ORDINANCE NO. 20060202-032

AN ORDINANCE APPROVING THE EXECUTION OF A MASTER AGREEMENT, ANCILLARY COMMUNITY FACILITY AND COST REIMBURSEMENT AGREEMENTS, AND A MASTER LICENSE AGREEMENT, THE EXCHANGE OF INTERESTS IN RIGHT-OF-WAY AND PUBLIC STREETS AND EASEMENTS, AND THE GRANTING OF EXCEPTIONS TO FISCAL REQUIREMENTS FOR CONSTRUCTION OF CITY IMPROVEMENTS WITH LG PARK PLAZA LIMITED PARTNERSHIP AND LG LAMAR LIMITED PARTNERSHIP.

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

PART 1. The Council finds that:

(A) LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership (collectively hereinafter referred to as "Gables") has purchased and has proposed a mixed use development on the 4.524 acre "Lumbermen's Tract" generally bounded to the south by the City's "Sand Beach Reserve", to the west by Lamar Boulevard and to the north and east by the City's "Crescent Tract" (the "Project").

(B) The City owns adjacent property known as the "Sand Beach Reserve", generally bounded on the north by Lumbermen's Tract, on the west by North Lamar Boulevard, on the south by Cesar Chavez Street and on the east by the Seaholm Power Plant property, and the "Crescent Tract", generally bounded by the Union Pacific Railroad Company right-of-way, the Lumbermen's Tract, and the Sand Beach Reserve.

(C) The City plans to construct the extension of the Pfluger Pedestrian and Bicycle Bridge, the Bowie Street underpass, and the Lance Armstrong Bikeway in the vicinity of the Project.

(D) Gables has offered, through a Master Agreement to participate in the design and construction of City right-of-way, water quality, and park improvements in and adjacent to the Sand Beach Reserve and the Project.

(E) Gables has offered to design, construct, and maintain a section of pedestrian path and bike path improvements through the Project to provide interconnectivity to adjacent City pedestrian path and bike path improvements.

(F) Gables and the City desire to exchange interests in right-of-way and public streets and other easements to provide for the reconfiguration of City streets and the construction of other improvements by the City and Gables.

(G) Gables has offered to design and construct a City parking garage on the City's Crescent Tract abutting the Project upon timely notices from the City.

(H) Ordering exceptions to certain fiscal requirements for Gables' construction of City improvements is consistent with the goal of developing the City's infrastructure in the Seaholm District.

(I) The construction of $275,000.00 in park improvements by Gables will support the goal of the development of City parkland in the Seaholm District.

(J) Gables has offered to maintain certain City parkland, pedestrian path and bike path, bio-filtration meadow, and streetscape improvements under a Master License Agreement.

(K) The design and construction of the contemplated City improvements by Gables will further the goal of development of the Seaholm District.

(L) Gables and the City agree that, subject to revisions for health and safety purposes, the written, published requirements of the City Code and the City's rules and regulations in effect on the date of the execution of the Master Agreement will be applicable to the development of the design and construction of the City infrastructure improvements to be constructed by Gables for a period of five years.

(M) Gables has offered to provide TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($250,000.00) to the City within thirty (30) days of the commencement of construction of the condominium portion of the Project with such funding to be allocated by the City Council for affordable housing purposes at that time.

PART 2. The Council authorizes the City Manager to execute the Master Agreement, attached as Exhibit "A" and incorporated as part of this ordinance, including all exhibits and attachments necessary to implement the Master Agreement, including but not limited to incorporated Community Facilities and Cost Reimbursement Agreements to design and construct the improvements described in Part 1, a Master License Agreement for future maintenance of certain improvements, and agreements for the exchange of right-of-way, public streets, and other easements, and the future construction of the City parking garage with Gables on the premises and conditions set forth above.

PART 3. The following provisions of the City Code do not apply to the Master Agreement and its related documents:

(A) the requirement in the City Code for fiscal security for the construction of City right-of-way improvements, including Section 14-11-195 *(Security Required)* and Section 25-1-112 *(Fiscal Security)*;

(B) the requirement of Section 25-7-65 *(Fiscal Security Required)* of the City Code for fiscal security for sedimentation and erosion control;

(C) the requirement of Section 25-7-65 *(Fiscal Security Required)* of the City Code for fiscal security for the construction of a bio-filtration meadow;

(D) the requirement of Section 25-4-212 *(Dedication of Parkland Required)* and Section 25-4-215 *(Payment Instead of Land)* of the City Code for parkland dedication or fiscal or other payment; and

(E) the requirements in the City Code for fiscal security for the construction of a pedestrian path and bike path in Gables property in a City pedestrian and bike path easement, including Section 14-11-195 *(Security Required)* and Section 25-1-112 *(Fiscal Security)*.

PART 4. This ordinance takes effect on February 13, 2006.

PASSED AND APPROVED

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§
§

February 2, 2006

Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

EXHIBIT A

GABLES PARK PLAZA
MASTER AGREEMENT

This Master Agreement (this "Agreement") is made and entered into by and between LG Lamar Limited Partnership, a Texas limited partnership, LG Park Plaza Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"), and the City of Austin, a Texas home rule city (the "City"), sometimes collectively referred to as the "Parties".

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, as generally depicted on **Exhibit "B"** (the "Project").

WHEREAS, the City currently intends to construct certain public improvements in the vicinity of the Project, as generally depicted on **Exhibits "C-1" through "C-8"** (the "Improvements") and as described in Article III.

WHEREAS, the Parties presently desire to coordinate the development and construction of their respective Project and Improvements.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which the Parties specifically acknowledge, the Parties agree as follows:

ARTICLE I
GENERAL AGREEMENTS

Section 1.01 Master Agreement. This Agreement is intended to encompass all of the agreements between the Parties with respect to the Improvements, including the attached separate exhibits, which are intended to be consistent with this Agreement and which are subject to the General Provisions hereof.

Section 1.02 Effect on Settlement Agreement. The Parties intend that this Agreement will replace and supersede all of the terms of the Settlement Agreement between Lumbermen's and the City dated January 8, 2001 (the "Settlement Agreement"). Any approval or other disposition of the entitlement applications by Gables for the Project, including without limitation any zoning approval, will not constitute and will not be construed as "Project Approval" for any purposes under the Settlement Agreement. Upon the approval of Gables' site plan for the Project, any remaining entitlements created by the Settlement Agreement will terminate.

Section 1.03 Austin City Code Amendment.

(a) This Agreement is approved by ordinance of the Austin City Council and the ordinance adopting this Agreement is an amendment to the Austin City Code to the extent necessary to give effect to this Agreement. It is specifically acknowledged that all processes required for the enactment of such ordinances have been duly observed.

(c) To the extent of any conflict with the Austin City Code, the provisions of this Agreement will prevail and be binding on the Parties.

Section 1.04 Budget. This Agreement provides for cost participation by the City and Gables in the design and construction of certain of the Improvements. The City will cost participate in the cost of certain of the Improvements to be designed and constructed by Gables, as described herein, and the City will be responsible for reimbursing Gables for a portion of the costs of such design and construction up to the not to be exceeded amount of TWO MILLION TWENTY THREE THOUSAND SIX HUNDRED SEVENTY NINE AND NO/100 DOLLARS ($2,023,679.00) without further authorization by the Austin City Council. The City acknowledges that so-called "scope-creep" and market forces may result in bids which exceed the present estimates and the presently available funding.

Section 1.05 Effective Date. This Agreement is effective upon full execution by the Parties, provided however, that obligations of Gables are contingent upon: (i) the approval of the Chapter 26 hearing and (ii) the conditions set forth in Article IX below.

ARTICLE II
Design and Management

Section 2.01 City Standards.

(a) For the purposes of this Agreement, the "City Standards" to which the Improvements and the Project must be designed and constructed are the applicable written, published requirements of the City Code and City rules and regulations (the "City Standards"), specifically including but not limited to the City's Transportation and Drainage Design Criteria Manuals.

(b) The Improvements will be designed and constructed in accordance with the City Standards in effect in the date of this Agreement and such City Standards will apply for five years from the date of this Agreement.

(c) The Project will be designed and constructed in accordance with the written, published City Standards, as determined in accordance with Chapter 245 of the Texas Local Government Code and in substantial conformance with the applicable Commercial Design Standards developed at the time of execution of this Agreement, a copy of which is attached hereto as Attachment "1" and made a part hereof.

(d) In the event of a dispute over the interpretation or application of the City Standards, which is not resolved at the City's Project Manger level, as described in Section 2.05 below, either party may request a meeting as soon as practicable, but not to exceed five (5) working days with senior representatives of the Parties and their respective legal counsel to discuss the issues and attempt to arrive at an agreement. The City's representative(s) will consist of a director(s) or assistant director(s) of the City department(s) with jurisdiction over the disputed City Standards. If the dispute is not resolved through the meeting, the Parties agree to submit the dispute to mediation on an expedited basis pursuant to Section 11.04 below.

Section 2.02 Improvement Design and Construction Contract Requirements. The construction contract documents for the Improvements will comply with the requirements for a City project, as more fully set forth in Exhibits "D", "F', "G" and "H", below. The design of the Improvements to be undertaken by Gables will be submitted to the City at appropriate intervals for review, comment and approval. The City will be responsible for the design of the Improvements for the extension of the Pfluger Pedestrian and Bicycle Bridge, the Bowie Street Pedestrian and Bicycle Underpass, and the Lance Armstrong Bikeway, which are depicted on Exhibits "C-1", "C-2", and C-3". Gables will comply with the applicable provisions of the City's minority owned and women owned business enterprise procurement program found in Chapter 2-9 of the City Code and Chapter 252 of the Texas Local Government Code with respect to those Improvements that are subject to reimbursement by the City.

Section 2.03 Project Design & City Review. As stated above, the Project will be designed in accordance with applicable City Standards, specifically including but not limited to the applicable portions of the City's Commercial Design Standards, which are attached hereto. In addition, Gables may proceed under and in accordance with any subsequent changes to the City Standards and/or the Commercial Design Standards that enhance or protect the Project without forfeiting any rights hereunder. The design of the Project will be compatible with and provide interconnectivity to the various Improvements, as described in Article III. Signage in the Project will conform to applicable City requirements. In addition, the Parties intend that the Bowie Street Pedestrian and Bicycle Underpass will align with the Pedestrian Path and Bike Path as those Improvements are depicted on Exhibits "C-2" and "C-8".

Section 2.04 Management by Gables. The design and construction of the Improvements to be undertaken by Gables will be managed by Gables and its consultants. Gables will provide a duly qualified and experienced project manager to coordinate its design and construction activities, submittals and approvals with the City.

Section 2.05 City Review and Inspection Team and Project Manager .

(a) The City will provide a dedicated review and inspection team to expedite processing of all permits and other required approvals for the Project and the Improvements described in this Agreement.

(b) The City's Economic Growth and Redevelopment Services Office will designate a Project Manager to act on behalf of the City (the "Project Manager") with respect to the day to day

administration of this Agreement. The Project Manager will: (i) act as a single point of contact to facilitate communication between the Parties; (ii) schedule project development meetings between the Parties to discuss the Project and the Improvements; and (iii) act as a conflict resolution facilitator in connection with the matters arising under this Agreement.

(c) The City agrees to use best efforts to expedite the review and approval of the plans and specifications for the Right-of-Way Improvements and the Bio-Filtration Meadow Improvements. In addition, the City's Project Manager will facilitate dispute resolution meetings and communications in connection with the review and approval of the Improvements, the interconnection of the Improvements and the Project, and the Project, itself.

Section 2.06 Right-of-Way Dedication. In order to provide for the development of the Improvements described herein, the City, at its expense, will provide for the timely dedication of the right-of-way necessary for (i) the construction of the Public Streets in coordination with the anticipated construction activities in the right-of-way and (ii) the contemplated access to the Project as set forth in a subsequent site development plan application.

Section 2.07 Park Dedication. The City will also timely dedicate the additional park tract(s) to be created as a result of the reconfiguration of the public streets.

Section 2.08 Design Development. Exhibits "B" and "C-1" through "C-8" depict the approximate location of the Improvements and the layout of the Project, which will be subject to further design development in the site plan process, but which will remain in substantial conformance with the depicted locations.

ARTICLE III
IMPROVEMENTS

Section 3.01 Extension of the Pfluger Pedestrian and Bicycle Bridge. The City will design and construct the Pfluger Pedestrian and Bicycle Bridge Extension depicted on Exhibit C-1 at the City's sole cost and expense.

Section 3.02 Bowie Street Pedestrian and Bicycle Underpass.

(a) The City will design and construct the Bowie Street Pedestrian and Bicycle Underpass depicted on Exhibit C-2 at the City's sole cost and expense. The City agrees that the exterior finish of the visible facade of the Underpass structure facing the Project will incorporate appropriate design elements. The City's Project Manager will coordinate an initial design meeting with the Parties and their consultants to discuss the design of the Underpass. In the event that the design and construction of the Bowie Street Underpass cannot be accomplished within the first twelve (12) months of the construction of the first phase of the Project, the City agrees not to take access for construction purposes to the Bowie Street Underpass project from the Project.

(b) Gables will design and construct a storm water drainage inlet to collect storm water from the Bowie Street Pedestrian and Bicycle Underpass and provide a connection into the storm sewer serving the Private Drive to outfall at the Bio-Filtration Meadow. Gables will design its storm sewer line with extra capacity to accommodate the increased flows from the Underpass. The City will reimburse Gables the cost of the design and construction of the storm water inlet and the storm sewer connection and any oversizing of the storm sewer in the Project as a part of the Pedestrian Path and Bike Path Community Facilities and Cost Reimbursement Agreement.

Section 3.03 Lance Armstrong Bikeway. The City will design and construct the Lance Armstrong Bikeway depicted on Exhibit C-3 at the City's sole cost and expense.

Section 3.04 City Parking Garage.

(a) Gables will provide thirty (30) days written notice to the City of its commencement of the design of the Project's adjacent parking garage ("Adjacent Parking Garage") in the location depicted on Exhibit "B" and Exhibit C-4, which Gables presently anticipates will occur approximately six months after receipt of site plan approval for that phase of the Project, which is a present good-faith estimate only and does not consist of a covenant of time for performance, and the City must notify Gables as soon as practicable, but no later than within thirty (30) days from the date of the receipt of such notice of its intention to participate in the coordinated design of the City Parking Garage depicted on Exhibit C-4 with a requested scope of the number of spaces to be included in the garage with the design of the Adjacent Parking garage for a cost of design not to exceed $300,000.00. If the City notifies Gables to include the design of the City Parking Garage, the design process will follow the criteria set forth in a Community Facilities and Cost Reimbursement Agreement to be agreed to at the time of commencement of design in substantial compliance with the general terms and conditions of the Community Facilities and Cost Reimbursement Agreements attached to the Master Agreement and entered into by and between the Parties and as otherwise subsequently agreed to by the Parties.

(b) At the request of the City and subject to the requirement that Gables is prepared to commence the construction of the phase of the Project including the Adjacent Parking Garage, Gables will construct the City Parking Garage. The City must provide its request to construct the City Parking Garage to Gables in a written notice and in a timely manner, but no later than the time at which the construction of the City Parking Garage could be included in the bidding process for the construction of the Adjacent Parking Garage. If the City notifies Gables to include the construction of the City Parking Garage in its bidding process, the construction process will follow the criteria set forth in the Community Facilities and Cost Reimbursement Agreement to be agreed to at the time of the commencement of design as set forth above.

(c) Construction, maintenance, access to, use (including any shared use) of and revenue allocation from the Parking Garage, and related matters, will be set out in a separate agreement(s) between Gables and the City.

(d) The City will reimburse Gables the full cost of the design of the City Parking Garage up to the not to exceed amount of $300,000.00 and, if Gables constructs the City Parking Garage, the cost of the construction of the City Parking Garage on terms and conditions to be mutually agreed to by the Parties, which may include the financing of the Improvements over a period of time.

(e) The design of the Adjacent Parking Garage and the City Parking Garage will be compatible in design and will accommodate the phased future construction of the City Parking Garage. In the event that the design and/or construction of the City Parking Garage is not included in the design and/or construction of the Project, the City will be responsible for the future design and/or construction of the City Parking Garage and will not take construction access through or over the Project without the express written consent of Gables. In addition, if the design and/or construction of the City Parking Garage is not included with the construction of the Adjacent Parking Garage, the City will design and/or construct the City Parking Garage in accordance with the plans and specifications provided by Gables hereunder or in accordance with a design and plans and specifications which are compatible with the Adjacent Parking Garage.

Section 3.05 Bio-Filtration Meadow. As more fully described in **Exhibit "D"**, Gables will design and construct the Bio-Filtration Meadow depicted on Exhibit "C-5" and the City will reimburse Gables a portion of the cost of the design and construction of the Bio-Filtration Meadow, which will be designed to capture and treat storm water runoff from the Project and the drainage area depicted or described on **Exhibit "E"**. In connection therewith, the City specifically authorizes Gables and its successors and assigns to use of the Bio-Filtration Meadow and the City's storm sewer system to convey, capture and treat storm-water run-off from the Project, subject to applicable City Standards.

Section 3.06 Right-of-Way Improvements. Gables will (i) design and construct the Public Streets depicted on Exhibit "C-6", (ii) remove the existing pavement of Sandra Muraida Way and the access easements described in Section 4.03 and other paved areas when the Public Streets have been completed, (iii) provide for any required utility relocations associated with such street construction, (iv) design and construct the traffic improvements, and (v) design and (in coordination with the City) construct the traffic signal improvements, all as more fully described in **Exhibit "F"** and the City will reimburse Gables a portion of the cost of the design and construction of the improvements generally described in this paragraph and more specifically described in attached Exhibit "F", hereinafter referred to as the "Right-of–Way Improvements."

Section 3.07 Park Improvements. As more particularly described in **Exhibit "G"**, Gables will design, construct, and fund $275,000.00 of the cost of the Park Improvements, excluding the hike and bike trails to be located in the Park Tracts, (the design and construction of which will be approved by the City, as provided in Section 2.01 above) and as generally depicted on Exhibit "C-7". Gables will post fiscal security for $275,000.00 of Park Improvements and such fiscal will be released to Gables upon completion and acceptance of the Park Improvements.

Section 3.08 Pedestrian Path and Bike Path. As more particularly described in **Exhibit "H"**, Gables will design and construct the Pedestrian Path and Bike Path Improvements in the Project through the area of the Private Drive depicted on Exhibit "B" and Exhibit "C-8" in a dedicated easement, and the City will reimburse Gables a portion of the cost of such design and construction. The plan of the Private Drive, including the Pedestrian Path and Bike Path, is depicted on attached ***Exhibit "I"***. *The City acknowledges that the design of the Pedestrian Path* and Bike Path Improvements has been developed with input from the City, from a City consultant, and public comment. The City will reimburse Gables the cost of the design and construction of the storm water inlet and the storm sewer connection and any oversizing of the storm sewer described in Section 3.02 above as a part of the Pedestrian Path and Bike Path reimbursement, if any.

Section 3.09 Thirty Inch Wastewater Line Relocation. In connection with its development of the Project, Gables will provide for any necessary relocation of the City's 30 inch wastewater line (the "Wastewater Line"), depicted on **Exhibit "J"**, in accordance with applicable City Standards. The City consents to the relocation of the wastewater line into an easement located within the area of the Private Drive on the Project, provided that the exact location of the wastewater line and the wastewater easement to be dedicated pursuant to Article IV will be determined at the time of the approval of the site plan for the Project, subject to final engineering and approval by the applicable City departments. If the City requests or requires any increase in the size or scope of the wastewater line beyond applicable City Standards for the Project, the City will reimburse Gables a portion of the cost of the design and construction of the wastewater line in accordance with Chapter 25-9 of the City Code.

Section 3.10 Coordination of Design. The Parties and their respective professional consultants will coordinate and cooperate in the design of the Improvements, including the construction of the Improvements to be undertaken solely by either party. In doing so, the respective consultant contracts will provide that the consultants will attend a reasonable number of meetings to determine the scope and the schedule of the Improvements and the consultants will provide the other consultants with reasonable access to their designs and data related to the development of the design of the Improvements. In addition, said consultants will coordinate and cooperate with the consultant designing the Project in the development of the design of the Improvements and their relationship to the Project. In addition, the Parties anticipate that the City will design and construct the proposed Lance Armstrong Bikeway in the area of the Improvements prior to or at the time of the design and construction of the Improvements and the Parties and their respective consultants will coordinate and cooperate in the development of their respective Improvements with the Lance Armstrong Bikeway.

Section 3.11 Coordination of Construction. The Parties and their respective contractors will coordinate and cooperate in the construction of the Improvements and the Project, including the construction of the Improvements to be undertaken solely by the City. In doing so, the construction contracts for the Parties' respective projects shall, without creating any liability on the part of the Parties, themselves, include provisions which substantially comply with the following:

(a) The contractor specifically acknowledges that a major construction project or projects will be in progress in the area adjoining the "Work", which is the subject of this contract, during the construction of the Work. The contractor must plan and prosecute the Work in such a manner and sequence that there will be no substantial interference, interruptions or delays to the operations of the other contractors. In planning and executing the sequence of Work, the contractor must take into consideration the progress and state of completion of the other existing project(s).

(b) The contractor shall prepare a comprehensive schedule for the Work in the form of a bar chart or other schedule method approved by the City and Gables, which shall take into account the coordination to be required with the multiple construction projects constituting the Improvements and the Work, itself.

(c) It is anticipated that other work, including utility construction and adjustment, may be in progress when contractor begins construction and during construction.

(d) The contractor shall participate in up to three initial meetings and, if required by the Parties, a series of additional meetings to be scheduled by the Parties with the other separate contractors and appropriate representatives of the Parties' forces in order to review their separate construction schedules and formulate the coordination of multiple project activities. The ultimate purpose of the meetings will be to formulate a revised schedule to coordinate the prosecution of the Work with the other projects in such a manner as to avoid or minimize any interference with the schedule of the Work. The Parties and the contractor(s) agree to and shall make such reasonable revisions to the multiple construction schedules as deemed reasonably necessary by the Parties and the contractors, taking into consideration the other schedules, in order to provide for the logical sequencing and coordination of the Work with the other projects. The resulting construction schedules will be used by contractor for the prosecution of the Work in coordination with the work of other contractors, until subsequently revised.

(e) During construction of the Work, the contractor shall make commercially reasonable efforts to allow (i) proper and safe access to the site, (ii) free ingress and egress over the right of way, and (iii) a reasonable opportunity for the introduction of materials and equipment and the execution of such other work.

(f) Contractor shall properly connect and coordinate the Work with the work of others, as required and necessary to make the several parts of the Work properly come together with such other work. Contractor shall not damage or endanger any work of others by cutting, excavating or otherwise altering their work and will only cut, excavate or alter their work with the written consent of the affected Parties' representatives and the other contractor(s) whose work will be affected.

(g) To the extent that any delays resulting from the conditions and scheduling issues described above are beyond the reasonable control of both the respective Parties

and contractors, the affected contractor will be provided an appropriate extension of time, but no additional compensation will be allowed for any hindrance or delays in construction operations that may be attributed to observance of the requirements outlined in this Section, unless such delays result from an inability to work on all areas of the Work or such substantial portions of such Work that Contractor is unable to reasonably prosecute the critical path of the Work in which event the respective party and the contractor will negotiate a reasonable change order for such delays.

Section 3.12 Special Events. The City, acting by and through its Project Manager, will endeavor to timely inform Gables of the schedule for any special events in order to minimize any interference with construction activities and the Parties' respective construction contracts must provide that the respective contractors will agree to and acknowledge that their construction activities may have to be scheduled to facilitate certain special events. The City's Project Manager will provide Gables with the currently projected schedule for special events which may impact the area of the Improvements and will provide updated schedules as available.

ARTICLE IV
EASEMENTS

Section 4.01 Private Drive Easements.

In addition to those easements required for public service and emergency service vehicles, public utilities, the 30 inch Wastewater Line, and storm water lines in the Private Drive, required as part of the site plan approval process for the Property, including the portion of the Private Drive on the Bowie Street Right-of-Way tract described herein, Gables will grant to the City an easement on, over, under and across the portion of the Private Drive, as generally depicted on Exhibit "B" for pedestrian path and bike path purposes, in the form attached hereto as **Exhibit "K"** with the exact area of the easement to be determined by an on-ground survey. The easement will be executed within twenty (20) days of the execution of this Agreement and placed in escrow with Heritage Title Insurance Company of Austin pursuant to an escrow agreement to be approved by Gables and the City Law Department, which will be released and recorded upon completion of the Bowie Street Pedestrian and Bicycle Underpass project by the City. Pending the determination of the exact location of the Pedestrian Path and Bike Path Easement during the site planning process, the area of the easement will be presumed to be located in the Private Drive as depicted on Exhibits "B", "C-8", and "I". In the event that the City constructs the Pedestrian Path and Bike Path pursuant to Section 11.25 below, Gables may relocate the Pedestrian Path and Bike Path in accordance with an approved site plan at Gables' sole cost and expense and such easement will be further defined by a metes and bounds survey and re-recorded in a separate document. In addition, the location of the Pedestrian Path and Bike Path Easement and improvements may be relocated to another location within the Private Drive, which provides substantially the same ability to use the easement for its intended purpose, with the consent of the City's Director of Public Works.

Section 4.02 Bowie Street Right of Way Exchange.

(a) Subject to the requirements of Section 272.001 of the Texas Local Government Code, the Parties agree that within twenty (20) days of the execution of this Agreement (i) the City will exchange, abandon, release and quitclaim to Gables its interest in the portion of the Bowie Street Right-of-Way described as lying to the south of the northern property line of the Property in a Quitclaim Deed and (ii) Gables will (a) exchange and dedicate a Wastewater Easement to the City for the thirty inch (30") City wastewater line, which is located in and under the Property, in the City's standard form of Wastewater Line Easement, provided that the easement will allow for the relocation of the wastewater line at Gables' sole cost and expense and will contain a special rather than a general warranty of title, and (b) exchange, abandon, and release and quitclaim to the City its interests in the public streets dedicated by (1) implication, as determined in a lawsuit between the State of Texas, the City and the Missouri Pacific Railway Company, Cause No. 477,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP (2) ordinance as set forth in Ordinance No. 85-0110-X, and (3) the private right-of-access easements in the deed to the 0.609 acre parcel recorded at Document No. 2002000252 of the Official Public Records of Travis County, Texas, depicted on Exhibit "B". The forms of the respective Quitclaim Deeds and Wastewater Line Easement are attached hereto as **Exhibits "L-1", "L-2",** and **"L-3"**, respectively.

(b) The exchange is subject to the requirement set forth in subsections 272.001(b) of the Texas Local Government Code that the City's interest must be exchanged for not less than the fair market value of the City's interest, as determined by an independent appraisal obtained by the City, including a transaction partly for cash. Gables agrees to accept, as full consideration for the exchange described above, the Bowie Street Right-of-Way parcel described above and Gables further agrees, if the appraisal of the tracts to be exchanged indicates that the City's interest is in excess of the interests of Gables, to pay the City any such excess value in cash upon delivery and exchange of the Quitclaim Deeds and Wastewater Line Easement. In addition, the exchange is subject to the vacation of the Bowie Street Right-of-Way remnant described below.

(c) In addition, the Quitclaim Deeds will be subject to the following conditions:

(1) The Quitclaim Deed from the City to Gables will be executed, delivered and exchanged subject to easements to be retained for a public utility easement, a portion of the Pedestrian Path and Bike Path Easement, and to the extent applicable, the storm sewer inlet and storm sewer line easement to provide drainage from the area of the Bowie Street Pedestrian and Bicycle Underpass. Subject to the site planning process, the locations of such easements will be further defined by metes and bounds surveys and re-recorded in separate documents.

(2) The Quitclaim Deed from Gables to the City will be executed and exchanged and placed in escrow with Heritage Title Insurance Company of Austin pursuant to an escrow agreement to be approved by Gables and the City Law Department, which will be

released and recorded when the Bowie Street Right-of-Way has been vacated and the reconfigured Public Streets described herein have been constructed, completed and accepted by the City and are available to replace Gables' rights of access.

(d) Subject to Section 1.05 above, the Parties will execute and deliver the respective Quitclaim Deeds described above within thirty (30) days of the date of this Agreement.

Section 4.03 Vacation and Release of Easements.

(a) At such time as reconfigured Public Streets are dedicated, completed and accepted by the City and Gables has established alternate access to the Property, the City will proceed to expeditiously vacate the public streets dedicated by implication as determined in a lawsuit between the State of Texas, the City and the Missouri Pacific Railway Company, Cause No. 477,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP and to the street right-of-way dedicated by Ordinance No. 85-0110-X, in a form to be approved by Gables and the City Law Department, such approval not to be unreasonably withheld or denied.

(b) In addition, in connection with the exchange and the escrow of the Quitclaim Deeds and Wastewater Line Easement, as described above, the City will vacate the portion of the Bowie Street Right-of-Way described above or will proceed to expeditiously complete such vacation.

Section 4.04 Construction Staging Areas. Subject to the permitting requirements set forth in the City Code, the City will grant Gables construction staging areas in the areas of the access easements defined in the Settlement Agreement and underlying judgment for the construction of the Improvements. In addition, subject to the permitting requirements set forth in the City Code and the approved phasing and schedule for the Project and the Improvements as set forth in Sections 7.01 and 7.02 below, the City will grant Gables a construction staging area in the 0.609 acre City right-of-way parcel described in that certain deed recorded at Document No. 2002000252 of the Official Public Records of Travis County, Texas, in connection with the construction of the Improvements and adjacent portions of the Project.

Section 4.05 City Parking Garage Easement. When the Project has received zoning, site development plan approval, and, as a condition to the issuance of a building permit for the phase of the Project that includes the Adjacent Parking Garage, Gables will grant to the City an easement for joint access over, upon and across the entrance to Gables' adjacent Project parking garage, as generally depicted on Exhibit "B", for access to the City Parking Garage, in the form of an easement(s) to be approved by Gables and the City Law Department. The easement will provide that it will only be effective when the City Parking Garage has been constructed and the City has received a Temporary Certificate of Occupancy for the City Parking Garage. In the event that the City constructs the City Parking Garage prior to the construction of the Adjacent Parking garage, Gables will convey to the City an access easement for access to the City Garage within 30 days of written request by the City on terms and conditions acceptable to Gables and the City Law Department.

Section 4.06 Lamar Boulevard Service Driveway. In connection with the development of the phase of the Project adjacent to Lamar Boulevard, the City will grant a driveway permit or other permission, such as inclusion on an approved site plan, to Gables for access from Lamar Boulevard to its truck loading area in the Project on, over, upon and across the portion of the Lamar Boulevard right-of-way generally depicted on Exhibit "B", subject to and in accordance with applicable City requirements, including but not limited to the applicable portions of Chapter 25-6 of the City Code, the City's Transportation Criteria Manual and the City Drainage Criteria Manual.

ARTICLE V
FUNDING

Section 5.01 General. The Parties will fund their respective share of the cost of the Improvements as set forth in **Exhibit "M"** and as more particularly described in Exhibits "D", "F", "G", and "H" attached hereto. In addition, Gables will fund $275,000.00 for the design and construction of the Park Improvements described in Sections 3.07 above and 5.03 below.

Section 5.02 Fees. Gables will pay all fees applicable to the Project and the Improvements, excluding the Bowie Street Pedestrian and Bicycle Underpass, the Pfluger Pedestrian and Bicycle Bridge Extension, the Lance Armstrong Bikeway, and, if applicable, the Thirty Inch Wastewater Line Relocation, and the City will reimburse Gables a percentage of the fees for the construction of the Improvements as set forth in Exhibit "M" and as more particularly described in Exhibits "D", "F", "G" and "H" attached hereto. The City agrees that fiscal posting requirements are inapplicable to and will be waived for the Right-of-Way, Bio-Filtration Meadow, Park and Pedestrian Path and Bike Path public Improvements.

Section 5.03 Parkland Dedication and Improvement The City agrees and finds that the negotiated obligations for the funding, design, construction and maintenance of the Park Improvements to be undertaken by Gables hereunder, constitute sufficient consideration for any and all parkland dedication requirements or fee in lieu of dedication requirements that would otherwise apply to development of the Project, regardless of whether any plat or re-plat of the Property is approved or other subdivision of the Property occurs, provided that this agreement and finding is limited to the development of the Project, as described herein and in the attached exhibits, and is inapplicable to any other project or any other development of the Property.

Section 5.04 License Fees. The cost of the designated Improvements and maintenance to be undertaken by Gables hereunder to City infrastructure, including the Bio-Filtration Meadow, the Right-of-Way Improvements, the Park Improvements, and Pedestrian Path and Bike Path, described in Exhibits "C-5" through "C-8" constitutes a present public benefit and, subject to continued maintenance by Gables, no license fees, including the application fee, the annual fee and the escrow fee, will be charged in connection with the Improvements.

Section 5.05 Reallocations. The City funding described in Section 1.04 is intended to provide full funding for the City's financial obligations for the development of the public Improvements described herein. Without affecting in any way any other reallocation provisions in this Agreement or in the attached Exhibits, the Parties will reasonably consider, to the extent allowed

by law or other written agreement, the reallocation of any and all amounts of funding described in this Agreement or in the attached Exhibits (whether characterized as contributions, reimbursements, or otherwise) from one category of Improvement to another such that to the extent possible the full aggregate amount of the City's and Gables' credits and contributions for the Improvements may be made available to the Parties in connection with the development of the Improvements, including the phasing and separate completion and acceptance of separate Improvements, but excluding the Bowie Street Pedestrian and Bicycle Underpass and the Pfluger Pedestrian and Bicycle Bridge Extension, and, as applicable, the Thirty Inch Wastewater Line Relocation. The Parties acknowledge that certain sources of City funding may be restricted to specifically allocated purposes. To the extent allowed by Texas law, the Austin City Code, and this Agreement, the City will consider its funding as a pooled source of funding available for the payment of individual component Improvements, as the same are completed and accepted by the City, so that payment may be made from the total pool of funding rather than from funds specifically designated for the estimated costs of a particular component part of the Improvements. In doing so, any cost savings with respect to one category of the Improvements will be considered for the funding of other categories of the Improvements.

Section 5.06 **Art in Public Places Fee.** The City will comply with the Art in Public Places requirements of Chapter 7-2 of the City Code in the construction of the Improvements on the basis of its percentage shares of the cost of the Improvements and Gables will match the City's contribution up to the amount of $100,000.00. The Parties will jointly prepare recommendations for the use of the public art fees, but acknowledge that the ultimate award of the public art fees is subject to the City's then current policies regarding public art, provided that the City Manager will approve the final selection and location of the public art projects and will consider Gables recommendations in granting any such approval. The Parties agree that the first priority for the public art in the vicinity of the Project and the Improvements will be in the largest contiguous Park Tract created by the construction of the Public Street Improvements or as otherwise subsequently agreed to by Gables and the City Manager.

ARTICLE VI
LICENSES FOR CONSTRUCTION IN CITY PROPERTY

Section 6.01 **Master License Agreement.** As more particularly described in the draft Master License Agreement attached as **Exhibit "N"**, Gables will perform certain construction and maintenance activities on certain designated portions of City-owned tracts. The final Master License Agreement will be approved by the City Manager or designee.

Section 6.02 **Construction Permitting**. Whenever Gables is required or permitted to perform construction activities wholly or partially off of the Property, the Parties will coordinate and cooperate in the application and issuance of any necessary permits or licenses.

ARTICLE VII
PERFORMANCE AND PAYMENT

Section 7.01 **Time for Performance.** Subject to all of the terms and conditions of this Agreement, Gables will construct the Improvements described in this Agreement in the

estimated timeframes set out on the schedule attached as **Exhibit "O"** which represent present good-faith estimates only and do not consist of a covenant of time for performance. In the event that the necessary approvals for the construction of the Improvements are not granted in accordance with the estimated timeframes set forth in the attached schedule, the timeframes will be tolled until such approvals have been obtained and construction may proceed and the timeframes will be extended accordingly. The City's presently anticipated schedule for the design and construction of the Pfluger Pedestrian and Bicycle Bridge, the Bowie Street Pedestrian and Bicycle Underpass, and the Lance Armstrong Bikeway Improvements is included in Exhibit "O" which schedule represents a present good-faith estimate only and does not consist of a covenant of time for performance.

Section 7.02 Phasing. The Project and the Improvements may be developed and constructed in separate and distinct phases. Similarly, the funding described in Section 5.01 of this Agreement may be used in whole or in part in different phases of development of the Improvements, as necessary or desirable. The estimated phasing of the construction of the Right-of-Way Improvements is set out on **Exhibit "P"** hereto.

Section 7.03 Completion and Acceptance. The separate Improvements described in Sections 3.04 to 3.08 and Exhibits "D", "F", "G", and "H"" may be individually considered "complete" for purposes of approval, acceptance and reimbursement by the City. The City will perform interim inspections of the Improvements within two (2) working days and final inspections of the Improvements within ten (10) working days after a request for inspection is received, and, if completed in accordance with the terms of the Plans and Specifications and the requirements of the applicable Community Facilities and Cost Reimbursement Agreement in all material respects, will certify the Improvements as being in compliance with City Standards, and issue a final acceptance letter, accepting the Improvements for operation and maintenance. The final acceptance letter will be the effective date of "completion" for the purposes of this Agreement. The inspections and certifications will be conducted in accordance with standard City policies, procedures, and requirements. The City will provide Notice to Gables within two (2) working days, whenever a completed inspection reveals that the Improvements are not constructed or completed in accordance with the Plans and Specifications or are otherwise materially defective. The Notice will specifically detail any deficiencies. The foregoing notwithstanding, inspection of construction by the City is not a guaranty that construction of the Improvements is free from defects or complies with all applicable laws. In the event of a dispute regarding any notice of failure to complete the construction of the Improvements in accordance with the applicable plans and specifications, either party may request in writing a dispute resolution meeting with the City's Project Manager. The meeting will be held within three business days of such a request and the Parties agree that the recommendations of the Project Manager will be given due consideration in the resolution of the dispute. If the Parties are not satisfied with the recommendations of the Project Manager, the matter may be appealed to the Director of the applicable City department with jurisdiction over the Improvements in question and thereafter to mediation, as allowed by this Agreement.

Section 7.04 Reimbursement and Payment.

(a) Gables will initially pay for all costs associated with the design and construction of the

Improvements in a timely manner. The City will reimburse Gables the portion of the design and construction costs of the Improvements, approved in accordance with the applicable Community Facilities and Cost Reimbursement Agreement, after Gables has constructed and the City has accepted the Improvements or a designated portion of the Improvements for operation and maintenance. The City's participation in the cost of the Improvements may include third party contributions. Subject to the requirements of the applicable Community Facilities and Cost reimbursement Agreement, the City will reimburse Gables for the design and construction costs of the Improvements within 30 days after final acceptance.

(b) The eligible costs for reimbursement will include the so-called "hard costs" of construction, as evidenced by the amounts paid to the general contractor for the performance of the Work, and the so-called "soft costs" of the fees to be paid under this Agreement, design fees, the construction management fee, permitting and inspection fees, and other professional services fees, but will exclude the costs of Gables' financing and Gables' accounting, and legal fees.

ARTICLE VIII
MAINTENANCE

Section 8.01 Maintenance and Repair of Park Tracts, Pedestrian Path and Bike Path and Bio-Filtration Meadow. Gables will be responsible for the ordinary and ongoing maintenance and repair of the Park Tracts (excluding the hike and bike trails in the Park Tracts), the Pedestrian Path and Bike Path, certain streetscape improvements adjacent to the Project, and the Bio-Filtration Meadow, constructed in accordance with Gables' approved site plan and as added by Gables through an amendment to the Master License Agreement, including, but not limited to, mowing, landscaping, and litter control (including but not limited to trash receptacle maintenance), and routine silt abatement for the Bio-Filtration Meadow, but excluding storm sewer lines and box culverts, and excluding those improvements added by the City or third parties. Gables will also be responsible for the cost of any utility service utilized in connection with such maintenance and repair. The City will be responsible for the major repair and maintenance of the Park Tracts (and the ordinary and ongoing maintenance of the hike and bike trails in the Park Tracts), Pedestrian Path and Bike Path and Bio-Filtration Meadow and the future capital costs of any such repairs, including repairs to and maintenance of any storm sewer lines and box culverts. Major repairs and maintenance are defined as those made necessary by extraordinary or unforeseen events and include, but are not limited to, repair of significant portions of such sites, and repairs and/or replacement of walls, weirs, pipes, outlet structures, filter bed or other structural components of any bio-filtration meadow area. Major repair and maintenance will be performed to substantially the same level of quality as the original improvement. The City will be responsible for any maintenance and/or repair of the Park Tracts or Bio-Filtration Meadow resulting from any special events permitted or otherwise allowed by the City on or adjacent to such tracts, specifically including but not limited to litter control. Gables will provide for routine animal waste control and clean-up on the Park Tracts.

Section 8.02 Public Infrastructure Maintenance. Except as set forth in Section 8.01, the City shall be solely responsible for the maintenance, capital repair, and replacement of the Improvements and any other associated public improvements constructed pursuant to this Agreement.

Section 8.03 Assignment of Warranties. Upon substantial completion of the construction of any given Improvement, Gables will assign the contractor's warranty for the construction of that Improvement to the City, excluding any portion of such warranty pertaining to Gables' Project. Except as set forth in Sections 8.01 and 8.02, Gables will have no maintenance obligation for any given Improvement to the extent that the maintenance of such Improvement is covered by a warranty that has been assigned to or is otherwise held by the City.

Section 8.04 Master License Agreement. The maintenance rights and responsibilities of Gables and the City will be more particularly set forth in the Master License Agreement to be entered into by and between the Parties.

Section 8.05 Contingent Obligation. The maintenance rights and responsibilities of Gables hereunder are contingent upon reimbursement by the City in accordance with the provisions of this Agreement.

ARTICLE IX
CONDITIONS PRECEDENT

Section 9.01 Conditions Precedent to Gables' Obligations. Notwithstanding anything in this Agreement to the contrary, the Parties expressly agree and acknowledge that Gables has no obligation whatsoever to construct any of the Improvements described in this Agreement separately or independently of Gables' construction of the Project. If Gables does not construct the Project, Gables will not be required to construct the Improvements and any fiscal security posted by Gables for the construction of the Improvements will be returned to Gables. Gables shall not be obligated to undertake or complete any action otherwise required of Gables hereunder, unless at any given time each and every one of the following conditions has been satisfied as determined in Gables' sole, reasonable judgment (provided, however, that Gables may waive any such condition by providing Notice of that waiver to the City, and provided further that Gables' performance hereunder is also subject to all of the other terms and conditions of this Agreement):

(a) Gables has received from the City any and all approvals necessary for construction of the Project and the Improvements then contemplated for construction, excluding the Bowie Street Pedestrian and Bicycle Underpass and the Pfluger Pedestrian and Bicycle Bridge Extension, including (i) (approval of) infrastructure plans, budgets, development schedules, and construction contracts for the development of the Project, (ii) a site development permit(s), and (iii) a building permit(s);

(b) Any subdivision required for development of the Project has been completed and a subdivision plat(s) therefor filed in the Official Public Records of Travis County, Texas; and

(c) The transactions required for the exchange and vacation of the Bowie Street Right-of-Way and the access easements described in Article IV have been

completed or are otherwise subject only to those conditions agreed to by the Parties.

Section 9.02 City Scheduling. The City will review and approve the actual schedule for the construction of the Improvements prior to the commencement of construction of any individual Improvement.

ARTICLE X
LENDER PROTECTION

Section 10.01 Collateral Assignments of Interests. In order to fund its obligations hereunder, Gables may borrow money from a lender, whether one or more or acting through an agent (a "Lender"), which may require Gables to mortgage, pledge, collaterally assign, or otherwise transfer or encumber its rights and interests in this Agreement to Lender as collateral for Lender's loan (collectively, an "Encumbrance"), provided, however, that any such Encumbrance shall comply with the requirements set forth herein, including, but not limited to the requirements that there can be no Encumbrances on City infrastructure and/or property and that partial subordinations of any Encumbrances and subsequent releases with respect to the Improvements may be required in connection with any loan proceeds used in connection with the construction or maintenance of the Improvements. Notwithstanding the foregoing, Gables may not mortgage, pledge, collaterally assign, or otherwise encumber its rights and interests in Property subject to City easements described herein, unless the Lender subordinates the Encumbrance to the easements or the Lender specifically acknowledges and consents to the easements.

Section 10.02 Lender Succeeding to Interests. If a Lender succeeds to the interest of Gables hereunder, the City shall be bound to such Lender in accordance with all of the terms of this Agreement; provided, however, that the City shall be under no obligation to pay amounts to such Lender until such payment is otherwise due and payable, and the City receives notice from such Lender that Lender has succeeded Gables hereunder. If a Lender does succeed to the interest of Gables hereunder, such Lender shall be bound to the City under all of the terms, covenants and conditions hereof; provided, however, that such Lender shall not be obligated to construct or complete all or any part of the Project or any Improvement.

Section 10.03 Notice Prior to Default. If Gables defaults in the performance of any of its obligations under this Agreement, the City will, prior to exercising any remedy or taking any action with respect to such default, give written notice of default to Gables and all Lenders. Gables and its Lenders will have the right, but, as to Lender, not the obligation, to cure such default. If such default is not cured within the initial 30 day cure period set forth in Section 11.02, the City will give a second written notice to such effect to all Lenders. Upon receipt of the second written notice, a Lender will have an additional 30 days in which to cure the event of default and, except for actions to protect the public health and safety, the City will not take any action with respect to such default, including termination of this Agreement for such additional 30 day period, which may be reasonably extended in the case of any default which cannot with diligence be cured within said 30 day period, if the Lender proceeds promptly to cure such default and thereafter prosecutes the completion of the curing of such default with diligence and

continuity. In any event, if any Lender delivers notice to the City that such Lender is commencing foreclosure or other enforcement action, all cure periods hereunder shall be extended, subject to the Lender proceeding with prompt, diligent and continuous cure efforts, as reasonably necessary to complete such enforcement action.

Section 10.04 Additional Agreements. Upon a Lender's request, the City will execute and deliver to any Lender no more than once a year an estoppel certificate to be approved by the City Law Department in connection with any construction financing for the Project or Improvements. If the City terminates this Agreement by reason of Gables major, uncured default, the City may enter into a novation agreement with a Lender(s) succeeding to Gables interest, effective as of the date of such termination, incorporating this Agreement.

Section 10.05 Lender Released. If a Lender succeeds to Gables' position hereunder and then subsequently transfers its position hereunder to a third party, subject to terms and conditions reasonably acceptable to the City Manager, such Lender shall be released and relieved of all liability hereunder for those matters arising after such transfer.

ARTICLE XI
GENERAL PROVISIONS

Section 11.01 Termination.

(a) The Parties may terminate this Agreement at any time by mutual agreement. In the event of any such termination, the Parties shall coordinate the clean up and removal of any pending construction and the required reconstruction of any City infrastructure and the City will reimburse Gables the amount of its costs of construction of the Improvements to date of termination and the reasonable construction costs associated with such termination.

(b) Either Party may terminate this Agreement for the major, uncured default of the other Party of its obligations under this Agreement subject to the notice and cure provisions stated herein. A major, uncured default includes a failure to perform a permitting, construction, or payment obligation of a party hereunder, which affects the material rights of the other party, provided that written notice of any such default must be given to the allegedly defaulting party within three (3) days and the allegedly defaulting party will have a reasonable amount of time, not to exceed thirty (30) days in which to cure such default, provided, if the party attempting to cure such default diligently prosecutes the cure, the time to effect the cure will be reasonably extended for the period of time necessary to fully cure the alleged default. In the event that the City terminates Gables for a major default, the City shall have the right to complete any uncompleted Improvements and the obligations of Gables for its proportionate share of the cost thereof will survive any such termination. In the event that Gables completes an Improvement after such an event of termination, subject to the applicable provisions of the Community Facilities and Cost Reimbursement Agreement for that Improvement and the provisions of this Agreement, the City will reimburse Gables for the City's share of the cost of the Improvement to the extent of available funds. To the extent that funding is not available to reimburse Gables, upon completion of the Improvement, Gables may submit close-out documentation with accompanying cost information to the City in accordance with the requirements of the

Community Facilities and Cost Reimbursement Agreement for that Improvement and the City will consider the close out documentation and cost information as a claim, which may be paid with further Council approval. In addition, any rights or entitlements of Gables, under an approved subdivision plat, site plan, easement, or other permit, which have vested prior to the date of any termination, will not be affected by the termination.

(c) At any time during the term of this Agreement, the City may take such immediate action as is reasonably required in the City's sole discretion to protect the public health and safety with respect to the construction or maintenance of the Improvements or any part thereof without terminating the Agreement or otherwise being considered in default hereunder.

Section 11.02 Notice of Default; Opportunity to Cure; Remedies; and Mediation.

(a) If a Party alleges that the other has defaulted in the performance of any obligation hereunder, and subject to any different notice and cure provisions expressly set forth in this Agreement, it will provide at least thirty (30) days written notice to the other Party specifying the nature of the alleged default and opportunity to cure the default before exercising any remedy related to the alleged default.

(b) If the event of default continues beyond the 30-day notice and cure period provided above (or, if such default is not reasonably susceptible to a cure within the 30-day period and the other Party has not commenced and continued to diligently pursue such cure), the Party shall have the right to enforce the terms and provisions of this Agreement by seeking such legal or equitable relief to which the non-defaulting Party may be entitled.

(c) If a dispute arises under this Agreement, the mediation provisions in Section 11.04 will apply, provided, however, that the Parties may mutually agree to first refer the matter to other alternative dispute resolution proceedings. The Parties agree that any such alternative dispute resolution or mediation will be conducted in good faith.

Section 11.03 Warranty Obligations. As provided in Section 8.03, upon substantial completion of any Improvement constructed by Gables' contractors pursuant to this Agreement, Gables will promptly assign to the City any and all contractual warranties and product or material warranties that apply to such construction and/or Improvement, excluding any portion of such warranty applying to Gables' Project. Except as may otherwise be specifically provided in this Agreement, Gables does not guarantee either the performance or quality of the work undertaken or materials used by any contractor or subcontractor undertaking such construction. With respect to such construction for which warranties have been assigned, **GABLES DISCLAIMS ANY AND EVERY WARRANTY OR GUARANTY OF PERFORMANCE, QUALITY, SUITABILITY FOR ANY AND EVERY PARTICULAR PURPOSE WHATSOEVER, AND THE CITY HEREBY ACKNOWLEDGES AND ACCEPTS SUCH DISCLAIMER.**

Section 11.04 Mediation. In the event of a dispute between the Parties hereunder, either Party may refer the dispute to mediation. The Parties will attempt to agree on the selection of a mediator, but if the Parties cannot agree, the Parties agree to request that the Dispute Resolution

Center of Austin select an appropriate mediator for the dispute. Any dispute requiring mediation in accordance with the terms of this Agreement may be settled by mediation in Austin, Texas, pursuant rules agreed to by the Parties. The Parties agree that mediation is an appropriate forum for dispute resolution hereunder. Each Party will pay its own costs of any such mediation.

Section 11.05 Liability and Responsibility. Each Party is and will be responsible for its own proportionate share of any liability for injury or death to any person or damage to any property, including environmental liability, under applicable statutory, administrative and case law, as finally determined by a court or administrative agency of competent jurisdiction, arising out of or connected in any way to this Agreement and the performance of the obligations of the Parties hereunder, to the exclusion of any responsibility of the other Party for any such liability.

Section 11.06 Entire Agreement. This Agreement, including the attached Exhibits referenced herein, is the entire agreement between the Parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter herein. If there is a conflict between this Agreement and prior written or verbal representations, this Agreement shall control. Unless specifically indicated otherwise in the other document, these General Provisions apply to every ancillary document attached as an Exhibit hereto as if more fully set forth in such other document. If there is a conflict between this Agreement and the specific provisions of any of the attached Exhibits, the Exhibit shall control. This Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either party.

Section 11.07 Other Instruments, Actions. The Parties hereto agree that they will take such further actions and execute and deliver such other consents, authorizations, instruments, or documents as are necessary or incidental to effectuate the purposes of this Agreement.

Section 11.08 No Third Party Beneficiaries. Except as expressly provided herein with respect to any Lender, nothing herein will be construed to confer upon any person other than the Parties hereto any rights, benefits or remedies under or because of this Agreement.

Section 11.09 No Joint Venture, Agency. This Agreement will not be construed in any form or manner to establish a joint venture or agency, either express or implied, by and among the Parties hereto.

Section 11.10 Applicable Law & Continued Performance. This Agreement will be construed under and according to the laws of the State of Texas and other applicable federal and municipal laws and ordinances, including the City Standards as of the date of this Agreement, subject to revisions thereto for health and safety purposes, and specifically including the provisions of Article XI, Section 5, of the Texas Constitution. This Agreement shall be contingent upon approval by the Austin City Council of a City operating budget for each City fiscal year which identifies sufficient funds that have been appropriated for payment of the City's obligations under this Agreement. In the event that such funding is not so appropriated and approved, this Agreement shall terminate automatically on the last day in the fiscal year for which sufficient funds were budgeted and appropriated for this Agreement, subject to the following provisions. Any action or termination due to non-appropriation of funds will not be construed as a default

under this Agreement. Notwithstanding the foregoing, in the event that this Agreement would terminate due to non-appropriation, Gables may elect to continue to perform its obligation to diligently prosecute the completion of any Improvement(s), which it had commenced prior to the date of a non-appropriation termination event. In the event that Gables completes an Improvement after such an event, subject to the applicable provisions of the Community Facilities And Cost Reimbursement Agreement for that Improvement and the provisions of this Agreement, the City will reimburse Gables for the City's share of the cost of the Improvement to the extent of available funds. To the extent that funding is not available to reimburse Gables, upon completion of the Improvement, Gables may submit close-out documentation with accompanying cost information to the City in accordance with the requirements of the Community Facilities and Cost Reimbursement Agreement for that Improvement and the City will consider the close out documentation and cost information as a claim, which may be paid with further Council approval.

Section 11.11 Severability. The provisions of this Agreement are severable, and if any part of this Agreement is held to be invalid or unconstitutional for any reason, the remainder of this Agreement will not be affected and this Agreement will be construed as if it had never contained such invalid or unconstitutional portion.

Section 11.12 Force Majeure. If, by reasons of Force Majeure, any Party will be rendered wholly or partially unable to carry out its obligations under this Agreement after its Effective Date, then such Party will give written Notice of the particulars of the Force Majeure to the other Party or Parties within a reasonable time after the occurrence of it. The obligations of the Party giving the Notice, to the extent affected by such Force Majeure, will be suspended during the continuance of the inability claimed and for no longer period. "Force Majeure" means and refers to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts, governmental laws, regulations or restrictions, or any act, omission, delay, or neglect of the other party or any of such other party's employees or agents, or any other event or occurrence beyond the reasonable control of the party having an obligation to perform under this Agreement, provided, however, that the City's failure to budget the funds necessary to perform its obligations hereunder shall not be considered an event of Force Majeure.

Section 11.13 Cooperation. The Parties agree that each will reasonably cooperate with the other Party in furtherance of the objectives of this Agreement as stated herein, including, without limitation, by executing and delivering ancillary agreements, by delivering approvals, and otherwise, and shall in all respects deal with each other fairly and in good faith.

Section 11.14 Personal Jurisdiction and Venue. The parties agree that jurisdiction and venue for any suit arising hereunder will lie in Travis County, Texas.

Section 11.15 Counterparts. The Parties may execute this Agreement in one or more duplicate originals.

Section 11.16 Notices. Any notices or other communications required or permitted to be given under this Agreement will be deemed delivered within three business days after deposit in the U.S. mail, registered mail, return receipt requested, addressed to the receiving Party as set forth

below, with a copy sent by facsimile. Notices sent by any other method, including hand delivery and overnight delivery, will be deemed delivered only if and when actually received. Notice may be delivered by facsimile, with confirmation, if hard copy of the Notice is simultaneously mailed to the recipient, in which event the date of the facsimile confirmation will be deemed to be the date of delivery.

Notice to Gables will be made to LG Park Plaza Limited Partnership on behalf of LG Lamar Limited Partnership. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

GABLES:

LG Park Plaza Limited Partnership
6850 Austin Center Boulevard, Suite 200
Austin, Texas 78731
Attn: Alexa Knight
Telephone: (512) 502-6010
Facsimile: (512) 502-6009

And

LG Park Plaza Limited Partnership
2925 Briarpark, Suite 1220
Houston, Texas 77042
Attn: Ben Pisklak
Telephone: (713) 784-4144
Facsimile: (713) 784-4650

With Copies to:

Steven C. Metcalfe
Drenner Stuart Wolff
Metcalfe von Kreisler, LLP
301 Congress Avenue, Suite 1200
Austin, Texas 78701
Telephone: (512) 404-2209
Facsimile: (512) 404-2244

CITY OF AUSTIN:

City of Austin
Economic Growth and Redevelopment Services Office
301 W. 2nd Street
Austin, Texas 78701
Attn: Sue Edwards, Director
Telephone: (512) 974-7820
Facsimile (512) 974-7825

And

City of Austin
Economic Growth and Redevelopment Services Office
301 W. 2nd Street
Austin, Texas 78701
Attn: Austan Librach, Assistant Director
Telephone: (512) 974-2357
Facsimile (512) 974-7825

With Copies to:

City of Austin Law Department
301 W. 2nd Street
Austin, Texas 78701
Attn: Gordon Bowman,
Assistant City Attorney
Telephone: (512) 974-2346
Facsimile (512) 974-6490

The Parties will have the right from time to time to change their respective addresses upon written Notice to the other Party given as provided above. If any date or notice period described

in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

Section 11.17 No Waiver. Any waiver of any provision of this Agreement will not be deemed to constitute a waiver of any other provision or any other agreement between the Parties and will not be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the City, Gables, or their successors or assigns, whether the violations are known or not, shall not constitute a waiver or estoppel of the right to do so.

Section 11.18 Governmental Authority. Nothing in this Agreement will be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the operation and maintenance of the facilities constructed under the terms of this Agreement which are to be operated and maintained by the City, except as specifically waived or modified herein or by specific action of the City Council, nor its duty to provide for the public health, safety, and welfare in the operation and maintenance of the same. This Section is not intended, however, to modify or limit the express obligations of the City under this Agreement.

Section 11.19 Assignability.

(a) It is acknowledged that Gables, acting by and through LG Park Plaza Limited Partnership, will act as the master developer for the development of the design and construction of the Right-of-Way Improvements, the Bio-Filtration Meadow, the Park, and the Pedestrian Path and Bike Path Improvements. It is contemplated that Gables or its permitted successor or assign will also provide for the design and construction of the City Parking Garage.

