

EXHIBIT

"A"

OUT-OF-CITY WASTEWATER SERVICE AGREEMENT

THIS OUT-OF-CITY WASTEWATER SERVICE AGREEMENT ("Agreement"), is made and entered by and between 5000 LIMMER LOOP INVESTMENTS, LLC, a Nevada limited liability company, referred to herein as the "Customer," and the CITY OF ROUND ROCK, TEXAS a home-rule municipality located in Williamson and Travis Counties, State of Texas, referred to herein as the "City." The Customer and the City are hereinafter referred to collectively as "the Parties," or individually as a "Party."

RECITALS:

WHEREAS, the Customer is the owner of record of the property in Williamson County, Texas, being more particularly described in the attached Exhibit "A" which is hereby incorporated for all purposes ("Property"); and

WHEREAS, the Customer is developing four hundred fifty-eight (458) apartment units with a clubhouse and pool; and

WHEREAS; the City has determined that it is desirable for the parties for the Property to receive wastewater service from the City notwithstanding the fact that the Property is outside the City's corporate limits, subject to the conditions set forth herein; and

WHEREAS, the City does not have an existing Out-of-City Wastewater Service Agreement with the Customer to provide wastewater to the Property, and

WHEREAS, the Customer and the City desire to enter into this Agreement to formalize the terms by which the City will provide: 1) two hundred twenty-nine (229) living unit equivalents of wastewater service for the apartment units at the Property; 2) three and one-half (3.5) living unit of wastewater service for the clubhouse and maintenance building at the Property, for a total of two hundred thirty-two and one-half (232.5) living unit equivalents of wastewater services, and

WHEREAS, pursuant to the Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80, Code of Ordinances (2018 Edition), City of Round Rock, Texas, the City Council hereby determines that there is adequate capacity of wastewater treatment services available for the purpose of servicing Customer without impairing services within the City, NOW, THEREFORE:

WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, and the covenants and agreements hereinafter contained to be kept and performed by the respective Parties hereto, it is agreed as follows:

Article I. Customer's Representations Under this Agreement

1.01 Wastewater Interceptor Extension. Customer will construct a 21-inch wastewater interceptor on the Property (the "wastewater interceptor"), as described below:

- (a) The wastewater interceptor will be constructed from the City's current interceptor termination point to the northeast corner of the Property based on an alignment approved by the City of Round Rock. Current wastewater interceptor termination point is shown on Exhibit "B," attached hereto and incorporated herein by reference, located at the northeast corner of the Property and will have a minimum slope of 0.4%;
- (b) Due to the depth and size of the wastewater interceptor, the Customer will install five (5)-foot diameter fiberglass manholes on the wastewater interceptor;
- (c) Customer will pay for all the costs of design and construction of the wastewater interceptor;
- (d) The design of the wastewater interceptor must meet the City's Design and Construction Standards;
- (e) The wastewater interceptor will be permitted through the City's Development Services Office;
- (f) The construction of the wastewater interceptor will be inspected by the City and upon completion of construction and inspection, the wastewater interceptor will be accepted by the City for permanent maintenance, subject to bonding requirements; and
- (g) The Customer will grant the City a wastewater easement for the maintenance of the wastewater line.

1.02 Customer shall comply with all requirements of the Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80, Code of Ordinances (2018 Edition), City of Round Rock, Texas, regarding the furnishing of sewer services outside the city limits, a copy of such Sec. 4-80 being attached hereto as Exhibit "C," incorporated herein by reference. Failure to comply with any of these requirements shall give the City the option of terminating this Agreement.

Article II. Provision of Wastewater Services

2.01 City agrees to sell Customer wastewater service as required by Customer for domestic use on an as needed basis for apartment units and associated ancillary facilities located on the Property.

2.02 The wastewater service to be provided herein is for the Property as described in Exhibit "A" and no other property.

Article III. Rates and Fees

3.01 Prior to connecting to the City's wastewater system, Customer agrees to pay City a one-time wastewater connection fee of **\$300,855.00**.

Any additional service resulting from future additions built on the Property shall require Customer to pay additional impact fees in accordance with Zoning and Development Code, Chapter 4, Article VI, Sec. 4-82, Code of Ordinances (2018 Edition), City of Round Rock, Texas, and as may be amended from time to time.

