exceed \$117,360.  
( Notes: This contract is exempt from the City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established.)
32. Authorize negotiation and execution of a 12-month contract with OPEN TEXT CORPORATION to provide additional licenses, continued software maintenance and support, and services related to the Enterprise Document and Image Management System, in an amount not to exceed \$229,368, with four 12-month extension options in an amount not to exceed \$199,213 for the first extension option, \$207,299 for the second extension option, \$215,385 for the third extension option, \$223,470 for the fourth extension option, for a total contract amount not to exceed \$1,074,735.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
33. Authorize negotiation and execution of a 60-month contract with TECHLINE INC., to provide lighting control system devices, in an amount not to exceed \$2,408,250.  
( Notes: This contract is exempt from the City Code Chapter 2-9D Minority

Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )

34. Authorize negotiation and execution of a 14-month contract through the HOUSTON-GALVESTON AREA COUNCIL cooperative purchasing program with TOTER INCORPORATED, to provide residential refuse, recycling, and organics containers, in an amount not to exceed \$4,910,000, with four 12-month extension options in an amount not to exceed \$4,400,000 for the first extension option, \$5,100,000 for the second extension option, \$4,725,000 for the third extension option, and \$2,100,000 for the fourth extension option, for a total contract amount not to exceed \$21,235,000.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
35. Authorize negotiation and execution of a 24-month contract with SUEZ TREATMENT SOLUTIONS, INC., or one of the other qualified offerors to Request For Proposals CAK0008, for the rental of mobile demineralizer and water treatment equipment, in an amount not to exceed \$600,000, with two 24-month extension options in an amount not to exceed \$600,000 per extension option, for a total contract amount not to exceed \$1,800,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
36. Authorize negotiation and execution of a 12-month contract with CAPITAL AREA OCCUPATIONAL MEDICINE DBA ST. DAVID'S OCCUPATIONAL HEALTH SERVICES, to provide medical services, in an amount not to exceed \$106,450, with three 12-month extension options in an amount not to exceed \$106,450 per extension option, for a total contract amount not to exceed \$425,800.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
37. Authorize negotiation and execution of 60-month contract through the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES cooperative purchasing program with CDW-GOVERNMENT LLC, to provide Austin Energy with Cisco products and services including maintenance and support, in an amount not to exceed \$10,000,000.  
( Notes: This contract will be awarded by a cooperative purchase agreement

with the Texas Department of Information Resources (DIR) in accordance with Chapter 2054 of the Texas Government Code; therefore, goals were not established. )

38. Authorize negotiation and execution of a 12-month contract with MATRIX CONSULTING GROUP, LTD., to provide a comprehensive fee study for the Development Services Department's fee structure, schedule and related operations, in an amount not to exceed \$98,300, with two 12-month extension options in an amount not to exceed \$50,000 per extension option, for a total contract amount not to exceed \$198,300.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C, Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
39. Approve ratification of two 12-month emergency contracts to provide grounds maintenance for right of ways, medians and urban trails with PAMPERED LAWNS AUSTIN, INC. in an amount not to exceed \$267,750 and with GREATER TEXAS LANDSCAPES, INC. in an amount not to exceed \$327,250, for a total amount not to exceed \$595,000.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )

#### **Transportation**

40. Approve an ordinance amending the Fiscal Year 2016-2017 Austin Transportation Department Operating Budget Special Revenue Fund (Ordinance No. 20160914-001) to accept \$26,022 grant funds from the Capital Area Council of Governments Regional Air Quality Grant Program; and amending the Fiscal Year 2016-2017 Austin Transportation Department Capital Budget (Ordinance No. 20160914-002) to transfer in and appropriate the grant funds to purchase a tool to track data for the City's program to reduce employee commutes in motor vehicles and improve employee health, reduce vehicle emissions, and increase parking availability at City buildings.
41. Approve an ordinance amending Exhibit A to the Fiscal Year 2016-2017 City of Austin Fee Schedule Ordinance No. 20160914-003 to set administrative fees and rental fees for considering, approving, monitoring, and licensing the use of right of way and transportation infrastructure by wireless service providers for small cell networks.

#### **Watershed Protection Department**

42. Authorize the negotiation and execution of a community facilities agreement with AC 811 W Live Oak, LLC, a Texas limited liability company, in an amount not to exceed \$1,000,000, for a public storm drain infrastructure



improvement project to be constructed as part of a development located at 811 West Live Oak. (District 9)

**Item(s) from Council**

43. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
44. Approve a resolution relating to commercial demolitions and notice.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Delia Garza )
45. Approve a resolution directing the City Manager to develop a process for coordinating with other governmental and quasi-governmental entities to strategically leverage real estate opportunities to advance community policy priorities.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Delia Garza CO 2: Council Member Ora Houston CO 3: Council Member Leslie Pool CO 4: Mayor Steve Adler )
46. Approve an ordinance waiving or reimbursing certain fees for the Dia de los Muertos musical festival benefitting and sponsored by Easter Seals Central Texas which was held on Saturday, October 15 at Fiesta Gardens.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Council Member Delia Garza CO 2: Council Member Sheri Gallo CO 3: Council Member Leslie Pool )
47. Approve a resolution relating to community meetings and on-site supervision for children.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Delia Garza CO 3: Council Member Ora Houston CO 4: Mayor Steve Adler )
48. Approve an ordinance waiving or reimbursing certain fees for the House the Homeless Memorial event sponsored by House the Homeless which is to be held Sunday, November 13, 2016 at Vic Mathias Shores.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Gregorio Casar CO 2: Council Member Leslie Pool CO 3: Council Member Sabino "Pio" Renteria )
49. Approve a resolution adopting the Age-Friendly Austin Plan (AFAP), and directing the city manager to amend the Imagine Austin Comprehensive Plan to include the AFAP.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Mayor Pro Tem Kathie Tovo CO 2: Mayor Steve Adler CO 3: Council Member Leslie

Pool CO 4: Council Member Gregorio Casar )

50. Approve a resolution directing the City Manager to prepare a report regarding options for increasing connectivity and accessibility for the areas surrounding parkland located in the North Lamar and Georgian Acres Planning Area.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Council Member Ora Houston CO 2: Council Member Leslie Pool CO 3: Council Member Sabino "Pio" Renteria )
51. Approve a resolution directing the City Manager to develop a Smart Cities Strategic Roadmap with recommendations to improve city services and efficiency, and identify potential public and private funding opportunities.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Mayor Steve Adler CO 2: Council Member Leslie Pool CO 3: Council Member Sheri Gallo )
52. Approve a resolution related to improving access to municipal services for residents with limited English proficiency.  
( Notes: SPONSOR: Council Member Delia Garza CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Sabino "Pio" Renteria )
53. Approve a resolution initiating historic zoning for the property located at 1618 Palma Plaza and initiating an amendment to City Code Chapter 25-11 relating to the release of certain demolition permits.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Ora Houston CO 2: Council Member Ann Kitchen CO 3: Council Member Leslie Pool )
54. Approve an ordinance waiving or reimbursing certain fees and waiving certain requirements for the Festival de las Artes Latinamericanas event sponsored by Voces Latinas which was held Saturday, October 22, 2016 at the Emma S. Barrientos Mexican American Cultural Center.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Mayor Steve Adler CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza CO 4: Council Member Leslie Pool )
55. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the AIDS Walk Austin event sponsored by AIDS Services of Austin which was held Sunday, October 16, 2016 at Palm Park.  
( Notes: SPONSOR: Council Member Gregorio Casar CO 1: Mayor Steve Adler CO 2: Council Member Sabino "Pio" Renteria CO 3: Mayor Pro Tem Kathie Tovo )

**Item(s) to Set Public Hearing(s)**

56. Set a public hearing to consider the South Congress Preservation and

Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #20 and #21.

57. Set a public hearing to consider the East Sixth Street Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #18 and #19.
58. Set a public hearing to consider the Austin Downtown Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #16 and #17.
59. Set a public hearing to consider the Indian Hills Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 pm, at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #10 and #11.
60. Set a public hearing to consider the Whisper Valley Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 pm, at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #12 and #13.
61. Set a public hearing to consider the Estancia Hill Country Public Improvement District 2017 assessments. (Suggested date and time: December 1, 2016, 4:00 p.m., at Austin City Hall, 301 W. Second Street, Austin, TX). Related to Items #14 and #15.
62. Set a public hearing to consider an ordinance regarding floodplain variances for construction of a commercial building and associated parking at 1000 N. Lamar Blvd within the 25-year and 100-year floodplains of Shoal Creek. (District 9) (Suggested date and time: November 10, 2016, 4:00 p.m., at Austin City Hall, 301 West Second Street, Austin, TX)
63. Set a public hearing to consider a resolution supporting an application to be submitted to the Texas Department of Housing and Community Affairs by Harris Ridge Apartments, Ltd., or an affiliated entity, for the new construction of an affordable multi-family development to be located at the Southwest corner of Howard Lane and Dessau Road. (District 7) (Suggested date and time: December 1, 2016 beginning at 4:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX.)

## **Non-Consent**

### **Item(s) Referred from Council Committee(s)**

Audit and Finance Committee

64. Approve an ordinance amending City Code Chapter 2-1 (City Boards) relating to the Parks and Recreation Board.
65. Approve a resolution amending Resolution No. 20150618-081 to designate the East Cesar Chavez Neighborhood Planning Team as the responsible organization to conduct the nomination and election process for a representative from the East Austin area.

#### Health and Human Services Committee

66. Approve a resolution related to the sterilization of animals impounded at the Austin Animal Shelter, and directing the City Manager to return to Council with a related City Code amendment.  
( Notes: Committee )

#### **10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

67. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. Related to Item #26.

#### **10:30 AM - Morning Briefings**

68. City of Dripping Springs Draft Wastewater Discharge Permit

#### **12:00 PM - Citizen Communications: General**

Paul Robbins - City issues including Electric Utility bills.

Timothy Miller - New right turn only lane on Anderson and 183.  
(Videoconference from District 6 field office)

Mark Rogers - Growth. (Videoconference from District 6 field office)

Osayekeme Ebomwonyi - Gang violence and rape in the community.

Koo Hyun Kim - Democracy at City Hall

Sylvia Mendoza - Toll Roads.

Travis Duncan - Renewable energy.

Chiomi Okon - Cognitive homeless population and education.

Iris Leija - TBA.

Krystal Johnson - Upcoming events at Planet K.

### **Executive Session**

69. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
70. Discuss legal issues related to Brian Rodgers v. City of Austin, Cause No. D-1-GN-16-000615 in the 345th Judicial District, Travis County, Texas (Private consultation with legal counsel - Section 551.071 of the Government Code).
71. Discuss legal issues related to Texas Gas Service's proposal to increase retail customer rates.
72. Discuss legal issues related to proposed state highway projects, including SH 45 Southwest, located over the Barton Springs portion of the Edwards Aquifer Recharge and Contributing Zones (Private consultation with legal counsel - Section 551.071 of the Government Code).

### **3:00 PM - Austin Housing and Finance Corporation Meeting**

73. The Mayor will recess the City Council meeting to conduct a Board of Directors' Meeting of the Austin Housing Finance Corporation. Following adjournment of the AHFC Board meeting the City Council will reconvene. (The AHFC agenda is temporarily located at <https://austin.siretechnologies.com/sirepub/mtgviewer.aspx?meetid=1287&doctype=Agenda>)

### **4:00 PM - Public Hearings and Possible Actions**

74. Conduct a public hearing and consider an ordinance amending City Code Title 25 relating to right-of-way dedications and transportation improvements required as a condition to mitigate the impacts of development.
75. Conduct a public hearing and consider an appeal regarding the Planning Commission's approval of two compatibility waivers for development at 2510 South Congress Avenue (Site Plan No. SP-2015-0300C)(District 3).
76. Conduct a public hearing for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 104 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1).

77. Conduct a public hearing and consider an ordinance regarding Texas Gas Service's proposal to increase customer rates.
78. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.
79. Conduct a public hearing and consider a resolution regarding a request by Kyle Hill (Martin, Frost & Hill) for Snarf's Sandwiches located at 1404 S. 1st St. for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a school.

**5:30 PM - Live Music**

Ruben Ramos

**5:30 PM - Proclamations**

Proclamation - Rainforest Partnership - To be presented by Mayor Steve Adler and to be accepted by Niyanta Spelman

Proclamation - Austin Opera 30th season - To be presented by Mayor Steve Adler


Proclamation - Dr. Mitchel Wong and Dr. Shannon Wong - To be presented by Council Member Sheri Gallo and to be accepted by the honorees


Proclamation - Weather-Ready Nation Ambassadors - To be presented by Mayor Steve Adler and to be accepted by Joe Pantalione, Director, Watershed Protection Department

Proclamation - Diabetes Awareness Month - To be presented by Mayor Steve Adler and to be accepted by Shannon Jones, Director, Health and Human Services Department

Proclamation - Municipal Court Week - To be presented by Mayor Steve Adler and to be accepted by Sherry Statman, Municipal Court Presiding Judge, and Mary Jane Grubb, Municipal Court Clerk

**Adjourn**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-3**



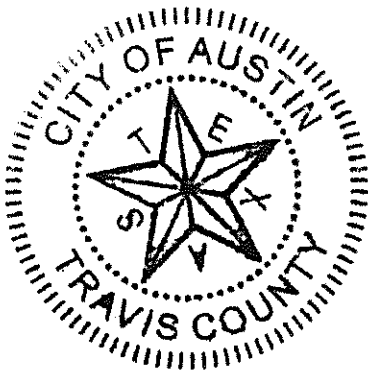


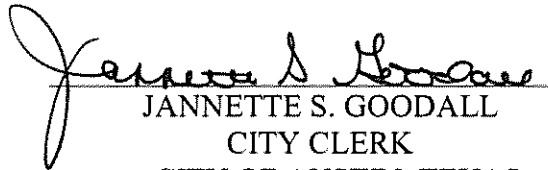
THE STATE OF TEXAS §

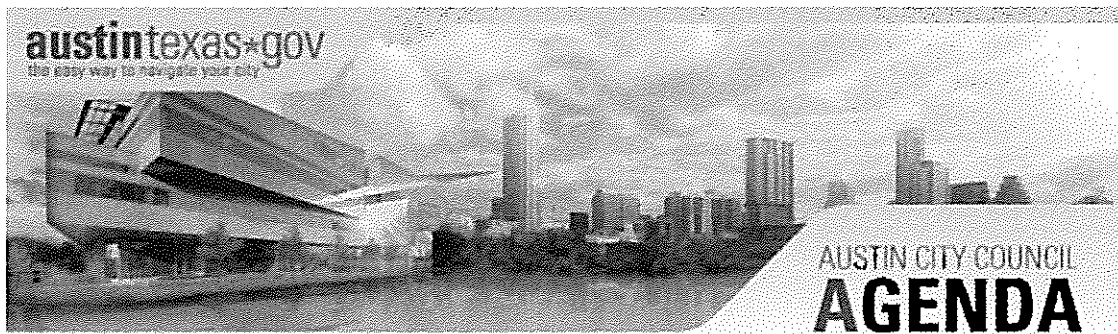
COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, October, 6, 2016, consisting of a total of fourteen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS



**Thursday, October 06, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, October 06, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



Mayor Steve Adler  
Mayor Pro Tem Kathie Tovo, District 9  
Council Member Ora Houston, District 1  
Council Member Delia Garza, District 2  
Council Member Sabino "Pio" Renteria, District 3  
Council Member Gregorio Casar, District 4  
Council Member Ann Kitchen, District 5  
Council Member Don Zimmerman, District 6  
Council Member Leslie Pool, District 7  
Council Member Ellen Troxclair, District 8  
Council Member Sheri Gallo, District 10

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**9:55 AM – Invocation**

Pastor Bob Bolender, Austin Bible Church

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council Budget and Tax Rate adoption meetings of September 12, 13 and 14, 2016, work session of September 20, 2016 and regular meeting of September 22, 2016.

**Animal Services Office**

2. Authorize negotiation and execution of a one-year interlocal agreement with Texas A&M Agrilife Extension Services – Wildlife Services to provide assistance and response for coyotes within the City of Austin in accordance with the City of Austin's coyote management policy.
3. Authorize negotiation and execution of an amendment to an interlocal agreement with Travis County related to the City's provision of animal services to exercise the third of four renewal options, and to update the cost model and work statement in exchange for Travis County's payment of \$1,641,082, for a 12-month period beginning October 1, 2016.

**Austin Water**

4. Approve the issuance of a rebate to NXP SEMICONDUCTORS for the installation of water conservation measures, in an amount not to exceed \$100,000.
5. Approve an ordinance waiving City Code Section 15-5-10 (D) (2) relating to the minimum lot size required for an on-site sewage facility for property located at 1750 Channel Road, Austin, Texas. (District 10)

**Aviation**

6. Approve a resolution authorizing acceptance of grants from the Federal Aviation Administration, the Department of Homeland Security, and other

state and federal agencies to the City of Austin, Department of Aviation, for Austin-Bergstrom International Airport for Fiscal Year 2016-2017 in an amount not to exceed \$30,000,000.

### **Capital Contracting Office**

7. Authorize award and execution of a construction contract with FLINTCO, LLC, for Austin Energy's Domain District Cooling Plant Cooling Tower Improvements Project, in the amount of \$11,360,000 plus a \$1,136,000 contingency, for a total contract amount not to exceed \$12,496,000. (District 7)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 6.17% MBE and 0.00% WBE participation. )
8. Authorize execution of change order #3 plus additional contingency to the construction contract with PEPPER-LAWSON WATERWORKS, LLC for the Ullrich Water Treatment Plant Hydraulic and Energy Efficiency Improvements project in the amount of \$912,396 for a total contract amount not to exceed \$8,118,196. (District 8).  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 27.05% MBE and 1.52% WBE participation. )
9. Authorize award and execution of a construction contract with TOTAL DEMOLITION, INC., for the Austin-Bergstrom International Airport Demolish Buildings and Fence project in the amount of \$97,000 plus a \$9,700 contingency, for a total contract amount not to exceed \$106,700. (District 2)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 15.18% MBE and 0.27% WBE participation. )
10. Authorize negotiation and execution of a Job Order Assignment with Warden Construction Corporation, one of the City's Facilities Improvement Job Order Contractors, for the Asian American Resource Center - Kitchen Renovation project for a total amount not-to-exceed \$600,000, inclusive of contingency. (District 1)  
( Notes: This 2013 Job Order Contract was awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 8.20% MBE and 3.10% WBE participation. )

### **City Clerk**

11. Approve an ordinance repealing Exhibits A,B,C,D, E, F and G of Ordinance

No. 20160818-023 ordering the November 2016 general and special municipal election, and replacing them with new Exhibits A, B, C, D, E, F, and G that adopt changes to election day and early voting polling places, that list election day judges, that list central counting station staff, that list the early voting ballot board, and that attach executed joint election agreements; and declaring an emergency.

#### **Economic Development Department**

12. Authorize execution of cultural arts services contracts for Fiscal Year 2016-2017 in an amount not to exceed \$1,598,200.

#### **Emergency Medical Services**

13. Approve an ordinance establishing classifications and positions in the classified service of the Emergency Medical Services Department, creating certain positions; establishing pay rates; and repealing Ordinance No. 20160912-006 relating to Emergency Medical Services Department classifications and positions.

#### **Financial Services**

14. Approve an ordinance authorizing the issuance and sale of tax-exempt City of Austin, Electric Utility System Revenue Refunding Bonds, Series 2016, in an amount not to exceed \$120,000,000, in accordance with the parameters set out in the ordinance, authorizing related documents, approving the payment of the costs of issuance, and providing that the issuance and sale be accomplished by April 6, 2017.
15. Approve a resolution adopting the City of Austin Fiscal Year 2016-2017 Investment Policy.
16. Approve an ordinance accepting grant funds from the Texas Department of Public Safety, and amending the Fiscal Year 2015-2016 Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) in the amount of \$1,293,446 for the following departments: Austin Code, Austin Energy, Emergency Medical Services, Fleet, Management Services, Parks and Recreation, and Police for repairs to city facilities and replacement of city property damaged or destroyed by the flooding of May 2015.
17. Approve an ordinance amending the Fiscal Year 2016-2017 Capital Budget (Ordinance No. 20160914-002) to increase appropriations by \$70,500 for the Parks and Recreation Department and \$8,748 for the Austin Transportation Department for capital improvements that have municipal purposes.

#### **Health and Human Services**

18. Authorize negotiation and execution of an agreement with AUSTIN

TRAVIS COUNTY MENTAL HEALTH MENTAL RETARDATION CENTER, dba AUSTIN TRAVIS COUNTY INTEGRAL CARE for mental health and intellectual and developmental disability services for an initial 12-month term beginning on October 1, 2016 and ending on September 30, 2017, in an amount not to exceed \$1,817,670, with four 12-month renewal options in an amount not to exceed \$1,817,670 for a total contract amount of \$9,088,350.

19. Authorize negotiation and execution of an agreement with the University of Texas for the provision of behavioral health services at the Sandra Joy Anderson Health and Wellness Center in an amount not to exceed \$50,000, for a 12-month term beginning on October 1, 2016.
20. Authorize negotiation and execution of an agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT for case management services and community outreach in an amount not to exceed \$108,120 for an initial 12-month term, with five 12-month renewal options in an amount not to exceed \$108,120 for a total contract amount not to exceed \$648,720.
21. Approve the negotiation and execution of Amendment No. 10 with WRIGHT HOUSE WELLNESS CENTER, a provider of HIV services under the Ryan White Part A HIV Emergency Relief Program, in an amount not to exceed \$47,812 for a revised current 12-month term amount not to exceed \$273,508, for a total contract amount not to exceed \$1,100,631.

#### **Human Resources**

22. Approve a resolution confirming the re-appointment of Andrew Harris to the Firefighters', Police Officers' and Emergency Medical Services Personnel's Civil Service Commission for a term expiring December 5, 2019.

#### **Law**

23. Authorize payment of a judgment in Canarios Inc. v. City of Austin, Cause No. D-1-GN-13-003779 in the 250th District Court for Travis County, Texas in an amount not to exceed \$126,400.
24. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract).  
(Related to Item 53)

#### **Planning and Zoning**

25. Approve an ordinance adopting the Twelfth Amendment to the Agreement Concerning Creation and Operation of Northtown Municipal Utility District to accommodate a driveway cut on Howard Lane specific to property located

at 2800 S. Heatherwilde Boulevard.

### **Purchasing Office**

26. Authorize negotiation and execution of a 60-month contract with SYNAGRO OF TEXAS-CDR, INC., or one of the other qualified offerors to Request For Proposals CDL2003, for the management of biosolids reuse in an amount not to exceed \$9,424,778, with five 12-month extension options in an amount not to exceed \$2,185,180 per extension option, for a total contract amount not to exceed \$20,350,678.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities and an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
27. Authorize negotiation and execution of a 12-month revenue contract with ALLEN CLICK, or one of the other qualified offerors to Request For Proposals JXP0501, for the sale and removal of compost material for an estimated revenue amount of \$64,500, with five 12-month extension options with an estimated revenue of \$64,500 per extension option, for a total estimated revenue amount of \$387,000.  
( Notes: This revenue generating contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
28. Authorize award and execution of a 36-month contract with 360TXC LLC (WBE), to provide glass repair and replacement, in an amount not to exceed \$1,006,683, with three 12-month extension options in an amount not to exceed \$335,561 per extension option, for a total contract amount not to exceed \$2,013,366.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program and subcontractor goals were applied to the solicitation. The subcontracting goals were exceeded and the resulting contract will include 2.11% MBE and 97.89% WBE participation. )
29. Authorize negotiation and execution of a 16-month contract through the TEXAS MULTIPLE AWARD SCHEDULE cooperative purchasing program with THE SHERWIN WILLIAMS COMPANY, to provide paint and paint supplies, in an amount not to exceed \$380,000, with two 12-month extension options in an amount not to exceed \$285,000 per extension option, for a total contract amount not to exceed \$950,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and

services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

30. Authorize negotiation and execution of an 84-month contract with TEXAS ELECTRIC COOPERATIVES, to provide electric meters for Austin Energy's residential meter replacement project, in an amount not to exceed \$29,100,000.  
( Notes: This contract is exempt from the City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program; therefore, no subcontracting goals were established. )
31. Authorize award and execution of a 12-month contract with INTEGRATED ENVIRONMENT, to provide maintenance and repair of stormwater ponds, in an amount not to exceed \$102,620, with four 12-month extension options in an amount not to exceed \$102,620 per extension option, for a total contract amount not to exceed \$513,100.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities, therefore, no subcontracting goals were established. )
32. Authorize negotiation and execution of a contract with MARK E. VAN GELDER DBA ART CONSERVATION SERVICES OF AUSTIN, to provide art preservation and restoration services, for a total contract amount not to exceed \$67,825.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
33. Authorize negotiation and execution of a 120-month contract with RYAN SANDERS SPORTS SERVICES, LLC, or one of the other qualified offerors to Request For Proposals SMB0104, to provide food and beverage concessions at Clay/Kizer Golf Complex, for an estimated revenue amount of \$1,265,000, with two 60-month extension options for an estimated revenue amount of \$840,000 per extension option, for a total estimated revenue amount of \$2,945,000.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )
34. Authorize award and execution of two 60-month contracts with AUSTIN SCREEN PRINTING, LP and EAGLE GROUP SPORTSWEAR, to provide athletic and recreational apparel, in an amount not to exceed



\$1,114,919, with one 60-month extension option in an amount not to exceed \$1,292,496, for total contract amounts not to exceed \$2,407,415.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

35. Authorize award and execution of a contract with WOODS FUN CENTER, INC. DBA BMW MOTORCYCLES OF AUSTIN, for police motorcycles, for a total contract amount not to exceed \$150,332.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods required for this solicitation, there were no subcontracting opportunities; therefore, no subcontracting goals were established. )

36. Authorize award and execution of a contract with TSE INTERNATIONAL, INC., for a cable puller/tensioner, in an amount not to exceed \$130,576.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the item required for this solicitation, there were no subcontracting opportunities and no certified M/WBEs; therefore, no subcontracting goals were established. )

37. Authorize award and execution of a contract with CANNON INSTRUMENT COMPANY, to provide an automatic kinematic viscometer, in an amount not to exceed \$71,136.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

38. Authorize award and execution of a 12-month contract with GREAT WESTERN MANAGED SERVICES CORP. (WBE), to provide grounds maintenance services at various Austin Energy locations, in an amount not to exceed \$125,070, with four 12-month extension options in an amount not to exceed \$125,070 per extension option, for a total contract amount not to exceed \$625,350.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

39. Authorize award and execution of a 24-month contract with ON SITE AUTO TRIM INC. DBA AUSTIN AUTO INTERIORS, to provide vehicle

and equipment upholstery repair services, in an amount not to exceed \$282,844, with four 12-month extension options in an amount not to exceed \$141,422 per extension option, for a total contract amount not to exceed \$848,532.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were no subcontracting opportunities; therefore, no subcontracting goals were established. )

40. Authorize negotiation and execution of a contract with SHEN MILSOM & WILKE, LLC., or one of the other qualified offerors to Request For Proposals PAX0134, to provide consultant services for a video management plan which includes video switch replacement for a total contract amount not to exceed \$160,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )

41. Authorize negotiation and execution of a 12-month contract with ECLINICALWORKS, LLC., or one of the other qualified offerors to Request For Proposals PAX0133, to provide integrated electronic health records system, in an amount not to exceed \$ 1,192,125, with five 12-month extension options in an amount not to exceed \$350,000 per extension option, for a total contract amount not to exceed \$ 2,942,125.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were insufficient subcontracting opportunities and an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )

42. Authorize negotiation and execution of a 12-month contract with BRYMER COMMUNICATION SERVICES, LLC, DBA BRYCOMM, LLC, or one of the other qualified offerors to Request For Proposals PAX0135, to provide cabling infrastructure maintenance and repair services, in an amount not to exceed \$350,000, with four 12-month extension options in an amount not to exceed \$350,000 per extension option, for a total contract amount not to exceed \$1,750,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program and subcontractor goals were applied to the solicitation. The subcontracting goals were met and the resulting contract will include 3.47% MBE and 1.73% WBE participation. )

43. Authorize negotiation and execution of two 24-month contracts with

MEGAWATT MACHINE SERVICES, LLC and SETPOINT INTEGRATED SOLUTIONS, INC., or one of the other qualified offerors to Request For Proposals CAK0003REBID, to provide power plant valve repair, replacement, testing, and maintenance, in an amount not to exceed \$1,000,000, with two 24-month extension options in an amount not to exceed \$750,000 per extension option, for a total contract amount not to exceed \$2,500,000.

( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the goods and services required for this solicitation, there were an insufficient number of certified M/WBEs; therefore, no subcontracting goals were established. )

44. Authorize negotiation and execution of a contract with AIRPORT & AVIATION PROFESSIONALS, INC. DBA AVAIR PROS, to provide airline technical representation services, in an amount not to exceed \$86,600.  
( Notes: This procurement was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this procurement, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
45. Authorize negotiation and execution of a 60-month contract with Lincoln Property Company Commercial, Inc., or one of the other qualified offerors to Request For Proposals JRD0314, to provide property management services at One Texas Center with five 12-month extension options, in an amount not to exceed \$400,000 for the initial contract term and escalating annually thereafter at 3.5% per year, plus reimbursement of authorized annual operating and maintenance expenses.  
( Notes: This solicitation was reviewed for subcontracting opportunities in accordance with City Code Chapter 2-9D Minority Owned and Women Owned Business Enterprise Procurement Program. For the services required for this solicitation, there were insufficient subcontracting opportunities; therefore, no subcontracting goals were established. )
46. Authorize negotiation and execution of a contract with STEM, INC., to provide integrated energy storage systems and control software implementation services for Austin Energy's SHINES project, in an amount not to exceed \$750,000.  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program by exceeding the goals with 4.0% MBE and 2.0% WBE participation. )

**Item(s) from Council**

47. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies

and removal and replacement of members; and amendments to board and commission bylaws.

48. Approve a resolution directing the City Manager to research the feasibility of a Request for Proposals process, or best solicitation method, to find candidates to revitalize a portion of park property which was decommissioned from the Holly Power Plant, in accordance with applicable master plans.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Mayor Steve Adler CO 2: Council Member Leslie Pool CO 3: Council Member Gregorio Casar )
49. Approve an ordinance waiving or reimbursing certain fees and certain requirements for the Taste of India 2016 event sponsored by the India Catholic Association of Central Texas to be held Saturday, October 22, 2016 at the Asian American Resource Center.  
( Notes: SPONSOR: Council Member Ora Houston CO 1: Council Member Leslie Pool CO 2: Council Member Sheri Gallo CO 3: Mayor Pro Tem Kathie Tovo )
50. Approve a resolution directing the City Manager to create a housing lending advisory group to develop recommendations for programs to provide new lending tools for current and new homeowners and report back to Council.  
( Notes: SPONSOR: Council Member Delia Garza CO 1: Council Member Sheri Gallo CO 2: Council Member Gregorio Casar CO 3: Council Member Sabino "Pio" Renteria CO 4: Council Member Ora Houston)

#### **Item(s) to Set Public Hearing(s)**

51. Set a public hearing regarding Texas Gas Service's proposal to increase customer gas rates. (Suggested date and time, October 13, 2016, 4:00 p.m. at City Hall; 301 W. Second Street, Austin, TX)

#### **Non-Consent**

##### **Item(s) Referred from Council Committee(s)**

Audit and Finance Committee

52. Approve the City Auditor's Fiscal Year 2017 Audit Plan.  
( Notes: Auditor's Office )

##### **10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

53. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-

CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207. (Related to Item 24)

#### **12:00 PM - Citizen Communications: General**

Paul Robbins - Austin Energy rates and other City issues.

Sharon Blythe - City Business ( Video conference from District 6 )

Koo - Hyun Kim - Crimes committed by Governments in the City of Austin in 2000 - up until today 9-22-2016, but City Police and City Attorney David refused to prosecute or investigate and resigned.

Robert Rivera - TBA.

Susana Almanza - Cactus Rose Mobile Home Park Agreement.

Carol Biedrzycki - Code Enforcement in rental properties.

Jim Brennan - Veterans Business Initiative.

Iris Leija - Workers retention policy for Austin Airport workers.

Joe Zamecki - TBA.

Darnell Franklin - United here assistance at the Airport.

#### **Executive Session**

54. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).

#### **4:00 PM - Public Hearings and Possible Actions**

55. Conduct a public hearing and consider an ordinance amending Title 25 of the City Code to change regulations related to Subchapter F gross floor area exemptions for garages and carports.
56. Conduct a public hearing and consider an ordinance amending the Imagine Austin Comprehensive Plan.
57. Conduct a public hearing for the full purpose annexation of the Entrada

annexation area (approximately 246 acres in northeastern Travis County south of Wells Branch Parkway at the intersection of Immanuel Road and Crystal Bend Drive; contiguous to District 1).

58. Conduct a public hearing for the full purpose annexation of the HOLT CAT Subdivision annexation area (approximately 27 acres in southern Travis County along Interstate Highway-35 approximately three-tenths of a mile south of Slaughter Lane; contiguous to District 5).
59. Conduct a public hearing for the full purpose annexation of the Malone Preliminary Plan annexation area (approximately 40.48 acres in southwestern Travis County one-half mile south of the intersection of West Slaughter Lane and Slaughter Creek Drive between Slaughter Creek Drive and Billbrook Place; contiguous to District 5).
60. Conduct a public hearing for the full purpose annexation of the Mooreland Addition annexation area (approximately 34 acres in southwestern Travis County east of the intersection of Manchaca Road and Mooreland Drive; contiguous to District 5).
61. Conduct a public hearing for the full purpose annexation of the Smithfield/Frate Barker annexation area (approximately 46 acres in southwestern Travis County at the intersection of Frate Barker Road and Manchaca Road; contiguous to District 5).
62. Conduct a public hearing for the full purpose annexation of the Upper East End Subdivision annexation area (approximately 29 acres in northeastern Travis County on East Howard Lane, approximately two-tenths of a mile west of East Howard Lane and Cantarra Drive; contiguous to District 1).
63. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

#### **5:30 PM - Live Music**

Keeper

#### **5:30 PM - Proclamations**

Proclamation – Archives Month – To be presented by Mayor Pro Tem Kathie Tovo and to be accepted by Mike Miller, Director, Austin History Center

Proclamation – Dyslexia Month - To be presented by Mayor Steve Adler and to be accepted by Heather Hardeman on behalf of the Dyslexia Parent Network


Proclamation – 14th Annual Disability Mentoring Day - To be presented by Mayor Steve Adler and to be accepted by Tanya Winters, Vice Chair, Mayor's Committee for People With Disabilities


Distinguished Service Award – Cathy Gerac – To be presented by Mayor Steve Adler and to be accepted by the honoree

Proclamation – Domestic Violence Awareness Month – To be presented by Council Member Delia Garza and to be accepted by Kirsha Haverlah, Austin/Travis County Family Violence Task Force.