(b) Provided that Gables, acting through LG Park Plaza Limited Partnership, retains its responsibility to design and construct the Right-of-Way Improvements, the Bio-Filtration Meadow, the Park, and the Pedestrian Path and Bike Path Improvements, (i) Gables may mortgage, pledge, collaterally assign, or otherwise transfer or encumber its interest in this Agreement to a Lender in connection with the development of the Project, (ii) Gables may transfer its interest hereunder to an affiliate, and (iii) Gables may assign its interest in the Gables Park Plaza or Gables Lamar tracts,to subsequent purchasers for value. For purposes of this Agreement, "affiliate" means any entity that controls, is under common control with, or is controlled by Gables. Any such permissible assignment shall be in writing, and, except for Gables', acting by and through LG Park Plaza Limited Partnership, continued obligation to design and construct the Right-of-Way Improvements, the Bio-Filtration Meadow, the Park, and the Pedestrian Path and Bike Path Improvements, the assignment will be subject to the terms and conditions of this Agreement and the assignee shall be subject to and accept the rights and responsibilities of Gables hereunder. Gables shall provide the City a true and correct copy of any such written assignment promptly following its execution and delivery.

(c) In addition, it is contemplated that Gables maintenance obligations may be assigned to an owners association of the owners and lessees in the Project which may assume maintenance

responsibility for the Project and the applicable portions of the Improvements as set forth in the Master License Agreement.

Section 11.20 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

Section 11.21 Interpretation of Terms, and Incorporation of Exhibits and Recitals. Except where the context otherwise clearly requires, in this Agreement: Words imparting the singular will include the plural and vice versa. All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length herein; References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns. The recitals set forth beginning on the first page of this Agreement are incorporated herein for all purposes.

Section 11.22 Expiration of Reimbursements. The reimbursements to Gables for the construction of the Improvements will be subject to any applicable offsets described herein and will be available to Gables until the completion of construction of all of the Improvements to be constructed through Gables, but not longer than ten (10) years from the effective date of this Agreement, which time period is subject to extension by mutual agreement.

Section 11.23 Amendment and Ancillary Agreements. Any amendment to this Agreement must be in writing, and signed by the duly authorized representatives of the Parties hereto. Unless otherwise expressly stipulated herein, this Agreement is separate from and will not constitute an amendment or modification of any other agreement between the Parties. The City Manager will have the authority to negotiate and execute amendments to this Agreement without further City Council action, but only to the extent necessary to implement and further the clear intent of this Agreement, but not in such a way as would constitute a substantive modification of the terms and conditions hereof. The City Manager is further authorized to negotiate and execute all documents necessary to accomplish the intent of this Agreement, but which do not substantively modify this Agreement, including agreements for the reallocation of funding as described above.

Section 11.24 Memorandum of Agreement. The Parties or either party may prepare a Memorandum of Agreement, setting forth the rights and obligations of the Parties hereunder, and by agreement or after 30 days notice to the other party, the Parties or a party may file the Memorandum of Agreement in the Official Public Records of Travis, County, Texas.

Section 11.25 City Construction and Gables Reimbursement. Notwithstanding anything to the contrary in this Agreement, the City may design and/or construct any of the Improvements in its discretion and, if the City elects to design and/or construct any Improvement contemplated to be designed and constructed by Gables hereunder, Gables or its successors or assigns, as the case may be, will reimburse the City the percentage of such cost of the Improvement, which is not the responsibility of the City under this Agreement and its exhibits, in accordance with Exhibit M, at the time of subsequent plat or site development permit approval. In such an event, Gables may limit its potential costs by posting a letter of credit from a federally insured financial institution or by placing funds in escrow in a not to be exceeded amount calculated in accordance with the

percentages and cost estimates set forth in Exhibit M. Any letter of credit and/or escrow agreement will be in a form and substance to be approved by Gables and the City Law Department, such approval not to be unreasonably conditioned or delayed.

Section 11.26 Affordable Housing Contribution. In addition to its other financial obligations under this Agreement, Gables agrees to provide TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($250,000.00) to the City as a contribution for affordable housing within thirty (30) days of the commencement of construction of the condominium portion of the Project with such funding to be allocated by the City Council for affordable housing purposes at that time.

Executed to be effective as of the later date set forth below.

Signature Pages Follow.

APPROVED AS TO FORM:

By: _____
Gordon Bowman
Assistant City Attorney

CITY OF AUSTIN:

By: _____
Laura Huffman
Assistant City Manager

APPROVED AS TO CONTENT:

By: _____
Sue Edwards, Director
Economic Growth and Redevelopment Services Office

By: _____
Austan Librach,
Economic Growth and Redevelopment Services Office

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this 30TH day of JUNE, 2006, by Laura Huffman, as Assistant City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.
(SEAL)

_____
MELODYE FOUST
Printed/Typed Name of Notary
My Commission Expires: 9-16-2006

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By: _____
Name: Ben Pisklak
Title Regional VP

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this 5th day of June, 2006, by Ben Pisklak,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

Donna Dotson
Printed/Typed Name of Notary
My Commission Expires: 1-14-08

DONNA DOTSON
Notary Public, State of Texas
My Commission Expires
January 14, 2008

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.,
a Texas corporation
its sole member

By: _____
Name: Ben Pisklak
Title Regional VP

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this 5th day of June, 2006, by Ben Pisklak,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

Donna Dotson
Printed/Typed Name of Notary
My Commission Expires: 1.14.08

DONNA ...
Notary Public, State of Texas
My Commission Expires
January 14, 2008

Exhibit "A": Legal Description of Property
Exhibit "B": the "Project"
Exhibits "C-1" through "C-8": the "Improvements"
Exhibit "D": Community Facilities and Cost Reimbursement Agreement for Bio-Filtration Meadow
Exhibit "E": Drainage Area
Exhibit "F": Community Facilities and Cost Reimbursement Agreement for Right-of-Way Improvements
Exhibit "G": Community Facilities and Cost Reimbursement Agreement for Public Park Improvements
Exhibit "H": Community Facilities and Cost Reimbursement Agreement for Pedestrian Path and Bike Path Improvements
Exhibit "I": Pedestrian Path and Bike Path Plan
Exhibit "J": Wastewater Line
Exhibit "K": Pedestrian Path and Bike Path Easement
Exhibits "L-1", "L-2", and "L-3": Quitclaim Deeds and Wastewater Line Easement
Exhibit "M": Funding
Exhibit "N" Draft Master License Agreement
Exhibit "O" Estimated Schedule for Construction of Improvements
Exhibit "P" Estimated Construction Phasing of Right-of-Way Improvements

Attachment "1" Council Approved Design Standards Policy Document dated May 12, 2005, and Amendment to Design Standards Policy November 2005

EXHIBIT 'A'

2.582 ACRE FN 04-272(MM)
LUMBERMEN'S INVESTMENT JULY 30, 2004
CORPORATION BPI JOB NO. 1159-01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN, BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances;

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

FN NO. 04-272(MM)
JULY 30, 2004
PAGE 2 OF 2

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI
NO. 4998
STATE OF TEXAS

7/30/04
DATE

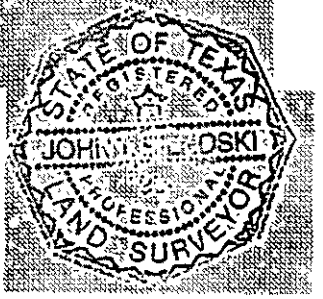


EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

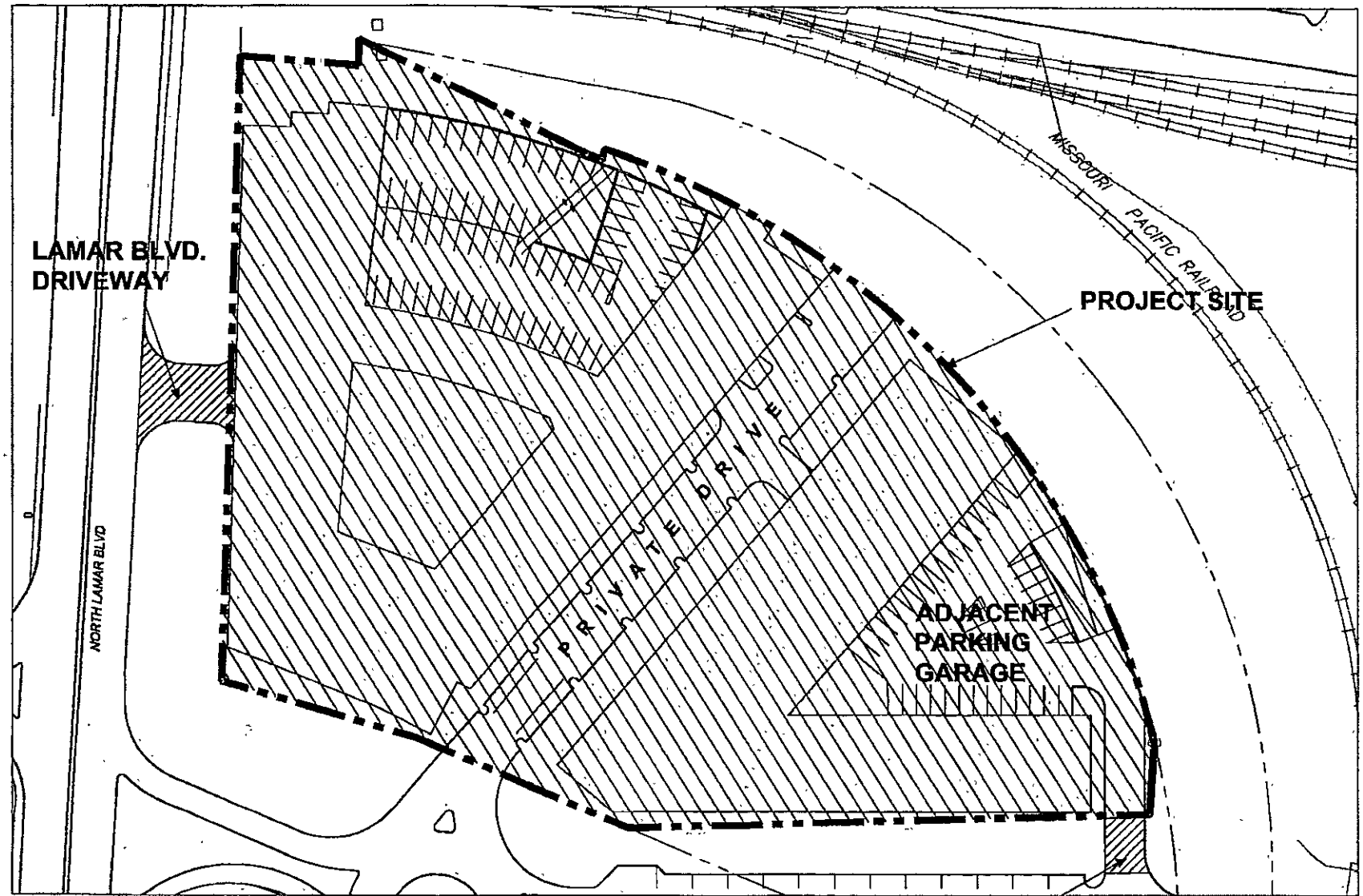

LAMAR BLVD.
DRIVEWAY
NORTH LAMAR BLVD
MISSOURI PACIFIC RAILROAD
PROJECT SITE
PRIVATE DRIVE
ADJACENT
PARKING
GARAGE
PROPOSED JOINT
ACCESS DRIVE

EXHIBIT B

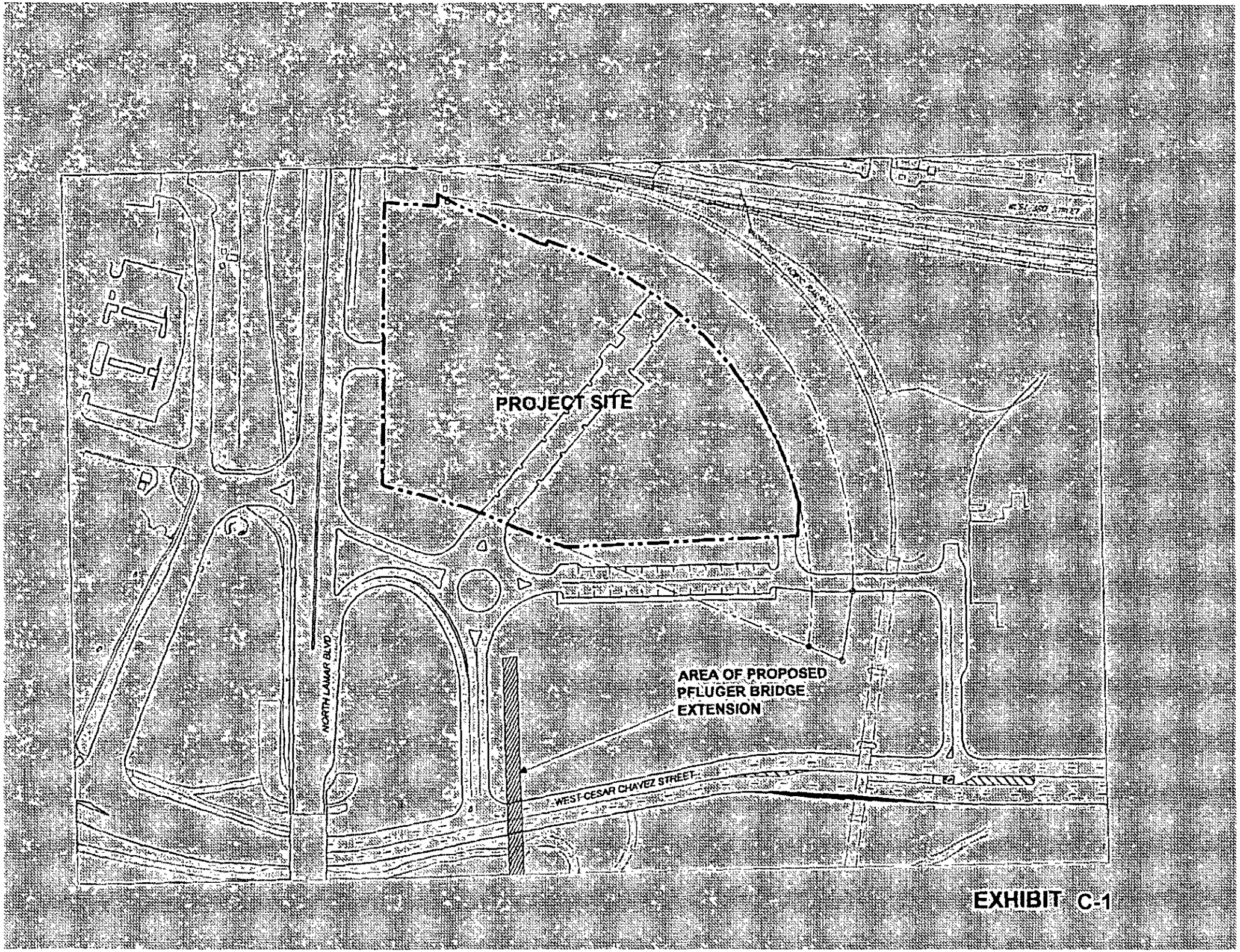

PROJECT SITE
AREA OF PROPOSED
PFLUGER BRIDGE
EXTENSION
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT C-1

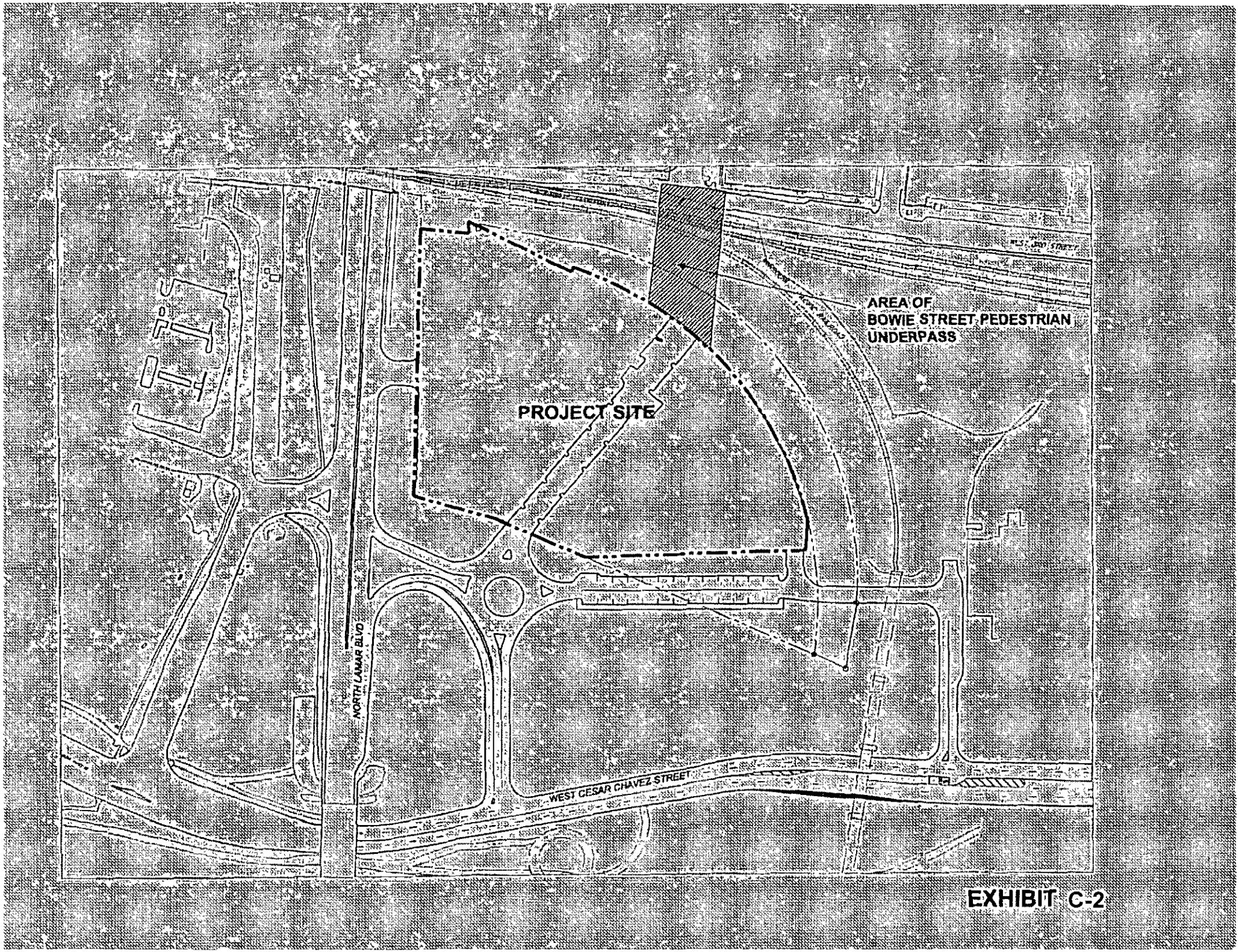

AREA OF
BOWIE STREET PEDESTRIAN
UNDERPASS
PROJECT SITE
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT C-2

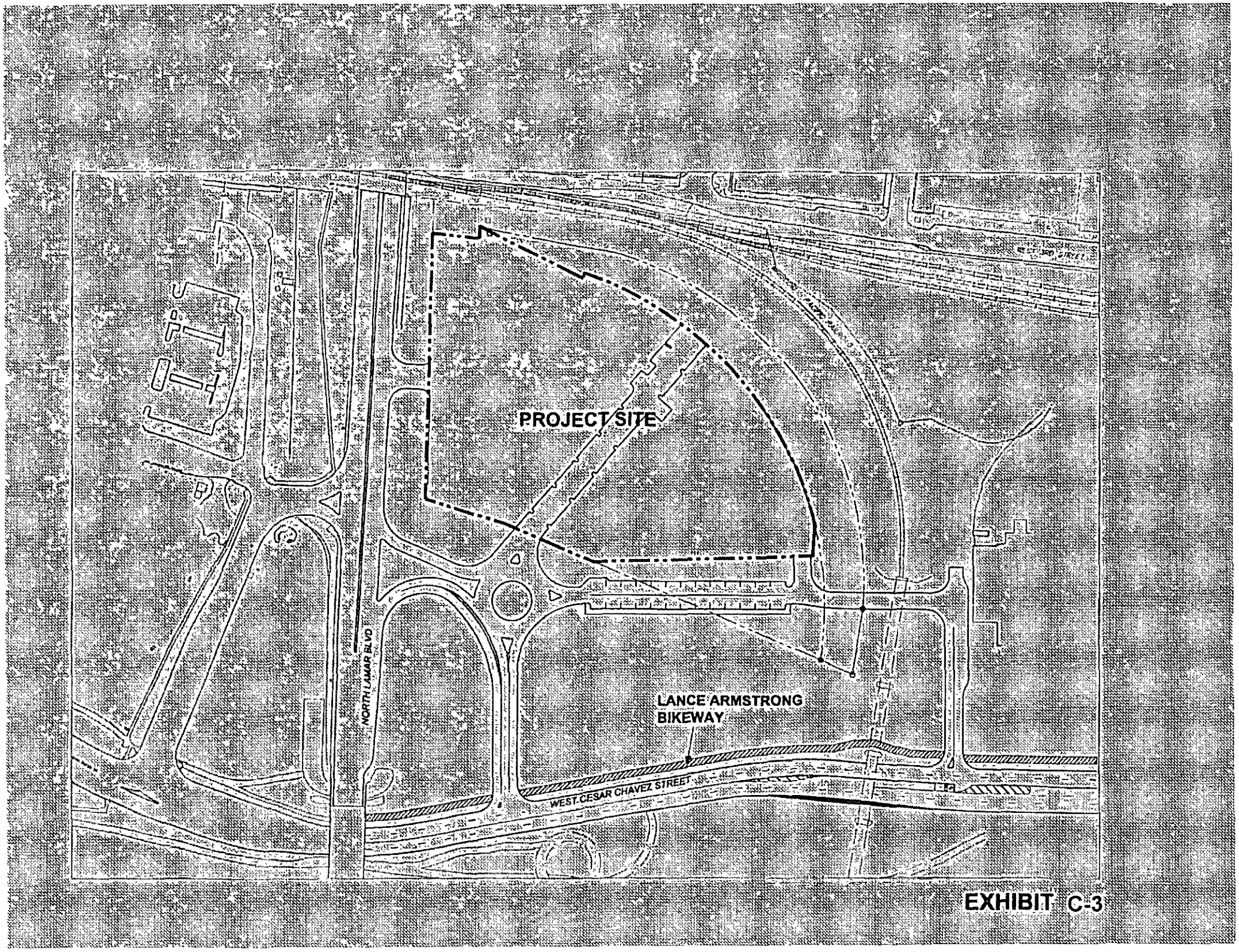

PROJECT SITE
NORTH LAMAR BLVD
LANCE ARMSTRONG
BIKEWAY
WEST CESAR CHAVEZ STREET

EXHIBIT C-3

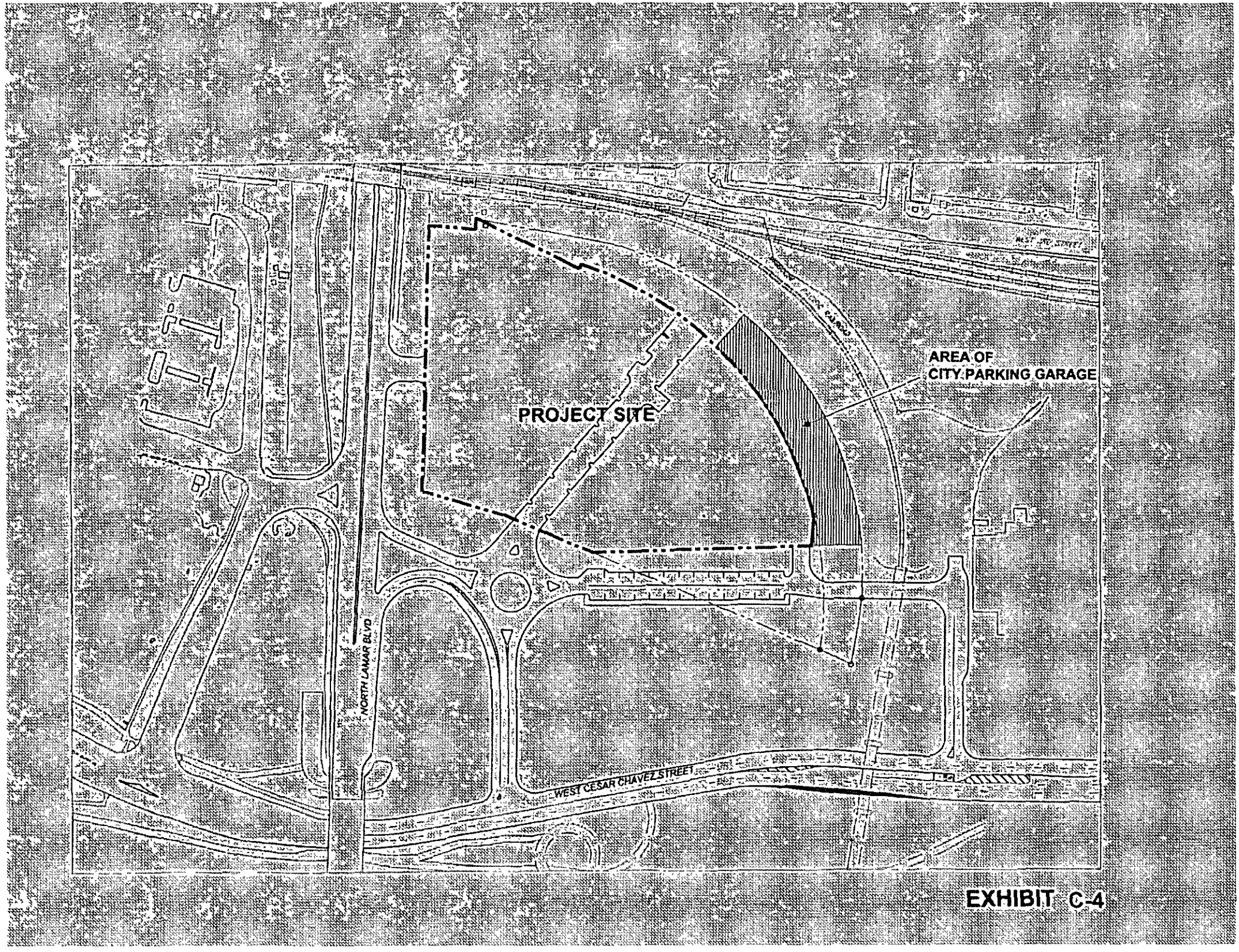

PROJECT SITE
AREA OF
CITY PARKING GARAGE
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT C-4

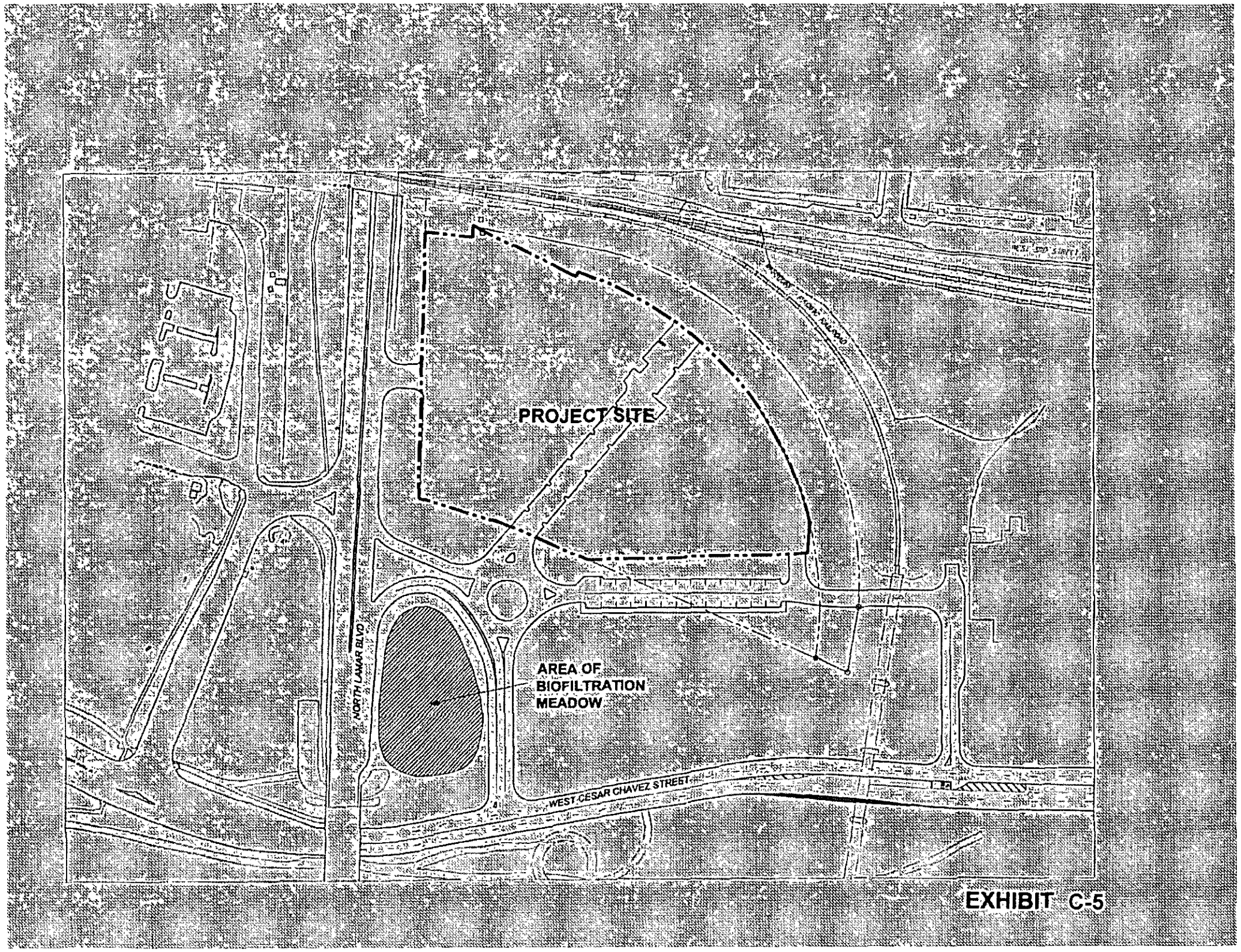

PROJECT SITE
AREA OF
BIOFILTRATION
MEADOW
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT C-5

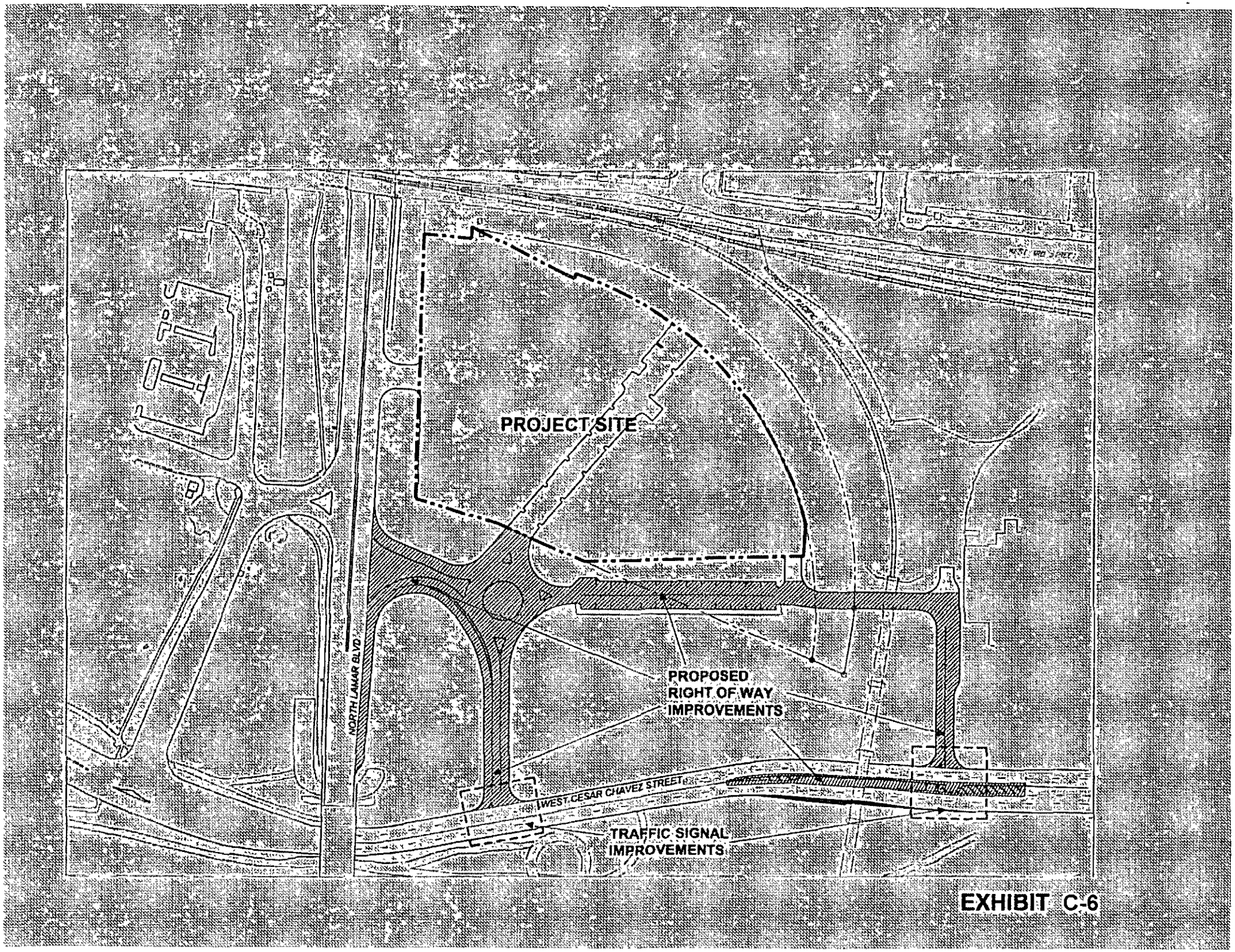

PROJECT SITE
NORTH LAMAR BLVD.
WEST CESAR CHAVEZ STREET
PROPOSED
RIGHT OF WAY
IMPROVEMENTS
TRAFFIC SIGNAL
IMPROVEMENTS

EXHIBIT C-6

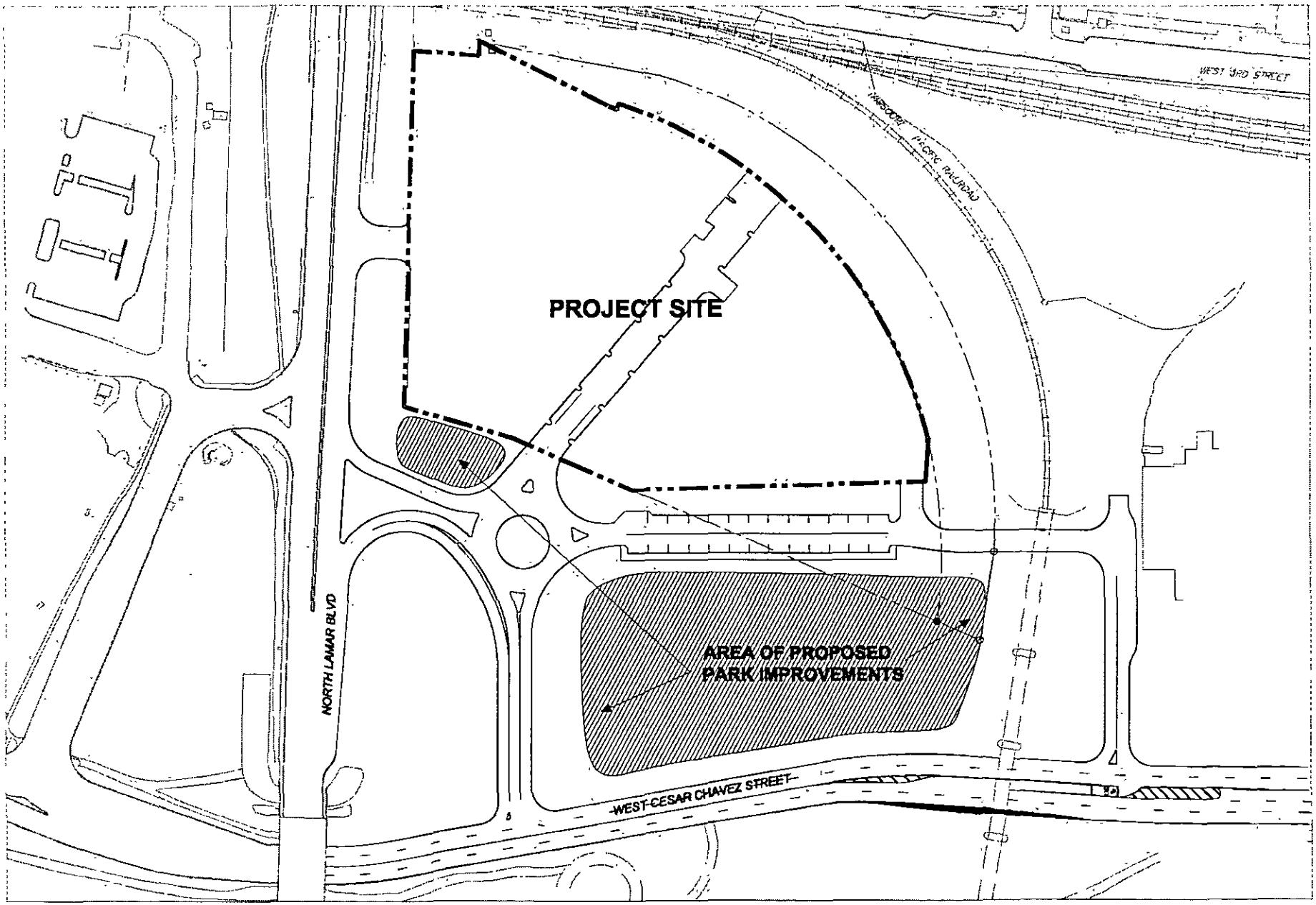

WEST 3RD STREET
MISSOURI PACIFIC RAILROAD
PROJECT SITE
NORTH LAMAR BLVD
AREA OF PROPOSED
PARK IMPROVEMENTS
WEST CESAR CHAVEZ STREET

EXHIBIT C-7

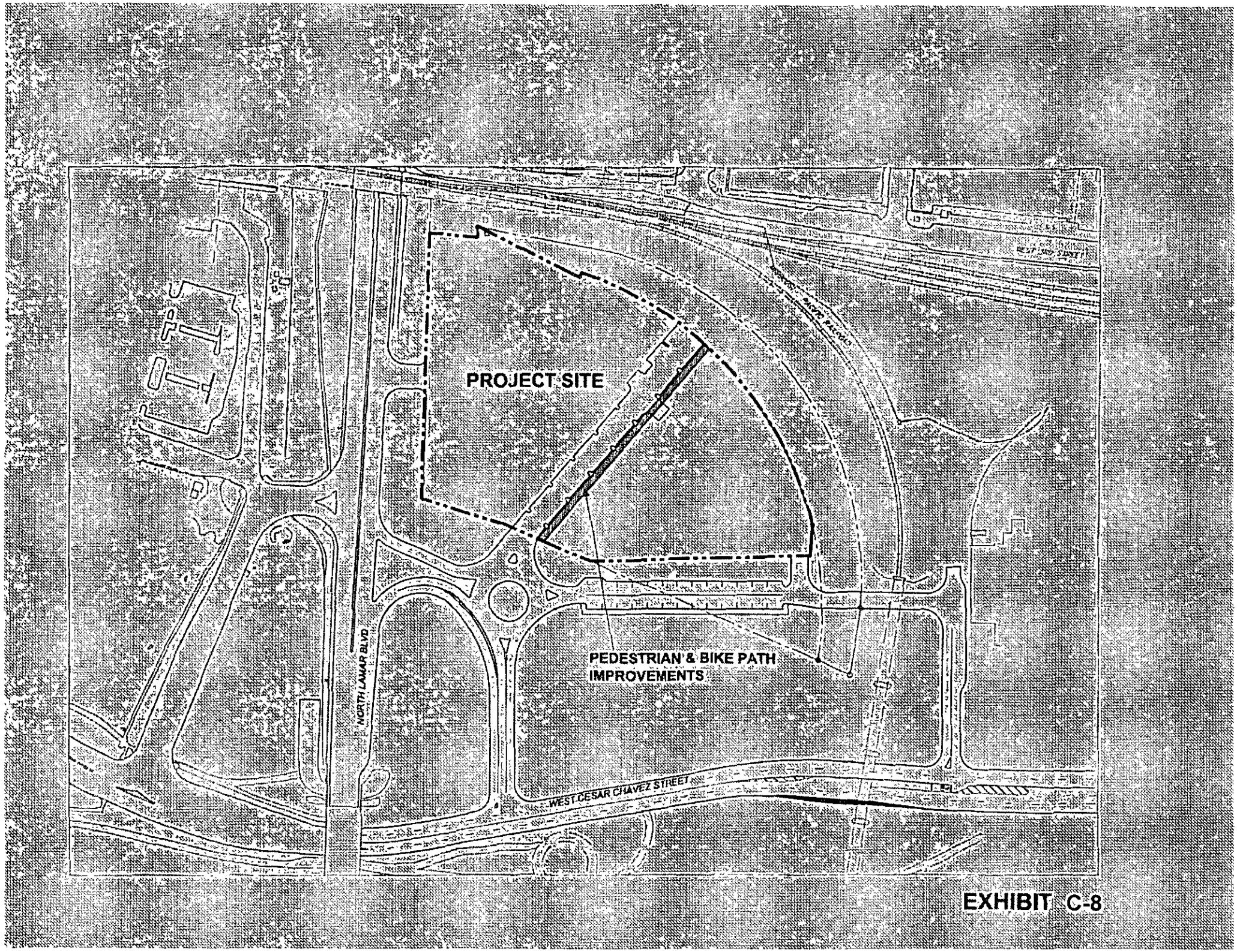

PROJECT SITE
PEDESTRIAN & BIKE PATH
IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT C-8

EXHIBIT 'D'

COMMUNITY FACILITIES AND COST REIMBURSEMENT AGREEMENT FOR BIO-FILTRATION MEADOW IMPROVEMENTS

This Community Facilities and Cost Reimbursement Agreement for Bio-Filtration Meadow Improvements ("Agreement") is made by and between the City of Austin, a home rule city and municipal corporation situated in Travis and Williamson Counties, Texas (the "City"), and LG Park Plaza Limited Partnership, a Texas limited partnership and LG Lamar Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"). The City and Gables are each sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, as generally depicted on **Exhibit "B"** (the "Project").

WHEREAS, the City and Gables currently intend to design and construct certain public Bio-Filtration Meadow improvements in the vicinity of the Project and in connection with the development of the Project and adjacent City property, including walls, weirs, pipes, outlet structures, filter bed and other components, together with other related landscaping amenities, as applicable, in accordance with applicable City standards and the City's Drainage Criteria Manual and subject to City review and approval, in the location shown on **Exhibit "C"** (the "Improvements").

WHEREAS, the Parties have provided for the design and construction of other improvements which will convey regional storm water drainage from the improvements and the Project to the Bio-Filtration Meadow.

WHEREAS, in separate Community Facilities and Cost Reimbursement Agreements, the Parties have provided for the design and construction of other improvements, including but not limited to Right-of-Way and Park Improvements.

WHEREAS, the Parties presently desire to coordinate the development and construction of the Improvements in connection with the development and construction of the Project.

WHEREAS, the City has allocated funding (the "Funding") for the design and construction of the Improvements, including funding from the proceeds of the City's Interlocal

Agreement with the Capital Metropolitan Transportation Authority, as passed and approved by the Austin City Council on May 27, 2004 and October 27, 2004.

WHEREAS, the Parties have entered into a Master Agreement (the "Master Agreement") of even date herewith, which Master Agreement, together with all exhibits attached thereto, sets forth the obligations of the Parties with respect to the development and construction of the various improvements described therein.

WHEREAS, the use and meaning of the capitalized terms in this Agreement (including, without limitation, the terms "Project" and "Gables") shall be the same as the use and meaning of those same terms as defined in the Master Agreement, unless this Agreement expressly defines the term otherwise.

WHEREAS, the City will reimburse Gables from the Funding a percentage of the cost of construction of the Improvements.

WHEREAS, the City and Gables desire to enter into this Agreement in accordance with the Master Agreement to further describe and implement the development and construction of the designated Improvements and the reimbursements authorized by the Ordinance, as defined below.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both parties acknowledge, the City and Gables agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01 Additional Definitions.

a. Bidding Documents means the Plans and Specifications together with the proposed Construction Contract for the Improvements.

b. Construction Contract means the construction contract executed by Gables for the construction of the Improvements.

c. Contractor means the bidder with whom Gables contracts for the construction of the Improvements.

d. Effective Date means the date of execution of this Agreement.

e. Engineer means the engineer hired by Gables, in Gables' discretion on the basis of a qualifications-based selection process, to undertake the tasks described in Section 3.02 of this Agreement.

f. Notice means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.

g. Ordinance means the Ordinance enacted by the City Council of the City of Austin on the date of approval of the Master Agreement and this Agreement by the City in support of the development and construction of the Improvements and the allocation of the Funding thereto`.

h. Plans and Specifications mean plans and specifications prepared by the Engineer for the construction of the Improvements as described herein.

i. Substantial Completion means that the Improvements have been completed in accordance with the Plans and Specifications, in all material respects, to the point of being usable for the purpose intended, as certified by the Engineer to the City and as determined by the City in the ordinary course of its inspections of such Improvements.

Section 1.02 Interpretation of Terms, and Incorporation of Exhibits.

Except where the context otherwise clearly requires, in this Agreement:

(a) Words imparting the singular will include the plural and vice versa;

(b) All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and

(c) References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns.

Section 1.03 Compliance with Certain City Bidding Requirements.

Notwithstanding any provision of this Agreement to the contrary, Gables' obligation to comply with the City's minority-owned and women-owned business enterprise procurement program set out in the City's Code, or any other similar law or regulation, including any provisions requiring award of a construction contract to a low bidder or any other particular bidder, shall apply only in the context of construction of the Improvements that are subject to reimbursement by the City as set out in this Agreement. In all other aspects of construction of the Project, Gables may choose its consultants, contractors, and other agents in its sole and absolute discretion, provided, however, that Gables is aware of and may consider the City's Minority and Women's Business Ordinance in making its decisions regarding other aspects of construction of the Project.

ARTICLE II
GABLES AUTHORITY & RESPONSIBILITY

Section 2.01 Required Information.

At the time of execution of this Agreement, as a condition precedent, Gables has provided the City with appropriate evidence of authority, authorizing Gables' execution and performance of this Agreement, the receipt of such evidence the City hereby acknowledges.

Section 2.02 Design and Construction Responsibility.

a. Notwithstanding any other provision in this Agreement to the contrary, Gables' responsibility to design and construct the Improvements is contingent upon the pre-construction conditions set forth in Article IX of the Master Agreement, which are incorporated herein by reference,

b. Notwithstanding any other provision in this Agreement to the contrary, Gables' obligation to construct and maintain the Improvements is contingent upon its commencement of construction of the Project, timely reimbursement by the City hereunder, and as provided in Section 8.05 and Article IX of the Master Agreement. Once commenced, Gables shall diligently prosecute the construction of the Improvements to completion.

ARTICLE III
ENGINEERING DESIGN OF THE IMPROVEMENTS

Section 3.01 Agreement to Design the Improvements.

The City and Gables agree that the Improvements shall be designed by Gables in accordance with the applicable portions of the City's written, published requirements of the City Code and City rules and regulations in effect on the date of this Agreement (the "City Standards"), specifically including but not limited to the City's Transportation and Drainage Design Criteria Manuals and as further described in this Agreement, and such Standards will apply for five years from the date of this Agreement. Notwithstanding anything herein to the contrary, Gables will design the Improvements to provide sedimentation bio-filtration of the area depicted on Exhibit "C", and the City's Watershed Protection and Development Review Department will cost participate in the Improvements up to the amount of $67,000 based upon the criteria set forth in attached **Exhibit "D"**.

Section 3.02 Design Duties of Gables.

Gables shall:

a. engage the services of an Engineer to perform the following functions:

1. prepare Plans and Specifications for the Improvements using (and ensure that the Plans and Specifications conform to) the City's design criteria and Standards applicable to the Improvements; prepare preliminary schedules and cost estimates for the construction of the Improvements; the Engineer's opinion of construction costs shall be based on materials and labor prevailing at the time of the preparation of the preliminary estimate without consideration of inflationary increases in costs with the understanding that the Engineer will not be construed

to have guaranteed costs of construction, however, if either of the Parties reasonably believe that the estimates are no longer accurate, Gables will promptly obtain a revised opinion of construction costs with estimates of more accurate construction costs together with a description of the variance between the original and revised construction costs;

2. provide the City with a copy of the draft Bidding Documents;

3. if requested, attend and conduct pre-bid conferences to provide clarification and interpretation of the Bidding Documents to bidders;

4. if requested, prepare and issue addenda required to clarify the Bidding Documents;

5. if requested, attend the opening of bids at City's Contract Compliance Section, review bids, and furnish a recommendation regarding the award of the Construction Contract, within five working days following the bid opening;

6. review and approve (or take other appropriate action regarding) shop drawings and samples, the results of tests and inspections and other data that the Contractor is required to submit for conformance with the design criteria and standard specifications of the Improvements and compliance with the information given in the Project construction documents;

7. determine the acceptability of substitute materials and equipment proposed by Contractor; and receive and review (for general content as required by the applicable specification) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor in accordance with the construction documents;

8. review change order requests relating to the Improvements and submit the change order requests along with recommendations to Gables and the City for review and approval by Gables and the City. Change orders will be reviewed and approved or rejected by the City within five business days of submittal, provided, if more information is required for the City review, the City will notify Gables within the initial five day period and will have up to an additional five days after receipt of the additional information in which to approve or reject the change order request and in the event of a dispute, the Parties will follow the same procedure outlined for dispute resolution in Section 4.04 below;

9. review any changes to the Improvements and, if necessary, design any engineering changes that may be required after construction has begun;

10. attend the final inspections of each portion of the Improvements in the presence of the City inspector and transmit a list of items to be completed or repaired to the City, Gables, and the Contractor;

11. review the Plans and Specifications of the Improvements marked to show "as built" conditions to ascertain to the best of his knowledge and belief that the reflected field changes are substantially complete and correct; and

12. after final completion of the Improvements, submit as-built documents to the City, consisting of an electronic file, one set of mylar and two sets of one-half size print record Plans and Specifications to the City certified "As Built" by the Engineer. Copies of the Project record Plans and Specifications that may be relied upon by the City are limited to the printed copies ("hard copies") that are signed and sealed by the Engineer; record Plans and Specifications on electronic files that are furnished by the Engineer to the City are only for the convenience of the City.

b. ensure that the Plans and Specifications:

1. conform, in all material respects, to the City design criteria and construction and material standards, as contained in the applicable City ordinances and regulations, including the City's Transportation and Drainage Criteria Manuals, for the Improvements to be constructed by Gables; and

2. are accompanied by appropriate engineering reports, as reasonably required by the City.

c. engage the services of a duly qualified and experienced consultant or a duly qualified and experienced Gables employee or employee of a Gables affiliate to act as a professional construction manager ("Construction Manager") to work with the Engineer in connection with Engineer's tasks, as appropriate, and to act as a liaison with the City and with subcontractors. The City will recognize the Construction Manager as the single point of contact with Gables during the construction of the Improvements for the purposes of daily communication, resolution of routine construction matters, and construction contract administration, including but not limited to the purpose of receiving payments from the City pursuant to the Master Agreement and this Agreement. The City further recognizes and agrees that such reasonable fees as are paid by Gables to the Construction Manager in connection with construction of the Improvements are costs of constructing the Improvements, and are subject to proportionate reimbursement hereunder. Gables will charge a reasonable fee for the costs of construction administration, which will not exceed five percent (5%) of construction costs of the Improvements. The construction management fee will be documented in any requests for reimbursement with supporting information of activities undertaken and expenses incurred and the City will reimburse a portion thereof as specified in Article V.

d. make timely payments for work properly performed in connection with the design, construction management and contract administration of the Project in accordance with the terms of the applicable professional services agreements.

ARTICLE IV

CONSTRUCTION OF THE IMPROVEMENTS

Section 4.01 Agreement to Construct the Improvements

a. Gables will submit the Plans and Specifications for the Improvements prepared by the Engineer at logical points in the development of the design to the City for review and approval. The City will perform interim design reviews of the Plans and Specifications and provide any written comments to Gables within ten working days of submittal, unless additional time will be required due to the requirement of reviews by multiple City departments or additional time will be required in connection with the site plan or permit review and approval process. In the event that such additional time is required, the City will notify Gables in writing of the additional time requested for the review, which may not exceed an additional five working days for the review of interim design submittals or the additional time required for the site plan review and approval process. Once approval is obtained, no material changes may be made to the Plans and Specifications without following the change order procedure described in Section 3.02(a)(8) hereof.

b. The City will perform site plan and permitting reviews in a timely manner and in accordance with City requirements, including but not limited to Section 25-5-114 of the City Code.

c. After approval of the Plans and Specifications and, subject to reimbursement as described in this Agreement and subject to all of the other terms and conditions of this Agreement and the Master Agreement, Gables agrees to construct the Improvements.

d. Subject to reimbursement as described in this Agreement, Gables agrees to construct the Improvements in a good and workmanlike manner and in all material respects substantially in accordance with the Plans and Specifications and all applicable laws, regulations, and ordinances, including (but with respect only to those Improvements that are subject to reimbursement under Section 5.02 hereof) the City's MBE/WBE requirements.

e. Gables or Gables' Construction Manager or other agent will serve as the manager for the construction of the Improvements.

Section 4.02 Schedule of Construction.

a. Gables will construct the Improvements at one time or in phases, as reasonably approved by the City, on a timely basis as is needed in connection with the development of the Project and adjacent public infrastructure.

b. Gables will begin construction of the Improvements during the construction of the first phase of development of the Project and subject to the provisions of the Master Agreement.

Section 4.03 Construction Duties of Gables.

Subject to all of the terms and conditions of this Agreement, including, without limitation, Section 1.03 hereof (limiting the applicability of the City's minority-owned and women-owned business enterprise procurement program), Gables (or Gables' Engineer, Construction Manager, or other agent) will:

a. solicit public invitations for bids for the construction of the portion of the Improvements subject to reimbursement, following all applicable state laws and regulations and City Codes, regulations and procedures to which the City must adhere that pertain to competitive bidding procedures for Construction Contracts. This requirement includes compliance with the minority-owned and women-owned business enterprise procurement program found in Chapters 2-9 of the City Code and Chapter 252 of the Texas Local Government Code or at the option of Gables, substantial compliance with the requirements of Section 271.116 of the Texas Government Code and the other applicable provisions of the Code related to competitive sealed proposals for those Improvements, which may be constructed for less than $1,5000,000.00;

b. prepare the Construction Contract to comply, in all material respects, with all applicable laws, regulations, ordinances, City procedures, and the terms of this Agreement. The Construction Contract must include general conditions that include the following provisions:

1. reasonable warranties, and insurance, payment and performance bonding requirements, as more fully set forth in **Exhibit "E"** hereto;

2. include the City as an approved future assignee to the Construction Contract, together with the applicable Plans and Specifications, with the ability of the City, as assignee, to complete the Improvements, if Gables fails to complete the Construction Contract; and

3. certificates of insurance evidencing that the required insurance has been obtained and that the City has been designated as an additional insured under Endorsement CG2010 (or equivalent approved by the City Risk Manager) with respect to all liability coverages to the extent allowed by law;

c. award the Construction Contract to the lowest responsible bidder (who is duly qualified and can meet the construction schedule) for those Improvements that are subject to reimbursement hereunder, following construction contract competitive bidding procedures set forth in Chapter 252 of the Texas Local Government Code (or as applicable Section 271.116 of the Code) and the minority-owned and women-owned business enterprise procurement program found in Chapters 2-9 of the City Code, as applicable; prior to entering into any other contract for the provision of construction, demolition, material generation or non-professional services (eg., services other than design, surveying, etc.) to satisfy Gables obligations hereunder, Gables will in good faith solicit bids for such items from at least three qualified entities, review all timely submitted bids in good faith and select the entity to provide such item which in Gables discretion represents the best overall value for the Improvements taking into account all relevant factors and circumstances or will use the process set forth in Section 271.116 of the Code and

select the entity providing the "best value," taking into consideration the enumerated evaluation criteria;

d. obtain all required permits, consents, inspections, tests, and authorizations necessary for construction of the Improvements; provided, however, that the City will cooperate with Gables in obtaining those items listed herein;

e. provide the City with a copy of the Construction Contract and any additional documents pertaining to the Construction Contract on or about the time they have been signed, and thereafter provide copies of any documents amending or replacing any of said documents;

f. submit all changes to the Plans and Specifications and change orders to the Construction Contract to the City for its review and approval prior to the commencement of any work incorporating the change, which approval will not be unreasonably withheld or delayed;

g. ensure that all change orders submitted for the Construction Contract, either singularly or in the aggregate, do not increase the portion of the Construction Contract cost subject to City reimbursement by more than twenty five percent of the original contract amount;

h. make timely payment to the Engineer and Contractor for work properly performed concerning the Improvements in accordance with the terms and provisions of the applicable contract with the Engineer or the Construction Contract (including any provisions related to statutory retainage and withheld amounts due to improper work or punch list items);

i. arrange and coordinate materials testing with each Contractor and provide the City with all testing information; if the City reasonably determines that the work needs to be corrected or rejected or requires special testing because of unforeseen circumstances, the City will promptly notify Gables and Gables will take appropriate action to remedy the identified problem;

j. reject all work found not to conform to minimum requirements of the Construction Contract and the applicable Plans and Specifications, and advise the Engineer and the City of work that Gables determines should be corrected or rejected or which requires special testing, adjustment, or inspection for approval;

k. arrange and observe with the Contractor all acceptance testing, if applicable, for the Improvements and notify the City and the Engineer of the schedule and results of the testing;

l. maintain master job files of correspondence, reports of conferences, shop drawings, samples, reproductions of the applicable Plans and Specifications, change order, addenda, daily inspection reports, additional or revised drawings, and other related construction documents;

m. coordinate the preparation of letters indicating Substantial Completion for the Improvements with the Engineer, together with the submission to the Contractor of a list of observed items requiring completion or correction;

n. ensure access and permit the City to inspect the construction of the Improvements at all reasonable times during construction until final acceptance of the Improvements by the City;

o. conduct and coordinate final inspection of the Improvements with the Engineer and the City inspector; transmit a final list of items to be completed or repaired, if any, and observe Contractor correction of the same;

p. prepare and submit to the City monthly during construction of the Improvements a report regarding minority-owned and women-owned business enterprise participation in the construction of the Improvements; and

q. within thirty (30) days after final completion and acceptance of the Improvements by the City in writing, provide the City with complete sets of the Plans and Specifications, certified "as-built", by the Engineer in accordance with the requirements of this Agreement. The City's acceptance of the Improvements shall be governed by this Agreement and the requirements of the City Code. As a condition of final acceptance of the Project by the City, Gables will provide the City with:

1. an assignment to the City of all warranties, guarantees, maintenance bonds, or like assurances of performance applicable to the Improvements, but not to Gables' Project, after final acceptance by the City;

2. copies of separate books of accounts, accurately documenting costs and expenses incurred in connection with the Improvements; and

3. a written, sealed statement from the Engineer certifying that the Improvements have been constructed in accordance with the Plans and Specifications (subject to approved change orders) in all material respects.