3.02 Customer agrees to pay City for all wastewater services provided to Customer at the rate authorized by Chapter 44, Article II, Sec. 4-34, Code of Ordinances (2018 Edition), City of Round Rock, Texas, as amended from time to time, applicable to customers located outside the corporate limits of the City. Consistent with that provision, the volume charge shall be twice the rate for commercial customers located within the corporate limits of the City. Because the Property is served with water by Jonah Water Special Utility District (Jonah SUD), the wastewater service will be calculated based on the Customer's average water consumption for December, January, and February of each winter, as determined from Jonah SUD's water bills. Customer agrees to provide the City with copied of the aforesaid bills by April 1, of each year.

3.03 The City shall render monthly bills to Customer for wastewater services. Payment shall be made no later than the sixteenth (16th) day following the mailing of the bill. Failure by Customer to make a payment when and as specified will give the City the option to terminate all obligations of the City under this Agreement.

3.04 Customer shall be subject to the penalty provisions for late payment as now exist in Chapter 44, Code of Ordinances (2018 Edition), City of Round Rock, Texas, and as may be amended from time to time.

Article IV. Compliance with Ordinances

4.01 Customer agrees to comply with all of City's ordinances as they now exist or may be amended from time to time regarding the sanitary use of the wastewater treatment system.

4.02 Customer agrees to pay the one-time wastewater connection fee as set forth in Sec. 3.01 above and to pay all other fees applicable to wastewater service.

4.03 Customer agrees and understands that the City's willingness to provide wastewater service to the Property is expressly contingent on the Property continuing to be used for its proposed uses, namely apartment units and ancillary uses to the apartment units. Customer shall not change or expand the existing uses without the express written consent of the City, which may be withheld for any reason. Any change or expansion of uses without the consent of the City will give the City the option of terminating this Agreement.

Article V. Force Majeure

5.01 In the event either Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, then the obligations of that Party, to the

extent affected by the force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of the inability. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to equipment, pipelines, or canals, partial or entire failure of water supply, and any other incapacities of either Party, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty and that the requirement that any force majeure be acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the Party having the difficulty. Force majeure shall relieve City from liability to Customer for failure to provide water service due to an inability covered by this article. Force majeure shall not relieve Customer of its obligation to make payments to City as provided in this Agreement.

Article VI. Term

6.01 The initial term of this Agreement shall be for a term of twenty (20) years from the date hereof, and shall renew for automatic successive one (1) year terms, subject to the following:

- (a) If at anytime during the initial term or subsequent terms of this Agreement, the City of Hutto, Texas, chooses to provide wastewater services to this Property, this Agreement shall automatically terminate.
- (b) In the event of a default by the Customer, the City shall give the customer written notice of default, and may terminate the Agreement if the default is not cured within thirty (30) days after Customer's receipt of the written notice.

6.02 This Agreement shall become null and void upon the annexation of the Property by the City.

Article VII. Miscellaneous Provisions

7.01 Customer is prohibited from selling or giving wastewater service purchased herein to anyone else.

7.02 Customer shall be permitted to assign its right herein to a bona fide purchaser of the Property as long as the intended use of the service and the Property remains the same or similar.

7.03 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and any and all actions brought to enforce the terms of this Agreement shall be brought in Williamson County, Texas.

7.04 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

7.05 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

7.06 This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

7.07 The violation by Customer of any of City's ordinances related to the use or disposition of wastewater, or to subdivision, zoning, development or building ordinances, shall render this Agreement voidable at the option of City.

IN WITNESS HEREOF, the parties have executed this Out of City Wastewater Service Agreement in two (2) counterparts, each of which will be deemed an original on this the _____ day of _____, 2021.

5000 LIMMER LOOP INVESTMENTS, LLC,
a Nevada limited liability company

By: **5000 LLI, L.P.,**
a Nevada limited partnership, sole Member

By: **5000 LLI-GenPar, L.P.,**
a Nevada limited partnership,
General Partner

By: **5000 LLI GP, LLC,**
a Nevada limited liability
company, General Partner

By: **Marcus Hiles,**
Managing Member
and Chief Executive
Officer

Customer's Address for Notice:

2505 North State Highway 360,
Grand Prairie, Texas 75050

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

Attest:

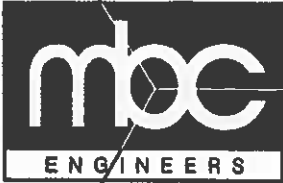
Sara White, City Clerk

For City, Approved as to Form:

Stephan L. Sheets, City Attorney

EXHIBIT "A"

Property



MACINA • BOSE • COPELAND and ASSOCIATES, INC
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232
(210) 545-1122 FAX (210) 545-9302