Proclamation – Susan G. Komen Day - To be presented by Mayor Steve Adler and to be accepted by Suzanne Stone, Executive Director, Susan G. Komen Austin

## Adjourn

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit A-4**





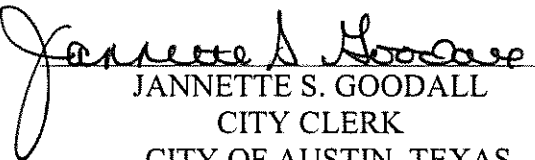
THE STATE OF TEXAS §

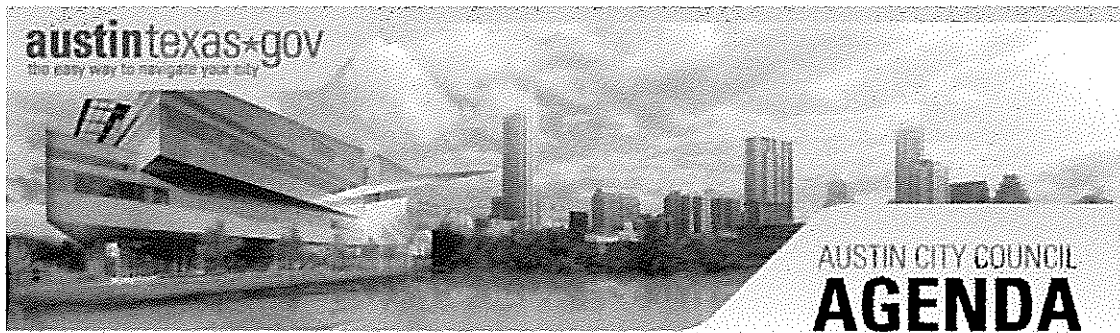
COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Austin City Council Agenda for Thursday, September 22, 2016, consisting of a total of seventeen pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 8<sup>th</sup> day of September, 2017.



  
JANNETTE S. GOODALL  
CITY CLERK  
CITY OF AUSTIN, TEXAS



**Thursday, September 22, 2016**

The Austin City Council will convene at 10:00 AM on  
Thursday, September 22, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino "Pio" Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

For meeting information, contact the City Clerk, (512) 974-2210

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**10:00 AM – City Council Convenes**

**Consent**

**Approval of Minutes**

1. Approve the minutes of the Austin City Council special called budget work session of August 22, 2016, special called work sessions of August 23, 2016, August 25, 2016 and August 29, 2016, work session of August 30, 2016, budget work session of August 31, 2016; regular council meeting of September 1, 2016 and special called budget work sessions of September 8, 2016 and September 9, 2016.

**Budget**

2. Approve an ordinance amending the Fiscal Year 2015-2016 Council Operating Budget (Ordinance No. 20150908-001) as requested to direct funds from council offices to other city departments for municipal purposes.

**Capital Contracting Office**

3. Authorize negotiation and execution of a competitive sealed proposal agreement with IE2 CONSTRUCTION, LTD, for the expansion and renovation of the Austin Shelter for Women and Children project in an amount not to exceed \$5,376,528. (District 1)  
( Notes: This contract will be awarded in compliance with City Code Chapter 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program) through through the achievement of good faith efforts with 1.36% MBE and .65% WBE participation. )
4. Authorize negotiation and execution of an amendment to the professional services agreement with OPTICOS DESIGN, INC., for additional architectural, urban design, planning, and engineering services for Phase III of the CodeNEXT, the Land Development Code revision project, in the amount of \$1,296,858 for a total contract amount not to exceed \$4,621,858.  
( Notes: This contract was awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 15.80% MBE and 15.80% WBE participation. )

**City Clerk**

5. Approve second and third readings of an ordinance repealing and replacing City Code Chapter 4-8 relating to the regulation of lobbyists, setting fees related to the regulation of lobbyists, amending City Code Chapter 2-7 relating to the Ethics Review Commission, and amending City Code Section 2-2-62 relating to funding for the Austin Fair Campaign Finance Fund.

#### **Convention Center**

6. Approve a resolution adopting the Austin Convention and Visitors Bureau 2016-2017 marketing plan and proposed budget of \$19,282,933, setting the contract payment in an amount not to exceed \$16,467,574; and authorizing the City Manager to file the approved documents with the City Clerk's Office as required by the Texas Tax Code.

#### **Economic Development Department**

7. Authorize negotiation and execution of a design and commission agreement with New American Public Art for artwork at the Green Water Treatment Plant Redevelopment Project for a total contract amount not to exceed \$327,000. (District 9)
8. Authorize negotiation and execution of a design and commission agreement with Josef Kristofolletti for artwork at the Austin Convention Center 2nd Street Garage Project at 2nd Street and Brazos Street for a total contract amount not to exceed \$74,000. (District 9)
9. Approve a resolution authorizing the City Manager to award, negotiate and execute cultural arts services contracts for Fiscal Year 2016-2017 in an amount not to exceed \$7,906,244, and authorizing payment in the amount of \$60,000 for Zachary Scott Theatre Center maintenance required under a separate operations agreement.
10. Authorize negotiation and execution of a Family Business Loan Program loan in an amount not to exceed \$477,760, funded with proceeds of a U.S. Department of Housing and Urban Development Section 108 loan to the City, to JOSE LUIS SALON DOMAIN LLC to finance machinery, working capital, and soft costs associated with the lease space located at 3100 Esperanza Crossing, Suite 124, Austin, Texas.

#### **Health and Human Services**

11. Approve an amendment to an interlocal agreement with the TEXAS DEPARTMENT OF STATE HEALTH SERVICES to purchase human immunodeficiency virus medication as part of the Ryan White Part A HIV Emergency Relief Project grant, for a six-month term from January 1, 2017 through June 30, 2017, in an amount not to exceed \$400,000, for a total contract amount not to exceed \$800,000.

12. Approve the negotiation and execution of Amendment No. 14 to a contract with AIDS SERVICES OF AUSTIN, INC. to increase funding for HIV services under the Ryan White Part A HIV Emergency Relief Program in an amount not to exceed \$85,340.
13. Approve negotiation and execution of Amendment No. 4 to a contract with FOUNDATION COMMUNITIES to provide permanent supportive housing services and add one twelve-month extension option beginning September 30, 2016, in an amount not to exceed \$106,000.
14. Approve negotiation and execution of Amendment No. 5 to the contract with FRONT STEPS, INC to add one twelve-month extension option to provide permanent supportive housing services beginning September 30, 2016, in an amount not to exceed \$106,000.
15. Authorize negotiation and execution of a 24-month interlocal agreement with the Health And Human Services Commission for the Community Partner Program, to assist citizens apply for benefits electronically at six neighborhood centers and one outreach location.
16. Authorize negotiation and execution of an amendment to an interlocal agreement with Travis County to exercise the third of four renewal options and to update the cost model and work statements for the City's provision of public health services in exchange for Travis County's payment of \$4,034,822, for a 12-month period beginning October 1, 2016.
17. Approve negotiation and execution of an interlocal agreement with the University of Texas at Austin to evaluate the youth and young adult programming under the Peer-to-Peer Project in high schools, community centers and organizations, for a total contract amount not to exceed \$60,000.

#### **Law**

18. Approve an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). (Related to Item # 61)

#### **Library**

19. Approve an ordinance authorizing acceptance of \$9,500 in grant funds from the Texas State Library and Archives Commission; and amending the Fiscal Year 2015-2016 Austin Public Library Department Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) to appropriate these funds for the Interlibrary Loan Lending Reimbursement Program.

#### **Management Services**

20. Approve a resolution creating the Austin/Travis County Sobriety Center Local Government Corporation under Subchapter D, Chapter 431, Texas Transportation Code; approving and adopting the corporation's Articles of Incorporation and Bylaws; and appointing initial directors.

### **Neighborhood Housing and Community Development**

21. Authorize negotiation and execution of a one-year service agreement with the AUSTIN HOUSING FINANCE CORPORATION to manage and operate various housing programs on the City's behalf during Fiscal Year 2016 -2017 using funds received by the City from the U.S. Department of Housing and Urban Development, in addition to local City funds, in an amount not to exceed \$23,554,297.
22. Authorize execution of a 12-month interlocal agreement with AUSTIN INDEPENDENT SCHOOL DISTRICT to fund and administer the CDBG Teen Parent Services Program in an amount not to exceed \$179,644, with three 12-month extension options in amounts not to exceed \$179,644 per extension option, for a total amount not to exceed \$718,576.
23. Authorize negotiation and execution of a 12-month interlocal agreement with AUSTIN TRAVIS COUNTY INTEGRAL CARE to fund and administer the CDBG Youth Services Program in an amount not to exceed \$203,700, with three 12-month extension options in amounts not to exceed \$203,700 per extension option, for a total contract amount not to exceed \$814,800.
24. Authorize negotiation and execution of a 12-month social services contract with CHILD, INC. to fund and administer the Early Head Start Child Care Program in an amount not to exceed \$84,928, with three 12-month extension options in amounts not to exceed \$84,928 per extension option, for a total contract amount not to exceed \$339,712.
25. Authorize negotiation and execution of a 12-month social services contract with GENERATIONS CHILD DEVELOPMENT to fund and administer the Teen Parent Child Care Program in an amount not to exceed \$102,156, with three 12-month extension options in amounts not to exceed \$102,156 per extension option, for a total contract amount not to exceed \$408,624.
26. Authorize negotiation and execution of a 12-month social services contract with YOUNG WOMEN'S CHRISTIAN ASSOCIATION GREATER AUSTIN to fund and administer the Child Care Voucher Services Program in an amount not to exceed \$283,272, with three 12-month extension options in amounts not to exceed \$283,272 per extension option, for a total contract amount not to exceed \$1,133,088.
27. Authorize negotiation and execution of a one-year contract with AUSTIN TENANTS' COUNCIL to fund and administer the Tenants' Rights

Assistance Program for community education and information about tenant protection laws in an amount not to exceed \$288,729.

28. Authorize the negotiation and execution of a one-year contract with FAMILY ELDERCARE, INC. to fund and administer the Senior Services Program in an amount not to exceed \$134,000.
29. Authorize negotiation and execution of a 12-month contract with PEOPLEFUND to fund and administer the Community Development Bank program, to support job creation and expansion of small businesses by providing loan services, in an amount not to exceed \$150,000.

#### **Office of Real Estate Services**

30. Authorize negotiation and execution of an encroachment agreement with John Coleman Horton, III, for the encroachment of right-of-way by a portion of an existing structure located at 500 Congress Avenue (District 9).
31. Authorize negotiation and execution of a 3-year interlocal agreement with Austin Community College for equipment maintenance, and buildout of up to 7,500 square feet of facility space and small business services for a fashion incubator, located at 6101 Airport Boulevard, Austin, Travis County, Texas, in an amount not to exceed \$355,000. (District 4)

#### **Parks and Recreation**

32. Authorize the amendment of Resolution No. 20151015-035 to repeal portions related to the Trail of Lights event entrance fees and to authorize the City Manager to negotiate and execute an amendment to the agreement with the Trail of Lights Foundation related to fees and maintenance of funding.
33. Approve a resolution authorizing the application for up to \$500,000 in grant funding from the Texas Parks and Wildlife Department's Local Park Urban Indoor Grant Program for the Dove Springs Recreation Center Expansion.
34. Approve a resolution authorizing the application for up to \$1,000,000 in grant funding from the Texas Parks and Wildlife Department's Local Park Urban Outdoor Grant Program for the Emma Long Metropolitan Park Redevelopment.

#### **Planning and Zoning**

35. Approve the execution of an amendment to an interlocal agreement regarding the release of extraterritorial jurisdiction to the City of Bee Cave.

#### **Police**

36. Approve a resolution authorizing the acceptance of \$521,145.35 in grant funds from the State of Texas, Governor's Office, Criminal Justice Division to implement the Austin Police Department Victim Crisis Intervention Project.

**Item(s) from Council**

37. Approve appointments and certain related waivers to citizen boards and commissions, to Council committees and other intergovernmental bodies and removal and replacement of members; and amendments to board and commission bylaws.
38. Approve a resolution initiating an amendment to City Code Title 25 regarding out-of-cycle neighborhood plan amendments.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1: Council Member Delia Garza CO 2: Council Member Sheri Gallo CO 3: Council Member Ann Kitchen )
39. Approve a resolution extending the due date in Resolution No. 20160609-047 for the City Manager to present options for the preservation of the historical significance of Rosewood Courts.  
( Notes: SPONSOR: Council Member Ora Houston CO 1: Council Member Ann Kitchen CO 2: Mayor Pro Tem Kathie Tovo CO 3: Council Member Leslie Pool )
40. Approve an ordinance amending Ordinance No. 20160623-072, amended by Ordinance No. 20160811-029, to waive or reimburse additional fees for the Annual Garden Party sponsored by the Umlauf Sculpture Garden and Museum which took place Thursday, April 28, 2016 at the Umlauf Sculpture Garden and Museum.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Council Member Leslie Pool CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza )
41. Approve the waiver or reimbursement of certain fees under City Code Chapter 14-8 for the Onion Creek Homeowner's Association July 4th Independence Day Parade sponsored by Onion Creek Homeowner's Association which was held on Monday, July 4, 2016 on the streets of the Onion Creek neighborhood.  
( Notes: SPONSOR: Council Member Ann Kitchen CO 1: Council Member Leslie Pool CO 2: Council Member Sabino "Pio" Renteria CO 3: Council Member Delia Garza )
42. Approve an ordinance proclaiming Wednesday, September 28, 2016 as Barton Springs University Day and waiving admission fees to Barton Springs on that date.  
( Notes: SPONSOR: Mayor Pro Tem Kathie Tovo CO 1: Council Member Leslie Pool CO 2: Council Member Ann Kitchen CO 3: Mayor



Steve Adler CO 4: Council Member Gregorio Casar )

43. Approve an ordinance amending Ordinance No. 20160901-027 to authorize waiving or reimbursing additional fees for the Cristo Rey Jamaica 2016 event sponsored by Cristo Rey Parish which was held Sunday, June 12 at the Cristo Rey Church.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1:  
Council Member Ann Kitchen CO 2: Council Member Delia Garza CO 3:  
Council Member Sheri Gallo )
44. Approve an ordinance waiving or reimbursing fees for the AIA-LIA Roundtable Discussion which will take place at the Blackbox Theater at the Emma S. Barrientos – Mexican American Cultural Center on September 29, 2016.  
( Notes: SPONSOR: Council Member Sabino "Pio" Renteria CO 1:  
Council Member Delia Garza CO 2: Council Member Ora Houston CO 3:  
Mayor Pro Tem Kathie Tovo )
45. Discussion and action on the compensation, benefits and transition plan for the interim City Manager and City Manager. (Notes: SPONSOR: Mayor Steve Adler CO 1: Mayor Pro Tem Kathie Tovo CO 2: Council Member Gregorio Casar CO 3: Council Member Ora Houston)

**Item(s) to Set Public Hearing(s)**

46. Set a public hearing to consider a resolution regarding a request by Kyle Hill (Martin, Frost & Hill) for Snarf's Sandwiches, located at 1404 S. 1st St., for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a school. (Suggested date and time: October 20, 2016, 4:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX).
47. Set public hearings for the full purpose annexation of the Wildhorse/Webb Tract annexation area (approximately 103 acres in eastern Travis County at the northeastern corner of the intersection of Decker Lane and Lindell Lane; contiguous to District 1) (Suggested dates and times: November 3, 2016, 4:00 p.m. and November 10, 2016 4:00 p.m. at Austin City Hall, 301 West Second Street, Austin, TX).

**Non-Consent**

**Action on Item(s) with Closed Public Hearings - per City Code Section 2-5-27, additional speakers will not be registered**

48. Approve second and third readings of an ordinance amending City Code Chapters 25-2, 25-8, and 30-5 relating to development regulations for boat docks and lake front development. (THE PUBLIC HEARING FOR THIS ITEM WAS HELD AND CLOSED ON JUNE 23, 2016.)

**10:00 AM - Zoning Ordinances / Restrictive Covenants (HEARINGS CLOSED)**

49. C14-2016-0032 – Smithers RV Storage – District 4 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 10400 North Lamar Boulevard (Little Walnut Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning. First Reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: Ben F. Smithers. City Staff: Sherri Sirwaitis, 512-974-3057.
50. C14-2016-0046 – 7720 & 7800 South 1st St – District 2 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 7720 and 7800 South 1st Street (South Boggy Creek Watershed) from general commercial services-conditional overlay (CS-CO) combining district zoning for Tract 1 and community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning for Tract 2, to change conditions of zoning. First Reading approved on August 11, 2016. Vote: 11-0. Owner/Applicant: Adam Diaz. City Staff: Wendy Rhoades, 512-974-7719.
51. C14-2016-0058 – KKG2 Rezoning – District 9 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 1911 ½ University Avenue (Waller Creek Watershed) from multifamily residence-moderate-high density-neighborhood plan (MF-4-NP) combining district zoning to general office-conditional overlay-neighborhood plan (GO-CO-NP) combining district zoning. First reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: House Association of Beta XI Chapter of Kappa Kappa Gamma (Ellen Morrison). Agent: Thrower Design (Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.
52. C14-2016-0059 – KKG1 Rezoning – District 9 – Approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 2001 University Avenue (Waller Creek Watershed) from multifamily residence-moderate-high density-historic landmark-neighborhood plan (MF-4-H-NP) combining district zoning to general office-historic landmark-conditional overlay-neighborhood plan (GO-H-CO-NP) combining district zoning. First reading approved on August 11 2016. Vote: 11-0. Owner/Applicant: House Association of Beta XI Chapter of Kappa Kappa Gamma (Ellen Morrison). Agent: Thrower Design (Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

**10:00 AM - Zoning and Neighborhood Plan Amendments (Public Hearings and Possible Action)**

53. NPA-2015-0005.04 - Lenox Oaks - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 20010927-05, the Montopolis Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6705, 6707, 6709 Ponca Street; 434 Bastrop Highway Southbound; 444, 446, 448, 450, 452, 454, 456 Bastrop Highway Southbound; and 500 Bastrop Highway Southbound (Carson Creek Watershed) from Single Family, Office and Commercial land uses to Mixed Use land use. Staff Recommendation: To grant Mixed Use, Commercial, Mixed Use/Office and Multifamily land uses. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: 422 Bastrop Hwy., Ltd; 500 Bastrop Hwy., Ltd., and Chase Equities, Inc. (Jimmy Nassour). Agent: Smith, Robertson, Elliott & Douglas, L.L.P. (David Hartman). City Staff: Maureen Meredith, 512-974-2695.
54. C14-2015-0104 - Lenox Oaks - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 434-500 Bastrop Highway Southbound and 6705-6709 Ponca Street (Carson Creek Watershed; Colorado River Watershed) from general commercial services-neighborhood plan (CS-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 1 and Tract 2; from general commercial services-neighborhood plan (CS-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 3; from general commercial services-neighborhood plan (CS-NP) combining district zoning, general office-neighborhood plan (GO-NP) combining district zoning, family residence-neighborhood plan (SF-3-NP) combining district zoning and single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 4; and from family residence-neighborhood plan (SF-3-NP) combining district zoning to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district zoning for Tract 5. Staff Recommendation: To grant general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning and neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning for Tract 1 and Tract 2; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning and general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning for Tract 3; general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district

zoning, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 4; and multifamily residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning for Tract 5. Planning Commission Recommendation: To forward to Council without a recommendation. Owner/Applicant: UT Land Company, Ltd./Jimmy Nassour. Agent: Smith, Robertson, Elliot & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.

55. NPA-2016-0010.02 - East Sixth Street Village - District 3 - Conduct a public hearing and approve an ordinance amending Ordinance No. 011213-43, the Holly Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from Industry to Mixed Use land use. Staff Recommendation: To grant Mixed Use land use. Planning Commission Recommendation: To grant Mixed Use land use. Owner/Applicant: 2422 Hidalgo Street, LP (M. Timothy Clark). Agent: 2422 Hidalgo Street, LP (David Cox). City Staff: Maureen Meredith, (512) 974-2695.
56. C14-2016-0041 - East Sixth Street Village South - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 2416 East Sixth Street (Lady Bird Lake Watershed) from limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Planning Commission Recommendation: To grant general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512- 974-2122.
57. C14-2016-0043 - East Sixth Street Village North - District 3 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 622 Pedernales Street (Lady Bird Lake Watershed) from limited industrial-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood

plan (CS-MU-CO-NP) combining district zoning. Owner/Applicant: 2416 East Sixth Street, L.P. (David Cox). City Staff: Heather Chaffin, 512- 974-2122.

58. NPA-2016-0025.01 – Lantana Tract 33 – District 8 – Conduct a public hearing and consider approval of an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Imagine Austin Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from Office land use to Multifamily land use. Staff Recommendation: To grant Multifamily land use. Planning Commission Recommendation: To grant Multifamily land use. Owner/Applicant: Lantana Tract 33, L.P. (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (Mary Stratmann). City Staff: Maureen Meredith, 512-974-2695.
59. C14-85-288.8 (RCA3) – Lantana Tract 33 – District 8 – Conduct a public hearing to amend a restrictive covenant on property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone). Staff Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Planning Commission Recommendation: To grant the amendment to remove net leasable square footage and floor-to-area ratio restriction, reduce the allowable impervious cover and require on-site water quality controls. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
60. C14-2016-0011 – Lantana Tract 33 – District 8 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6701, 6825-½, and 7045-½ Rialto Boulevard (Barton Creek Watershed; Williamson Creek Watershed-Barton Springs Zone) from general office-neighborhood plan (GO-NP) combining district zoning to multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) combining district zoning. Planning Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay-neighborhood plan (MF-4-CO-NP) district zoning. Owner/Applicant: Lantana Tract 33, LP (Barry P. Marcus). Agent: Smith, Robertson, Elliott & Douglas, LLP (David Hartman). City Staff: Andrew Moore, 512-974-7604.
61. C14-2015-0160 - Champions Tract #3 - District 10 - Conduct a public hearing and approve second and third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 6409 City

Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to general office-mixed use-conditional overlay (GO-MU-CO) combining district zoning. First reading approved for multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning on June 23, 2016. Vote: 11-0. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207.  
(Related to Item #18)

62. C14-2016-0013 – Foremost Zoning – District 2 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 135 Foremost Drive (South Boggy Creek Watershed) from community commercial (GR) district zoning to multifamily residence-moderate-high density (MF-4) district zoning. Staff Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. Owner/Applicant: Foremost Partners, Ltd. (John McCormack). Agent: Coats Rose (John M. Joseph). City Staff: Wendy Rhoades, 512-974-7719.
63. C14-2016-0017 – Driveway Austin – District 1 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 8400 and 8401 Delwau Lane (Colorado River Watershed) from general office (GO) district zoning to community commercial (GR) district zoning. Staff Recommendation: To grant community commercial (GR) district zoning. Planning Commission Recommendation: To grant community commercial (GR) district zoning. Owner: Interest Partners, LLC (William Dollahite). Applicant: Coats Rose (John Joseph). City Staff: Heather Chaffin, 512- 974-2122.
64. C14-2016-0020 – Lantana IV – District 8 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 7717 Southwest Parkway (Williamson Creek Watershed-Barton Springs Zone) from neighborhood commercial-neighborhood plan (LR-NP) combining district zoning to community commercial-mixed use-neighborhood plan (GR-MU-NP) combining district zoning. Staff Recommendation: Pending. Planning Commission Recommendation: To be reviewed on October 11, 2016. Owner/Applicant: JDI Holding LLC (Douglas Ivey). Agent: Permit Partners LLC (David Cancialosi). City Staff: Andrew Moore, 512-974-7604.
65. C14-2016-0025 - St. James Missionary Baptist Church - District 1 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 3417 East Martin Luther King, Jr.

Boulevard (Tannehill Branch Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay- neighborhood plan (SF-6-CO-NP) combining district zoning. Owner: St. James Missionary Baptist Church (Thomas J. Owens). Applicant: Urban Design Group (Laura Toups). City Staff: Heather Chaffin, 512- 974-2122. A valid petition has been filed in opposition to this rezoning request.

66. C14-2016-0037 – Scofield Apartments – District 7 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 13121, 13125, 13133, 13139, 13145, 13147 FM 1325 and 3001 Scofield Farms Drive (Walnut Creek Watershed) from community commercial (GR) district zoning to community commercial-mixed use (GR-MU) combining district zoning. Staff Recommendation: To grant community commercial-mixed use (GR-MU) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on September 20, 2016. Owner/Applicant: Ringgold Partners II, L.P. (John Bultman, III). Agent: Drenner Group (Amanda Swor). City Staff: Sherri Sirvaitis, 512-974-3057.
67. C14-2016-0038 – ATCIC Braker – District 1 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 1120 E. Braker Lane (Walnut Creek Watershed) from townhouse and condominium residence (SF-6) district zoning to limited office (LO) district zoning. Staff Recommendation: Not applicable; Case withdrawn by the Applicant. Zoning and Platting Commission Recommendation: Not applicable; Case withdrawn by the Applicant. Owner: Tran Group, LLC. (David Tran). Applicant: Southwest Strategies Group (Lawson Pedder). City Staff: Heather Chaffin, 512- 974-2122.
68. C14-2016-0057 – Ross Road Homes – District 2 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as the 6101 Ross Road (Dry Creek East Watershed) from development reserve (DR) district zoning to mobile home residence (MH) district zoning. Staff Recommendation: To grant mobile home residence (MH) district zoning. Zoning and Platting Commission Recommendation: To grant single family residence-small lot (SF-4A) district zoning. Owner/Applicant: Najib F. Wehbe. Agent: Alice Glasco Consulting (Alice Glasco). City Staff: Wendy Rhoades, 512-974-7719.
69. C14-2016-0063.SH – Villas at Vinson Oak Rezone – District 3 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 4507 and 4511 Vinson Drive (Williamson Creek Watershed) from family residence-neighborhood plan

(SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To be reviewed October 25, 2016. Owner/Applicant: Notigius LLC – Series Vinson (Antonio Giustino). Agent: Perales Engineering, LLC (Jerry Perales, P.E.). City Staff: Wendy Rhoades, 512-974-7719. A valid petition has been filed in opposition to this rezoning request.

70. C14-2016-0065 – Pioneer Bank on W. 38th St. – District 9 – Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 623 West 38th Street (Waller Creek Watershed) from community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To be reviewed October 11, 2016. Owner: Pioneer Bank, SSB (Brian May). Applicant: Doucet & Associates (Ted McConaghy). City Staff: Heather Chaffin, 512- 974-2122.
71. C14-2016-0074 - Element Hotel - District 7 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 10728 Burnet Road (Walnut Creek Watershed) from major industry-planned development area (MI-PDA) combining district zoning to major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant major industry-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Owner/Applicant: DBG Austin Domain, LLC. Agent: Bennett Consulting (Rodney Bennett). City Staff: Sherri Sirwaitis, 512-974-3057.
72. C14-79-065(RCT) - Earl M. McClure - District 9 - Conduct a public hearing to amend a restrictive covenant on property locally known as 80 Red River Street (Waller Creek Watershed). Staff Recommendation: To grant termination of the restrictive covenant. Planning Commission Recommendation: To grant termination of the restrictive covenant. Owner/Applicant: Villas of Town Lake HOA (Gary L. Johnson). Agent: Consort, Inc. (Ben Turner). City Staff: Wendy Rhoades, 512-974-7719.
73. C814-2015-0074 - The Grove at Shoal Creek PUD - District 10 - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by zoning property locally known as 4205 Bull Creek Road (Shoal Creek Watershed) from unzoned (UNZ) district zoning to planned unit



development (PUD) district zoning. Staff Recommendation: To grant planned unit development (PUD) district zoning. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning. Owner/Applicant: ARG Bull Creek, Ltd. (Garrett Martin). Agent: Thrower Design (A. Ron Thrower). City Staff: Sherri Sirwaitis, 512-974-3057.

#### **12:00 PM - Citizen Communications: General**

Karen Flanagan - Continuing neighborhood issues in District 6.

Dani Tristan - Tenant Relocation Ordinance.

Robert Corbin - Animal subsidies, Barf - Barf.

Volma Overton III - Traffic solutions.

Lillian Young - Improving Downtown.

Rakiem Rashad Henderson Stuckey - Treatment and or rights civilly without discrimination due to poverty and or race of a well know ethnic background and or petitioning rights.

Frank Harren - Affordability/Code NEXT.

Latreese Cooke - Being Black.

Renee Fuqua - To rename Vic Mathias Auditorium Shores for Stevie Ray Vaughan.

Karen Steines - No Kill Austin.

#### **Executive Session**

74. Discuss legal issues related to open government matters (Private consultation with legal counsel - Section 551.071 of the Government Code).
75. Discuss legal issues related to Utility Associates, Inc. v. City of Austin et al, Texas, Cause No. D-1-GN-16-002931 in the 126th Judicial District for Travis County, Texas (lawsuit related to the City's purchase of body-worn cameras for the Austin Police Department) (Private consultation with legal counsel - Section 551.071).
76. Discuss the compensation and benefits for the Interim City Manager and the City Manager (Personnel matters - Section 551.074 of the Government Code).


#### **3:00 PM - Austin Housing and Finance Corporation Meeting**


77. The Mayor will recess the City Council meeting to conduct a Board of Directors' Meeting of the Austin Housing Finance Corporation. Following adjournment of the AHFC Board meeting the City Council will reconvene. (The AHFC agenda is temporarily located at <https://austin.siretechnologies.com/sirepub/mtgviewer.aspx?meetid=1279&doctype=Agenda>)

#### **4:00 PM - Public Hearings and Possible Actions**

78. Conduct a public hearing and consider an appeal of an Outdoor Music Venue permit, approved by the Development Services Department, for the Scoot Inn at 1308 E. 4th Street.
79. Conduct a public hearing and consider an ordinance amending City Code Title 25 to require Historic Landmark Commission review of demolition applications for structures that are fifty years or older and dedicated to certain civic uses.
80. Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2 to require properties zoned historic landmark (H) combining district or historic area (HD) combining district to comply with the City's compatibility standards.
81. Conduct a public hearing and consider an ordinance approving a Project Consent Agreement waiving provisions of City Code Title 25 to incentivize preservation of a 41.04 acre tract of land at 2636 Bliss Spillar Road located within the Barton Springs Zone and allowing construction of commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

#### **Adjourn**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the Office of the City Clerk not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call (512) 974-2210 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al (512) 974-2210 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

# **Exhibit B**

**ORDINANCE NO. 20161110-006**

**AN ORDINANCE ADOPTING AND AUTHORIZING EXECUTION OF THE FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT RELATED TO CAUSE NO. 94-07160, JOSIE ELLEN CHAMPION, ET AL V. CITY OF AUSTIN IN THE 353<sup>RD</sup> JUDICIAL DISTRICT COURT OF TRAVIS COUNTY; AMENDING ORDINANCE NO. 960613-J; AND WAIVING CERTAIN SECTIONS OF CITY CODE CHAPTER 25-2 AND LAKE AUSTIN WATERSHED REGULATIONS FROM ORDINANCE NO. 840301-F.**

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

**PART 1.** In this ordinance:

- (1) **ORIGINAL AGREEMENT** means the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County.
- (2) **FIRST AMENDMENT** means the First Amendment to the Original Agreement attached as **Exhibit "1"** to this ordinance.
- (3) **PROPERTY** means Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas, locally known as 6409 City Park Road in the City of Austin, Travis County, Texas and referred to as Tract 3 in the Original Agreement.
- (4) **OWNER** means Champion Assets, Ltd., Champion-Meier Assets, Ltd., and Champion Legacy Partners, L.P., successors to Josie Ellen Champion, Juanita Champion Meier, and Mary Margaret Champion Roberson.

**PART 2.** City Council adopts the First Amendment, which is attached as **Exhibit "1"** and incorporated herein by reference, and authorizes execution by the City Manager. City Council further authorizes the City Manager to accept the Restrictive Covenant associated with the First Amendment.

**PART 3.** To the extent that a conflict exists, Ordinance No. 960613-J is amended by the First Amendment.

**PART 4. City Council modifies the following City Code provisions:**

**(1) Lake Austin Watershed Regulations (Ordinance No. 840301-F.)**

- (a) Impervious Cover Limitations: Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.
- (b) Impervious Cover Limitations: Section 9-10-383 (a) (2) and (3) (*Multi-Family Residential Development*) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.
- (c) In no case may impervious cover on the Property exceed 5.49 acres.
- (d) Erosion and Sedimentation Control: Section 9-10-409 (a) and (b) (*Cut and Fill*) are modified to allow:
  - (i) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet;
  - (ii) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet;
  - (iii) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet;
  - (iv) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet;
  - (v) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet; and
  - (vi) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.
- (e) City Council modifies Section 9-10-377 (*Variances*) to grant variances from Lake Austin Watershed Ordinance No. 840301-F consistent with (a), (b), (c), and (d) as stated above without Planning Commission approval.