Section 4.04 Duties of the City

The City will:

(a) review the Plans and Specifications, in a timely manner as set forth in Section 4.01 above, for substantial compliance with the requirements of this Agreement and applicable City procedures and Standards, and will approve all Plans and Specifications that comply with these requirements in all material respects, within a reasonable period of time after submission;

(b) inspect the Improvements within two (2) days for an interim inspection and ten

(10) days for a final inspection after a request for inspection is received, and, if completed in accordance with the terms of the Plans and Specifications and this Agreement in all material respects, will certify the Improvements as being in compliance with City Standards and specifications, and issue a final acceptance letter. The final acceptance letter will be the effective date of "completion" for the purposes of this Agreement. The inspections and certifications will be conducted in accordance with standard City policies, procedures, and requirements;

(c) provide timely written Notice to Gables within two working days whenever a completed inspection reveals that an item of the Improvements is not constructed or completed in accordance with the Plans and Specifications or is otherwise materially defective. The Notice will specifically detail any deficiencies. The foregoing notwithstanding, inspection of construction by the City is not a guaranty that construction of the Improvements is free from defects or complies with all applicable laws. In the event of a dispute regarding any notice of failure to complete the construction of the Improvements in accordance with the applicable plans and specifications, either party may request in writing a dispute resolution meeting with the City's Project Manager. The meeting will be held within three business days of such a request and the Parties agree that the recommendations of the Project Manager will be given due consideration in the resolution of the dispute. If the Parties are not satisfied with the recommendations of the Project Manager, the matter may be appealed to the Director of the applicable City department with jurisdiction over the Improvements in question and thereafter to mediation, as allowed by this Agreement; and

(d) reimburse Gables for the engineering design and construction costs of the Improvements, in accordance with the provisions of Article V hereof within 30 days after final acceptance.

Section 4.05 City's Right to Construct Improvements on Default of Gables.

a. Subject to the provisions of the Master Agreement, including, without limitation, those pertaining to lender protection, notice and cure periods, and public health and safety, if Gables begins but does not complete construction of the Improvements materially in accordance with the Plans and Specifications and the terms and provisions in this Agreement, the City has the right, but not the obligation, to complete the construction of the Improvements.

b. If the City elects to complete the Improvements, all plans, designs, easements, real and personal property, and Improvements produced or installed by Gables or its Engineers or Contractors within the City's property prior to the take over of construction of the Improvements by the City, will become the property of the City.

c. Gables grants to the City a nonexclusive right and easement to enter the Property to the most limited extent as may be necessary for the purpose of performing Gables' construction obligations pertaining to the Improvements under this Agreement in accordance with its terms and provision and in accordance with the notice and cure periods contained in this Agreement.

d. If Gables is terminated pursuant to Section 11.01 of the Master Agreement, the City will reimburse Gables for its prorata share of the work performed in accordance with the plans and specifications and the terms of this Agreement to the date of such termination, subject to the receipt of acceptable close-out information, including the contractor's invoice for services rendered to the date of termination.

ARTICLE V
COSTS AND REIMBURSEMENT

Section 5.01 Gables' Initial Responsibility for Improvements Costs.
Gables will initially pay all costs associated with the design and construction of the Improvements in a timely manner as provided in this Article V.

Section 5.02 Cost Reimbursement.

The City will reimburse Gables the portion of the design and construction costs of the Improvements described herein, approved in accordance with this Agreement, as specified in attached **Exhibit "F"**, in accordance with the terms of this Article V, after Gables has constructed and the City has accepted the Improvements described herein for operation and maintenance. The City's participation in the cost of the Improvements may include third party contributions. The City will be responsible for reimbursing Gables for a portion of the costs of such design and construction up to the not to be exceeded amount of THREE HUNDRED TWENTY FOUR THOUSAND SIX HUNDRED FIFTY EIGHT AND NO/100 DOLLARS ($324,658.00) without reallocation by the City Manager of the total amount of City funding set forth in the Master Agreement or further authorization by the Austin City Council. The City acknowledges that so-called "scope-creep" and market forces may result in bids which exceed the present estimates and the presently available funding.

Section 5.03 Report of the Project Costs Required.

a. On or before the date of final acceptance of the Improvements, Gables will submit a report to the City of the total costs of the Improvements that includes reasonable supporting information. Gables agrees to provide all information and documents in its possession or immediate control reasonably required by the City for proper processing and for accurate accounting and documentation of actual Project costs.

b. The City will verify and determine the final total cost amount and will certify the amount due to Gables for the Project. If the City determines that the amount due to Gables is the same as the amount submitted by Gables, the City will have 30 days after receipt of all supporting information or the date of final acceptance of the Project, (whichever is later), in which to make the payment to Gables. If the City determines that the amount owing to Gables is less than the amount submitted by Gables, the City will: (i) notify Gables of the discrepancy within twenty days of Gables' submittal to the City; (ii) provide Gables with all supporting documentation upon which the discrepancy is based; and (iii) work diligently and in good faith to resolve the discrepancy within the ensuing ten days. If the Parties are unable to resolve the discrepancy, either Party may refer the matter to mediation in accordance with Article VII.

c. If Gables allows work to commence on a change order that effects a material change of the Plans and Specifications for any approved phase before receiving the approval of the applicable City department(s) for the change order, any additional costs incurred on that change order may not be eligible for reimbursement, if the City reasonably determines that the change in the Project is materially unacceptable.

d. In any event, subject to the applicable not to be exceeded amount and notwithstanding anything to the contrary contained herein, the City will reimburse Gables the amounts not in dispute then owing to Gables.

ARTICLE VI
CONSTRUCTION

Section 6.01 Conditions for City Ownership and Maintenance of the Improvements.

After the City's final acceptance of the Improvements, the City will own and maintain the Improvements, subject to the Contractor's one-year warranty and provisions of 6.02 below, except that Gables expressly shall have certain ordinary and ongoing maintenance responsibilities for any portions of the Improvements described to be the maintenance responsibility of Gables in the Master License Agreement.

Section 6.02 Warranty.

a. Upon Substantial Completion of the Improvements and as a condition precedent to final acceptance by the City, Gables will transfer to the City all warranties for the Improvements, including the Contractor's one year warranty and any warranty bond and any other warranty or rights Gables has in connection with the Plans and Specifications as they relate to the Improvements, excluding any portion of such warranty pertaining to Gables' Project. Except as may otherwise be specifically provided in this Agreement or any other Agreement, Gables in no way guarantees either the performance or quality of the work undertaken or materials used by any contractor or subcontractor undertaking construction pursuant to this Agreement or any Other Agreement, and **GABLES HEREBY DISCLAIMS ANY AND EVERY WARRANTY OR GUARANTY OF PERFORMANCE, QUALITY, SUITABILITY FOR ANY AND EVERY PARTICULAR PURPOSE WHATSOEVER, AND THE CITY HEREBY ACKNOWLEDGES AND ACCEPTS SUCH DISCLAIMER.**

b. Gables will be responsible for any material damage (ordinary wear and tear excepted) to the Improvements accepted by the City for operation and maintenance for one year following acceptance by the City, but only to the extent that the damage was caused directly by Gables or its Contractor during construction of the Improvements or Project.

Section 6.03 No Liens Permitted.

Gables will make timely payment for all aspects of properly performed engineering, design, construction work (including inspection fees), and for all materials and services relating to the Improvements in accordance with the applicable Construction Contract(s) and design services contracts for the Improvements. Gables will not suffer or permit the filing, perfection, or execution of any lien or encumbrance on the Improvements, and will cause any such lien to be released of record by payment, deposit, bond, or order of court of competent jurisdiction. Gables will have the right to contest any claim asserted in connection with the design and construction of the Improvements described herein, including the right to contest such claim in any court of competent jurisdiction. Gables shall secure the release within ninety days of the recordation of any lien or encumbrance. The foregoing notwithstanding any lien disputed by Gables may be bonded, as applicable, by the payment and performance bonds provided by the Contractor for the Improvements or otherwise bonded or secured by other fiscal, including a letter of credit, acceptable to the City Law Department within sixty days of its recordation.

Section 6.04 Agreement May be Pledged as Collateral.

Gables may pledge this Agreement as collateral for the purpose of securing financing from one or more lenders for the Improvements. Gables or its lender will provide documentation of the use of this Agreement as collateral to the City Law Department for its review and approval, which approval will not be unreasonably withheld or delayed.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 Interpretation of this Agreement, and Entire Agreement.

The Parties agree that in the event of any conflict between provisions of this Agreement and of the Master Agreement, the provisions of this Agreement shall control, provided, however, that notwithstanding the foregoing, (i) the General Provisions of Article XI of the Master Agreement shall apply to and control this Agreement, as if more fully set forth herein, and (ii) the mortgagee protection provisions of the Master Agreement (Article X thereof) shall apply to and control this Agreement. Subject to the foregoing, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either Party.

Section 7.02 No Waiver.

No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision or any other agreement between the Parties. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or any covenant by the City, the Gables, or their successors or assigns, whether the violations are known or not, shall not constitute a waiver or estoppel of the right to do so.

Section 7.03 Governmental Authority.

Nothing in this Agreement will be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the operation and maintenance of the Improvements constructed under the terms of this Agreement which are to be operated and maintained by the City, except as specifically waived or modified herein or by specific action of the City Council, nor its duty to provide for the public health, safety, and welfare in the operation and maintenance of the same.

Section 7.04 Expiration of Reimbursement.

The reimbursement described herein shall be available to Gables until the completion of construction of all of the Improvements, but not longer than ten (10) years from the date of this Agreement, which time period is subject to extension by mutual agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

SIGNATURE PAGES FOLLOW.

Executed to be effective on _____, 2006.

APPROVED AS TO FORM:

By: _____

Assistant City Attorney

CITY OF AUSTIN:

By: _____

Toby Hammett Futrell
City Manager

APPROVED AS TO CONTENT:

By: _____
Sue Edwards, Director
Economic Growth and Redevelopment Services

By: _____
Austan Librach,
Economic Growth and Redevelopment Services

STATE OF TEXAS §
§

COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this _____ day of _____, 2006, by Toby Hammett Futrell, as City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.
(SEAL)

_____

Printed/Typed Name of Notary
My Commission Expires: _____

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____.

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

Exhibit "A": Legal Description of Property
Exhibit "B": The Project
Exhibit "C": Improvements
Exhibit "D": WPDR Cost Participation Criteria
Exhibit "E": Insurance and Bond Requirements
Exhibit "F": Cost Participation

EXHIBIT 'A'

2.582 ACRE
LUMBERMEN'S INVESTMENT
CORPORATION

FN 04-272(MM)
JULY 30, 2004
BPI JOB NO. 1159.01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN; BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances:

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

FN NO. 04-272(MM)
JULY 30, 2004
PAGE 2 OF 2

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI — DATE 7/30/04
NO. 4998
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
PROFESSIONAL
LAND SURVEYOR

EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

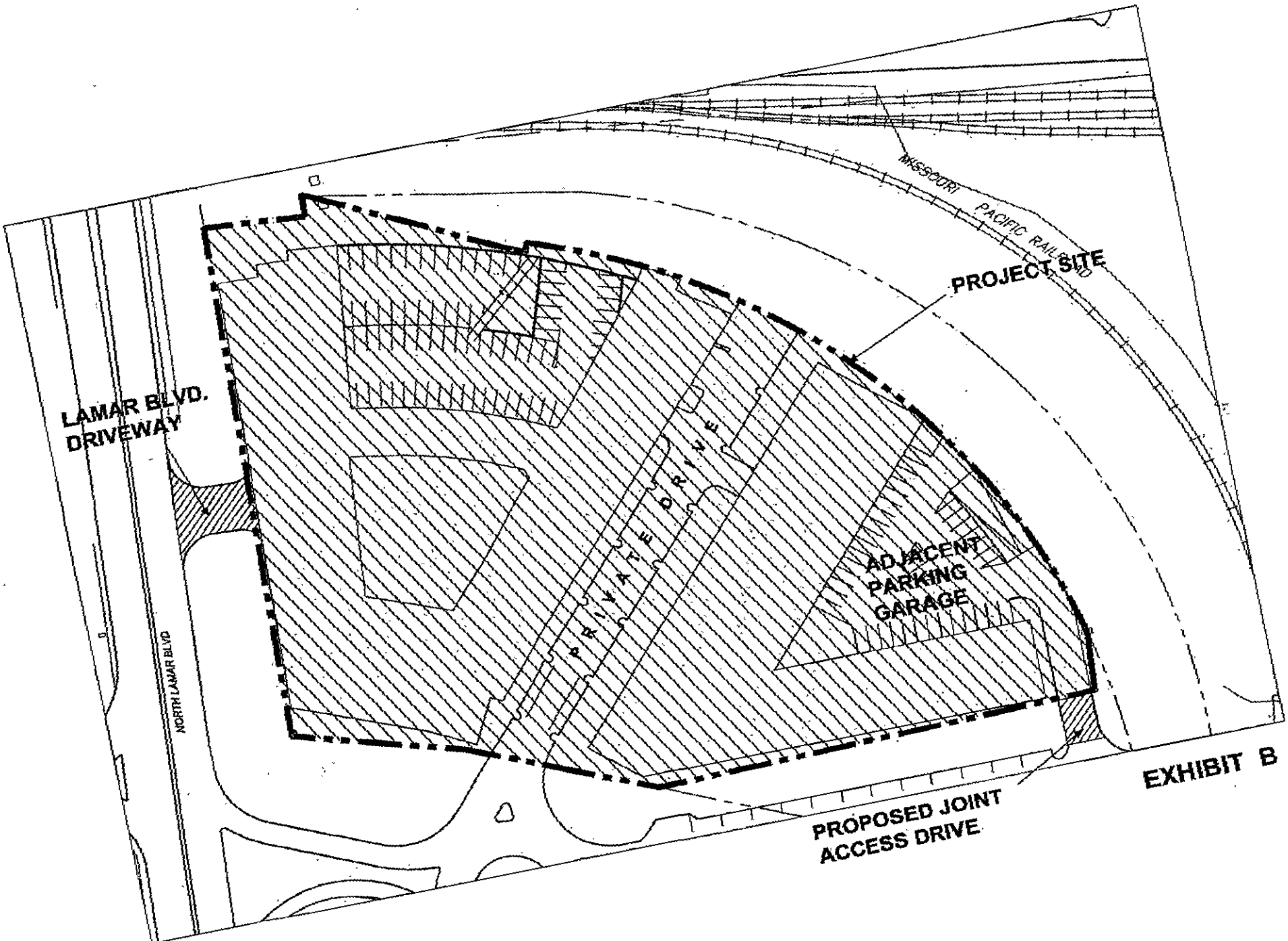
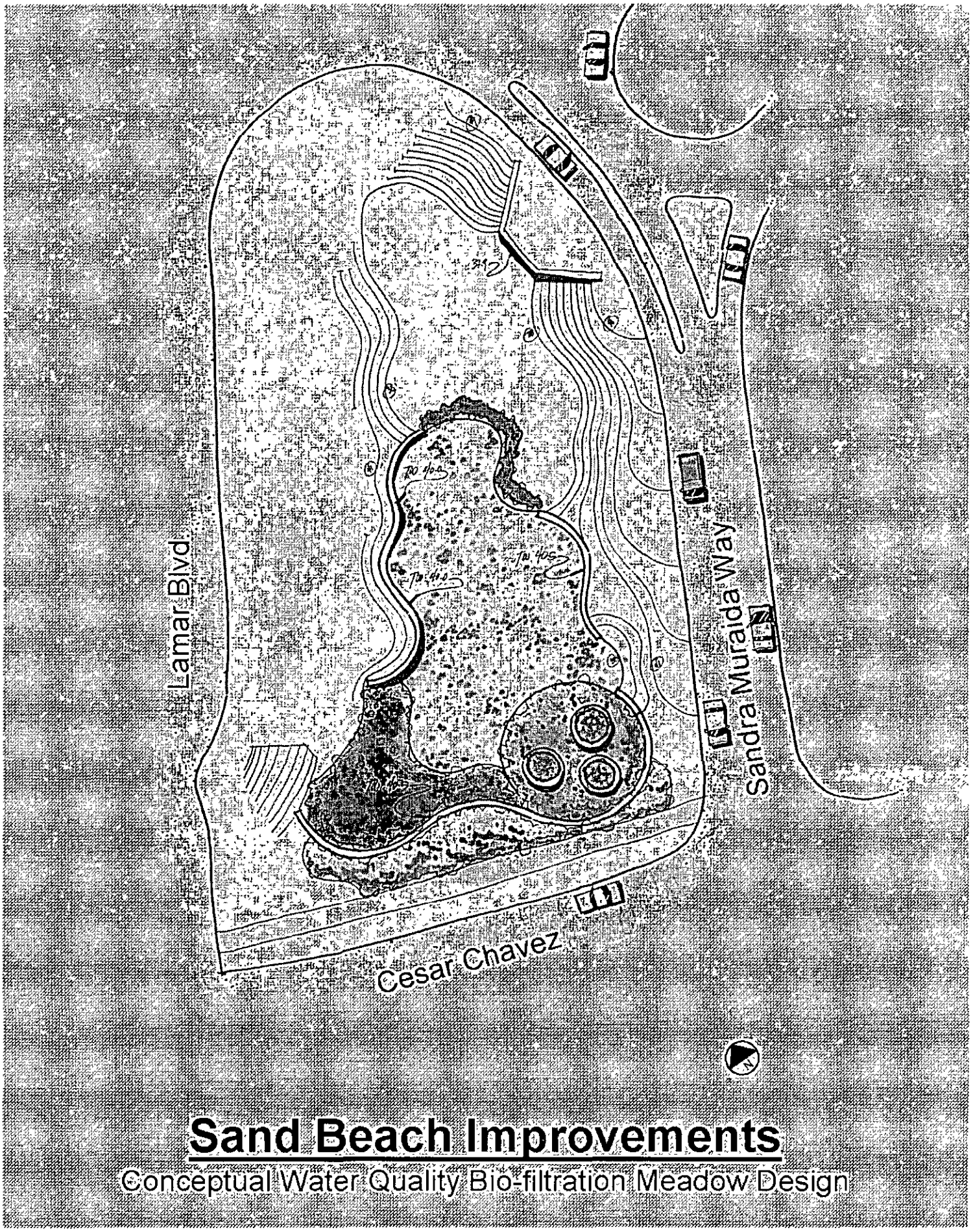

MISSOURI PACIFIC RAILROAD
PROJECT SITE
LAMAR BLVD. DRIVEWAY
NORTH LAMAR BLVD
PRIVATE DRIVE
ADJACENT PARKING GARAGE
PROPOSED JOINT ACCESS DRIVE
EXHIBIT B

Exhibit C



Sand Beach Improvements

Conceptual Water Quality Bio-filtration Meadow Design

Biofiltration Meadow Description:

The biofiltration meadow will address pollutant removal for the 4.5 acre Property and City property. The contributing drainage areas to the meadow are shown on **Exhibit E**. The biofiltration meadow will be a partial sedimentation design. A minimum water quality volume of 33,600 cubic feet is required. Design drawdown time is recommended to be 40-48 hours. A maximum ponding depth of 6 feet is recommended. Existing soil will need to be removed and replaced with filtration media approved by the City of Austin and Gables. An underdrain system is required. Vegetation will be determined by a landscape designer in consultation with John Gleason from the City of Austin. A splitter box should be provided that limits inflow velocities and conveys flow in a dispersed, sheet or plug-flow manner. Detention will be provided for the 2-year return event. Less frequent return events shall be routed around the pond and conveyed to Town Lake.

EXHIBIT 'D'

Museum Park Plaza Biofiltration System

Overview

The proposed biofiltration system for the Museum Park Plaza area presents an important opportunity to identify key design issues for this new type of treatment system, for which there is currently no design criteria in the City's Environmental Criteria Manual. Because of this lack of criteria and because a wide variety of design procedures are being used, the City has decided to use the Museum Park Plaza project as a pilot template for developing criteria. This is further justified because the City may be contributing significant funds towards this project, thus has a strong vested interested in its design and performance. A proposed procedure with criteria is provided at the end of this document.

Basis for Design and COA Cost Contribution to Museum Park Plaza Project

The primary purpose of the proposed biofiltration system is to reduce pollutant loads discharged to Town Lake. Typically filtration-type systems should also be designed to reduce erosive flows and to increase infiltration/recharge but, as the site does not discharge to a creek, these are not design goals for this project. There is uncertainty as to whether filtration-type controls can be used for flood control, with the exception of the 2-year return period storm. For this site flood control is not a design objective.

The City proposes to use two sets of criteria for establishing design parameters for the biofiltration system and to determine its cost participation in the project. One is the target pollutant removal level and the other is cost-effectiveness.

For the target pollutant level determination the City proposes using a procedure that estimates pollutant loads for the entire project area (both those that drain to the pond site and those that do not), calculates the pollutant removal by the treatment system, and compares those loads against target conditions. Determining the target pollutant removal is somewhat complicated because much of the development area is required to provide water quality treatment (no fee-in-lieu), while treatment for the remainder of the area would fall into the retrofit category; "retrofit" meaning that the City's goal is to maximize pollutant removal given site and budgetary constraints. Part of the area associated with this project does not drain to the pond site, i.e., the Sand Beach portion that will remove existing impervious cover and the new entrance road to the east off of Cesar Chavez (it is assumed that 20% of this new road is associated with Museum Park Plaza and 80% with the future Seaholm project). The assumed breakdown of treatment areas is shown in the table and graphic in the following pages.

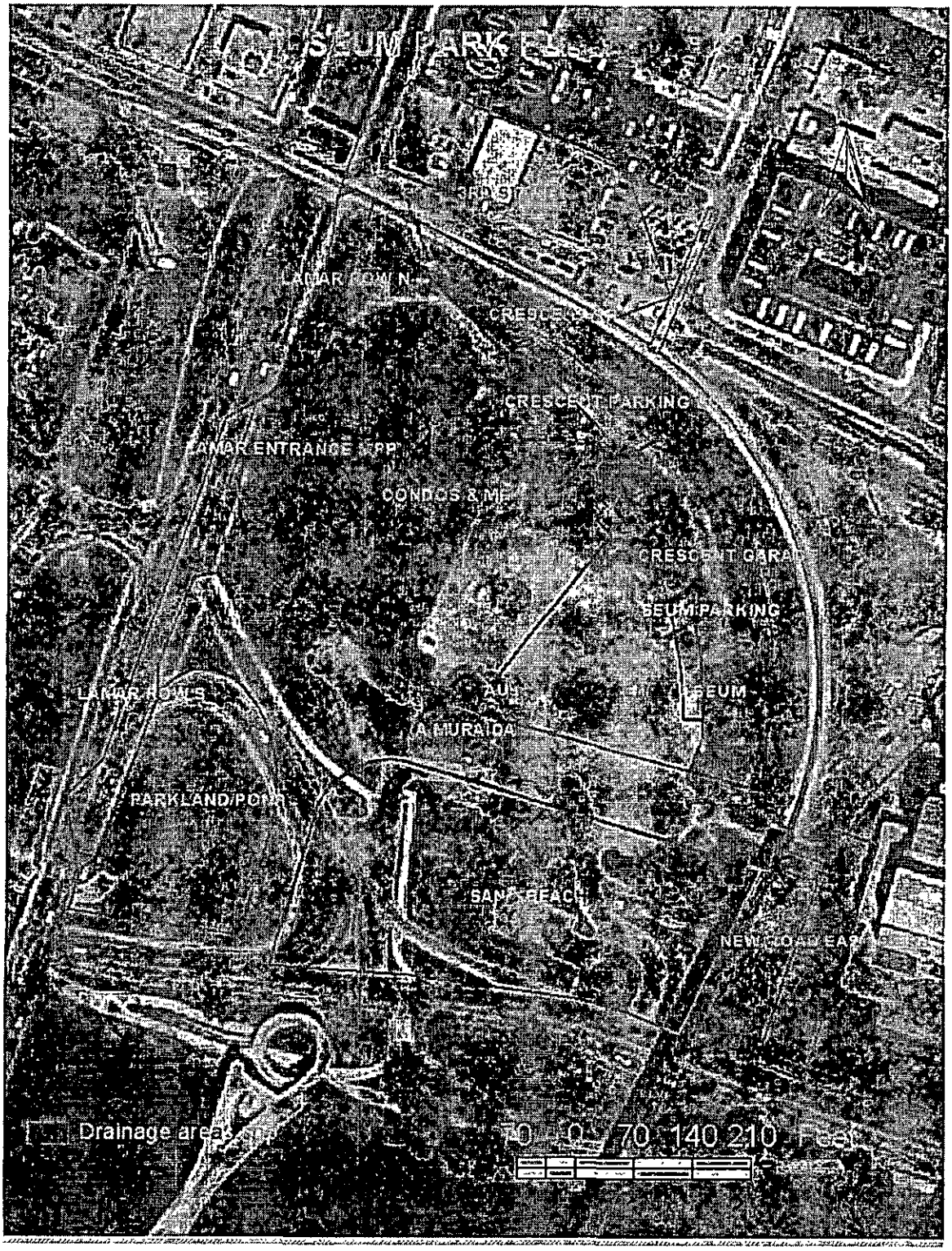
Two sets of target pollutant removal goals apply to this site. One is the treatment required for new and re-development, i.e., equivalent to sedimentation-filtration. *It is assumed that biofiltration will provide equivalent treatment if the required water quality*

volume is provided (per Environmental Criteria Manual) and the design drawdown time is at least 40 hours. The other treatment goal, derived from the Town Lake study and

Museum Park Plaza Areas

Area	Drains to Pond Site?	Assumed Treatment Category	Assumed Treatment Responsibility	Est. Area from COA GIS delineation (ac)	Est. Current Impervious Cover	Est. Future Impervious Cover
3RD STREET	Y	Retrofit	COA	1.34	95%	100%
SANDRA MURAIDA	Y	Required	COA	2.09	45%	60%
PARKLAND/POND	Y	Retrofit	COA	1.17	7%	0%
CRESCENT GARAGE	Y	Required	PRIVATE	0.81	0%	100%
CRESCENT PARKING LOT	Y	Required	PRIVATE	0.19	0%	100%
CRESCENT/RR	Y	Retrofit	PRIVATE	1.35	3%	3%
LAMAR ROW S	Y	Retrofit	COA	0.56	70%	70%
LAMAR ENTRANCE MPP	Y	Required	PRIVATE	0.19	8%	85%
LAMAR ROW N	Y	Retrofit	COA	0.18	0%	28%
SAND BEACH	N	None	COA	2.74	42%	5%
NEW ROAD EAST OF RR	N	Required	PRIVATE	0.08*	3%	90%
AUSTIN CHILDRENS MUSEUM	Y	Required	PRIVATE	1.08	76%	100%
MUSEUM PARKING	Y	Required	PRIVATE	0.15	22%	100%
CONDOS & MF	Y	Required	PRIVATE	3.26	19%	100%
Total				15.20	35%	60%
Total to Pond Site (excluding Pond itself)				11.20	37%	78%

* Estimated total area is 0.42 acre, but only 20% "assigned" to Museum Park Plaza (0.08 ac); the remainder (80%) is associated with future Seaholm project


3RD ST
LAMAR TOWN...
CRESCENT...
CRESCENT PARKING
LAMAR ENTRANCE APP
CONDOS & M...
CRESCENT GARA...
BEUM PARKING
BEUM
AU...
A MURAIDA
LAMAR HOUSE
PARKLAND/POND
SAN... BEACH
NEW PO... EAST
Drainage areas
0 0 70 140 210 Feet

Watershed Protection Master Plan, is to reduce the *current* pollutant load by at least 25% for the constituents total suspended solids (TSS), total organic carbon (TOC), total nitrogen (TN), and total phosphorus (TP). For this analysis only TSS will be used as it is also the basis for the department's cost-effectiveness performance measure. The treatment system as a whole must provide pollutant removal sufficient to meet both the ECM treatment requirements and the Town Lake goals. The following equation is proposed for this purpose:

(1) LRtotal = LRreq + LRret + LRsb

- Where LRtotal is the total TSS load removed for the entire project area in lb/yr
- LRreq is the TSS load removed for the areas that require treatment (i.e., no fee-in-lieu)
- LRret is load removed for the retrofit areas (i.e., existing development)
- LRsb is the load removed for the Sand Beach area resulting from removal of the old Sandra Muraida Drive's impervious cover, and calculated as the different between current and future loads

The term LRtotal will then be checked against the Town Lake goal, i.e., at least a 25% reduction in current TSS loads.

The terms LRret and LRsb will be used in conjunction with the City's cost-effectiveness criteria to determine the City's cost participation in the project; these terms in essence represent the "public benefit" of this project, at least in terms of reducing water pollution. The cost-effectiveness is the ratio of annualized BMP cost to annual average TSS Load removed, and the current criteria is $1.00 per lb of TSS removed. If a project is calculated to have a cost-effectiveness ≤ $1.00 per lb TSS removed it is considered to be a feasible project; if greater than $1.00 then less feasible, if much greater than $1.00 then not feasible. A 25-year period is used for calculating the annualized cost. For the Museum Park Plaza the City's cost participation (COACP) is thus calculated as the following:

(2) COACP = (LRret + LRsb) * 25

For example if the project results in LRret + LRsb equal to 2500 lb/yr, then COACP would equal $62,500.

Equation (2) assumes that the City does *not* contribute to annual operation and maintenance costs for the biofiltration system. One justification for this assumption is that the pond site is currently public parkland, and the conversion of parkland to another purpose is seen as a significant contribution by the City.

Estimating Pollutant Loads

Pollutant loads are calculated using the equation:

(3) $L = DA * P * Rv * C * 0.2267$

- Where L is TSS load in lb/yr
- DA is drainage area in acres
- P is annual average rainfall (in.)
- Rv is the runoff coefficient
- C is the mean TSS concentration
- 0.2267 is a conversion factor

This analysis will use data and assumptions from the City's Master Plan process, which used more recent and accurate information than that in the City's Environmental Criteria Manual. The value of P will be set at 31.08 in/yr, C = 80 mg/L for undeveloped land and 170 mg/L for developed land, and Rv calculated as $0.3428\ IC^2 + 0.5677\ IC + 0.0125$, where IC is the impervious cover (fraction).

Removal efficiencies will be predicted assuming that the biofiltration system is equivalent to sedimentation-sand filtration. Currently the City assumes the latter to provide 90% TSS removal for the portion of runoff captured (aka "annual capture volume" (ACV), which is estimated from modeling). Currently the City is using a probabilistic methodology (Adams and Papa) for estimating ACV. The ACV will vary with the water quality volume (WQV) and treatment rate (QT) of the BMP. For the areas that require treatment and that are draining to the pond site, estimated to be 7.77 acres at 89% impervious cover, a WQV of 1.19" is required; the Adams and Papa model predicts about 93% ACV, thus the annual average removal efficiency is estimated to be 0.9 * 0.93 = 0.84, or 84%. For the retrofit analysis the same procedure will be used, except that the size of the biofiltration system will be varied, which will change the ACV prediction. The entire drainage area to the biofiltration system is estimated to be 11.2 acres at 78% IC (excludes pond site itself),

Given the above assumptions and procedures, the estimated pollutant loads for the project area by the equation (1) variables are:

Area	Acres	Current IC	Future IC	Current TSS Load (lb/yr)	Future TSS Load (lb/yr)	Future TSS Load Removed (lb/yr)	Future TSS Load Discharged (lb/yr)
Areas Required to Treat Runoff in Drainage Area	7.77	31%	89%	2,234	7,440	6,233	1,207
New Road East of RR*	0.08	3%	90%	1	80	67	13
Retrofit Areas in Drainage Area	3.43	50%	53%	1,800	1,937	TBD	TBD
Pond Site	1.17	7%	0%	75	0	0	0
Sand Beach	2.74	42%	5%	1,024	64	960**	64
Total	15.20	35%	59%	5,135	9,521	TBD	TBD
Total to Pond Site	11.20	37%	78%	4,034	9,377	TBD	TBD

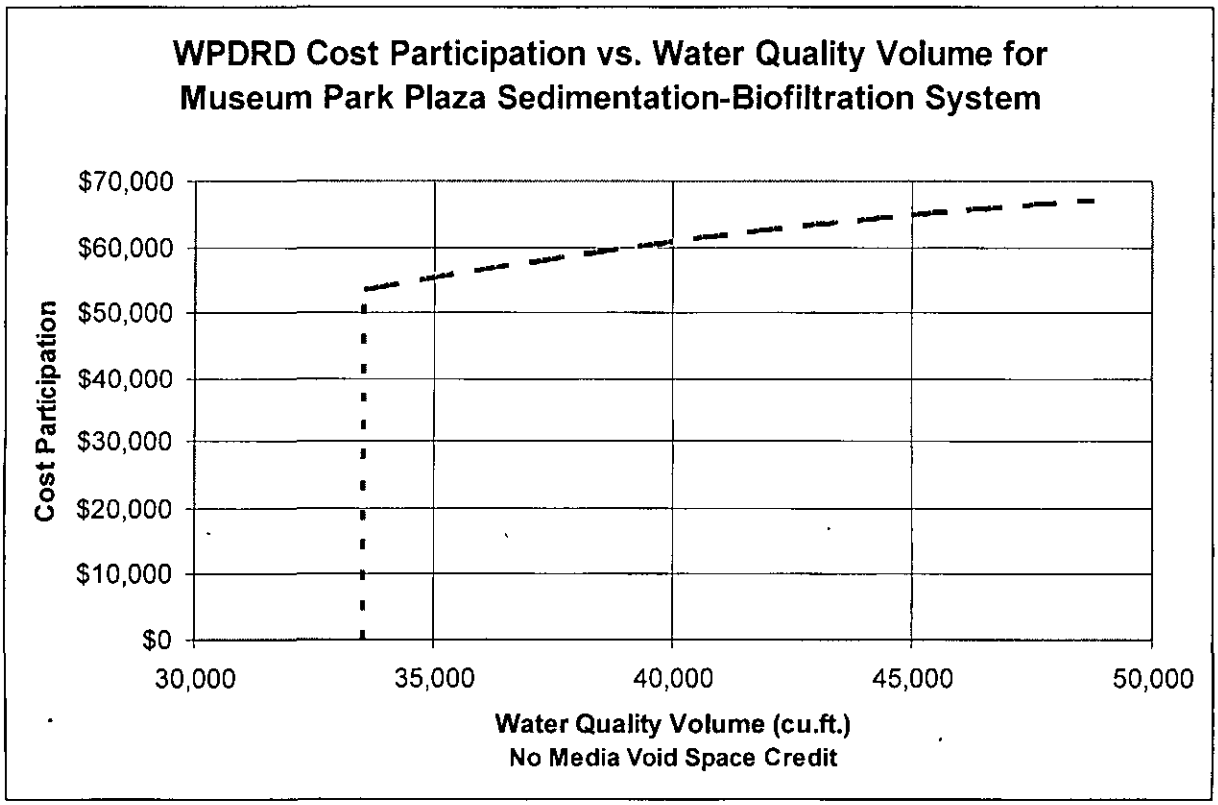
TBD – To Be Determined

* This area is singled out because it is not in the drainage area to the pond site; only 0.08 ac "assigned" to Museum Park Plaza and remaining 80% associated with future Seaholm development. It is assumed that runoff treatment will be required for this area, i.e., no fee-in-lieu.
** for Sand Beach area, where current Sandra Muraida Drive is planned to be removed, the load removal is calculated as the current load minus the future load, which accounts for the impervious cover removal.

From the table it can be surmised that the Town Lake goal should readily be met by this project, i.e., the current load of 5,135 lb/yr should be reduced by at least 25%, or a discharge of 3,851 lb/yr (5135 * (1- .25)). The maximum future load discharged to Town Lake from the project area is estimated as 3,221 lb (= 9,521 – (6,233+67)), or a 37% reduction from the current load.

Design and City's Cost Participation Recommendations

Based on the above assumptions and the procedure described below, the City evaluated a number of design scenarios in order to determine an appropriate level of cost participation by the Watershed Protection Department. The level of participation is a function of water quality volume, as shown in the following graphic.



The following assumptions and criteria were used for deriving this figure:

- Water quality treatment is assumed to be required for much of the site, as identified in the table above, thus only certain areas fall into the "retrofit" category.
- The pond must have a minimum water quality volume of 33,600 ft^3, the volume required for the areas that require treatment and that drain to the pond site, i.e., 7.77 acres @ 89% impervious cover, thus a water quality volume of 1.19" or 33,600 ft^3.
- $24,000 of the cost contribution reflects removal of impervious cover from the old Sandra Muraida Drive, which is predicted to reduce pollutant loads to Town Lake by 960 lb/yr.
- Cost contributions above $24,000 reflect the pollutant load removal provided by the biofiltration system. This portion of the cost contribution is based on pollutant load removal greater than 6,233 lb/yr; the 6,233 lb/yr value is the estimated load removal for the areas in the pond drainage area that are required to treat runoff (i.e., no fee-in-lieu).
- The Watershed Protection and Development Review Department does not contribute any annual operation and maintenance costs.
- The biofiltration size and design parameters should be within the range of those described below, based on a Darcy's Law sizing procedure; any significant deviation may affect the City's cost participation.

Biofiltration Design Criteria Issues

As this site may be a template for future biofiltration projects, the following relevant issues were identified.

Biofiltration vs. Bioretention - Because of the size of the drainage area and the ponding depths, and because infiltration is not feasible due to soil permeability, this is considered to be a *biofiltration* project.

Functions - The project will only address pollutant removal and not erosion control or flood control. Erosion control would be provided as a result of the extended detention and/or infiltration of water quality volume but, since this site does not discharge to a creek, erosion control is not required. Flood control may not be feasible for these type of systems due to legal and technical constraints, with the exception of the 2-year return period event. Section 25-8-213 of the City's Land Development Code requires isolation of the water quality volume, which may prohibit the use of filtration systems for flood control. Technically the high velocities, water depths, and debris levels associated with larger storm events may damage the treatment system. For the Museum Park Plaza site flood control is not a major concern and will not be a design goal (except for routing flood flows around pond).

Splitter Box - A splitter box should be provided and designed to limit inflow velocities such that trapped pollutants will not be resuspended and erosion is prevented. Runoff should be conveyed into the treatment system in a dispersed manner (e.g., flow spreader).

Pretreatment – Pretreatment is highly recommended and either "Partial" or "Full" sedimentation designs can be used, at the designer's discretion. If a "partial" system is

used the separating wall between the two chambers must be porous; the use of a vegetated "hedgerow" can be considered as an alternative to a hard surface (e.g., gabion wall). The "partial" sedimentation chamber must hold at least 20% of the water quality volume. A "full" system requires that the entire water quality volume be captured in the sedimentation basin, with an outlet designed to release this volume over 24 hours to the filtration basin. While somewhat larger in size the "full" systems protect the filtration media from clogging better than the "partial" systems. The sedimentation and filtration basins should have a L:W ratio ≥ 2:1 in order to maximize hydraulic efficiency (i.e., no dead storage or short-circuiting).

Sizing Procedure – Darcy's Law approach is recommended, as described below, for determining the biofiltration and sedimentation areas and volumes. The size of the treatment system can be varied to meet project constraints (e.g., available area, budget). For this site the biofiltration surface area should be in the range of 4,500 – 10,000 ft^2 for the "Partial" system and 2,500 – 6,000 ft^2 for the "Full" system, depending on ponding depth and water quality volume.

Water Quality Volume – A minimum volume of 33,600 ft^3 is required.

Design Drawdown Time – 40 to 48 hours is recommended in order to provide adequate runoff treatment, i.e., equivalent to sedimentation-sand filtration systems.

Ponding Depth – 2 feet is proposed; increasing the pond depth should be considered (up to 6 feet); filtration area generally decreases with increasing ponding depth.

Depth of Filtration Media – The 2 feet proposed is acceptable. Sand filters typically are 1.5 feet deep. The additional depth for the biofiltration system should enhance pollutant removal and encourage more vigorous plant growth.

Void Space Credit Towards Water Quality Volume – Credit is not recommended for this type of treatment system, but could be allowed for bioretention systems. Reasons for not allowing void space credit:

- The pond will be receiving sediment-laden runoff that will decrease void space volume over time, as evidenced in many sand filters in the Austin area. For bioretention systems (small drainage area, shallow inflow and ponding levels), partial credit may be allowable; but 100% credit is not recommended due to potential loss of void space due to siltation and plant root systems.
- No credit for void spaces is given for sand filters by the City, or by other jurisdictions that allow similar types of filtration systems, thus it could be argued that a local precedent has already been established.
- If credit is given the designer must be careful to account for the effects on design drawdown time (see Darcy's Law sizing procedure below).

Biofiltration Media Characteristics – Soils test indicate that the in-situ soil is not appropriate for biofiltration because of very low permeability rates. The existing soil will

need to be removed and an alternative filtration media installed. Specifications for the media will need to be determined.

Biofiltration Media Hydraulic Conductivity – For design purposes, the effects of sediment deposition and other factors should be accounted for, and a conservative hydraulic conductivity should be assumed. Monitored sand filters in Austin have been reported to have values of 2 – 5 ft/day after being in operation for several months to years, whereas values of 100-200 ft/day are typically reported when tested with sediment-free water. Thus, in-field values are typically >90% lower than permeability tests or published literature. It is recommended that the biofiltration media be tested for hydraulic conductivity and the City of Austin has tested a variety of media; in most cases the hydraulic conductivity is less than that for sand. However, it is hypothesized that biofiltration systems will be comparable to sand because of the effects of the plant root system and the likelihood that they will be inspected and maintained more often due to their visibility and landscape functions. Pending actual monitoring data the City thus proposes the following default assumptions for biofiltration media, subject to site-specific considerations:

- "Partial" sedimentation-biofiltration system, assume k = 2 ft/day
- "Full" sedimentation-biofiltration system, assume k = 3.5 ft/day

Underdrain System – It is recommended that an underdrain system be installed because of the low permeability of the adjacent and underlying soil. The designer will need to address concerns about the possibility of the vegetation root system invading the underdrain system. The system could be design to create a saturated layer in the filtration media, which could promote a more robust microorganism population and denitrification.

"Overflow" Sand Bed – Some recent designs in Austin have incorporated a sand bed inside the biofiltration chamber in order to provide a mechanism for draining the pond in case the biofiltration media fails. If used it is recommended that the sand bed be located at the far end of the biofiltration media, and placed 6" or more above that media.

Vegetation – This is to be determined by landscape designer, in consultation with John Gleason from the City. The frequency of inundation should be estimated to provide guidance for vegetation selection. Be aware of weed control needs and size of plantings. Care should be taken to protect the biofiltration underdrain system from being damaged by plant root systems. Vegetation can also be incorporated into the sedimentation basin.

Mulch Layer – Not recommended because of the inflow velocities and ponding depth; will tend to float or otherwise be washed out of the system.

Proposed Procedure For Sizing Biofiltration Systems

A Darcy's Law procedure is proposed because it is appropriate for this type of treatment system, and accounts for important design variables.

Darcy's Law:

$Q = k * I * Af$
$= k * (H + L)/L * Af$

- Where Q is design treatment rate and can be assumed equal to the Water Quality Volume (WQV) divided by the design drawdown time T (40 – 48 hr).
- k is the hydraulic conductivity of the biofiltration media; assumed to be 2 ft/day for "Partial" systems and 3.5 ft/day for "Full" systems
- i is the hydraulic gradient = (H + L)/L
- H is the ponding depth over the filtration media (ft). For design purposes assume the average H value is ½ the maximum ponding depth (Hmax).
- L is the biofiltration media depth (ft).
- Af is the filtration or biofiltration surface area (sq.ft.).

The proposed sizing procedure is to define target WQV and T values, set k, H and L, and solve for the required filtration area:

$Af = (WQV * L)/(k * ((Hmax/2)+L) * T)$

As can be seen, as k, H, and T increase, Af decreases. As WQV and/or L increase (other factors being equal), T increases. The design process may have to be an iterative one whereby WQV, T, H, and L are varied until an acceptable configuration is determined.

EXHIBIT E

Insurance and Bond Requirements

A. General Requirements

Gables shall forward certificates of insurance with the endorsements required below to the City as verification of coverage prior to commencement of any professional or construction services hereunder, EXCEPT that Gables shall have in place a policy of commercial general liability insurance meeting the requirements of this Agreement commencing on the Effective Date. To the extent that the specific endorsements referenced herein are unavailable or that equivalent endorsements are available, the substitution of equivalent endorsements will be permitted subject to the reasonable approval of the City.

Gables shall not commence work until the required insurance is obtained and has been reviewed by the City. Approval of insurance by the City does not relieve or decrease the liability of Gables hereunder and is not a limitation of liability on the part of Gables.

Gables must submit certificates of insurance for all contractors and/or subcontractors to the City prior to the commencement of design or construction work on the Improvements and the City will review and approve the certificates, which comply with the requirements of this Agreement, within five days of receipt.

Gables' and all contractor's and subcontractor's insurance coverage must be written by companies licensed to do business in the State of Texas at the time the policies are issued and must be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance must contain the following information:

Attn: Director, Public Works
City of Austin
P. O. Box 1088
Austin, Texas 78767

The "other" insurance clause must not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Agreement, covering both the City and Gables, be considered primary coverage as applicable.

If insurance policies are not written for amounts specified in this Agreement, Gables, contractors and subcontractors must carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision

or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

Gables shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement.

Gables and any contractor or subcontractor responsible for maintaining insurance shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions must be disclosed on the certificate of insurance.

The City may review the insurance requirements set forth herein during the Term and may make reasonable adjustments to insurance coverages, limits, and exclusions when reasonably deemed necessary and prudent by the City based upon applicable changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company(ies) and Gables.

The insurance coverages specified below are required minimums and are not intended to limit the responsibility or liability of Gables.

B. Specific Requirements

Worker's Compensation and Employers' Liability Insurance. Coverage must be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat.). The minimum policy limits for Employer's Liability are $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee.

(a) Gables', its contractor's and subcontractor's policy shall apply to the State of Texas and include these endorsements in favor of the City:

(i) Waiver of Subrogation, Form WC 420304

(ii) Thirty days Notice of Cancellation, Form WC 420601

Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $1,000,000 for coverages A and B.

(a) The policy must contain the following provisions:

(i) Blanket contractual liability coverage for liability assumed under this contract and all contracts related to this project.

(ii) Independent contractor's coverage.

(iii) Products/completed operations liability for the duration of the warranty period.

(b) The policy must also include these endorsements in favor of the City:

(i) Waiver of Subrogation, endorsement CG 2404

(ii) Thirty days notice of cancellation, endorsement CG 0205

(iii) The City listed as an additional insured, endorsement CG 2010

Business Automobile Liability Insurance. Gables, its contractor and subcontractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 per occurrence for bodily injury and property damage,

(a) The policy must include these endorsements in favor of the City of Austin:

(i) Waiver of subrogation, endorsement TE 2046A

(ii) Thirty days notice of cancellation, endorsement TE 0202A

(iii) The City listed as an additional insured, endorsement TE 9901B

Property Insurance. If any of the City's property is in the care, custody or control of Gables, then Gables shall provide property coverage on an "all risk of physical loss" form. The coverage must be provided on a replacement cost basis for the 100% value of the City's property. If property is being transported or stored off site by Gables, then transit and storage coverage must also be provided. The City shall be endorsed onto the policy as a loss payee.

Hazardous Material Insurance. If applicable, for work that involves asbestos or any hazardous materials or pollution defined as asbestos, any contractor or subcontractor responsible for such work must comply with the following insurance requirements in addition to those specified above:

(a) Provide an asbestos abatement endorsement to the commercial general liability policy with minimum bodily injury and property damage limits of $1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of $1,000,000. This policy must not exclude asbestos or any hazardous materials or pollution defined as asbestos, and must provide "occurrence" coverage without a sunset clause. The policy must provide 30 day notice of cancellation and waiver of subrogation endorsements in favor of Gables and The City.

(b) Any contractor or subcontractor responsible for transporting asbestos or any hazardous materials defined as asbestos shall provide pollution coverage. Federal law requires interstate or intrastate transporters of asbestos to provide an MCS 90 endorsement with a $5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a $1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49

CFR 171.8. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of $1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos. The endorsement must, at a minimum, provide a $1,000,000 limit of liability and cover events caused by the hazardous properties of airborne asbestos arising from fire, wind, hail, lightening, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.

(c) The contractor shall submit complete copies of the policy providing pollution liability coverage to Gables and the City.

Performance and Payment Bonds. In substantial compliance with the provisions of Chapter 2253 of the Texas Government Code, Gables shall require its general contractor, within 30 days from and after notification of the award of the contract, and before commencement of construction of the Additional Improvements, to furnish and deliver to the City, legally issued surety bonds in a form approved by the City, with the City and Gables named as co-obligees. The furnishing and delivery of such bonds within the periods mentioned is a condition precedent to the commencement of the construction of the Additional Improvements and, upon the failure of the general contractor to so furnish and deliver all of the same in form, tenor and execution and with sureties satisfactory to the City, no rights obtain thereunder to Contractor, no construction of the Additional Improvements may commence or continue and, if construction has commenced without compliance with the requirements of this paragraph, all construction activities must immediately be suspended and Gables will be in material default under this Agreement.

Payment Bond. Gables shall require the general contractor to provide a payment surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full, and complete payment of all subcontractors and suppliers.

Performance Bond. Gables shall require contractor to provide a performance surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full and complete performance by the general contractor of these covenants and agreements contained in the contract documents.

EXHIBIT F

Cost Participation in Improvements

City costs and contributions may include third party funding.

Public/Private Bio-Filtration Meadow

a. Presently estimated hard and soft costs $721,462

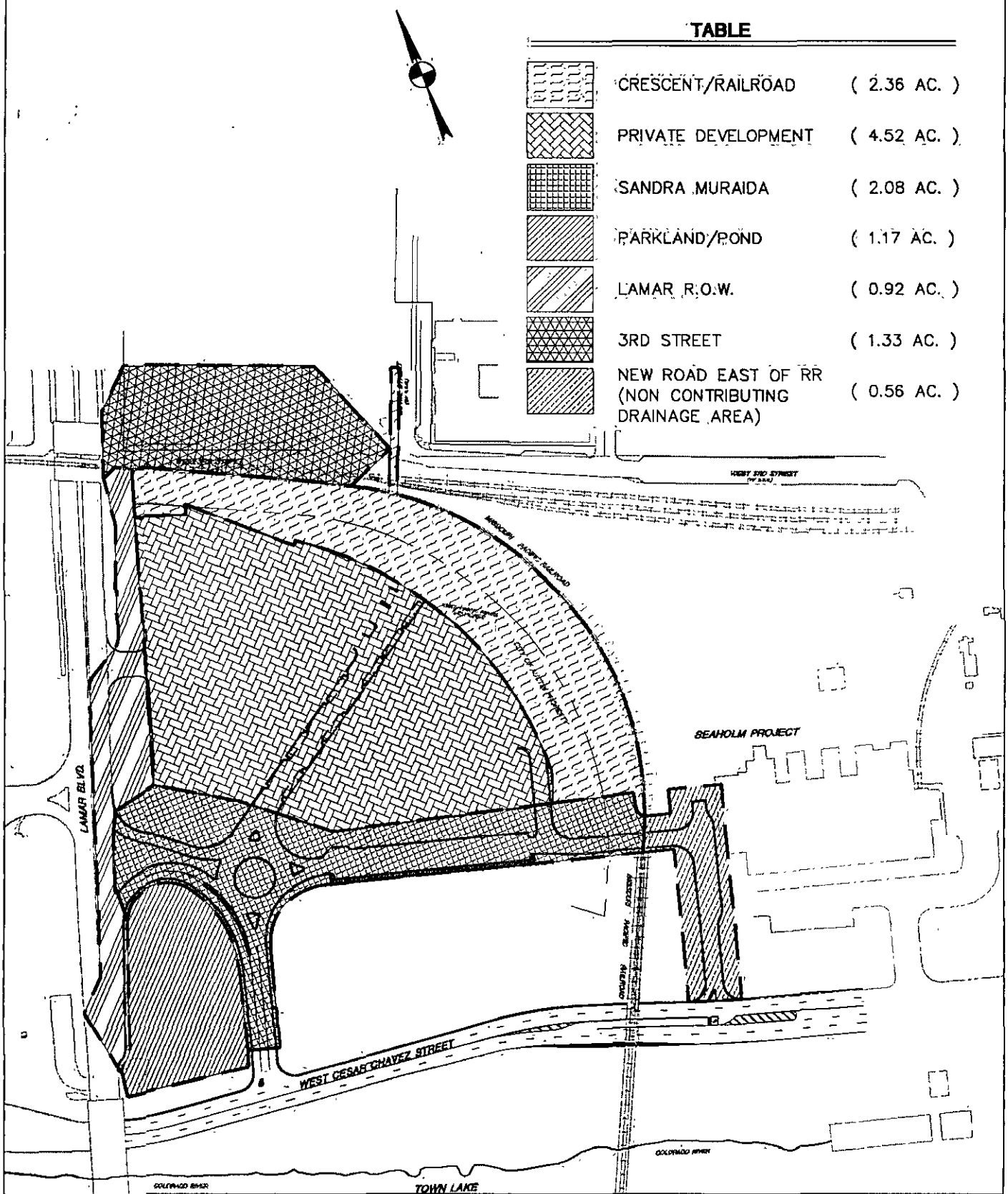
b. Proportionate Shares

Gables:	55%
City:	45%

c. Total Estimated Shares

Gables:	$396,804
City:	$324,658

* The eligible costs for reimbursement will include the so-called "hard costs" of construction, as evidenced by the amounts paid to the general contractor for the performance of the Work, and the so-called "soft costs" of the fees to be paid under this Agreement, design fees, permit and inspection fees, the construction management fee, and other professional services fees, but will exclude the costs of Gables' financing and Gables' accounting and legal fees.



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CONTRIBUTING DRAINAGE AREA MAP

GABLES RESIDENTIAL

EXHIBIT E

DATE: 11/10/05	SCALE: 1"=200'	DRAWN BY: DAZ	FILE: G:\659\23\EHX\65923EXH109	PROJECT No.: 659-23.00

EXHIBIT F

COMMUNITY FACILITIES AND COST REIMBURSEMENT AGREEMENT FOR RIGHT OF WAY IMPROVEMENTS

STATE OF TEXAS

COUNTY OF TRAVIS

This Community Facilities and Cost Reimbursement Agreement for Right-of-Way Improvements ("Agreement") is made by and between the City of Austin, a home rule city and municipal corporation situated in Travis and Williamson Counties, Texas (the "City"), and LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"). The City and Gables are each sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, as generally depicted on **Exhibit "B"** (the "Project").

WHEREAS, the City and Gables currently intend to design and construct (i) public streets with an attendant storm water drainage system, adjacent sidewalks, curb ramps, and related streetscape improvements and landscaping, (ii) traffic improvements, including turn lanes, striping and signage , and (iii) traffic signals, including conduit and fiber optic line, together with other related improvements, in accordance with applicable City Standards, as defined herein, including but not limited to the City's Transportation Criteria Manual, subject to City review and approval, and in the locations shown on **Exhibit "C"** hereto, (the "Improvements").

WHEREAS, in separate Community Facilities and Cost Reimbursement Agreements, the Parties have provided for the design and construction of other improvements, including but not limited to a regional bio-filtration meadow to accept the storm water drainage from the Improvements and the Project.

WHEREAS, the Parties presently desire to coordinate the development and construction of the Improvements in connection with the development and construction of the Project.

WHEREAS, the City has allocated funding (the "Funding") for the design and construction of

the Improvements, including funding from the proceeds of the City's Interlocal Agreement with the Capital Metropolitan Transportation Authority, as passed and approved by the Austin City Council on May 27, 2004 and October 7, 2004.

WHEREAS, the Parties have entered into a Master Agreement (the "Master Agreement") of even date herewith, which Master Agreement, together with all exhibits attached thereto, sets forth the obligations of the Parties with respect to the development and construction of the various improvements described therein.

WHEREAS, the use and meaning of the capitalized terms in this Agreement (including, without limitation, the terms "Project" and "Gables") shall be the same as the use and meaning of those same terms as defined in the Master Agreement, unless this Agreement expressly defines the term otherwise.

WHEREAS, the City will reimburse Gables from the Funding a percentage of the cost of construction of the Improvements.

WHEREAS, the City and Gables desire to enter into this Agreement in accordance with the Master Agreement to further describe and implement the development and construction of the designated Improvements and the reimbursements authorized by the Ordinance, as defined below.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both parties acknowledge, the City and Gables agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01 Additional Definitions.

a. Bidding Documents means the Plans and Specifications together with the proposed Construction Contract for the Improvements.

b. Construction Contract means the construction contract executed by Gables for the construction of the Improvements.

c. Contractor means the bidder with whom Gables contracts for the construction of the Improvements.

d. Effective Date means the date of execution of this Agreement.

e. Engineer means the engineer hired by Gables, in Gables' discretion on the basis of a qualifications-based selection process, to undertake the tasks described in Section 3.02 of this Agreement.

f. Notice means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.

g. Ordinance means the Ordinance enacted by the City Council of the City of Austin on the date of approval of the Master Agreement and this Agreement by the City in support of the development and construction of the Improvements and the allocation of the Funding thereto`.

h. Plans and Specifications mean plans and specifications prepared by the Engineer for the construction of the Improvements as described herein.

i. Substantial Completion means that the Improvements have been completed in accordance with the Plans and Specifications, in all material respects, to the point of being usable for the purpose intended, as certified by the Engineer to the City and as determined by the City in the ordinary course of its inspections of such Improvements.