TBPE Firm Registration #784 | TBPLS Firm Registration #10011700 | SBE Certified #214046463
www.mbcengineers.com

METES AND BOUNDS DESCRIPTION OF

A 79.41 ACRE TRACT OF LAND, SITUATED IN THE WILLIAM DUNN SURVEY, ABSTRACT NUMBER 196, WILLIAMSON COUNTY, TEXAS; BEING ALL OF A 5.00 ACRE TRACT OF LAND SITUATED IN WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 2176, PAGE 749, OFFICIAL PUBLIC RECORDS, WILLIAMSON COUNTY, TEXAS; BEING ALL OF TRACT 1: A 24.021 ACRE TRACT OF LAND AND ALL OF TRACT 2: A 20.408 ACRE TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2020166900, OFFICIAL PUBLIC RECORDS, WILLIAMSON COUNTY, TEXAS; BEING ALL OF TRACT 1: A 10.023 ACRE TRACT OF LAND AND ALL OF TRACT 2: A 10.017 ACRE TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2020166901, OFFICIAL PUBLIC RECORDS, WILLIAMSON COUNTY, TEXAS; AND ALL OF A 9.96 ACRE TRACT OF LAND DESCRIBED IN GENERAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2020166201, OFFICIAL PUBLIC RECORDS, WILLIAMSON COUNTY, TEXAS; SAID 79.41 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch Iron Rod found marking the most Northerly corner of a 10.0062 Acre Tract described in General Warranty Deed recorded in Volume 2518, Page 130, Official Public Records, Williamson County, Texas and marking the Northwesterly corner of said 24.021 Acre Tract of land;

THENCE N 68° 25' 24" E a distance of 527.88 feet, along the Northwesterly boundary line of said 24.021 Acre Tract to a 1/2-inch Iron Rod Found marking the most Westerly corner of said 5.00 Acre Tract of land;

THENCE N 68° 29' 51" E a distance of 165.68 feet, along the Northwesterly boundary line of said 5.00 Acre Tract of Land to a 1/2-Inch Iron Rod Found;

THENCE N 68° 34' 34" E a distance of 359.07 feet, continuing along the Northwesterly boundary line of said 5.00 Acre Tract of Land to a 1/2-Inch Iron Rod Found marking the most Northerly corner of said 5.00 Acre Tract;

THENCE S 21° 42' 44" E passing at a distance of 108.33 feet, a 1/2-Inch Iron Rod Found marking the Northwesterly corner of a 5.0133 Acre Tract of Land described in General Warranty Deed recorded in Document Number 2020079305, Official Public Records, Williamson County, Texas, continuing for a total distance of 414.34 feet, along the Northeasterly boundary line of said 5.00 Acre Tract of land to a 1/2-Inch Iron Rod Found marking the most Easterly corner of said 5.00 Acre Tract of land and marking the Northeasterly corner of said 24.021 Acre Tract of land;

THENCE S 21° 37' 48" E passing at a distance of 184.88 feet, a 1/2-inch Iron Rod Found marking the most Southerly corner of said 5.0133 Acre Tract, continuing along the

Southwesterly boundary line of a 5.00 Acre Tract, described in Warranty Deed recorded in Document Number 2005048414, Official Public Records, Williamson County, Texas; and along the Southwesterly boundary line of a 3.971 Acre Tract Described in Warranty Deed with Vendor's Lien, recorded in Document Number 2013034104, Official Public Records, Williamson County, Texas a total distance of 770.66 feet to a 1/2-inch Iron Rod Found marking the Southwesterly corner of said 3.971 Acre Tract, and being the Northwesterly corner of a 5.003 Acre Tract of land described in Warranty Deed with Vendor's Lien recorded in Document Number 2019007190, Official Public Records, Williamson County, Texas;

THENCE S 21° 34' 25" E a distance of 26.98 feet, along the Westerly boundary line of said 5.003 Acre Tract, to a 1/2-inch Iron Rod Found marking the Southeasterly corner of said 24.021 Acre Tract and marking the most Northerly corner of said 9.96 Acre Tract;

THENCE S 21° 38' 42" E a distance of 1226.94 feet to a 1/2-inch Iron Rod with cap stamped "MBC Engineers" Set marking the most Easterly corner of said 9.96 Acre Tract, and marking the most Northerly corner of a 9.79 Acre Tract of land described in Warranty Deed with Vendor's Lien recorded in Document Number 2012041156, Official Public Records, Williamson County, Texas;