(2) **Hill Country Roadway Requirements. City Code Chapter 25-2, Subchapter C, Articles 9 and 11.**

- (a) Landscaping: Section 25-2-1023 (D) (2) (*Roadway Vegetative Buffer*) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.
- (b) City Council modifies provisions of Section 25-2-1001 (*Procedures*) to allow City Council approval of alternatives to compliance with Article 9 without Land Use Commission approval.
- (c) Development Standards: Section 25-2-1123(B) (1) and (2), (C), and (D) (*Construction on Slopes*) are modified to allow:
  - (i) additional construction methods beyond pier & beam;
  - (ii) the placement of walls lower than the finish floor elevation for the garage;
  - (iii) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet); and
  - (iv) 8 foot tall terraced walls.
- (d) Development Standards: Section 25-2-1124(A) (1) (*Building Height*) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.
- (e) Development Standards: Section 25-2-1128 (B)(2) (*Development Bonuses*) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:
  - (i) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
  - (ii) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.
- (f) City Council modifies Section 25-2-1105 (*Waivers*) to grant waivers consistent with (c), (d), and (e) as stated above without Land Use Commission approval.

**PART 5.** The variances and waivers in Part 4 are conditioned on implementation and compliance with the following environmental controls during the construction phase of the development. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- (1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- (2) Install rough cut of water quality ponds before any other grading, except grading necessary to create the ponds, and grade so that all disturbed areas drain to these ponds.
- (3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- (4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- (5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- (6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- (7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- (9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- (10) Comply with current erosion hazard zone code and criteria.
- (11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of ½" or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report

with recommendations to the general contractor and Owner and such report must be made available to the City upon request.

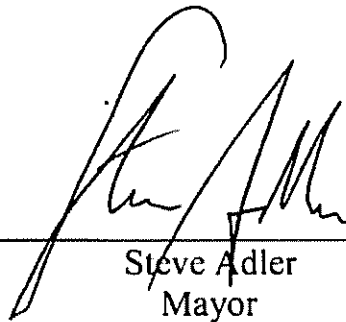
- (12) Grading shall be phased to limit disturbed areas with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- (13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark.
- (14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.
- (15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit "2"**.

**PART 6.** This ordinance takes effect on November 21, 2016.

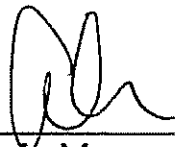
**PASSED AND APPROVED**

\_\_\_\_\_, November 10, 2016


§  
§  
§

  
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

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

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk



**EXHIBIT 1**  
**THE FIRST AMENDMENT TO THE COMPROMISE**  
**SETTLEMENT AGREEMENT**

**FIRST AMENDMENT TO THE COMPROMISE SETTLEMENT  
AGREEMENT REGARDING CHAMPIONS TRACT 3**

This First Amendment to the Compromise Settlement Agreement (the "**First Amendment**") is made and entered into by and between Champion Assets, Ltd., a Texas limited partnership; Champion-Meier Assets, Ltd., a Texas limited partnership; and Champion Legacy Partners, L.P., a Texas limited partnership, successors to Josie Ellen Champion, Juanita Champion Meier and, Mary Margaret Champion Roberson (the "**Champions**"), and the City of Austin (the "**City**") for the purposes and on the terms specified herein and operates in conjunction with the Compromise Settlement Agreement (the "**Original Agreement**"), effective July 11, 1996.

**RECITALS**

WHEREAS, the City approved an ordinance adopting the Original Agreement between the Champions and the City on June 13, 1996; and

WHEREAS, the Champions seek approval to zone for multi-family use 32.262 acres of land being a portion of the land referred to in the Original Agreement as Tract 3, located at 6409 City Park Road, and described as Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas ("**Tract 3**"); and

WHEREAS, the Champions are the owners of Tract 3; and

WHEREAS, the Champions seek variances to City environmental regulations and site development regulations applicable to Tract 3; and

WHEREAS, the Champions are willing to place restrictions on Tract 3 included in this First Amendment and a Restrictive Covenant of even date; and

WHEREAS, in accordance with Paragraph 7 of the Original Agreement, the City and the Champions are executing this First Amendment and a Restrictive Covenant to amend the provisions regarding site development and use of Tract 3;

NOW, THEREFORE, in consideration of the recitals, the mutual covenants and agreements contained in this First Amendment, Owner and the City agree as follows:

**TERMS OF AMENDMENT**

1. The Original Agreement is amended to add a new Section 13 to read:
  13. The Champions have executed and delivered to the City a Restrictive Covenant in the form attached and incorporated herein as **Exhibit A**. The Restrictive Covenant restricts development activity within a portion of Tract 3 more particularly described in the attached and incorporated **Exhibit B** (the "**Undeveloped Property**").

II. Section 2 c of the Original Agreement is amended to delete reference to Tract 3.

III. The Original Agreement is amended to add a new Section 2 g to read:

g. During the term of this Agreement, the modifications to City regulations and the conditions established for the modifications listed in this subsection apply to the initial multi-family development on Tract 3. The modifications do not apply to any subsequent development or redevelopment of Tract 3.

I. Modifications to Lake Austin watershed regulations (Ordinance No. 840301-F).

A. Impervious cover modifications.

1) Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.

2) Section 9-10-383 (*Multi-Family Residential Development*), subsections (a) (2) and (3) are modified to allow 2.32 acres of impervious cover on slopes of 15-25% gradient and .90 acres of impervious cover on slopes of 25-35%.

3) In no case may impervious cover on Tract 3 exceed 5.49 acres.

B. Cut and fill modifications. Section 9-10-409 (*Cut and Fill*), subsections (a) and (b) are modified to allow:

1) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet,

2) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet,

3) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet,

4) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet,

5) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet,

6) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.

2. Modifications to Hill Country Roadway regulations. (City Code Chapter 25-2, subchapter C, Articles 9 and 11).

A. Section 25-2-1023 (*Roadway Vegetative Buffer*), subsection (D) (2) is modified to allow a building to be placed within 10 feet of a dedicated drainage easement.

B. Section 25-2-1123 (*Construction on Slopes*), subsections (B) (1), (B) (2), (C), and (D) are modified to allow:

- 1) additional construction methods beyond pier & beam,
- 2) the placement of walls lower than the finish floor elevation for the garage,
- 3) structural excavation down gradient of 15% slopes to exceed 8 feet (up to 34 feet), and
- 4) 8 foot tall terraced walls.

C. Section 25-2-1124 (*Building Height*), subsection (A) (1) is modified to allow a 53 foot building at 135 feet from FM 2222 without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129.

D. Section 25-2-1128 (B)(2) (Development Bonuses) is modified to allow the following without a determination that an unusual circumstance exists, so long as the proposed development meets six of the twelve criteria described in Section 25-2-1129:

- 1) an increase in the building height in the low intensity zone from 28 feet to 40 feet; and
- 2) an increase in the building height in the moderate intensity zone from 40 feet to 53 feet.

3. The modifications listed in subsection g 1 and 2 of this Agreement are conditioned on implementation and compliance with the environmental controls listed in this subsection during the construction phase. A site plan or building permit may not be approved, released, or issued if the development is not in compliance with the following:

- 1) Comply with current Environmental Criteria Manual (ECM) requirements for construction phase temporary erosion and sedimentation controls.
- 2) Install rough cut of water quality ponds before any other grading and grade so that all disturbed areas drain to these ponds:

- 3) Use rough cut ponds as settling basins with pumped discharge using a floating intake to a "dirt bag" or similar filtration prior to discharge to creek.
- 4) Ponds should be cleaned of accumulated sediment before sediment depth reaches a depth greater than 1 foot.
- 5) Use berms or similar methods prior to site grading to divert up gradient stormwater around limits of construction in a manner that distributes flow to prevent concentrated, erosive flow.
- 6) Incorporate methods from ECM, Appendix V, Fig. 1-1 for temporary erosion controls modified to accommodate the 10 year storm rather than the standard 2 year storm.
- 7) Apply mulch or similar cover on all disturbed areas as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 8) For disturbed areas on slopes greater than 15% apply hydromulch with fiber reinforced matrix as temporary stabilization within 7 days of disturbance unless ready for permanent revegetation.
- 9) Apply permanent revegetation using hydromulch with fiber reinforced matrix within 7 days of final grading.
- 10) Comply with current erosion hazard zone code and criteria.
- 11) All construction phase controls must be inspected at least every 7 days and within 24 hours of each rainfall event of  $\frac{1}{2}$ " or greater. Inspection should be conducted by an independent Certified Professional in Erosion and Sedimentation Control (CPESC) inspector employed by the Owner, not the construction contractor. Inspector should provide a written report with recommendations to the general contractor and Owner and such report must be made available to the City upon request.
- 12) Grading should be phased with construction beginning at higher areas of the site with disturbed areas temporarily stabilized prior to clearing and grading lower areas, except grading necessary to create temporary sediment ponds.
- 13) Any access to City Park Road must span the tributary of Bull Creek from high water mark to high water mark and there should be no fill inside the tributary. A complete span from high water mark to high water mark is preferred, however, a single support is allowed within the channel.

14) Mechanical equipment must be located at ground level or within buildings to reduce visibility and noise.

15) Comply with the requirements in 25-8-281 (Critical Environmental Features) and 25-8-282 (Wetland Protection) and provide critical environmental feature buffers as shown in **Exhibit C**.

#### IV. Miscellaneous Provisions

- A. **Designation of Department or Official.** Designation by this Agreement of a particular City department, director, official, or commission includes any other City department, director, official, or commission to which the City's duties or responsibilities may be assigned under this First Amendment.
- B. **Designation of City Codes.** Designation of a city code chapter or section includes any successor or replacement code section or chapter.
- C. **Binding.** This Agreement will be binding upon the heirs, representatives, successors and assigns of each of the parties to this First Amendment.
- D. **Effective Date.** The effective date of this Agreement will be the latest date that both parties have signed and executed this First Amendment.
- E. **Applicable Law and Venue.** The construction and validity of this First Amendment shall be governed by the laws of the State of Texas. This First Amendment is performable in Travis County, Texas.
- F. **No Party To Be Deemed Drafter.** Owner and the City have both had the opportunity to have legal counsel examine this First Amendment. Accordingly, this First Amendment will not be interpreted for or against either party due solely to the fact that one party was the principal author of this First Amendment.
- G. **Term; Termination.** This First Amendment shall be effective as of the date signed by all parties and shall terminate upon completion of the initial Multi-family development, or ten years after the effective date, whichever is sooner. Notwithstanding the foregoing, the restrictive covenant will survive expiration of the contract.
- H. **Filing.** This First Amendment shall be filed of record.
- I. **Authority.** The parties warrant that they have authority to execute this First Amendment.
- J. **Assignment of Owner Rights.** Owner may assign in whole or part its rights and obligations under this First Amendment to persons purchasing all or part of the Property.
- K. **Ratification of Original Agreement.** Any and all terms and provisions of the Original Agreement shall, except as and to the extent expressly amended and modified by this First Amendment, remain in full force and effect.

- L. **Severability.** If a court of competent jurisdiction determines that a term or provision of this Agreement is void or unenforceable, the remainder of this Agreement remains effective to the extent permitted by law.

EXECUTED to be effective the \_\_\_\_ day of \_\_\_\_\_, 2016

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

CITY OF AUSTIN

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_



THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

Attached:  
EXHIBIT A – the Restrictive Covenant  
EXHIBIT B – the Legal Description for the Undeveloped Property  
EXHIBIT C – the Critical Environmental Feature Buffers

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT A  
THE RESTRICTIVE COVENANT**

## RESTRICTIVE COVENANT

OWNER: Champion Assets, Ltd., a Texas limited partnership;  
Champion-Meier Assets, Ltd., a Texas limited partnership;  
Champion Legacy Partners, L.P., a Texas limited partnership

PROPERTY ADDRESS: 6409 City Park Road, Austin, Texas 78702

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas (the "Property"),

WHEREAS, Owner (the "Owner", whether one or more) of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

WHEREAS, Owner and the City of Austin have agreed to amend the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City Of Austin in the 353rd Judicial District Court of Travis County and execute the First Amendment to the Compromise Settlement Agreement;

NOW, THEREFORE, it is declared that Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on Owner of the Property, their heirs, successors, and assigns.

1. Owner agrees not to construct any improvements or allow any development, other than for unimproved hiking trails less than 3 feet in width, wildfire management, or security concerns, on the portion of the Property described by metes and bounds in Exhibit "A" attached and incorporated into this covenant, provided that such allowed improvements or development comply with the City Code requirements in effect at the time of application. Such activities are limited to removal of brush and trees smaller than 8 inches in diameter.
2. Impervious cover on Tract 3 may not, under any circumstance, exceed 5.49 acres.
3. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such

person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this Agreement 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.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This Agreement may be modified, amended, or terminated only by joint action of both a majority of the members of the City Council of the City of Austin, and the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[signatures on next page]

Champion Assets, Ltd., a Texas limited partnership

By: The Champion Management Trust, its  
General Partner

By: \_\_\_\_\_  
Josie Ellen Champion  
Trustee

Champion-Meier Assets, Ltd., a Texas limited partnership

By: Champion Meier Management Trust, its  
General Partner

By: \_\_\_\_\_  
Alma Juanita Champion Meier  
Trustee

Champion Legacy Partners, L.P., a Texas limited  
partnership

By: Champion Heritage Enterprises, LLC, a  
Texas limited liability company, its General  
Partner

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Josie Ellen Champion, Trustee of The Champion Management Trust, General Partner of Champion Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Alma Juanita Champion Meier, Trustee of Champion Meier Management Trust, General Partner of Champion-Meier Assets, Ltd., a Texas limited partnership, on behalf of said partnership.

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ of Champion Heritage Enterprises, LLC, a Texas limited liability company, General Partner of Champion Legacy Partners, L.P., a Texas limited partnership, on behalf of said partnership.

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

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT B  
LEGAL DESCRIPTION FOR THE UNDEVELOPED PROPERTY**



**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

EXHIBIT " \_\_\_\_ "

**PORTION OF LOT 1, BLOCK A,  
CHAMPION CITY PARK EAST SUBDIVISION**

**30.071 ACRES**

**JAMES JETT SURVEY NO. 1, ABSTRACT NO. 437**

**CITY OF AUSTIN FULL PURPOSE LIMITS, TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 30.071 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a fence post found in the southwest right-of-way line of R.M. 2222 (right-of-way width varies), being the easternmost corner of said Lot 1, being also an angle point in the northeast line of Lot 2, Shepherd Mountain Phase One, a subdivision of record in Volume 83, Pages 200A-200B of the Plat Records of Travis County, Texas;

**THENCE** with the southwest line of said Lot 1, the northeast line of said Lot 2 and the northeast line of Block B, Shepherd Mountain Phase Two, a subdivision of record in Volume 86, Pages 155D-156C of the Plat Records of Travis County, Texas, the following six (6) courses and distances:

1. North 62°31'47" West, a distance of 1852.62 feet to a 1/2" rebar found;
2. North 62°33'18" West, a distance of 180.16 feet to a 1/2" rebar found;
3. North 62°29'53" West, a distance of 172.97 feet to a 1/2" rebar found;
4. North 62°31'03" West, a distance of 307.12 feet to a 1/2" rebar found;
5. North 62°21'57" West, a distance of 220.31 feet to a 1/2" rebar found;
6. North 62°22'35" West, a distance of 137.31 feet to a mag nail with "Chaparral" washer set for an angle point in the southeast right-of-way line of City Park Road (right-of-way width varies), being the westernmost corner of said Lot 1;



**THENCE** North 37°40'26" East with the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, a distance of 310.01 feet to a calculated point, from which a 1/2" rebar with "Chaparral" cap found in the southeast right-of-way line of City Park Road and the northwest line of said Lot 1, bears North 37°40'26" East, a distance of 42.25 feet;

**THENCE** crossing said Lot 1, the following seven (7) courses and distances:

1. South 39°42'47" East, a distance of 362.04 feet to a calculated point;
2. North 50°17'13" East, a distance of 377.11 feet to a calculated point;
3. South 61°55'29" East, a distance of 172.35 feet to a calculated point;
4. South 28°00'15" East, a distance of 127.03 feet to a calculated point;
5. South 80°32'48" East, a distance of 299.33 feet to a calculated point;
6. North 61°59'45" East, a distance of 196.58 feet to a calculated point;
7. North 21°08'43" East, a distance of 281.69 feet to a calculated point in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, from which a TXDOT type II disk found in the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, bears North 28°12'39" West, a distance of 256.85 feet;

**THENCE** with the southwest right-of-way line of R.M. 2222 and the northeast line of said Lot 1, the following eight (8) courses and distances:

1. South 28°12'39" East, a distance of 251.22 feet to a TXDOT type II disk found;
2. With a curve to the left, having a radius of 2984.79 feet, a delta angle of 11°42'31", an arc length of 609.95 feet, and a chord which bears South 34°03'51" East, a distance of 608.89 feet to a TXDOT type II disk found;
3. South 39°54'05" East, a distance of 420.62 feet to a TXDOT type II disk found;
4. South 53°27'25" West, a distance of 49.50 feet to a TXDOT type II disk found;
5. South 36°27'24" East, a distance of 208.76 feet to a TXDOT type II disk found;
6. North 52°37'20" East, a distance of 62.31 feet to a TXDOT type II disk found;
7. South 39°52'38" East, a distance of 249.41 feet to a TXDOT type II disk found;

8. South 06°56'39" East, a distance of 247.90 feet to the **POINT OF BEGINNING**, containing 30.071 acres of land, more or less.

Surveyed on the ground on September 8, 2015

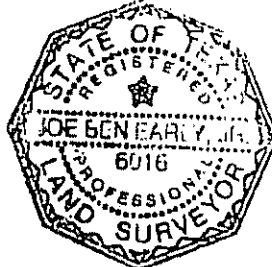
Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS Solutions from The National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS).

Attachments: Survey Drawing No. 586-002-30.071AC.



Joe Ben Early, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 6016  
TBPLS Firm No. 10124500

9/26/16



REFERENCES

- TCAD Property ID #: 564848
- Austin Grid Map F30

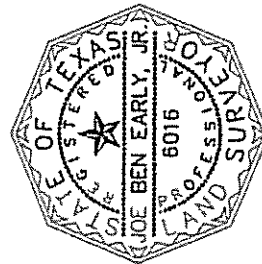
SKETCH TO ACCOMPANY A DESCRIPTION OF 30.071 ACRES (APPROXIMATELY 1,309,879 SQ. FT.), BEING A PORTION OF LOT 1, BLOCK A, CHAMPION CITY PARK EAST SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER DOCUMENT NO. 200300122 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N62°31'47"W	1852.62'
L2	N62°33'18"W	180.16'
L3	N62°29'53"W	172.97'
L4	N62°31'03"W	307.12'
L5	N62°21'57"W	220.31'
L6	N62°22'35"W	137.31'
L7	N37°40'26"E	310.01'
L8	S39°42'47"E	362.04'
L9	N50°17'13"E	377.11'
L10	S61°55'29"E	172.35'
L11	S28°00'15"E	127.03'
L12	S80°32'48"E	299.33'
L13	N61°59'45"E	196.58'
L14	N21°08'43"E	281.69'
L15	S28°12'39"E	251.22'
L16	S39°54'05"E	420.62'
L17	S53°27'25"W	49.50'
L18	S36°27'24"E	208.76'
L19	N52°37'20"E	62.31'
L20	S39°52'38"E	249.41'
L21	S06°56'39"E	247.90'

CURVE TABLE			
CURVE	RADIUS	DELTA	ARC
C1	2984.79'	11°42'31"	609.95'
			BEARING S34°03'51"E
			CHORD 608.89'

# LEGEND

- 1/2" REBAR FOUND (OR AS NOTED)
- ⊙ 1/2" REBAR WITH "CHAPARRAL BOUNDARY" CAP FOUND
- ⊙ TxDOT TYPE II DISK FOUND
- ⊙ FENCE POST FOUND
- △ MAG NAIL WITH "CHAPARRAL" WASHER FOUND
- △ CALCULATED POINT
- ( ) RECORD INFORMATION



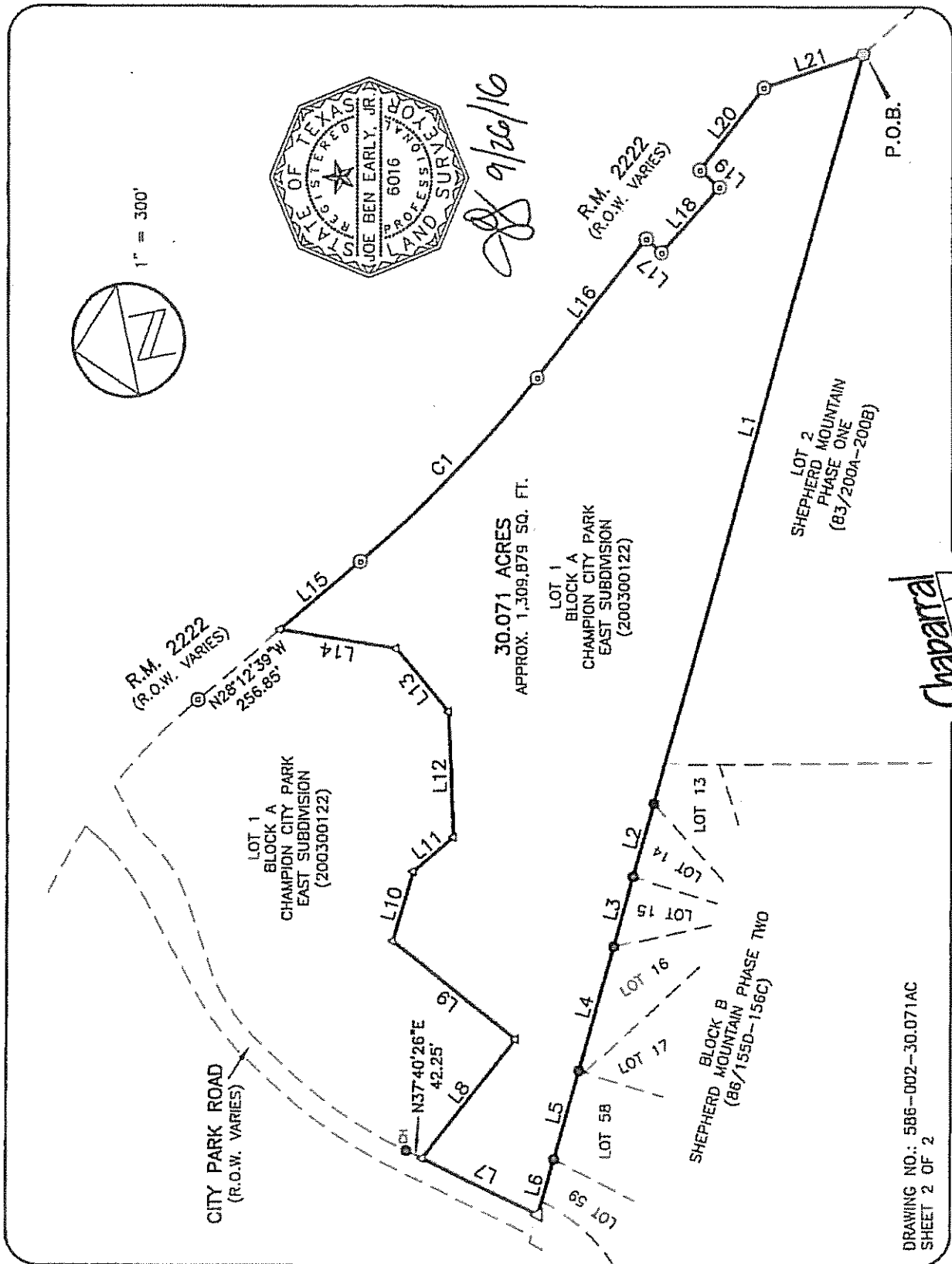
*[Signature]*  
9/26/16

DATE OF SURVEY: 9/8/15  
PLOT DATE: 9/26/16  
DRAWING NO.: 586-002-30.071AC  
T.B.P.L.S. FIRM NO. 10124500  
DRAWN BY: JBE  
SHEET 1 OF 2

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS).

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 586-002-30.071AC

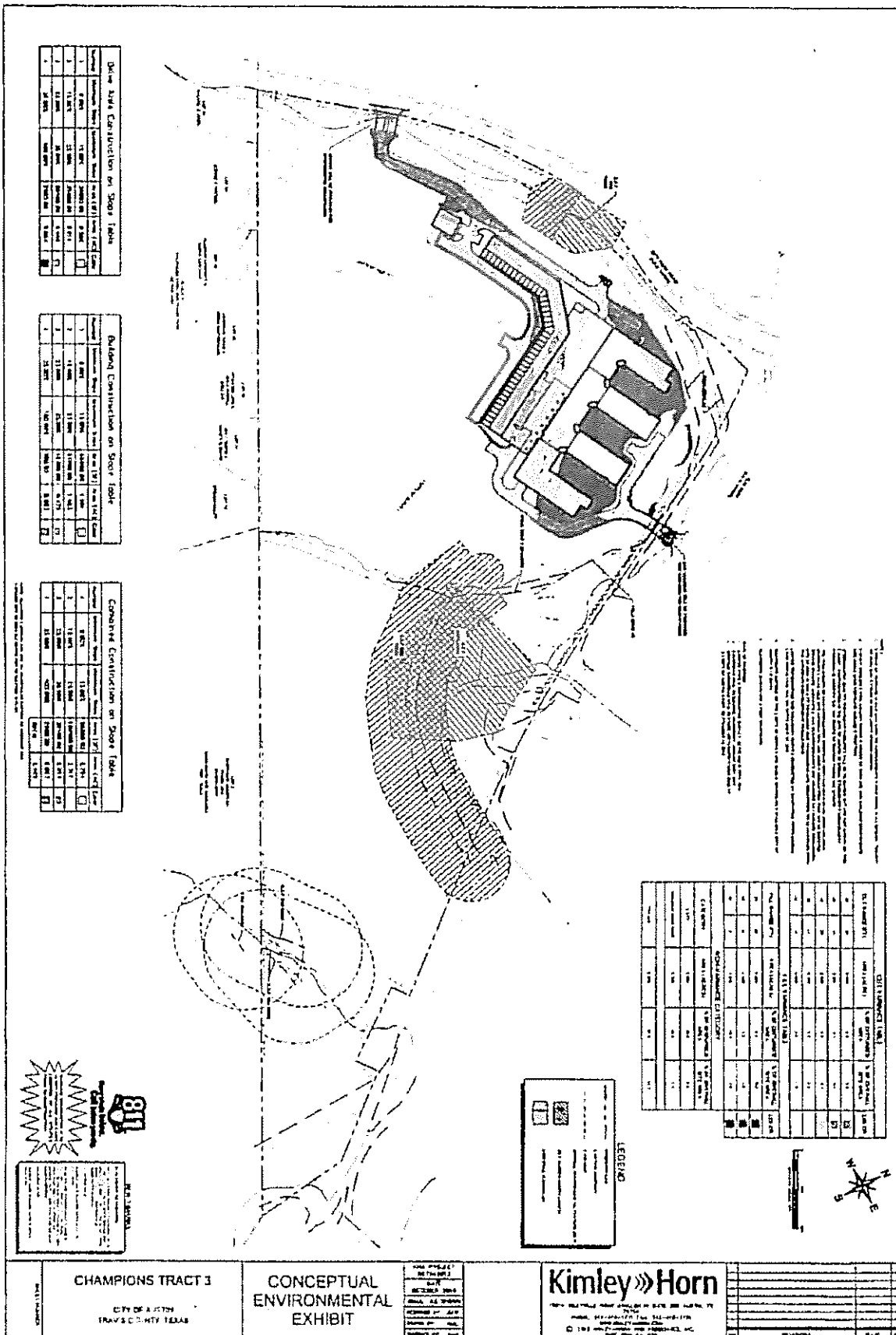
*Chaparral*



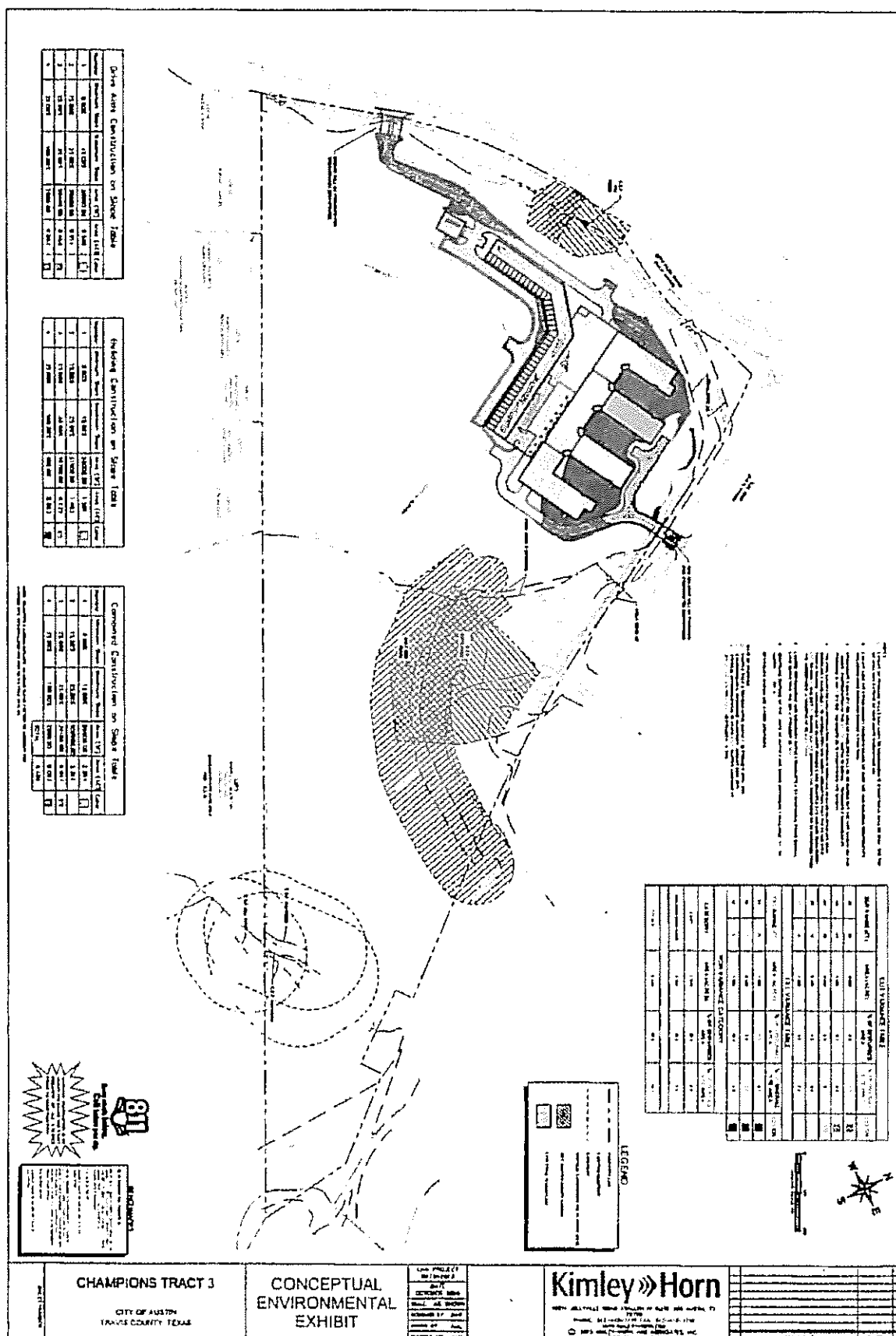
Chaparral

**FIRST AMENDMENT TO THE  
COMPROMISE SETTLEMENT AGREEMENT**

**EXHIBIT C  
CEF/WETLAND BUFFERS**



**EXHIBIT 2**  
**CEF/WETLAND BUFFERS**





# Exhibit C

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CITY OF AUSTIN, TEXAS

ORDINANCE NO. 96 0613-J

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR DEVELOPMENT OF FIVE (5) TRACTS OF LAND: **TRACT 1**: BEING 153.75 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, BEING MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-020; **TRACT 2**: BEING A 20.59 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-021; **TRACT 3**: BEING 49.70 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; **TRACT 4**: BEING 9 ACRES, MORE OR LESS, OUT OF T.J. CHAMBERS SURVEY, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-023; AND **TRACT 5**: BEING 26 ACRES, MORE OR LESS, OUT OF THE JAMES JETT SURVEY NO. 1 AND THOMAS JEFFERSON CHAMBERS GRANT, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-024; GRANTING A SPECIAL EXCEPTION UNDER DIVISION 3 OF ARTICLE V OF CHAPTER 13-1, ARTICLE 1 OF CHAPTER 13-7, AND ARTICLE V OF CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; IMPOSING WATER QUALITY PROTECTIONS ON DEVELOPMENT OF THE PROPERTY; WAIVING THE REQUIREMENTS OF SECTIONS 2-2-3, 2-2-5, 2-2-7, 13-1-301 AND 13-1-302 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; ESTABLISHING AN EXPIRATION DATE; AND ESTABLISHING AN EFFECTIVE DATE.

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

**PART 1.** That a special exception from the Austin City Code of 1992, as amended, is granted for development on the Champion property, (the "Property") more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes; provided that the following conditions are met:

(1) The development of the Property must comply with the provisions of the Austin City Code in effect on December 8, 1993 including (the Lake Austin Watershed Ordinance) with the exception that development of the Property shall provide additional water quality control as set forth in (2) below.

(2) For any development of the Property, applicant shall construct properly engineered water-quality controls, including at minimum, water-quality filtration ponds with full sedimentation chambers as described in the City of Austin Environmental Criteria Manual. The ponds shall be sized to capture the first one-half (.50) inch of stormwater plus one-tenth (.10) of an inch for each additional 10% of impervious cover above 20% from the contributing drainage areas of the project which include impervious cover. In the event that any cut and fill variances necessary for the construction of these ponds are not granted the applicant shall not be required to comply with this paragraph (2). Detention of the 2-year storm will not be required.

## CITY OF AUSTIN, TEXAS

(3) Any agreements, restrictions, covenants, or other legal documentation necessary to construct and maintain the water quality controls required by conditions (1) and (2) above shall be reviewed by the City Law Department prior to execution, and shall include a provision requiring written City approval prior to termination or assignment.

(4) Prior to the issuance of a certificate of occupancy or return of fiscal security for development on all or part of the Property, construction of the water-quality controls required by conditions (1) and (2) above shall be completed, as determined by City of Austin inspection, for the portion of the Property for which a Certificate of Occupancy or return of fiscal security is requested.

(5) The set-backs from Loop 360 and RR 2222 required by the Hill Country Roadways Ordinance (No. 860116-J) shall be reduced from 100 feet to 25 feet.