Section 1.02 Interpretation of Terms, and Incorporation of Exhibits.

Except where the context otherwise clearly requires, in this Agreement:

(a) Words imparting the singular will include the plural and vice versa;

(b) All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and

(c) References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns.

Section 1.03 Compliance with Certain City Bidding Requirements.

Notwithstanding any provision of this Agreement to the contrary, Gables' obligation to comply with the City's minority-owned and women-owned business enterprise procurement program set out in the City's Code, or any other similar law or regulation, including any provisions requiring award of a construction contract to a low bidder or any other particular bidder, shall apply only in the context of construction of the Improvements that are subject to reimbursement by the City as set out in this Agreement. In all other aspects of construction of the Project, Gables may choose its consultants, contractors, and other agents in its sole and absolute discretion, provided, however, that Gables is aware of and may consider the City's Minority and Women's Business Ordinance in making its decisions regarding other aspects of construction of the Project.

ARTICLE II
GABLES AUTHORITY & RESPONSIBILITY

Section 2.01 Required Information.

At the time of execution of this Agreement, as a condition precedent, Gables has provided the City with appropriate evidence of authority, authorizing Gables' execution and performance of this Agreement, the receipt of such evidence the City hereby acknowledges.

Section 2.02 Design and Construction Responsibility.

a. Notwithstanding any other provision in this Agreement to the contrary, Gables' responsibility to design and construct the Improvements is contingent upon the pre-construction conditions set forth in Article IX of the Master Agreement, which are incorporated herein by reference,

b. Notwithstanding any other provision in this Agreement to the contrary, Gables' obligation to construct and maintain the Improvements is contingent upon its commencement of construction of the Project, timely reimbursement by the City hereunder, and as provided in Section 8.05 and Article IX of the Master Agreement. Once commenced, Gables shall diligently prosecute the construction of the Improvements to completion.

ARTICLE III
ENGINEERING DESIGN OF THE IMPROVEMENTS

Section 3.01 Agreement to Design the Improvements.

The City and Gables agree that the Improvements shall be designed by Gables in accordance with the applicable portions of the City's written, published requirements of the City Code and City rules and regulations in effect on the date of this Agreement (the "City Standards"), specifically including but not limited to the City's Transportation and Drainage Design Criteria Manuals and as further described in this Agreement, and such Standards will apply for five years from the date of this Agreement.

Section 3.02 Design Duties of Gables.

Gables shall:

a. engage the services of an Engineer to perform the following functions:

1. prepare Plans and Specifications for the Improvements using (and ensure that the Plans and Specifications conform to) the City's design criteria and Standards applicable to the Improvements; prepare preliminary schedules and cost estimates for the construction of the Improvements; the Engineer's opinion of construction costs shall be based on materials and labor prevailing at the time of the preparation of the preliminary estimate without consideration of inflationary increases in costs with the understanding that the Engineer will not be construed to have guaranteed costs of construction, however, if either of the Parties reasonably believe that the estimates are no longer accurate, Gables will promptly obtain a revised opinion of construction costs with estimates of more accurate

construction costs together with a description of the variance between the original and revised construction costs;

2. provide the City with a copy of the draft Bidding Documents;

3. if requested, attend and conduct pre-bid conferences to provide clarification and interpretation of the Bidding Documents to bidders;

4. if requested, prepare and issue addenda required to clarify the Bidding Documents;

5. if requested, attend the opening of bids at City's Contract Compliance Section, review bids, and furnish a recommendation regarding the award of the Construction Contract, within five working days following the bid opening;

6. review and approve (or take other appropriate action regarding) shop drawings and samples, the results of tests and inspections and other data that the Contractor is required to submit for conformance with the design criteria and standard specifications of the Improvements and compliance with the information given in the Project construction documents;

7. determine the acceptability of substitute materials and equipment proposed by Contractor; and receive and review (for general content as required by the applicable specification) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor in accordance with the construction documents;

8. review change order requests relating to the Improvements and submit the change order requests along with recommendations to Gables and the City for review and approval by Gables and the City. Change orders will be reviewed and approved or rejected by the City within five business days of submittal, provided, if more information is required for the City review, the City will notify Gables within the initial five day period and will have up to an additional five days after receipt of the additional information in which to approve or reject the change order request and in the event of a dispute, the Parties will follow the same procedure outlined for dispute resolution in Section 4.04 below;

9. review any changes to the Improvements and, if necessary, design any engineering changes that may be required after construction has begun;

10. attend the final inspections of each portion of the Improvements in the presence of the City inspector and transmit a list of items to be completed or repaired to the City, Gables, and the Contractor;

11. review the Plans and Specifications of the Improvements marked to show "as built" conditions to ascertain to the best of his knowledge and belief that the reflected field changes are substantially complete and correct; and

12. after final completion of the Improvements, submit as-built documents to the City, consisting of an electronic file, one set of mylar and two sets of one-half size print record Plans and Specifications to the City certified "As Built" by the Engineer. Copies of the Project record Plans and Specifications that may be relied upon by the City are limited to the printed copies ("hard copies") that are signed and sealed by the Engineer; record Plans and Specifications on electronic files that are furnished by the Engineer to the City are only for the convenience of the City.

b. ensure that the Plans and Specifications:

1. conform, in all material respects, to the City design criteria and construction and material standards, as contained in the applicable City ordinances and regulations, including the City's Transportation and Drainage Criteria Manuals, for the Improvements to be constructed by Gables; and

2. are accompanied by appropriate engineering reports, as reasonably required by the City.

c. engage the services of a duly qualified and experienced consultant or a duly qualified and experienced Gables employee or employee of a Gables affiliate to act as a professional construction manager ("Construction Manager") to work with the Engineer in connection with Engineer's tasks, as appropriate, and to act as a liaison with the City and with subcontractors. The City will recognize the Construction Manager as the single point of contact with Gables during the construction of the Improvements for the purposes of daily communication, resolution of routine construction matters, and construction contract administration, including but not limited to the purpose of receiving payments from the City pursuant to the Master Agreement and this Agreement. The City further recognizes and agrees that such reasonable fees as are paid by Gables to the Construction Manager in connection with construction of the Improvements are costs of constructing the Improvements, and are subject to proportionate reimbursement hereunder. Gables will charge a reasonable fee for the costs of construction administration, which will not exceed five percent (5%) of construction costs of the Improvements. The construction management fee will be documented in any requests for reimbursement with supporting information of activities undertaken and expenses incurred and the City will reimburse a portion thereof as specified in Article V.

d. make timely payments for work properly performed in connection with the design, construction management and contract administration of the Project in accordance with the terms of the applicable professional services agreements.

ARTICLE IV
CONSTRUCTION OF THE IMPROVEMENTS

Section 4.01 Agreement to Construct the Improvements

a. Gables will submit the Plans and Specifications for the Improvements prepared by the Engineer at logical points in the development of the design to the City for review and approval. The City will perform interim design reviews of the Plans and Specifications and provide any written comments to Gables within ten working days of submittal, unless additional time will be required due to the requirement of reviews by multiple City departments or additional time will be required in connection with the site plan or permit review and approval process. In the event that such additional time is required, the City will notify Gables in writing of the additional time requested for the review, which may not exceed an additional five working days for the review of interim design submittals or the additional time required for the site plan review and approval process. Once approval is obtained, no material changes may be made to the Plans and Specifications without following the change order procedure described in Section 3.02(a)(8) hereof.

b. The City will perform site plan and permitting reviews in a timely manner and in accordance with City requirements, including but not limited to Section 25-5-114 of the City Code.

c. After approval of the Plans and Specifications and, subject to reimbursement as described in this Agreement and subject to all of the other terms and conditions of this Agreement and the Master Agreement, Gables agrees to construct the Improvements.

d. Subject to reimbursement as described in this Agreement, Gables agrees to construct the Improvements in a good and workmanlike manner and in all material respects substantially in accordance with the Plans and Specifications and all applicable laws, regulations, and ordinances, including (but with respect only to those Improvements that are subject to reimbursement under Section 5.02 hereof) the City's MBE/WBE requirements.

e. Gables or Gables' Construction Manager or other agent will serve as the manager for the construction of the Improvements.

Section 4.02 Schedule of Construction.

a. Gables will construct the Improvements at one time or in phases, as reasonably approved by the City, on a timely basis as is needed in connection with the development of the Project and adjacent public infrastructure.

b. Gables will begin construction of the Improvements during the construction of the first phase of development of the Project and subject to the provisions of the Master Agreement.

Section 4.03 Construction Duties of Gables.

Subject to all of the terms and conditions of this Agreement, including, without limitation, Section 1.03 hereof (limiting the applicability of the City's minority-owned and women-owned business enterprise procurement program), Gables (or Gables' Engineer, Construction Manager, or other agent) will:

a. solicit public invitations for bids for the construction of the portion of the Improvements subject to reimbursement, following all applicable state laws and regulations and City Codes, regulations and procedures to which the City must adhere that pertain to competitive bidding procedures for Construction Contracts. This requirement includes compliance with the minority-owned and women-owned business enterprise procurement program found in Chapters 2-9 of the City Code and Chapter 252 of the Texas Local Government Code or at the option of Gables, substantial compliance with the requirements of Section 271.116 of the Texas Government Code and the other applicable provisions of the Code related to competitive sealed proposals for those Improvements, which may be constructed for less than $1,5000,000.00;

b. prepare the Construction Contract to comply, in all material respects, with all applicable laws, regulations, ordinances, City procedures, and the terms of this Agreement. The Construction Contract must include general conditions that include the following provisions:

1. reasonable warranties, and insurance, payment and performance bonding requirements, as more fully set forth in **Exhibit "D"** hereto;

2. include the City as an approved future assignee to the Construction Contract, together with the applicable Plans and Specifications, with the ability of the City, as assignee, to complete the Improvements, if Gables fails to complete the Construction Contract; and

3. certificates of insurance evidencing that the required insurance has been obtained and that the City has been designated as an additional insured under Endorsement CG2010 (or equivalent approved by the City Risk Manager) with respect to all liability coverages to the extent allowed by law;

c. award the Construction Contract to the lowest responsible bidder (who is duly qualified and can meet the construction schedule) for those Improvements that are subject to reimbursement hereunder, following construction contract competitive bidding procedures set forth in Chapter 252 of the Texas Local Government Code (or as applicable Section 271.116 of the Code) and the minority-owned and women-owned business enterprise procurement program found in Chapters 5-7 of the City Code, as applicable; prior to entering into any other contract for the provision of construction, demolition, material generation or non-professional services (eg., services other than design, surveying, etc.) to satisfy Gables obligations hereunder, Gables will in good faith solicit bids for such items from at least three qualified entities, review all timely submitted bids in good faith and select the entity to provide such item which in Gables discretion represents the best overall value for the Improvements taking into account all relevant factors and circumstances or will use the process set forth in Section 271.116 of the Code and

select the entity providing the "best value," taking into consideration the enumerated evaluation criteria;

d. obtain all required permits, consents, inspections, tests, and authorizations necessary for construction of the Improvements; provided, however, that the City will cooperate with Gables in obtaining those items listed herein;

e. provide the City with a copy of the Construction Contract and any additional documents pertaining to the Construction Contract on or about the time they have been signed, and thereafter provide copies of any documents amending or replacing any of said documents;

f. submit all changes to the Plans and Specifications and change orders to the Construction Contract to the City for its review and approval prior to the commencement of any work incorporating the change, which approval will not be unreasonably withheld or delayed;

g. ensure that all change orders submitted for the Construction Contract, either singularly or in the aggregate, do not increase the portion of the Construction Contract cost subject to City reimbursement by more than twenty five percent of the original contract amount;

h. make timely payment to the Engineer and Contractor for work properly performed concerning the Improvements in accordance with the terms and provisions of the applicable contract with the Engineer or the Construction Contract (including any provisions related to statutory retainage and withheld amounts due to improper work or punch list items);

i. arrange and coordinate materials testing with each Contractor and provide the City with all testing information; if the City reasonably determines that the work needs to be corrected or rejected or requires special testing because of unforeseen circumstances, the City will promptly notify Gables and Gables will take appropriate action to remedy the identified problem;

j. reject all work found not to conform to minimum requirements of the Construction Contract and the applicable Plans and Specifications, and advise the Engineer and the City of work that Gables determines should be corrected or rejected or which requires special testing, adjustment, or inspection for approval;

k. arrange and observe with the Contractor all acceptance testing, if applicable, for the Improvements and notify the City and the Engineer of the schedule and results of the testing;

l. maintain master job files of correspondence, reports of conferences, shop drawings, samples, reproductions of the applicable Plans and Specifications, change order, addenda, daily inspection reports, additional or revised drawings, and other related construction documents;

m. coordinate the preparation of letters indicating Substantial Completion for the Improvements with the Engineer, together with the submission to the Contractor of a list of observed items requiring completion or correction;

n. ensure access and permit the City to inspect the construction of the Improvements at all reasonable times during construction until final acceptance of the Improvements by the City;

o. conduct and coordinate final inspection of the Improvements with the Engineer and the City inspector; transmit a final list of items to be completed or repaired, if any, and observe Contractor correction of the same;

p. prepare and submit to the City monthly during construction of the Improvements a report regarding minority-owned and women-owned business enterprise participation in the construction of the Improvements; and

q. within thirty (30) days after final completion and acceptance of the Improvements by the City in writing, provide the City with complete sets of the Plans and Specifications, certified "as-built", by the Engineer in accordance with the requirements of this Agreement. The City's acceptance of the Improvements shall be governed by this Agreement and the requirements of the City Code. As a condition of final acceptance of the Project by the City, Gables will provide the City with:

1. an assignment to the City of all warranties, guarantees, maintenance bonds, or like assurances of performance applicable to the Improvements, but not to Gables' Project, after final acceptance by the City;

2. copies of separate books of accounts, accurately documenting costs and expenses incurred in connection with the Improvements; and

3. a written, sealed statement from the Engineer certifying that the Improvements have been constructed in accordance with the Plans and Specifications (subject to approved change orders) in all material respects.

Section 4.04 Duties of the City

The City will:

(a) review the Plans and Specifications, in a timely manner as set forth in Section 4.01 above, for substantial compliance with the requirements of this Agreement and applicable City procedures and Standards, and will approve all Plans and Specifications that comply with these requirements in all material respects, within a reasonable period of time after submission;

(b) inspect the Improvements within two (2) days for and interim inspection and ten

(10) days for a final inspection after a request for inspection is received, and, if completed in accordance with the terms of the Plans and Specifications and this Agreement in all material respects, will certify the Improvements as being in compliance with City Standards and specifications, and issue a final acceptance letter. The final acceptance letter will be the effective date of "completion" for the purposes of this Agreement. The inspections and certifications will be conducted in accordance with standard City policies, procedures, and requirements;

(c) provide timely written Notice to Gables within two working days whenever a completed inspection reveals that an item of the Improvements is not constructed or completed in accordance with the Plans and Specifications or is otherwise materially defective. The Notice will specifically detail any deficiencies. The foregoing notwithstanding, inspection of construction by the City is not a guaranty that construction of the Improvements is free from defects or complies with all applicable laws. In the event of a dispute regarding any notice of failure to complete the construction of the Improvements in accordance with the applicable plans and specifications, either party may request in writing a dispute resolution meeting with the City's Project Manager. The meeting will be held within three business days of such a request and the Parties agree that the recommendations of the Project Manager will be given due consideration in the resolution of the dispute. If the Parties are not satisfied with the recommendations of the Project Manager, the matter may be appealed to the Director of the applicable City department with jurisdiction over the Improvements in question and thereafter to mediation, as allowed by this Agreement; and

(d) reimburse Gables for the engineering design and construction costs of the Improvements, in accordance with the provisions of Article V hereof within 30 days after final acceptance.

Section 4.05 City's Right to Construct Improvements on Default of Gables.

a. Subject to the provisions of the Master Agreement, including, without limitation, those pertaining to lender protection, notice and cure periods, and public health and safety, if Gables begins but does not complete construction of the Improvements materially in accordance with the Plans and Specifications and the terms and provisions in this Agreement, the City has the right, but not the obligation, to complete the construction of the Improvements.

b. If the City elects to complete the Improvements, all plans, designs, easements, real and personal property, and Improvements produced or installed by Gables or its Engineers or Contractors within the public right-of-way prior to the take over of construction of the Improvements by the City, will become the property of the City.

c. Gables grants to the City a nonexclusive right and easement to enter the Property to the most limited extent as may be necessary for the purpose of performing Gables' construction obligations pertaining to the Improvements under this Agreement in accordance with its terms and provision and in accordance with the notice and cure periods contained in this Agreement.

d. If Gables is terminated pursuant to Section 11.01 of the Master Agreement, the City will reimburse Gables for its prorata share of the work performed in accordance with the plans and specifications and the terms of this Agreement to the date of such termination, subject to the receipt of acceptable close-out information, including the contractor's invoice for services rendered to the date of termination.

ARTICLE V
COSTS AND REIMBURSEMENT

Section 5.01 Gables' Initial Responsibility for Improvements Costs.
Gables will initially pay all costs associated with the design and construction of the Improvements in a timely manner as provided in this Article V.

Section 5.02 Cost Reimbursement.

The City will reimburse Gables the portion of the design and construction costs of the Improvements described herein, approved in accordance with this Agreement, as specified in attached **Exhibit "E"**, in accordance with the terms of this Article V, after Gables has constructed and the City has accepted the Improvements described herein for operation and maintenance. The City's participation in the cost of the Improvements may include third party contributions. The City will be responsible for reimbursing Gables for a portion of the costs of such design and construction up to the not to be exceeded amount of ONE MILLION SIX HUNDRED NINETY-NINE THOUSAND TWENTY ONE AND NO/100 DOLLARS ($1,699,021.00) without reallocation by the City Manager of the total amount of City funding set forth in the Master Agreement or further authorization by the Austin City Council. The City acknowledges that so-called "scope-creep" and market forces may result in bids which exceed the presently estimates and the presently available funding.

Section 5.03 Report of the Project Costs Required.

a. On or before the date of final acceptance of the Improvements, Gables will submit a report to the City of the total costs of the Improvements that includes reasonable supporting information. The report must segregate the costs of the traffic signal improvements from the cost of the other Improvements. Gables agrees to provide all information and documents in its possession or immediate control reasonably required by the City for proper processing and for accurate accounting and documentation of actual Project costs.

b. The City will verify and determine the final total cost amount and will certify the amount due to Gables for the Project. If the City determines that the amount due to Gables is the same as the amount submitted by Gables, the City will have 30 days after receipt of all supporting information or the date of final acceptance of the Project, (whichever is later), in which to make the payment to Gables. If the City determines that the amount owing to Gables is less than the amount submitted by Gables, the City will: (i) notify Gables of the discrepancy within twenty days of Gables' submittal to the City; (ii) provide Gables with all supporting documentation upon which the discrepancy is based; and (iii) work diligently and in good faith to resolve the discrepancy within the ensuing ten days. If the Parties are unable to resolve the discrepancy,

either Party may refer the matter to mediation in accordance with Article VII.

c. If Gables allows work to commence on a change order that effects a material change of the Plans and Specifications for any approved phase before receiving the approval of the applicable City department(s) for the change order, any additional costs incurred on that change order may not be eligible for reimbursement, if the City reasonably determines that the change in the Project is materially unacceptable.

d. In any event, subject to the applicable not to be exceeded amount and notwithstanding anything to the contrary contained herein, the City will reimburse Gables the amounts not in dispute then owing to Gables.

ARTICLE VI
CONSTRUCTION

Section 6.01 Conditions for City Ownership and Maintenance of the Improvements.

After the City's final acceptance of the Improvements, the City will own and maintain the Improvements, subject to the Contractor's one-year warranty and provisions of 6.02 below, except that Gables expressly shall have certain ordinary and ongoing maintenance responsibilities for any portions of the Improvements described to be the maintenance responsibility of Gables in the Master License Agreement.

Section 6.02 Warranty.

a. Upon Substantial Completion of the Improvements and as a condition precedent to final acceptance by the City, Gables will transfer to the City all warranties for the Improvements, including the Contractor's one year warranty and any warranty bond and any other warranty or rights Gables has in connection with the Plans and Specifications as they relate to the Improvements, excluding any portion of such warranty pertaining to Gables' Project. Except as may otherwise be specifically provided in this Agreement or any other Agreement, Gables in no way guarantees either the performance or quality of the work undertaken or materials used by any contractor or subcontractor undertaking construction pursuant to this Agreement or any Other Agreement, and **GABLES HEREBY DISCLAIMS ANY AND EVERY WARRANTY OR GUARANTY OF PERFORMANCE, QUALITY, SUITABILITY FOR ANY AND EVERY PARTICULAR PURPOSE WHATSOEVER, AND THE CITY HEREBY ACKNOWLEDGES AND ACCEPTS SUCH DISCLAIMER.**

b. Gables will be responsible for any material damage (ordinary wear and tear excepted) to the Improvements accepted by the City for operation and maintenance for one year following acceptance by the City, but only to the extent that the damage was caused directly by Gables or its Contractor during construction of the Improvements or Project.

Section 6.03 No Liens Permitted.

Gables will make timely payment for all aspects of properly performed engineering, design, construction work (including inspection fees), and for all materials and services relating to the Improvements in accordance with the applicable Construction Contract(s) and design services contracts for the Improvements. Gables will not suffer or permit the filing, perfection, or execution of any lien or encumbrance on the Improvements, and will cause any such lien to be released of record by payment, deposit, bond, or order of court of competent jurisdiction. Gables will have the right to contest any claim asserted in connection with the design and construction of the Improvements described herein, including the right to contest such claim in any court of competent jurisdiction. Gables shall secure the release within ninety days of the recordation of any lien or encumbrance. The foregoing notwithstanding any lien disputed by Gables may be bonded, as applicable, by the payment and performance bonds provided by the Contractor for the Improvements or otherwise bonded or secured by other fiscal, including a letter of credit, acceptable to the City Law Department within sixty days of its recordation.

Section 6.04 Agreement May be Pledged as Collateral.

Gables may pledge this Agreement as collateral for the purpose of securing financing from one or more lenders for the Improvements. Gables or its lender will provide documentation of the use of this Agreement as collateral to the City Law Department for its review and approval, which approval will not be unreasonably withheld or delayed.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 Interpretation of this Agreement, and Entire Agreement.

The Parties agree that in the event of any conflict between provisions of this Agreement and of the Master Agreement, the provisions of this Agreement shall control, provided, however, that notwithstanding the foregoing, (i) the General Provisions of Article XI of the Master Agreement shall apply to and control this Agreement, as if more fully set forth herein, and (ii) the mortgagee protection provisions of the Master Agreement (Article X thereof) shall apply to and control this Agreement. Subject to the foregoing, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either Party.

Section 7.02 No Waiver.

No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision or any other agreement between the Parties. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or any covenant by the City, the Gables, or their successors or assigns, whether the violations are known or not, shall not constitute a waiver or estoppel of the right to do so.

Section 7.03 Governmental Authority.

Nothing in this Agreement will be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the operation and maintenance of the Improvements constructed under the terms of this Agreement which are to be operated and maintained by the City, except as specifically waived or modified herein or by specific action of the City Council, nor its duty to provide for the public health, safety, and welfare in the operation and maintenance of the same.

Section 7.04 Expiration of Reimbursement.

The reimbursement described herein shall be available to Gables until the completion of construction of all of the Improvements, but not longer than ten (10) years from the date of this Agreement, which time period is subject to extension by mutual agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

SIGNATURE PAGES FOLLOW.

Executed to be effective on _____, 2006.

CITY OF AUSTIN:

APPROVED AS TO FORM:

By:_____

By: _____

Toby Hammett Futrell
City Manager

Assistant City Attorney

APPROVED AS TO CONTENT:

By: _____
Sue Edwards, Director
Economic Growth and Redevelopment Services

By: _____
Austan Librach,
Economic Growth and Redevelopment Services

STATE OF TEXAS §
§

COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this _____ day of _____, 2006, by Toby Hammett Futrell, as City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.
(SEAL)

_____

Printed/Typed Name of Notary
My Commission Expires: _____

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

Exhibit "A": Legal Description of Property
Exhibit "B": The Project-
Exhibit "C": Improvements
Exhibit "D": Insurance and Bond Requirements
Exhibit "E": Cost Participation

EXHIBIT 'A'

2.582 ACRE
LUMBERMEN'S INVESTMENT
CORPORATION

FN 04-272(MM)
JULY 30, 2004
BPI JOB NO. 1159-01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN, BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 1535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances:

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

7/30/04

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI DATE
NO. 4998
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
PROFESSIONAL
LAND SURVEYOR

EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

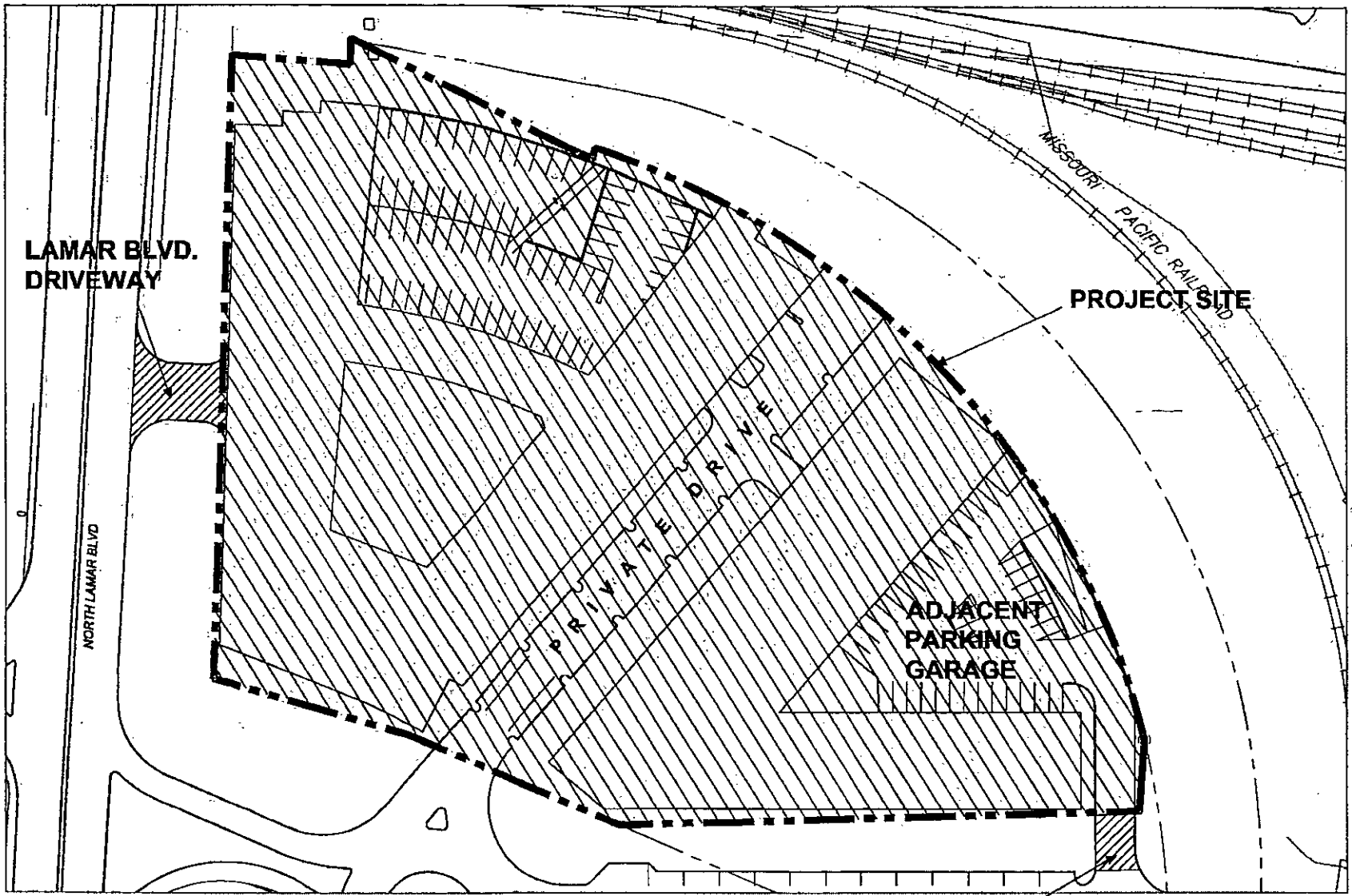
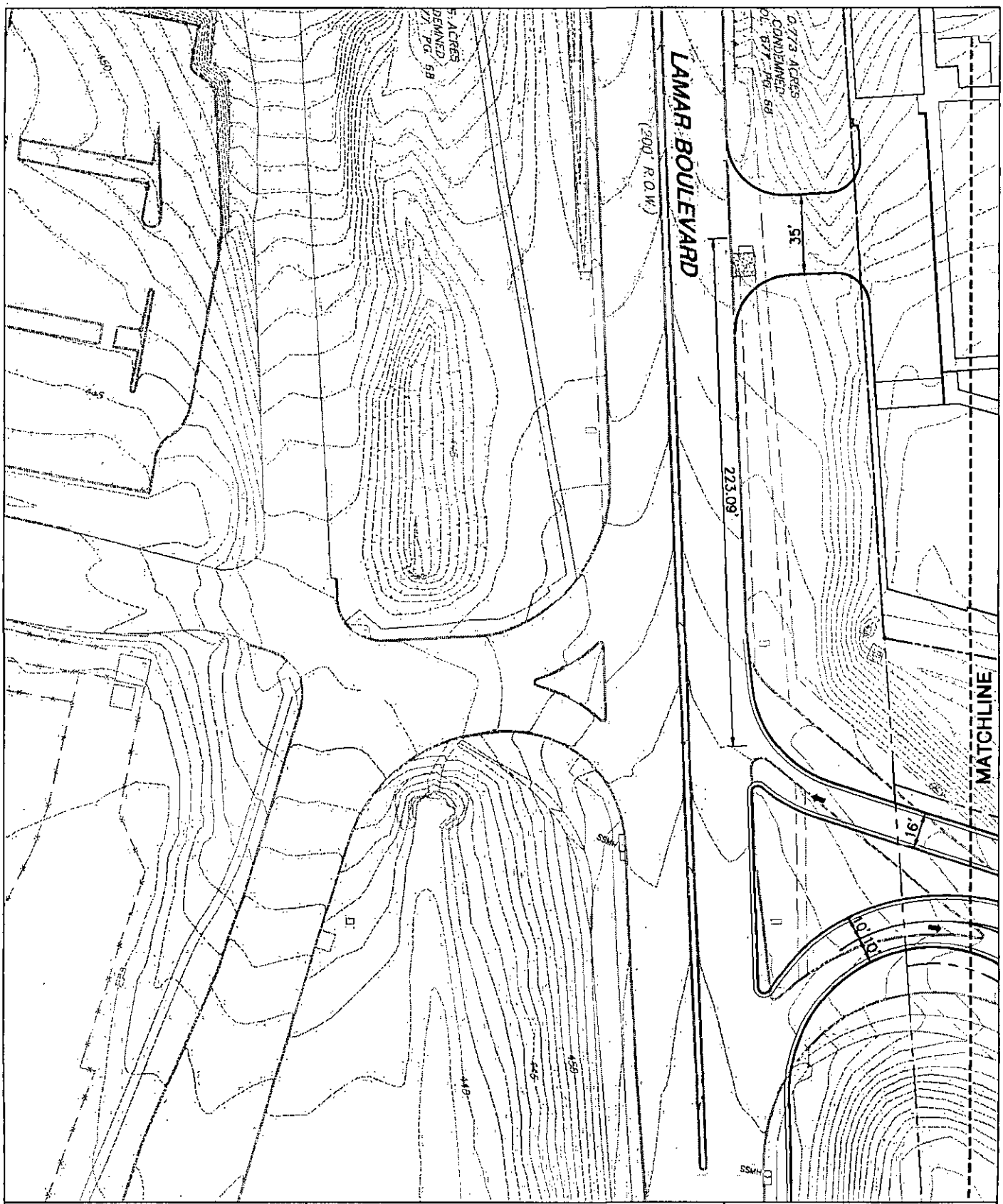

LAMAR BLVD.
DRIVEWAY
NORTH LAMAR BLVD
MISSOURI PACIFIC RAILROAD
PROJECT SITE
PRIVATE DRIVE
ADJACENT
PARKING
GARAGE
PROPOSED JOINT
ACCESS DRIVE

EXHIBIT B



Bury+Partners ENGINEERING SOLUTIONS 3345 Bee Caves Road, Suite 200 Austin, Texas 78746 Tel. (512)328-0011 Fax (512)328-0325 Bury+Partners, Inc. ©Copyright 2005	**ROAD EXHIBIT** **GABLES RESIDENTIAL**			**EXHIBIT C-1**
DATE: 11/14/05	SCALE: 1" = 60'	DRAWN BY: DAZ	FILE: G:\659\23\EXH\65923EXH111	PROJECT No.: 659-23.00

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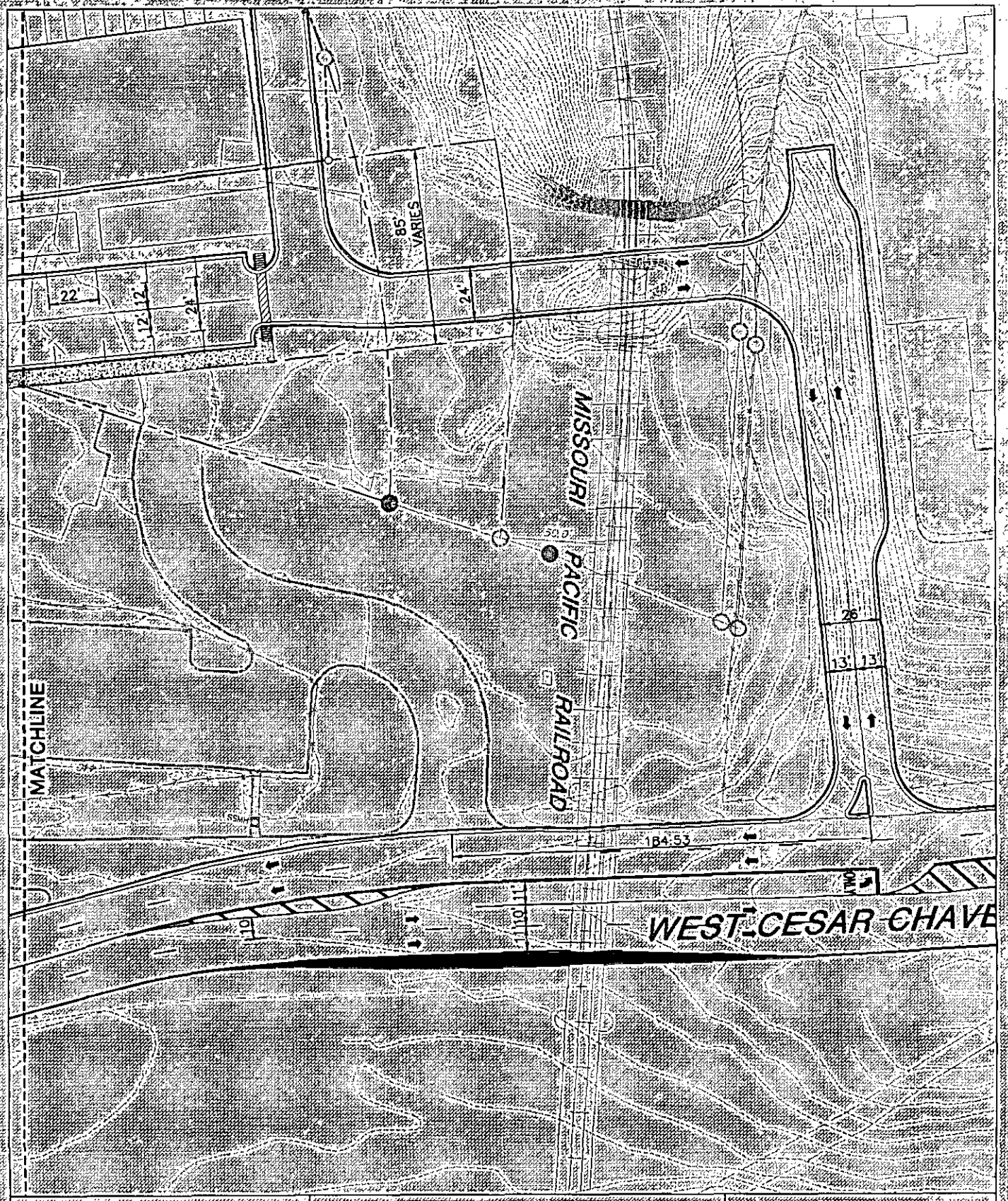
ROAD EXHIBIT

GABLES RESIDENTIAL

EXHIBIT C-2

DATE: 11/14/05	SCALE: 1" = 60'	DRAWN BY: DAZ	FILE: G:\659\23\EXH\65923EXH111	PROJECT No.: 659-23.00



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ROAD EXHIBIT

GABLES RESIDENTIAL

EXHIBIT C-3

DATE: 11/14/05 | SCALE: 1" = 60' | DRAWN BY: DAZ | FILE: G:\659\23\EXH\65923EXH111 | PROJECT No.: 659-23.00

EXHIBIT D

Insurance and Bond Requirements

A. General Requirements

Gables shall forward certificates of insurance with the endorsements required below to the City as verification of coverage prior to commencement of any professional or construction services hereunder, EXCEPT that Gables shall have in place a policy of commercial general liability insurance meeting the requirements of this Agreement commencing on the Effective Date. To the extent that the specific endorsements referenced herein are unavailable or that equivalent endorsements are available, the substitution of equivalent endorsements will be permitted subject to the reasonable approval of the City.

Gables shall not commence work until the required insurance is obtained and has been reviewed by the City. Approval of insurance by the City does not relieve or decrease the liability of Gables hereunder and is not a limitation of liability on the part of Gables.

Gables must submit certificates of insurance for all contractors and/or subcontractors to the City prior to the commencement of design or construction work on the Improvements and the City will review and approve the certificates, which comply with the requirements of this Agreement, within five days of receipt.

Gables' and all contractor's and subcontractor's insurance coverage must be written by companies licensed to do business in the State of Texas at the time the policies are issued and must be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance must contain the following information:

Attn: Director, Public Works
City of Austin
P. O. Box 1088
Austin, Texas 78767

The "other" insurance clause must not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Agreement, covering both the City and Gables, be considered primary coverage as applicable.

If insurance policies are not written for amounts specified in this Agreement, Gables, contractors and subcontractors must carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision

or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

Gables shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement.

Gables and any contractor or subcontractor responsible for maintaining insurance shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions must be disclosed on the certificate of insurance.

The City may review the insurance requirements set forth herein during the Term and may make reasonable adjustments to insurance coverages, limits, and exclusions when reasonably deemed necessary and prudent by the City based upon applicable changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company(ies) and Gables.

The insurance coverages specified below are required minimums and are not intended to limit the responsibility or liability of Gables.

B. Specific Requirements

Worker's Compensation and Employers' Liability Insurance. Coverage must be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat.). The minimum policy limits for Employer's Liability are $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee.

(a) Gables', its contractor's and subcontractor's policy shall apply to the State of Texas and include these endorsements in favor of the City:

(i) Waiver of Subrogation, Form WC 420304

(ii) Thirty days Notice of Cancellation, Form WC 420601

Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $1,000,000 for coverages A and B.

(a) The policy must contain the following provisions:

(i) Blanket contractual liability coverage for liability assumed under this contract and all contracts related to this project.

(ii) Independent contractor's coverage.

(iii) Products/completed operations liability for the duration of the warranty period.

(b) The policy must also include these endorsements in favor of the City:

(i) Waiver of Subrogation, endorsement CG 2404

(ii) Thirty days notice of cancellation, endorsement CG 0205

(iii) The City listed as an additional insured, endorsement CG 2010

Business Automobile Liability Insurance. Gables, its contractor and subcontractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 per occurrence for bodily injury and property damage,

(a) The policy must include these endorsements in favor of the City of Austin:

(i) Waiver of subrogation, endorsement TE 2046A

(ii) Thirty days notice of cancellation, endorsement TE 0202A

(iii) The City listed as an additional insured, endorsement TE 9901B

Property Insurance. If any of the City's property is in the care, custody or control of Gables, then Gables shall provide property coverage on an "all risk of physical loss" form. The coverage must be provided on a replacement cost basis for the 100% value of the City's property. If property is being transported or stored off site by Gables, then transit and storage coverage must also be provided. The City shall be endorsed onto the policy as a loss payee.

Hazardous Material Insurance. If applicable, for work that involves asbestos or any hazardous materials or pollution defined as asbestos, any contractor or subcontractor responsible for such work must comply with the following insurance requirements in addition to those specified above:

(a) Provide an asbestos abatement endorsement to the commercial general liability policy with minimum bodily injury and property damage limits of $1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of $1,000,000. This policy must not exclude asbestos or any hazardous materials or pollution defined as asbestos, and must provide "occurrence" coverage without a sunset clause. The policy must provide 30 day notice of cancellation and waiver of subrogation endorsements in favor of Gables and The City.

(b) Any contractor or subcontractor responsible for transporting asbestos or any hazardous materials defined as asbestos shall provide pollution coverage. Federal law requires interstate or intrastate transporters of asbestos to provide an MCS 90 endorsement with a $5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a $1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49

CFR 171.8. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of $1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos. The endorsement must, at a minimum, provide a $1,000,000 limit of liability and cover events caused by the hazardous properties of airborne asbestos arising from fire, wind, hail, lightening, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.

(c) The contractor shall submit complete copies of the policy providing pollution liability coverage to Gables and the City.

Performance and Payment Bonds. In substantial compliance with the provisions of Chapter 2253 of the Texas Government Code, Gables shall require its general contractor, within 30 days from and after notification of the award of the contract, and before commencement of construction of the Additional Improvements, to furnish and deliver to the City, legally issued surety bonds in a form approved by the City, with the City and Gables named as co-obligees. The furnishing and delivery of such bonds within the periods mentioned is a condition precedent to the commencement of the construction of the Additional Improvements and, upon the failure of the general contractor to so furnish and deliver all of the same in form, tenor and execution and with sureties satisfactory to the City, no rights obtain thereunder to Contractor, no construction of the Additional Improvements may commence or continue and, if construction has commenced without compliance with the requirements of this paragraph, all construction activities must immediately be suspended and Gables will be in material default under this Agreement.

Payment Bond. Gables shall require the general contractor to provide a payment surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full, and complete payment of all subcontractors and suppliers.

Performance Bond. Gables shall require contractor to provide a performance surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full and complete performance by the general contractor of these covenants and agreements contained in the contract documents.

EXHIBIT E
Cost Participation in Improvements

City costs and contributions may include third party funding. The roadway segments referred to below are depicted on **Attachment 1,** which is attached hereto and made a part hereof.

A. Soft costs will be apportioned for all road projects at a rate of:
   a. Gables 25%
   b. City 75%
   Total Estimated Costs: $ 327,364
   25% of total soft cost reimbursement will occur as each segment is completed

B. Public street construction and traffic improvements
   1. Roadways A and B Deconstruction/Reconfiguration, including but not limited to (i) water line system with required fire hydrant spacing (ii) paving and storm water drainage system, (iii) sidewalks, (iv) related streetscape improvements and landscaping and (v) standard City street lights.
      a. Proportionate Shares
         Gables: 20.4 %
         City: 79.6 %
      b. Total Estimated Costs: $634,228
         Gables: $129, 383
         City: $ 504, 845
   2. Roadways C and D Construction, including but not limited to (i) water line system with required fire hydrant spacing (ii) paving and stormwater drainage system, (iii) sidewalks on north side, (iv) related streetscape improvements and landscaping and (v) parallel parking spaces on north and south sides.
      a. Proportionate Shares
         Gables: 32.9%
         City: 67.1%
      b. Total Estimated Costs : $ 645,832
         Gables: $ 212,479
         City: $ 433,353
   3. Roadway E Construction, including but not limited to (i) water line system with required fire hydrant spacing, (ii) paving and stormwater drainage system, but specifically excluding (a) sidewalks, and (b) left turn out of Seaholm property, and (iii) related streetscape improvements and landscaping.
      a. Proportionate Shares
         Gables: 22.8 %
         City: 77.2 %
      b. Total Estimated Costs: $259,569
         Gables: $ 59,182
         City: $ 200,387

4. Caesar Chavez Improvements, including but not limited to eastbound left turn lane, but excluding left turn lane out of Seaholm property, and related streetscape improvements and landscaping.

a. Proportionate Shares
   Gables: 22.8 %
   City: 77.2 %

b. Total Estimated Costs: $17,188
   Gables: $ 3, 919
   City: $ 13, 269

5. Total public street construction

a. Total hard and soft costs: $ 1,884,180

C. Traffic Signal Improvements

1. New signal at Roadway B Intersection at Caesar Chavez
   a. Present Estimate: $ 82,500
   b. Proportionate Shares
      Gables: 9.3 %
      City: 90.7 %
   c. Present Estimated Shares
      Gables: $ 7,673
      City: $ 74,827

2. New signal at New Signal at Roadway E Intersection with Caesar Chavez
   a. Present Estimate: $82,500
   b. Proportionate Shares
      Gables: 22.8% costs
      City: 77.2% costs
   c. Present Estimated Shares
      Gables: $ 18,810
      City: $ 63,690

3. Additional traffic head pole @ Sandra Muraida
   a. Present Estimate: $ 20,000
   b. Proportionate Shares
      Gables: 0%
      City: 100%
   c. Present Estimated Shares
      Gables: $ 0
      City: $ 20,000

4. Fiber optic line between new signals (Interconnect)
   a. Present Estimate: $22,625
   b. Proportionate Shares
      Gables: 9.3 %
      City: 90.7 %

c. Present Estimated Shares
Gables: $ 2,104
City: $ 20,521

5. Subtotal Traffic Signal Costs
a. Present Estimate:
Gables: $ 28,577
City: $ 179,038

D. Offsite Paving / Drainage Fees

1. Permit Fee
a. Present Estimate: $ 3,950
b. Proportionate Shares
Gables: 25 %
City: 75 %
c. Present Estimated Shares
Gables: $ 988
City: $ 2,963

2. Construction Inspection Fee
a. Present Estimate: $ 158,945
b. Proportionate Shares
Gables: 25 %
City: 75 %
c. Present Estimated Shares
Gables: $ 39,736
City: $ 119,209

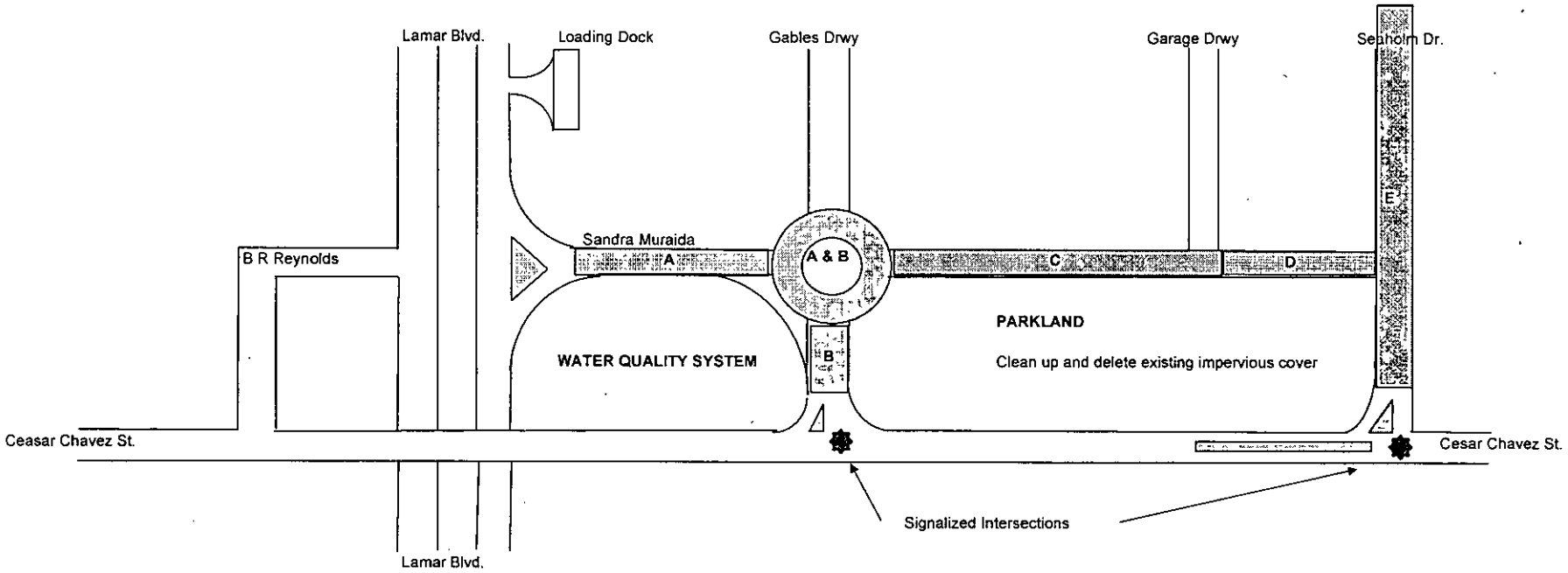
3. Landscape Inspection Fee
a. Present Estimate: $ 580
b. Proportionate Shares
Gables: 25 %
City: 75 %
c. Present Estimated Shares
Gables: $ 145
City: $ 435

4. Subtotal Offsite Paving / Drainage Fees
a. Present Estimate:
Gables: $ 40,869
City: $ 122,606

* The eligible costs for reimbursement will include the so-called "hard costs" of construction, as evidenced by the amounts paid to the general contractor for the performance of the Work, and the so-called "soft costs" of the fees to be paid under this Agreement, design fees, permit and inspection fees, the construction management fee,

and other professional services fees, but will exclude the costs of Gables' financing and Gables' accounting and legal fees.

Roadway and Signal Changes



Based on Daily Volumes

Currently assumes 25% of Seaholm traffic uses West Ave.

Land Use	Segment A	Segment B	Segment C	Segment D	Segment E
Retail	7.7%	15.5%	18.7%	18.7%	13.0%
Gables Apartments	4.4%	8.8%	10.6%	10.6%	7.3%
General Office	1.5%	3.0%	3.6%	3.6%	2.5%
SubTotal	13.5%	27.3%	32.9%	32.9%	22.8%
Existing Traffic	71.8%	66.0%	0.0%	0.0%	0.0%
Seaholm	14.7%	6.7%	67.1%	67.1%	77.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

ATTACHMENT 1

EXHIBIT G

COMMUNITY FACILITIES AND COST REIMBURSEMENT AGREEMENT FOR PUBLIC PARK IMPROVEMENTS

This Community Facilities and Cost Reimbursement Agreement for Public Park Improvements ("Agreement") is made by and between the City of Austin, a home rule city and municipal corporation situated in Travis and Williamson Counties, Texas (the "City"), and LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"). The City and Gables are each sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, as generally depicted on **Exhibit "B"** (the "Project").

WHEREAS, the City and Gables currently intend to design and construct certain public park improvements, including but not limited to landscaping and related park improvements, in the vicinity of the Project and in connection with the development of the Project and adjacent City property, in accordance with applicable City Standards, as defined herein, subject to City review and approval, in the locations shown on attached **Exhibit "C"** (the "Improvements").

WHEREAS, in separate Community Facilities and Cost Reimbursement Agreements, the Parties have provided for the design and construction of other improvements, including but not limited to a regional bio-filtration meadow to accept the storm water drainage from the Improvements and the Project.

WHEREAS, the Parties presently desire to coordinate the development and construction of the Improvements in connection with the development and construction of the Project.

WHEREAS, the Parties have entered into a Master Agreement (the "Master Agreement") of even date herewith, which Master Agreement, together with all exhibits attached thereto, sets forth the obligations of the Parties with respect to the development and construction of the various improvements described therein.

WHEREAS, the use and meaning of the capitalized terms in this Agreement (including, without limitation, the terms "Project" and "Gables") shall be the same as the use and meaning

of those same terms as defined in the Master Agreement, unless this Agreement expressly defines the term otherwise.

WHEREAS, the City and Gables desire to enter into this Agreement in accordance with the Master Agreement to further describe and implement the development and construction of the designated Improvements and the reimbursements authorized by the Ordinance, as defined below.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which *both parties acknowledge, the City and Gables agree as follows:*

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01 Additional Definitions.

a. Bidding Documents means the Plans and Specifications together with the proposed Construction Contract for the Improvements.

b. Construction Contract means the construction contract executed by Gables for the construction of the Improvements.

c. Contractor means the bidder with whom Gables contracts for the construction of the Improvements.

d. Effective Date means the date of execution of this Agreement.

e. Engineer means the engineer hired by Gables, in Gables' discretion on the basis of a qualifications-based selection process, to undertake the tasks described in Section 3.02 of this Agreement.

f. Notice means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.

g. Ordinance means the Ordinance enacted by the City Council of the City of Austin on the date of approval of the Master Agreement and this Agreement by the City in support of the development and construction of the Improvements and the allocation of the Funding thereto`.

h. Plans and Specifications mean plans and specifications prepared by the Engineer for the construction of the Improvements as described herein.

i. Substantial Completion means that the Improvements have been completed in accordance with the Plans and Specifications, in all material respects, to the point of being usable for the purpose intended, as certified by the Engineer to the City and as determined by the City in the ordinary course of its inspections of such Improvements.

Section 1.02 Interpretation of Terms, and Incorporation of Exhibits.

a. While it is presently contemplated that the City will not be cost participating in the development of the Improvements described herein, subject to available funding, the City may by amendment to this Agreement, cost participate in the development of the Improvements. Unless and until the City elects to cost-participate, the provisions of this Agreement related to cost reimbursement and to the requirement of bidding or other purchasing requirements are inapplicable, although Gables is strongly encouraged to seek competition in its procurement processes and to maximize MBE/WBE participation in the procurement process.

b. Except where the context otherwise clearly requires, in this Agreement:

(a) Words imparting the singular will include the plural and vice versa;

(b) All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and

(c) References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns.

Section 1.03 Compliance with Certain City Bidding Requirements.

Notwithstanding any provision of this Agreement to the contrary, Gables' obligation to comply with the City's minority-owned and women-owned business enterprise procurement program set out in the City's Code, or any other similar law or regulation, including any provisions requiring award of a construction contract to a low bidder or any other particular bidder, shall apply only in the context of construction of the Improvements that are subject to reimbursement by the City as set out in this Agreement. In all other aspects of construction of the Project, Gables may choose its consultants, contractors, and other agents in its sole and absolute discretion, provided, however, that Gables is aware of and may consider the City's Minority and Women's Business Ordinance in making its decisions regarding other aspects of construction of the Project.

ARTICLE II
GABLES AUTHORITY & RESPONSIBILITY

Section 2.01 Required Information.
At the time of execution of this Agreement, as a condition precedent, Gables has provided the City with appropriate evidence of authority, authorizing Gables' execution and performance of this Agreement, the receipt of such evidence the City hereby acknowledges.

Section 2.02 Design and Construction Responsibility.

a. Notwithstanding any other provision in this Agreement to the contrary, Gables' responsibility to design and construct the Improvements is contingent upon the pre-construction conditions set forth in Article IX of the Master Agreement, which are incorporated herein by reference,

b. Notwithstanding any other provision in this Agreement to the contrary, Gables' obligation to construct and maintain the Improvements is contingent upon its commencement of construction of the Project, timely reimbursement by the City hereunder, and as provided in Section 8.05 and Article IX of the Master Agreement. Once commenced, Gables shall diligently prosecute the construction of the Improvements to completion.

ARTICLE III
ENGINEERING DESIGN OF THE IMPROVEMENTS

Section 3.01 Agreement to Design the Improvements.

The City and Gables agree that the Improvements shall be designed by Gables in accordance with the applicable portions of the City's written, published requirements of the City Code and City rules and regulations in effect on the date of this Agreement (the "City Standards"), specifically including but not limited to the City's Transportation and Drainage Design Criteria Manuals and as further described in this Agreement, and such Standards will apply for five years from the date of this Agreement.

Section 3.02 Design Duties of Gables.

Gables shall:

a. engage the services of an Engineer to perform the following functions:

1. prepare Plans and Specifications for the Improvements using (and ensure that the Plans and Specifications conform to) the City's design criteria and Standards applicable to the Improvements; prepare preliminary schedules and cost estimates for the construction of the Improvements; the Engineer's opinion of construction costs shall be based on materials and labor prevailing at the time of the preparation of the preliminary estimate without consideration of inflationary increases in costs with the understanding that the Engineer will not be construed to have guaranteed costs of construction, however, if either of the Parties reasonably believe that the estimates are no longer accurate, Gables will promptly obtain a revised opinion of construction costs with estimates of more accurate construction costs together with a description of the variance between the original and revised construction costs;

2. provide the City with a copy of the draft Bidding Documents;

3. if requested, attend and conduct pre-bid conferences to provide clarification and interpretation of the Bidding Documents to bidders;

4. if requested, prepare and issue addenda required to clarify the Bidding Documents;

5. if requested, attend the opening of bids at City's Contract Compliance Section, review bids, and furnish a recommendation regarding the award of the Construction Contract, within five working days following the bid opening;

6. review and approve (or take other appropriate action regarding) shop drawings and samples, the results of tests and inspections and other data that the Contractor is required to submit for conformance with the design criteria and standard specifications of the Improvements and compliance with the information given in the Project construction documents;

7. determine the acceptability of substitute materials and equipment proposed by Contractor; and receive and review (for general content as required by the applicable specification) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor in accordance with the construction documents;

8. review change order requests relating to the Improvements and submit the change order requests along with recommendations to Gables and the City for review and approval by Gables and the City. Change orders will be reviewed and approved or rejected by the City within five business days of submittal, provided, if more information is required for the City review, the City will notify Gables within the initial five day period and will have up to an additional five days after receipt of the additional information in which to approve or reject the change order request and in the event of a dispute, the Parties will follow the same procedure outlined for dispute resolution in Section 4.04 below;

9. review any changes to the Improvements and, if necessary, design any engineering changes that may be required after construction has begun;

10. attend the final inspections of each portion of the Improvements in the presence of the City inspector and transmit a list of items to be completed or repaired to the City, Gables, and the Contractor;

11. review the Plans and Specifications of the Improvements marked to show "as built" conditions to ascertain to the best of his knowledge and belief that the reflected field changes are substantially complete and correct; and

12. after final completion of the Improvements, submit as-built documents to the City, consisting of an electronic file, one set of mylar and two sets of one-half size print record Plans and Specifications to the City certified "As Built" by the Engineer. Copies of the Project record Plans and Specifications that may be relied upon by the City are limited to the printed copies ("hard copies") that are

signed and sealed by the Engineer; record Plans and Specifications on electronic files that are furnished by the Engineer to the City are only for the convenience of the City.

b. ensure that the Plans and Specifications:

1. conform, in all material respects, to the City design criteria and construction and material standards, as contained in the applicable City ordinances and regulations, including the City's Transportation and Drainage Criteria Manuals, for the Improvements to be constructed by Gables; and

2. are accompanied by appropriate engineering reports, as reasonably required by the City.

c. engage the services of a duly qualified and experienced consultant or a duly qualified and experienced Gables employee or employee of a Gables affiliate to act as a professional construction manager ("Construction Manager") to work with the Engineer in connection with Engineer's tasks, as appropriate, and to act as a liaison with the City and with subcontractors. The City will recognize the Construction Manager as the single point of contact with Gables during the construction of the Improvements for the purposes of daily communication, resolution of routine construction matters, and construction contract administration, including but not limited to the purpose of receiving payments from the City pursuant to the Master Agreement and this Agreement. The City further recognizes and agrees that such reasonable fees as are paid by Gables to the Construction Manager in connection with construction of the Improvements are costs of constructing the Improvements, and are subject to proportionate reimbursement hereunder. Gables will charge a reasonable fee for the costs of construction administration, which will not exceed five percent (5%) of construction costs of the Improvements. The construction management fee will be documented in any requests for reimbursement with supporting information of activities undertaken and expenses incurred and the City will reimburse a portion thereof as specified in Article V.

d. make timely payments for work properly performed in connection with the design, construction management and contract administration of the Project in accordance with the terms of the applicable professional services agreements.