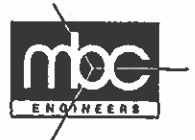
THENCE S 68° 17' 38" W passing at a distance of 236.00 feet, a 1/2-inch Iron Rod Found marking the most Westerly corner of said 9.79 Acre Tract and being the most Northerly corner of a 9.953 Acre Tract of land described in Warranty Deed with Vendor's Lien recorded in Document 2001092723, Official Public Records, Williamson County, Texas, continuing along the Northwesterly boundary line of said 9.953 Acre Tract for a total distance of 484.37 feet to a 1/2-inch Iron Rod Found marking the most Westerly corner of said 9.953 Acre Tract and being the most Northeasterly corner of said 20.408 Acre Tract of land;

THENCE S 21° 36' 35" E a distance of 1662.86 feet, along the Westerly boundary line of said 9.953 Acre Tract of land, to a 1/2-inch Iron Rod Found on the Northerly right of way line of County Road 109 (Limmer Loop), a variable width public right of way marking the Southwesterly corner of said 9.953 Acre Tract of Land and being the Southeasterly corner of said 20.408 Acre Tract of land;

THENCE S 87° 38' 54" W a distance of 601.41 feet along the Northerly right of way line of said County Road 109 to a 1/2-inch Iron Rod Found marking the Southwesterly corner of said 20.408 Acre Tract of land;

THENCE N 21° 41' 25" W a distance of 753.05 feet, departing the Northerly right of way line of said County Road 109, along the Northeasterly boundary line of a 27.896 Acre Tract of land described in Warranty Deed with Vendor's Lien, recorded in Document Number 2005020886, Official Public Records, Williamson County, Texas, to a 1/2-inch Iron Rod Found;

THENCE N 21° 29' 42" W a distance of 711.54 feet, to a 1/2-inch Iron Rod Found marking the most Northerly corner of said 27.89 Acre Tract, being the most easterly corner of a 24.953 Acre




Tract described in General Warranty Deed recorded in Document Number 2006092942, Official Public Records, Williamson County, Texas and being the Northwesterly corner of said 20.408 Acre Tract of land and the Southwesterly corner of said 10.023 Acre Tract of land;

THENCE N 21° 48' 12" W a distance of 689.58 feet, along the Southwesterly boundary line of said 10.023 Acre Tract, to a 1/2-inch Iron Rod Found marking the most Easterly corner of a 5.231 Acre Tract, described in General Warranty Deed with Vendor's Lien, recorded in Volume 2135, Page 955, Official Public Records, Williamson County, Texas; and being the most Northerly corner of said 24.953 Acre Tract;

THENCE N 21° 37' 37" W passing at a distance of 563.16 feet, a 1/2-inch Iron Rod Found marking the most Northerly corner of said 5.231 Acre Tract, being the most Easterly corner of said 10.023 Acre Tract, and being the Southwesterly corner of said 24.021 Acre Tract of Land passing at a distance of 613.01 feet a 1/2-inch Iron Rod Found marking the most Easterly corner of said 10.0062 Acre Tract, continuing along the Northeasterly boundary line of said 10.0062 Acre Tract, a total distance of 743.18 feet to a 1/2-inch Iron Rod Found;

THENCE N 21° 36' 48" W a distance of 1008.66 feet continuing along the Northeasterly boundary line of said 10.0062 Acre Tract, to the **POINT OF BEGINNING**, and containing 79.41 Acres more or less, as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.



Joel Christian Johnson, R.P.L.S.
TBPLS Firm Registration 10011700



Date: June 1, 2021
Job No: 32460-Williamson



INSTRUCTIONS: METERS.
 1. THIS SURVEY IS BASED ON THE STATE PLANNED COMMUNITY SYSTEMS ZONING...
 2. NO IMPROVEMENTS... BOUNDARY CORRECT ONLY...
 3. THIS SURVEY...
 4. THIS SURVEY...
 5. THIS SURVEY...



MACMA = BOSE = COPELAND & ASSOC., INC.
 CONSULTING ENGINEERS AND LAND SURVEYORS
 3034 Cambridge Road, Suite 200, Raleigh, North Carolina 27609
 P. O. Box 1122, Raleigh, North Carolina 27602
 Phone: 919-873-8888
 FAX: 919-873-8889
 www.mcmabo.com

BOUNDARY SURVEY EXHIBIT
 COUNTY TRACT NO. 100 OF 118 ACRES TRACT OF LAND...
 IN THE COUNTY OF HAMPDEN...
 BOUNDARY SURVEY EXHIBIT...
 HAMPDEN COUNTY, NORTH CAROLINA...
 THIS SURVEY IS BASED ON THE STATE PLANNED COMMUNITY SYSTEMS ZONING...
 NO IMPROVEMENTS... BOUNDARY CORRECT ONLY...
 THIS SURVEY...
 THIS SURVEY...