**PART 2.** Tracts 4 and 5 (excluding that portion of Tract 5 not made subject to zoning ordinance No. 930513-R). The exception granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 4 and 5 (excluding that portion of Tract 5 not made subject to zoning ordinance No. 930513-R) within ten years by the filing and approval of an application for preliminary subdivision (if applicable) and by the filing and approval of a site plan. In the event that said subdivision and site plan approval are not obtained within the ten year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Tracts 1, 2, 3, and that portion of Tract 5 not made subject to zoning ordinance 930513-R. The exceptions granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 1, 2, and 3, and that portion of Tract 5 not made subject to zoning ordinance 930513-R within six years by the filing of an application for preliminary subdivision plan or any other development permit. Provided, however, that any application filed within six years will be subject to expirations contained in the Austin City Code in effect as of December 8, 1993. In the event that said development permit is not filed within the six year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Notwithstanding the foregoing, should the owners elect, applications filed during the first six years from the effective date of this Ordinance may be governed by the provisions of state law and the Austin City Code in effect at the time of the filing of said applications.

**PART 3.** Unless otherwise specifically provided in this Agreement, during the term of Part 2 above, all applications relating to development of the Property will be governed solely by the Lake Austin Watershed Ordinance and other applicable ordinances, rules or other regulations in effect on December 8, 1993 immediately prior to the enactment of City of Austin Ordinance No. 931209-H, (the "Bull Creek Ordinance"). Such development applications shall include, but not be limited to, all applications for subdivisions preliminary plans and final plats, resubdivisions or replats, site plans, site development permits, and zoning and rezoning (only to the extent that zoning and rezoning ordinances affect size, lot dimensions, lot coverage or building size), relating to the Subject Property, and all revisions and amendments thereto (other than applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the

## CITY OF AUSTIN, TEXAS

provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit).

During the term of Part 2 above it is expressly agreed that the Property may be subdivided and resubdivided under the requirements of the Lake Austin Watershed Ordinance so that each Tract may be comprised of one or more separate tracts without compliance with any ordinance, rule, regulation or other permitting or approval requirement adopted after December 8, 1993, including specifically, but without limitation, the Comprehensive Watersheds Ordinance (Ordinance No. 860508-V) as the same has been codified and amended, which ordinance was not applicable by exemption to the Property on December 8, 1993, and that further resubdivisions or replatting of the Property during the term of Part 2 will not trigger the necessity of compliance with the Comprehensive Watersheds Ordinance or any other ordinance, regulation or rule in effect after December 8, 1993, except with respect to all applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit.

During the term of Part 2 above, the total amount of impervious cover that may be constructed within Tracts 1, 2, and 3, and that portion of Tract 5 not made subject to Zoning Ordinance No. 930513-R will be the maximum impervious cover permitted by the Lake Austin Watershed Ordinance and other ordinances governing such tracts prior to the enactment of the Bull Creek Ordinance, and the amount of impervious cover will not be restricted to an amount less than that permitted by those ordinances.

**PART 4.** That the approval of this special exception does not constitute approval of any development permit nor does it constitute a commitment to any specified land use, intensity of land use, or utility services.

**PART 5.** That the requirements imposed by Sections 13-1-301 and 13-1-302 of the Austin City Code of 1992, as amended, (Land Development Code) regarding notice and hearing requirements and procedures for a Special Exception are hereby waived.

**PART 6.** That the requirement imposed by Sections 2-2-3, 2-2-5 and 2-2-7 of the Austin City Code of 1992, as amended, regarding the presentation and adoption of ordinances are hereby waived by the affirmative vote of at least five members of the Austin City Council.

CITY OF AUSTIN, TEXAS

**PART 7.** That this ordinance shall become effective upon the expiration of ten days following the date of its final passage, as provided by the City Charter of the City of Austin.

**PASSED AND APPROVED:**

June 13, 1996.

§  
§  
§



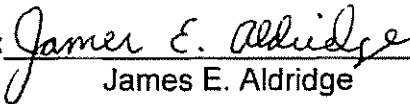
Bruce Todd  
Mayor

**APPROVED:**



Andrew Martin  
City Attorney

**ATTEST:**



James E. Aldridge  
City Clerk

HCN/alc/H:\COUNCIL\CHAMPION.ORD

EXHIBIT "A"

To Ordinance No. \_\_\_\_\_

The Tracts made the subject of this ordinance are those tracts having the metes and bounds set forth in the attached survey notes, as follows:

TRACT 1: The property described in the attached as "PARCEL A"

TRACT 2: The property described in the attached as "PARCEL B"

TRACT 3: The property described in the attached as "PARCEL C"

TRACT 4: The property described in the attached as "PARCEL D"

TRACT 5: The property described in the attached as "PARCEL E"

960613-3

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

A FIELD NOTE DESCRIPTION OF 252.06 ACRES OF LAND OUT OF THE JAMES JETT SURVEY NO. 1 AND THE THOMAS JEFFERSON CHAMBERS GRANT IN TRAVIS COUNTY, TEXAS; BEING COMPRISED OF A 153.75 ACRE PARCEL (A), A 20.59 ACRE PARCEL (B), A 49.70 ACRE PARCEL (C), A 9.20 ACRE PARCEL (D), AND AN 18.82 ACRE PARCEL (E); THE SAID 252.06 ACRES BEING THE REMAINDER PORTION OF TWO TRACTS OF LAND, DESCRIBED AS 260 ACRES AND 43.32 ACRES, GRANTED TO C. C. CHAMPION BY A DEED OF PARTITION WITH MRS. JOSIE CHAMPION HILL EXECUTED ON SEPTEMBER 12, 1932 AND RECORDED IN VOLUME 482, PAGE 627 OF THE DEED RECORDS OF THE SAID TRAVIS COUNTY, TEXAS; THE SAID 252.06 ACRES, AS SHOWN ON EH&A PLAT NO. 14970-5371-2, BEING MORE PARTICULARLY DESCRIBED BY THE SAID FIVE (5) SEPARATE PARCELS, AS FOLLOWS:

PARCEL A

BEGINNING at an iron pipe found, being the most northerly corner of the said 260 acre tract, also being a point on the southwest line of Lot 33, Block A, of The Jester Estate, Section 1, Phase 1, a subdivision recorded in Plat Book 78, Page 385-389 of the Plat Records of Travis County, same also being the most easterly corner of that certain 3.81 acre tract of land conveyed to Howard L. Burris, Jr., Agent, referred to as Tract Two, by warranty deed recorded in Volume 7948, Page 824 of the said Deed Records of Travis County, said iron pipe also being the most northerly corner of the herein described parcel;

THENCE, with the northeast line of the said 260 acre tract, being the said southwest line of Lot 33, Block A of The Jester Estate, Section 1, Phase 1, S 59° 48' 01" E, a distance of 651.65 feet to an iron rod found in concrete, being the most southerly corner of the said Lot 33, Block A, of The Jester Estate, Section 1, Phase 1, also being the most southerly southwest corner of Lot 6, Block B of Jester Point 2, Section 2, Phase A, a subdivision recorded in Plat Book 84, Page 2A-2B of the said Plat Records of Travis County;

THENCE, leaving the said southwest line of Lot 33, Block A of The Jester Estate, Section 1, Phase 1, continuing with the said northeast line of the 260 acre tract, being the southwest line of the said Lot 6, Block B of Jester Point 2, Section 2, Phase A, S 59° 51' 19" E, a distance of 99.99 feet to an iron rod found, being the most southerly corner of the said Lot 6, Block B of Jester Point 2, Section 2, Phase A, also being the most westerly corner of that certain 18.213 acre tract of land conveyed to Alvin J. Golden, Trustee, by deed of trust recorded in Volume 8286, Page 255 of the said Deed Records of Travis County;

THENCE, leaving the said southwest line of Lot 6, Block B of Jester Point 2, Section 2, Phase A, continuing with the said northeast line of the 260 acre tract, being the southwest line of the said Golden 18.213 acre tract, the following two (2) courses and distances:

1. S 59° 58' 51" E, a distance of 728.97 feet to an iron rod found in a rock mound, and
2. S 60° 13' 14" E, a distance of 1321.87 feet to an iron rod found, being the most southerly southeast corner of the said Golden 18.213 acre tract, same being the intersection of the said northeast line of the 260 acre tract and the west right-of-way line of State Highway Loop 360;

960613-5

Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

THENCE, leaving the said northeast line of the 260 acre tract and leaving the said southwest line of the Golden 18.213 acre tract, with the said west right-of-way line of State Highway Loop 360, over and across the said 260 acre tract, the following twelve (12) courses and distances:

1. S 37° 07' 34" W, a distance of 303.59 feet to a concrete monument found,
2. S 16° 02' 28" W, a distance of 441.39 feet to a concrete monument found, being 290 feet right of the State Highway Loop 360 centerline station 329+85.8,
3. S 05° 06' 38" W, a distance of 314.45 feet to a concrete monument found,
4. S 01° 06' 51" E, a distance of 603.26 feet to a concrete monument found, being 225 feet right of the State Highway Loop 360 centerline station 339+00.0,
5. S 05° 05' 53" W, a distance of 406.78 feet to a concrete monument found,
6. S 17° 38' 07" W, a distance of 370.27 feet to a concrete monument found,
7. S 31° 58' 24" W, a distance of 200.55 feet to a concrete monument found,
8. S 17° 43' 46" W, a distance of 282.13 feet to a concrete monument found,
9. S 55° 14' 05" W, a distance of 136.29 feet to a concrete monument found,
10. N 47° 01' 53" W, a distance of 164.83 feet to a calculated point,
11. N 26° 59' 56" W, a distance of 232.25 feet to a concrete monument found, and
12. S 63° 13' 18" W, a distance of 149.55 feet to a concrete monument found, being the intersection of the said west right-of-way line of State Highway Loop 360 and the curving north right-of-way line of RM Highway 2222;

THENCE, leaving the said west right-of-way line of State Highway Loop 360, continuing over and across the said 260 acre tract, with the said north right-of-way line of RM Highway 2222, the following nine (9) courses and distances:

1. with a curve to the left having a radius of 1190.85 feet, a central angle of 29° 30' 28" and an arc length of 613.30 feet, along the chord bearing N 41° 29' 46" W, a chord distance of 606.54 feet to a calculated point at a point of tangency,
2. N 56° 15' 00" W, a distance of 121.14 feet to a calculated point at a point of curvature,



Champion Tract  
252.06 Acres  
Travis County, Texas

FN 2663 (JJM)  
June 25, 1985  
EH& Job No. 5371-03  
EH&A Plat No. 14970-5371-2

3. with a curve to the right having a radius of 666.20 feet, a central angle of  $35^{\circ} 34' 00''$  and an arc length of 413.55 feet, along the chord bearing  $N 38^{\circ} 28' 00'' W$ , a chord distance of 406.94 feet to a calculated point at a point of tangency,
4.  $N 20^{\circ} 41' 00'' W$ , a distance of 52.74 feet to a calculated point at a point of curvature,
5. with a curve to the right having a radius of 1379.29 feet, a central angle of  $16^{\circ} 43' 45''$  and an arc length of 402.72 feet, along the chord bearing  $N 12^{\circ} 19' 07'' W$ , a chord distance of 401.29 feet to an iron rod found in concrete at a point of tangency, being 50 feet left of the RM Highway 2222 centerline station 252+90.0,
6.  $N 03^{\circ} 57' 15'' W$ , a distance of 302.32 feet to an iron rod found in concrete at a point of curvature,
7. with a curve to the left having a radius of 622.93 feet, a central angle of  $69^{\circ} 27' 44''$  and an arc length of 755.21 feet, along the chord bearing  $N 38^{\circ} 41' 08'' W$ , a chord distance of 709.80 feet to a calculated point at a point of tangency,
8.  $N 73^{\circ} 25' 00'' W$ , a distance of 347.37 feet to an iron rod found in concrete at a point of curvature, being 50 feet left of the RM Highway 2222 centerline station 239+52.4, and
9. with a curve to the right having a radius of 665.04 feet, a central angle of  $11^{\circ} 58' 09''$  and an arc length of 138.93 feet, along the chord bearing  $N 67^{\circ} 25' 55'' W$ , a chord distance of 138.68 feet to a calculated point, being the intersection of the said north right-of-way line of RM Highway 2222 and the southeast line of that certain 1 acre tract of land conveyed to D. W. Williams by warranty deed recorded in Volume 2507, Page 17 of the said Deed Records of Travis County;

THENCE, leaving the said north right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the east and north lines of the said Williams 1 acre tract, the following three (3) courses and distances:

1.  $N 29^{\circ} 48' 54'' E$ , a distance of 194.70 feet to a calculated point, being the most easterly corner of said Williams 1 acre tract,
2.  $N 58^{\circ} 11' 06'' W$ , a distance of 208.70 feet to a calculated point, being the most northerly corner of said Williams 1 acre tract, and
3.  $S 29^{\circ} 48' 54'' W$ , a distance of 198.07 feet to a calculated point, being the intersection of the northwest line of the said Williams 1 acre tract and the said north right-of-way line of RM Highway 2222;

THENCE, leaving the said northwest line of the Williams 1 acre tract, with the said north right-of-way line of RM Highway 2222,  $N 58^{\circ} 56' 06'' W$ , a distance of 10.00 feet to a calculated point, being the intersection of the said north right-of-way line of RM Highway 2222 and the southeast line of that certain 1 acre tract of land conveyed to L. W. Taylor and wife by deed recorded in Volume 1946, Page 255 of the said Deed Records of Travis County;

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THENCE, leaving the said north right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the east line of the said Taylor 1 acre tract, the following two (2) courses and distances:

1. N 29° 48' 54" E, a distance of 198.20 feet to a calculated point, being the most easterly corner of the said Taylor 1 acre tract, and
2. N 58° 11' 06" W, a distance of 208.70 feet to a calculated point, being the most northerly corner of the said Taylor 1 acre tract, same being a point on the northwest line of the said 260 acre tract, same also being a point on the southeast line of that certain 2.641 acre tract of land conveyed to Jim B. Beard and wife by deed recorded in Volume 6448, Page 64 of the said Deed Records of Travis County, and from the said calculated point an iron rod found, being the most westerly corner of the said Taylor 1 acre tract, same being the most southerly corner of the said Beard 2.641 acre tract, bears S 29° 48' 54" W, a distance of 200.18 feet;

THENCE, leaving the said east line of the Taylor 1 acre tract, with said northwest line of the 260 acre tract, being the said southeast line of the Beard 2.641 acre tract, N 29° 48' 54" E, a distance of 918.44 feet to an iron rod found, being the most easterly northeast corner of the said Beard 2.641 acre tract, same being the most southerly corner of the said Burris 3.81 acre tract;

THENCE, leaving the said southeast line of the Beard 2.641 acre tract, continuing with the said northwest line of the 260 acre tract, being the southeast line of the said Burris 3.81 acre tract, the following two (2) courses and distances:

1. N 29° 47' 28" E, a distance of 596.25 feet to an iron rod found, and
2. N 33° 52' 19" E, a distance of 7.60 feet to the POINT OF BEGINNING, containing 153.75 acres of land.

#### PARCEL B

BEGINNING at a 3/8-inch iron rod found in a rock mound, being a point on the northwest line of the said 260 acre tract, same being a point on the southeast line of that certain 12.51 acre tract of land conveyed to Henry R. Schotz and wife by deed recorded in Volume 2681, Page 136 of the said Deed Records of Travis County, same also being the most northerly corner of that certain 1.92 acre tract of land conveyed to Grover C. Phinney and wife by deed recorded in Volume 700, Page 57 of the said Deed Records of Travis County, said iron rod found being the most westerly corner of the herein described parcel, from which a 7/8-inch iron pipe found in a rock mound, being the most westerly corner of the said 260 acre tract, same being the most southerly corner of the said Schotz 12.51 acre tract, same also being the most westerly corner of the said Phinney 1.92 acre tract, bears S 29° 26' 47" W, a distance of 207.59 feet;

THENCE, with said northwest line of the 260 acre tract, being the said southeast line of the Schotz 12.51 acre tract, N 29° 24' 45" E, passing at a distance of 809.89 feet a nail set in a fence corner post, a total distance of 853.45 feet to a calculated point, being an interior corner on the said southeast line of the Schotz 12.51 acre tract;

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THENCE, leaving the said northwest line of the 260 acre tract, continuing with the said southeast line of the Schotz 12.51 acre tract, over and across the said 260 acre tract, S 58° 34' 40" E, a distance of 105.53 feet to a calculated point, being the most southerly northeast corner of the said Schotz 12.51 acre tract;

THENCE, with the east line of the said Schotz 12.51 acre tract, N 30° 25' 20" E, passing at a distance of 59.00 feet a 1 1/4-inch iron pipe found, a total distance of 456.51 feet to a calculated point, being the intersection of the said east line of the Schotz 12.51 acre tract and the south right-of-way line of RM Highway 2222;

THENCE, leaving the said east line of the Schotz 12.51 acre tract, continuing over and across the said 260 acre tract, with the said south right-of-way line of RM Highway 2222, the following four (4) courses and distances:

1. S 58° 56' 06" E, a distance of 280.28 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 237+71.6,
2. with a curve to the left having a radius of 765.04 feet, a central angle of 14° 28' 54" and an arc length of 193.36 feet, along the chord bearing S 66° 10' 33" E, a chord distance of 192.85 feet to an iron rod found in concrete at a point of tangency, being 50 feet right of the RM Highway 2222 centerline station 239+52.4,
3. S 73° 25' 00" E, a distance of 347.37 feet to a calculated point at a point of curvature, and
4. with a curve to the right having a radius of 522.93 feet, a central angle of 05° 56' 17" and an arc length of 54.20 feet, along the chord bearing S 70° 26' 51" E, a chord distance of 54.17 feet to a calculated point, being the intersection of the said south right-of-way line of RM Highway 2222 and the west line of that certain 2 acre tract of land conveyed from C. C. Champion to Roy W. Cowan by deed recorded in Volume 556, Page 439 of the said Deed Records of Travis County, same being the west line of that certain tract of land conveyed from the said Roy W. Cowan to Thomas R. Williams by deed recorded in Volume 936, Page 279 of the said Deed Records of Travis County;

THENCE, leaving the said south right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the said west line of the Cowan 2 acre tract, being the stone ledge at the brow of a cliff, same being, consecutively, the said west line of the Williams tract, the west line of the remainder portion of the said Cowan 2 acre tract, and the west line of that certain 0.27 acre tract of land conveyed to George Randall Baird by deed recorded in Volume 5959, Page 1987 of the said Deed Records of Travis County, the following five (5) courses and distances:

1. S 53° 58' 33" W, a distance of 35.84 feet to an angle point in the said stone ledge,
2. S 42° 49' 12" W, a distance of 47.98 feet to a 3/8-inch iron rod found at an angle point in the said stone ledge,
3. S 28° 04' 39" W, a distance of 71.27 feet to an angle point in the said stone ledge,
4. S 11° 54' 43" W, a distance of 97.00 feet to an iron rod found at an angle point in the said stone ledge, and

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5. S 35° 09' 03" W, a distance of 101.18 feet to a 3/8-inch iron rod found, being the most westerly corner of the said Baird 0.27 acre tract;

THENCE, leaving the said stone ledge, with the southwest line of the said Cowan 2 acre tract, being the southwest line of the said Baird 0.27 acre tract, S 33° 31' 40" E, a distance of 85.48 feet to a calculated point, being the intersection of the said southwest line of the Cowan 2 acre tract, same being the said southwest line of the Baird 0.27 acre tract, and a calculated line for the southeast line of the herein described parcel, being a 30-foot perpendicular offset from, and parallel and concentric with, the approximate centerline of the existing pavement of a county road known as City Park Road, and from the said calculated point, a 3/8-inch iron rod found, being the southwest corner of the said Baird 0.27 acre tract, bears S 33° 31' 40" E, a distance of 10.91 feet;

THENCE, leaving the said southwest line of the Cowan 2 acre tract and southwest line of the Baird 0.27 acre tract, continuing over and across the said 260 acre tract, with the said calculated line for the southeast line hereof, the following seven (7) courses and distances:

1. S 73° 57' 57" W, a distance of 151.64 feet to a calculated point at a point of curvature,
2. with a curve to the right having a radius of 950.00 feet, a central angle of 07° 19' 48" and an arc length of 121.54 feet, along the chord bearing S 77° 37' 51" W, a chord distance of 121.45 feet to a calculated point at a point of tangency,
3. S 81° 17' 44" W, a distance of 93.74 feet to a calculated point at a point of curvature,
4. with a curve to the left having a radius of 582.77 feet, a central angle of 20° 44' 03" and an arc length of 210.89 feet, along the chord bearing S 70° 55' 43" W, a chord distance of 209.74 feet to a calculated point at a point of compound curvature,
5. with a curve to the left having a radius of 1604.11 feet, a central angle of 09° 12' 00" and an arc length of 257.57 feet, along the chord bearing S 55° 57' 43" W, a chord distance of 257.29 feet to a calculated point at a point of compound curvature,
6. with a curve to the left having a radius of 1286.75 feet, a central angle of 12° 50' 14" and an arc length of 288.30 feet, along the chord bearing S 44° 56' 36" W, a chord distance of 287.69 feet to a calculated point at a point of tangency, and
7. S 38° 31' 29" W, a distance of 106.35 feet to a calculated point, being the intersection of the said calculated line for the southeast line hereof and the northeast line of the said Phinney 1.92 acre tract, from which a 3/8-inch iron rod found, being the most easterly corner of the said Phinney 1.92 acre tract, bears S 61° 10' 58" E, a distance of 0.36 feet;

THENCE, leaving the said calculated line for the southeast line hereof, continuing over and across the said 260 acre tract, with the said northeast line of the Phinney 1.92 acre tract, being the southwest line of the herein described parcel, N 61° 10' 58" W, a distance of 429.93 feet to the POINT OF BEGINNING, containing 20.59 acres of land.

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PARCEL C

BEGINNING at a nail set in a fence post, being a point on the southwest line of the said 260 acre tract, same being an angle point on the west right-of-way line of State Highway Loop 360, same also being the most northerly northeast corner of the remainder portion of Lot 2 of Shepherd Mountain, Phase One, a subdivision recorded in Plat Book 83, Page 200A-200B of the Plat Records of Travis County, said nail in a fence post also being the most southerly southeast corner of the herein described parcel, from which a concrete monument found, being an angle point on the said west right-of-way line of State Highway Loop 360, also being 461.43 feet right of the State Highway Loop 360 centerline station 359+67.82, bears S 30° 16' 45" E, a distance of 329.77 feet;

THENCE, with the said southwest line of the 260 acre tract, being, consecutively, the northeast line of the said remainder portion of Lot 2 of Shepherd Mountain, Phase One, the northeast line of that certain 19.947 acre tract of land out of the said Shepherd Mountain, Phase One conveyed to Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 75 of the said Deed Records of Travis County, the northeast line of that certain 40.38 acre tract of land conveyed to the said Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 72 of the said Deed Records of Travis County, and the northeast line of that certain 33.88 acre tract of land conveyed to the said Shepherd Mountain Venture by warranty deed recorded in Volume 8394, Page 227 of the said Deed Records of Travis County, N 60° 48' 45" W, a distance of 2858.70 feet to a 3/8-inch iron rod found, being the most northerly northeast corner of the said Shepherd Mountain Venture 33.88 acre tract;

THENCE, leaving the said northeast line of Shepherd Mountain Venture 33.88 acre tract, continuing with said southwest line of the 260 acre tract, N 60° 38' 58" W, a distance of 5.61 feet to a calculated point, being the intersection of the said southwest line of the 260 acre tract and a calculated line for the northwest line of the herein described parcel, being a 30-foot perpendicular offset from, and parallel and concentric with, the approximate centerline of the existing pavement of a county road known as City Park Road, and from the said calculated point a 7/8-inch iron pipe found in a rock mound, being the most westerly corner of the said 260 acre tract, bears N 60° 38' 58" W, a distance of 64.36 feet and N 60° 45' 39" W, a distance of 392.21 feet;

THENCE, leaving the said southwest line of the 260 acre tract, with the said calculated line for the northwest line hereof, over and across the said 260 acre tract, the following eleven (11) courses and distances:

1. with a curve to the left having a radius of 410.00 feet, a central angle of 02° 33' 00" and an arc length of 18.25 feet, along the chord bearing N 39° 47' 59" E, a chord distance of 18.25 feet to a calculated point at a point of tangency,
2. N 38° 31' 29" E, a distance of 292.05 feet to a calculated point at a point of curvature,
3. with a curve to the right having a radius of 1226.75 feet, a central angle of 12° 50' 14" and an arc length of 274.85 feet, along the chord bearing N 44° 56' 36" E, a chord distance of 274.28 feet to a calculated point at a point of compound curvature,

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4. with a curve to the right having a radius of 1544.11 feet, a central angle of  $09^{\circ} 12' 00''$  and an arc length of 247.94 feet, along the chord bearing  $N 55^{\circ} 57' 43'' E$ , a chord distance of 247.67 feet to a calculated point at a point of compound curvature,
5. with a curve to the right having a radius of 522.77 feet, a central angle of  $20^{\circ} 44' 03''$  and an arc length of 189.18 feet, along the chord bearing  $N 70^{\circ} 55' 43'' E$ , a chord distance of 188.15 feet to a calculated point at a point of tangency,
6.  $N 81^{\circ} 17' 44'' E$ , a distance of 93.74 feet to a calculated point at a point of curvature,
7. with a curve to the left having a radius of 1010.00 feet, a central angle of  $07^{\circ} 19' 48''$  and an arc length of 129.21 feet, along the chord bearing  $N 77^{\circ} 37' 51'' E$ , a chord distance of 129.12 feet to a calculated point at a point of tangency,
8.  $N 73^{\circ} 57' 57'' E$ , a distance of 156.63 feet to a calculated point at a point of curvature,
9. with a curve to the right having a radius of 688.40 feet, a central angle of  $16^{\circ} 44' 01''$  and an arc length of 201.05 feet, along the chord bearing  $N 82^{\circ} 19' 57'' E$ , a chord distance of 200.34 feet to a calculated point at a point of reverse curvature,
10. with a curve to the left having a radius of 4944.96 feet, a central angle of  $02^{\circ} 20' 35''$  and an arc length of 202.22 feet, along the chord bearing  $N 89^{\circ} 31' 40'' E$ , a chord distance of 202.21 feet to a calculated point at a point of tangency, and
11.  $N 88^{\circ} 21' 23'' E$ , a distance of 19.31 feet to a calculated point, being the intersection of the said calculated line for the northwest line hereof, and the curving southwest right-of-way line of RM Highway 2222;

THENCE, leaving the said calculated line for the northwest line hereof, continuing over and across the said 260 acre tract, with the said southwest right-of-way line of RM Highway 2222, being the northeast line of the herein described parcel, the following seven (7) courses and distances:

1. with a curve to the right having a radius of 522.93 feet, a central angle of  $05^{\circ} 41' 51''$  and an arc length of 52.00 feet, along the chord bearing  $S 06^{\circ} 48' 11'' E$ , a chord distance of 51.98 feet to an iron rod found in concrete at a point of tangency,
2.  $S 03^{\circ} 57' 15'' E$ , a distance of 302.32 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 252+90.0,
3. with a curve to the left having a radius of 1479.29 feet, a central angle of  $16^{\circ} 43' 45''$  and an arc length of 431.92 feet, along the chord bearing  $S 12^{\circ} 19' 07'' E$ , a chord distance of 430.39 feet to a calculated point at a point of tangency,
4.  $S 20^{\circ} 41' 00'' E$ , a distance of 52.74 feet to a calculated point at a point of curvature,

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5. with a curve to the left having a radius of 766.20 feet, a central angle of  $35^{\circ} 34' 00''$  and an arc length of 475.62 feet, along the chord bearing  $S 38^{\circ} 28' 00'' E$ , a chord distance of 468.02 feet to a calculated point at a point of tangency,
6.  $S 56^{\circ} 15' 00'' E$ , a distance of 121.14 feet to an iron rod found in concrete at a point of curvature, being 50 feet right of the RM Highway 2222 centerline station 263+26.2, and
7. with a curve to the right having a radius of 1090.85 feet, a central angle of  $15^{\circ} 54' 41''$  and an arc length of 302.93 feet, along the chord bearing  $S 48^{\circ} 17' 40'' E$ , a chord distance of 301.96 feet to a calculated point, being the intersection of the said curving southwest right-of-way line of RM Highway 2222 and the northwest line of that certain 0.956 acre tract of land conveyed to Jones-Reynolds Joint Venture by warranty deed recorded in Volume 7764, Page 826 of the said Deed Records of Travis County;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, continuing over and across said 260 acre tract, with, consecutively, the northwest, the southwest and the southeast lines of the said Jones-Reynolds Joint Venture 0.956 acre tract, the following three (3) courses and distances:

1.  $S 55^{\circ} 13' 16'' W$ , passing at a distance of 71.52 feet a 3/8-inch iron rod found, a total distance of 195.86 feet to a 3/8-inch iron rod found,
2.  $S 34^{\circ} 46' 44'' E$ , a distance of 208.78 feet to a 3/8-inch iron rod found, and
3.  $N 55^{\circ} 13' 16'' E$ , a distance of 196.11 feet to a calculated point, being the intersection of the said southeast line of the Jones-Reynolds Joint Venture 0.956 acre tract and the said curving southwest right-of-way line of RM Highway 2222;

THENCE, leaving the said southeast line of the Jones-Reynolds Joint Venture 0.956 acre tract, continuing over and across the said 260 acre tract, with the said southwest right-of-way line of RM Highway 2222, with a curve to the right having a radius of 1090.85 feet, a central angle of  $02^{\circ} 37' 41''$  and an arc length of 50.04 feet, along the chord bearing  $S 28^{\circ} 02' 32'' E$ , a chord distance of 50.03 feet to a concrete monument found, being the intersection of the said curving southwest right-of-way line of RM Highway 2222 and the said west right-of-way line of State Highway Loop 360;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, continuing over and across the said 260 acre tract, with the said west right-of-way line of State Highway Loop 360,  $S 05^{\circ} 12' 45'' E$ , a distance of 476.44 feet to the POINT OF BEGINNING, containing 49.70 acres of land.

#### PARCEL D

BEGINNING at a concrete monument found, being the intersection of the east right-of-way line of State Highway Loop 360 and the southwest right-of-way line of RM Highway 2222, same being a point within the said 43.32 acre tract, same also being the most northerly corner of the herein described parcel, the said concrete monument also being 50 feet right of the RM Highway 2222 centerline station 287+10.7;

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THENCE, with the said southwest right-of-way line of RM Highway 2222, over and across the said 43.32 acre tract, S 72° 53' 58" E, a distance of 105.98 feet to a calculated point, being the intersection of the said southwest right-of-way line of RM Highway 2222 and the southwest line of the said 43.32 acre tract, same being the northwest corner of the remainder portion of that certain 65.56 acre tract of land granted to the said Josie Champion Hill by the said deed of partition recorded in Volume 482, Page 627 of the said Deed Records of Travis County;

THENCE, leaving the said southwest right-of-way line of RM Highway 2222, with the said southwest line of the 43.32 acre tract, being the west line of the said remainder portion of the Hill 65.56 acre tract, also being approximately with an old fence line along the top of the west bank of Bull Creek, the following three (3) courses and distances:

1. S 19° 50' 00" E, passing at a distance of 1.81 feet a 3/8-inch iron rod found, a total distance of 319.98 feet to a calculated point,
2. S 03° 50' 00" E, a distance of 102.82 feet to a fence post found, being an angle point in the said old fence line, and
3. S 14° 20' 00" E, a distance of 182.79 feet to a calculated point, being the most southeasterly point on the said southwest line of the 43.32 acre tract, same being the southwest corner of the said remainder portion of the Hill 65.56 acre tract, same also being a point on the north line of Lot 52 of The Courtyard Phase 3-D, a subdivision recorded in Plat Book 82, Pages 90-91 of the Plat Records of Travis County, and from the said calculated point a 3/8-inch iron rod found, being a point on the south line of the said remainder portion of the Hill 65.56 acre tract, same being an angle point on the said north line of Lot 52 of The Courtyard Phase 3-D, bears S 86° 56' 19" E, a distance of 6.55 feet;

THENCE, leaving the said west line of the remainder portion of the Hill 65.56 acre tract, continuing with the said southwest line of the 43.32 acre tract, being the said north line of Lot 52 of The Courtyard Phase 3-D, the following eleven (11) courses and distances:

1. N 86° 56' 19" W, a distance of 98.13 feet to a calculated point,
2. N 83° 58' 18" W, a distance of 83.75 feet to a 3/8-inch iron rod found,
3. N 85° 33' 31" W, a distance of 94.02 feet to a 3/8-inch iron rod found,
4. N 81° 03' 32" W, a distance of 86.45 feet to a 3/8-inch iron rod found,
5. N 83° 58' 53" W, a distance of 174.73 feet to a 3/8-inch iron rod found,
6. N 83° 06' 35" W, a distance of 78.21 feet to a 3/8-inch iron rod found,



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7. N 73° 17' 32" W, a distance of 30.48 feet to a 3/8-inch iron rod found,
8. N 68° 38' 43" W, a distance of 68.97 feet to a 3/8-inch iron rod found,
9. N 60° 27' 31" W, a distance of 55.52 feet to a 3/8-inch iron rod found,
10. N 55° 41' 26" W, a distance of 70.14 feet to a 3/8-inch iron rod found, and
11. N 49° 39' 52" W, a distance of 125.09 feet to a calculated point, being the most northerly northwest corner of said Lot 52 of The Courtyard Phase 3-D, same being the intersection of the said southwest line of the 43.32 acre tract and the said east right-of-way line of State Highway Loop 360, and from the said calculated point a concrete monument found, being an angle point in the said east right-of-way line of State Highway Loop 360, bears S 25° 34' 08" W, a distance of 462.07 feet;

THENCE, leaving the said north line of Lot 52 of The Courtyard Phase 3-D and leaving the said southwest line of the 43.32 acre tract, with the said east right-of-way line of State Highway Loop 360, over and across the said 43.32 acre tract, the following three (3) courses and distances:

1. N 25° 34' 08" E, a distance of 289.82 feet to a concrete monument found, being 307.46 feet left of the State Highway Loop 360 centerline station 356+86.42,
2. N 72° 57' 37" E, a distance of 331.35 feet to a concrete monument found, and
3. N 87° 25' 43" E, a distance of 203.16 feet to the POINT OF BEGINNING, containing 9.20 acres of land.