ARTICLE IV
CONSTRUCTION OF THE IMPROVEMENTS

Section 4.01 Agreement to Construct the Improvements

a. Gables will submit the Plans and Specifications for the Improvements prepared by the Engineer at logical points in the development of the design to the City for review and approval. The City will perform interim design reviews of the Plans and Specifications and provide any written comments to Gables within ten working days of submittal, unless additional time will be required due to the requirement of reviews by multiple City departments or additional time will be required in connection with the site plan or permit

review and approval process. In the event that such additional time is required, the City will notify Gables in writing of the additional time requested for the review, which may not exceed an additional five working days for the review of interim design submittals or the additional time required for the site plan review and approval process. Once approval is obtained, no material changes may be made to the Plans and Specifications without following the change order procedure described in Section 3.02(a)(8) hereof.

b. The City will perform site plan and permitting reviews in a timely manner and in accordance with City requirements, including but not limited to Section 25-5-114 of the City Code.

c. After approval of the Plans and Specifications and, subject to reimbursement as described in this Agreement and subject to all of the other terms and conditions of this Agreement and the Master Agreement, Gables agrees to construct the Improvements.

d. Subject to reimbursement as described in this Agreement, Gables agrees to construct the Improvements in a good and workmanlike manner and in all material respects substantially in accordance with the Plans and Specifications and all applicable laws, regulations, and ordinances, including (but with respect only to those Improvements that are subject to reimbursement under Section 5.02 hereof) the City's MBE/WBE requirements.

e. Gables or Gables' Construction Manager or other agent will serve as the manager for the construction of the Improvements.

Section 4.02 Schedule of Construction.

a. Gables will construct the Improvements at one time or in phases, as reasonably approved by the City, on a timely basis as is needed in connection with the development of the Project and adjacent public infrastructure.

b. Gables will begin construction of the Improvements during the construction of the first phase of development of the Project.

Section 4.03 Construction Duties of Gables.

Subject to all of the terms and conditions of this Agreement, including, without limitation, Section 1.03 hereof (limiting the applicability of the City's minority-owned and women-owned business enterprise procurement program), Gables (or Gables' Engineer, Construction Manager, or other agent) will:

a. solicit public invitations for bids for the construction of the portion of the Improvements subject to reimbursement, following all applicable state laws and regulations and City Codes, regulations and procedures to which the City must adhere that pertain to competitive bidding procedures for Construction Contracts. This requirement includes compliance with the minority-

owned and women-owned business enterprise procurement program found in Chapter 2-9 of the City Code and Chapter 252 of the Texas Local Government Code or at the option of Gables, substantial compliance with the requirements of Section 271.116 of the Texas Government Code and the other applicable provisions of the Code related to competitive sealed proposals for those Improvements, which may be constructed for less than $1,5000,000.00;

b. prepare the Construction Contract to comply, in all material respects, with all applicable laws, regulations, ordinances, City procedures, and the terms of this Agreement. The Construction Contract must include general conditions that include the following provisions:

1. reasonable warranties, and insurance, payment and performance bonding requirements, as more fully set forth in **Exhibit "D"** hereto;

2. include the City as an approved future assignee to the Construction Contract, together with the applicable Plans and Specifications, with the ability of the City, as assignee, to complete the Improvements, if Gables fails to complete the Construction Contract; and

3. certificates of insurance evidencing that the required insurance has been obtained and that the City has been designated as an additional insured under Endorsement CG2010 (or equivalent approved by the City Risk Manager) with respect to all liability coverages to the extent allowed by law;

c. award the Construction Contract to the lowest responsible bidder (who is duly qualified and can meet the construction schedule) for those Improvements that are subject to reimbursement hereunder, following construction contract competitive bidding procedures set forth in Chapter 252 of the Texas Local Government Code (or as applicable Section 271.116 of the Code) and the minority-owned and women-owned business enterprise procurement program found in Chapter 2-9 of the City Code, as applicable; prior to entering into any other contract for the provision of construction, demolition, material generation or non-professional services (eg., services other than design, surveying, etc.) to satisfy Gables obligations hereunder, Gables will in good faith solicit bids for such items from at least three qualified entities, review all timely submitted bids in good faith and select the entity to provide such item which in Gables discretion represents the best overall value for the Improvements taking into account all relevant factors and circumstances or will use the process set forth in Section 271.116 of the Code and select the entity providing the "best value," taking into consideration the enumerated evaluation criteria;

d. obtain all required permits, consents, inspections, tests, and authorizations necessary for construction of the Improvements; provided, however, that the City will cooperate with Gables in obtaining those items listed herein;

e. provide the City with a copy of the Construction Contract and any additional documents pertaining to the Construction Contract on or about the time they have been signed, and thereafter provide copies of any documents amending or replacing any of said documents;

f. submit all changes to the Plans and Specifications and change orders to the Construction Contract to the City for its review and approval prior to the commencement of any work incorporating the change, which approval will not be unreasonably withheld or delayed;

g. ensure that all change orders submitted for the Construction Contract, either singularly or in the aggregate, do not increase the portion of the Construction Contract cost subject to City reimbursement by more than twenty five percent of the original contract amount;

h. make timely payment to the Engineer and Contractor for work properly performed concerning the Improvements in accordance with the terms and provisions of the applicable contract with the Engineer or the Construction Contract (including any provisions related to statutory retainage and withheld amounts due to improper work or punch list items);

i. arrange and coordinate materials testing with each Contractor and provide the City with all testing information; if the City reasonably determines that the work needs to be corrected or rejected or requires special testing because of unforeseen circumstances, the City will promptly notify Gables and Gables will take appropriate action to remedy the identified problem;

j. reject all work found not to conform to minimum requirements of the Construction Contract and the applicable Plans and Specifications, and advise the Engineer and the City of work that Gables determines should be corrected or rejected or which requires special testing, adjustment, or inspection for approval;

k. arrange and observe with the Contractor all acceptance testing, if applicable, for the Improvements and notify the City and the Engineer of the schedule and results of the testing;

l. maintain master job files of correspondence, reports of conferences, shop drawings, samples, reproductions of the applicable Plans and Specifications, change order, addenda, daily inspection reports, additional or revised drawings, and other related construction documents;

m. coordinate the preparation of letters indicating Substantial Completion for the Improvements with the Engineer, together with the submission to the Contractor of a list of observed items requiring completion or correction;

n. ensure access and permit the City to inspect the construction of the Improvements at all reasonable times during construction until final acceptance of the Improvements by the City;

o. conduct and coordinate final inspection of the Improvements with the Engineer and the City inspector; transmit a final list of items to be completed or repaired, if any,

and observe Contractor correction of the same;

p. prepare and submit to the City monthly during construction of the Improvements a report regarding minority-owned and women-owned business enterprise participation in the construction of the Improvements; and

q. within thirty (30) days after final completion and acceptance of the Improvements by the City in writing, provide the City with complete sets of the Plans and Specifications, certified "as-built", by the Engineer in accordance with the requirements of this Agreement. The City's acceptance of the Improvements shall be governed by this Agreement and the requirements of the City Code. As a condition of final acceptance of the Project by the City, Gables will provide the City with:

1. an assignment to the City of all warranties, guarantees, maintenance bonds, or like assurances of performance applicable to the Improvements, but not to Gables' Project, after final acceptance by the City;

2. copies of separate books of accounts, accurately documenting costs and expenses incurred in connection with the Improvements; and

3. a written, sealed statement from the Engineer certifying that the Improvements have been constructed in accordance with the Plans and Specifications (subject to approved change orders) in all material respects.

Section 4.04 Duties of the City

The City will:

(a) review the Plans and Specifications, in a timely manner as set forth in Section 4.01 above, for substantial compliance with the requirements of this Agreement and applicable City procedures and Standards, and will approve all Plans and Specifications that comply with these requirements in all material respects, within a reasonable period of time after submission;

(b) inspect the Improvements within two (2) days for an interim inspection and ten (10) days for a final inspection after a request for inspection is received, and, if completed in accordance with the terms of the Plans and Specifications and this Agreement in all material respects, will certify the Improvements as being in compliance with City Standards and specifications, and issue a final acceptance letter. The final acceptance letter will be the effective date of "completion" for the purposes of this Agreement. The inspections and certifications will be conducted in accordance with standard City policies, procedures, and requirements;

(c) provide timely written Notice to Gables within two working days whenever a completed inspection reveals that an item of the Improvements is not constructed or completed in accordance with the Plans and Specifications or is otherwise materially

defective. The Notice will specifically detail any deficiencies. The foregoing notwithstanding, inspection of construction by the City is not a guaranty that construction of the Improvements is free from defects or complies with all applicable laws. In the event of a dispute regarding any notice of failure to complete the construction of the Improvements in accordance with the applicable plans and specifications, either party may request in writing a dispute resolution meeting with the City's Project Manager. The meeting will be held within three business days of such a request and the Parties agree that the recommendations of the Project Manager will be given due consideration in the resolution of the dispute. If the Parties are not satisfied with the recommendations of the Project Manager, the matter may be appealed to the Director of the applicable City department with jurisdiction over the Improvements in question and thereafter to mediation, as allowed by this Agreement; and

(d) reimburse Gables for the engineering design and construction costs of the Improvements, in accordance with the provisions of Article V hereof within 30 days after final acceptance.

Section 4.05 City's Right to Construct Improvements on Default of Gables.

a. Subject to the provisions of the Master Agreement, including, without limitation, those pertaining to lender protection, notice and cure periods, and public health and safety, if Gables begins but does not complete construction of the Improvements materially in accordance with the Plans and Specifications and the terms and provisions in this Agreement, the City has the right, but not the obligation, to complete the construction of the Improvements.

b. If the City elects to complete the Improvements, all plans, designs, easements, real and personal property, and Improvements produced or installed by Gables or its Engineers or Contractors within the City property prior to the take over of construction of the Improvements by the City, will become the property of the City.

c. Gables grants to the City a nonexclusive right and easement to enter the Property to the most limited extent as may be necessary for the purpose of performing Gables' construction obligations pertaining to the Improvements under this Agreement in accordance with its terms and provision and in accordance with the notice and cure periods contained in this Agreement.

d. If Gables is terminated pursuant to Section 11.01 of the Master Agreement, the City will reimburse Gables for its prorata share of the work performed in accordance with the plans and specifications and the terms of this Agreement to the date of such termination, subject to the receipt of acceptable close-out information, including the contractor's invoice for services rendered to the date of termination.

ARTICLE V
COSTS AND REIMBURSEMENT

Section 5.01 Gables' Initial Responsibility for Improvements Costs.

Gables will initially pay all costs associated with the design and construction of the Improvements in a timely manner as provided in this Article V.

Section 5.02 Cost Reimbursement.

The City will reimburse Gables the portion of the design and construction costs of the Improvements described herein, approved in accordance with this Agreement, as specified in attached **Exhibit "E"**, in accordance with the terms of this Article V, after Gables has constructed and the City has accepted the Improvements described herein for operation and maintenance. The City's participation in the cost of the Improvements may include third party contributions. The City will be responsible for reimbursing Gables for a portion of the costs of such design and construction up to the not to be exceeded amount of ZERO DOLLARS ($0.00) without amendment to this Agreement or other authorization by the Austin City Manager.

Section 5.03 Report of the Project Costs Required.

a. On or before the date of final acceptance of the Improvements, Gables will submit a report to the City of the total costs of the Improvements that includes reasonable supporting information. Gables agrees to provide all information and documents in its possession or immediate control reasonably required by the City for proper processing and for accurate accounting and documentation of actual Project costs.

b. The City will verify and determine the final total cost amount and will certify the amount due to Gables for the Project. If the City determines that the amount due to Gables is the same as the amount submitted by Gables, the City will have 30 days after receipt of all supporting information or the date of final acceptance of the Project, (whichever is later), in which to make the payment to Gables. If the City determines that the amount owing to Gables is less than the amount submitted by Gables, the City will: (i) notify Gables of the discrepancy within twenty days of Gables' submittal to the City; (ii) provide Gables with all supporting documentation upon which the discrepancy is based; and (iii) work diligently and in good faith to resolve the discrepancy within the ensuing ten days. If the Parties are unable to resolve the discrepancy, either Party may refer the matter to mediation in accordance with Article VII.

c. If Gables allows work to commence on a change order that effects a material change of the Plans and Specifications for any approved phase before receiving the approval of the applicable City department(s) for the change order, any additional costs incurred on that change order may not be eligible for reimbursement, if the City reasonably determines that the change in the Project is materially unacceptable.

d. In any event, subject to the applicable not to be exceeded amount and notwithstanding anything to the contrary contained herein, the City will reimburse Gables the amounts not in dispute then owing to Gables.

ARTICLE VI

CONSTRUCTION

Section 6.01 Conditions for City Ownership and Maintenance of the Improvements.

After the City's final acceptance of the Improvements, the City will own and maintain the Improvements, subject to the Contractor's one-year warranty and provisions of 6.02 below, except that Gables expressly shall have certain ordinary and ongoing maintenance responsibilities for any portions of the Improvements described to be the maintenance responsibility of Gables in the Master License Agreement.

Section 6.02 Warranty.

a. Upon Substantial Completion of the Improvements and as a condition precedent to final acceptance by the City, Gables will transfer to the City all warranties for the Improvements, including the Contractor's one year warranty and any warranty bond and any other warranty or rights Gables has in connection with the Plans and Specifications as they relate to the Improvements, excluding any portion of such warranty pertaining to Gables' Project. Except as may otherwise be specifically provided in this Agreement or any other Agreement, Gables in no way guarantees either the performance or quality of the work undertaken or materials used by any contractor or subcontractor undertaking construction pursuant to this Agreement or any Other Agreement, and **GABLES HEREBY DISCLAIMS ANY AND EVERY WARRANTY OR GUARANTY OF PERFORMANCE, QUALITY, SUITABILITY FOR ANY AND EVERY PARTICULAR PURPOSE WHATSOEVER, AND THE CITY HEREBY ACKNOWLEDGES AND ACCEPTS SUCH DISCLAIMER.**

b. Gables will be responsible for any material damage (ordinary wear and tear excepted) to the Improvements accepted by the City for operation and maintenance for one year following acceptance by the City, but only to the extent that the damage was caused directly by Gables or its Contractor during construction of the Improvements or Project.

Section 6.03 No Liens Permitted.

Gables will make timely payment for all aspects of properly performed engineering, design, construction work (including inspection fees), and for all materials and services relating to the Improvements in accordance with the applicable Construction Contract(s) and design services contracts for the Improvements. Gables will not suffer or permit the filing, perfection, or execution of any lien or encumbrance on the Improvements, and will cause any such lien to be released of record by payment, deposit, bond, or order of court of competent jurisdiction. Gables will have the right to contest any claim asserted in connection with the design and construction of the Improvements described herein, including the right to contest such claim in any court of competent jurisdiction. Gables shall secure the release within ninety days of the recordation of any lien or encumbrance. The foregoing notwithstanding any lien disputed by Gables may be bonded, as applicable, by the payment and performance bonds provided by the Contractor for the Improvements or otherwise bonded or secured by other fiscal, including a letter of credit, acceptable to the City Law Department within sixty days of its recordation.

Section 6.04 Agreement May be Pledged as Collateral.

Gables may pledge this Agreement as collateral for the purpose of securing financing from one or more lenders for the Improvements. Gables or its lender will provide documentation of the use of this Agreement as collateral to the City Law Department for its review and approval, which approval will not be unreasonably withheld or delayed.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 Interpretation of this Agreement, and Entire Agreement.

The Parties agree that in the event of any conflict between provisions of this Agreement and of the Master Agreement, the provisions of this Agreement shall control, provided, however, that notwithstanding the foregoing, (i) the General Provisions of Article XI of the Master Agreement shall apply to and control this Agreement, as if more fully set forth herein, and (ii) the mortgagee protection provisions of the Master Agreement (Article X thereof) shall apply to and control this Agreement. Subject to the foregoing, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either Party.

Section 7.02 No Waiver.

No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision or any other agreement between the Parties. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or any covenant by the City, the Gables, or their successors or assigns, whether the violations are known or not, shall not constitute a waiver or estoppel of the right to do so.

Section 7.03 Governmental Authority.

Nothing in this Agreement will be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the operation and maintenance of the Improvements constructed under the terms of this Agreement which are to be operated and maintained by the City, except as specifically waived or modified herein or by specific action of the City Council, nor its duty to provide for the public health, safety, and welfare in the operation and maintenance of the same.

Section 7.04 Expiration of Reimbursement.

The reimbursement described herein shall be available to Gables until the completion of construction of all of the Improvements, but not longer than ten (10) years from the date of this Agreement, which time period is subject to extension by mutual agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

SIGNATURE PAGES FOLLOW.

Executed to be effective on _____, 2006.

CITY OF AUSTIN:

APPROVED AS TO FORM:

By:_____

By: _____

Toby Hammett Futrell
City Manager

_____
Assistant City Attorney

APPROVED AS TO CONTENT:

By: _____
Sue Edwards, Director
Economic Growth and Redevelopment Services

By: _____
Austan Librach,
Economic Growth and Redevelopment Services

STATE OF TEXAS §
§

COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this _____ day of _____, 2006, by Toby Hammett Futrell, as City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.
(SEAL)

_____

Printed/Typed Name of Notary
My Commission Expires: _____

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

Exhibit "A": Legal Description of Property
Exhibit "B": The Project-
Exhibit "C": Improvements
Exhibit "D": Insurance and Bond Requirements
Exhibit "E": Cost Participation

EXHIBIT 'A'

2.582 ACRE FN 04-272(MM)
LUMBERMEN'S INVESTMENT JULY 30, 2004
CORPORATION BPI JOB NO. 1159-01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN, BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances:

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of-Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

FN NO. 04-272(MM)
JULY 30, 2004
PAGE 2 OF 2

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI — DATE 7/30/04
NO. 4998
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
PROFESSIONAL
LAND SURVEYOR

EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

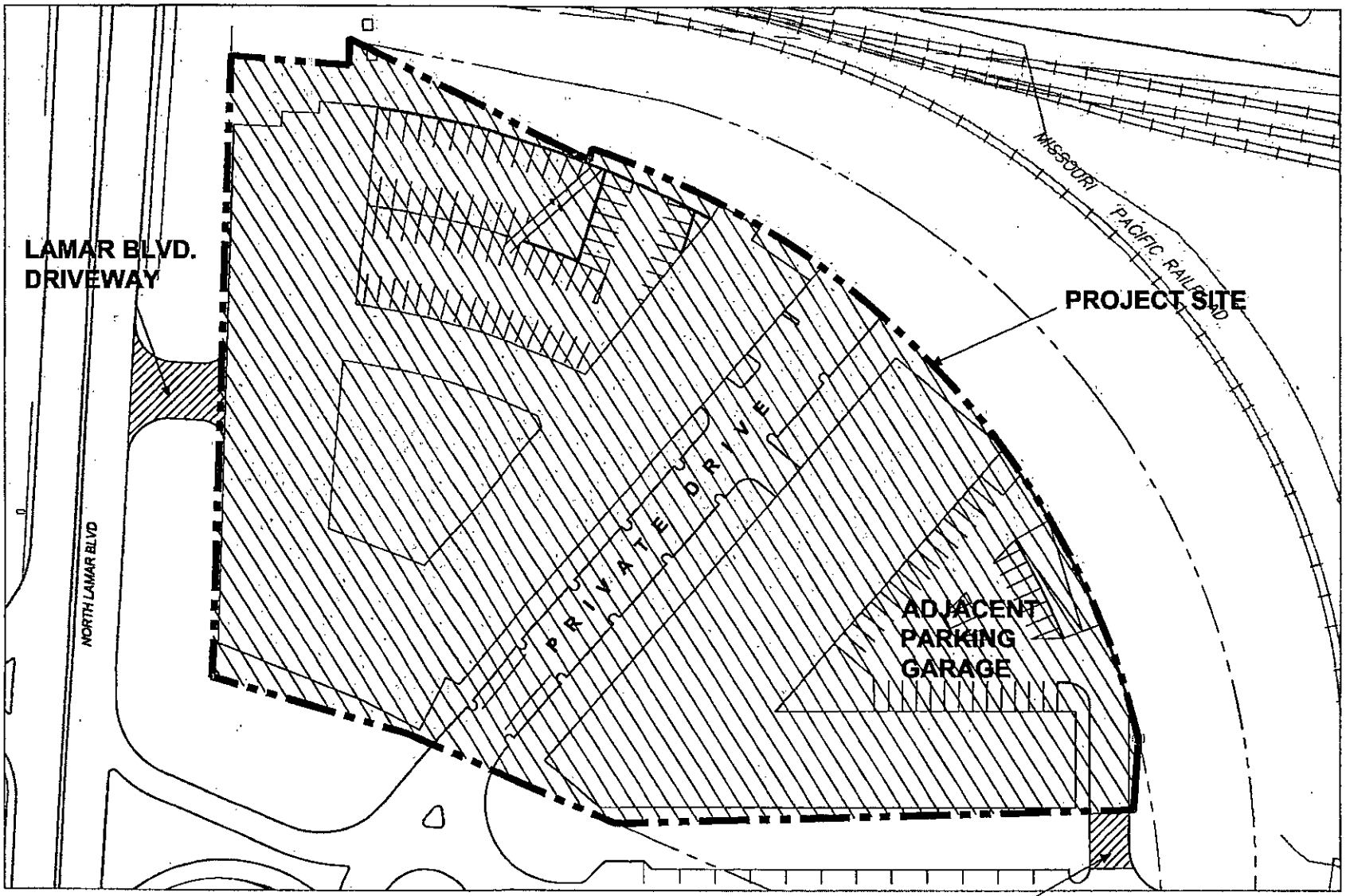

LAMAR BLVD.
DRIVEWAY
NORTH LAMAR BLVD
PRIVATE DRIVE
MISSOURI PACIFIC RAILROAD
PROJECT SITE
ADJACENT
PARKING
GARAGE
PROPOSED JOINT
ACCESS DRIVE

EXHIBIT B

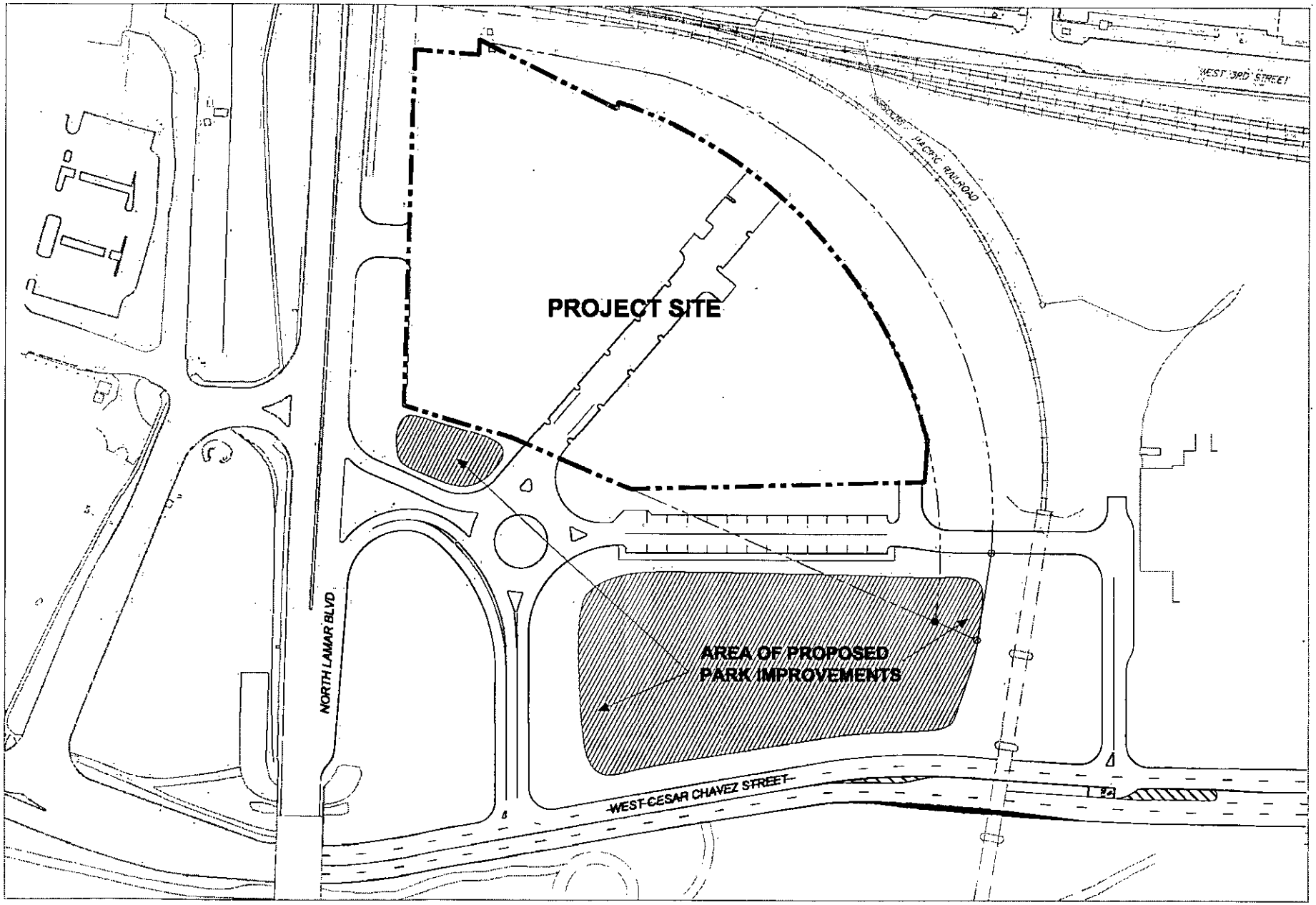

PROJECT SITE
AREA OF PROPOSED
PARK IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET
WEST 3RD STREET
SOUTH PACIFIC RAILROAD

EXHIBIT C

EXHIBIT D

Insurance and Bond Requirements

A. General Requirements

Gables shall forward certificates of insurance with the endorsements required below to the City as verification of coverage prior to commencement of any professional or construction services hereunder, EXCEPT that Gables shall have in place a policy of commercial general liability insurance meeting the requirements of this Agreement commencing on the Effective Date. To the extent that the specific endorsements referenced herein are unavailable or that equivalent endorsements are available, the substitution of equivalent endorsements will be permitted subject to the reasonable approval of the City.

Gables shall not commence work until the required insurance is obtained and has been reviewed by the City. Approval of insurance by the City does not relieve or decrease the liability of Gables hereunder and is not a limitation of liability on the part of Gables.

Gables must submit certificates of insurance for all contractors and/or subcontractors to the City prior to the commencement of design or construction work on the Improvements and the City will review and approve the certificates, which comply with the requirements of this Agreement, within five days of receipt.

Gables' and all contractor's and subcontractor's insurance coverage must be written by companies licensed to do business in the State of Texas at the time the policies are issued and must be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance must contain the following information:

Attn: Director, Public Works
City of Austin
P. O. Box 1088
Austin, Texas 78767

The "other" insurance clause must not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Agreement, covering both the City and Gables, be considered primary coverage as applicable.

If insurance policies are not written for amounts specified in this Agreement, Gables, contractors and subcontractors must carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision

or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

Gables shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement.

Gables and any contractor or subcontractor responsible for maintaining insurance shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions must be disclosed on the certificate of insurance.

The City may review the insurance requirements set forth herein during the Term and may make reasonable adjustments to insurance coverages, limits, and exclusions when reasonably deemed necessary and prudent by the City based upon applicable changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company(ies) and Gables.

The insurance coverages specified below are required minimums and are not intended to limit the responsibility or liability of Gables.

B. Specific Requirements

Worker's Compensation and Employers' Liability Insurance. Coverage must be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat.). The minimum policy limits for Employer's Liability are $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee.

(a) Gables', its contractor's and subcontractor's policy shall apply to the State of Texas and include these endorsements in favor of the City:

(i) Waiver of Subrogation, Form WC 420304

(ii) Thirty days Notice of Cancellation, Form WC 420601

Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $1,000,000 for coverages A and B.

(a) The policy must contain the following provisions:

(i) Blanket contractual liability coverage for liability assumed under this contract and all contracts related to this project.

(ii) Independent contractor's coverage.

(iii) Products/completed operations liability for the duration of the warranty period.

(b) The policy must also include these endorsements in favor of the City:

(i) Waiver of Subrogation, endorsement CG 2404

(ii) Thirty days notice of cancellation, endorsement CG 0205

(iii) The City listed as an additional insured, endorsement CG 2010

Business Automobile Liability Insurance. Gables, its contractor and subcontractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 per occurrence for bodily injury and property damage,

(a) The policy must include these endorsements in favor of the City of Austin:

(i) Waiver of subrogation, endorsement TE 2046A

(ii) Thirty days notice of cancellation, endorsement TE 0202A

(iii) The City listed as an additional insured, endorsement TE 9901B

Property Insurance. If any of the City's property is in the care, custody or control of Gables, then Gables shall provide property coverage on an "all risk of physical loss" form. The coverage must be provided on a replacement cost basis for the 100% value of the City's property. If property is being transported or stored off site by Gables, then transit and storage coverage must also be provided. The City shall be endorsed onto the policy as a loss payee.

Hazardous Material Insurance. If applicable, for work that involves asbestos or any hazardous materials or pollution defined as asbestos, any contractor or subcontractor responsible for such work must comply with the following insurance requirements in addition to those specified above:

(a) Provide an asbestos abatement endorsement to the commercial general liability policy with minimum bodily injury and property damage limits of $1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of $1,000,000. This policy must not exclude asbestos or any hazardous materials or pollution defined as asbestos, and must provide "occurrence" coverage without a sunset clause. The policy must provide 30 day notice of cancellation and waiver of subrogation endorsements in favor of Gables and The City.

(b) Any contractor or subcontractor responsible for transporting asbestos or any hazardous materials defined as asbestos shall provide pollution coverage. Federal law requires interstate or intrastate transporters of asbestos to provide an MCS 90 endorsement with a $5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a $1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49

CFR 171.8. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of $1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos. The endorsement must, at a minimum, provide a $1,000,000 limit of liability and cover events caused by the hazardous properties of airborne asbestos arising from fire, wind, hail, lightening, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.

(c) The contractor shall submit complete copies of the policy providing pollution liability coverage to Gables and the City.

Performance and Payment Bonds. In substantial compliance with the provisions of Chapter 2253 of the Texas Government Code, Gables shall require its general contractor, within 30 days from and after notification of the award of the contract, and before commencement of construction of the Additional Improvements, to furnish and deliver to the City, legally issued surety bonds in a form approved by the City, with the City and Gables named as co-obligees. The furnishing and delivery of such bonds within the periods mentioned is a condition precedent to the commencement of the construction of the Additional Improvements and, upon the failure of the general contractor to so furnish and deliver all of the same in form, tenor and execution and with sureties satisfactory to the City, no rights obtain thereunder to Contractor, no construction of the Additional Improvements may commence or continue and, if construction has commenced without compliance with the requirements of this paragraph, all construction activities must immediately be suspended and Gables will be in material default under this Agreement.

Payment Bond. Gables shall require the general contractor to provide a payment surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full, and complete payment of all subcontractors and suppliers.

Performance Bond. Gables shall require contractor to provide a performance surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full and complete performance by the general contractor of these covenants and agreements contained in the contract documents.

EXHIBIT E
Cost Participation in Improvements

City costs and contributions may include third party funding.

Park Improvements

The Park Improvements to be constructed on several park tracts, including the 2.5 acres of contiguous, useable, dedicated parkland will be based upon a plan for the Improvements to be approved by the City, which will exclude the Pfluger Bridge Extension, the Lance Armstrong Bikeway, the Great Streets Program, the Bike Path connections related to the Pfluger Bridge Extension and the overall bike path system network and any associated surface parking.

a. Proportionate Shares

Gables: 100% soft costs and 100% hard costs up to $275,000.00

City: 0% soft costs and 0% hard costs

b. Total Estimated Costs $275,000.00

Subject to available funding, the City may cost participate in the development of the Improvements. In such an event, the eligible costs for reimbursement will include the so-called "hard costs" of construction, as evidenced by the amounts paid to the general contractor for the performance of the Work, and the so-called "soft costs" of the fees to be paid under this Agreement, design fees, the construction management fee, and other professional services fees, but will exclude the costs of Gables' financing and Gables' accounting and legal fees.

EXHIBIT H

COMMUNITY FACILITIES AND COST REIMBURSEMENT AGREEMENT FOR PEDESTRIAN PATH AND BIKE PATH IMPROVEMENTS

This Community Facilities and Cost Reimbursement Agreement for Public Pedestrian Path and Bike Path Improvements ("Agreement") is made by and between the City of Austin, a home rule city and municipal corporation situated in Travis and Williamson Counties, Texas (the "City"), and LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"). The City and Gables are each sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, as generally depicted on **Exhibit "B"** (the "Project").

WHEREAS, Gables and the City intend to design and construct certain pedestrian path and bike path improvements, including the connection of a storm water inlet on the City's Bowie Street Underpass tract to the storm water system serving the Project within a dedicated easement in the Project and in an adjacent tract of right-of-way, and other associated improvements in accordance with applicable City Standards, as defined herein, including but not limited to the City's Transportation Criteria and Drainage Manuals, subject to City review and approval, and in the locations shown on **Exhibit "C"** hereto (the "Improvements").

WHEREAS, in separate Community Facilities and Cost Reimbursement Agreements, the Parties have provided for the design and construction of other improvements, including but not limited to a regional bio-filtration meadow to accept the storm water drainage from the Improvements and the Project.

WHEREAS, the Parties presently desire to coordinate the development and construction of the Improvements in connection with the development and construction of the Project.

WHEREAS, the Parties have entered into a Master Agreement (the "Master Agreement") of even date herewith, which Master Agreement, together with all exhibits attached thereto, sets forth the obligations of the Parties with respect to the development and construction of the various improvements described therein.

WHEREAS, the use and meaning of the capitalized terms in this Agreement (including, without limitation, the terms "Project" and "Gables") shall be the same as the use and meaning of those same terms as defined in the Master Agreement, unless this Agreement expressly defines the term otherwise.

WHEREAS, the City and Gables desire to enter into this Agreement in accordance with the Master Agreement to further describe and implement the development and construction of the designated Improvements and the reimbursements authorized by the Ordinance, as defined below.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both parties acknowledge, the City and Gables agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01 Additional Definitions.

a. Bidding Documents means the Plans and Specifications together with the proposed Construction Contract for the Improvements.

b. Construction Contract means the construction contract executed by Gables for the construction of the Improvements.

c. Contractor means the bidder with whom Gables contracts for the construction of the Improvements.

d. Effective Date means the date of execution of this Agreement.

e. Engineer means the engineer hired by Gables, in Gables' discretion on the basis of a qualifications-based selection process, to undertake the tasks described in Section 3.02 of this Agreement.

f. Notice means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.

g. Ordinance means the Ordinance enacted by the City Council of the City of Austin on the date of approval of the Master Agreement and this Agreement by the City in support of the development and construction of the Improvements and the allocation of the Funding thereto.

h. Plans and Specifications mean plans and specifications prepared by the Engineer for the construction of the Improvements as described herein.

i. Substantial Completion means that the Improvements have been completed in accordance with the Plans and Specifications, in all material respects, to the point of being usable for the purpose intended, as certified by the Engineer to the City and as determined by the City in the ordinary course of its inspections of such Improvements.

Section 1.02 Interpretation of Terms, and Incorporation of Exhibits.

a. While it is presently contemplated that the City will not be cost participating in the development of the Improvements described herein, subject to available funding, the City may by amendment to this Agreement, cost participate in the development of the Improvements. Unless and until the City elects to cost-participate, the provisions of this Agreement related to cost reimbursement and to the requirement of bidding or other purchasing requirements are inapplicable, although Gables is strongly encouraged to seek competition in its procurement processes and to maximize MBE/WBE participation in the procurement process.

b. Except where the context otherwise clearly requires, in this Agreement:

(a) Words imparting the singular will include the plural and vice versa;

(b) All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and

(c) References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns.

Section 1.03 Compliance with Certain City Bidding Requirements.

Notwithstanding any provision of this Agreement to the contrary, Gables' obligation to comply with the City's minority-owned and women-owned business enterprise procurement program set out in the City's Code, or any other similar law or regulation, including any provisions requiring award of a construction contract to a low bidder or any other particular bidder, shall apply only in the context of construction of the Improvements that are subject to reimbursement by the City as set out in this Agreement. In all other aspects of construction of the Project, Gables may choose its consultants, contractors, and other agents in its sole and absolute discretion, provided, however, that Gables is aware of and may consider the City's Minority and Women's Business Ordinance in making its decisions regarding other aspects of construction of the Project.

ARTICLE II
GABLES AUTHORITY & RESPONSIBILITY

Section 2.01 Required Information.

At the time of execution of this Agreement, as a condition precedent, Gables has provided the City with appropriate evidence of authority, authorizing Gables' execution and performance of this Agreement, the receipt of such evidence the City hereby acknowledges.

Section 2.02 Design and Construction Responsibility.

a. Notwithstanding any other provision in this Agreement to the contrary, Gables' responsibility to design and construct the Improvements is contingent upon the pre-construction conditions set forth in Article IX of the Master Agreement, which are incorporated herein by reference,

b. Notwithstanding any other provision in this Agreement to the contrary, Gables' obligation to construct and maintain the Improvements is contingent upon its commencement of construction of the Project, timely reimbursement by the City hereunder, and as provided in Section 8.05 and Article IX of the Master Agreement. Once commenced, Gables shall diligently prosecute the construction of the Improvements to completion.

ARTICLE III
ENGINEERING DESIGN OF THE IMPROVEMENTS

Section 3.01 Agreement to Design the Improvements.

The City and Gables agree that the Improvements shall be designed by Gables in accordance with the applicable portions of the City's written, published requirements of the City Code and City rules and regulations in effect on the date of this Agreement (the "City Standards"), specifically including but not limited to the City's Transportation and Drainage Design Criteria Manuals and as further described in this Agreement, and such Standards will apply for five years from the date of this Agreement.

Section 3.02 Design Duties of Gables.

Gables shall:

a. engage the services of an Engineer to perform the following functions:

1. prepare Plans and Specifications for the Improvements using (and ensure that the Plans and Specifications conform to) the City's design criteria and Standards applicable to the Improvements; prepare preliminary schedules and cost estimates for the construction of the Improvements; the Engineer's opinion of construction costs shall be based on materials and labor prevailing at the time of the preparation of the preliminary estimate without consideration of inflationary increases in costs with the understanding that the Engineer will not be construed to have guaranteed costs of construction, however, if either of the Parties reasonably believe that the estimates are no longer accurate, Gables will promptly obtain a revised opinion of construction costs with estimates of more accurate construction costs together with a description of the variance between the original and revised construction costs;

2. provide the City with a copy of the draft Bidding Documents;

3. if requested, attend and conduct pre-bid conferences to provide clarification and interpretation of the Bidding Documents to bidders;

4. if requested, prepare and issue addenda required to clarify the Bidding Documents;

5. if requested, attend the opening of bids at City's Contract Compliance Section, review bids, and furnish a recommendation regarding the award of the Construction Contract, within five working days following the bid opening;

6. review and approve (or take other appropriate action regarding) shop drawings and samples, the results of tests and inspections and other data that the Contractor is required to submit for conformance with the design criteria and standard specifications of the Improvements and compliance with the information given in the Project construction documents;

7. determine the acceptability of substitute materials and equipment proposed by Contractor; and receive and review (for general content as required by the applicable specification) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor in accordance with the construction documents;

8. review change order requests relating to the Improvements and submit the change order requests along with recommendations to Gables and the City for review and approval by Gables and the City. Change orders will be reviewed and approved or rejected by the City within five business days of submittal, provided, if more information is required for the City review, the City will notify Gables within the initial five day period and will have up to an additional five days after receipt of the additional information in which to approve or reject the change order request and in the event of a dispute, the Parties will follow the same procedure outlined for dispute resolution in Section 4.04 below;

9. review any changes to the Improvements and, if necessary, design any engineering changes that may be required after construction has begun;

10. attend the final inspections of each portion of the Improvements in the presence of the City inspector and transmit a list of items to be completed or repaired to the City, Gables, and the Contractor;

11. review the Plans and Specifications of the Improvements marked to show "as built" conditions to ascertain to the best of his knowledge and belief that the reflected field changes are substantially complete and correct; and

12. after final completion of the Improvements, submit as-built documents to

the City, consisting of an electronic file, one set of mylar and two sets of one-half size print record Plans and Specifications to the City certified "As Built" by the Engineer. Copies of the Project record Plans and Specifications that may be relied upon by the City are limited to the printed copies ("hard copies") that are signed and sealed by the Engineer; record Plans and Specifications on electronic files that are furnished by the Engineer to the City are only for the convenience of the City.

b. ensure that the Plans and Specifications:

1. conform, in all material respects, to the City design criteria and construction and material standards, as contained in the applicable City ordinances and regulations, including the City's Transportation and Drainage Criteria Manuals, for the Improvements to be constructed by Gables; and

2. are accompanied by appropriate engineering reports, as reasonably required by the City.

c. engage the services of a duly qualified and experienced consultant or a duly qualified and experienced Gables employee or employee of a Gables affiliate to act as a professional construction manager ("Construction Manager") to work with the Engineer in connection with Engineer's tasks, as appropriate, and to act as a liaison with the City and with subcontractors. The City will recognize the Construction Manager as the single point of contact with Gables during the construction of the Improvements for the purposes of daily communication, resolution of routine construction matters, and construction contract administration, including but not limited to the purpose of receiving payments from the City pursuant to the Master Agreement and this Agreement. The City further recognizes and agrees that such reasonable fees as are paid by Gables to the Construction Manager in connection with construction of the Improvements are costs of constructing the Improvements, and are subject to proportionate reimbursement hereunder. Gables will charge a reasonable fee for the costs of construction administration, which will not exceed five percent (5%) of construction costs of the Improvements. The construction management fee will be documented in any requests for reimbursement with supporting information of activities undertaken and expenses incurred and the City will reimburse a portion thereof as specified in Article V.

d. make timely payments for work properly performed in connection with the design, construction management and contract administration of the Project in accordance with the terms of the applicable professional services agreements.

ARTICLE IV
CONSTRUCTION OF THE IMPROVEMENTS

Section 4.01 Agreement to Construct the Improvements

a. Gables will submit the Plans and Specifications for the Improvements prepared by the Engineer at logical points in the development of the design to the City for review and

approval. The City will perform interim design reviews of the Plans and Specifications and provide any written comments to Gables within ten working days of submittal, unless additional time will be required due to the requirement of reviews by multiple City departments or additional time will be required in connection with the site plan or permit review and approval process. In the event that such additional time is required, the City will notify Gables in writing of the additional time requested for the review, which may not exceed an additional five working days for the review of interim design submittals or the additional time required for the site plan review and approval process. Once approval is obtained, no material changes may be made to the Plans and Specifications without following the change order procedure described in Section 3.02(a)(8) hereof.

b. The City will perform site plan and permitting reviews in a timely manner and in accordance with City requirements, including but not limited to Section 25-5-114 of the City Code.

c. After approval of the Plans and Specifications and, subject to reimbursement as described in this Agreement and subject to all of the other terms and conditions of this Agreement and the Master Agreement, Gables agrees to construct the Improvements.

d. Subject to reimbursement as described in this Agreement, Gables agrees to construct the Improvements in a good and workmanlike manner and in all material respects substantially in accordance with the Plans and Specifications and all applicable laws, regulations, and ordinances, including (but with respect only to those Improvements that are subject to reimbursement under Section 5.02 hereof) the City's MBE/WBE requirements.

e. Gables or Gables' Construction Manager or other agent will serve as the manager for the construction of the Improvements.

Section 4.02 Schedule of Construction.

a. Gables will construct the Improvements at one time or in phases, as reasonably approved by the City, on a timely basis as is needed in connection with the development of the Project and adjacent public infrastructure.

b. Gables will begin construction of the Improvements during the construction of the first phase of development of the Project.

Section 4.03 Construction Duties of Gables.

Subject to all of the terms and conditions of this Agreement, including, without limitation, Section 1.03 hereof (limiting the applicability of the City's minority-owned and women-owned business enterprise procurement program), Gables (or Gables' Engineer, Construction Manager, or other agent) will:

a. solicit public invitations for bids for the construction of the portion of the Improvements subject to reimbursement, following all applicable state laws and regulations and City Codes, regulations and procedures to which the City must adhere that pertain to competitive bidding procedures for Construction Contracts. This requirement includes compliance with the minority-owned and women-owned business enterprise procurement program found in Chapter 2-9 of the City Code and Chapter 252 of the Texas Local Government Code or at the option of Gables, substantial compliance with the requirements of Section 271.116 of the Texas Government Code and the other applicable provisions of the Code related to competitive sealed proposals for those Improvements, which may be constructed for less than $1,5000,000.00;

b. prepare the Construction Contract to comply, in all material respects, with all applicable laws, regulations, ordinances, City procedures, and the terms of this Agreement. The Construction Contract must include general conditions that include the following provisions:

1. reasonable warranties, and insurance, payment and performance bonding requirements, as more fully set forth in **Exhibit "D"** hereto;

2. include the City as an approved future assignee to the Construction Contract, together with the applicable Plans and Specifications, with the ability of the City, as assignee, to complete the Improvements, if Gables fails to complete the Construction Contract; and

3. certificates of insurance evidencing that the required insurance has been obtained and that the City has been designated as an additional insured under Endorsement CG2010 (or equivalent approved by the City Risk Manager) with respect to all liability coverages to the extent allowed by law;

c. award the Construction Contract to the lowest responsible bidder (who is duly qualified and can meet the construction schedule) for those Improvements that are subject to reimbursement hereunder, following construction contract competitive bidding procedures set forth in Chapter 252 of the Texas Local Government Code (or as applicable Section 271.116 of the Code) and the minority-owned and women-owned business enterprise procurement program found in Chapter 2-9 of the City Code, as applicable; prior to entering into any other contract for the provision of construction, demolition, material generation or non-professional services (eg., services other than design, surveying, etc.) to satisfy Gables obligations hereunder, Gables will in good faith solicit bids for such items from at least three qualified entities, review all timely submitted bids in good faith and select the entity to provide such item which in Gables discretion represents the best overall value for the Improvements taking into account all relevant factors and circumstances or will use the process set forth in Section 271.116 of the Code and select the entity providing the "best value," taking into consideration the enumerated evaluation criteria;

d. obtain all required permits, consents, inspections, tests, and authorizations necessary for construction of the Improvements; provided, however, that the City will cooperate with Gables in obtaining those items listed herein;

e. provide the City with a copy of the Construction Contract and any additional documents pertaining to the Construction Contract on or about the time they have been signed, and thereafter provide copies of any documents amending or replacing any of said documents;

f. submit all changes to the Plans and Specifications and change orders to the Construction Contract to the City for its review and approval prior to the commencement of any work incorporating the change, which approval will not be unreasonably withheld or delayed;

g. ensure that all change orders submitted for the Construction Contract, either singularly or in the aggregate, do not increase the portion of the Construction Contract cost subject to City reimbursement by more than twenty five percent of the original contract amount;

h. make timely payment to the Engineer and Contractor for work properly performed concerning the Improvements in accordance with the terms and provisions of the applicable contract with the Engineer or the Construction Contract (including any provisions related to statutory retainage and withheld amounts due to improper work or punch list items);

i. arrange and coordinate materials testing with each Contractor and provide the City with all testing information; if the City reasonably determines that the work needs to be corrected or rejected or requires special testing because of unforeseen circumstances, the City will promptly notify Gables and Gables will take appropriate action to remedy the identified problem;

j. reject all work found not to conform to minimum requirements of the Construction Contract and the applicable Plans and Specifications, and advise the Engineer and the City of work that Gables determines should be corrected or rejected or which requires special testing, adjustment, or inspection for approval;

k. arrange and observe with the Contractor all acceptance testing, if applicable, for the Improvements and notify the City and the Engineer of the schedule and results of the testing;

l. maintain master job files of correspondence, reports of conferences, shop drawings, samples, reproductions of the applicable Plans and Specifications, change order, addenda, daily inspection reports, additional or revised drawings, and other related construction documents;

m. coordinate the preparation of letters indicating Substantial Completion for the Improvements with the Engineer, together with the submission to the Contractor of a list of observed items requiring completion or correction;

n. ensure access and permit the City to inspect the construction of the Improvements at all reasonable times during construction until final acceptance of the Improvements by

the City;

o. conduct and coordinate final inspection of the Improvements with the Engineer and the City inspector; transmit a final list of items to be completed or repaired, if any, and observe Contractor correction of the same;

p. prepare and submit to the City monthly during construction of the Improvements a report regarding minority-owned and women-owned business enterprise participation in the construction of the Improvements; and

q. within thirty (30) days after final completion and acceptance of the Improvements by the City in writing, provide the City with complete sets of the Plans and Specifications, certified "as-built", by the Engineer in accordance with the requirements of this Agreement. The City's acceptance of the Improvements shall be governed by this Agreement and the requirements of the City Code. As a condition of final acceptance of the Project by the City, Gables will provide the City with:

1. an assignment to the City of all warranties, guarantees, maintenance bonds, or like assurances of performance applicable to the Improvements, but not to Gables' Project, after final acceptance by the City;

2. copies of separate books of accounts, accurately documenting costs and expenses incurred in connection with the Improvements; and

3. a written, sealed statement from the Engineer certifying that the Improvements have been constructed in accordance with the Plans and Specifications (subject to approved change orders) in all material respects.

Section 4.04 Duties of the City

The City will:

(a) review the Plans and Specifications, in a timely manner as set forth in Section 4.01 above, for substantial compliance with the requirements of this Agreement and applicable City procedures and Standards, and will approve all Plans and Specifications that comply with these requirements in all material respects, within a reasonable period of time after submission;

(b) inspect the Improvements within two (2) days for an interim inspection and ten (10) days for a final inspection after a request for inspection is received, and, if completed in accordance with the terms of the Plans and Specifications and this Agreement in all material respects, will certify the Improvements as being in compliance with City Standards and specifications, and issue a final acceptance letter. The final acceptance letter will be the effective date of "completion" for the purposes of this Agreement. The inspections and certifications will be conducted in accordance with standard City policies, procedures, and requirements;

(c) provide timely written Notice to Gables within two working days whenever a completed inspection reveals that an item of the Improvements is not constructed or completed in accordance with the Plans and Specifications or is otherwise materially defective. The Notice will specifically detail any deficiencies. The foregoing notwithstanding, inspection of construction by the City is not a guaranty that construction of the Improvements is free from defects or complies with all applicable laws. In the event of a dispute regarding any notice of failure to complete the construction of the Improvements in accordance with the applicable plans and specifications, either party may request in writing a dispute resolution meeting with the City's Project Manager. The meeting will be held within three business days of such a request and the Parties agree that the recommendations of the Project Manager will be given due consideration in the resolution of the dispute. If the Parties are not satisfied with the recommendations of the Project Manager, the matter may be appealed to the Director of the applicable City department with jurisdiction over the Improvements in question and thereafter to mediation, as allowed by this Agreement; and

(d) reimburse Gables for the engineering design and construction costs of the Improvements, in accordance with the provisions of Article V hereof within 30 days after final acceptance.

Section 4.05 City's Right to Construct Improvements on Default of Gables.

a. Subject to the provisions of the Master Agreement, including, without limitation, those pertaining to lender protection, notice and cure periods, and public health and safety, if Gables begins but does not complete construction of the Improvements materially in accordance with the Plans and Specifications and the terms and provisions in this Agreement, the City has the right, but not the obligation, to complete the construction of the Improvements.

b. If the City elects to complete the Improvements, all plans, designs, easements, real and personal property, and Improvements produced or installed by Gables or its Engineers or Contractors within the City easement prior to the take over of construction of the Improvements by the City, will become the property of the City.

c. Gables grants to the City a nonexclusive right and easement to enter the Property to the most limited extent as may be necessary for the purpose of performing Gables' construction obligations pertaining to the Improvements under this Agreement in accordance with its terms and provision and in accordance with the notice and cure periods contained in this Agreement.

d. If Gables is terminated pursuant to Section 11.01 of the Master Agreement, the City will reimburse Gables for its prorata share of the work performed in accordance with the plans and specifications and the terms of this Agreement to the date of such termination, subject to the receipt of acceptable close-out information, including the contractor's invoice for services rendered to the date of termination.

ARTICLE V
COSTS AND REIMBURSEMENT

Section 5.01 Gables' Initial Responsibility for Improvements Costs.
Gables will initially pay all costs associated with the design and construction of the Improvements in a timely manner as provided in this Article V.

Section 5.02 Cost Reimbursement.

The City will reimburse Gables the portion of the design and construction costs of the Improvements described herein, approved in accordance with this Agreement, as specified in attached **Exhibit "E"**, in accordance with the terms of this Article V, after Gables has constructed and the City has accepted the Improvements described herein for operation and maintenance. The City's participation in the cost of the Improvements may include third party contributions. The City will be responsible for reimbursing Gables for a portion of the costs of such design and construction up to the not to be exceeded amount of Zero Dollars ($0.00) without amendment to this Agreement or other authorization by the Austin City Manager.

Section 5.03 Report of the Project Costs Required.

a. On or before the date of final acceptance of the Improvements, Gables will submit a report to the City of the total costs of the Improvements that includes reasonable supporting information. Gables agrees to provide all information and documents in its possession or immediate control reasonably required by the City for proper processing and for accurate accounting and documentation of actual Project costs.

b. The City will verify and determine the final total cost amount and will certify the amount due to Gables for the Project. If the City determines that the amount due to Gables is the same as the amount submitted by Gables, the City will have 30 days after receipt of all supporting information or the date of final acceptance of the Project, (whichever is later), in which to make the payment to Gables. If the City determines that the amount owing to Gables is less than the amount submitted by Gables, the City will: (i) notify Gables of the discrepancy within twenty days of Gables' submittal to the City; (ii) provide Gables with all supporting documentation upon which the discrepancy is based; and (iii) work diligently and in good faith to resolve the discrepancy within the ensuing ten days. If the Parties are unable to resolve the discrepancy, either Party may refer the matter to mediation in accordance with Article VII.

c. If Gables allows work to commence on a change order that effects a material change of the Plans and Specifications for any approved phase before receiving the approval of the applicable City department(s) for the change order, any additional costs incurred on that change order may not be eligible for reimbursement, if the City reasonably determines that the change in the Project is materially unacceptable.

d. In any event, subject to the applicable not to be exceeded amount and notwithstanding anything to the contrary contained herein, the City will reimburse

Gables the amounts not in dispute then owing to Gables.

ARTICLE VI
CONSTRUCTION

Section 6.01 Conditions for City Maintenance of the Improvements.

After the City's final acceptance of the Improvements, the City will have an easement in and maintain the Improvements, subject to the Contractor's one-year warranty and provisions of 6.02 below, except that Gables expressly shall have certain ordinary and ongoing maintenance responsibilities for any portions of the Improvements described to be the maintenance responsibility of Gables in the Master License Agreement.

Section 6.02 Warranty.

a. Upon Substantial Completion of the Improvements and as a condition precedent to final acceptance by the City, Gables will transfer to the City all warranties for the Improvements, including the Contractor's one year warranty and any warranty bond and any other warranty or rights Gables has in connection with the Plans and Specifications as they relate to the Improvements, excluding any portion of such warranty pertaining to Gables' Project. Except as may otherwise be specifically provided in this Agreement or any other Agreement, Gables in no way guarantees either the performance or quality of the work undertaken or materials used by any contractor or subcontractor undertaking construction pursuant to this Agreement or any Other Agreement, and **GABLES HEREBY DISCLAIMS ANY AND EVERY WARRANTY OR GUARANTY OF PERFORMANCE, QUALITY, SUITABILITY FOR ANY AND EVERY PARTICULAR PURPOSE WHATSOEVER, AND THE CITY HEREBY ACKNOWLEDGES AND ACCEPTS SUCH DISCLAIMER.**

b. Gables will be responsible for any material damage (ordinary wear and tear excepted) to the Improvements accepted by the City for operation and maintenance for one year following acceptance by the City, but only to the extent that the damage was caused directly by Gables or its Contractor during construction of the Improvements or Project.

Section 6.03 No Liens Permitted.

Gables will make timely payment for all aspects of properly performed engineering, design, construction work (including inspection fees), and for all materials and services relating to the Improvements in accordance with the applicable Construction Contract(s) and design services contracts for the Improvements. Gables will not suffer or permit the filing, perfection, or execution of any lien or encumbrance on the Improvements, and will cause any such lien to be released of record by payment, deposit, bond, or order of court of competent jurisdiction. Gables will have the right to contest any claim asserted in connection with the design and construction of the Improvements described herein, including the right to contest such claim in any court of competent jurisdiction. Gables shall secure the release within ninety days of the recordation of any lien or encumbrance. The foregoing notwithstanding any lien disputed by Gables may be bonded, as applicable, by the payment and performance bonds provided by the Contractor for the

Improvements or otherwise bonded or secured by other fiscal, including a letter of credit, acceptable to the City Law Department within sixty days of its recordation.