DATE	11/11/11
BY	[Signature]
SCALE	AS SHOWN
PROJECT	BOUNDARY SURVEY EXHIBIT
CLIENT	[Redacted]
PROJECT NO.	[Redacted]
DRAWN BY	[Redacted]
CHECKED BY	[Redacted]
DATE	11/11/11



James L. Loope
 Professional Engineer
 License No. 36780
 State of North Carolina
 Surveying and Mapping
 [Signature]

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EXHIBIT "B"

Current Wastewater Interceptor Termination Point

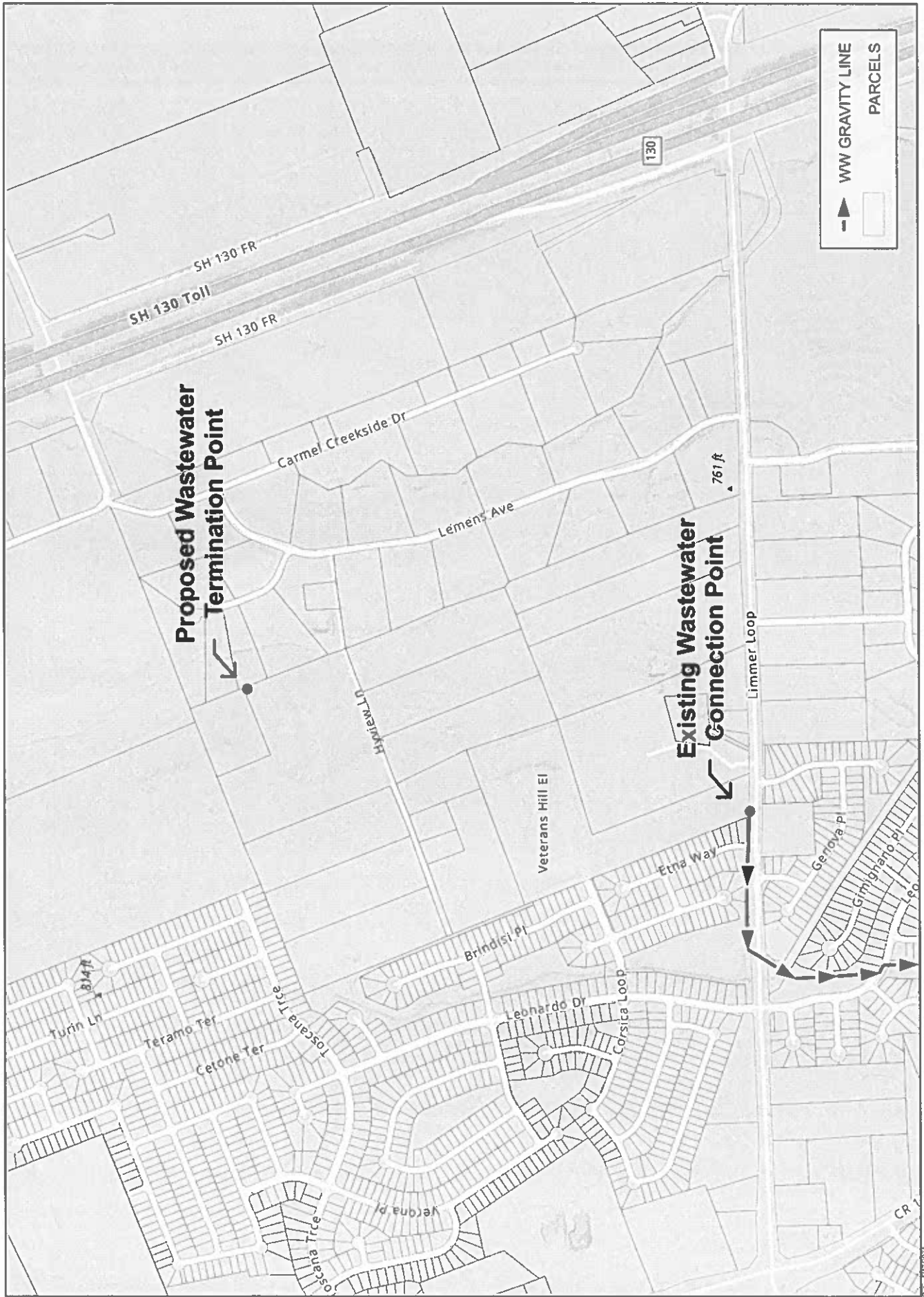


EXHIBIT B



EXHIBIT "C"

Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80

Sec. 4-80. - Furnishing of water, reuse water, and sewer services outside city limits.