#### PARCEL E

BEGINNING at an iron rod found, being the intersection of the northeast line of the said 260 acre tract and the east right-of-way line of State Highway Loop 360, same being the most westerly corner of that certain 7.3795 acre tract of land conveyed to C. A. Davis, Trustee, by warranty deed recorded in Volume 7027, Page 2091 of the said Deed Records of Travis County, same also being the most northerly corner of the herein described parcel;

THENCE, with the said northeast line of the 260 acre tract, being the southwest line of the said Davis 7.3795 acre tract, the following four (4) courses and distances:

1. S 60° 06' 22" E, a distance of 42.94 feet to an iron rod found,
2. S 60° 32' 39" E, a distance of 166.95 feet to a 3/8-inch iron rod found,
3. S 59° 28' 48" E, a distance of 265.74 feet to a 3/8-inch iron rod found, and

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4. S 62° 34' 14" E, a distance of 79.87 feet to a 3/8-inch iron rod found, being the most northerly corner of that certain 0.998 acre tract of land conveyed to Josie Ellen Champion by deed recorded in Volume 4189, Page 77 of the said Deed Records of Travis County;

THENCE, leaving the said southwest line of the Davis 7.3795 acre tract and leaving the said northeast line of the 260 acre tract, with the west line of the said Champion 0.998 acre tract, over and across the said 260 acre tract, the following two (2) courses and distances:

1. S 30° 20' 12" W, passing at a distance of 50.15 feet a 3/8-inch iron rod found, a total distance of 186.62 feet to a 3/8-inch iron rod found, and
2. S 04° 59' 51" E, a distance of 96.97 feet to a 1/4-inch iron rod found, being the southwest corner of the said Champion 0.998 acre tract, same being a point on the east line of the said 260 acre tract, same also being a point on the northwest line of that certain 3.35 acre tract of land conveyed to Joe T. Robertson, Jr., Daniel B. Robertson, and Thomas H. Robertson by deed recorded in Volume 5536, Page 303 of the said Deed Records of Travis County, the said iron rod also being on the approximate centerline of Bull Creek, from which an iron rod found, being an angle point on the south line of the said Champion 0.998 acre tract, also being an angle point on the said northwest line of the Robertson 3.35 acre tract, bears N 76° 41' 32" E, a distance of 102.46 feet;

THENCE, leaving the said west line of the Champion 0.998 acre tract, with the said east line of the 260 acre tract, being the said northwest line of the Robertson 3.35 acre tract, same being with the meanders of the approximate centerline of Bull Creek, the following seven (7) courses and distances:

1. S 76° 41' 32" W, a distance of 73.63 feet to a calculated point,
2. S 86° 55' 00" W, a distance of 103.20 feet to a calculated point,
3. S 47° 50' 00" W, a distance of 70.29 feet to a calculated point,
4. S 25° 05' 00" W, a distance of 322.30 feet to a calculated point,
5. S 36° 20' 00" W, a distance of 235.03 feet to a calculated point,
6. S 00° 10' 00" E, a distance of 241.83 feet to a calculated point, and
7. S 09° 52' 00" E, a distance of 5.80 feet to a calculated point, being the southwest corner of the said Robertson 3.35 acre tract, same being the northwest corner of Lot 75 of Lakewood Village, a subdivision recorded in Plat Book 8, Page 24 of the Plat Records of Travis County, and from the said calculated point a 3/8-inch iron rod found, being the northwest corner of Lot 20, Block B of the said Lakewood Village, same being the southwest corner of Lot 21, Block B of Lakewood Park, Section 1, a subdivision recorded in Plat Book 9, Page 107 of the said Plat Records of Travis County, same also being a point on the east right-of-way line of a 60-foot wide county road known as Lakewood Drive, bears N 87° 16' 00" E, a distance of 161.24 feet;

Champion Tract  
252.06 Acres  
Travis County, Texas

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THENCE, leaving the said northwest line of the Robertson 3.35 acre tract, continuing with the said east line of the 260 acre tract, being the west line of the said Lot 75 of Lakewood Village, same being with the said meanders of the approximate centerline of Bull Creek, the following two (2) courses and distances:

1. S 09° 52' 00" E, a distance of 572.31 feet to a calculated point, and
2. S 16° 27' 00" E, a distance of 412.47 feet to a calculated point, being the most easterly southeast corner of the said 260 acre tract;

THENCE, leaving the said west line of Lot 75 of Lakewood Village and leaving the said approximate centerline of Bull Creek, continuing with the said east line of the 260 acre tract, S 43° 57' 06" W, a distance of 566.26 feet to a calculated point, being the intersection of the said east line of the 260 acre tract and the north line of the said 43.32 acre tract, from which an old fence corner found, being the northeast corner of the said 43.32 acre tract, same being the southeast corner of the said Lakewood Village, same also being the northeast corner of Parkhill, a subdivision recorded in Plat Book 81, Pages 307-308 of the said Plat Records of Travis County, bears N 89° 51' 41" E, a distance of 1537.65 feet;

THENCE, leaving the said east line of the 260 acre tract, with the said north line of the 43.32 acre tract, N 89° 51' 41" E, a distance of 509.63 feet to a calculated point, being the intersection of the said north line of the 43.32 acre tract and the said west line of Lot 75 of Lakewood Village, same being on the approximate centerline of Bull Creek;

THENCE, leaving the said north line of the 43.32 acre tract, with the said west line of Lot 75 of Lakewood Village, being with the meanders of the approximate centerline of Bull Creek, over and across the said 43.32 acre tract, S 14° 30' 31" E, a distance of 12.87 feet to a calculated point, being the southwest corner of the said Lot 75 of Lakewood Village;

THENCE, leaving the said west line of Lot 75 of Lakewood Village and leaving the said approximate centerline of Bull Creek, with the said south line of Lot 75 of Lakewood Village, continuing over and across the said 43.32 acre tract, N 84° 47' 00" E, a distance of 54.85 feet to a calculated point, being the southeast corner of said Lot 75 of Lakewood Village, same being a point on the west right-of-way line of the said Lakewood Drive, from which a 3/8-inch iron rod found, being a point of tangency on the east right-of-way line of the said Lakewood Drive, same being a point of tangency on the west line of Lot 4, Block A of the said Lakewood Village, bears N 14° 48' 58" W, a distance of 354.98 feet and N 75° 11' 02" W, a distance of 60.00 feet;

THENCE, leaving said south line of Lot 75 of Lakewood Village, continuing over and across the said 43.32 acre tract, with the said west right-of-way line of Lakewood Drive, the following three (3) courses and distances:

1. S 14° 48' 58" E, a distance of 20.19 feet to a calculated point at a point of curvature,
2. with a curve to the right having a radius of 603.82 feet, a central angle of 09° 59' 52" and an arc length of 105.36 feet, along the chord bearing S 09° 49' 02" E, a chord distance of 105.23 feet to a calculated point at a point of tangency, from which a 1 3/4-inch iron pipe found, being a point of tangency on the said east right-of-way line of Lakewood Drive, same being a point of tangency on the west line of Lot 3, Block A of the said Parkhill, bears N 85° 10' 54" E, a distance of 60.00 feet, and

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3. S 04° 49' 06" E, a distance of 345.92 feet to a calculated point, being the intersection of the said west right-of-way line of Lakewood Drive and the north right-of-way line of RM Highway 2222, from which an iron rod found in concrete, being the intersection of the said east right-of-way line of Lakewood Drive and the said north right-of-way line of RM Highway 2222, same being the southwest corner of Lot 6, Block A of the said Parkhill, bears S 72° 53' 58" E, a distance of 64.68 feet;

THENCE, leaving the said west right-of-way line of Lakewood Drive, continuing over and across the said 43.32 acre tract, with the said north right-of-way line of RM Highway 2222, N 72° 53' 58" W, a distance of 269.32 feet to a concrete monument found, being the intersection of the said north right-of-way line of RM Highway 2222 and the said east right-of-way line of State Highway Loop 360;

THENCE, leaving the said north right-of-way line of RM Highway 2222, over and across, consecutively, the said 43.32 acre tract and the said 260 acre tract, with the said east right-of-way line of State Highway Loop 360, the following seven (7) courses and distances:

1. N 59° 26' 47" W, a distance of 427.04 feet to a concrete monument found,
2. N 24° 18' 12" W, a distance of 89.75 feet to a concrete monument found,
3. N 15° 08' 18" E, a distance of 462.64 feet to a concrete monument found,
4. N 01° 28' 16" E, a distance of 885.09 feet to a concrete monument found, being 190 feet left of the State Highway Loop 360 centerline station 339+00,
5. N 06° 15' 33" W, a distance of 203.87 feet to a concrete monument found,
6. N 05° 04' 31" E, a distance of 713.98 feet to a concrete monument found at a point of curvature, being 150 feet left of the State Highway Loop 360 centerline station 329+85.8, and

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7. with a curve to the right having a radius of 1759.27 feet, a central angle of  $18^{\circ} 32' 54''$  and an arc length of 569.52 feet, along the chord bearing  $N 14^{\circ} 20' 58'' E$ , a chord distance of 567.04 feet to the POINT OF BEGINNING, containing 18.82 acres of land.

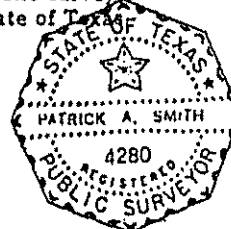
THE STATE OF TEXAS I  
COUNTY OF TRAVIS I KNOW ALL MEN BY THESE PRESENTS:

That I, Patrick A. Smith, a Registered Public Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the  
27<sup>TH</sup> day of JUNE, 1985, A.D.

ESPEY, HUSTON & ASSOCIATES, INC.  
Engineering & Environmental Consultants  
P.O. Box 519  
Austin, Texas 78767

  
Patrick A. Smith  
Registered Public Surveyor  
No. 4280 - State of Texas



PO#: 960613J

Ad ID#: 72QZ01400

Acct #: 4992499

**Austin American-Statesman**

Acct. Name: City Clerk

**AFFIDAVIT OF PUBLICATION**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared:

David DeVargas

Classified Advertising Agent of the *Austin American-Statesman*, a daily newspaper published in said County and State that is generally circulated in Travis, Hays, Burnet and Williamson Counties, who being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit:

Date (s): July 3, 1996

Class: 9980 Lines: 46 Cost: \$113.16

and that the attached is a true copy of said advertisement.

*[Signature]*

SWORN AND SUBSCRIBED TO BEFORE ME, this the 3rd day of July 1996.



*[Signature]*  
Notary Public in and for  
TRAVIS COUNTY, TEXAS

Sharon Janak  
(Type or Print Name of Notary)

My Commission Expires: 11/10/99

305 South Congress Avenue, P.O. Box 670, Austin, Texas 78767-0670 • 512-445-3500

ORDINANCE NO. 960613-J  
AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR DEVELOPMENT OF FIVE (5) TRACTS OF LAND, TRACT 1: BEING 153.75 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, BEING MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-020; TRACT 2: BEING A 21.59 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; TRACT 3: BEING .4970 ACRES, MORE OR LESS, OUT OF JAMES JETT SURVEY NO. 1, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-022; TRACT 4: BEING 9 ACRES, MORE OR LESS, OUT OF T.J. CHAMBERS SURVEY, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-023; AND TRACT 5: BEING 26 ACRES, MORE OR LESS, OUT OF THE JAMES JETT SURVEY NO. 1 AND THOMAS JEFFERSON CHAMBERS GRANT, MORE PARTICULARLY DESCRIBED IN CITY APPLICATION NO. C-81-87-024; GRANTING A SPECIAL EXCEPTION UNDER DIVISION 3 OF ARTICLE V OF CHAPTER 131, ARTICLE 1 OF CHAPTER 13-1, AND ARTICLE V OF CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; IMPOSING WATER QUALITY PROTECTIONS ON DEVELOPMENT OF THE PROPERTY; WAIVING THE REQUIREMENTS OF SECTIONS 2-2-3, 2-2-5, 2-2-7, 13-1-301 AND 13-1-302 OF THE AUSTIN CITY CODE OF 1992, AS AMENDED; ESTABLISHING AN EXPIRATION DATE; AND ESTABLISHING AN EFFECTIVE DATE.  
MAYOR BRUCE TODD  
AUSTIN, TEXAS

# Exhibit D

ORDINANCE NO. 840301-F

AN ORDINANCE AMENDING CHAPTER 9-10 (RIVERS, LAKES AND WATERCOURSES) OF THE AUSTIN CITY CODE OF 1981; ADOPTING NEW STANDARDS FOR SITE DEVELOPMENT IN THE LAKE AUSTIN WATERSHED; DESIGNATING THE SAME AS A NEW DIVISION 5 OF ARTICLE V (SPECIAL REQUIREMENTS FOR SITE DEVELOPMENT AND USE IN WATER QUALITY RELATED ENVIRONMENTALLY SENSITIVE AREAS) OF SAID CHAPTER 9-10; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. That a new Division 5, Article V be and is hereby added to Chapter 9-10 of the Austin City Code of 1981 which shall read as follows:

DIVISION 5. LAKE AUSTIN WATERSHED

PART A. General Provisions

Sec. 9-10-356. Findings and Objectives.

(a) The City Council hereby makes the following findings:

- (1) The City Council is the trustee of the natural environment and recreational potential of Lake Austin for future generations of Austinites;
- (2) The Lake Austin Watershed, compared to other watersheds within Austin's jurisdiction, is mostly undeveloped;
- (3) The Lake Austin Watershed, due to abrupt topography, thin and easily disturbed soil, natural springs, unique biotic communities, and sparse but significant vegetation, is different from other watersheds within Austin's jurisdiction;
- (4) Lake Austin is a primary source of Austin's water supply;
- (5) The continued economic growth of Austin is enhanced by recreational opportunities in close proximity to Lake Austin;
- (6) Lake Austin, as an integral part of the Highland Lakes, is a significant source of pride and attraction, and the lake and its environment must be preserved and protected to promote Austin's economic well being;
- (7) Lake Austin is one of the most significant sources of public recreation for Austinites, and must be



- protected in order to preserve the health and welfare of Austin citizens;
- (8) Lake Austin is comparatively shallow and narrow, and thus extremely vulnerable to pollution and sedimentation resulting from development activities within its watershed which are not related to single sources of pollution;
  - (9) The Lake Austin Watershed is undergoing rapid development;
  - (10) If the Lake Austin Watershed is not developed in a sensitive and innovative manner, the recreational benefits of Lake Austin will be irreparably damaged.
- (b) The City Council further finds that minimum standards should be adopted as an application of the general principles for conservation and development that are embodied in the Lake Austin Growth Management Plan, which principles are intended to protect the water quality of Lake Austin as a source of the City's drinking water and a recreational resource, and to encourage innovative planning and design of urban development which responds to the unique and sensitive environments of the Lake Austin Watershed, the purposes of which standards are:
- (1) To avoid or compensate for increases in soil erosion and sedimentation during and after construction activities;
  - (2) To avoid or compensate for increases in runoff volumes and velocities;
  - (3) To prevent indiscriminate stripping of vegetation and unnecessary loss of soils;
  - (4) To mitigate increases in the pollutant concentrations and total pollutant loading of runoff drainage;
  - (5) To prevent structural deficiencies or failures of buildings built on slopes or on earthen fill;
  - (6) To prevent construction activity that may precipitate mass movement, slumping, or erosion of land surfaces; and,
  - (7) To prevent unacceptable wastewater discharges from reaching Lake Austin.

Sec. 9-10-357. Application of Division and Coordination with Other Ordinances.

- (a) This division sets out special requirements for the development of land located in the Lake Austin Watershed,

which for the purposes of this division shall mean all land within the following boundaries:

BEGINNING at the intersection of the centerline of State Highway 71 with the centerline of Farm-to-Market Road 620, for the most southerly southwest corner of the herein described tract of land;

THENCE, with said centerline of State Highway 71 in a southeasterly direction to a point in the centerline of Bee Caves Road;

THENCE, with said centerline of Bee Caves Road in an easterly direction to a point in the southerly prolongation of the east right-of-way line of Capitol of Texas Highway South;

THENCE, with said east right-of-way line of Capitol of Texas Highway South and its southerly prolongation in a northerly direction to a point in the present corporate limit line of West Lake Hills;

THENCE, with said present corporate limit line of West Lake Hills in a northerly, easterly and southerly direction to a point in the present corporate limit line of the City of Austin as adopted by ordinance dated July 29, 1976;

THENCE, continuing with the present corporate limit line of West Lake Hills, same being said present corporate limit line of the City of Austin as adopted by ordinance dated July 29, 1976, in a southeasterly direction to the corporate limit line of the City of Austin, same being a contour line along Lake Austin whose elevation is 504.9 feet above mean sea level;

THENCE, with said present corporate limit line of the City of Austin, same being said 504.9 contour line of Lake Austin, in an easterly and southerly direction to a point on the north face of Tom Miller Dam;

THENCE, with said north face of Tom Miller Dam in an easterly direction to a point in a line whose elevation is 492.3 feet above mean sea level;

THENCE, with said contour line whose elevation is 492.3 feet in an easterly and northerly direction to a point in the westerly prolongation of the centerline of Windsor Road;

THENCE, with the centerline of Windsor Road and its westerly prolongation in an easterly direction to a point in the Ridge Line of the Lake Austin Watershed;

THENCE, with said Ridge Line of Lake Austin Watershed in a northerly direction to a point in the reference line of U.S. Highway 183, for the most easterly corner of the herein described tract of land;

THENCE, with the reference line of U.S. Highway 183 in a northwesterly direction to a point in the Travis and Williamson County Lines;

THENCE, with said county line of Travis and Williamson Counties in a westerly direction to a point in the centerline of Farm-to-Market Road 620, for the most northerly corner of the herein described tract of land;

THENCE, with said centerline of Farm-to-Market Road 620 in a southwesterly direction to the point of beginning.

The boundaries of the Lake Austin Watershed are also depicted for purposes of illustration on the map attached hereto and made a part hereof as Exhibit "A". Copies of such map shall be available for inspection at the offices of the City Clerk, Planning Department and Public Works Department. All questions concerning the exact boundary lines of the Lake Austin Watershed as herein described and as shown on such Exhibit "A" shall be determined by the Director of Public Works.

- (b) A person wishing to develop land in the Lake Austin Watershed must comply both with these special requirements and with the requirements of such other provisions of this Chapter as may be applicable in the given case. When the land being developed is located partially within and partially beyond the Lake Austin Watershed, this division shall apply only to that portion of the land within the Lake Austin Watershed.
- (c) In case of conflict between the requirements of this division and any other ordinance, the requirements of this division govern.
- (d) The Director of Public Works, in cooperation with the Directors of Planning and Environmental Management, shall design and administer a system, including necessary forms, that coordinates the requirements of both this division and the other provisions of this Chapter and Chapter 13-3, minimizes duplication of requirements and conflict between same and facilitates the expeditious processing of site development permit applications.

Sec. 9-10-358. Exemptions From Division.

- (a) The requirements of this division shall not apply to the construction of single-family or duplex residential housing structures or appurtenances thereto where only

one such structure is built per legal lot, tract or parcel.

- (b) The requirements of this division shall not apply to development of land in lawfully platted subdivisions which were specifically exempted from Ordinance No. 831020-H.
- (c) The requirements of this division shall not apply to development of land in lawfully platted subdivisions which were approved under the City of Austin's special requirements for the subdivision of land in the Lake Austin Watershed which were in effect prior to the adoption of Ordinance No. 831020-H.
- (d) Development exempt from this division under (b) or (c) above shall be governed by the rules and requirements of City of Austin Ordinance No. 800103-N. Applications for site development permits on file on the effective date of this division shall be governed by the Lake Austin Watershed Site Development Ordinance in effect on the date of application. Provided, however, in no case shall any prior ordinance be applied in such a manner as to exempt any lot, tract, parcel or other land from the cut and fill limitations of Sec. 9-10-409.

Sec. 9-10-359. Exemption From Waterway Development Permit.

No waterway development permit is required where a site development permit has been issued for a site within the city limits, such site development permit has become effective and where all requirements of Article IV, Division 2 of this Chapter are met.

Sec. 9-10-360. Definitions.

- (a) The definitions in Section 9-10-1 of this Chapter also apply to this division insofar as they do not conflict with the definitions contained herein.
- (b) In this division the terms set forth in this section shall have the following meanings:

Commercial Development: Development for uses other than residential.

Development: Buildings and other structures; construction and excavation, dredging, grading, filling, and clearing or removing vegetation.

Impervious Cover: Roads, parking areas, buildings and other impermeable construction covering the natural land surface shall be considered as impervious cover. Water quality basins, swales, peak shaving detention ponds, and

other conveyances for drainage (excluding roadways, curb and gutter) shall not be calculated as impervious cover.

Individual On-Site Wastewater System: A system of on-site wastewater treatment for an individual lot, including but not limited to: septic tanks and drainfields, evapotranspiration systems, aerobic systems, and pressure-dosing trench fields and other approved innovative systems.

Multi-Family Development: Residential development other than detached single-family dwellings or duplexes on an individual lot.

Spoil: Material such as rocks, dirt, vegetation, debris, etc. generated as a result of development.

Sec. 9-10-361. Certification of Plans and Specifications.

No plans and specifications called for in this division shall be accepted, reviewed, or approved by the Director of Public Works unless accompanied by the certification of a registered Texas professional engineer that:

- (1) The development plan is complete;
- (2) The technical data are accurate; and,
- (3) The requirements of this division are met.

Sec. 9-10-362. Inspections.

Any person who has filed a site development plan for approval pursuant to this division shall agree to allow entry on the land or premises which is the subject of such application for the purpose of inspection of conditions on the premises by duly authorized agents and employees of the City, as may be necessary to assure compliance with this division.

Sec. 9-10-363. Certificate of Compliance or Occupancy.

No City utilities may be connected to a site unless a certificate of compliance is issued by the Department of Public Works when the development is completed pursuant to requirements of this division for areas outside the city limits or until the Building Inspection Department issues a certificate of occupancy with the written concurrence of the Director of Public Works for areas within the City limits. Requests by the developer/owner for a certificate of compliance or occupancy for development other than single-family or duplex residential housing construction shall be accompanied by a certificate prepared and signed by a registered professional engineer attesting to the completion

of the project in substantial conformance with the site development permit.

Sec. 9-10-364. Penalty for Violations.

Any person violating any of the provisions of this division, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00). Each day that the violation continues shall constitute a separate offense.

Sec. 9-10-365. Other Remedies for Violations.

- (a) When the Director of Public Works determines that there has been noncompliance with any material terms, condition, requirement or agreement under this division, the person developing pursuant to an approved site development permit shall be ordered in writing to cease and desist from further development or construction relevant to the alleged noncompliance until corrected by compliance. Said person may appeal an order to cease and desist to the Director of Public Works by giving written notice. Said director shall hear the appeal within ten (10) working days of receiving such notice. Said person may appeal in writing a negative ruling by the director to the Planning Commission, which shall hear the appeal at the next regular subdivision meeting following receipt of the notice.
- (b) The City shall bring suit in a court of competent jurisdiction to restrain and enjoin any person who attempts to carry out any plan for development and construction without first obtaining approval of said plan as required by the law and the ordinances of the City or any person who fails to cease and desist from further development or construction under subsection (a) above.
- (c) Any right, privilege or remedy granted by this division to the person obtaining or holding plat or plan approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this division shall also inure as to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the directions of any of the foregoing, or under color of the same.

Sec. 9-10-366. - 9-10-369. Reserved.

PART B. Site Development Permit

## Sec. 9-10-370. Required.

No development shall be undertaken on any land, tract, parcel or lot within the Lake Austin Watershed until the effective date of a site development permit for said development issued by the Director of Public Works.

## Sec. 9-10-371. Application.

Application for a site development permit shall be submitted to the Director of Public Works and shall be accompanied by a site development plan. The application and site development plan shall contain the following information unless the Director of Public Works determines that due to the scope and nature of the proposed development some of the information is unnecessary:

- (a) The date, scale, north point and key plan showing the location of the tract on which the development is to take place. The minimum scale of site plans shall be one inch equals forty (40) feet. All accompanying maps and plans shall be to a comparable scale.
- (b) The existing boundary lines and acreage of the tract on which the development is to take place, and the common boundary lines and names of the owners of adjacent properties.
- (c) The location and maximum height and depth of all proposed cuts and fills in excess of four (4) feet.
- (d) The limits of the one-hundred (100) and twenty-five (25) year flood plains, based on existing conditions, of all creeks and major drainage channels prior to any alteration of land assuming fully developed watershed conditions exist.
- (e) A description of the structure types or uses proposed, and total percentage of proposed and existing impervious cover on the site.
- (f) A slope map drawn from available topographic material which shall separate the proposed development site into the following four slope classes:
  - (1) Slopes of greater than thirty-five (35) percent gradient;
  - (2) Slopes of greater than twenty-five (25) and up to thirty-five (35) percent gradient;

- (3) Slopes of greater than fifteen (15) and up to twenty-five (25) percent gradient; and,
  - (4) Slopes less than fifteen (15) percent gradient.
- (g) A display of data which shall show the following information.
- (1) The land area calculated in acres for each slope class within the site as delineated on the slope map.
  - (2) The total maximum area of impervious surfaces proposed in the development within each slope class. The total area shall be separated into areas of streets, off-street parking, commercial areas, multi-family areas, tennis courts and other recreational areas, and other residential areas. All pedestrian sidewalks within street rights-of-way, or parallel to the private streets shall be included in the impervious cover calculations, but shall be excluded from the impervious cover limitations of this division.
- (h) A topographic map, with two foot contour intervals, meeting national map accuracy standards, showing:
- (1) Existing topographic features including faults, fractures, sinkholes, and bluffs;
  - (2) The location of all temporary and permanent runoff detention basins, constructed and altered waterways, rock and brush berms, and other structural facilities to be installed to comply with the erosion and sedimentation control guidelines;
  - (3) All roadways;
  - (4) The proposed building site(s);
  - (5) Building setback lines as may already be lawfully established or as may be proposed;
  - (6) For commercial sites a vegetative survey which shows the approximate location and identifies all significant plant material on the site;
  - (7) Drainage easements;
  - (8) Wastewater drain fields, if applicable.



- (i) A drainage study to address the purposes and design criteria set forth in part E of this division and which shall include, among other pertinent information, the following:
  - (1) The justification to use enclosed storm sewers if they are being proposed;
  - (2) For developments within the City limits or developments within subdivisions approved by the City when a Waterway Development Permit was required for such subdivision approval, Waterway Development Permit information which, in addition to the information otherwise required by this Chapter, shall include:
    - a. The location of all drainage easements;
    - b. Location and description of any drainage structures;
    - c. The location of the twenty-five (25) and one-hundred (100) year flood plains;
    - d. Effect of development on adjacent and downstream property;
    - e. Detention requirements;
    - f. Building slab elevations;
    - g. Effect of the project on the natural and traditional character of the waterway.
  - (3) Plans and specifications detailing structural water quality and quantity controls.
- (j) A grading and erosion-sedimentation control plan. The data requirements for this plan shall include:
  - (1) The location and description of existing topographic features and soil characteristics of the site using best available information;
  - (2) A description of proposed changes to the site;
  - (3) A description of measures which shall be taken for the control of soil erosion and sedimentation;
  - (4) Restoration/slope stabilization techniques, including vegetative types, and acceptability note stating the degree of restoration expected at the time of restoration acceptance by the City;
  - (5) A sequencing of construction.
- (k) An indication of possible disposal sites of all excess spoil and the probable depth and origin of the fill material. For each plan, an environmental assessment

provided by the applicant shall address the following items:

- (1) Estimated quantities of excess material requiring disposal;
  - (2) Alternative sites for spoil disposal, including on-site locations, other sites within the Lake Austin Watershed and sites outside of the Lake Austin Watershed if proposed;
  - (3) A proposed location (s) for spoil disposal and justification in light of the alternatives above, environmental considerations, and public benefits to be provided;
  - (4) A description of the dimensions of the fill, restoration measures proposed and provisions for drainage.
  - (5) The location of haul roads to and from the site.
- (l) An indication of proposed joint-use driveways as provided by Sec. 9-10-405.
  - (m) Such restrictive covenants, easements or contracts as may be necessary and appropriate to ensure adequate property owner maintenance of water quality basins under subsection 9-10-389 and/or to facilitate the use of joint-use driveways under Sec. 9-10-405.
  - (n) The name and address of the person or entity to whom notice shall be given after a City conducted construction phase inspection has been made.
  - (o) Variance requests.

Sec. 9-10-372. Fee.

Applications for permits required by the provisions of this division shall be accepted only upon payment of the appropriate fee as established by ordinance.

Sec. 9-10-373. Burden of Proof.

An applicant for a site development permit under this division must establish that his/her plans comply with the requirements of this division and with other applicable requirements of this chapter.

Sec. 9-10-374. Advertising Application.

- (a) Within two (2) days of the filing of any application for a site development permit, the City shall place signs on

property under application for the purposes of advertising said permit. The signs shall meet the following requirements:

- (1) Each sign shall be no smaller than eighteen (18) inches by thirty (30) inches.
  - (2) Each sign shall include the words "Proposed Site Development Permit", plus such other information as may be determined necessary by the Director of Public Works.
- (b) Signs placed on the property involved must be within ten (10) feet of any property line paralleling any established or proposed street and must be visible from that street.
- (c) All required signs shall remain on the property until final disposition of the permit request is determined.

Sec. 9-10-375. Review of Application.

- (a) On receipt of an application for a site development permit, accompanied by the correct filing fee, the Director of Public Works shall file the application and send a copy to the Director of Environmental Resource Management for review and recommendations. The Director of Public Works may not act on an application (except to deny or request more information) until he or she receives a report on the application from the Director of Environmental Resource Management.
- (b) The Director of Environmental Resource Management shall review the application and send a written report thereon to the Director of Public Works within fifteen (15) working days after the date on which the application was filed. Included in such report shall be the recommendation of the Director of Environmental Resource Management to:
- (1) Grant the permit; or
  - (2) Deny the permit; or
  - (3) Disapprove the permit pending the receipt of additional information.

Sec. 9-10-376. Action on Application.

- (a) The Director of Public Works must grant the permit, deny the permit, or disapprove the permit with the request for additional information within twenty (20) working days after the date on which the application was filed.

- (b) If the Director denies the permit or disapproves the permit with the request for additional information, he or she must within the twenty working day period notify the applicant of the denial or disapproval and explain each ground of denial or describe the additional information requested, in either case identifying the requirements of this Chapter that justify the denial or necessitate additional information.
- (c) If the Director of Public Works does not deny or disapprove the permit, within the time period and in the manner specified in subsections (a) and (b), the permit is automatically granted on the twentieth working day after the date on which the application was filed.
- (d) A site development permit is effective on the tenth working day after the date on which it is granted unless an appeal is timely delivered under Section 9-10-378.

Sec. 9-10-377. Variances.

- (a) Variances from the terms of this division may be granted by the Planning Commission only if it is found that, because of special circumstances applicable to the property involved, a strict application deprives such property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where such conditions are found the variance permitted shall be the minimum departure necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. Provided, however, in no case may a variance be granted that will provide the applicant with any special privileges not enjoyed by other similarly situated properties with similarly timed development. Provided, further, that the Planning Commission shall have no authority to grant a variance based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after October 20, 1983. The Planning Commission may consider written reports from appropriate City departments and may request such further information from City departments which is relevant and necessary to its decision.
- (b) The Planning Commission shall justify the grant or denial of a variance in writing for the application file.
- (c) The Director of Public Works shall prepare and maintain in the Public Works Department for public inspection:
  - (1) A written summary of variances granted and denied under subsection (a); and

- (2) The contents of the files, including the appeal record if there was an appeal, for each variance acted on by the Planning Commission.

Sec. 9-10-378. Appeal to city Council.

- (a) Any person may appeal in writing to the City Council the grant or denial (but not disapproval pending the receipt of additional information) of a site development permit under Section 9-10-376 or the grant or denial of a variance under Section 9-10-377. The appeal must be delivered to the Director of Public Works on or before the ninth working day after the date on which the permit or variance was granted or denied.
- (b) On receipt the Director of Public Works shall deliver the appeal, together with the permit application file to the City Clerk for placing on the Council agenda. The City Clerk shall notify the appellant, the applicant (if different), and the Directors of Public Works and Environmental Resource Management of the hearing date.
- (c) The City Council must decide the appeal at a public hearing on or before the thirtieth day after the date on which the appeal was filed with the Director of Public Works. If both the grant or denial of a permit, or the grant or denial of a variance for the same site area are appealed, or if there are multiple appeals of the same grant or denial, the Council shall decide them at the hearing.
- (d) The appellant has the burden of proof on appeal and the Council must decide the appeal solely on the basis of the permit application file, the written appeal, the written response to the appeal, if any, from the applicant, oral argument at the Council hearing, written reports from appropriate City departments and such further information which is relevant and necessary to the Council's decision as may be requested from appropriate City departments by the Council.
- (e) After considering the appeal the Council may affirm the grant or denial, reverse it, or modify it to comply with the requirements of this division.

Sec. 9-10-379. - 9-10-380. Reserved.

PART C. Impervious Cover Limitations

## Sec. 9-10-381. Purpose.

Impervious cover must be limited to reduce and compensate for the impacts of erosion, reduce the volume and rate of runoff, attenuate the harm of contaminants collected and transported by stormwater, and reduce the quantity of wastewater effluent discharged within the Lake Austin Watershed, the primary source of drinking water for the City of Austin.

## Sec. 9-10-382. Prohibited on Steep Slopes.

No impervious cover except for roads shall be permitted on slopes over thirty-five (35) percent gradient.