Section 6.04 Agreement May be Pledged as Collateral.

Gables may pledge this Agreement as collateral for the purpose of securing financing from one or more lenders for the Improvements. Gables or its lender will provide documentation of the use of this Agreement as collateral to the City Law Department for its review and approval, which approval will not be unreasonably withheld or delayed.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 Interpretation of this Agreement, and Entire Agreement.

The Parties agree that in the event of any conflict between provisions of this Agreement and of the Master Agreement, the provisions of this Agreement shall control, provided, however, that notwithstanding the foregoing, (i) the General Provisions of Article XI of the Master Agreement shall apply to and control this Agreement, as if more fully set forth herein, and (ii) the mortgagee protection provisions of the Master Agreement (Article X thereof) shall apply to and control this Agreement. Subject to the foregoing, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either Party.

Section 7.02 No Waiver.

No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision or any other agreement between the Parties. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or any covenant by the City, the Gables, or their successors or assigns, whether the violations are known or not, shall not constitute a waiver or estoppel of the right to do so.

Section 7.03 Governmental Authority.

Nothing in this Agreement will be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the operation and maintenance of the Improvements constructed under the terms of this Agreement which are to be operated and maintained by the City, except as specifically waived or modified herein or by specific action of the City Council, nor its duty to provide for the public health, safety, and welfare in the operation and maintenance of the same.

Section 7.04 Expiration of Reimbursement.

The reimbursement described herein shall be available to Gables until the completion of construction of all of the Improvements, but not longer than ten (10) years from the date of this Agreement, which time period is subject to extension by mutual agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

SIGNATURE PAGES FOLLOW.

Executed to be effective on _____, 2006.

CITY OF AUSTIN:

APPROVED AS TO FORM:

By:_____

By: _____

Toby Hammett Futrell
City Manager

_____
Assistant City Attorney

APPROVED AS TO CONTENT:

By: _____
Sue Edwards, Director
Economic Growth and Redevelopment Services

By: _____
Austan Librach,
Economic Growth and Redevelopment Services

STATE OF TEXAS §
§

COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this _____ day of _____, 2006, by Toby Hammett Futrell, as City Manager of the City of Austin, a Texas municipal corporation, on behalf of said municipal corporation.
(SEAL)

_____

Printed/Typed Name of Notary
My Commission Expires: _____

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

Exhibit "A": Legal Description of Property
Exhibit "B": The Project-
Exhibit "C": Improvements
Exhibit "D": Insurance and Bond Requirements
Exhibit "E": Cost Participation

EXHIBIT 'A'

2.582 ACRE FN 04-272(MM)
LUMBERMEN'S INVESTMENT JULY 30, 2004
CORPORATION BPI JOB NO. 1159-01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN, BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances:

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of-Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

FN NO. 04-272(MM)
JULY 30, 2004
PAGE 2 OF 2

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less; within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI — DATE 7/30/04
NO. 4998
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
PROFESSIONAL
LAND SURVEYOR

EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

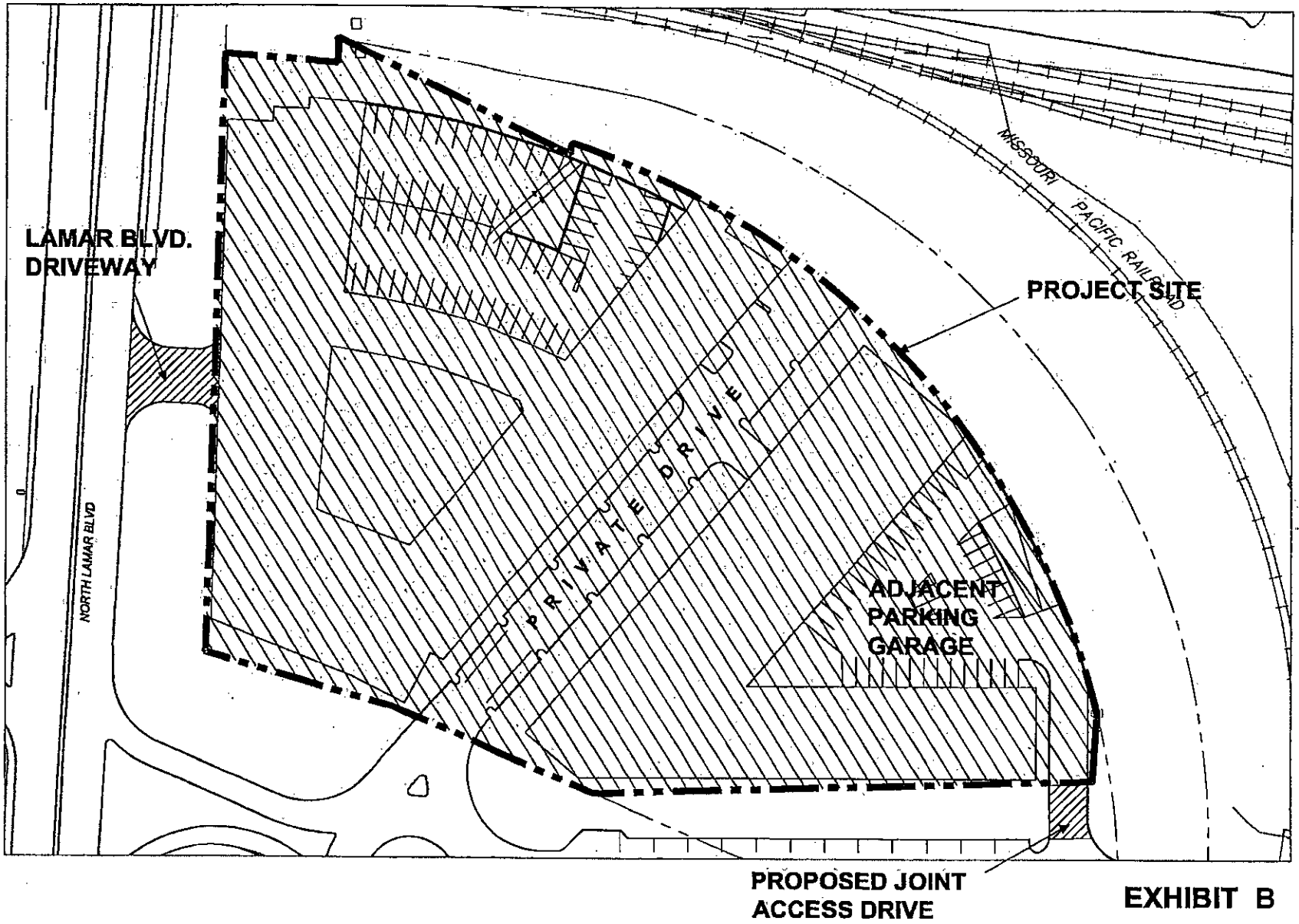

LAMAR BLVD.
DRIVEWAY
NORTH LAMAR BLVD
MISSOURI PACIFIC RAILROAD
PROJECT SITE
PRIVATE DRIVE
ADJACENT
PARKING
GARAGE
PROPOSED JOINT
ACCESS DRIVE

EXHIBIT B

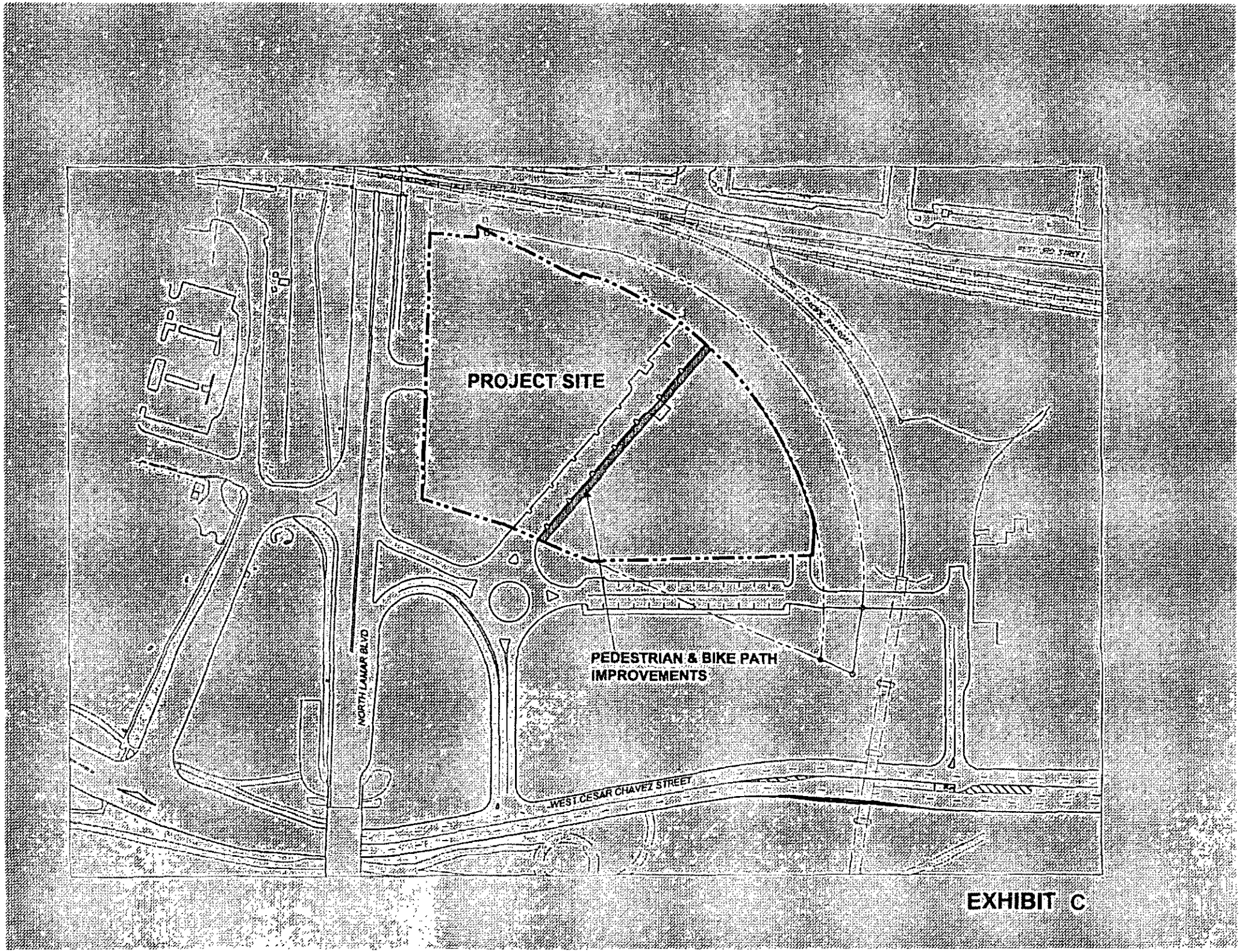
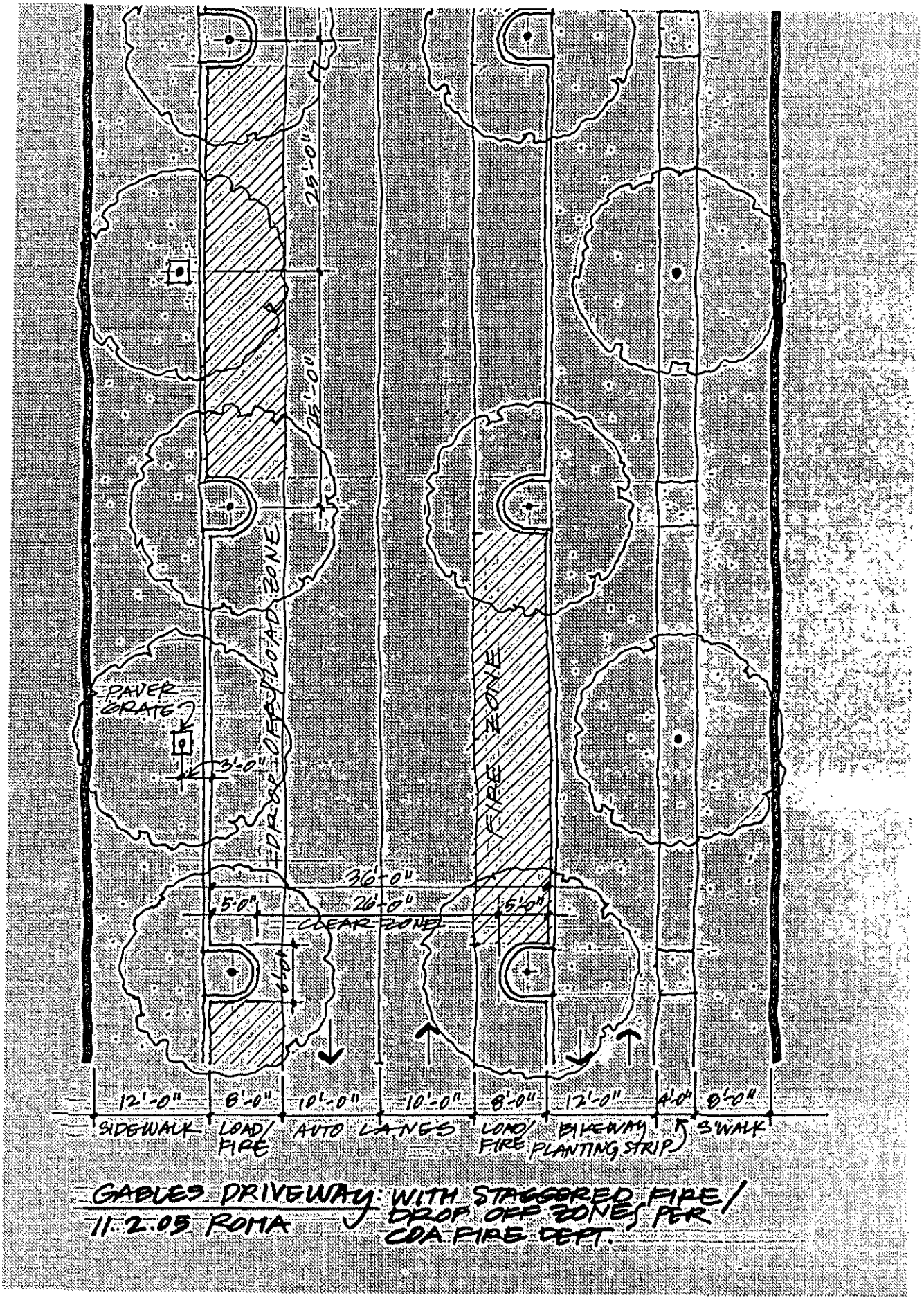

PROJECT SITE
PEDESTRIAN & BIKE PATH
IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET
EXHIBIT C

EXHIBIT C
PAGE 2



GABLES DRIVEWAY WITH STAGGERED FIRE/ DROP OFF ZONES PER COA FIRE DEPT.

11.2.05 ROMA

EXHIBIT C
Page 3

PEDESTRIAN PATH AND BICYCLE PATH IMPROVEMENTS

The Pedestrian Path and Bicycle Path Improvements referenced in Section 3.06 of the agreement, to be constructed by Gables in the area of the private drive easement is described as follows:

The Pedestrian Path is to be a sidewalk adjacent to building(s) of the Project on the east side of the private drive. It is to be constructed of a hard surface paving material of Gables' choosing with a minimum width of eight (8) feet and separated from the Bicycle Path with a landscaped buffer with a minimum width of four (4) feet.

The Bicycle Path is to be a continuous trail adjacent to the Pedestrian Path and separated from it by the landscaped buffer. It is to be separated from automobile drop-off and fire zones with a six (6) inch high curb, and separated from moving automobile traffic with curbed bulb-outs containing trees. It is to be constructed of concrete, to City of Austin bikeway standards, and colored and textured to match other connecting trails as developed for the Pfluger Bridge Extension and Bowie Street Pedestrian and Bicycle Underpass Projects. It is to have a minimum width of 12 (twelve) feet from face of curb, and curb ramps at intersecting roads and driveways are to extend the full width of the Path. Bikeway markings and signage will be specified and installed as part of the Pfluger Bridge Extension and Bowie Street Underpass project.

The Private Drive containing the Pedestrian Path and Bicycle Path easement will contain shade trees on both sides of the drive at 25 (twenty-five) feet on center maximum.

EXHIBIT D

Insurance and Bond Requirements

A. General Requirements

Gables shall forward certificates of insurance with the endorsements required below to the City as verification of coverage prior to commencement of any professional or construction services hereunder, EXCEPT that Gables shall have in place a policy of commercial general liability insurance meeting the requirements of this Agreement commencing on the Effective Date. To the extent that the specific endorsements referenced herein are unavailable or that equivalent endorsements are available, the substitution of equivalent endorsements will be permitted subject to the reasonable approval of the City.

Gables shall not commence work until the required insurance is obtained and has been reviewed by the City. Approval of insurance by the City does not relieve or decrease the liability of Gables hereunder and is not a limitation of liability on the part of Gables.

Gables must submit certificates of insurance for all contractors and/or subcontractors to the City prior to the commencement of design or construction work on the Improvements and the City will review and approve the certificates, which comply with the requirements of this Agreement, within five days of receipt.

Gables' and all contractor's and subcontractor's insurance coverage must be written by companies licensed to do business in the State of Texas at the time the policies are issued and must be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance must contain the following information:

Attn: Director, Public Works
City of Austin
P. O. Box 1088
Austin, Texas 78767

The "other" insurance clause must not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Agreement, covering both the City and Gables, be considered primary coverage as applicable.

If insurance policies are not written for amounts specified in this Agreement, Gables, contractors and subcontractors must carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision

or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

Gables shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement.

Gables and any contractor or subcontractor responsible for maintaining insurance shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions must be disclosed on the certificate of insurance.

The City may review the insurance requirements set forth herein during the Term and may make reasonable adjustments to insurance coverages, limits, and exclusions when reasonably deemed necessary and prudent by the City based upon applicable changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company(ies) and Gables.

The insurance coverages specified below are required minimums and are not intended to limit the responsibility or liability of Gables.

B. Specific Requirements

Worker's Compensation and Employers' Liability Insurance. Coverage must be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat.). The minimum policy limits for Employer's Liability are $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee.

(a) Gables', its contractor's and subcontractor's policy shall apply to the State of Texas and include these endorsements in favor of the City:

(i) Waiver of Subrogation, Form WC 420304

(ii) Thirty days Notice of Cancellation, Form WC 420601

Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $1,000,000 for coverages A and B.

(a) The policy must contain the following provisions:

(i) Blanket contractual liability coverage for liability assumed under this contract and all contracts related to this project.

(ii) Independent contractor's coverage.

(iii) Products/completed operations liability for the duration of the warranty period.

(b) The policy must also include these endorsements in favor of the City:

(i) Waiver of Subrogation, endorsement CG 2404

(ii) Thirty days notice of cancellation, endorsement CG 0205

(iii) The City listed as an additional insured, endorsement CG 2010

Business Automobile Liability Insurance. Gables, its contractor and subcontractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 per occurrence for bodily injury and property damage,

(a) The policy must include these endorsements in favor of the City of Austin:

(i) Waiver of subrogation, endorsement TE 2046A

(ii) Thirty days notice of cancellation, endorsement TE 0202A

(iii) The City listed as an additional insured, endorsement TE 9901B

Property Insurance. If any of the City's property is in the care, custody or control of Gables, then Gables shall provide property coverage on an "all risk of physical loss" form. The coverage must be provided on a replacement cost basis for the 100% value of the City's property. If property is being transported or stored off site by Gables, then transit and storage coverage must also be provided. The City shall be endorsed onto the policy as a loss payee.

Hazardous Material Insurance. If applicable, for work that involves asbestos or any hazardous materials or pollution defined as asbestos, any contractor or subcontractor responsible for such work must comply with the following insurance requirements in addition to those specified above:

(a) Provide an asbestos abatement endorsement to the commercial general liability policy with minimum bodily injury and property damage limits of $1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of $1,000,000. This policy must not exclude asbestos or any hazardous materials or pollution defined as asbestos, and must provide "occurrence" coverage without a sunset clause. The policy must provide 30 day notice of cancellation and waiver of subrogation endorsements in favor of Gables and The City.

(b) Any contractor or subcontractor responsible for transporting asbestos or any hazardous materials defined as asbestos shall provide pollution coverage. Federal law requires interstate or intrastate transporters of asbestos to provide an MCS 90 endorsement with a $5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a $1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49

CFR 171.8. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of $1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos. The endorsement must, at a minimum, provide a $1,000,000 limit of liability and cover events caused by the hazardous properties of airborne asbestos arising from fire, wind, hail, lightening, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.

(c) The contractor shall submit complete copies of the policy providing pollution liability coverage to Gables and the City.

Performance and Payment Bonds. In substantial compliance with the provisions of Chapter 2253 of the Texas Government Code, Gables shall require its general contractor, within 30 days from and after notification of the award of the contract, and before commencement of construction of the Additional Improvements, to furnish and deliver to the City, legally issued surety bonds in a form approved by the City, with the City and Gables named as co-obligees. The furnishing and delivery of such bonds within the periods mentioned is a condition precedent to the commencement of the construction of the Additional Improvements and, upon the failure of the general contractor to so furnish and deliver all of the same in form, tenor and execution and with sureties satisfactory to the City, no rights obtain thereunder to Contractor, no construction of the Additional Improvements may commence or continue and, if construction has commenced without compliance with the requirements of this paragraph, all construction activities must immediately be suspended and Gables will be in material default under this Agreement.

Payment Bond. Gables shall require the general contractor to provide a payment surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full, and complete payment of all subcontractors and suppliers.

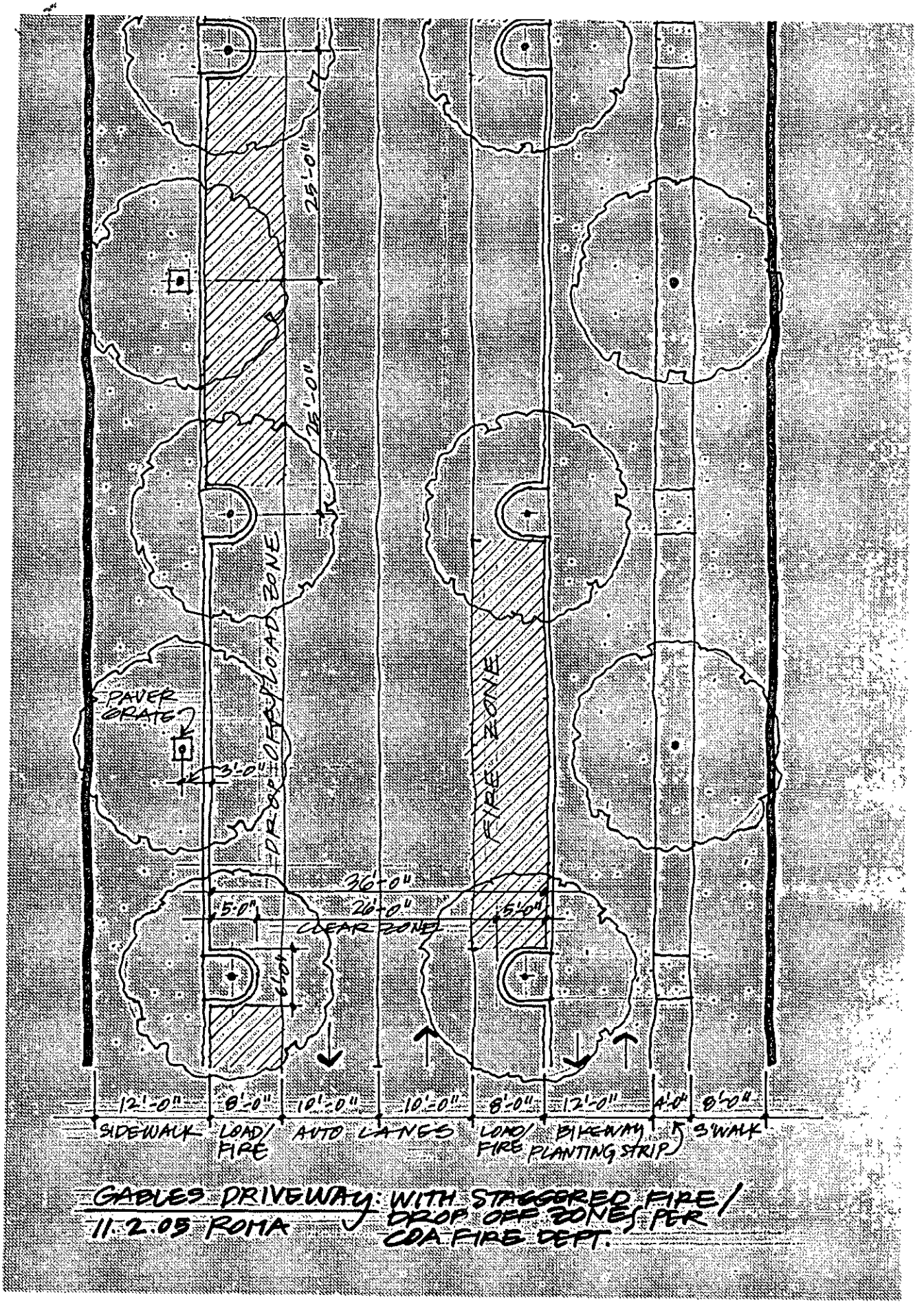
Performance Bond. Gables shall require contractor to provide a performance surety bond legally issued, meeting the approval of the City Law Department, in an amount not less than 100% of the total contract price of the Construction Costs, conditioned upon the prompt, full and complete performance by the general contractor of these covenants and agreements contained in the contract documents.

EXHIBIT E
Cost Participation in Improvements

City costs and contributions may include third party funding.

Subject to available funding, the City may cost participate in the development of the Improvements. In such an event, the eligible costs for reimbursement will include the so-called "hard costs" of construction, as evidenced by the amounts paid to the general contractor for the performance of the Work, and the so-called "soft costs" of the fees to be paid under this Agreement, design fees, the construction management fee, and other professional services fees, but will exclude the costs of Gables' financing and Gables' accounting and legal fees.

EXHIBIT I



GABLES DRIVEWAY WITH STAGGERED FIRE/ DROP OFF ZONES PER COA FIRE DEPT.

11.2.05 ROMA

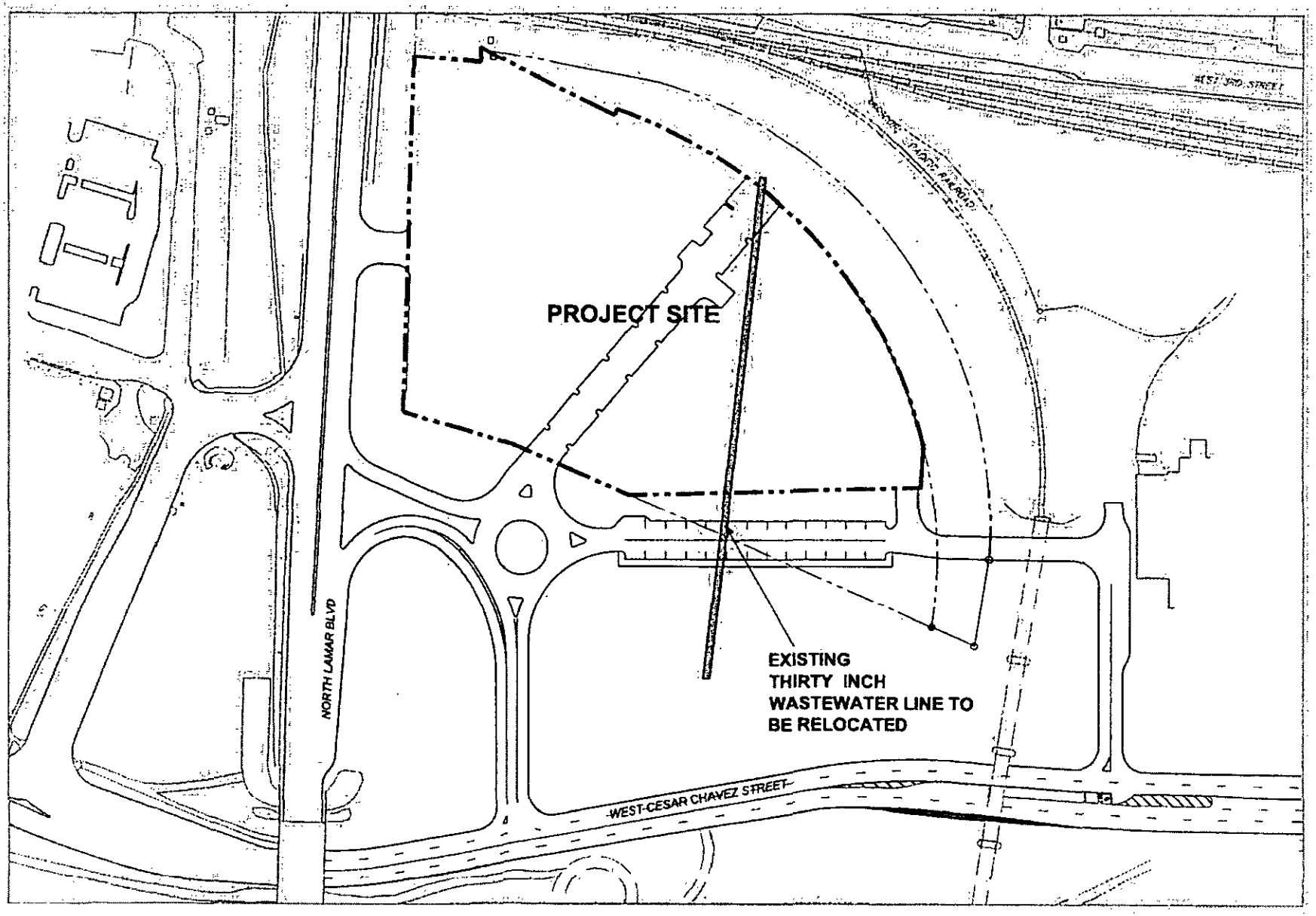

PROJECT SITE
EXISTING
THIRTY INCH
WASTEWATER LINE TO
BE RELOCATED
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT J

EXHIBIT 'K'

PEDESTRIAN PATH AND BIKE PATH EASEMENT

THE STATE OF TEXAS §
§ **KNOW ALL PERSONS BY THESE PRESENTS:**
COUNTY OF TRAVIS §

THAT LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership, (hereinafter collectively called "Grantors" whether one or more), in consideration of the sum of $10.00 and other good and valuable consideration to Grantors in hand paid by the City of Austin, the receipt and sufficiency of which is acknowledged, have this day GRANTED AND CONVEYED, and by these presents do GRANT AND CONVEY, unto the City of Austin, a municipal corporation situated in the Counties of Hays, Travis and Williamson, Texas, and whose address is P.O. Box 1088, Austin, Travis County, Texas 78767-8839, ATTN: Real Estate Services Division, a pedestrian path and bike path easement (the "Easement") to construct, use, maintain and replace a pedestrian path and bike path to provide interconnectivity with those certain adjacent City of Austin pedestrian path and bike path improvements known as the Pfluger Pedestrian Bridge Extension and the Bowie Street Pedestrian Underpass, in, over, upon, and across the following described land:

> All of that certain tract, piece or parcel of land, lying and situated in Travis County, Texas, and more particularly described in EXHIBIT "A", which is attached hereto and made a part hereof for all purposes ("Property").

TO HAVE AND TO HOLD the Easement and easement rights perpetually to the City of Austin, and its successors and assigns, together with the right and privilege at any and all times to enter the Property, or any part thereof, to use, maintain, and replace the pedestrian path and bike path improvements.

Grantors reserve the right to use the Property in any manner that does not interfere with its use of the Easement and easement purposes described herein, such as cross walks, provided Grantors may not place a building or other structure or obstruction in the Property and no license shall be required for such non-interfering uses.

The Property described in Exhibit "A" is an approximation of the location of the land subject to the Easement and Grantors and the City of Austin agree that the exact location of the Easement will be subject to further definition by a metes and bounds survey, will be in substantial conformance to the location described in attached Exhibit "A", and will be further subject to the approval of the City of Austin's Manager of Real Estate Services, such approval not to be unreasonably withheld or delayed.

GRANTORS do hereby bind themselves, their heirs, successors, assigns and legal representatives to warrant and forever defend all and singular this Easement and all related rights unto the said City of Austin, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, when the claim is made by through or under Grantors, but not otherwise.

Executed on this, the ___ day of _____, 2006.

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC

RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

CONSENT OF LIENHOLDER

THE UNDERSIGNED, being the holder of a _____ lien dated _____, 20__, recorded at Volume _____, Page _____, Real Property Records of _____ County, Texas, securing the payment of an obligation in the amount of $_____, hereby consents to the foregoing Water Line Easement and agrees that its _____ lien is subject to and subordinate to the Water Line Easement, and that the undersigned has authority to execute and deliver this Consent of Lien holder, and that all necessary acts necessary to bind the Lien holder have been taken.

NAME OF LIENHOLDER:

_____

By: _____

Name: _____

Title: _____

Date: _____

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, .

Seal

_____
Notary Public, State of Texas

_____

Printed/Typed Name of Notary

My Commission Expires: _____

AFFIDAVIT AS TO DEBTS AND LIENS

BEFORE ME, the undersigned authority personally appeared _____ (name of Affiant) known to me to be the person whose name is subscribed to this Affidavit, acting in the capacity of _____ for _____, a _____ duly authorized to do business in the State of Texas, owner of the property that is the subject of the foregoing instrument (the "Property"), who being duly sworn, on oath, deposed and stated the following:

1. My name is _____. I am above the age of 18 years, of sound mind, have never been convicted of a felony or crime of moral turpitude, and am fully qualified to make this Affidavit.

2. I am authorized to make this Affidavit in the capacity of _____ (title), for _____ authorized to do business in the State of Texas, owner of the Property that is described in the foregoing instrument ("Owner").

3. I have personal knowledge of the facts contained herein as an officer of_____ and I have recently reviewed the corporation's records concerning the Property. On the basis of my personal knowledge, after diligent inquiry, I hereby attest that, as of the date of this Affidavit:

(a) All labor, services and materials provided to the Property for improvements, fixtures, and furnishings, or otherwise, at the instance and request of the Owner, have been paid in full and no liens have been filed or exist with respect to the Property;

(b) There are no actions, proceedings, judgments, bankruptcies, liens or executions filed or pending against the Owner that would affect the Property; and

(c) As of the date of this Affidavit, _____ is not a debtor in bankruptcy.

SIGNED, this _____ day of _____, .

AFFIANT:

_____

Signature

_____

Printed/Typed Name of Affiant

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

On the _____ day of _____, , before me _____ (name of notary), Notary Public, personally appeared _____ (name of Affiant), _____ (title) of _____, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

_____
Notary Public, State of Texas

My Commission Expires: _____

After Recording Please Return to:

City of Austin
Department of Public Work
Real Estate Services Division
505 Barton Springs Road, Suite 1350
Austin, Texas 78704

Project Name: _____

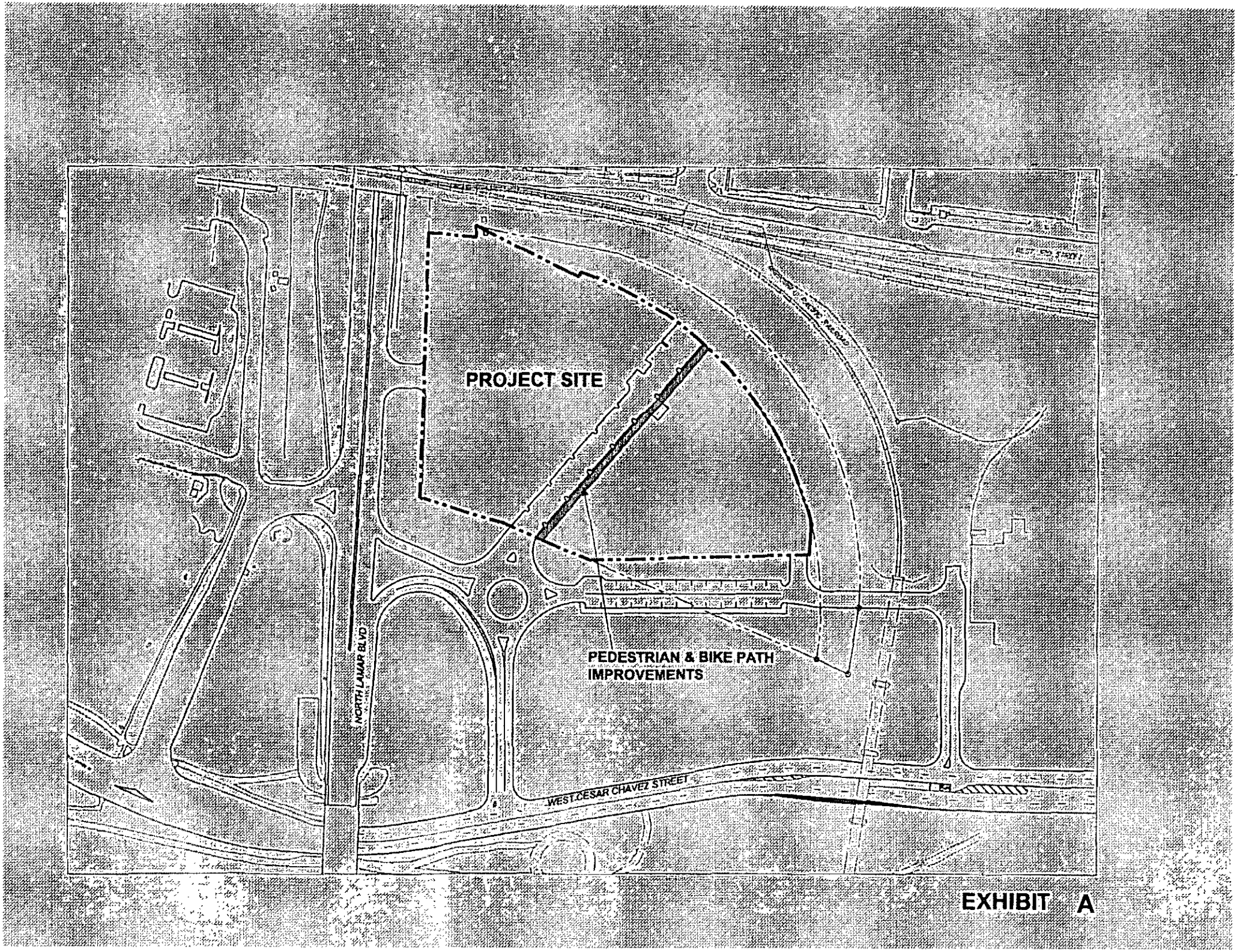

PROJECT SITE
PEDESTRIAN & BIKE PATH
IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT A

EXHIBIT L-1

QUITCLAIM DEED

STATE OF TEXAS

COUNTY OF TRAVIS

Pursuant to Section 4.02, Bowie Street Right of Way Exchange, of the Master Agreement between LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Lamar Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"), and the City of Austin, a Texas home rule city (the "City"), and subject to the requirements of Section 272.001 of the Texas Local Government Code, Gables hereby exchanges, abandons, releases and quitclaims its interest, if any, in (i)the public streets dedicated by (a) implication, as determined in a lawsuit between the State of Texas, the City and the Missouri Pacific Railway Company, Cause No. 477,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP, a copy of the judgment with field notes being attached hereto as **Exhibit "A"** and (b) by ordinance as set forth in Ordinance No. 85-0110-X, a copy of the Ordinance being attached as **Exhibit "B"**, and (ii) the private right-of-access easements in the deed to the 0.609 acre parcel described in attached **Exhibit "C"** in consideration of the City's agreement to exchange, abandon, release and quitclaim its interest, if any, in and to the Bowie Street Right-of-Way.

Signature pages follow.

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

After recording Return to:

City of Austin Real Estate Services
505 Barton Springs Road, Suite 1350
Austin Texas 78704

EXHIBIT "A"

NO. 477,213

STATE OF TEXAS,	§	IN THE 201ST JUDICIAL
Plaintiff,	§	DISTRICT COURT
VS.	§	IN AND FOR
CITY OF AUSTIN,	§	
Defendant.	§	TRAVIS COUNTY, TEXAS

FINAL JUDGMENT

On the 16th day of March, 1992, the above-entitled case was called for trial. The parties, the State of Texas, the City of Austin, Texas, and the Missouri Pacific Railroad Company (herein sometimes "MOPAC") appeared by and through their respective counsel and announced ready for trial, a jury having been expressly waived by all parties.

After considering the testimony, exhibits and evidence, the Court finds that, as per its Partial Summary Judgment signed March 16, 1992, the language of the grant "for public purposes" is not a restriction, condition or restrictive covenant on the City of Austin's use of the Sand Beach Reserve; that the State has no standing to complain that the Use and Maintenance Agreement violates Chapter 26 of the Texas Parks and Wildlife Code; that the two roads from West 1st Street to the 3.19 acre tract claimed by MOPAC have been dedicated to public use by implication; that the 3.19 acre tract claimed by MOPAC abuts the two roads; that MOPAC is entitled to access the 3.19 acre tract by the two roads described by metes and bounds herein; that MOPAC is not entitled to recover

92 2413 86 073

FILED
MAR 20 4 38 PM '92
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

ENTERED TAXED

attorneys' fees against the State of Texas; and that there has been no sale of the Sand Beach Reserve and, thus, there is no reverter of the Sand Beach Reserve to the State of Texas.

It is, therefore, ORDERED, ADJUDGED and DECREED that the Missouri Pacific Railroad Company have judgment against all parties declaring that the two roads, bearing the metes and bounds descriptions attached hereto as Exhibits "A" and "B", respectively, have been dedicated as public roads by implication by the City of Austin, Texas.

It is further ORDERED, ADJUDGED and DECREED that the State of Texas take nothing by its action against the City of Austin, Texas and the Missouri Pacific Railroad Company.

It is further ORDERED, ADJUDGED and DECREED that the City of Austin, Texas take nothing by its action against the Missouri Pacific Railroad Company.

It is further ORDERED, ADJUDGED and DECREED that all costs are hereby taxed to the State of Texas.

All relief not granted herein is expressly denied.

SIGNED this the 20th day of May, 1992.

JUDGE PRESIDING

VOL 2413 PG 074

DDB/LIT/63561

FIELD NOTES
FOR

0.384 ACRE TRACT

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND BEING OUT OF AND A PART OF THAT CERTAIN TRACT OF LAND DESIGNATED AS THE SAND BEACH RESERVE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS CONVEYED TO THE CITY OF AUSTIN BY DEED RECORDED IN VOLUME 769, PAGE 57 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/2 inch iron pin found in the North line of the said Sand Beach Reserve, being at the Southeast corner of Lot A, Jetco Partners International Resubdivision One, a subdivision in the City of Austin, Travis County, Texas, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas;

THENCE along the North line of the said Sand Beach Reserve, S 47° 29' 30" E for a distance of 185.60 feet to a 60-D nail set for the PLACE OF BEGINNING hereof;

THENCE continuing along the North line of the said Sand Beach Reserve, S 47° 29' 30" E for a distance of 108.91 feet to a hole drilled in a concrete curb for the most Easterly Northeast corner hereof;

THENCE along the Southeast line of the herein described tract, for the following courses:

S 41° 29' 50" W for a distance of 12.83 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 5.00 feet, whose arc is 7.64 feet and whose chord bears S 10° 11' 35" E for a distance of 6.92 feet to a hole drilled in a concrete curb

S 46° 00' 35" E for a distance of 4.08 feet to a hole drilled in a concrete curb

S 43° 07' 25" W for a distance of 25.00 feet to a hole drilled in a concrete curb

N 47° 53' 50" W for a distance of 3.68 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 5.00 feet, whose arc is 8.14 feet and whose chord bears N 86° 47' 50" W for a distance of 7.27 feet to a hole drilled in a concrete curb

S 45° 22' 40" W for a distance of 13.75 feet to a hole drilled in a concrete curb

N 47° 28' W for a distance of 108.87 feet to a hole drilled in a concrete curb

N 43° 42' E for a distance of 13.02 feet to a hole drilled in a concrete curb at a point of curve

EXHIBIT "A"

FIELD NOTES
FOR

0.384 ACRE TRACT - Page Two

Along a curve to the left whose radius is 5.00 feet, whose arc is 8.60 feet and whose chord bears N 08° 01' 45" W for a distance of 7.58 feet to a hole drilled in a concrete curb at a point of compound curve

Along a curve to the left whose radius is 75.00 feet, whose arc is 42.65 feet and whose chord bears N 66° 12' 20' W for a distance of 42.08 feet to a hole drilled in a concrete curb

N 81° 49' 30" W for a distance of 39.65 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 15.00 feet, whose arc is 24.19 feet and whose chord bears S 51° 08' 45" W for a distance of 21.65 feet to a hole drilled in a concrete curb

S 08° 23' 35" W for a distance of 112.00 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 45.00 feet, whose arc is 39.68 feet and whose chord bears S 14° 03' E for a distance of 38.41 feet to a hole drilled in a concrete curb on the North side of West 1st Street for the most Southerly Southeast corner hereof;

THENCE along the Southwest line of the herein described tract, along a curve to the right whose radius is 140.00 feet, whose arc is 56.07 feet and whose chord bears N 41° 12' 30" W for a distance of 55.70 feet to a 60-D nail set in asphalt;

THENCE continuing along the Southwest line of the herein described tract, N 25° 47' 15" W for a distance of 100.00 feet to a hole drilled in a concrete curb on the North side of the Lamar Street Access Road for a Westerly corner hereof;

THENCE along the West line of the herein described tract, along a curve to the left whose radius is 30.00 feet, whose arc is 73.33 feet and whose chord bears N 77° 47' 20' E for a distance of 56.39 feet to a hole drilled in a concrete curb;

THENCE continuing along the West line of the herein described tract, N 07° 53' 20" E for a distance of 49.97 feet to a 60-D nail set in asphalt for the most Northerly Northwest corner hereof;

THENCE along a North line of the herein described tract, for the following courses:

S 81° 40' 25" E for a distance of 82.68 feet to a hole drilled in a concrete curb at a point of curve

JUL 24 1 3 PG 0 7 6

FIELD NOTES
FOR

0.384 ACRE TRACT - Page Three

Along a curve to the right whose radius is 100.00 feet, whose arc is 67.19 feet and whose chord bears S 65° 35' 50" E for a distance of 65.93 feet to a 1/2 inch iron pin set

N 42° 30' 30" E for a distance of 16.60 feet to the PLACE OF BEGINNING and containing 0.384 acre of land, more or less.

AS SURVEYED BY:
W. HARVEY SMITH SURVEYOR, INC.

ROY D. SMITH
REGISTERED PROFESSIONAL SURVEYOR NO. 4094
March 17, 1992

STATE OF TEXAS
REGISTERED
ROY D. SMITH
4094
PROFESSIONAL
LAND SURVEYOR

VL 2411 PG 0771

FIELD NOTES
FOR

0.181 ACRE TRACT

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND BEING OUT OF AND A PART OF THAT CERTAIN TRACT OF LAND DESIGNATED AS THE SAND BEACH RESERVE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS CONVEYED TO THE CITY OF AUSTIN BY DEED RECORDED IN VOLUME 769, PAGE 57 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/2 inch iron pin found in the North line of the said Sand Beach Reserve, being at the Southeast corner of Lot A, Jetco Partners International Resubdivision One, a subdivision in the City of Austin, Travis County, Texas, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas;

THENCE along the North line of the said Sand Beach Reserve, S 47° 29' 30" E for a distance of 312.01 feet to a 60-D nail set for the Northwest corner and PLACE OF BEGINNING hereof;

THENCE continuing along the North line of the said Sand Beach Reserve, S 47° 29' 30" E for a distance of 31.03 feet to a 60-D nail set for the Northeast corner hereof;

THENCE along the East line of the herein described tract, for the following courses:

Along a curve to the left whose radius is 45.00 feet, whose arc is 79.95 feet and whose chord bears S 05° 06' 10" E for a distance of 69.84 feet to a hole drilled in a concrete curb

S 54° 41' 30" E for a distance of 34.96 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the right whose radius is 66.00 feet, whose arc is 101.56 feet and whose chord bears S 11° 02' 25" E for a distance of 91.83 feet to a hole drilled in a concrete curb

S 28° 39' 40" W for a distance of 14.63 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 15.00 feet, whose arc is 23.56 feet and whose chord bears S 23° 18' 15" E for a distance of 21.21 feet to a hole drilled in a concrete curb on the North side of West 1st Street for the Southeast corner hereof;

THENCE along the South line of the herein described tract, N 66° 49' 15" W for a distance of 62.06 feet to a hole drilled in a concrete curb on the North side of West 1st Street for the Southwest corner hereof;

THENCE along the West line of the herein described tract for the following courses:

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EXHIBIT "B"

FIELD NOTES
FOR

0.181 ACRE TRACT - Page Two

Along a curve to the left whose radius is 15.00 feet, whose arc is 22.05 feet and whose chord bears N 72° 13' 35" E for a distance of 20.12 feet to a hole drilled in a concrete curb

N 29° 15' 25" E for a distance of 19.39 feet to a hole drilled in a concrete curb at a point of curve

Along a curve to the left whose radius is 35.00 feet, whose arc is 55.07 feet and whose chord bears N 08° 50' 45" W for a distance of 49.56 feet to a hole drilled in a concrete curb

N 54° 31' 10" W for a distance of 35.35 feet to a 60-D nail set in asphalt at a point of curve

Along a curve to the right whose radius is 76.00 feet, whose arc is 133.26 feet and whose chord bears N 05° 46' 20" W for a distance of 116.83 feet to the PLACE OF BEGINNING and containing 0.181 acre of land, more or less.

AS SURVEYED BY:
W. HARVEY SMITH SURVEYOR, INC.

Roy Smith
ROY D. SMITH
REGISTERED PROFESSIONAL SURVEYOR NO. 4094
March 17, 1992

STATE OF TEXAS
REGISTERED
ROY D. SMITH
4094
SURVEYOR

VOL 2413 PG 079

EXHIBIT "B"

CITY OF AUSTIN, TEXAS

ORDINANCE NO. 850110-X

AN ORDINANCE RELATIVE TO PARKS AND WILDLIFE CODE, SECTION 26.001, V.A.T.C.S., AS AMENDED, PUBLIC HEARING ON CHANGE OF USE OF A PORTION OF CITY'S SAND BEACH RESERVE FROM PARK TO PUBLIC STREET PURPOSES AND EFFECTING DEDICATION OF SUCH PORTION FOR A PUBLIC STREET; ENTERING FINDINGS RELATIVE TO THE SUBJECT; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

WHEREAS, it is the finding of the City Council that the City Manager has requested that 13,391 square feet or 0.307 of one acre of land out of the City's Sand Beach Reserve, presently used for park purposes, be changed to public street use in order to provide access to the Townlake Joint Venture property which is bounded on the south by the City's Sand Beach Reserve, on the north and east by Railroad right-of-way, and on the west by Lamar Boulevard; and,

WHEREAS, upon due notices and public hearing on the question, pursuant to Parks and Wildlife Code, Sec. 26.001, V.A.T.C.S., the City Council finds that the public interest will best be served by the requested change and that the affected portion should be dedicated for public street purposes; and,

WHEREAS, the City Council finds that there are no other existing, enforceable restrictions on the said change in use of such affected portion; Now, Therefore,

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

SECTION 1. That, after requisite public hearing duly conducted by the City Council pursuant to Parks and Wildlife Code, Sec. 26.001, V.A.T.C.S., it is hereby found:

1. There is no feasible and prudent alternative to the use or taking by the City of that portion of the City's Sand Beach Reserve, described in Exhibits "A" and "B", annexed hereto and incorporated herein for all purposes by this reference, for public street purposes in order to provide access for Townlake Joint Venture;

2. The proposed project will include all reasonable planning to minimize harm to the land involved as playground or park resulting from public street uses.

3. Clearly enunciated local preferences have been fully considered; and,

4. The prior approval of the City Parks and Recreation Board of the said change in use of the said affected portion of the Sand Beach Reserve has been given.

5. The Environmental Board, Parks and Recreation Board, Planning Commission, Public Works Department and Urban Transportation Department, have reviewed and approved the Townlake Joint Venture site plan and have approved the use and dedication of the Sand Beach Reserve for roadway purposes subject to the following:

   That Townlake Joint Venture shall agree to:

   a. Pay all expense for the construction and maintenance of said street and a new parking lot upon the Sand Beach Reserve.

   b. Replace trees, shrubs, groundcover and provide new trees and landscaping according to mutual agreement with Parks and Recreation staff on Sand Beach Reserve and on adjacent tract.

   c. Remove paving from one existing parking lot and driveway.

   d. Provide $25,000 additional donation in cash or improvements to Town Lake development, to be determined by the Parks and Recreation Department.

   e. Construct and dedicate a hike and bike trail along west boundary to connect to City's trail system, location to be approved by the Parks and Recreation Department.

   f. Construct and maintain new street entrance and one public parking lot upon Sand Beach Reserve.

   g. Provide a Letter of Credit in an amount to be determined by Urban Transportation for widening West First Street if necessary, including utility relocation, paving, drainage, traffic signal relocation and revised signal head design with new controller.

h. Allow free public use of the parking garage to be constructed during non-business hours, if requested by the Parks and Recreation Department for use during special public events such as Aqua Festival, Yule Fest, etc.

i. Dedicate permanent Ingress-Egress Easement through a portion of its property to allow public access from the proposed street to the new parking lot to be constructed on Sand Beach Reserve and to connect to the hike and bike trail to be dedicated.

SECTION 2. There is hereby dedicated to public street use that portion of the City's Sand Beach Reserve as described in the above referenced Exhibits "A" and "B".

SECTION 3. WHEREAS, an emergency is apparent for the immediate preservation of order, safety and general welfare of the public, which emergency requires the suspension of the rule providing for the reading of an ordinance on three separate days, and requires that this Ordinance become effective immediately upon its passage, therefore, the rule requiring the reading on three separate days is hereby suspended and this Ordinance shall become effective immediately upon its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED §
§
§
January 10, 1985 §

Ron Mullen
Mayor

APPROVED: Paul C. Isham
Paul C. Isham
City Attorney

ATTEST: James E. Aldridge
James E. Aldridge
City Clerk

TDN:sh

Area to be Dedicated
For Street Purposes

DESCRIPTION

DESCRIPTION OF 13,391 SQUARE FEET OR 0.307 OF ONE ACRE OF LAND, SAME BEING A STRIP OF LAND SIXTY (60.00) FEET IN WIDTH, OUT OF THAT PORTION OF THE SAND BEACH RESERVE AS DESCRIBED IN A DEED TO THE CITY OF AUSTIN OF RECORD IN VOLUME 769, PAGE 57, DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.307 OF ONE ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pin set at the northeast corner of this tract, same being in the north line of said Sand Beach Reserve, same also being the south line of Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A, Plat Records of Travis County, Texas, from which point an iron pin found at the southeast corner of said Lot A bears S47°30'46"E 8.54 feet;

THENCE, with the easterly line of this tract, crossing said Sand Beach Reserve, the following five (5) courses:

1) S20°46'00"W 3.31 feet to an iron pin set at the point of curvature of a curve whose radius is 20.00 feet;
2) With said curving line to the left, an arc distance of 16.41 feet, the chord of which arc bears S02°44'00"E 15.95 feet to an iron pin set at the point of tangency of said curve;
3) S26°14'00"E 58.26 feet to an iron pin set at the point of curvature of a curve whose radius is 80.00 feet;
4) With said curving line to the right, an arc distance of 125.66 feet, the chord of which arc bears S18°45'52"W 113.13 feet to an iron pin set at the point of tangency of said curve; and
5) S63°45'45"W 30.11 feet to an iron pin set at the most southerly corner of this tract, same being in the north line of the Right Wing or north portion of West 1st Street;

THENCE, with the north line of the Right Wing or north portion of West 1st Street, N26°14'15"W 60.00 feet to an iron pin set at the most westerly corner of this tract;

THENCE, with the westerly line of this tract, crossing said Sand Beach Reserve, in a line 60.00 feet west of and parallel with the easterly line of this tract, the following five (5) courses:

1) N63°45'45"E 30.11 feet to an iron pin set at the point of curvature of a curve whose radius is 20.00 feet;
2) With said curving line to the left, an arc distance of 31.41 feet, the chord of which arc bears N18°45'52"E

EXHIBIT "A"

28.28 feet to an iron pin set at the point of tangency of said curve;

3) N26°14'00"W 58.26 feet to an iron pin set at the point of curvature of a curve whose radius is 80.00 feet;
4) With said curving line to the right, an arc distance of 65.62 feet, the chord of which arc bears N02°44'00"W 63.80 feet to an iron pin set at the point of tangency of said curve; and
5) N20°46'E 27.21 feet to an iron pin set at the northwest corner of this tract, same being in the north line of Sand Beach Reserve, same also being in the south line of said Lot A, from which point an iron pin found at an angle point in the south line of said Lot A bears N47°30'46"W 6.31 feet;

THENCE, with the north line of Sand Beach Reserve, same being the south line of said Lot A, S47°30'46"E 64.59 feet to the POINT OF BEGINNING and containing 13,391 square feet or 0.307 of one acre of land within these metes and bounds.