- (a) *Conditions under which city services will be provided.* The city shall furnish water, sewer and/or reuse water services to residential and commercial users located outside the city limits only upon the following conditions:
- (1) *Adequate capacity exists.* There is adequate capacity of city services available for the purpose of servicing residential and commercial users outside the city without impairing services within the city. Whether such adequate capacity exists shall be determined solely by the city council, and the determination of the city council shall be final.
 - (2) *Owners outside city limits to bear costs of lines and furnish easements.* The construction costs of water, sewer and/or reuse water lines and appurtenances which serve residential and commercial users outside the city limits shall be paid for by the owner, developer, or political entity requesting the service. Such owner, developer, or political entity shall also furnish suitable construction and permanent easements and rights-of-way for utility lines.
 - (3) *Construction to conform to city standards.* All design and construction shall be in accordance with city standards and specifications.
 - (4) *New subdivisions to comply with subdivision regulations.* New subdivisions recorded after the date of passage of this section desiring city water, sewer and/or water reuse services shall comply with the subdivision regulations of the City of Round Rock, Texas, in effect at the time such new subdivision is approved. Existing subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at the time of the passage of the original Ord. No. 269 (January 8, 1976) can be furnished with water and sewer services without the necessity of having sanitary sewer collection and treatment facilities.
 - (5) *City to have right of review.* The city shall have the right to review and approve all plats and plans and inspect and approve all water, sewer and/or reuse water construction within subdivisions where water, sewer, and/or reuse water service is to be provided.
 - (6) *Water and sewer facility requirements.* Except as provided in subsection (4) of this section, all residential and commercial users shall have sanitary sewer collection and treatment facilities. Water will not be provided to residential and commercial users who utilize septic tanks save and except water can be provided to subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at the time original Ord. No. 269 was adopted (January 8, 1976).
 - (7) *Water, sewer, and/or reuse water lines to meet ultimate requirements of city.* Where water, sewer, and/or reuse water lines and appurtenances are extended outside the city limits, the lines shall be sized to serve the ultimate requirements of the city.
 - (8) *Extended lines to be designed and inspected by city's engineer.* All water, sewer, and/or reuse water lines and appurtenances extending from existing city facilities to any tract of land outside the city limits requesting water, sewer, and/or reuse water service shall be designed and inspected by the city's engineer. The owner, developer, or political entity requesting the service shall pay for these services in keeping with the current contract between the city and the engineer employed by the city.
 - (9) *City may reimburse owner for oversized lines.* Where the size of the water, sewer, and/or reuse water lines required to meet the ultimate requirements for the city is larger than eight inches and the total capacity is not required to serve the tract of land to be developed, the city may enter into a contract with the owner, developer, or entity constructing the lines for reimbursement for the excess capacity as other users request and are granted service. The developer or entity requesting service from an existing line shall pay a tap fee on a pro rata basis, as hereinafter set forth. The reimbursement to the owner, developer, or entity who paid for the line

construction shall be made only from those tap fees paid to the city by users of the facility paid for by the said owner, developer, or entity.

- (10) *Pro rata basis for tap fee.* The pro rata basis for the tap fee shall be computed based upon the required demand for use and the fire protection as specified by the engineering criteria approved by the city's engineer. The basis for cost shall be the actual total cost of the facility plus five percent (5%) interest. The total cost shall include, but shall not be limited to, construction costs, engineering costs, and inspection costs.
- (11) *Wholesale bulk rate sales of water.* Facilities constructed and paid for by another public entity or facilities which will later be acquired by a public entity may be owned, operated, and maintained by that entity. Such facilities shall purchase water from the city at a negotiated wholesale bulk rate. The city shall own, operate, and maintain all other facilities.
- (b) *Rates.* The rates paid by residential and commercial users located outside the city limits for the use of the water, sewer, and/or reuse water facilities of the city shall be in accordance with sections 44-32, 44-33, and 44-34 of the Code of Ordinances.