## Sec. 9-10-383. Multi-Family Residential Development.

- (a) No development of land for multi-family residential purposes shall create impervious cover exceeding the following limitations within each slope category:
- (1) Forty (40) percent impervious cover on slopes under fifteen (15) percent gradient;
  - (2) Ten (10) percent impervious cover on slopes of fifteen (15) to twenty-five (25) percent gradient;
  - (3) Five (5) percent impervious cover on slopes of over twenty-five (25) and up to thirty-five (35) percent gradient.
- (b) The transfer of allowable impervious cover from slopes in excess of fifteen (15) percent gradient to slopes under fifteen (15) percent gradient and to slopes of fifteen (15) to twenty-five (25) percent gradient shall be permitted within individual lots, tracts or parcels. In such cases of transfer, the impervious cover allowed on slopes under fifteen (15) percent gradient may be permitted to exceed forty (40) percent but shall not exceed fifty (50) percent; and in such cases of transfer the impervious cover allowed on slopes of fifteen (15) to twenty-five (25) percent gradient may be permitted to exceed ten (10) percent but shall not exceed fifteen (15) percent (see Transfer Table).

Transfer Table Multi-Family

<u>Slope Category</u>	<u>Standard Impervious Cover Limit</u>	<u>Max. Impervious Cover With Transfer</u>
Under 15% gradient	40%	50%
15-25% gradient	10%	15%
25-35% gradient	5%	5%

- (c) Notwithstanding any of the foregoing, however, impervious cover allocations, limitations, restrictions or transfers imposed on land as a result of the process of subdividing the land under the City of Austin's special requirements for subdivision in the Lake Austin Watershed shall be controlling when in conflict with the provisions of this section.

## Sec. 9-10-384. Commercial Development.

- (a) No development of land for commercial purposes shall create impervious cover exceeding the following limitations within each slope category:

- (1) Sixty-five (65) percent impervious cover on slopes under fifteen (15) percent gradient;
- (2) Fifteen (15) percent impervious cover on slopes of fifteen (15) to twenty-five (25) percent gradient;
- (3) Five (5) percent impervious cover on slopes of over twenty-five (25) and up to thirty-five (35) percent gradient.

- (b) The transfer of allowable impervious cover from slopes in excess of fifteen (15) percent gradient to slopes under fifteen (15) percent gradient shall be permitted within individual lots, tracts or parcels. In such cases of transfer, the impervious cover allowed on slopes of under fifteen (15) percent gradient may be permitted to exceed sixty-five (65) percent but shall not exceed seventy (70) percent; and in such cases of transfer the impervious cover allowed on slopes of fifteen (15) percent to twenty-five (25) percent gradient may not be permitted to exceed ten (10) percent (see Transfer Table).

Transfer Table Commercial

<u>Slope Category</u>	<u>Standard Impervious Cover Limit</u>	<u>Max. Impervious Cover With Transfer</u>
Under 15% gradient	65%	70%

15-25% gradient	15%	10%
25-35% gradient	5%	5%

- (c) Notwithstanding any of the foregoing, however, impervious cover allocations, limitations, restrictions or transfers imposed on land as a result of the process of subdividing the land under the City of Austin's special requirements for subdivision in the Lake Austin Watershed shall be controlling when in conflict with the provisions of this section.

Sec. 9-10-385. - 9-10-386. Reserved.

#### PART D. Structural Water Quality Controls

Sec. 9-10-387. Compliance.

All developments of land within the Lake Austin Watershed with projected impervious cover exceeding eighteen (18) percent on slopes of twenty-five (25) percent gradient and under shall comply with the provisions of this Part D. in addition to other requirements of this division.

Sec. 9-10-388. Water Quality Detention-Sedimentation Basins.

- (a) Water quality detention-sedimentation basins which release all water through a filter medium shall be situated and constructed to capture and hold at least the first one-half inch ( $\frac{1}{2}$ " ) of runoff from all impervious cover.
- (b) Water quality detention-sedimentation basins shall not be required for greenbelts, open space, golf courses and other similar uses, provided, however that if golf courses are irrigated with effluent, water quality detention-sedimentation basins which release all water through a filter medium shall be situated and constructed to capture and hold at least the first one-half inch ( $\frac{1}{2}$ " ) of runoff from such area. The runoff coefficient for such detention-sedimentation-filtration basins shall be determined under wet conditions.
- (c) The basins and drainage into the basins shall be designed to capture and isolate the first flush runoff. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the Drainage Criteria Manual.



- (d) The design of all detention-sedimentation basins shall allow an average resident time of twenty-four (24) hours for the first one-half inch ( $\frac{1}{2}$ " ) of runoff.
- (e) Input to and release from detention basins shall utilize grass-lined swales and/or overland flow dispersion measures where feasible.
- (f) Water quality and peak shaving basins shall not be located in waterways, draws or ravines. Exceptions to this may be considered if:
  - (1) A regional facility is being proposed which will minimize the total disturbance or damage which would otherwise result from the construction of several smaller facilities; or,
  - (2) An environmental assessment illustrates that the impact of locating the facility in the waterway will be substantially less than keeping such a facility out of the waterway. The assessment shall be prepared by the applicant and reviewed and commented on by Environmental Resource Management prior to Public Works Department approval. Such assessment shall consider the intrinsic value of leaving waterways in an undisturbed state if the associated vegetation, slopes, grade, rock outcropping and other qualities make them worthy of preservation in their natural state.
- (g) Regional basins for use by many different property owners and properties are encouraged.

Sec. 9-10-389. Maintenance.

- (a) All basins and their appurtenances required for commercial and multi-family development shall be maintained by the property owner.
- (b) The basins shall be cleaned at least every twenty-four (24) months. Ponds shall be inspected every twelve (12) months, at least every June through August. Exceptions may be made by Directors of Public Works and Environmental Resource Management for basins requiring more or less frequent cleaning.

In the event that any basins need cleaning more than twice in each calendar year, the Planning Commission shall review and approve such additional requirement.

- (c) The maintenance required above shall be to the standards and specifications contained in this division and other ordinances and resolutions of the City and shall retain the effectiveness of each design feature.

Sec. 9-10-390. - 9-10-391. Reserved.

PART E. Drainage

Sec. 9-10-392. Natural Drainage and Overland Sheet Flow.

The objective of the drainage plan shall be to utilize the natural drainage patterns of the area. Overland sheet flow shall be maintained wherever possible and the dispersion of runoff back to sheet flow shall be a primary objective of drainage design for the site, as opposed to concentrating flows in storm sewers and drainage ditches. Drainage design standards shall be implemented based on engineering and environmental considerations to meet the above requirements.

Sec. 9-10-393. Reserved.

PART F. Construction on Steep Slopes

Sec. 9-10-394. Building Foundations on Steep Slopes.

- (a) All building foundations on slopes of fifteen (15) percent gradient and over and on fill placed upon slopes fifteen (15) percent gradient and over must utilize design and construction practices certified by a registered professional engineer qualified to practice in this field.
- (b) No buildings shall be constructed on slopes in excess of thirty-five (35) percent gradient.

Sec. 9-10-395. Reserved.

PART G. Roadways

Sec. 9-10-396. Roadway Locations.

- (a) Roadways, whether public or private, shall not be constructed on terrain with a gradient of greater than twenty-five (25) percent except where it is necessary to do so in order to provide primary access to an area of terrain with slope of less than twenty-five (25) percent gradient. In determining whether a roadway should be placed on a slope of over twenty-five (25) percent gradient, factors to be taken into consideration shall include the size of the area of less than twenty-five (25) percent gradient proposed to be accessed, distance over which the roadway shall be on a slope of greater

than twenty-five (25) percent gradient, and the availability of alternative roadway alignments which would eliminate or minimize the amount of roadway located on slopes of greater than twenty-five (25) percent gradient.

- (b) Roadway locations shall be based on the need to preserve topographic features and to minimize to the maximum extent feasible the construction of roadway cuts and fills as well as a professional engineering analysis of generally accepted geometric standards for vehicular and pedestrian safety.

Sec. 9-10-397. Clearing for Roadways.

- (a) Clearing for road construction shall not be permitted before the effective date of the approved site development permit. Minimal clearing for the purposes of surveying and testing may be permitted, however, provided significant natural ground cover is not removed.
- (b) Roadway clearing width shall not exceed twice the roadway surface width or the width of the dedicated right-of-way, whichever is less. Right-of-way widths shall not be increased to provide additional clearing under this provision. Such roadway clearing width may be varied by the Planning Commission where, in the Commission's opinion, unusual topographic conditions necessitate such a variance. Clearing for short run road (300 feet or less) construction problem areas may be increased to two and one-half times the roadway width, right-of-way permitting. In cases where, due to slopes, clearing activities would normally result in cleared materials sliding onto areas beyond the clearing widths specified above, retaining walls or other methods shall be utilized to prevent such sliding.

Sec. 9-10-398. Cut and Fill for Roadways.

Cut and fill sections for roadways shall not exceed allowable roadway clearing widths.

Sec. 9-10-399. Roadway Standards.

- (a) Roadway standards, other than pavement and construction standards, may be varied by the Planning Commission for areas located within the Lake Austin Watershed after the Commission has considered:
  - (1) Reports from the Directors of the Departments of Public Works, Urban Transportation, and Environmental Management, in which the adequacy of proposed alternative standards have been assessed;

- (2) The developer's written justification for the variance; and,
  - (3) The developer's preliminary plans for the streets proposed to be built under the proposed variances.
- (b) Low density alternative urban street standards, as provided by Section 13-3-155 through 13-3-159 of this Code may be used in the Lake Austin Watershed.

Sec. 9-10-400. Completion of Roadways.

The length of time between roughcutting and final surfacing of roadways may not exceed eighteen (18) months. If an applicant does not meet this deadline, the Director of Public Works shall notify him in writing that the City will complete the streets or revegetate the disturbed area at his expense unless he does so within sixty (60) days after the date of the notice.

Sec. 9-10-401. - 9-10-403. Reserved.

PART H. Driveways

Sec. 9-10-404. Location and Design.

Every lot shall be reasonably accessible by vehicle from the roadway to the probable building site. For a minimum travel distance of twenty-five (25) feet from the roadway edge, the driveway grade may exceed fourteen (14) percent only with specific approval of surface and geometric design proposals by the Director of the Public Works Department or his designee.

Sec. 9-10-405. Joint-Use Driveways.

A joint-use driveway may be utilized to access up to eight (8) lots, tracts or parcels as an alternative to a public or private street. For joint-use driveways, paving width shall be no less than sixteen (16) feet. Such driveways may utilize a design speed no lower than ten (10) mph. The Public Works Department shall consider the recommendations of the Department of Urban Transportation on driveway grades and length for each site prior to approving a joint-use driveway.

Sec. 9-10-406. Reserved.

PART I. Erosion and Sedimentation Control

## Sec. 9-10-407. Purpose.

The volume, rate, and quality of stormwater run-off originating from development must be controlled to prevent soil erosion and water quality degradation in the Lake Austin Watershed. Stormwater transported sediment is of primary concern because it provides a transport medium for contaminants and because excessive sedimentation can increase the dangers of flooding by reducing channel capacity and can also severely impact the vegetation and ecosystem of the waterways.

## Sec. 9-10-408. Site Disturbance Prior to Permit Approval.

Work done on the ground in preparation of site development permit approval shall be limited to surveying and testing. Areas cleared for surveying and testing shall not exceed a width of fifteen (15) feet.

## Sec. 9-10-409. Cut and Fill.

- (a) No fill on any lot, tract, parcel or other land shall exceed a maximum of four (4) feet of depth except as approved by the Director of the Public Works Department in the areas designated as permanent on-site spoils disposal sites. Fill placed under foundations with sides perpendicular to the ground, or with pier and beam construction, need not comply with this requirement.
- (b) Except for structural excavation, no cut on any lot, tract, parcel or other land shall be greater than four feet. For the purposes of this subsection, structural excavation means excavation required for construction of building foundations, but shall not include cuts for private or public roads or driveways where structural side-slope stabilization (containment) is proposed.
- (c) In all cases, slopes generated by cut and fill shall be stable, giving full consideration to soil characteristics and erosion potential. Techniques to be used are to be specified. Slopes exceeding a 3 to 1 ratio must be stabilized by permanent structural means (e.g., dry stack walls, terraces, exposed aggregate concrete walls, etc.).

## Sec. 9-10-410. Compliance with Control Measures.

- (a) Erosion and sedimentation controls as specified in the Erosion and Sedimentation Control Manual, (dated September 28, 1982) are required for all construction and development in the Lake Austin Watershed, including but not limited to, commercial and multi-family construction.

Moreover, the construction of all roads, utilities, parks, golf courses, impervious cover, water quality and detention basins; and all other activities utilizing clearing, trenching, grading, or other construction techniques shall comply with the Manual.

- (b) Final construction plans shall be accompanied by a proposed construction sequence to demonstrate an acceptable plan for erosion control during the construction period and restoration of the land after the construction period and shall be submitted to the Department of Public Works and Department of Environmental Resources Management for review. All measures for erosion control and restoration shall be performed in accordance with the Erosion and Sedimentation Control Manual.
- (c) Projects shall not be considered complete until restoration has been made, the required vegetation established, and certified by the Public Works Department for acceptance as installed.

In the event the City accepts maintenance responsibility for the streets, drainage facilities and utilities prior to completion of restoration requirements, a separate and enforceable agreement to ensure completion of all restoration requirements shall be entered into by the City of Austin and the developer.

- (d) After two (2) days written notice to the person holding approval of the plan, modifications from the approved erosion control and construction sequencing plans may be made in the field if the City inspector deems the controls or sequencing inappropriate or inadequate and has confirmed his/her findings with the Director of Public Works and the Director of the Environmental Management Department, and has their written approval.

Sec. 9-10-411. ~ 9-10-413.. Reserved.

#### PART J. Spoil Disposal

##### Sec. 9-10-414. Temporary Site Disturbances.

Clearing for the temporary storage of spoils or construction equipment shall be designated on the construction plans and shall be restored in accordance with the Erosion and Sedimentation Control Manual. The topsoil should be protected against erosion during and after the site grading operations. Where practical, the existing vegetation should be left in place or be replaced by a better grade of ground cover to protect existing or new topsoil against erosion.

## Sec. 9-10-415. Location of Spoil Sites.

Spoil disposal sites shall not be located within the one-hundred (100) year flood plain or on slopes greater than twenty (20) percent gradient unless the Planning Commission finds that a necessary public benefit is derived from the use of the spoil. Such benefits may include, but are not limited to:

- (a) Roadways approved as part of a roadway plan for the area.
- (b) Stormwater detention facilities, after consideration of reports from the Public Works Department and the Environmental Management Department.
- (c) Public or private park sites, after consideration of reports from the Environmental Management Department and the Parks and Recreation Department.

## Sec. 9-10-416. Access to Spoil Sites.

Spoil disposal sites shall be located such that reasonable access to the site is available. Access routes shall utilize existing and approved roadways wherever possible and shall not be located within waterways except where no reasonable alternative is available, or when used to construct water quality and/or peak-shaving detention basins. Plans should address the restoration of such access roads and basins.

## Sec. 9-10-417. Restoration of Spoil Sites.

Restoration shall be carried out in conformance with the Erosion and Sedimentation Control Manual, with particular emphasis on the section entitled Standards for Land Grading.

## Sec. 9-10-418. Reserved.

PART K. Other Requirements

## Sec. 9-10-419. Sanitary Sewer Line Location.

It is the intent of this section to assure that waterways are preserved in their natural state except under limited circumstances. The fragile nature of the waterways within the basin make them inherently inappropriate for use as the location for wastewater lines. While waterways may be the most economical location for sewer lines, in this case environmental constraints require that alternative locations be utilized whenever possible. This will entail the use of increased numbers of lift stations as total gravity systems may not be feasible.

Sewer lines shall not be located in waterways except upon approval of a variance from this section by the Planning Commission which shall be considered pursuant to an environmental assessment from Environmental Resource Management and the applicant evaluating the environmental impacts of alternative sewer alignments. At the request of Environmental Resource Management the applicant shall examine and evaluate alignments proposed by Environmental Resource Management prior to the Planning Commission hearing on the variance request. Approval or denial of the variance shall be based solely on the environmental impacts of the alternatives. Economic considerations should not be a significant factor. In the event it is concluded the wastewater line should be in the waterway it shall be located outside of the two (2) year flood plain.

Sec. 9-10-420. Individual On-site Wastewater Systems.

Residential lots, tracts or parcels utilizing individual on-site wastewater systems shall be at least one (1) acre in size and shall either have at least one-half ( $\frac{1}{2}$ ) acre of contiguous land with slope of less than fifteen (15) percent gradient or have at least three-quarters ( $\frac{3}{4}$ ) of an acre of contiguous land with slope of less than twenty-five (25) percent gradient. All other development utilizing on-site wastewater systems or collective systems shall comply with the applicable City and County requirements concerning same.

Sec. 9-10-421. Package Treatment Plants.

Projects utilizing wastewater package treatment plants for sewage disposal shall have at least eight-thousand (8,000) square feet of irrigated land per living unit. No irrigation shall be allowed on slopes of greater than twenty (20) percent gradient or in the one-hundred (100) year flood plain.

The applicant shall apply for an irrigation permit from the State meeting a TSS/BOD standard of no more than 15/15 or such more restrictive standard as the State may impose. Package treatment plants shall have one hundred (100) days of storage capacity available in the event of wet weather conditions or plant failure. No irrigation shall take place during wet weather conditions.

PART 2. That Sections 9-10-136 through 9-10-145 of the Austin City Code of 1981 be and are hereby deleted from said Code in their entirety.

PART 3. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected



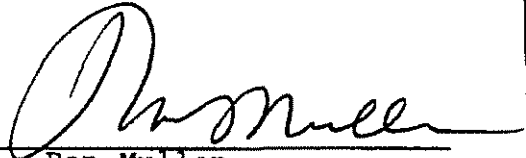
thereby, it being the intent of the City Council in adopting this ordinance that no portion thereof or provisions, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this ordinance are declared to be severable for that purpose.

PART 4. WHEREAS, the necessity to preserve the water quality of Lake Austin and the environmental integrity of the Lake Austin Watershed creates an emergency calling for immediate action to preserve the peace, health, safety and general welfare of the public, an emergency is hereby declared to exist; therefore, the rule requiring that ordinances be read on three separate days is hereby suspended, and this ordinance shall become effective immediately upon its adoption as provided by the Charter of the City of Austin.


PASSED AND APPROVED

March 1, 1984


§  
§  
§  
§

  
Ron Mullen  
Mayor

APPROVED:

  
Paul C. Isham  
City Attorney

ATTEST:

  
James E. Aldridge  
City Clerk



\* THE TERM "LAKE AUSTIN WATERSHED" IS NOT MEANT OR INTENDED TO ENCOMPASS THE LAKE AUSTIN WATERSHED IN ITS ENTIRETY, BUT ONLY THAT PORTION OF THE LAKE AUSTIN WATERSHED AS SHOWN HEREON.

BOUNDARY MAP OF THE LAKE AUSTIN WATERSHED \*  
FOR THE PURPOSES OF THE  
LAKE AUSTIN GROWTH MANAGEMENT ORDINANCES  
AS CONTAINED IN CHAPTERS 13-2 OF THE AUSTIN CITY CODE

CITY OF AUSTIN  
DEPARTMENT OF PLANNING  
JUNE 88  
K.B.R.

9-10

## EXHIBIT "A"

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS  
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the  
County of Travis, State of Texas, on this day personally appeared:

Susana Martinez,

Classified Advertising Agent of the Austin American-Statesman, a daily  
newspaper published in said County and State, who being duly sworn by  
me states that the attached advertisement was published in said newspaper  
on the following dates, to wit:

March 13, 1984

and that the attached is a true copy of said advertisement.

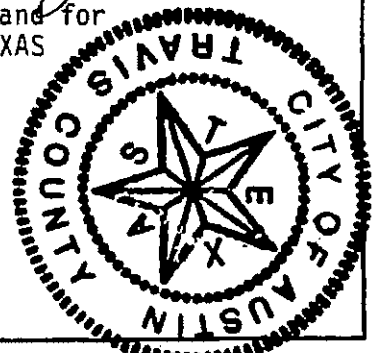
Susana Martinez

SWORN AND SUBSCRIBED TO BEFORE ME, this the 14th

Day of March A.D. 198 4.

Denise Steyer

Notary Public in and for  
TRAVIS COUNTY, TEXAS



# Exhibit E

ORDINANCE NO. 86 0116-J

AN ORDINANCE AMENDING CHAPTER 13-2A (ZONING ORDINANCE) OF THE AUSTIN CITY CODE OF 1981; PROVIDING FOR A DEFINITION OF "HILL COUNTRY ROADWAY CORRIDOR"; ADDING NEW SECTIONS 5180 - 5199; PROVIDING REQUIREMENTS AND CRITERIA FOR DEVELOPMENT WITHIN THE "HILL COUNTRY ROADWAY CORRIDOR"; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Austin is of the opinion that continued pressure for westward growth of the City shall bring an explosive on-rush of development along major highways to the west of the City; and,

WHEREAS, the City Council recognizes the potential of designated Hill Country Roadways to be an asset to the entire City and the motoring public because of their dramatic scenic qualities with magnificent views; and,

WHEREAS, it is necessary to protect and preserve the unique physical beauty of these highways so they will continue to be an attraction to tourists thereby benefitting the Capital City's economic climate; and,

WHEREAS, the City Council is concerned about traffic safety and congestion along its major highways and that the traffic capacity of Hill Country Roadways is limited; and,

WHEREAS, the environmental disruption and economic cost associated with the improvement and expansion of Hill Country Roadways is considerable and may be minimized by appropriate restrictions on land use and future development of property adjacent to Hill Country Roadways; NOW THEREFORE,

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

PART 1. That a new Section 1227 of Chapter 13-2A (Zoning) be and is hereby added to the Austin City Code of 1981 and shall read as follows:

1227 HILL COUNTRY ROADWAY CORRIDORS

The Hill Country Roadway Corridors shall consist, for each of the following roadways, of all land located within one thousand feet (1000') on each side of the dedicated public right-of-way which is within the city limits of the City of Austin or which is annexed thereto at a subsequent date.

- a. Loop 360 (U.S. 290 W. - U.S. 183)
- b. RR 2222/Bull Creek Rd. (Highland Hills Dr. - FM 620)
- c. RR 2244/Bee Cave Rd. (Loop 360 - SH 71)
- d. FM 620 (SH 71 - Anderson Mill Road)

PART 2. That new Sections 5180-5199 of Chapter 13-2A (Zoning) be and are hereby added to the Austin City Code of 1981 and shall read as follows:

5180 HILL COUNTRY ROADWAY CORRIDORS

5185 TITLE AND PURPOSES

Sections 5180 through 5199 shall be known as the Hill Country Roadway Corridors regulations and are designed to achieve the following purposes:

- a. To maintain the rugged natural beauty of the eastern edge of the Texas Hill Country as currently exists along Hill Country Roadways;
- b. To encourage development which is compatible with and, wherever possible, enhances such natural beauty;
- c. To allow people of the City of Austin to be able to live, work, and enjoy recreation within the area without reducing its natural beauty;
- d. To encourage safe and efficient traffic flow along Hill Country Roadways;
- e. To preserve the environment by providing clean air, clean water and greenbelts of natural vegetation and wildlife;
- f. To preserve the scenic character of the Hill Country Roadway Corridors and, where possible, scenic vistas from the roadways;
- g. To encourage only orderly and sensitive development as appropriate in the City's environmentally-sensitive watersheds; and,
- h. To accomplish the foregoing goals through thoughtful and cooperative planning in order to benefit all the people of Austin.

5186 APPLICATION

- a. Unless otherwise provided by this Section, in a Hill Country Roadway Corridor, notwithstanding the zoning classification, no tract shall be developed and no building shall be erected or structurally altered in violation of this Section. The provisions of this Section shall apply in addition to other ordinance requirements. In case of conflict therewith, the most restrictive provisions shall govern except as otherwise expressly provided in this Section.
- b. The site plan submitted pursuant to this Section may, at the option of the applicant, include land not located within the Hill Country Roadway Corridor.

## 5187 SITE PLAN REQUIRED

No zoning change shall be approved and no structure shall be erected unless a site plan as provided for in this Section and in Section 5100 (Principal Roadway Area) has been approved by the City Council after recommendation of the Planning Commission. Site plans submitted under the provisions of this Section shall comply with all requirements set out by other provisions of this Code as well as the following:

- a. The location of all improvements on the site plan shall be specific and no alteration or movement of proposed improvements in excess of twenty-five feet (25') shall be permitted without the approval of the City Council.
- b. The site plan shall include a tree survey. A construction line shall be delineated on each site plan submitted for City approval. This limit line shall include all building, parking, and vehicular use areas, and all areas of required cut and fill. Within this area, the requirements of Section 5189 (Landscaping) shall be shown. Outside this limit line, no tree survey shall be required and the project developer shall be required to leave undisturbed all areas of native vegetation including trees, shrubs, and understory vegetation to a reasonable and feasible extent.
- c. The site plan shall illustrate the location of all trash receptacles, air conditioning and heating equipment, loading areas, parking areas, lighting and an indication of the methods to be used to screen all such areas from all public views. If air conditioning, heating units, penthouses, parapet walls, or water storage reservoirs for fire safety must be located on roofs of structures, they shall be screened from view, both horizontally and vertically.
- d. The site plan shall illustrate the height calculation as provided for in Section 5188 by showing the cross sections required to demonstrate that each building complies with height limitations.
- e. For projects requesting performance incentives for scenic vista protection as per Sec. 5192, the site plan shall illustrate the location and nature of any existing or potential scenic vistas from or in close proximity to public roadways or recreation areas, and shall show how such vistas would be impacted by the proposed development. For the purposes of this ordinance, a scenic vista shall be defined as a generally recognizable, noteworthy view of Lake Travis, Lake Austin, the valleys of the Colorado River, Barton Creek, Bull Creek, and West Bull Creek, or the downtown area of Austin. Protection of scenic vistas may be demonstrated through use of:
  1. Photographs of all existing scenic vistas at the site.

Areas of cut not hidden from view shall be effectively screened by additional landscaping.

3. Hillside vegetation shall not be disturbed other than that necessary to locate the structure. All disturbed areas shall be restored with native vegetation as per Section 5189.
4. If terraces are not provided, cuts and fills are to be restored to 3 to 1 slopes and with vegetation. Naturally restored slopes are limited to eight feet (8') in length. Terraces are to be installed in between the slopes if more than a single 8' slope is required.
- d. Height. The height of buildings shall be limited but the permitted height may increase as the distance from the right-of-way increases. Within two hundred feet (200') of the right-of-way of a Hill Country Roadway, no building shall exceed twenty-eight feet (28'). Beyond two hundred feet (200') from the right of way of a Hill Country Roadway, height may increase but shall not be permitted to exceed twenty-eight (28') in Low Intensity areas, forty feet (40') in Moderate Intensity areas, or fifty-three feet (53') in High Intensity areas, except as provided in Sec. 5192.
- e. Underground Utilities. All on-site utilities shall be located underground unless required by the utility to be otherwise located.
- f. Building Materials. Buildings shall be designed to utilize, to the greatest extent feasible, building materials such as rock, stone, brick, and wood, which are compatible with the Hill Country environment. No mirrored glass with a reflectance greater than twenty percent (20%) shall be permitted.

5189 LANDSCAPE REQUIREMENTS.

- a. Tree Removal. For each tree removed with a trunk greater in diameter than six inches (6"), (measured at a point four and one-half feet above ground level), or for each cluster of three (3) or more trees located within ten feet (10') of each other with trunk diameters greater than two inches (2"), of live oak, Spanish oak, cedar elm, shin oak, bald cypress, post oak, pecan, bur oak, or black walnut, and for small native trees such as Texas madrone, black cherry, Texas mountain laurel, evergreen sumac, Mexican buckeye, flameleaf sumac, or Texas persimmon, the developer must compensate by planting a sufficient amount of native species mentioned above within disturbed areas that will reasonably compensate for the loss of existing trees.



- b. Nonresidential Floor to Area Ratio. All nonresidential buildings shall be limited to a maximum Floor-to-Area Ratio computed by reference to slope gradients and intensity level as follows:

Slope Gradient of Land	Intensity Level		
	Low	Moderate	High
0-15%	.20	.25	.30
15-25%	.08	.10	.12
25-35%	.04	.05	.06

"Floor to Area Ratio" shall be defined as the ratio of gross floor area (exclusive of parking structures and atriums) to site area within the appropriate slope class within the Hill Country Roadway Corridor. For purposes of calculating allowable floor area and impervious cover (where applicable), the gross site area shall exclude additional dedicated right-of-way only to a maximum of sixty feet (60') from the centerline of a Hill Country Roadway. In no event shall the Floor-to-Area Ratio on the 0-15% slopes exceed the following maximums including any additional credits added by Section 5192:

Intensity Level		
Low	Moderate	High
.25	.30	.35

- c. Construction on Steep Slopes. No roadways or driveways shall be constructed on slopes in excess of fifteen (15%), except where necessary to provide access to areas of flatter slopes. Cuts and fills on roadways or driveways are to be restored as described herein. No building or parking areas shall be constructed on slopes in excess of fifteen percent (15%), provided, however, that buildings and parking structures may be located on slopes of 15%-25% when the following criteria are met:

1. Structures located upslope of slopes over fifteen percent (15%) area shall be constructed utilizing pier and beam techniques. Fill shall be placed to blend with the natural contour. No vertical walls shall extend beyond the lowest finished floor elevation, other than necessary to screen mechanical appurtenances, and shall be stepped, if appropriate. Terraced fill and walls shall be 1 to 1 grade limited to four feet (4') in height for each terrace. More than one level of terrace is permitted.
2. Structures located downslope of slopes over fifteen percent (15%) are is encouraged to be terraced and consolidated into the hillside. Structural excavation shall not exceed a maximum of eight feet (8') in depth.

2. Schematic plans and sections showing clearly the impact development will have on scenic vistas.
3. Elevations or perspective sketches showing the proposed development from the adjacent roadway.

The Office of Land Development Services shall develop a map indicating segments of Hill Country Roadways along which scenic vistas are prevalent.

#### 5188 SITE DEVELOPMENT REGULATIONS

All land and buildings within a Hill Country Roadway Corridor shall comply with all requirements of Section 5100 (Principal Roadway Areas) as well as the following:

- a. Intensity Zones. Floor-to-Area Ratios and height shall be determined relative to low, moderate, and high intensity zones indicated below, consistent with the applicable comprehensive plan.
  1. High Intensity - All land within one thousand feet (1000') of the right-of-way of two intersecting State-maintained roadways, and with frontage on both highways or on one highway and an intersecting arterial or collector roadway, as well as all land along Loop 360 within three thousand five hundred feet (3500') from its intersection with U.S. 290.
  2. Moderate Intensity - All land not included in the High Intensity designation and with frontage on:
    - (a) Loop 360 (excluding RR 2244 - RR 2222 except as per (b)).
    - (b) Loop 360 (1200 feet north and south of Westlake Drive).
    - (c) RR 2222 (FM 620 - 2.1 miles east of RM 620)
    - (d) FM 620 (Comanche Trail - Anderson Mill Road and Lohman's Crossing - Stewart Rd.)
    - (e) A Hill Country Roadway and an intersecting arterial or collector street, limited to land within five hundred feet (500') of the right-of-way of the intersecting street, but excluding intersections along RM 2222 east of Loop 360.
    - (f) A Low Intensity roadway segment where the sole access to such a tract is from an arterial or collector roadway other than the Hill Country roadway.
  3. Low Intensity - All land not included in the Moderate or High Intensity designation.

- b. Highway Vegetative Buffer. Except for clearing necessary to provide utilities and access to the site, no clearing of vegetation shall be permitted within one hundred feet (100') of the dedicated right-of-way of a Hill Country Roadway; provided, however, that in no case shall such vegetative buffer exceed twenty percent (20%) of the acreage of the applicant's property. In cases where the buffer area has previously been substantially disturbed, it shall be revegetated with native trees, shrubs, and grasses and up to fifty percent (50%) of the buffer may be utilized for detention/sedimentation ponds and wastewater drainfields, subject to such restoration.
- c. Natural Area. At least forty percent (40%) of the site, excluding dedicated right-of-way, shall be left in a natural state. Priority shall be given to protection of natural critical areas identified in the City's Comprehensive Plan in meeting this requirement. Natural areas located within parking medians and the required Highway Vegetative buffer may count toward such forty percent (40%) requirement. In the event that the natural area requirement conflicts with the requirements of another applicable ordinance, such conflict shall be resolved with the minimum departure from the terms hereof and approved by the City Council after recommendation of the Planning Commission. Up to twenty-five percent (25%) of the area required to be kept in a natural state may be used for sewage disposal fields; provided that such areas are appropriately revegetated.
- d. Landscaped Screening. All parking areas and detention/sedimentation ponds shall use existing vegetation or installed landscaping to screen pavement, vehicles, and ponds from the roadway and from adjacent properties. This screening shall include dense massing of trees in addition to existing native understory vegetation or shrubs massing or berms. Topographic changes shall be considered in reviewing this provision. A median of not less than ten feet (10') in width containing existing native trees or dense massing of installed trees, shall be placed between each parking bay.

5190

## SIGNS

In addition to applicable provisions of the City's sign ordinance, the following requirements shall apply to signs within a Hill Country Roadway Corridor:

a. Permitted Signs.

- 1. One (1) freestanding berm or monument sign of up to sixty-four (64) square feet in area shall be permitted for each street frontage. Where street frontage exceeds six hundred feet (600'), two such signs shall be permitted. Such signs shall not exceed twelve feet (12') in

height or the square root of the distance from the sign to the right-of-way, whichever is less.

2. In multi-tenant projects, one (1) wall sign shall also be permitted for each individual business establishment, with lettering not to exceed twenty-four inches (24") in height.

- b. Prohibited Signs. Internal lighting of signs, neon or flashing signs, building floodlighting, and freestanding pole or post signs shall not be permitted. All spotlights and exterior lighting shall be concealed from view and oriented away from adjacent properties and roadways.