STATE OF TEXAS
JUDITH J. McGRAY
2033
REGISTERED PUBLIC SURVEYOR

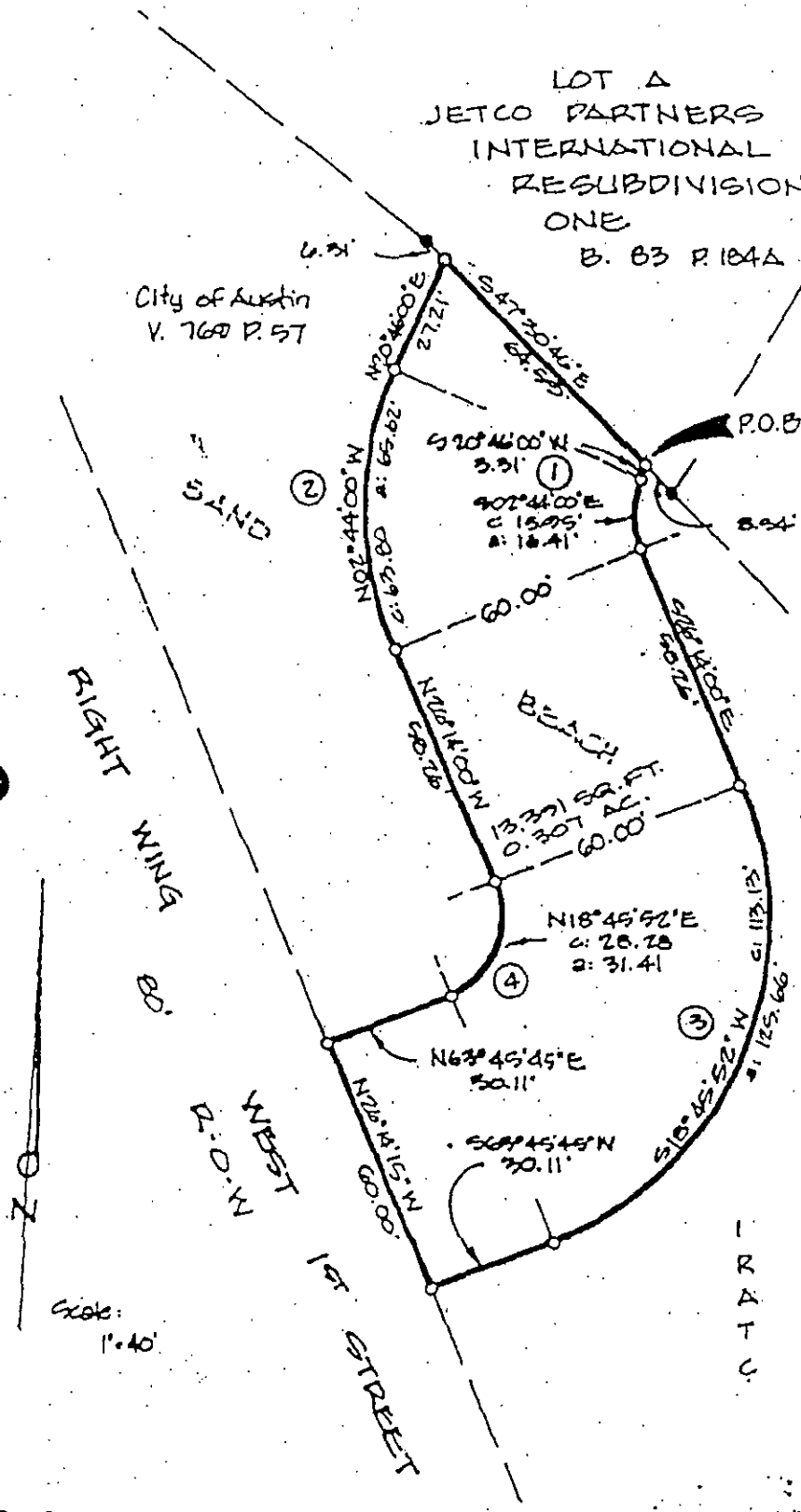
SURVEYED BY: McGRAY & McGRAY LAND SURVEYORS, INC.
3301 Hancock Drive, Suite 6
Austin, Texas 78731 451-8591

Judith J. McGray 7-27-84

Judith J. McGray, Reg. Public Surveyor No. 2093 Date

84661A

AREA TO BE DEDICATED FOR STREET PURPOSES



LEGEND:
- ● IRON PIN FOUND
- o IRON PIN SET

International and
Great Northern R.R.
V. 47 P. 419

SKETCH TO ACCOMPANY DESCRIPTION
60' ROADWAY ACROSS
SAND BEACH RESERVE
CONTAINING
13,391 SQ. FT. OR 0.307 AC.
AUSTIN, TRAVIS CO., TEX.

RESERVE

City of Austin
V. 769 P. 57

CURVE DATA

	1	2	3
I	47°00'00"	47°00'00"	89°59'45"
R	20.00'	80.00'	80.00'
A	16.41'	65.62'	125.66'
T	8.70'	34.79'	79.99'
C	15.95'	63.80'	113.13'

	4
I	89°59'45"
R	20.00'
A	31.41'
T	20.00'
C	28.28'

Surveyed By:
McGRAY & McGRAY LAND SURVEYORS, INC.
3301 Hancock Dr. #6 Austin, Tx 78731

Judith J. McGray 1-21-84
Judith J. McGray R.P.S. 2033 Date

EXHIBIT "C"
2001-01-1026

TRV 2002000252
5 pgs

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

SPECIAL WARRANTY DEED

LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation ("**Grantor**"), whose address is 1300 S. Mopac Expressway, Austin, Texas 78746, for good and valuable consideration, the receipt of which is hereby acknowledged, GRANTS AND CONVEYS to the CITY OF AUSTIN, a home rule city and municipal corporation ("**Grantee**"), whose address is P. O. Box 1088, Austin, Texas 78767, that certain tract or parcel of real property located in the City of Austin, Travis County, Texas, described by metes and bounds in the attached Exhibit "A" (the "**Property**"); provided, however, this conveyance is made subject to all easements, exceptions, covenants, conditions, restrictions, reservations, and rights appearing of record, and subject to the access and utility easements, and public purposes restriction provided for in this Deed.

TO HAVE AND TO HOLD the Property described herein, together with all the rights and appurtenances lawfully accompanying it, by Grantee and Grantee's successors and assigns forever. Grantor binds itself and its successors and assigns to WARRANT AND FOREVER DEFEND the Property against every person lawfully claiming or to claim all or any part of the Property by, through, or under Grantor, but not otherwise.

Grantor reserves for itself and its successors and assigns an access easement (the "**Access Easement**") across the Property for the purpose of providing ingress and egress to and from the tract of land owned by Grantor adjacent to the north boundary line of the Property (the "**LIC Property**"). The Access Easement shall be located and configured in such a manner as to permit two-lane vehicular access from the easements dedicated by implication across the Sand Beach Reserve in Cause No. 472,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP. Grantor and its successors and assigns shall be responsible for constructing, maintaining and repairing any driveway that may be located within the Access Easement. The Access Easement shall terminate whenever Grantor's rights with respect to the foregoing easements dedicated by implication across the Sand Beach Reserve are terminated by Grantee providing Grantor mutually acceptable access from Sandra Muraida Way to the LIC Property, in accordance with the terms and conditions of the Settlement Agreement dated January 8, 2001 relating to the lawsuit between the City of Austin and Lumbermen's Investment Corporation, Cause No. 99-13013 in the 126th Judicial District Court of Travis County, Texas, in which event Grantor and Grantee agree to execute a recordable document evidencing the termination of the Access Easement.

Grantor also reserves for itself and its successors and assigns two (2) easements for the construction, operation, maintenance, replacement, upgrade, and repair of water, wastewater and storm sewer lines over and across the Property in order to connect the LIC Property to the water, wastewater and storm sewer facilities now or hereafter located to the south of the Property (the "**Utility Easements**"). Each of the Utility Easements shall not be more than twenty feet (20') in

UNOFFICIAL DOCUMENT

width. When such water, wastewater and storm sewer lines are installed, Grantor and Grantee agree to execute mutually acceptable easement agreements describing the location of the Utility Easements.

Grantee covenants and agrees, on behalf of itself and its successors and assigns, to maintain the Property in a good and clean condition, and not to use or allow the Property to be used in a manner that would be a nuisance or detrimental to the LIC Property.

The conveyance of the Property by Grantor to Grantee is subject to the covenant, condition and restriction that the Property shall only be used for public purposes, including, but not limited to public parks, plazas, gardens, streets, driveways, rights-of-way, utility easements, sidewalks, trails, public parking and other uses and purposes beneficial and available to the general public. If the Property ceases to be used for such public purposes, Grantor and its successors and assigns shall have the right to enforce such restriction, including the right to injunctive relief. To insure the enforcement of such restriction for the benefit of the public, Grantor and Grantee hereby assign to the State of Texas the authority, at its option, to enforce the restriction on the public use of the Property if (i) Grantor and its successors and assigns fail to take reasonable steps to commence such enforcement action as may appropriate under the circumstances within sixty (60) days after receiving written notice from the State of Texas of its intention to exercise such enforcement authority, or (ii) Grantor and its successors and assigns thereafter fail to diligently pursue such enforcement action.

EXECUTED by Grantor and Grantee on the dates of their respective acknowledgements, to be effective as of the 31st day of December, 2001

GRANTOR:

LUMBERMEN'S INVESTMENT CORPORATION,
a Delaware corporation

By: _____
Craig A. Knight
President

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on August 28, 2001, by Craig A. Knight, President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of said corporation.

FERN WESTHEAD NOTARY PUBLIC STATE OF TEXAS EXPIRES 11-07-2003

_____
Notary Public, State of Texas

My Commission Expires: 11/7/03

UNOFFICIAL DOCUMENT

GRANTEE:

CITY OF AUSTIN
a Texas home rule and municipal corporation

By: _____
Jesus Garza,
City Manager

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on August 31st, 2001, by Jesus Garza, City Manager of the CITY OF AUSTIN, a Texas home rule city and municipal corporation, on behalf of said city

SANDRA HAMIREZ
Notary Public, State of Texas
My Commission Expires 04-16-02

_____
Notary Public, State of Texas

My Commission Expires 04-16-02

After recording return to:

Texas American Title Company
811 Barton Springs Rd. #111
Austin, TX 78704
512/479-7887

31514 00001 AUSTIN 222559 9

Unofficial Document

EXHIBIT "A"

TO THE SPECIAL WARRANTY DEED

DESCRIPTION

OF 0.609 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.609 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the southeasterly corner hereof;

THENCE, N49°56'23"W, along the southerly line of said 3.19 acre tract, being the southerly line hereof, a distance of 363.61 feet to the westernmost corner hereof, from which a 1/2 inch iron rod found at the southwesterly corner of said 3.19 acre tract, being the southeasterly corner of that certain 1.94 acre tract being Lot A Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, bears N49°56'23"W, a distance of 62.77 feet;

THENCE, leaving the southerly line of said 3.19 acre tract, over and across said 3.19 acre tract, being the northerly line hereof, the following two (2) courses and distances:

1) S74°57'47"E, a distance of 321.98 feet to an angle point;

2) N20°22'13"E, a distance of 45.27 feet to a point in the curving easterly line of said 3.19 acre tract, being the curving westerly line of said Missouri Pacific Railroad Right-of-Way and the point of curvature of a non-tangent curve to the right, same being the northeasterly corner hereof;

THENCE, along said curving easterly line of said 3.19 acre tract, being the curving westerly line of said Missouri Pacific Railroad Right-of-Way, having a radius of 520.00 feet, a central angle of 22°03'07", an arc length of 200.14 feet and a chord which bears S14°05'22"W, a distance of 198.90 feet to the **POINT OF BEGINNING**, containing an area of 0.609 acres (26,528 sq. ft.) of land, more or less, within these metes and bounds.

Unofficial Document

Unofficial Document

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

01-02-2002 01 18 PM 2002000252
JUAREZY $17 00
DANA DEBEAUVOIR , COUNTY CLERK
TRAVIS COUNTY, TEXAS

EXHIBIT L-2

QUITCLAIM DEED

STATE OF TEXAS

COUNTY OF TRAVIS

Pursuant to Section 4.02, Bowie Street Right of Way Exchange, of the Master Agreement between LG Park Plaza Limited Partnership, a Texas limited partnership, and LG Park Plaza Limited Partnership, a Texas limited partnership (hereinafter collectively referred to as "Gables"), and the City of Austin, a Texas home rule city (the "City"), and subject to the requirements of Section 272.001 of the Texas Local Government Code, the City hereby exchanges, abandons, releases and quitclaims its interest, if any, in the portion of the Bowie Street Right-of-Way located to the south of the northern property line of the tract of real property described in attached **Exhibit "A"** to Gables in consideration of Gables' agreement to exchange, abandon, and release and quitclaim its interests in the public streets dedicated by (i) implication, as determined in a lawsuit between the State of Texas, the City and the Missouri Pacific Railway Company, Cause No. 477,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP (ii) by ordinance as set forth in Ordinance No. 85-0110-X, and (iii) the private right-of-access easements in the deed to the 0.609 acre parcel described in that certain Special Warranty Deed of record at Document No. 2002000252 of the Official Public Records of Travis County, Texas.

In addition, this Quitclaim Deed is subject to the following conditions:

(1) Easements will be retained for the Thirty Inch Sewer Main located in and under the Property, a public utility easement, a portion of the Pedestrian Path and Bicycle Path Easement, and to the extent applicable, a storm sewer inlet and storm sewer line easement to provide drainage from the area of the adjacent Bowie Street Pedestrian Underpass and associated drainage area.

(2) Subject to the site planning process for the development of the Property, the locations of the easements will be further defined by metes and bounds surveys and re-recorded in separate documents.

Approved as to Form:

Gordon R. Bowman
Assistant City Attorney

CITY OF AUSTIN

By: _____

Lauraine Rizer, Manager
Real Estate Services Division
Public Works Department

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2006, by Lauraine Rizer, Manager of Real Estate Services Division, Public Works Department of the City of Austin, on behalf of the City of Austin.

_____
Notary Public, State of Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Exhibit "A"
Page 1 of 3

EXHIBIT "A"

CITY OF AUSTIN
TO GABLES RESIDENTIAL TRUST
(PARTIAL VACATION OF BOWIE STREET)

0.062 ACRE
GABLES RESIDENTIAL TRUST
MUSEUM PARK PLAZA

FN 05-095(MAZ)
FEBRUARY 5, 2005
BPI JOB NO. 659-23

DESCRIPTION

OF 0.062 ACRE OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF BOWIE STREET RIGHT-OF-WAY (80' WIDE) DEDCIATED TO THE PUBLIC BY THE PLAT OF RAMOND PLATEAU, A SUBDIVISION OF OULOT 11, DIVISION Z OF THE GOVERNMENT OUTLOTS ADJOINING THE ORIGINAL CITY OF AUSTIN, OF RECORD IN VOLUME 1, PAGE 30, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND ALSO BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT DESCRIBED IN THE DEED TO LUMBERMAN'S INVESTMENT CORPORATION, OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF SAID COUNTY; SAID 0.062 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 3/4 inch iron pipe with cap stamped "City of Austin LAI RPLS 4878" found in the easterly right-of-way line of said Bowie Street and being in the easterly line of said 3.19 acre tract, for the northwesterly most corner of that certain 0.807 acre "Tract 2" described in the deed to the City of Austin executed November 24, 2003 and recorded in Document No. 2003282535 of the Official Public Records of Travis County, Texas, same being the easterly corner hereof, from which a PK nail found in concrete in the easterly line of said 3.19 acre tract and for the northeasterly corner of that certain 0.609 acre tract described in the deed to the City of Austin, of record in Document No. 2002000252, of said Official Public Records bears with a arc of a curve to the right, having a radius of 520.085 feet, a central angle of 33°40'45", an arc length of 305.71 feet and a chord which bears S13°46'43"E, a distance of 301.33 feet and also from which a 3/4 inch iron pipe with cap stamped "City of Austin LAI RPLS 4878" found for the northerly most corner of said 0.807 acre tract bears N22°42'07"E, a distance of 70.60 feet;

THENCE, leaving said 0.807 acre tract over and across said 3.19 acre tract the following three (3) courses and distances:

1) S22°42'07"W, along the easterly right-of-way line of Bowie Street, a distance of 18.87 feet to a calculated point in the approximate southerly line of said Raymond Plateau, for the southerly corner hereof;

2) N51°15'54"W, leaving the easterly right-of-way line of Bowie Street, along the approximated southerly line of said Raymond Plateau, same being the approximated southerly margin of Bowie Street right-of-way and the southwesterly line hereof,

Exhibit "A"
Page 2 of 3

a distance of 83.27 feet to a calculated point in the westerly right-of-way line of Bowie Street;

3) N22°42'07"E, leaving the southerly line of said Raymond Plateau along the westerly right-of-way line of Bowie Street, same being the northwesterly line hereof, a distance of 44.92 feet to a 3/4 inch iron pipe with cap stamped "City of Austin LAI RPLS 4878" found for the southerly most corner of that certain 0.207 acre-"Tract 3" described in said Document No. 2003282535 and being in the easterly line of said 3.19 acre tract, from which a 1/2 inch iron rod found for an angle point in the southwesterly line of said 0.807 acre tract and being the northerly most corner of said 3.19 acre tract bears with the arc of a curve to the left having a having a radius of 520.085 feet, a central angle of 13°45'27", an arc length of 124.88 feet and a chord which bears N47°51'25"W, a distance of 124.58 feet;

THENCE, leaving said 0.207 acre tract over and across said Bowie Street right-of-way along the easterly line of said 3.19 acre tract, being the northeasterly line hereof, along a non-tangent curve to the right having a radius of 520.085 feet, a central angle of 10°21'17", an arc length of 93.99 feet and a chord which bears S35°47'56"E, a distance of 93.86 feet to the **POINT OF BEGINNING**, containing an area of 0.062 acre (2,685 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A SURVEY SKETCH WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

2/5/05

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI DATE
NO. 4998
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
4998
PROFESSIONAL
LAND SURVEYOR

REFERENCES

TCAD MAP 01-0700
AUSTIN GRID H-22

FIELD NOTES REVIEWED
By JOHN MOORE Date 12-13-2005
Engineering Support Section
Department of Public Works
and Transportation

Exhibit "A"

Page 3 of 3

RAYMOND PLATEAU, VOL 1, PG 30
OUTLOT 11, DIVISION Z
TRAVIS COUNTY, TEXAS

BEARING BASIS OF THIS SURVEY IS THE TEXAS COORDINATE SYSTEM, NAD 83, CENTRAL ZONE REFERENCED TO CITY OF AUSTIN MONUMENTS NO. H-22-3001 AND NO. H-22-2001.

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
4998
PROFESSIONAL
LAND SURVEYOR

LINE TABLE

No.	Bearing	Distance
L1	S22°42'07"W	18.87'
L2	N51°15'54"W	83.27'
L3	N22°42'07"E	44.92'
L4	N22°42'07"E	70.60'
L5	N22°42'07"E	56.35'

CURVE TABLE

No.	Delta	Radius	Arc Length	Chord Length	Chord Bearing
C1	10°21'17"	520.085	93.99	93.86	S35°47'56"E
C2	59°51'40"	503.07	525.60	502.01	S08°53'43"E
(C2)	———	503.07	525.68	502.09	S08°54'01"E
C3	33°40'45"	520.085	305.71	301.33	S13°46'43"E
(C3)	———	520.085	305.70	———	———
C4	13°45'27"	520.085	124.88	124.58	N47°51'25"W
(C4)	———	520.085	124.96	124.66	N47°51'38"W
C5	10°44'03"	503.07	94.25	94.11	N54°08'41"W
(C5)	———	503.07	94.23	94.10	S54°08'58"E

LEGEND

- ● 1/2" IRON ROD FOUND
- ⊙ IRON PIPE FOUND WITH CAP STAMPED "CITY OF AUSTIN-LAI RPLS 4878"
- ▲ PK NAIL FOUND
- △ CALCULATED POINT
- (XXX) RECORD INFORMATION
- P.O.B. POINT OF BEGINNING

Bury+Partners
ENGINEERING SOLUTIONS
3345 Bee Caves Road, Suite 200
Austin, Texas 78746
Tel. (512)328-0011 Fax (512)328-0325

Bury+Partners, Inc. ©Copyright 2005

SKETCH TO ACCOMPANY DESCRIPTION

OF A 0.062 ACRE TRACT OF LAND BEING A PORTION OF BOWIE STREET RIGHT-OF-WAY DEDICATED TO THE PUBLIC BY RAYMOND PLATEAU SUBDIVISION OF RECORD IN VOL 1, PG 30, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, ALSO BEING SITUATED WITHIN THAT CERTAIN 3.19 ACRE TRACT DESCRIBED IN THE DEED TO LUMBERMAN'S INVESTMENT CORPORATION, OF RECORD IN VOL 12038, PG 535 OF THE REAL PROPERTY RECORDS.

MUSEUM PARK PLAZA

GABLES RESIDENTIAL TRUST

DATE: 02/05/05	FILE: H:\659\23\65923EX2.dwg	FN No.: 05-095(MAZ)	DRAWN BY: MAZ	PROJ. No: 659-23

EXHIBIT L-3

MAPSCO Page _____
Grid _____

WASTEWATER LINE EASEMENT

THE STATE OF TEXAS)
) KNOW ALL BY THESE PRESENTS:
COUNTY OF TRAVIS)

THAT LG PARK PLAZA LIMITED PARTNERSHIP, a Texas limited partnership, and LG PARK PLAZA LIMITED PARTNERSHIP, a Texas limited partnership, hereinafter collectively referred to as "Grantor," whether one or more, for and in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration, to Grantor in hand paid by the CITY OF AUSTIN, TEXAS, the receipt and sufficiency of which is hereby acknowledged and confessed and for which no lien, express or implied, is retained, have this day GRANTED, SOLD, AND CONVEYED unto the CITY OF AUSTIN, a municipal corporation, situated in the Counties of Travis, Williamson and Hays, State of Texas, and whose address is P.O. Box 1088, Austin, Texas 78767-8839, ATTN: Director, Austin Water Utility, its successors and assigns (hereinafter "Grantee"), an easement for the construction, operation, maintenance, repair, replacement, upgrade, decommissioning and removal of a wastewater line and associated appurtenances and making connections therewith in, upon and across the following described land, to wit:

> All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in **EXHIBIT A** attached hereto and made a part hereof for all purposes, to which reference is hereby made for a more particular description of said property (the "Easement Tract").

TO HAVE AND TO HOLD the same perpetually to the City of Austin and its successors and assigns together with the right and privilege at any and all times to enter the Easement Tract, or any part thereof, for the purpose of construction, operation, maintenance, repair, replacement, upgrade, decommissioning and removal of wastewater lines and associated appurtenances and making connections therewith provided, however, that Grantor reserves the right to enter upon and use the Easement Tract but in no event shall Grantor (i) use the Easement Tract in any manner that interferes in any material way or is inconsistent with the rights granted hereunder, or (ii) erect or permit to be erected a building, structure or irrigation systems on any portion of the Easement Tract. Notwithstanding the prohibitions in the preceding sentence, Grantor specifically reserves to itself, its successors and assigns, the right to place, construct, repair and maintain driveways, surface parking areas, sidewalks and landscaping (collectively, the "surface improvements") on and in the Easement Tract, which right to place and construct the surface improvements is subject to the following: (i) Grantee's review and approval of the installation or construction plans for the surface improvements, such approval not to be unreasonably denied or delayed, and (ii) the condition that no trees will be installed in the Easement Tract as a part of the otherwise permitted landscaping. Grantee shall be obligated to restore the surface of the easement at Grantee's sole cost and expense, including the restoration of any sidewalks, driveways or similar surface improvements located upon or adjacent to the Easement Tract which have been removed, relocated, altered, damaged or destroyed as a result of Grantee's use of the Easement granted hereunder provided, however, that Grantee shall not be obligated to restore or replace irrigation systems or other improvements installed in violation of the provisions of this Easement. In addition, in accordance with the written, published requirements of the City Code and City rules and regulations and at the sole cost

of the Grantor, Grantor may relocate the sewer line and this easement will be modified, amended, or replaced to acknowledge the new Easement Tract.

Grantor does hereby covenant and agree to WARRANT AND FOREVER DEFEND title to the Easement herein granted unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the matters set forth herein, when the claim is by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this ____ day of _____ 2006.

GRANTOR:

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

CONSENT OF LIENHOLDER

THE UNDERSIGNED, being the holder of a _____ lien dated _____, 20__, recorded at Volume _____, Page _____, Real Property Records of _____ County, Texas, securing the payment of an obligation in the amount of $_____, hereby consents to the foregoing Wastewater Line Easement and agrees that its _____ lien is subject to and subordinate to the Wastewater Line Easement, and that the undersigned has authority to execute and deliver this Consent of Lien holder, and that all necessary acts necessary to bind the Lien holder have been taken.

NAME OF LIENHOLDER:

_____

By: _____

Name: _____

Title: _____

Date: _____

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, .

Seal

_____

Notary Public, State of Texas

_____

Printed/Typed Name of Notary

My Commission Expires: _____

AFFIDAVIT AS TO DEBTS AND LIENS

BEFORE ME, the undersigned authority personally appeared _____ (name of Affiant) known to me to be the person whose name is subscribed to this Affidavit, acting in the capacity of _____ for _____, a _____ duly authorized to do business in the State of Texas, owner of the property that is the subject of the foregoing instrument (the "Property"), who being duly sworn, on oath, deposed and stated the following:

1. My name is _____. I am above the age of 18 years, of sound mind, have never been convicted of a felony or crime of moral turpitude, and am fully qualified to make this Affidavit.

2. I am authorized to make this Affidavit in the capacity of _____ (title), for _____ authorized to do business in the State of Texas, owner of the Property that is described in the foregoing instrument ("Owner").

3. I have personal knowledge of the facts contained herein as an officer of_____ and I have recently reviewed the corporation's records concerning the Property. On the basis of my personal knowledge, after diligent inquiry, I hereby attest that, as of the date of this Affidavit:

(a) All labor, services and materials provided to the Property for improvements, fixtures, and furnishings, or otherwise, at the instance and request of the Owner, have been paid in full and no liens have been filed or exist with respect to the Property;

(b) There are no actions, proceedings, judgments, bankruptcies, liens or executions filed or pending against the Owner that would affect the Property; and

(c) As of the date of this Affidavit, _____ is not a debtor in bankruptcy.

SIGNED, this _____ day of _____, .

AFFIANT:

_____

Signature

_____

Printed/Typed Name of Affiant

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

On the _____ day of _____, , before me _____ (name of notary), Notary Public, personally appeared _____ (name of Affiant), _____ (title) of _____, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

_____
Notary Public, State of Texas

My Commission Expires: _____

Accepted by _____
Project # _____
RETURN TO:
David Rinn, Engineering Associate
Alfredo Torres, Engineering Associate
Austin Water Utility
P.O. Box 1088
Austin, Texas 78767-1088

EXHIBIT "A"

LG LAMAR LIMITED PARTNERSHIP
TO CITY OF AUSTIN
(WASTEWATER EASEMENT)

6,124 SQUARE FEET
GABLES RESIDENTIAL TRUST
PARK PLAZA

FN 06-048(MAZ)
FEBRUARY 01, 2006
BPI JOB NO. 659-23

DESCRIPTION

OF 6,124 SQUARE FEET OF LAND OUT OF OUTLOT 11, DIVISION Z, OF THE GOVERNMENT OUTLOTS ADJOINING THE ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS SHOWN ON THE MAP OF THE OUTLOTS ON FILE AT THE TEXAS GENERAL LAND OFFICE; BEING A PORTION OF THAT CERTAIN 2.582 ACRE TRACT DESCRIBED IN THE DEED TO LG LAMAR PARTNERSHIP, OF RECORD IN DOCUMENT NO. 2006004117, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 6,124 SQUARE FEET BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a 3/4 inch iron pipe with cap stamped "City of Austin LAI RPLS 4878" found in the easterly line of Bowie Street, an 80' right-of-way dedicated to the public by the plat of Raymond Plateau, a subdivision of said Outlot 11, Division Z, of record in Volume 1, page 30, of the Plat Records of Travis County, Texas and being in the northeasterly line of said 2.582 acre tract, for the northwesterly most corner of that certain 0.807 acre "Tract 2" described in the deed to the City of Austin of record in Document No. 2003282535, of said Official Public Records, from which a PK nail found in concrete in the easterly line of said 2.582 acre tract and for the northeasterly corner of that certain 0.609 acre tract described in the deed to the City of Austin, of record in Document No. 2002000252, of said Official Public Records bears with a arc of a curve to the right, having a radius of 520.00 feet, a central angle of 33°41'04", an arc length of 305.71 feet and a chord which bears S13°46'43"E, a distance of 301.33 feet and also from which a 3/4 inch iron pipe with cap stamped "City of Austin LAI RPLS 4878" found for the northerly most corner of said 0.807 acre tract bears N22°42'07"E, a distance of 70.60 feet;

THENCE, leaving said 0.807 acre tract, over and across said 2.582 acre tract along said Bowie Street right-of-way line, the following two(2) courses and distances:

1) S22°42'07"W, a distance of 18.87 feet to a calculated point in the apparent southerly line of said Raymond Plateau, for the southeasterly corner of said Bowie Street right-of-way;

2) N51°15'54"W, along the apparent southerly line of said Raymond Plateau, a distance of 21.51 feet to a calculated point for the **POINT OF BEGINNING** and the northeasterly corner hereof;

THENCE, S23°02'24"W, leaving the southerly line of said Raymond Plateau and said Bowie Street right-of-way, continuing over and across said 2.582 acre tract along the easterly line hereof, a distance of 301.97 feet to a calculated point for the southeasterly corner hereof, being in the northerly line of said 0.609 acre tract, from which a 1/2 inch iron rod found for an angle point in the common line of said 0.609 acre tract and said 2.582 acre tract bears S74°57'47"E, a distance of 205.29 feet;

THENCE, N74°57'47"W, along the common line of said 0.609 acre tract and said 2.582 acre tract, for the southerly line hereof, a distance of 20.20 feet to a calculated point for the southwesterly corner hereof, from which a 1/2 inch iron rod found for the common westerly corner of said 0.609 acre tract and said 2.582 acre tract bears N74°57'47"W, a distance of 96.50 feet;

THENCE, N23°02'24"E, leaving said 0.609 acre tract, over and across said 2.582 acre tract along the westerly line hereof, a distance of 310.40 feet to a calculated point for the northwesterly corner hereof, being in the southerly line of said Raymond Plateau and said Bowie Street right-of-way line, from which the calculated southwesterly corner of said right-of-way bears N51°15'54"W, a distance of 40.99 feet;

THENCE, S51°15'54"E, continuing over and across said 2.582 acre tract along the southerly line of said Raymond Plateau and said Bowie Street right-of-way line, for the northerly line hereof, a distance of 20.77 feet to the **POINT OF BEGINNING,** containing an area of 6,124 square feet of land, more or less, within these metes and bounds.

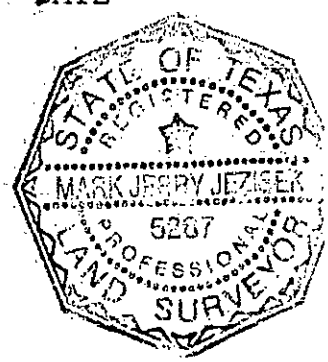
BEARING BASIS OF THIS SURVEY IS THE TEXAS COORDINATE SYSTEM, NAD 83, CENTRAL ZONE REFERENCED TO CITY OF AUSTIN MONUMENTS NO. H-22-3001 AND NO. H-22-2001.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A SURVEY EXHIBIT WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERING SOLUTIONS
3345 BEE CAVE ROAD, SUITE 200
AUSTIN, TEXAS 78746

2/1/06

MARK J. JEZISEK DATE
NO. 5267
STATE OF TEXAS



REFERENCES

TCAD MAP 01-0700
AUSTIN GRID H-22

(1) CITY OF AUSTIN
TRACT 2 – 0.807 AC.
DOC. NO. 2003282535

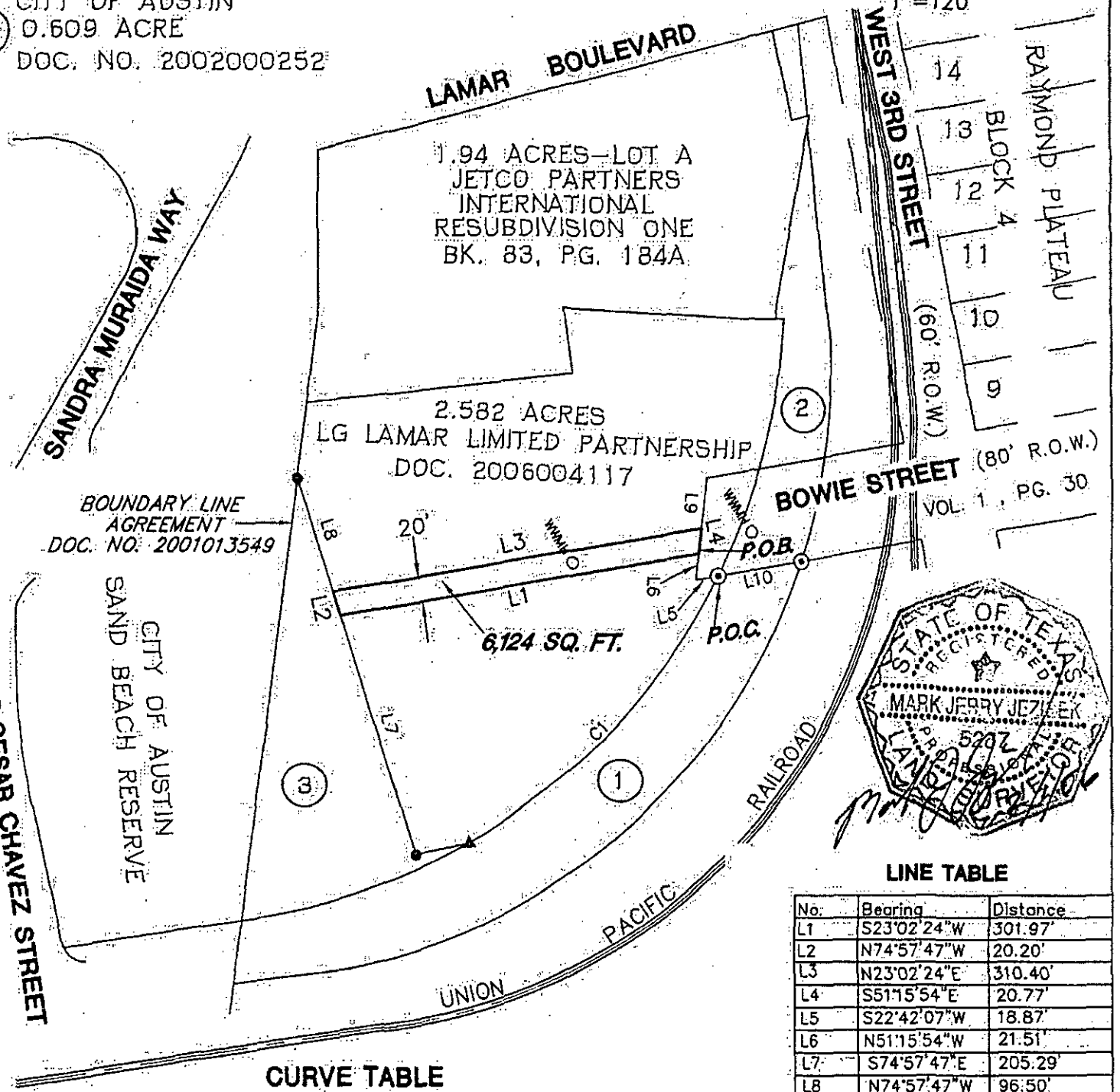
(2) CITY OF AUSTIN
TRACT 3 – 0.207 AC.
DOC. NO. 2003282535

(3) CITY OF AUSTIN
0.609 ACRE
DOC. NO. 2002000252

LEGEND

- ● 1/2" IRON ROD FOUND
- ▲ PK NAIL FOUND
- ⊙ IRON PIPE FOUND WITH CAP STAMPED "CITY OF AUSTIN–LAI RPLS 4878"
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- WWMH WASTEWATER MANHOLE

0 60 120 240
1"=120'



STATE OF TEXAS
REGISTERED
MARK JERRY JEZIERSKI
5207
PROFESSIONAL
LAND SURVEYOR

LINE TABLE

No.	Bearing	Distance
L1	S23°02'24"W	301.97'
L2	N74°57'47"W	20.20'
L3	N23°02'24"E	310.40'
L4	S51°15'54"E	20.77'
L5	S22°42'07"W	18.87'
L6	N51°15'54"W	21.51'
L7	S74°57'47"E	205.29'
L8	N74°57'47"W	96.50'
L9	N51°15'54"W	40.99'
L10	N22°42'07"E	70.60'

CURVE TABLE

No.	Delta	Radius	Arc Length	Chord Length	Chord Bearing
C1	33°41'04"	520.00	305.71	301.33	S13°46'43"E

Bury+Partners
ENGINEERING SOLUTIONS
3345 Bee Caves Road, Suite 200
Austin, Texas 78746
Tel. (512)328-0011 Fax (512)328-0325
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SKETCH TO ACCOMPANY DESCRIPTION OF
OF A 6,124 SQUARE FOOT TRACT OF LAND BEING A PORTION OF THAT CERTAIN 2.582 ACRE TRACT OF RECORD IN DOC. NO. 2006004117 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

GABLES RESIDENTIAL TRUST

PARK PLAZA

DATE: 02/01/06	FILE: H:\659\23\65923ex17.dwg	FN No.: 06-048(MAZ)	DRAWN BY: MAZ	PROJ. No: 659-23

EXHIBIT " M "

Improvements (Total Estimated Cost)	% of Eligible Project Costs Subject to Reimbursement	COA Maximum Funding by Improvement	Funding Source
ROW ($ 1,884,181)		$1,397,377	1/4 Cent
Overall Roadway Soft Costs	75.00%		
Cesar Chavez	77.20%		
Seaholm Dr. (Rdway E)	77.20%		
Town Lake Dr. (E. arm) - (Rdway C + D)	67.10%		
Sandra Muraida Dr. (Rdway A + B)	79.60%		
Public Park ($275,000 + perpetual maintenance)	0.00%	$0	NA
Bio-Filtration Meadow ($721,462 + perpetual maintenance)	45.00%	$324,658	1/4 cent, Watershed Fund ($67k)**
** Funding based on meeting WPDR criteria			
Relocate 30" Line ($610,632)	0.00%	$0	NA
Traffic Signals ($207,625)		$179,038	Transportation Fund/ 1/4 cent fund
Sandra Muraida	*		
Seaholm	*		
Pfluger Bridge Pole	*		
Interconnect	*		
* Gables will pay their pro rata share of the traffic signal projects which is estimated to be $28,587			
Offsite Paving/Drainage Fees ($164,475)	75.00%	$122,606	1/4 Cent
Construction inspection			
Landscape			
Permit			
Other Fees ($194,796)	0.00%	$0	NA
Pedestrian Path & Bike Path ($ 20,000)	0.00%	$0	NA
Total COA Funds		$2,023,679	
Transportation Fund		$89,519	
Watershed Fund		$67,000	
Total 1/4 Cent Funds		$1,867,160	

EXHIBIT 'N'

GABLES PARK PLAZA
MASTER LICENSE AGREEMENT

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS THAT:**
COUNTY OF TRAVIS §

This GABLES PARK PLAZA MASTER LICENSE AGREEMENT (the "Agreement") is executed effective as of the _____ day of _____, 200_ by LG PARK PLAZA LIMITED PARTNERSHIP, a Texas limited partnership, and LG LAMAR LIMITED PARTNERSHIP, a Texas limited partnership (hereinafter collectively referred to as "Gables") and the CITY OF AUSTIN, a Texas home-rule municipal corporation (the "City"), acting through its duly authorized agent the City Manager or designee, who for purposes of this Agreement is the Manager of Real Estate Services Division of the Department of Public Works (the "Property Manager").

RECITALS

WHEREAS, Gables has purchased from Lumbermen's Investment Corporation ("Lumbermen's) those two tracts of land comprising approximately 4.524 acres, located on the eastern side of Lamar Boulevard between the Union Pacific Railroad and adjoining City real property, as more particularly described in **Exhibit "A"** (the "Property").

WHEREAS, Gables currently intends to develop a mixed-use project on the Property that may include, but not necessarily be limited to, residential, retail, office, and non-commercial uses, (the "Project").

WHEREAS, Gables and the City currently intend to construct certain public improvements in the vicinity of the Project, as generally depicted on **Exhibits "B-1" through "B-8"** (the "Improvements").

WHEREAS, Gables and the City have entered into a Master Agreement and individual Community Facilities Cost Reimbursement Agreements with respect to the design and construction of certain of the Improvements.

WHEREAS, pursuant to the Master Agreement and Community Facilities and Cost Reimbursement Agreements, Gables will design and construct certain items of City infrastructure, including the following Improvements: (i) a Bio-Filtration Meadow and related facilities on the tract of land described in the attached Exhibit "B-5" (the "Bio-Filtration Meadow"), (ii) parkland and accessory improvements on the tracts of land described in the attached Exhibit "B-7" ("Park"); (iii) pedestrian path and bike path improvements on City

easement on the tract of land described on the attached Exhibit "B-8" ("Pedestrian Path and Bike Path") and (iv) public street improvements, including street construction, traffic improvements and, in coordination with the City, traffic signal installation on the tracts of land described in the attached Exhibits "B-6" (the "Right-of-Way").

WHEREAS, Gables and the City wish to enter into this Agreement for the purpose of granting permission to Gables to construct the Improvements and to maintain certain Improvements within the tracts of land described as the Bio-Filtration Meadow, Park, Pedestrian Path and Bike Path and Right-of-Way.

NOW THEREFORE, in consideration of the mutual covenants and conditions of this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Gables and the City hereby agree as follows:

1. Grant of License. In addition to rights available to the general public, the City grants to Gables and to the successors and assigns of all or any portion of Gables' interests, the right to use the applicable portions of the Bio-Filtration Meadow, Park, Pedestrian Path and Bike Path and Right-of-Way, collectively referred to herein as the "Licensed Property", for the following described purposes:

a. Right-of-Way. Pursuant to Section 3.06 of the Master Agreement, Gables and their respective contractors, subcontractors, agents and representatives shall have the right to perform construction activities that may be required for the initial construction of the public streets, including but not limited to street construction, street reconstruction and improvement, utility adjustment, installation of water and wastewater lines, traffic safety improvements, traffic signal improvements in coordination with the City, street light, and associated storm water drainage, sidewalk, streetscape and landscaping improvements, as described in the Master Agreement to be constructed by Gables (the Right-of-Way Improvements") within the Right-of-Way pursuant and subject to the terms and conditions of the Community Facilities and Cost Reimbursement Agreements for the Right-of-Way Improvements (the design and construction of which shall be approved by the applicable City departments, such approval not to be unreasonably withheld or delayed), as more particularly described in the attached **Exhibit "C"** and collectively referred to as the "Right-of-Way Improvements."

b. Park Improvements. Pursuant to Section 3.07 of the Master Agreement, Gables and its contractors, agents and representatives shall have the right to construct, install, replace and upgrade landscaping, retaining walls, benches, trash receptacles, landscape irrigation systems, sidewalks, trails, ramps, steps, and other improvement items (the design and construction of which shall be approved by the applicable City departments, such approval not to be unreasonably withheld or delayed), as more particularly described in the attached **Exhibit "D"** and collectively referred to as the "Park Improvements."

c. Bio-Filtration Meadow Improvements. Pursuant to Section 3.05 of the Master Agreement, Gables and its contractors, subcontractors, agents and representatives shall have the right to construct, install, replace and upgrade the retaining walls, storm water bio-filtration systems, landscaping and other improvement items (the design and construction of which shall be approved by the applicable City departments, such approval not to be unreasonably withheld or delayed), as more particularly described in the attached **Exhibit "E"** and collectively referred to as the "Bio-Filtration Meadow Improvements."

d. Pedestrian Path and Bike Path Improvements. Pursuant to Section 3.08 of the Master Agreement, Gables and its contractors, agents and representatives shall have the right to construct, install, replace and upgrade the pedestrian path and bike path, signage, and associated improvement items in the City's Pedestrian Path and Bike Path easement, including the associated storm water inlet and line, which will provide drainage from the area of the Bowie Street Pedestrian Underpass (the design and construction of which shall be approved by the applicable City departments, such approval not to be unreasonably withheld or delayed), as more particularly described in the attached **Exhibit "F"** and collectively referred to as the "Pedestrian Path and Bike Path Improvements."

e. Additional Improvements. Subject to the prior written approval of the Property Manager, Gables shall have, in addition to the rights reserved in the Pedestrian Path and Bike Path Easement, the right to construct and install additional Improvements to be maintained by Gables from time to time and to amend the attached Exhibits "C"-"F" or substitute new Exhibits "C"-"F", describing such additional Improvements, pursuant to Subsection 11h hereof. Gables shall submit plans and specifications of any such proposed additional Improvements to the Property Manager for review and approval and, upon the approval of the Property Manager, Gables will have the right to construct and install the approved additional Improvements in accordance with and described in an Amendment to the Agreement pursuant to Subsection 11h hereof.

f. Annual Fee. The annual license fee for such Improvements will be waived as long as the Director of the City's Public Works Department determines that the Improvements benefit the Licensed Property. In the event that the Director determines that the Improvements do not benefit the Licensed Property, the City will notify Gables that the annual fee will be assessed. It will be presumed that as long as Gables continues to maintain the Improvements described in 1a – 1d above, which constitute City infrastructure, that the fee will continue to be waived. In any case, the City agrees that a security deposit will not be required.

g. Maintenance of Improvements. Pursuant to the terms and conditions of Article VIII of the Master Agreement, Gables and the City will be responsible for their respective maintenance and repair obligations in connection with the Licensed Property.

(i) Gables' Ordinary and Ongoing Maintenance. Gables will have the right to enter upon and perform the ordinary and ongoing maintenance and repair and replacement of the Improvements described in the referenced exhibits and generally categorized as follows, subject to the City's responsibility for major repairs set forth below, and excluding any improvements installed or constructed by the City or any third parties: (i) the Park Tracts, but excluding the hike and bike trails in the Park Tracts, (ii) the Pedestrian Path and Bike Path, (iv) certain streetscape and landscaping improvements located within the Right-of-Way, and (iv) the Bio-Filtration Meadow, constructed in accordance with Gables' approved site plan and as added by Gables through an amendment to this Master License Agreement, including, but not limited to, for example, mowing and edging of turf, trimming of trees and shrubs, replacement of dead or dying landscape plantings, replacement of landscape furniture, such as park benches, tables and trash receptacles, landscaping, litter control, animal waste control, trash receptacle control, irrigation system repair, insect control using an integrated pest management program approved by the City and, for the Bio-Filtration Meadow, routine silt abatement; but excluding the maintenance and repair of the above-referenced Improvements to be maintained, repaired and replaced by the City, but excluding any portion of the City's property located to the east of the Union Pacific's railroad overpass, any portion of the City's so-called "Crescent Tract", and the portion of the right-of-way abutting the Crescent Tract.

(ii) City's Ordinary and Ongoing Maintenance. The City will be responsible for the ordinary and ongoing maintenance of the hike and bike trails in the Park Tracts, on the Pfluger Pedestrian Bridge, and under the Bowie Street Underpass. The City will be responsible for any maintenance and/or repair of the Park Tracts or Bio-Filtration Meadow resulting from any special events permitted or otherwise allowed by the City on or adjacent to such tracts, specifically including but not limited to litter control. In addition, the City shall maintain, repair, and replace the public infrastructure improvements located within the Licensed Property, including but not limited to roadway base and surfaces, storm sewers, drainage structures, water and wastewater lines, electric lines, street lights, and traffic control devices, collectively referred to as the "Public Infrastructure Improvements", upon the completion and acceptance thereof for maintenance.

(iii) City's Major Repairs. The City will be responsible for the major repairs and maintenance of the Improvements with the exception of the Pedestrian Path and Bike Path Improvements which will be the responsibility of Gables. "Major repairs and maintenance" are defined as those made necessary by extraordinary or unforeseen events and include, but are not limited to, repair of significant portions of the Improvements described in subparagraphs (i) and (ii) above and located within the Licensed Property, including the repairs and/or replacement of walls, weirs, pipes, outlet structures, filter bed or other structural components of any Bio-Filtration Meadow. Major repair and maintenance will be performed to substantially the same level of quality as the original improvement.

(iv) Pedestrian Path and Bike Path. Gables will be responsible for the maintenance of the Pedestrian Path and Bike Path, including its capital repair and replacement, provided, if the City notifies Gables in writing of the need for maintenance, repair or replacement, including ordinary and ongoing maintenance, of all or a portion of the Pedestrian Path and Bike Path, Gables will promptly provide for such repair, replacement or maintenance and in the event that Gables has not commenced such repair replacement or maintenance in a reasonable amount of time, the City will have the right, but not the duty to conduct such repair, replacement or maintenance with it own forces and may do so in an emergency event with telephone notice to Gables.

(v) Decorative Pavers. Gables shall be responsible for the maintenance, repair and replacement of any decorative pavers located on the Licensed Property, including any sidewalk and street accent pavers, installed by or at the request of Gables. The City shall be responsible for the maintenance, repair and replacement of any concrete sidewalks located within the Licensed Property. However, to the extent that any concrete sidewalks are located partially within and partially outside of the Licensed Property, the City shall only be required to maintain the portion of the sidewalk within its right-of-way.

(vi) Repair of Premises. In addition, Gables shall timely and properly maintain and repair the Improvements by ensuring that: (i) any irrigation system leaks are remedied within forty-eight (48) hours of the time they are discovered by Gables or Gables receives notice from the City; (ii) any damaged sidewalk or street accent pavers are repaired or replaced within ten (10) working days of the time they are discovered by Gables or Gables receives notice from the City; (iii) any sidewalk or street accent pavers that are damaged or removed by the installation or repair of utilities, traffic control devices, or streetlights are repaired or replaced within ten (10) working days after such installation or repair is complete, provided that Gables, respectively, shall make temporary repairs in the area of any damaged accent pavers and provide temporary safety measures in accordance with applicable regulations, as required to protect the traveling public prior to the completion of any maintenance or repairs and the City, in its discretion, may make any such temporary repairs and provide any such temporary safety measures. Gables agrees to use best efforts and reasonable commercial due diligence in the maintenance of the irrigation systems to ensure that the irrigation systems not be allowed to leak or to cause damage to the structural integrity of adjacent streets or their respective sidewalks. Nothing contained herein is intended to make Gables responsible for making emergency repairs to traffic control devices, traffic signs or any other public safety devices.

(vii) No Agency Relationship. The City will not be the agent or representative of Gables and will not be construed as the agent of representative of Gables in any of its activities under this Agreement.

2. Term. This Agreement begins on the effective date and continues thereafter for so long as the Licensed Property is used solely for one or more of the purposes delineated in Section 1 hereof, subject to earlier termination as set out in Section 8 hereof.

3. Limits on License.

a. City Facilities. The City reserves the present and future right of the City, and its successors, assigns, lessees, and grantees, to construct, install, establish, maintain, use, operate, and renew, at no cost or expense to Gables and with no duty of Gables to maintain: (i) any public utilities facilities and franchised public utilities within any available enclosed utility conduits or otherwise beneath the surface of its right-of-way and utility easements, (ii) its roadways or streets, and (iii) any drainage easements, Bio-Filtration Meadow, or other drainage areas or improvements, on, over, under, or adjacent to the Licensed Property (which improvements are collectively called the "City Facilities"), in a manner which is consistent with state law and City ordinances and which endeavors to be consistent and compatible with, and does not unreasonably interfere with, the construction, installation, use, operation, maintenance and repair of the Improvements and use of the Licensed Property by Gables and its respective contractors, subcontractors, agents and representatives pursuant to this Agreement. If any such construction installation, establishment, maintenance, use, operation or renewal of any such City Facilities prevents or otherwise unreasonably interferes with Gables' ability to maintain the Improvements or the Licensed Property, then Gables maintenance obligations will be proportionately reduced for as long as such interference continues. The exercise of any rights by the City hereunder with respect to the Pedestrian Path and Bike Path Improvements will be subject to the applicable terms and conditions of the Pedestrian Path and Bike Path easement.

b. Modifications to Improvements Licensed for Maintenance. Gables agrees to make any reasonable modifications to the Improvements licensed for Gables' maintenance hereunder, if the Property Manager reasonably determines such modifications are necessary to address public safety or accessibility concerns, provided that the costs of such modifications will the responsibility of the City and such modifications do not unreasonably increased the maintenance obligations of Gables hereunder. In addition, the City may propose additional modifications to the Improvements licensed for Gables' maintenance and the Parties may agree to the modifications through an Amendment to the Agreement pursuant to Subsection 11h hereof.

c. Application of Ordinances. Unless otherwise permitted, authorized or preempted by the Community Facilities and Cost Reimbursement Agreements, the Master Agreement, this Agreement, or any other waivers, variances or exemptions granted by the City, all Improvements constructed, installed, maintained, repaired, replaced and upgraded by Gables and its contractors, subcontractors, agents and representatives and all other activities conducted by them on the Licensed Property shall be performed and conducted in compliance with the applicable ordinances and

regulations of the City. However, in the event of any conflict between the terms and conditions of the Community Facilities and Cost Reimbursement Agreements, the Master Agreement, this Agreement, or any other waivers, variances or exemptions, and the applicable portions of Chapters 6-3 and 14-11 of the Code of the City of Austin, the applicable provisions of such Chapters 6-3 and 14-11 shall control, except where the provisions of such Chapters are specifically referenced and overridden in this Agreement.

4. Repair or Relocate Existing City Facilities. Gables shall pay all reasonable and actual costs required to repair damage to or relocate existing City Facilities, which are damaged or destroyed or need to be relocated as a result of activities under this Agreement by or on behalf of Gables.

5. Covenant on Adjacent Property. This Agreement and Gables' obligations hereunder are subject to the condition precedent of reimbursement by the City to Gables under the Master Agreement and run as a covenant on the Property owned by Gables adjoining the Licensed Property until their expiration or revocation. Accordingly, Gables and each subsequent owner ("Owner") of an interest in all or any portion of the Property, as the case may be, shall be responsible for the performance of the agreements, covenants and conditions set forth herein insofar as the same affect the Property, or portion thereof, so owned and which accrue during the period of such Owner's ownership. Correspondingly, the responsibility of an Owner for the performance of the agreements, covenants and conditions set forth in this Agreement shall terminate upon the conveyance by such Owner of its interest, and, thereupon, the agreements, covenants and conditions set forth herein shall automatically be deemed to be assumed by the new Owner; provided, however, the existing Owner must notify the new Owner about the existence of this Agreement, which obligation may be fulfilled by way of reference to this Agreement (including its recording data in the Official Public Records of Travis County, Texas) in any instrument of conveyance by which the existing Owner transfers all or a portion of its interest in the Property.

6. Insurance. Gables, at its expense, shall provide a commercial general liability insurance policy with a combined single limit of not less than $500,000, written by a company acceptable to the Property Manager and licensed to do business in Texas. The coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. The Gables insurance policy must cover all perils arising from the activities of Gables and its officers, employees, agents, contractors, and invitees, related to the Improvements authorized to be placed on the Licensed Property and the activities authorized to be undertaken on the Licensed Property by this Agreement. Gables shall pay all deductibles stated in its policies. The insurance policies shall include the following provisions: (i) Additional Insured Endorsement in favor of the City of Austin, and (ii) forty-five (45) days Notice of Cancellation in favor of the City. A certificate of insurance evidencing coverage must be provided by each insurance company and delivered to the Property Manager with this executed Agreement. The foregoing insurance requirements do not relieve Gables of complying with any other applicable insurance requirements under the Master Agreement or Community Facilities and Cost Reimbursement Agreements, provided that Gables may satisfy its insurance obligations in this Agreement in one or more policies in Gables' sole discretion.

7. Indemnification. **Subject to the limitations and exceptions in the last sentence of this Section, Gables hereby fully indemnifies, saves, and holds harmless the City, its officers, employees, agents, licensees, and invitees (collectively called "Indemnitees") against any and all liability, damage, loss, claims, demands, and actions of any nature whatsoever, on account of personal injury (including, without limitation, Workers' Compensation and death claims), or property loss or damage of any kind whatsoever, which arises or is claimed to arise directly out of the construction, installation, operation, use maintenance, repair, restoration, or removal of the Improvements on the Licensed Property pursuant to this Agreement by Gables or its contractors, subcontractors, agents or representatives. Gables must, at its own expense, investigate all those claims and demands, attend to their settlement or other disposition, defend all actions based thereon using counsel satisfactory to the City Attorney, and pay all of its own attorneys' fees and all other cost and expenses of any kind arising from any aforesaid liability, damage, loss, claims, demands, or actions, but not including the costs of third party counsel or consultant that may be hired by any one or more of the Indemnitees. This indemnification provision does not apply to any claims, suits, damage, costs, losses, or expenses (i) for which the City has been compensated by insurance provided under Section 6 hereof, or (ii) to the extent arising from the willful or grossly negligent acts of the City; provided that for the purposes of the foregoing, the City's act of entering into this Agreement cannot be deemed to be a "willful act."**

8. Termination.

a. Termination by Gables. Gables may terminate this Agreement with respect to all or any portion of the Licensed Property or Improvements referenced in Section 1 hereof by delivering written notice of termination to the Property Manager not later than sixty (60) days before the effective date of termination. Gables shall remove all Improvements, which the City has indicated in a written notice to Gables must be removed, from the terminated portion of the Licensed Property within the sixty (60) day notice period at is sole cost and expense.

b. Termination by City. The City may terminate this Agreement, if Gables fails to comply with the terms and conditions of this Agreement and the City is materially and adversely affected or may be materially or adversely affected and the material adverse default is not cured within sixty (60) days after receipt of such notice of default by Gables in which case Gables shall remove the Improvements, which the City has indicated in a written notice to Gables must be removed, from the terminated portion of the Licensed Property within sixty (60) days of the effective date of such termination; provided, however, if Gables (or a mortgagee on behalf of Gables) has commenced activities to cure any such default within the sixty (60) day period and is diligently prosecuting the cure, the sixty (60) day period will be extended for a reasonable amount of time to allow the cure to be accomplished and, in addition, if the default cannot be reasonably cured within such sixty (60) day period because of unforeseen conditions out of Gables' reasonable control, then the cure period will be extended by the further agreement of the parties for an additional reasonable amount of time to allow for the correction of the unforeseen condition and the cure of the event of default.

c. Abandonment. Any Improvements, which the City has indicated must be removed, not removed within the sixty (60) day time frame set forth in Subsections 8a and 8b above and not separately licensed, as described below in paragraph 8d, will be deemed abandoned and, in the complete discretion of the City, may be subject to summary removal and disposal by the City with the reasonable, actual costs of any such removal and disposal to be paid by Gables within thirty (30) days of notice from the City of such costs.

d. Survival of Obligations. In the event of any such termination of this Agreement, Gables' obligation to reimburse the City will survive any such termination and, subject to the City's then applicable ordinances, rules and regulations, the City will have complete discretion regarding the continued use of the Licensed Property. In the event that the City incurs any costs as a result of the performance of any maintenance activities or removal and disposal of any of the Improvements that are the responsibility of Gables, Gables shall reimburse the City the cost of any such maintenance or removal and disposal and, in the event that Gables fails to make any such payment within thirty (30) days of receipt of an invoice for such costs, the City will have a lien for the amount of such costs against the adjacent property of Gables.