#### 5191 TRAFFIC REQUIREMENTS.

- a. Access. Access to a Hill Country Roadway may be prohibited from any tract having access to a street intersecting with a Hill Country Roadway or any tract with frontage on a Hill Country Roadway which has access through an existing joint-use access easement or driveway. Otherwise, access to a Hill Country Roadway shall be limited to one driveway except as follows:

1. the estimated daily traffic volume for the single driveway exceeds five thousand (5,000) vehicles per day;
2. the traffic using the single driveway would exceed the capacity of a stop sign controlled intersection during one peak street traffic hour or the peak site traffic hour; or
3. a competent traffic analysis demonstrates the need for an additional driveway due to traffic conditions and the Director of Office of Land Development Services agrees that an additional driveway is required.

No more than two access points shall be permitted from any one development onto a Hill Country Roadway.

- b. Driveway Location. Maximum practical spacing between driveways shall be provided. Unless otherwise approved by the Director of Urban Transportation, no driveway accessing a Hill Country Roadway shall be located:

1. closer than three hundred feet (300') from the nearest adjacent driveway, unless no other access is available to a tract of land;
2. where the sight distance is less than five hundred fifty feet (550');
3. on the inside radius of a curve; or
4. where the roadway grade of the Hill Country Roadway exceeds eight percent (8%).

- c. Joint Use Driveways. For purposes of this Section, a joint-use driveway means a driveway located entirely or partially on one tract of land which is available for use as access to and from a public street from an adjoining tract of land. Unless otherwise waived by the City Council and subject to the Highway Vegetative Buffer provisions hereof, each applicant may be required to provide a joint-use access easement across his or her tract from property line to property line generally parallel with the right-of-way of the Hill Country Roadway for the use of adjacent property owners when the adjacent lots have insufficient frontage, as determined under the provisions of this ordinance, by the Director of Land Development Services. No access to a Hill Country Roadway will be permitted for tracts which do not have frontage on a Hill Country Roadway, unless recommended by the Director of Land Development Services. The City Council may waive this requirement upon the recommendation of the Director of Urban Transportation or when the topography of the tract makes such joint-use impractical or undesirable. If the applicant is required by the City of Austin to construct improvements such as providing wider driveways or additional driveways for use as a joint-use driveway, the landowner(s) of the adjoining tract(s) benefited by such joint-use driveway shall be required by the City of Austin to participate in the cost of such improvements on a pro rata basis as follows:

1. If the owner of the tract benefiting from such joint-use driveway is not ready to participate in the cost of such improvements at the time of the construction of those improvements, the owner of the tract upon which the improvements are to be constructed may elect not to construct them to accommodate the adjacent tract but shall leave sufficient area for such construction.
2. If the applicant elects to construct such improvements to serve an adjoining tract, the City shall require the owner of a benefited tract to share in such cost at the time such adjoining tract is developed.

In computing the amount of impervious cover on the site, there shall be excluded from such computation: (i) one hundred-ten percent (110%) of impervious cover required for the sole purpose of providing access from adjoining land to a joint-use driveway (excluding parking spaces and aisles serving parking spaces) located entirely on the site; and (ii) fifty percent (50%) of the impervious cover required for the sole purpose of providing a joint-use driveway (excluding parking spaces and aisles serving parking spaces) where no portion of such driveway is located on adjoining land.

- d. Streets and Intersections. Minimum spacing between local streets shall be six hundred feet (600') and between collector streets shall be thirteen hundred and twenty feet (1320').

Arterial streets must conform to the Austin Metropolitan Area Roadway Plan.

Improvements to intersections with a Hill Country Roadway will be required when determined from a review of the Traffic Impact Analysis. The construction of grade separated interchanges which provide fifty percent (50%) of the access required for an individual project are discouraged unless the interchange is also located at the intersection of an arterial street, as shown in the Austin Metropolitan Area Roadway Plan, or is located based on appropriate spacing for weaving maneuvers at ramps and resulting capacity considerations.

- e. Median Breaks. The number of median breaks on Hill Country Roadways should be minimized. Additional median breaks on Loop 360 are prohibited and future connecting streets should align with median breaks to the greatest extent practicable.
- f. Driveway Permits. City of Austin driveway permit applications for a Hill Country Roadway must be approved prior to consideration of site plan and zoning changes by the Planning Commission.
- g. Procedure Where Applicant Requests Construction in Proposed Right-of-Way. Where the applicant requests site plan approval for construction of improvements in a proposed right-of-way in accordance with standards set forth in this Section, the Planning Commission shall notify the Director of Public Works that an application has been filed requesting construction of improvements in the proposed right-of-way and refer the request to the City Council, who shall determine whether construction of improvements in the proposed right-of-way should be permitted.

#### 5192. PERFORMANCE INCENTIVES

- a. The Planning Commission and City Council shall, as appropriate, approve any individual or combination of the following development bonuses in order to recognize innovative design beyond that required to comply with this and other City ordinances, and which is considered to better further the goals of the Hill Country Roadway Ordinance:
  1. Floor-to-Area ratio increases of up to .05 to 1 for land of 0-15% slope.
  2. Building height increases not to result in a maximum height exceeding forty feet (40') in Low Intensity areas, fifty-three feet (53') in Moderate Intensity areas, and sixty-three feet (63') in High Intensity areas.
  3. Reduced setbacks of up to twenty-five feet (25') less than those required.

b. Performance criteria to be considered in recommending bonuses should relate reasonably to the bonuses being approved and may include the following:

1. Preserving scenic vistas, including the provision of public observation points. This incentive is allowed only where a view can be preserved.
2. Limiting access to roadways other than Hill Country Roadways where such roadways do not encourage traffic through residential areas.
3. Reducing impervious cover by 15% or more beyond the minimum standards allowed by this or other ordinances.
4. Increasing landscaping or setbacks by more than 50%, and increasing natural areas.
5. Providing mixed-use development, particularly those that include residential uses and community facilities.
6. Reducing building mass by breaking up buildings.
7. Using "pervious pavers" when not receiving impervious cover credit.
8. Consolidating small lots to create parcels with a minimum of three hundred feet (300') of frontage on a Hill Country Roadway.
9. Using pitched roof design features.
10. Constructing and/or dedicating public facilities such as parks, roadways and right-of-way, police, fire, or EMS sites, regional drainage facilities or other facilities in excess of that required by City ordinances.
11. Maintaining the construction of all buildings and parking areas on 0-15% slopes.
12. Using energy-conserving and/or water conserving devices which reduce consumption below what is required by City ordinances.

c. In order to qualify for bonuses under this section of the ordinance, a development should demonstrate compliance with at least fifty percent (50%) of the above criteria. The use of bonuses shall be limited to unusual circumstances which involve:

1. An undue hardship imposed on a tract by the ordinance or the cumulative effect of several ordinances due to its peculiar configuration, topography, or location; or
2. Demonstration of highly innovative architectural, site planning, and land use design of a caliber not previously utilized in the Austin area, and of such a quality as to set an excellent example for subsequent developments.

#### 5193. HILL COUNTRY ROADWAY CORRIDOR MASTER FILE

- a. The Office of Land Development Services of the City of Austin shall compile and maintain a current Master File of the Hill Country Roadway Corridors consisting of the following:

1. A master contour map of all of the Hill Country Roadway Corridor indicating all proposed and approved land uses.
  2. A master file of all site plans for the Hill Country Roadway Corridors including all submitted site plans whether ultimately approved, disapproved or withdrawn.
  3. A master map showing all specific existing or potential scenic vistas, scenic overlooks, etc. as identified by the Office of Land Development Services and by the scenic view analysis.
- b. Immediately prior to the consideration of any project located within a Hill Country Roadway Corridor by the Planning Commission or City Council, the Office of Land Development Services shall present a summary of the current status of the Master File. In addition, at least ten (10) days prior to the Planning Commission public hearing on a proposed zoning change or site plan approval within the Hill Country Roadway Corridor, the Office of Land Development Services shall notify the two registered neighborhood groups that are closest to the proposed site of the date, time, and location of such public hearing.

## 5194 WAIVERS

An applicant presenting a site plan for approval as required by this Article may request in writing a waiver from one or more of the specific requirements upon a showing by the applicant that this ordinance imposes an undue hardship on the tract due to its peculiar configuration, topography or location or that the proposed project demonstrates the use of highly innovative architectural, site planning or land use techniques. The City Council may approve any waiver to the minimum extent necessary to allow the project to be constructed. The applicant for any such waiver shall have the burden of showing that the proposed project, with such waiver granted, will be as good or better than a project developed under the standards of this Article in terms of environmental protection, aesthetic enhancement, land use compatibility, and traffic considerations.

## 5195 EXEMPTIONS.

- a. The provisions of this Section shall not apply to any site plan which has been approved on or before the effective date of this ordinance, by the City Council. Modifications to such approved site plans which include moving a structure more than twenty-five feet (25') or increasing the height or square footage of a building are not exempted from this Section, unless a zoning change has been granted allowing such changes.



- b. Site plans for which City of Austin site development permits have been issued on or before the effective date of this ordinance, shall be exempted from the provisions of this Section; provided, however, that such development shall be required to comply with the requirements set forth in Section 5600 (Landscaping Requirements) and Chapter 9-12 (Trees) of the Austin City Code of 1981, as amended.
- c. Site plans which were recommended for approval by the Planning Commission prior to November 6, 1985, and site plans which were submitted prior to May 23, 1985, shall be exempted from the provisions of this ordinance; provided, however, that such projects remain subject to applicable ordinances in effect at the time of submittal.
- d. Single-family homes and duplexes on platted lots shall be exempt from the provisions of this Section.
- e. Development on tracts abutting a Hill Country Roadway in segments designated in the Austin Metropolitan Area Roadway Plan as "Parkway" is exempt from Section 5189(b) (Highway Vegetative Buffer) of this ordinance. Provided, however, that on such tracts a minimum twenty-five foot (25') natural or landscaped buffer shall be provided with no buildings located closer than fifty feet (50') to the proposed right-of-way of the Hill Country Roadway, as specified in the Roadway Plan.
- f. Any Planned Development Area (PDA) approved by the City Council prior to the effective date of this ordinance, is exempt from the provisions of this Article.
- g. Notwithstanding any language to the contrary herein, this Article shall not apply to development located within one thousand feet (1000') of the dedicated public right-of-way of U.S. 183 or U.S. 290 West.
- h. A landowner otherwise exempt from the provisions of this Ordinance may file a request with the Director of OLDS to come under the provisions hereof. The Director of OLDS shall make a recommendation to the Planning Commission and City Council with respect to the appropriate provisions that should be applied to the applicant's tract as well as any waivers that are appropriate taking into consideration the land use approvals that already exist for the applicant's tract, it being the intention of the City to attempt to bring such tracts into voluntary compliance as close as reasonably possible to the provisions of this Ordinance without creating an undue hardship on such applicant. The Council shall approve waivers as may be appropriate to the minimum extent necessary based upon the recommendations of the Planning Commission and the Director of OLDS.
- i. Zone change applications which were filed prior to November 6, 1985 and which are recommended for approval by the Planning Commission prior to April 1, 1986, for properties located along the FM 620 corridor between RR 2222 and Anderson Mill Road may be processed without submission of a site plan; provided, however,

that such projects must meet the site plan requirements of this ordinance prior to final reading of the rezoning ordinance.

5196 ORDINANCES SUPERCEDED

Sections 5180 through 5199 supercede the following ordinance sections for all projects subject to their provisions:

Capital of Texas Highway Corridor Regulations - Sections 5120 through 5139

2222 Highway Corridor Regulations - Sections 5140 through 5153

2244 Highway Corridor Regulations - Sections 5160 through 5173

and the provisions of Ordinance No. 850506-B (RM 620 Interim Regulations).

PART 3. This Ordinance shall be reviewed by the City Council within 30 days prior to one (1) year after its effective date.

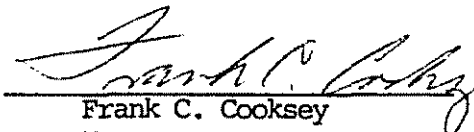
PART 4. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Austin adopting, and of the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

PART 5. The rule requiring the reading of an ordinance on three separate days is hereby suspended, and this Ordinance shall become effective ten (10) days following the date of its passage as provided by the Charter of the City of Austin.


PASSED AND APPROVED

January 16, 1986

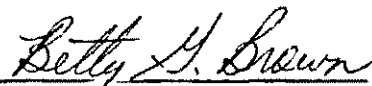
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§  
§  
§

  
Frank C. Cooksey  
Mayor

APPROVED:

  
Paul C. Isham  
City Attorney

ATTEST:

  
Betty G. Brown  
Deputy City Clerk

TM/saf  
hill country ord3  
ibmird

# **Exhibit F**

Division 3. - Additional Site Plan Requirements in Hill Country Roadway Corridors.

§ 25-2-1021 - APPLICABILITY OF DIVISION.

The requirements of this division are cumulative, and apply to a site in a Hill Country roadway corridor described in Section 25-2-1103 ( Hill Country Roadway Corridors Identified ).

Source: Section 13-7-66; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1022 - NATIVE TREES.

(A)

In this section:

(1)

NATIVE TREE means live oak, Spanish oak, cedar elm, shin oak, bald cypress, post oak, pecan, bur oak, or black walnut.

(2)

SMALL NATIVE TREE means Texas madrone, black cherry, Texas mountain laurel, evergreen sumac, Mexican buckeye, flameleaf sumac, or Texas persimmon.

(B)

A site plan must provide a sufficient number of native or small native trees to reasonably compensate for the removal of:

(1)

each small native tree;

(2)

each native tree with a trunk diameter greater than six inches; and

(3)

each cluster of three or more native trees located within ten feet of each other with trunk diameters greater than two inches.

Source: Section 13-7-66(a); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1023 - ROADWAY VEGETATIVE BUFFER.

(A)

Except as otherwise provided by this section, vegetation within 100 feet of the dedicated right-of-way may not be cleared, unless the clearing is necessary to provide utilities and access to the site.

(B)

Except as otherwise provided by Subsection (D), in the roadway corridor along the Southwest Parkway:

(1)

vegetation within 50 feet of the dedicated right-of-way or drainage easement may not be cleared, unless the clearing is necessary to provide utilities and access to the site; and

(2)

a building must be at least 75 feet from the dedicated right-of-way or drainage easement.

(C)

The council may, after a public hearing, waive the requirements of Subsection (B) for a site if the owner dedicated the right-of-way or a drainage easement to the public at no cost.

(D)

Except as otherwise provided in Subsection (E), in a roadway corridor along a parkway identified in the Transportation Plan, other than Southwest Parkway:

(1)

vegetation within 25 feet of the dedicated right-of-way or drainage easement may not be cleared, unless the clearing is necessary to provide utilities and access to the site; and

(2)

a building must be at least 50 feet from the dedicated right-of-way or drainage easement.

(E)

An area described in this section in which clearing is prohibited may not exceed 20 percent of the acreage of an applicant's property.

Source: Sections 13-7-66(b)(2) and (3) and 13-2-781(d); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1024 - RESTORING ROADWAY VEGETATIVE BUFFER.

(A)

If vegetation in an area in which clearing is prohibited by Section 25-2-1023 ( Roadway Vegetative Buffer ) has been substantially disturbed, it must be revegetated with native trees, shrubs, and grasses.

(B)

Not more than 50 percent of the area in which clearing is prohibited may be used for detention or sedimentation ponds or wastewater drain fields.

Source: Section 13-7-66(b)(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1025 - NATURAL AREA.

(A)

At least 40 percent of a site, excluding dedicated right-of-way, must be left in a natural state. Natural areas within parking medians and in an area in which clearing is prohibited by Section 25-2-1023 ( Roadway Vegetative Buffer ) count toward this requirement.

(B)

In complying with this section, priority must be given to the protection of natural critical areas identified in the City's Comprehensive Plan.

(C)

If this section conflicts with another provision of this title, the conflict must be resolved with the minimum departure from the requirement of this section. The resolution must receive approval from the council. The council must receive a recommendation from the Land Use Commission.

(D)

If an area required to be kept in a natural state by this section is revegetated, not more than 25 percent of the area may be used for sewage disposal fields.

Source: Section 13-7-66(c); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1026 - PARKING LOT MEDIANS.

A parking lot must have a median at least ten feet wide containing existing native trees or dense massing of installed trees between each distinct parking area.

Source: 13-7-66(d); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1027 - VISUAL SCREENING.

Visual screening required by this article must:

(1)

use existing vegetation or installed landscaping;

(2)

include dense massing of trees, native understory vegetation, shrub massing, or berms; and

(3)

allow for topographic changes.

Source: Section 13-7-67(b); Ord. 990225-70; Ord. 031211-11.

ARTICLE 11. - HILL COUNTRY ROADWAY REQUIREMENTS.  
Division 1. - General Provisions.

§ 25-2-1101 - DEFINITIONS.

In this article:

SCENIC VISTA means a generally recognizable, noteworthy view of:

(1)

Barton Creek;

(2)

Bull Creek;

(3)

West Bull Creek;

(4)

Lake Austin;

(5)

Lake Travis;

(6)

a valley of the Colorado River; or

(7)

the downtown area of Austin.

Source: Section 13-2-783(b)(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1102 - APPLICABILITY.

Except as provided in Section 25-2-1104 ( Exceptions ), this article applies to development on a site in a hill country roadway corridor.

Source: Section 13-2-782 ; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1103 - HILL COUNTRY ROADWAY CORRIDORS IDENTIFIED.

A hill country roadway corridor is the land within the City's zoning jurisdiction located 1,000 feet or less from each side of the right-of-way of the following roadways:

(1)

Loop 360, from US 290 West to US 183;

(2)

RM 620, from SH 71 to Anderson Mill Road;

(3)

RM 2222, from Highland Hills Drive to RM 620;

(4)

RM 2244, from Loop 360 to SH 71; and

(5)

Southwest Parkway.

Source: Section 13-2-1; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1104 - EXCEPTIONS.

(A)

This article does not apply to development that occurs 1,000 feet or less from the dedicated right-of-way of:

(1)

US 183; or

(2)

US 290 West.

(B)

This article does not apply to development that complies with a site plan approved by council before January 27, 1986 or to a modification of the approved site plan if a zoning change was approved to allow the modification.

(C)

This article does not apply to development that complies with a site plan for which a development permit was issued by the City before January 27, 1986.

(D)

This article does not apply to development that complies with a site plan that was submitted for approval before May 23, 1985, or that was recommended for approval by the Planning Commission before November 6, 1985. The development must comply with City requirements in effect on the date the site plan was submitted for approval.



(E)

This article does not apply to development that complies with a planned development area agreement approved by the council before January 26, 1986.

Source: Section 13-2-781(a), (b), (c), (e) and (f); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1105 - WAIVERS.

(A)

Subject to Subsection (B), the Land Use Commission may approve the waiver of a provision in this article if the person applying for the waiver demonstrates that:

(1)

the provision imposes an undue hardship on a development because of the location, topography, or peculiar configuration of the tract; or

(2)

a proposed development incorporates the use of highly innovative architectural, site planning, or land use technique; and

(3)

if the waiver is approved, a proposed development will equal or exceed a development that is in compliance with this article in terms of:

(a)

environmental protection;

(b)

aesthetic enhancement;

(c)

land use compatibility; and

(d)

traffic considerations.

(B)

The Land Use Commission may waive a provision only to the extent necessary to allow the development to occur.

(C)

The approval or disapproval of a waiver by the Land Use Commission under this section may be appealed to the council.

Source: Section 13-2-785; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1106 - VOLUNTARY COMPLIANCE.

(A)

This section applies to development that is:

(1)

on a site in a hill county roadway corridor; and

(2)

excepted from the application of this article.

(B)

The owner of a site may file a request with the director to apply this article to the development.

(C)

If an owner requests that this article apply to a development, the council may approve a waiver or a provision of this article.

(D)

The director shall recommend to the Land Use Commission and council each provision of this article that should be:

(1)

applied to the development; or

(2)

waived by the council.

(E)

The Land Use Commission shall review a request filed under Subsection (B) and shall prepare a recommendation on the request.

(F)

In making a recommendation under Subsection (D), the director shall take into consideration each existing land use approved for the site.

(G)

The council may approve a waiver of a provision of this article to the minimum extent necessary to allow development to occur, based on the recommendations of the director and the Land Use Commission.

Source: Section 13-2-781(g); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

#### § 25-2-1107 - HILL COUNTRY ROADWAY CORRIDOR FILES AND MAPS.

The Watershed Protection and Development Review Department shall maintain a file on the hill country roadway corridors. The file must contain:

(1)

a contour map of each corridor that shows each proposed or approved land use in a corridor;

(2)

a copy of each site plan submitted in connection with development in each corridor, whether the site plan was subsequently approved, disapproved, or withdrawn;

(3)

a map that shows each scenic vista or overlook in each corridor that the Watershed Protection and Development Review Department has identified; and

(4)

a map that shows each segment of a hill country roadway along which scenic vistas are prevalent.

Source: Sections 13-2-783(b)(1) and 13-2-784; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

Division 2. - Development Standards.

#### § 25-2-1121 - INTENSITY ZONES.

(A)

Property is in a high intensity zone, if the property:

(1)

is along Loop 360 and within 3,500 feet of the intersection of Loop 360 with US 290; or

(2)

is within 1,000 feet of the right-of-way of two intersecting highways that are maintained by the state; and

(a)

has frontage on:

(i)

both highways; or

(ii)

one highway and an intersecting arterial or collector street.

(B)

Property is in a moderate intensity zone, if the property:

(1)

is not in a high intensity zone; and

(2)

has frontage on:

(a)

Loop 360, north of RM 2222 and south of RM 2244;

(b)

the segment of Loop 360 that is 1,200 feet or less from Westlake Drive;

(c)

the segment of RM 2222 that extends east from RM 620 for 2.1 miles;

(d)

the segment of RM 620 that extends from Comanche Trail to Anderson Mill Road;

(e)

the segment of RM 620 that extends from Lohman's Crossing to Steward Road; or

(f)

a segment of a roadway that would otherwise place the property in a low intensity zone, if access to the property is solely from an arterial or collector street that is not a hill country roadway.

(C)

Property is in a moderate intensity zone, if the property is not in a high intensity zone, has frontage on a hill country roadway and on an intersecting arterial or collector street, and is located 500 feet or less from the right-of-way boundary of the arterial or collector street. This subsection does not apply to an intersection on RM 2222 east of Loop 360.

(D)

Property is in a low intensity zone if the property is not in a high intensity zone or a moderate intensity zone.

Source: Section 13-2-782(1); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1122 - FLOOR-TO-AREA RATIO OF A NONRESIDENTIAL BUILDING.

(A)

Except as provided in Subsection (B), the floor-to-area ratio of a nonresidential building may not exceed:

(1)

in a low intensity zone:

(a)

0.20 for a building on property with a slope gradient of 15 percent or less;

(b)

0.08 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.04 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent;

(2)

in a moderate intensity zone:

(a)

0.25 for a building on property with a slope gradient of 15 percent or less;

(b)

0.10 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.05 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent; or

(3)

in a high intensity zone:

(a)

0.30 for a building on property with a slope gradient of 15 percent or less;

(b)

0.12 for a building on property with a slope gradient of more than 15 percent, but not more than 25 percent; or

(c)

0.06 for a building on property with a slope gradient of more than 25 percent, but not more than 35 percent.

(B)

If the Land Use Commission grants a development bonus under Section 25-2-1128 ( Development Bonuses ), the floor-to-area ratio of a building on a slope that has a gradient of not more than 15 percent may not exceed:

(1)

0.25 if the property is a low intensity zone;

(2)

0.30 if the property is in a moderate intensity zone; or

(3)

0.35 if the property is in a high intensity zone.

(C)

If a portion of developed property or property covered by an approved site plan is condemned for right-of-way and if the development complies with other applicable requirements, the gross square footage permitted before the condemnation is the gross square footage permitted for the portion of the property remaining after the condemnation.

(D)

To calculate allowable floor area under this section, gross site area includes all land dedicated for right-of-way under Section 25-6-55 ( Dedication Of Right-Of-Way ) that is more than 60 feet from the centerline of a hill country roadway.

(E)

This section does not apply to property in the Southwest Parkway hill country roadway corridor.

Source: Section 13-2-782(2); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

§ 25-2-1123 - CONSTRUCTION ON SLOPES.

(A)

Development of property in a hill country roadway corridor must comply with Chapter 25-8, Subchapter A, Article 7, Division 3 ( Construction On Slopes ) and this section. If a conflict exists between this section and another section of this title, the more restrictive provision applies.

(B)

A person who constructs a structure uphill of a slope with a gradient of 15 percent or more:

(1)

must use a pier and beam technique to construct the structure; and

(2)

may not extend a vertical wall below the lowest finished floor elevation of the structure, except as necessary to screen mechanical equipment.

(C)

A person who constructs a structure downhill of a slope with a gradient of 15 percent or more may not exceed a depth of eight feet for structural excavation.

(D)

To restore a cut or fill for a roadway, driveway, or structure, a person may construct a terraced wall and fill with a finished gradient of 100 percent. The wall may not exceed a height of four feet. More than one level of terracing may be constructed.

(E)

If a person does not use terracing to restore a cut or fill, the person must revegetate and restore the cut or fill to a slope have a finished gradient of 33 percent.

(F)

A cut or fill restored under Subsection (E) may not exceed eight feet in length. If additional restoration is required, a terrace that complies with Subsection (D) must be constructed between each eight-foot slope segment.

(G)

A person must place fill to blend with the natural contour of the slope.

Source: Section 13-2-782; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1124 - BUILDING HEIGHT.

(A)

Except as provided in Subsection (C) or Section 25-2-1128 ( Development Bonuses ), a person may not construct a building that is more than 28 feet in height, if the building is:

(1)

200 feet or less from the nearest right-of-way boundary of a hill country roadway; or

(2)

in a low intensity zone.

(B)

If a building is more than 200 feet from the nearest right-of-way boundary of a hill country roadway, a person may construct a building that is not more than:

(1)

40 feet in height in a moderate intensity zone; or

(2)

53 feet in a high intensity zone.

(C)

The height of a building in the Southwest Parkway roadway corridor may not exceed the lesser of:

(1)

the height permitted by the zoning or the site plan approved for the property; or

(2)

60 feet.

Source: Section 13-2-782(4); Ord. 990225-70; Ord. 031211-11.

#### § 25-2-1125 - LOCATION OF ON-SITE UTILITIES.

Each on-site utility must be located underground, unless otherwise required by the utility provider.

Source: Section 13-2-782(5); Ord. 990225-70; Ord. 031211-11.

#### § 25-2-1126 - BUILDING MATERIALS.

(A)

Each building shall be designed to use, to the greatest extent feasible, building materials that are compatible with the environment of the hill country, including rock, stone, brick, and wood.

(B)



A person may not construct a building that has mirrored glass with a reflectance of more than 20 percent.

Source: Section 13-2-782(6); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1127 - IMPERVIOUS COVER.

To calculate impervious cover under this article, gross site area includes all land dedicated for right-of-way under Section 25-6-55 ( Dedication Of Right-Of-Way ) that is more than 60 feet from the centerline of a hill country roadway.

Source: Section 13-2-782(2); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1128 - DEVELOPMENT BONUSES.

(A)

The Land Use Commission shall grant a development bonus to a proposed development if the Land Use Commission determines that:

(1)

an unusual circumstance exists, as defined in Subsection (C); and

(2)

the proposed development as constructed will comply with at least 50 percent of the criteria identified in Section 25-2-1129 ( Criteria For Approval Of A Development Bonus ).

(B)

A development bonus approved by the Land Use Commission for a proposed development may:

(1)

for property on a slope with a gradient of 15 percent or less, increase the floor-to-area ratio up to .05 to 1;

(2)

increase building height up to:

(a)

40 feet in a low intensity zone;

(b)

53 feet in a moderate intensity zone; or

(c)

63 feet in a high intensity zone; or

(3)

reduce a required setback by 25 feet or less.

(C)

In Subsection (A), an unusual circumstance must involve:

(1)

an undue hardship caused by this article, or by the cumulative effects of this title, because of the configuration, topography, or location of the tract;

(2)

the demonstration of an innovative architectural, site planning, or land use design that:

(a)

has not been used in the Austin area before; and

(b)

will serve as an excellent example for a subsequent development; or

(3)

a condemnation for right-of-way, if a bonus allows the property owner to recapture square footage potential that was lost because of that condemnation.

(D)

Notwithstanding Subsection (A)(2), if an unusual circumstance exists, the Land Use Commission may approve a development bonus if the proposed development does not comply with at least 50 percent of the criteria in Section 25-2-1129 ( Criteria For Approval Of A Development Bonus ).

Source: Sections 13-2-783(a) and (c); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

#### § 25-2-1129 - CRITERIA FOR APPROVAL OF A DEVELOPMENT BONUS.

In determining whether to approve a development bonus for a proposed development, the Land Use Commission may consider criteria that reasonably relate to the development bonus, including if the proposed development:

(1)

preserves a scenic vista and provides a place where the public can view the scenic vista;

(2)

limits access to a roadway that is not a hill country roadway if use of the roadway does not increase traffic in a residential area;

(3)

reduces by at least 15 percent the amount of impervious cover otherwise required for the development;

(4)

increases landscaping or a setback by more than 50 percent above the amount required for the development or increases a natural area;

(5)

is a mixed-use development, particularly a mixed-use development that includes a residential use and community facility;

(6)

reduces building mass by breaking up buildings;

(7)

uses pervious pavers although the development is not entitled to receive an impervious cover credit;

(8)

consolidates small lots to create a parcel that has at least 300 feet of frontage on a hill country roadway;

(9)

uses pitched roof design features;

(10)

includes the construction or dedication of a public facility that is not required by a City ordinance, including a park, roadway and right-of-way, Police Department site, Fire Department site, emergency medical services facility site, or a regional drainage facility;

(11)

limits the construction of a building or parking area to an area with a slope that has a gradient of not more than 15 percent; or

(12)

uses an energy-conserving or a water-conserving device that reduces energy or water consumption below City requirements.

Source: Section 13-2-783(b); Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

CAUSE NO. D-1-GN-17-002447

LAKE AUSTIN COLLECTIVE, INC.  
*Plaintiff*

v.

THE CITY OF AUSTIN  
*Defendant*

§  
§  
§  
§  
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§  
§

IN THE DISTRICT COURT

TRAVIS COUNTY

419<sup>th</sup> JUDICIAL DISTRICT

AFFIDAVIT OF CAROL LEE  
IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

STATE OF TEXAS §

TRAVIS COUNTY §

Before me, the undersigned notary, on this day personally appeared Carol Lee, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. "My name is Carol Lee. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I have read Plaintiff's Motion for Summary Judgment. The facts stated therein are true and correct.

3. I am a Director of the Lake Austin Collective, Inc. (LAC) and have been active in neighborhood development and environmental protection in Austin for over 20 years. Some of the purposes of LAC are: to encourage the preservation of Austin's drinking water supply and natural resources, and the enforcement of regulations that protect the public health and safety; to promote comprehensive planning for sustainable growth within the Lake Austin area; to coordinate and represent the interests of the Corporation before various governmental agencies responsible for setting policies and zoning and permitting of development activities within the Lake Austin area; to promote open government and effective public oversight of governmental actions that affect the Lake Austin area.

4. It has been my personal observation for many years that environmental protections, such as the Lake Austin Watershed regulations and the Hill Country Roadway regulations are of special interest to many people in Austin. These environmental regulations are a special interest to the public, both those who support the regulations as well as those who oppose them. As corroboration for the correctness of my observation, I note the following:

a. The City of Austin website (<http://www.austintexas.gov/page/watershed-protection-ordinance>) says:

Austin's water features are a source of immense pride for its residents and a powerful magnet for visitors, new residents and businesses. Austin's citizens were among the first in the nation to recognize the connection between well-planned development and continued high water quality from flooding and erosion.

As to the Lake Austin Watershed Ordinance itself, the City website says:

(1980) The Lake Austin Watershed Ordinance (LAWO) was adopted as the City's first major attempt to address water quality degradation in the face of increasing urbanization. Key features of the ordinance included impervious cover limits, restrictions on development on steep slopes, cut and fill limits and construction-phase erosion and sedimentation controls.

b. Austin has a long history of the public being specially interested in environmental protection and opposing any efforts by the City Council to weaken or waive such protections. Just a few months before the City Council granted the Champion Tract environmental waivers at issue in this case, in May, 2016, the City celebrated 30 years of comprehensive watersheds ordinances as noted on the City of Austin website (<http://www.austintexas.gov/blog/celebrating-30-years-comprehensive-watersheds-ordinance>). The website says:

In the 1970s and 1980s, development raced across the Texas landscape, sprawling into the land in and surrounding Austin. As urban development pushed into the canyons, hillsides and prairies, our creeks, lakes and aquifers were impacted by increases in concrete and other impervious cover from construction.... Members of the community who fought to protect our drinking water and who cherished the unique beauty of our hometown persuaded the City Council of Austin to act to prevent further degradation of our water and natural resources.

c. Likewise, my personal experience and observation is that the Hill Country Roadway Ordinance (HCRO) is especially important to the people in Austin, particularly in my FM 2222 neighborhood. In 2008, Austin Council Member Mike Martinez proposed amendments to the HCRO allowing more billboards to FM 2222 and RM 620 area. (See, for example, story at [www.FourPointsNews.com](http://www.FourPointsNews.com) on April 24, 2008). I participated with many other neighborhood leaders to oppose this HCRO amendment and the Austin City Council received hundreds of emails in opposition to Martinez's proposal. Those who oppose HCRO in my area of Austin have also been vocal. See, for example, the February 25, 2016 news story of business owners in my area voicing their opposition to HCRO regulations found at <http://www.fourpointsnews.com/2016/02/25/hill-country-roadway-ordinance-not-popular-with-local-businesses/>

d. By my personal observation and participation, I know that the Austin Neighborhoods Council (ANC) uses support for environmental regulations—specifically including the LAWO and HCRO—as criteria for vetting candidates for the Austin City Council in order to receive ANC support. See, for example, <http://ancweb.org/anc-platform/> which includes




the following:

5. Protect the Environment.

a. Preserve the SOS Ordinance and support watershed protection, preserve the Heritage Tree Ordinance and support maintenance and renewal of the urban tree canopy, and preserve the Waterfront Overlay, Lake Austin Overlay, and Hill Country Roadway ordinances.

b. Waivers and variances to the SOS, Heritage Tree, Waterfront Overlay, and Lake Austin Overlay, and Hill Country Roadway ordinances should require a super-majority vote of applicable boards, commissions and City Council for approval.

5. I know that my neighbors and I were surprised to find out that the Austin City Council was considering waivers or exemptions from the LAWO and HRCO in its action on the Champion Tract #3 development, Agenda Item #6, November 10, 2016 that had not been presented to the Land Use Commission. Granting exemptions or waivers of these environmental waivers is of special interest to the public and particularly to residents in the neighborhoods around the Champion Tracts on FM 2222."



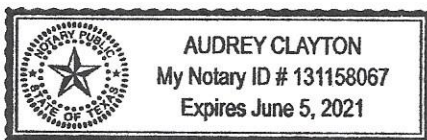
Carol Lee

Sworn to and subscribed before me by Carol Lee on September 13, 2017.



Notary Public in and for

the State of Texas



## CAUSE NO. D-1-GN-17-002447

LAKE AUSTIN COLLECTIVE, INC.,  
Plaintiff,

v.

THE CITY OF AUSTIN, TEXAS,  
Defendant.§  
§  
§  
§  
§  
§  
§IN THE DISTRICT COURT  
  
OF TRAVIS COUNTY, TEXAS  
  
419<sup>TH</sup> JUDICIAL DISTRICT**DEFENDANT'S OBJECTIONS TO PLAINTIFF'S SUMMARY JUDGMENT EVIDENCE**

TO THE HONORABLE JUDGE OF THE DISTRICT COURT:

COMES NOW, the City of Austin and files objections to the Plaintiff's evidence attached to their Motion for Summary Judgment filed with this Court on September 13, 2017. Defendant respectfully submits these objections as set forth below and seeks a ruling from the Court sustaining said objections.

**I. SUMMARY**

Plaintiff brought this lawsuit alleging that the City of Austin failed to comply with subject matter posting requirements of the Texas Open Meetings Act ("TOMA") pursuant to Tex. Gov't. Code §551.041 regarding notice of an amended settlement agreement included on the regular City Council agenda for November 10, 2016. To resolve their claim, Plaintiff filed a Motion for Summary Judgment asking the Court to invalidate the City Council approval of this item and void the related ordinance that was passed by the body. As support for their requested relief, Plaintiff attached an affidavit from Carol Lee as Director of the Non-profit Plaintiff. Defendant asks this Court to strike this affidavit in its entirety as incompetent summary judgment evidence. In the alternative, Defendant requests that the Court issue specific rulings on the line and paragraph objections as set out herein.

## II. ARGUMENT & AUTHORITIES

An affidavit supporting or opposing summary judgment “shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.” Tex. R. Civ. P. 166a(f). The affidavit will be considered incompetent summary-judgment evidence if it cannot provide a factual basis for how the affiant has obtained the first-hand knowledge. *See Kerlin v. Arias*, 274 S.W.3d 666, 668 (Tex. 2008) (“An affidavit showing no basis for personal knowledge is legally insufficient.”); *Trostle v. Combs*, 104 S.W.3d 206, 214 (Tex. App. - Austin 2003, no pet.) (“The mere recitation that the affidavit is based on personal knowledge is inadequate if the affidavit does not positively show a basis for such knowledge.”).

An affiant's belief about the facts is legally insufficient evidence. *Ryland Grp., Inc. v. Hood*, 924 S.W.2d 120, 122 (Tex. 1996); *Brownlee v. Brownlee*, 665 S.W.2d 111, 112 (Tex. 1984). Likewise, conclusory affidavits are insufficient and do not raise fact issues because “[t]hey are not credible, nor susceptible to being readily controverted.” *Ryland Grp.*, 924 S.W.2d at 122; see *Brownlee*, 665 S.W.2d at 112. “A conclusory statement is one that does not provide the underlying facts to support the conclusion.” *Rizkallah v. Conner*, 952 S.W.2d 580, 587 (Tex. App. – Houston [1st Dist.] 1997, no writ).

The affidavit of Ms. Lee offered by the Plaintiff to establish a “special interest” designation in the challenged agenda item is conclusory, lacks a factual basis to establish personal knowledge, and represents no more than the affiant’s beliefs on the subject. Further, the affidavits evidentiary value, if any, applies only to the perceived importance of municipal environmental regulations in general and not to the specific situation that forms the basis of the Plaintiff’s legal challenge. As such, it is irrelevant in the regard for which it is presented. As the entirety of the affidavit evidence lacks a foundation to establish personal knowledge, and supports no more than the affiant’s conclusory



beliefs, it is incompetent summary judgment support, should be struck, and should receive no consideration by the Court.

### III. SPECIFIC OBJECTIONS TO PLAINTIFF’S AFFIDAVIT EVIDENCE

Should the Court find any evidentiary merit in some portion of this challenged affidavit, the Defendant offers the following specific objections to its content:

Plaintiff’s Summary Judgment Evidence – Affidavit of Carol Lee		
Paragraph in Affidavit	Objection	Ruling
¶ 4 – “It has been my personal observation for many years that environmental protections, such as the Lake Austin Watershed Ordinance and the Hill Country Roadway regulations are of special interest to many people in Austin.”	<ul style="list-style-type: none"> <li>• Lack of basis for personal knowledge.</li> <li>• Conclusory/lacks foundation.</li> </ul>	Sustained: _____  Overruled: _____
¶ 4 (b) – “Austin has a long history of the public being specially interested in environmental protection and opposing any efforts by City Council to weaken or waive such protections.”	<ul style="list-style-type: none"> <li>• Lack of basis for personal knowledge.</li> <li>• Conclusory/lacks foundation.</li> </ul>	Sustained: _____  Overruled: _____
¶ 4 (c) – “Likewise, my personal experience and observation is that the Hill Country Roadway Ordinance (HCRO) is especially important to the people of Austin, particularly in my FM2222 neighborhood.”	<ul style="list-style-type: none"> <li>• Lack of basis for personal knowledge.</li> <li>• Conclusory/lacks foundation.</li> <li>• Hearsay.</li> <li>• Hearsay within hearsay.</li> </ul>	Sustained: _____  Overruled: _____

¶ 4 (d) – “By my personal observation and participation, I know that the Austin Neighborhoods Council (ANC) uses support for environmental regulations – specifically including the LAWO and the HCRO – as criteria for vetting candidates for Austin City Council in order to receive ANC support.”	<ul style="list-style-type: none"> <li>• Lack of basis for personal knowledge.</li> <li>• Conclusory/lacks foundation.</li> <li>• Hearsay.</li> <li>• Hearsay within hearsay.</li> <li>• Irrelevant.</li> </ul>	Sustained: _____  Overruled: _____
¶ 5 - Defendant object to this paragraph in its entirety.	<ul style="list-style-type: none"> <li>• Lack of basis for personal knowledge.</li> <li>• Conclusory/lacks foundation.</li> <li>• Hearsay.</li> </ul>	Sustained: _____  Overruled: _____

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN L. RILEY, CHIEF LITIGATION

/s/ Matthew W. Tynan  
MATTHEW W. TYNAN  
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City of Austin – Law Department  
P. O. Box 1546  
Austin, Texas 78767-1546  
Telephone: (512) 974-2185  
Facsimile: (512) 974-1311

**ATTORNEYS FOR DEFENDANT**

## **CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing on all parties, or their attorneys of record, in compliance with the Texas Rules of Civil Procedure, on this the 28th day of September 2017, as follows:

**Via e-Service to:**

Bill Aleshire  
State Bar No. 24031810  
Bill@AleshireLaw.com  
Aleshire Law P.C.  
700 Lavaca Street, Suite 1400  
Austin, Texas 78701  
512.320.9155 (telephone)  
512.320.9156 (facsimile)  
**ATTORNEYS FOR PLAINTIFF**

/s/ Matthew W. Tynan  
MATTHEW W. TYNAN

**CAUSE NO. D-1-GN-17-002447**

<b>LAKE AUSTIN COLLECTIVE, INC.</b>	§	<b>IN THE DISTRICT COURT</b>
<i>Plaintiff</i>	§	
	§	
<b>v.</b>	§	<b>TRAVIS COUNTY</b>
	§	
<b>THE CITY OF AUSTIN</b>	§	
<i>Defendant</i>	§	<b>419<sup>th</sup> JUDICIAL DISTRICT</b>

**PLAINTIFF'S RESPONSE TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Lake Austin Collective (LAC) asks the Court to deny the cross motion for summary judgment filed by Defendant City of Austin and to sign a summary judgment under Texas Rule of Civil Procedure 166a granting LAC's Open Meetings Act claim against the City of Austin.

**INRODUCTION**

1. a. The legal issue before this Court is whether the Austin City Council's meeting notice for November 10, 2016, Agenda Item 6 gave sufficient notice to the public to comply with the Texas Open Meetings Act (TOMA), section 551.041 requirement to give notice of the "subject" of Council's action. The Court makes that determination by comparing the meeting agenda wording to the action the Council took. Does the following agenda item give the public notice that what the Council did was to grant the developer of the Champion Tract #3 waivers from two environmental regulations of special interest to the public, the Lake Austin Watershed Ordinance (LAWO) and the Hill Country Roadway Ordinance (HCRO)?

(Austin Council Agenda, Item 6, November 10, 2016)

6. Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement

agreement relating to the development of property located at 6409 City Park Road (Champion Tract). Related to Item #43. <sup>1</sup>

b. Comparing this agenda notice to the actual ordinance adopted, the TOMA violation becomes even more obvious by noting the additional wording that was included in *the caption* of the Ordinance 20161110-006 that Council adopted under Agenda Item No. 6:

An Ordinance adopting and authorizing execution of the First Amendment to the Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al. v. City of Austin in the 353<sup>rd</sup> Judicial District Court of Travis County; amending Ordinance No. 960613-J; **and waiving certain sections of City Code Chapter 25-2 and Lake Austin Watershed Regulations from Ordinance No. 840301-F.** <sup>2</sup>

If it was necessary and appropriate to mention the environmental waivers in the *caption* of the Ordinance when it was adopted, why wasn't that subject included in the meeting agenda *notice*? In fact, if the Court reviews the Council's adopted ordinance under Agenda Item 6, **the only substantive action taken** by the ordinance was to grant waivers to the LAWO and the HCRO. <sup>3</sup> The approved Amendment to the Settlement Agreement discloses the goal was to get these environmental waivers, saying:

WHEREAS, the Champions seek variances to City environmental regulations and site development regulations applicable to Tract 3.... <sup>4</sup>

c. LAC filed an Original Petition and a Verified First Supplemental Petition (seeking temporary and permanent injunctive relief). The City filed a general denial Answer. The Parties have filed cross-motions for summary judgment which are before the Court for hearing set at 9:00 a.m. on October 5, 2017.

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<sup>1</sup> Plaintiff's Exhibit A-1 at 5, 6.

<sup>2</sup> Plaintiff's Exhibit B at 76.

<sup>3</sup> Plaintiff's Exhibit B at 77, 78.

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## RESPONSE TO CITY'S MOTION FOR SUMMARY JUDGMENT

2. *Waiver of the LAWO and the HCRO* was the true subject of the Agenda Item 6, masked by the vague and uninformative wording of the agenda item. The environmental waiver was the true topic of the Council action that was accomplished by means or methodology of an amended settlement agreement. Amending the settlement agreement was not the true subject of the Council action; it was merely the means by which Council granted the waivers, the true subject of the Council action. Another way to look at this is that the Council amended and waived important city ordinances—without identifying them generically or specifically in the agenda wording—in order to arrive at an amended settlement agreement.

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4. The LAWO and HCRO are of special interest to the public. *See* Affidavit of Carol Lee, Exhibit to Plaintiff's Motion for Summary Judgment.<sup>5</sup> As a result, the meeting notice should have been more specific to alert the public that waivers of these environmental regulations were to be

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deliberated. Under these circumstances, the agenda should have—at the very least—mentioned generically that “waivers of environmental regulations may be included,” although mentioning waivers of the LAWO and HCRO may have been required. Per TOMA, the public was entitled to notice of the Council’s consideration of the environmental waivers, and, therefore, Council’s approval of Agenda Item 6 should be declared void.

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b. Agenda Item 6 also fails the 4<sup>th</sup> part of the “test.” Agenda Item 6 utterly fails to truly “provide some indication of ... the scope of the topic of discussion.” It would have been very easy—and appropriate—for the agenda to provide some indication that “waivers of environmental regulations” or even “waivers of the Lake Austin Watershed Ordinance and Hill Country Roadway Ordinance” was included in the scope of the Council’s discussion. But such generic or specific reference to environmental waivers was not included or inferred in the way Agenda Item 6 was worded. The Court should take note of the *other* agenda items at the same Council meeting on other matters that did pass this part 4 of the “SOS Test.” *See* LAC’s Motion for Summary Judgment at 10-12, (Austin Council agenda items containing language such as “The Ordinance may include exemption from or waiver of ... modifications of City regulations....”). Had Agenda Item 6 contained such disclosure, this lawsuit may not have been necessary.

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75. Consider an Ordinance granting a special exception for development of five (5) tracts of land: Tract 1: being 153.75 acres out of James Jett Survey No. 1, more particularly described in City Application No. C-81-87-020; Tract 2: being a 20.59 acres out of James Jett Survey No. 1, more particularly described in City Application No. C-81-87-021; Tract 3: being 49.70 acres out of James Jett Survey No. 1, more particularly described in City Application No. C-81-87-022; Tract 4: being 9 acres out of T. J. Chambers Survey, more particularly described in City Application No. C-81-87-023; and Tract 5: being 26 acres out of James Jett Survey No. 1 and Thomas Jefferson Chambers Grant, more particularly described in City Application No. C-81-87-024; granting a special exception under Division 3 of Article V of Chapter 13-1, Article I of Chapter 13-7, and Article V of Chapter 13-2 of the Austin City Code of 1992, as amended; imposing water-quality protections on development of the property; waiving the requirements of Sections 2-2-3, 2-2-5, 2-2-7, 13-1-301 and 13-1-302 of the Austin City Code of 1992, as amended; establishing an expiration date; and establishing an effective date.<sup>6</sup>

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Notice that the original 1996 Champion Agent Item 75 openly disclosed and alerted the public that Council was granting a “special exception for development” and specifically listed the City Code provisions to be included in that special exception. Even if you exclude the words in the agenda item describing the property tracts at issue, the agenda item was 85 words long. Council did not consider this agenda style to be “overwhelming” to the public. Apparently, in 1996, Council considered this wording to be necessary to be TOMA compliant.

c. This 1996 original agenda posting can be taken by the Court as a prior practice of providing more detailed information in the agenda item including specifically listing which ordinances were subject to being amended under the agenda item. Again, had this City Council followed this prior practice, ironically giving better TOMA public notice when the Champion settlement was originally adopted than Agenda Item 6 did, then this lawsuit might not have been necessary. This is also an example of exactly the same kind of development issue, in fact it is exactly the same development. The 1996 Mayor and Council correctly posted the topic(s) to comply with TOMA; the 2016 Mayor and Council failed to do so.

### **SUMMARY-JUDGMENT EVIDENCE**

8. To support the facts in this Response, LAC offers the following summary-judgment evidence attached to its own motion for summary judgment and incorporates the evidence into this Response by reference.<sup>7</sup>

Exhibit A: Austin City Council Agendas

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<sup>7</sup> Plaintiffs exhibits are sequentially numbered on the lower right side of each page.

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Affidavit of Carol Lee, Director, Lake Austin Collective, Inc.

### **CONCLUSION**

9. The City's Motion for Summary Judgment does not conclusively demonstrate that Agenda Item 6 complies with TOMA. The City's motion should be denied. To the contrary, the evidence and a straight-up comparison of the November 10, 2016 meeting notice for Agenda Item 6 with the action taken on the Champion Tract Ordinance demonstrates, as a matter of law, that the meeting notice fails to meet the standards required by TOMA section 551.041. Without giving public notice, the Council considered the especially significant topics of waivers of the LAWO and HCRO environmental restrictions. Therefore, the action by the Council in adopting that Ordinance is invalid and should be declared void pursuant to TOMA section 551.141 and section 551.142.

### **PRAYER**

For these reasons, plaintiff asks the Court to deny Defendant's motion for summary judgment, grant Plaintiff's motion and sign an order for summary judgment to declare void the Council's action to approve Champion Tract Ordinance No. 20161110-006 and the settlement

agreement at its meeting on November 10, 2016, Item 6, as enumerated above, and to grant Plaintiff all other relief to which they may be entitled.

Respectfully submitted,



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**ATTORNEY FOR PLAINTIFF**

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was e-served on September 28, 2017 on the following:

#### **COUNSEL FOR DEFENDANT**

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(512) 974-2185  
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Bill Aleshire

**CAUSE NO. D-1-GN-17-002447**

<b>LAKE AUSTIN COLLECTIVE, INC.</b>	§	<b>IN THE DISTRICT COURT</b>
<i>Plaintiff</i>	§	
	§	
<b>v.</b>	§	<b>TRAVIS COUNTY</b>
	§	
<b>THE CITY OF AUSTIN</b>	§	
<i>Defendant</i>	§	<b>419<sup>th</sup> JUDICIAL DISTRICT</b>

**PLAINTIFF'S RESPONSE TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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**ATTORNEY FOR PLAINTIFF**

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I hereby certify that a true and correct copy of the foregoing document was e-served on September 28, 2017 on the following:

#### **COUNSEL FOR DEFENDANT**

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Bill Aleshire

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**Bill Aleshire**

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October 5, 2017

The Honorable Scott Jenkins, Judge  
53<sup>rd</sup> District Court of Travis County  
Heman Marion Sweatt Travis County Courthouse  
1000 Guadalupe  
Austin, TX 78701

RE: Plaintiff's Response to the City's Objections to Plaintiff's Summary Judgment Evidence, the Affidavit of Carol Lee, *Lake Austin Collective, Inc.*, Cause No. D-1-GN-17-002446, 419<sup>th</sup> District Court, Travis County, Texas.

Dear Judge Jenkins,

As requested, this letter responds, on behalf of Plaintiff, Lake Austin Collective, Inc. (LAC) in writing to the City's Objections to Carol Lee's Affidavit as was discussed at the hearing this morning. The Affidavit is evidence that the issue of waivers of the Lake Austin Watershed Ordinance and the Hill Country Roadway Ordinance are of special public interest, thus requiring more specific agenda notice of such actions pursuant to the Texas Open Meetings Act. *See* cases cited at Plaintiff's Motion for Summary Judgment, Page 7, ¶13.

## Evidence of Special Public Interest – An Issue of Fact

In support of its Motion for Summary Judgment or in response to Plaintiff's motion, the City has not offered any evidence regarding whether the waivers of the environmental ordinances at issue in this case are of special public interest. Whether the subject of the action by the City Council is of special interest to the public is an issue of fact for which evidence must be submitted to show or negate. *See Gardner v. Herring*, 21 S.W.3d 767, 774 (Tex. App.—Amarillo 2000, no pet.) ("Moreover, because Herring moved for summary judgment and her motion was not in the nature of a "no evidence" summary judgment, she had the burden to present evidence negating the likelihood that the subject was of special public interest. This she did not do."); *Stockdale v. Meno*, 867 S.W.2d 123, 125 (Tex. App.—Austin 1994, writ denied) ("Stockdale has made no showing of special public interest in the school board's decision to renew or not renew his employment

contract.”).

Please note that the Carol Lee Affidavit is not the only summary judgment evidence on this point that was presented to the Court. Additional sufficient evidence, not objected to by the City, is cited in Plaintiff’s Motion for Summary Judgment at Page 8 (¶ 14, judicial notice; ¶ 15, City Council’s findings on adoption of the Lake Austin Watershed Ordinance; and Page 9 (¶ 16, City Council’s finding on adoption of the Hill Country Roadway Ordinance).

LAC does not disagree with the legal standard and cases cited by the City in its Objection at Page 2 (first 2 unnumbered paragraphs) as to the sufficiency of summary judgment affidavit information. However, LAC asserts that the Affidavit shows it is based on Carol Lee’s personal knowledge, supported by evidence and factual basis cited in the Affidavit, is not “conclusory,” and is valid, *uncontroverted*, evidence of a special public interest in environmental protection generally and the LAWO and HCRO specifically.

Please also note that the City did not object to Ms. Lee’s testimony in ¶4(a), noting the City’s website saying “Austin’s water features are a source of immense pride for its residents....” Nor did the city of object to citation to the City’s website specifically about the LAWO, saying the LAWO “was adopted as the City’s first major attempt to address water quality degradation in the face of increasing urbanization.”

#### Specific Response to City’s Specific Objections

Ms. Lee establishes the basis for her personal knowledge of the facts in the Affidavit at ¶3, saying, “I am a Director of the Lake Austin Collective, Inc. (LAC) *and have been active in neighborhood development and environmental protection in Austin for over 20 years.*” Ms. Lee goes on to list some of the purposes of LAC.

#### Paragraph 4

The City objects to the underlined and italicized portion of Paragraph 4 as “lack of basis for personal knowledge” and “conclusory/lacks foundation.”

*It has been my personal observation for many years that environmental protections, such as the Lake Austin Watershed regulations and the Hill Country Roadway regulations are of special interest to many people in Austin.* These environmental regulations are a special interest to the public, both those who support the regulations as well as those who oppose them. As corroboration for the correctness of my observation, I note the following: ....

RESPONSE: Ms. Lee stated that she has been involved in such issues in Austin for over 20 years, giving some basis for her personal knowledge. She goes on in Affidavit to provide some of “the underlying facts to support the conclusion.” *See Rizkallah v. Conner*, 952 S.W.2d 580, 587

(Tex. App.—Houston [1<sup>st</sup> Dist.] 1997). She cited as facts supporting her conclusion, the City’s own website (¶4(a) and (b)); her own experience, particularly about her FM 2222 neighborhood, her own participation in fighting Council actions to weaken the HCRO (¶4(c)); and “by [her] personal observation and participation” that Austin Neighborhood Council uses support of “environmental regulations—specifically including the LAWO and HCRO—as criteria for vetting candidates for the Austin City Council in order to receive ANC support” and goes on to provide a web link to the ANC questionnaire (¶4(d)).

Paragraph 4(b)

The City objects to the underlined and italicized portion of Paragraph 4(b) as “lack of basis for personal knowledge” and “conclusory/lacks foundation.”

b. *Austin has a long history of the public being specially interested in environmental protection and opposing any efforts by the City Council to weaken or waive such protections.* Just a few months before the City Council granted the Champion Tract environmental waivers at issue in this case, in May, 2016, the City celebrated 30 years of comprehensive watersheds ordinances as noted on the City of Austin website (<http://www.austintexas.gov/blog/celebrating-30-years-comprehensive-watersheds-ordinance>). The website says:

In the 1970s and 1980s, development raced across the Texas landscape, sprawling into the land in and surrounding Austin. As urban development pushed into the canyons, hillsides and prairies, our creeks, lakes and aquifers were impacted by increases in concrete and other impervious cover from construction.... Members of the community who fought to protect our drinking water and who cherished the unique beauty of our hometown persuaded the City Council of Austin to act to prevent further degradation of our water and natural resources.

RESPONSE: Besides the fact that the Court could probably take judicial notice of the historical fact stated by Ms. Lee, she has already stated the unchallenged fact of her involvement in such issues for over 20 years. She is offering this ¶ 4(b) (as well as ¶¶ 4(a), (c), and (d) as “corroboration for the correctness of my observation” (see ¶ 4). She offers some of the underlying facts to support her testimony about Austin’s history as the city’s website, which, as quoted above, notes that “Members of the community” fought hard for watershed ordinances (which includes LAWO).

The City’s objection “hearsay” does not specify how Ms. Lee’s observation of Austin’s history could be hearsay. Under TRE Rule 801(d), “Hearsay” means a statement that (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers as evidence to prove the truth of the matter asserted in the statement.” Here, the declarant, Ms. Lee, is testifying in the current hearing, by affidavit. Her statement of her own personal observation of Austin’ history is not hearsay.



Paragraph 4(c)

The City objects to the underlined and italicized portion of Paragraph 4(c) as “lack of basis for personal knowledge” and “conclusory/lacks foundation” and “hearsay.”

c. *Likewise, my personal experience and observation is that the Hill Country Roadway Ordinance (HCRO) is especially important to the people in Austin, particularly in my FM 2222 neighborhood.* In 2008, Austin Council Member Mike Martinez proposed amendments to the HCRO allowing more billboards to FM 2222 and RM 620 area. (See, for example, story at [www.FourPointsNews.com](http://www.FourPointsNews.com) on April 24, 2008). I participated with many other neighborhood leaders to oppose this HCRO amendment and the Austin City Council received hundreds of emails in opposition to Martinez’s proposal. Those who oppose HCRO in my area of Austin have also been vocal. See, for example, the February 25, 2016 news story of business owners in my area voicing their opposition to HCRO regulations found at <http://www.fourpointsnews.com/2016/02/25/hill-country-roadway-ordinance-not-popular-with-local-businesses/>

RESPONSE: Ms. Lee’s affidavit shows the basis for her personal knowledge by way of her involvement, including involvement with her neighbors, in such issues. Ms. Lee gives an underlying basis for her conclusions by not only cited publicity in the Four Points News website about the HCRO, but testifies to her own personal participation in 2008 with others to oppose a Council proposal to weaken the HCRO. While the newspaper stories might be considered hearsay, as offered for the truth of the facts stated in the stories, the City did not object to that part of Paragraph 4(c). The news stories are also useful as evidence, if nothing else, that there have been news stories about the HCRO, which is not hearsay.

The City’s “hearsay” objection does not specifically explain how Ms. Lee’s observation is or could be hearsay. Her testimony about the importance of the HCRO to the public and her own neighborhood is based on her “personal experience and observation,” which, by the way, is corroborated by the City Council’s own findings in the HCRO itself. See Plaintiff’s Motion for Summary Judgment at Page 9, ¶16.

Paragraph 4(d)

The City objects to the underlined and italicized portion of Paragraph 4(d) as “lack of basis for personal knowledge” and “conclusory/lacks foundation” and “hearsay” and “irrelevant.”

d. *By my personal observation and participation, I know that the Austin Neighborhoods Council (ANC) uses support for environmental regulations—specifically including the LAWO and HCRO—as criteria for vetting*

candidates for the Austin City Council in order to receive ANC support. See, for example, <http://ancweb.org/anc-platform/> which includes the following:

5. Protect the Environment.

a. Preserve the SOS Ordinance and support watershed protection, preserve the Heritage Tree Ordinance and support maintenance and renewal of the urban tree canopy, and preserve the Waterfront Overlay, Lake Austin Overlay, and Hill Country Roadway ordinances.

b. Waivers and variances to the SOS, Heritage Tree, Waterfront Overlay, and Lake Austin Overlay, and Hill Country Roadway ordinances should require a super-majority vote of applicable boards, commissions and City Council for approval.

RESPONSE: Ms. Lee gives the basis for her personal knowledge of the ANC inclusion of HCRO and LAWO in its Council candidate vetting, because she participates in the ANC (“*By my personal observation and participation*”). Her factual statement is not “conclusory”—it’s statement of fact based on her direct participation and observation. Her statement is not hearsay and it is corroborated and supported by the underlying fact gleaned from the ANC website she cited, and to which the City did not object.

The City gives no explanation of how this statement is “irrelevant.” *See Bridges v. City of Richardson*, 354 S.W.2d 366, 368 (Tex. 1962 (objection that evidence is immaterial or irrelevant is insufficient to preserve error.)). Her statement is not “irrelevant” as it would tend to show that these environmental ordinances are of special public interest.

Paragraph 5

The City objects to the underlined and italicized portion of Paragraph 5 (in its entirety) as “lack of basis for personal knowledge” and “conclusory/lacks foundation” and “hearsay.”

5. *I know that my neighbors and I were surprised to find out that the Austin City Council was considering waivers or exemptions from the LAWO and HRCO in its action on the Champion Tract #3 development, Agenda Item #6, November 10, 2016 that had not been presented to the Land Use Commission. Granting exemptions or waivers of these environmental waivers is of special interest to the public and particularly to residents in the neighborhoods around the Champion Tracts on FM 2222.*

RESPONSE: Again, Ms. Lee’s affidavit is based on her personal experience and participation in development and environmental issues for over 20 years in Austin. It is based on personal knowledge and provides foundation for her conclusions and statements of fact. The

City's "hearsay" objection to Paragraph 5 does not explain or specify which part of Ms. Lee's statement is, or could be, hearsay. She is testifying based on her direct observation and knowledge that she and others in public and in her own neighborhood consider these environmental waivers of special public interest.

### CONCLUSION

Plaintiff asks the Court to overrule the City's Objections to the Carol Lee Affidavit. Even if the Court sustains any of the City's Objections, Plaintiff asks the court, based on the evidence that is not objected to, to make the factual finding that the waivers of the LAWO and HCRO enacted by the Council's action on Agenda Item 6 are of special public interest.

Respectfully submitted,



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[Bill@AleshireLaw.com](mailto:Bill@AleshireLaw.com)

**ATTORNEY FOR PLAINTIFF**

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was e-served on October 5, 2017 on the following:

### **COUNSEL FOR DEFENDANT**

Matthew W. Tynan, Assistant City Attorney

State Bar No. 24072489

City of Austin-Law Department

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Austin, Texas 78767-1546

(512) 974-2185

(512) 974-1311 [FAX]

[Matthew.Tynan@austintexas.gov](mailto:Matthew.Tynan@austintexas.gov)

With Courtesy Copy by email to:

Elissa Hogan, Staff Attorney

53<sup>rd</sup> District Court

[Elissa.Hogan@traviscountytexas.gov](mailto:Elissa.Hogan@traviscountytexas.gov)



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Bill Aleshire

Filed in The District Court  
of Travis County, Texas

NOV 21 2017 SL

At 11:00 A.M.  
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-17-002447

LAKE AUSTIN COLLECTIVE, INC.  
*Plaintiff*

v.

THE CITY OF AUSTIN  
*Defendant*

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

TRAVIS COUNTY

419<sup>th</sup> JUDICIAL DISTRICT

**ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

On October 5, 2017, the Court heard Plaintiff's Motion for Summary Judgment and Defendant's Motion for Summary Judgment, the responses and reply, with evidence included in the motions, and argument of counsel for both sides. The Court also heard Defendant's Objection to Plaintiff's Affidavit of Carol Lee and argument of counsel for both parties. The Court:

**DENIES** Defendant's Objection to Plaintiff's Affidavit of Carol Lee, and

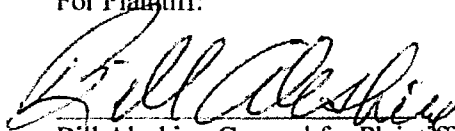
**DENIES** Defendant's Motion for Summary Judgment, and

**GRANTS** Plaintiffs' Motion for Partial Summary Judgment on its Open Meetings Claims and, pursuant to Texas Government Code section 551.141, the Court **RENDERS** judgment that the vote of the Austin City Council on November 10, 2016 to approve Ordinance No. 2016110-006 under the Council's Agenda Item No. 6 is void for failure to comply with the notice requirement of the subject of the action as required by Texas Government Code section 551.041.

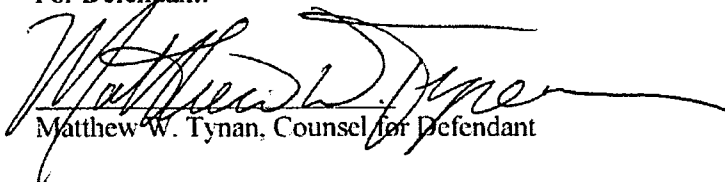
SIGNED ON November 21, 2017

  
JUDGE PRESIDING

APPROVED AS TO FORM:  
For Plaintiff:

  
Bill Aleshire, Counsel for Plaintiff

For Defendant:

  
Matthew W. Tynan, Counsel for Defendant

DEC 01 2017 SL

At 4:30 P.M.  
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-17-002447

LAKE AUSTIN COLLECTIVE, INC.	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
v.	§	TRAVIS COUNTY
	§	
THE CITY OF AUSTIN	§	
<i>Defendant</i>	§	419 <sup>th</sup> JUDICIAL DISTRICT

**FINAL JUDGMENT**

On October 5, 2017, the Court heard the Parties' Cross-Motions for Summary Judgment and subsequently granted Plaintiff's motion and denied Defendant's motion. The Court has also granted Plaintiff's Motion for Award of Attorney Fees. The Court:

hereby **RENDERS** judgment for Plaintiff that the vote of the Austin City Council on November 10, 2016 to approve Ordinance No. 2016110-006 under the Council's Agenda Item No. 6 is void, pursuant to Texas Government Code section 551.141, for failure to comply with the notice requirement of the subject of the action as required by Texas Government Code section 551.041.

1. Accordingly, pursuant to Texas Government Code section 551.142(b), the Court enjoins the City of Austin from taking any action dependent on Council's vote on November 10, 2016 of Ordinance No. 2016110-006 under the Council's Agenda Item No. 6 and that Plaintiff recover from Defendant:

a. Reasonable and necessary attorney fees in the amount of \$7,807.50 for prosecution of this case through final judgment.

b. Court costs in the amount of \$515.00.

2. The Court further orders that if Defendant appeals this judgment to an intermediate court of appeals and the final judgment is sustained, Plaintiff will additionally recover from Defendant the amount of \$10,000, representing the reasonable and necessary attorney fees that would be incurred by Plaintiff in defending the appeal.


3. The Court further orders that if Defendant appeals this judgment to the Texas Supreme Court and the final judgment is sustained, Plaintiff will additionally recover from Defendant the amount of \$5,000, representing the anticipated reasonable and necessary attorney fees that would be incurred in defending the appeal.

4. This judgment finally disposes of all claims and all parties, and is appealable. Any relief requested by either Plaintiff or Defendant that is not granted herein is denied.

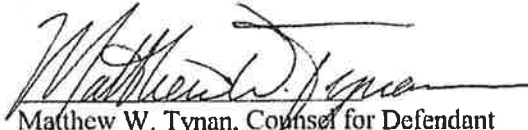
SIGNED on December 1, 2017

  
JUDGE PRESIDING  
Scott H. Jenkins

APPROVED AS TO FORM:  
For Plaintiff:

  
Bill Aleshire, Counsel for Plaintiff

For Defendant:

  
Matthew W. Tynan, Counsel for Defendant