9. Omitted

10. Assignment. Gables shall not assign or transfer its interest in this Agreement without the prior written consent of the Property Manager, except to any entity that succeeds to all or any portion of Gables' rights in the Property. When such consent is required, such consent shall not be unreasonably withheld, subject to the assignee's compliance with the insurance requirements set forth herein, and the assignee's promise to comply with all covenants and obligations herein. To secure bona fide financing, which Gables may hereafter procure, Gables may, from time to time without the City's consent or joinder, encumber its rights under this Agreement and the lender protection provisions in Article X of the Master Agreement shall be applicable to such financings. Gables shall provide the Property Manager a copy of any proposed assignment or transfer of rights in this Agreement, which must include the name, address, and contact person of the assignee, along with the proposed date of assignment or transfer, whether the City's consent is required or not.

11. General Provisions.

a. Binding Effect. This Agreement binds and inures to the benefit of the parties and their respective successors and permitted assigns.

b. Complete Agreement. This Agreement contains the complete agreement of the parties with respect to the subject matter hereof and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this Agreement.

c. Executed Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same

document. All counterparts will be construed together and will constitute one and the same instrument.

d. Choice of Laws. This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Travis County, Texas.

e. Legal Construction. If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Section headings in this Agreement are for reference only and are not intended to restrict or define the text of any Section. This Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

f. Recitals. The recitals in this Agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

g. Notices. Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the following addresses. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

For the purposes of Notice, the addresses of the Parties will be as follows and notice to Gables will be given to LG Park Plaza Limited Partnership:

GABLES:

LG Park Plaza Limited Partnership
6850 Austin Center Boulevard, Suite 200
Austin, Texas 78731
Attn: Alexa Knight
Telephone: (512) 502-6010
Facsimile: (512) 502-6009

And

LG Park Plaza Limited Partnership
2925 Briarpark, Suite 1220
Houston, Texas 77042
Attn: Ben Pisklak
Telephone: (713) 784-4144
Facsimile: (713) 784-4650

With Copies to:

Steven C. Metcalfe
Drenner Stuart Wolff
Metcalfe von Kreisler, LLP
301 Congress Avenue, Suite 1200
Austin, Texas 78701
Telephone: (512) 404-2209
Facsimile: (512) 404-2244

CITY OF AUSTIN:

City of Austin
Economic Growth and Redevelopment Services Office
301 W. 2nd Street
Austin, Texas 7870
Attn: Sue Edwards, Director
Telephone: (512) 974-7820
Facsimile (512) 974-7825

And

City of Austin
Economic Growth and Redevelopment Services Office
301 W. 2nd Street
Austin, Texas 7870
Attn: Austan Librach, Assistant Director
Telephone: (512) 974-2357
Facsimile (512) 974-7825

With Copies to:

City of Austin Law Department
301 W. 2nd Street
Austin, Texas 7870
Attn: Gordon Bowman,
Assistant City Attorney
Telephone: (512) 974-2346
Facsimile (512) 974- 6490

h. Amendment. This Agreement may be amended, in whole or in part, only by the written agreement of the parties hereto or their successors or assigns. The applicable City department(s) must approve any modifications to the Improvements.

i. Memorandum of Agreement. The Parties or either party may prepare a Memorandum of Agreement, setting forth the rights and obligations of the Parties hereunder, and by agreement or after 30 days notice to the other party, the Parties or a party may file the Memorandum of Agreement in the Official Public Records of Travis, County, Texas.

LG PARK PLAZA LIMITED PARTNERSHIP,
a Texas limited partnership

By: Gables Realty GP, LLC,
a Texas limited liability company,
its general partner

By: Lion Gables Realty Limited Partnership
a Delaware limited partnership
its sole member

By: Gables GP. Inc.
a Texas corporation
its sole general partner

By:_____
Name:_____
Title_____
Date:_____, 2006

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

LG LAMAR LIMITED PARTNERSHIP,
a Texas limited partnership

By: LG Residential Services LLC,
a Texas limited liability company,
its general partner

By: Gables Residential Services, Inc.
a Texas corporation
its sole member

By:_____
Name:_____
Title_____
Date:_____, 2006

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me this ____ day of _____, 2006, by _____,, known to me personally or on the basis of legally sufficient identification, in the capacity stated above.

_____
Printed/Typed Name of Notary
My Commission Expires: _____

Approved as to Form:

CITY OF AUSTIN

_____

Gordon R. Bowman
Assistant City Attorney

By:_____

Lauraine Rizer, Manager
Real Estate Services Division
Public Works Department

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2006, by Lauraine Rizer, Manager of Real Estate Services Division, Public Works Department of the City of Austin, on behalf of the City of Austin.

_____

Notary Public, State of Texas

EXHIBIT 'A'

2.582 ACRE
LUMBERMEN'S INVESTMENT
CORPORATION

FN 04-272(MM)
JULY 30, 2004
BPI JOB NO. 1159-01.92

DESCRIPTION

OF 2.582 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, OUT OF OUTLOT 11, DIVISION Z OF THE ORIGINAL CITY OF AUSTIN, BEING A PORTION OF THAT CERTAIN 3.19 ACRE TRACT CONVEYED TO LUMBERMEN'S INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.582 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeasterly corner of that certain 1.94 acre tract being Lot A, Jetco Partners International Resubdivision One, a subdivision of record in Book 83, Page 184A of the Plat Records of Travis County, Texas, same being the southwesterly corner of said 3.19 acre tract, also being in the agreed upon Boundary line between Lumbermen's Investment Corporation and the City of Austin of record in Document No. 2001013549 of the Official Public Records of Travis County, Texas for the southwesterly corner hereof;

THENCE, leaving said Boundary Line Agreement of record, along the common line of said 3.19 acre tract and said Lot A, Jetco Partners International Resubdivision One, the following four (4) courses and distances:

1) N26°28'47"E, a distance of 222.40 feet to a 1/2 inch iron rod found;

2) N65°11'45"W, a distance of 53.96 feet to a 1/2 inch iron rod found;

3) N36°00'59"E, a distance of 153.54 feet to a 1/2 inch iron rod found;

4) N31°18'32"E, a distance of 22.34 feet to a 1/2 inch iron rod found, being the northeasterly corner of said Lot A, Jetco Partners International Resubdivision One, same being in the westerly line of Missouri Pacific Railroad Right-of-Way;

THENCE, N31°37'22"E, a distance of 6.92 feet to a 1/2 inch iron rod found at the northwesterly corner of said 3.19 acre tract, being in the westerly line of the Missouri Pacific Railroad Right-of-Way (R.O.W. Varies) and the northwesterly corner hereof, being the point of curvature of a non-tangent curve to the right;

EXHIBIT 'A'

FN NO: 04-272(MM)
JULY 30, 2004
PAGE 2 OF 2

THENCE, along said non-tangent curve to the right, along a portion of the northerly line of said 3.19 acre tract, being a portion of the westerly line of the Missouri Pacific Railroad Right-of-Way; having a radius of 520.00 feet, a central angle of 57°48'02", an arc length of 524.58 feet and a chord which bears S25°50'12"E, a distance of 502.62 feet to a PK nail set in concrete for the northeasterly corner hereof;

THENCE, leaving the westerly line of Missouri Pacific Railroad right-of-way, over and across said 3.19 acre tract the following two (2) courses and distances;

1) S20°22'13"W, a distance of 45.27 feet to a cotton spindle set for the southeasterly corner hereof;

2) N74°57'47"W, a distance of 321.98 feet to a calculated point in the southerly line of said 3.19 acre tract, same being the aforementioned Boundary Line Agreement of record;

THENCE, N49°56'23"W, along said Boundary Line Agreement of record, being the southerly line hereof, a distance of 62.77 feet to the **POINT OF BEGINNING**, containing an area of 2.582 acres (112,470 sq. ft.) of land, more or less, within these metes and bounds.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A LAND TITLE SURVEY WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

7/30/04

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746

JOHN T. BILNOSKI DATE
NO. 4998
STATE OF TEXAS

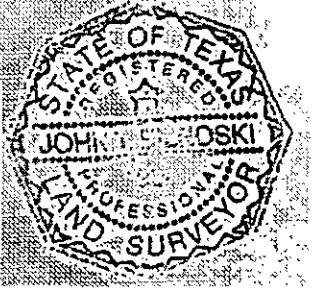


EXHIBIT "A"

Lot A, Jetco Partners International Resubdivison One, as recorded in Plat Book 83, Page 184A of the Plat Records of Travis County, Texas.

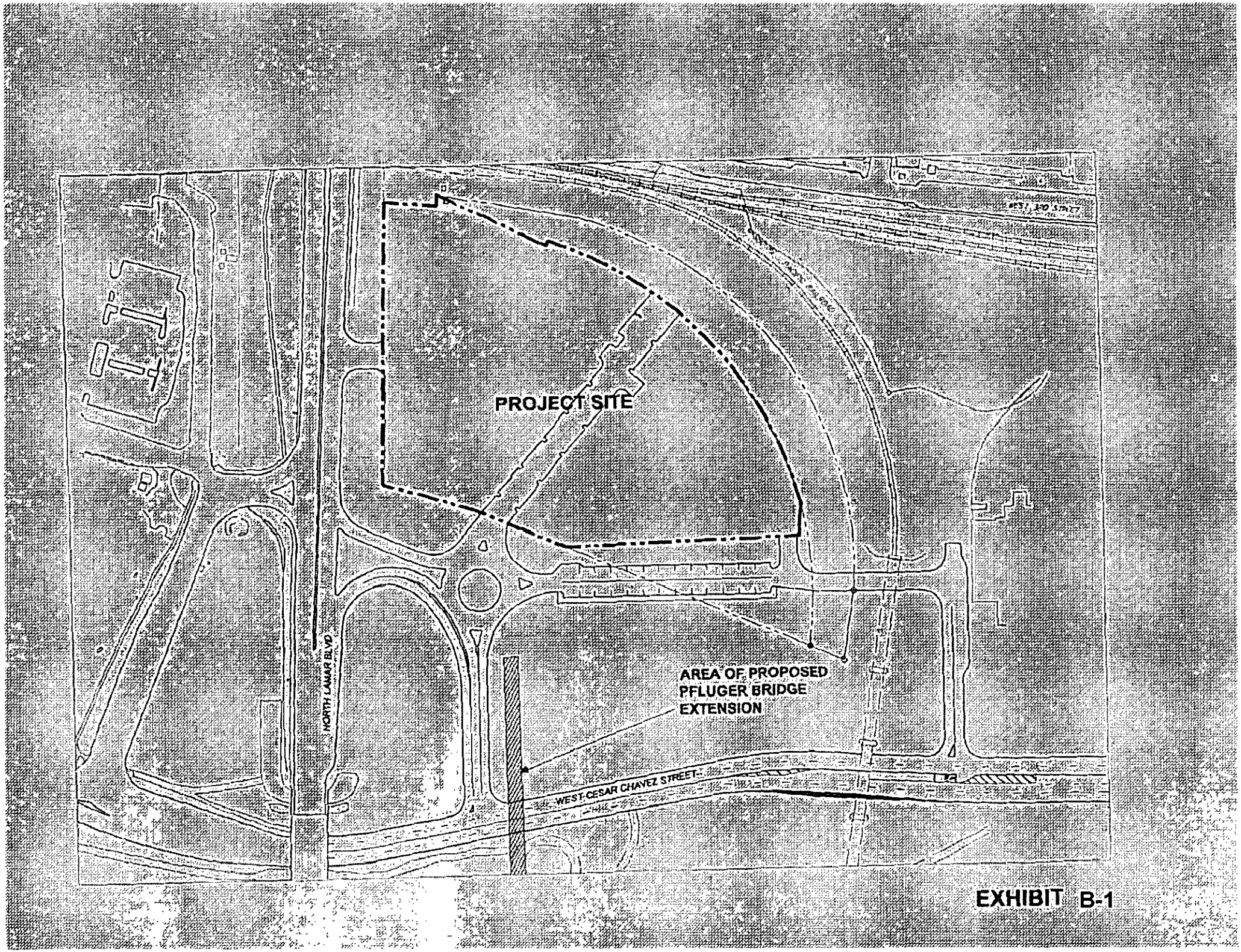

PROJECT SITE
AREA OF PROPOSED
PFLUGER BRIDGE
EXTENSION
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-1

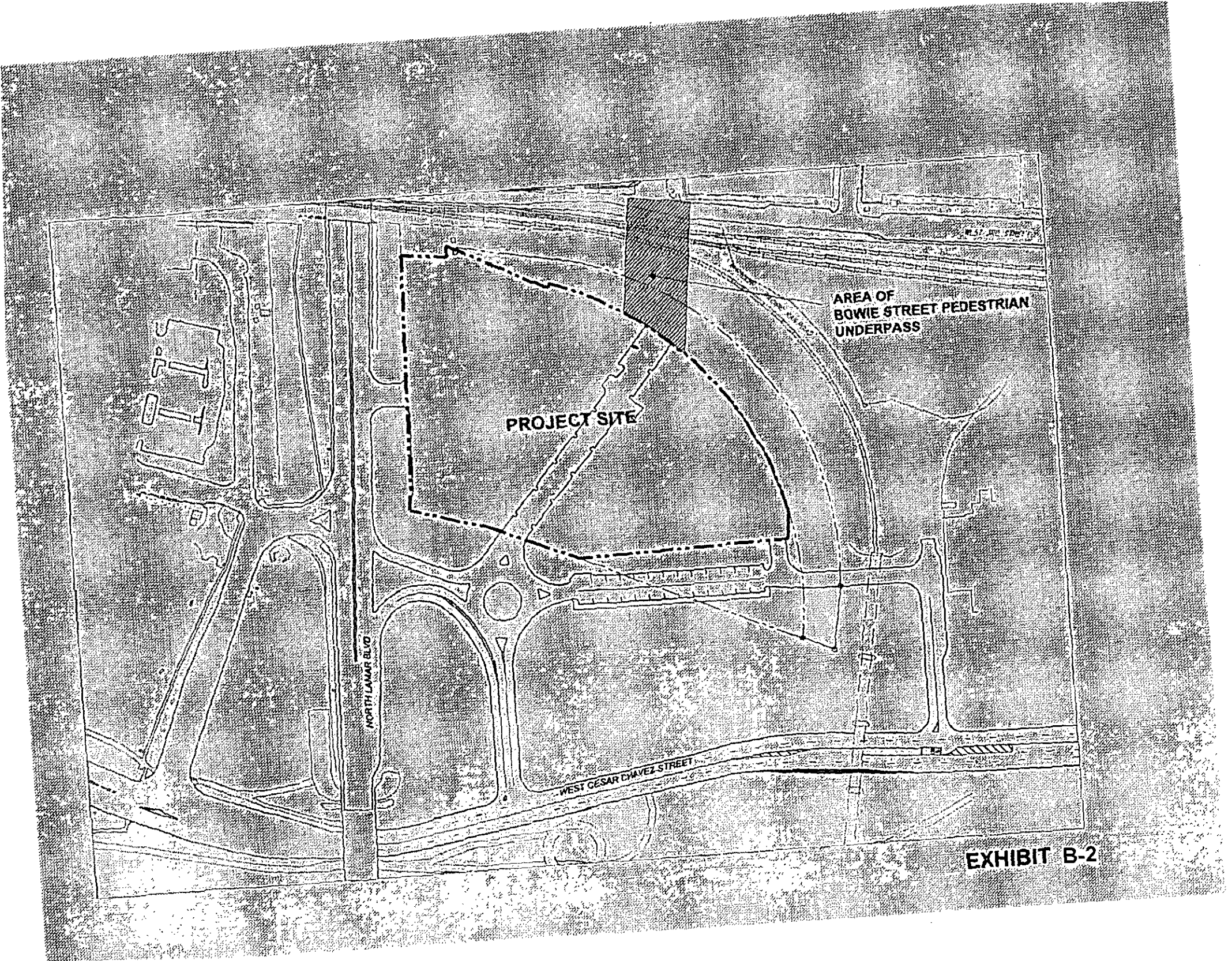

AREA OF
BOWIE STREET PEDESTRIAN
UNDERPASS
PROJECT SITE
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-2

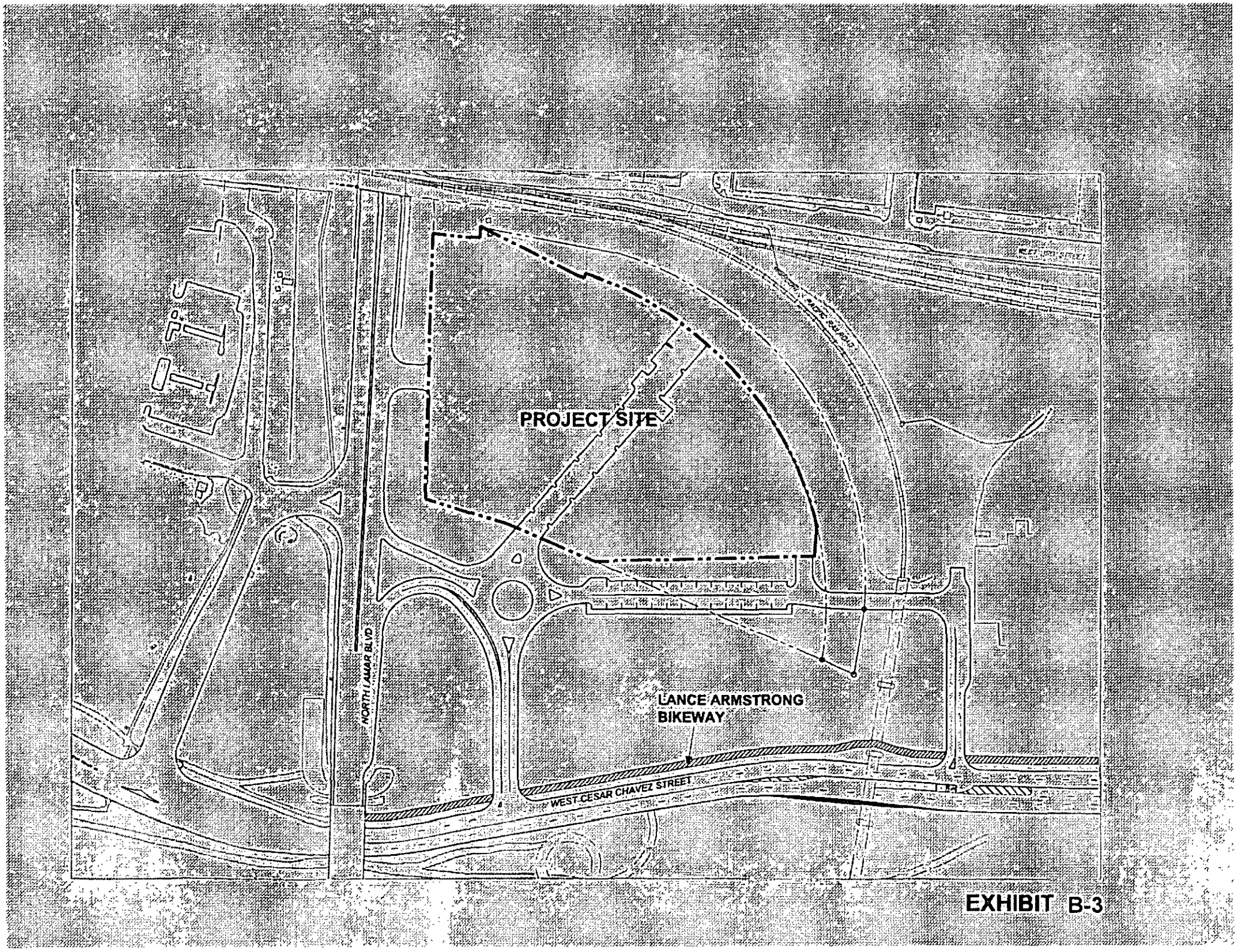

PROJECT SITE
LANCE ARMSTRONG
BIKEWAY
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-3

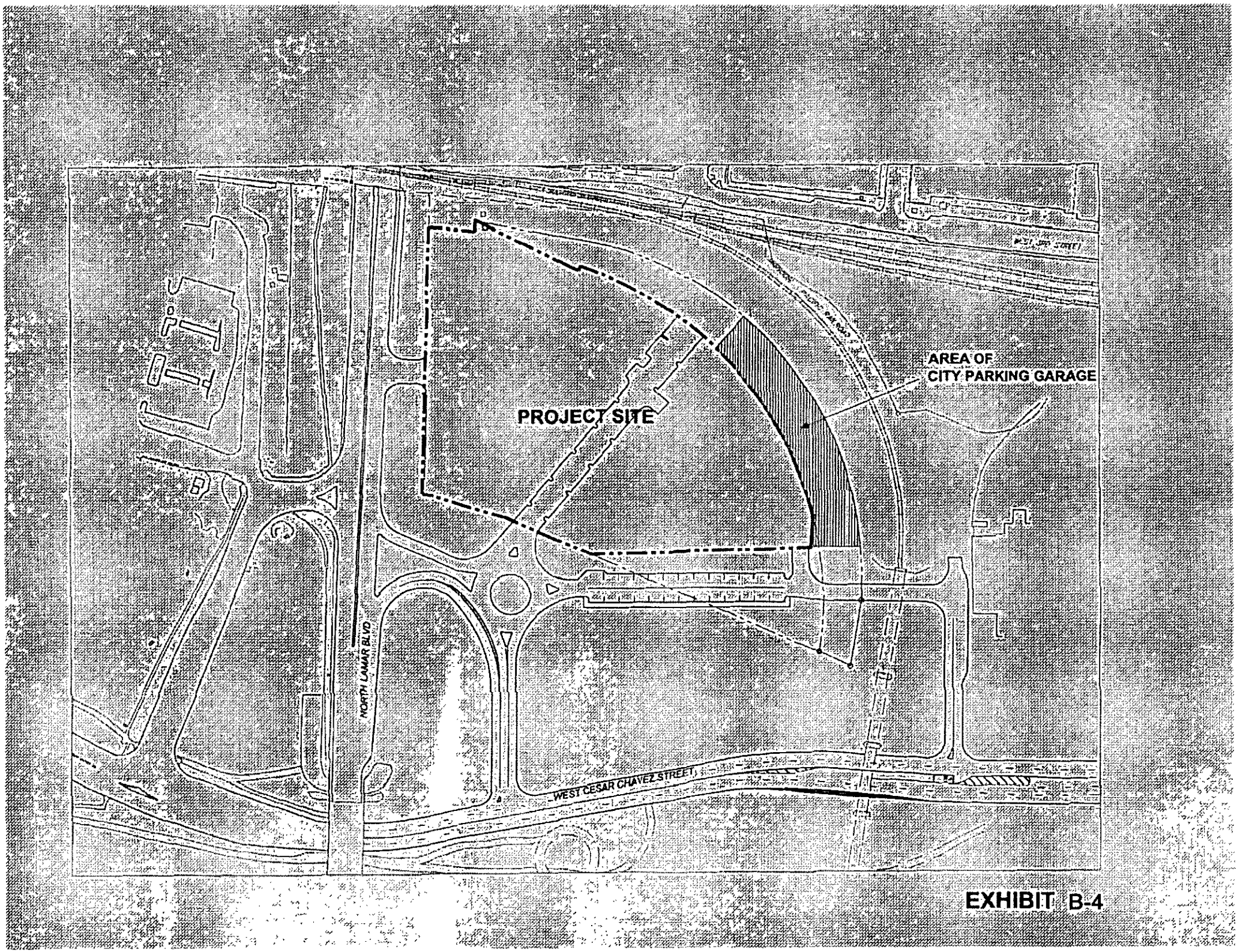

PROJECT SITE
AREA OF
CITY PARKING GARAGE
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-4

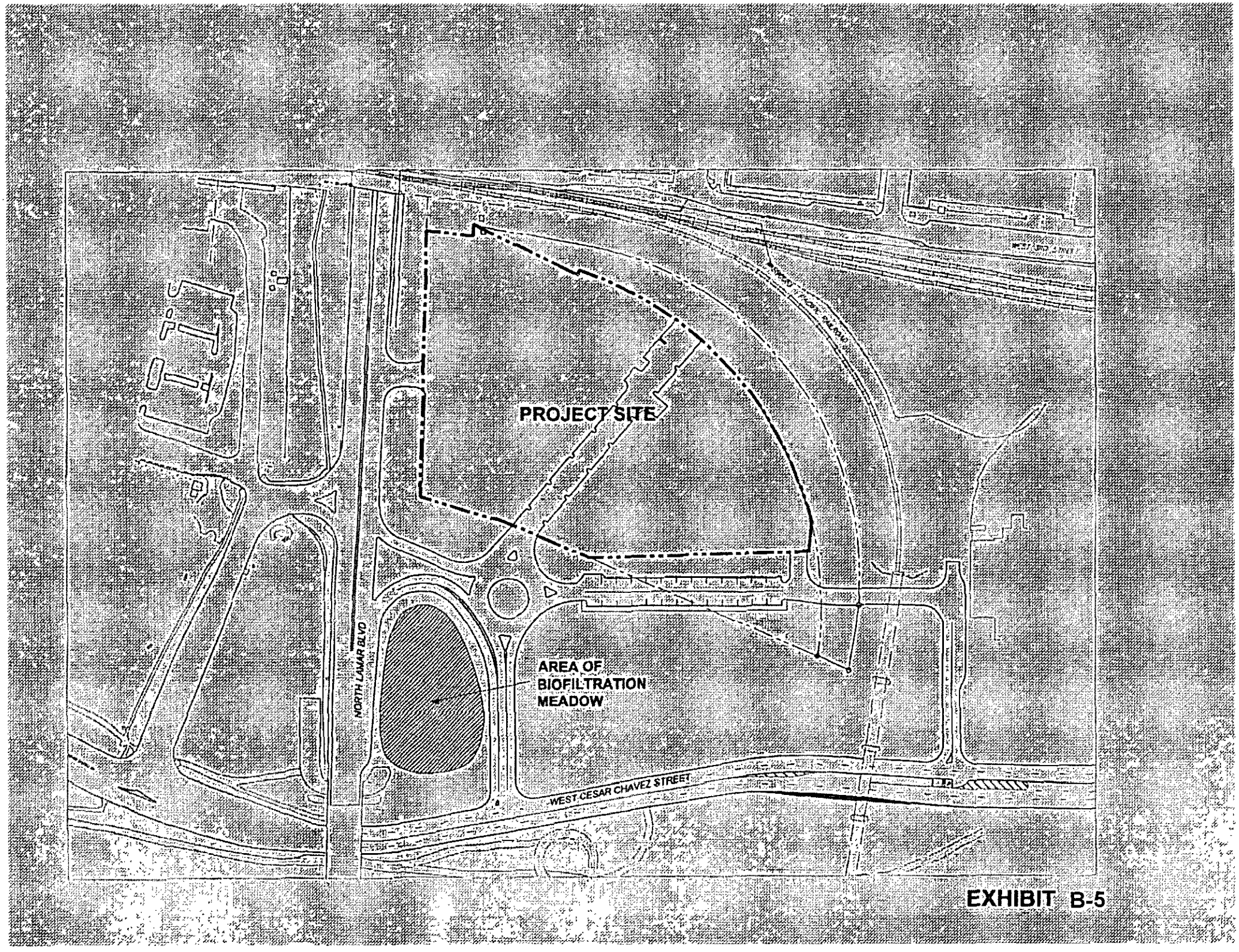

PROJECT SITE
AREA OF
BIOFILTRATION
MEADOW
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-5

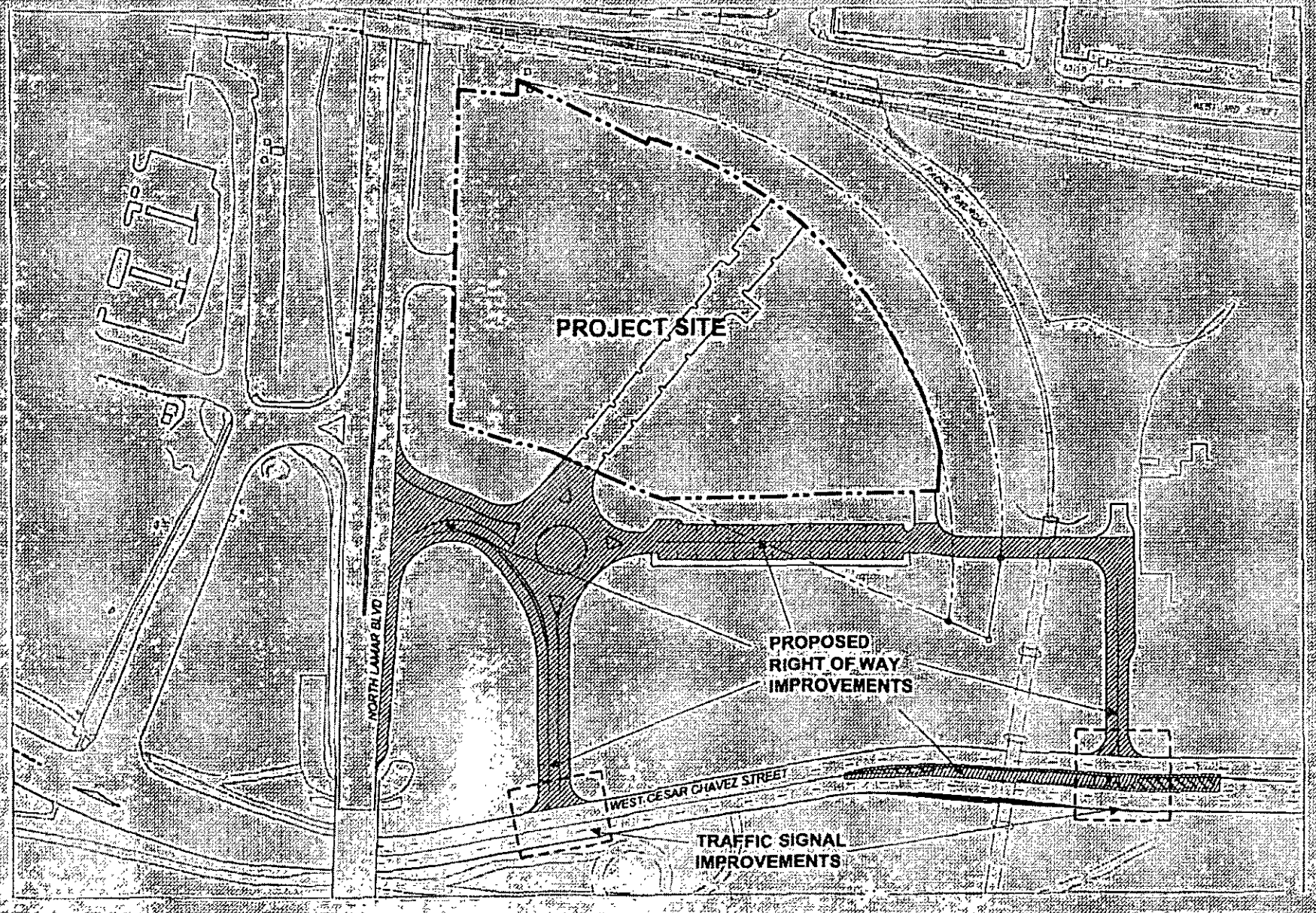

PROJECT SITE
PROPOSED
RIGHT OF WAY
IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET
TRAFFIC SIGNAL
IMPROVEMENTS

EXHIBIT B-6

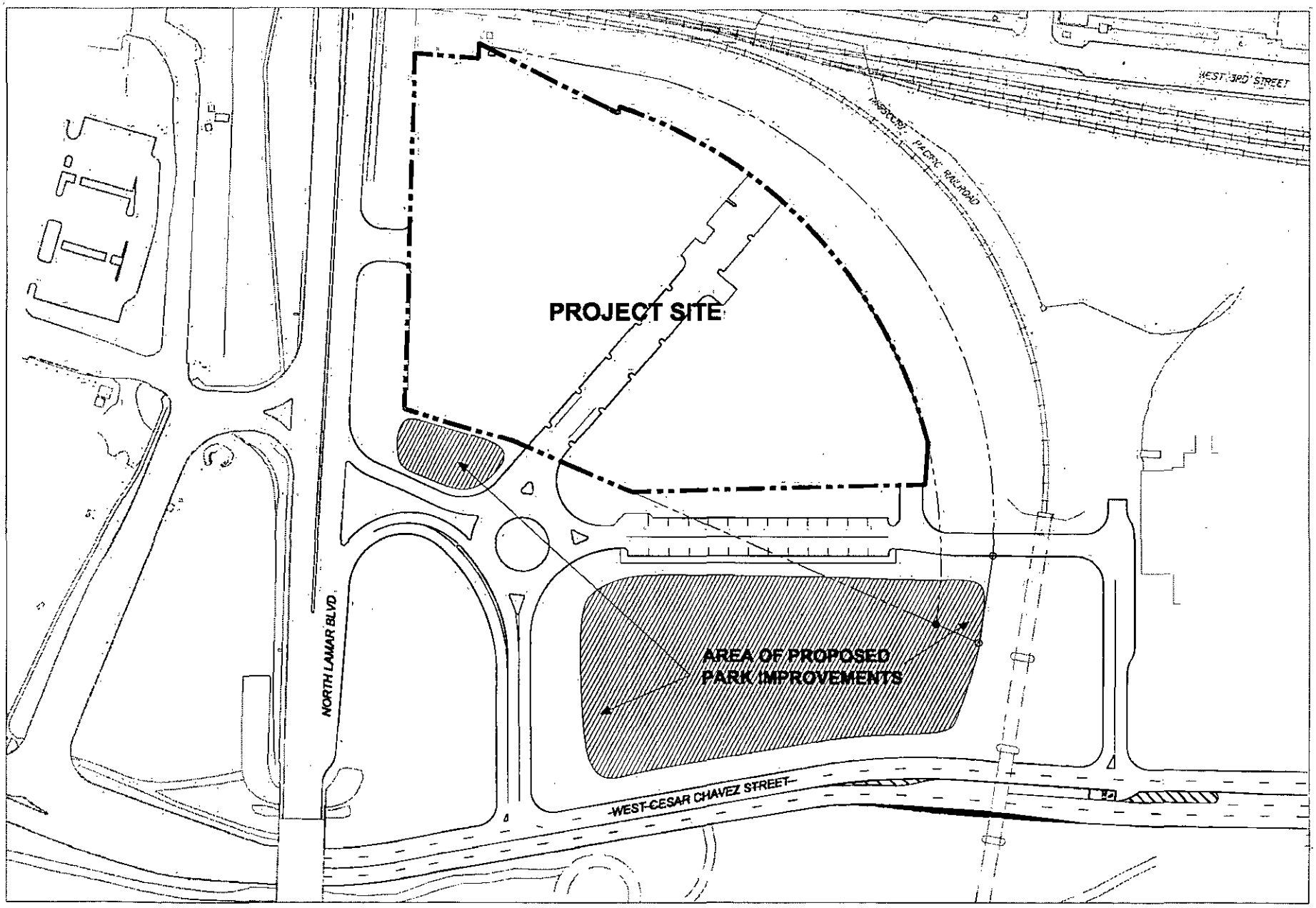

PROJECT SITE
AREA OF PROPOSED
PARK IMPROVEMENTS
NORTH LAMAR BLVD.
WEST CESAR CHAVEZ STREET
WEST 3RD STREET
PACIFIC RAILROAD

EXHIBIT B-7

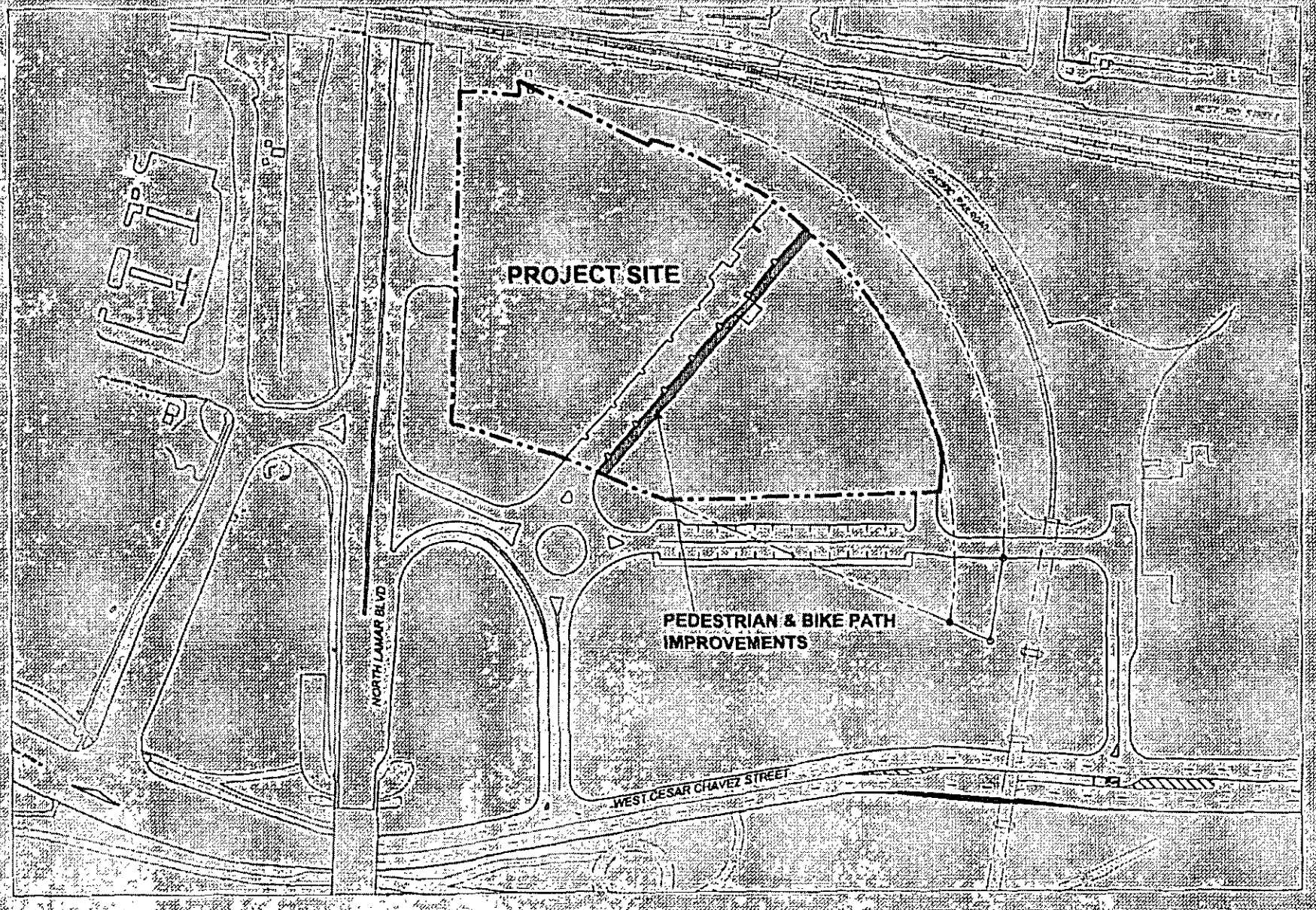

PROJECT SITE
PEDESTRIAN & BIKE PATH
IMPROVEMENTS
NORTH LAMAR BLVD
WEST CESAR CHAVEZ STREET

EXHIBIT B-8

EXHIBIT "C"

RIGHT-OF-WAY IMPROVEMENTS

The Right-of-Way Improvements referenced in Subsection 1a of the Agreement are more particularly described on:

The following sheets of the Site Development Permit Plans for File No. SP-_____:

(By way of example and without limiting the numbering or title of the applicable site plan sheets)

Sheet 9 – Master Paving Plan
Sheet 10 – Master Site Plan
Sheet 11 – Site Plan A
Sheet 12 – Site Plan B
Sheet 13 – Site Plan C
Sheet 14 – Site Plan DE
Sheet 15 – Site Plan F
Sheet 17 – Site Plan Details
Sheet 27 – Paving & Drainage Notes & Details
Sheet 28 – Paving & Drainage Notes & Details
Sheet 53 – Overall Landscape Plan
Sheet 54 – Landscape Plan
Sheet 55 – Landscape Plan
Sheet 56 – Landscape Plan
Sheet 57 – Landscape Plan
Sheet 58 - Landscape Calculations, Details & Notes
Sheet 60 – Tree Preservation
Sheet 61 - Paver Details

The following Sheets of the Construction Plans for Public Improvements for File No. SP-_____:

(By way of example and without limiting the numbering or title of the applicable site plan sheets)

Sheet 8 – XXX Avenue Plan & Profile
Sheet 9 – XXX Avenue Plan & Profile
Sheet 10 – XXX Avenue Plan & Profile
Sheet 11 – XX Street Plan & Profile
Sheet 12 – XX Street Plan & Profile

Sheet 13 – XX Street Plan & Profile
Sheet 14 – XX Street Plan & Profile
Sheet 15 – XX Street Plan & Profile
Sheet 16 – Street & Drainage Notes & Details
Sheet 17 – Street & Drainage Details
Sheet 42 – XX _____ Plan
Sheet 44 – Roadway Signage Plan

EXHIBIT "D"

PARK IMPROVEMENTS

The Park Improvements referenced in Subsection 1b of the Agreement are more particularly described on the following Sheets of the Site Development Permit Plans for File No. SP-_____:

(By way of example and without limiting the numbering or title of the applicable site plan sheets)

Sheet 12 - Site Plan B
Sheet 54 - Landscape Plan
Sheet 56 - Landscape Plan
Sheet 58 - Landscape Calculations, Details & Notes
Sheet 60 - Tree Preservation

EXHIBIT "E"

BIO-FILTRATION MEADOW IMPROVEMENTS

The Bio-Filtration Meadow Improvements referenced in Subsection 1c of the Agreement are more particularly described on the following Sheets of the Site Development Permit Plans for File No. SP-_____:

(By way of example and without limiting the numbering or title of the applicable site plan sheets)

Sheet 24 – Bio-Filtration Meadow Plan
Sheet 25 – Outfall Plan
Sheets 56 & 57 – Landscape Plan
Sheet 58 – Landscape Calculations, Details & Notes

EXHIBIT "F"

PEDESTRIAN PATH AND BIKE PATH IMPROVEMENTS

The Pedestrian Path and Bike Path Improvements referenced in Subsection 1d of the Agreement are more particularly described on the following Sheets of the Site Development Permit Plans for File No. SP-_____:

(By way of example and without limiting the numbering or title of the applicable site plan sheets)

Sheet 24 – Pedestrian Path and Bike Path Plan
Sheet 58 – Calculations, Details & Notes

ID	Task Name	Duration	Start	Finish
1	Pfluger Pedestrian Bridge	10 mons	Tue 5/1/07	Mon 2/4/08
2	Bowie Street Underpass	12 mons	Mon 10/1/07	Fri 8/29/08
3	Lance Armstrong Bikeway	1 mon	Mon 5/7/07	Fri 6/1/07
4				
5	Gables Onsite Construction - Multifamily (Phase I)	24 mons	Mon 7/3/06	Fri 5/2/08
6	First Multifamily units available	1 day?	Fri 10/19/07	Fri 10/19/07
7	Thirty Inch Wastewater Line Relocation	3 mons	Mon 7/3/06	Fri 9/22/06
8	Right-of-Way Improvements	8 mons	Mon 9/25/06	Fri 5/4/07
9	Biofilitration Meadow	11 mons	Mon 7/3/06	Fri 5/4/07
10	Pedestrian Path & Bike Path	1 mon	Mon 7/2/07	Fri 7/27/07
11	Park Improvements	2 mons	Wed 1/2/08	Tue 2/26/08
12	City Parking Garage	6 mons	Mon 2/4/08	Fri 7/18/08

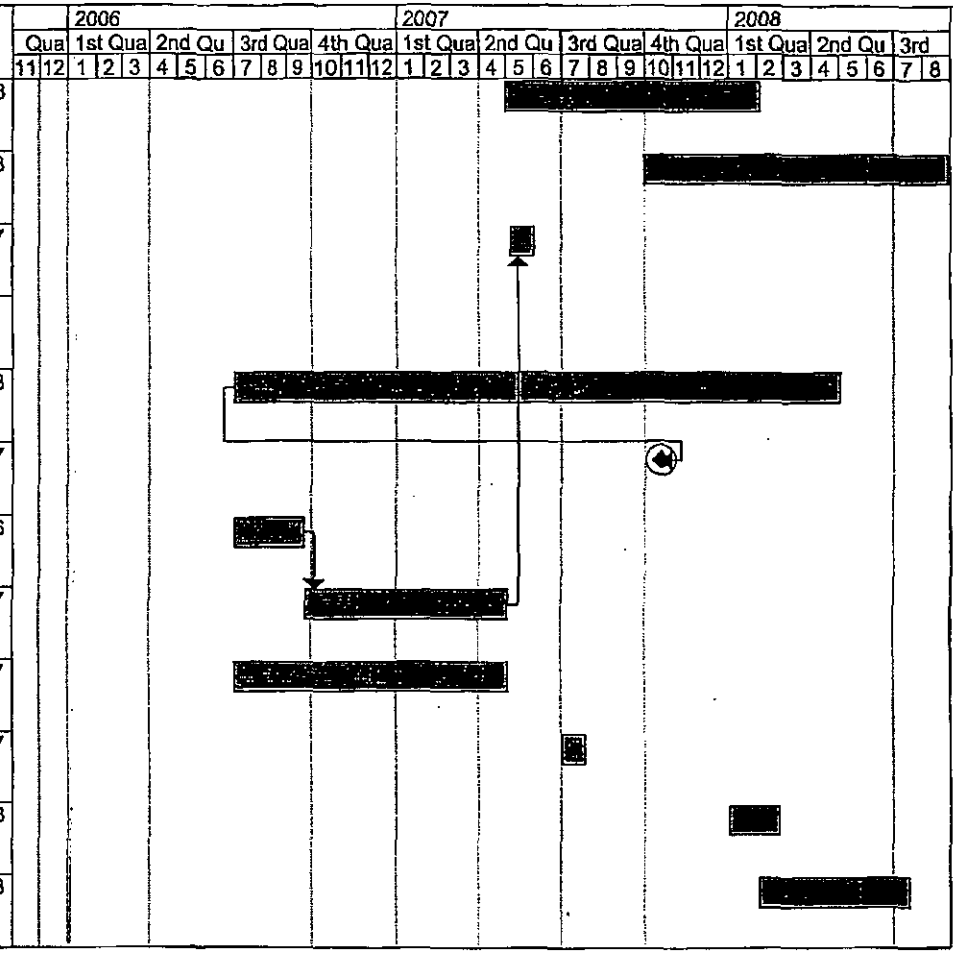


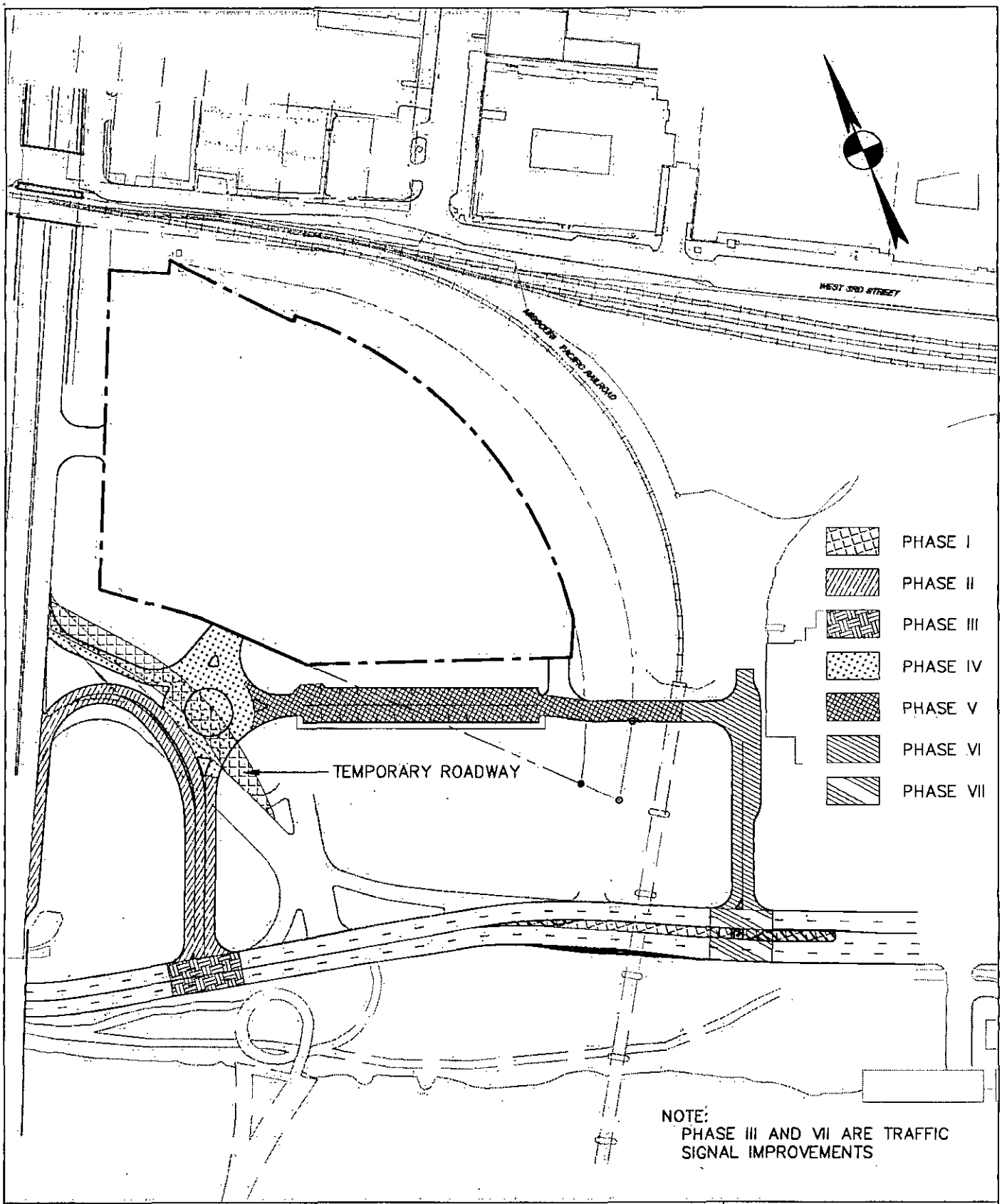
EXHIBIT "O"

EXHIBIT "O"

Project: GPP Schedule_11.30.05
Date: Wed 11/30/05

Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline

EXHIBIT "O"



Bury+Partners
ENGINEERING SOLUTIONS
3345 Bee Caves Road, Suite 200
Austin, Texas 78746
Tel. (512)328-0011 Fax (512)328-0325
Bury+Partners, Inc. ©Copyright 2005

RIGHT-OF-WAY IMPROVEMENTS

CITY OF AUSTIN

EXHIBIT P

DATE: 11/08/05	SCALE: N.T.S.	DRAWN BY: DAZ	FILE: G:\659\23\EXH\65923EXH107.DWG	PROJECT No.: 659-23.00

RAISING THE DESIGN STANDARDS IN AUSTIN, TX

Proposed Code Amendments to Improve Commercial Design
Prepared by Councilmember Brewster McCracken's Task Force

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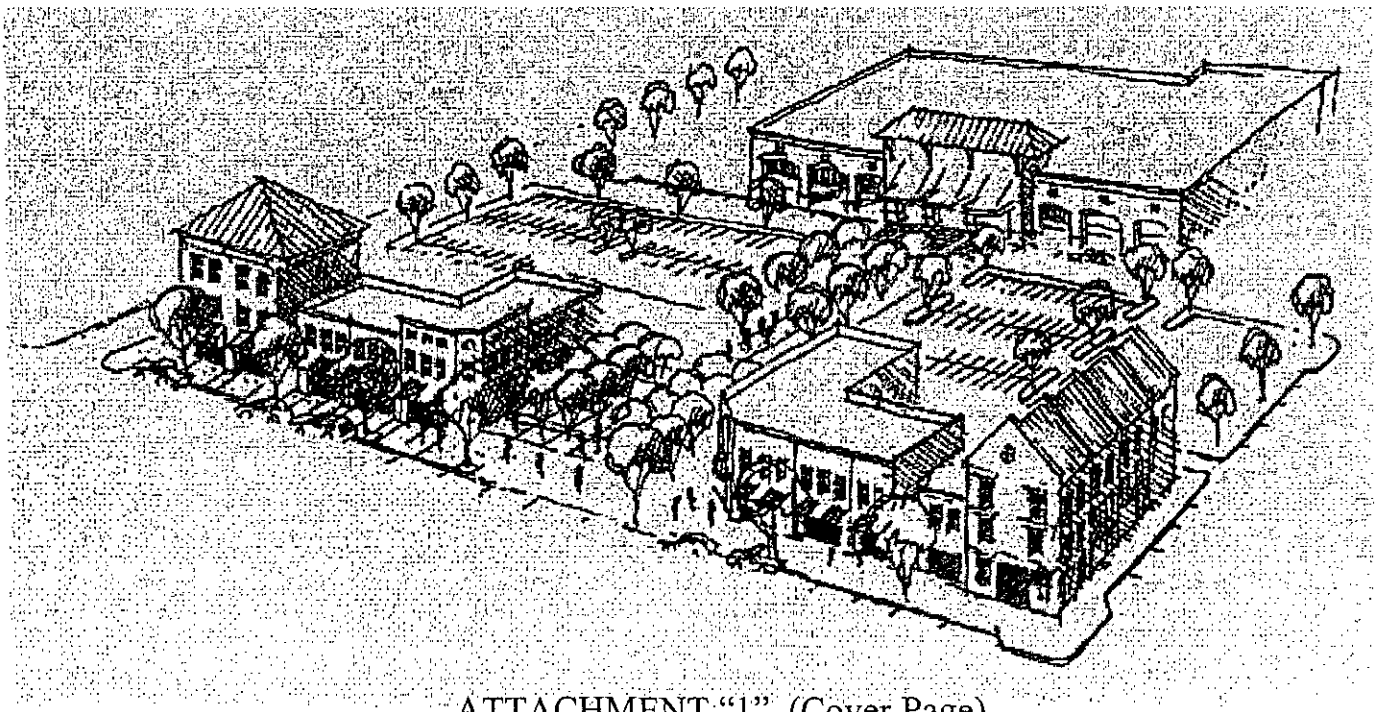
Task Force Research	2
PROPOSAL	
Structure	3
Applicability	3
Map of Highways	4
Map of Hill Country Roadways	5
Proposed Code Amendments	6
Summary Table (Provides page numbers for full description of code amendment)	



ATTACHMENT "1" (Cover Page)

RAISING THE DESIGN STANDARDS IN AUSTIN, TX

Proposed Code Amendments to Improve Commercial Design
Prepared by Councilmember Brewster McCracken's Task Force

TABLE OF CONTENTS

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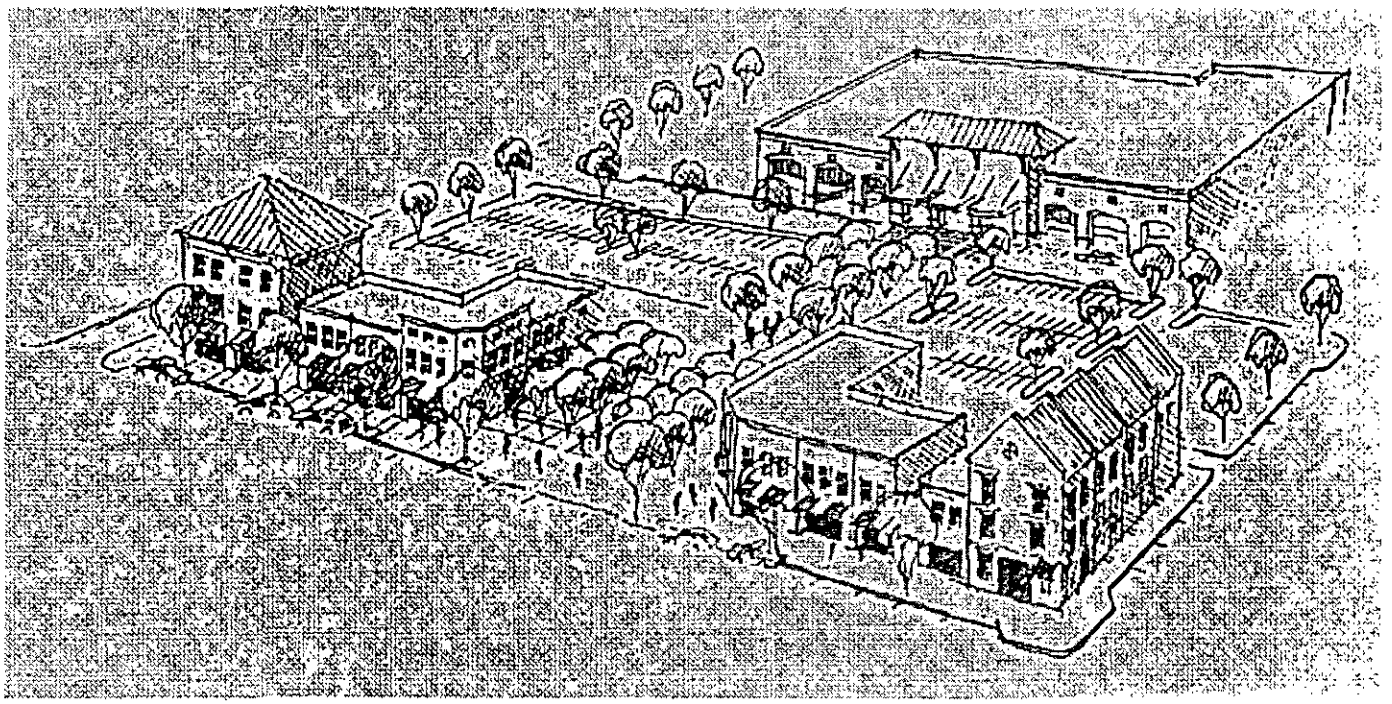


BACKGROUND

City Council Resolution

On February 26, 2004 City Council, in response to the findings that the City of Austin has among the lowest design standards of communities in the Central Texas region, directed the City Manager by resolution (#040226-27) "...to prepare recommendations for citywide design standards for commercial and retail development. These recommended citywide design standards shall constitute the best practices of the standards adopted by communities around the nation and shall require design standards that reflect Austin's unique historic, landscape and architectural character..." The Council resolution specifically asked for standards for commercial development related to:

- Landscaping
- Building façade materials
  Use of windows
- Façade articulation
- Lighting
- Convertibility
- Design modularity
- Development orientation
- Transit and pedestrian amenities
- Public spaces
- Neighborhood access
- Parking
- Signage
- Screening of loading, mechanical equipment, storage and trash

Task Force Research

The Task Force, organized by Councilmember Brewster McCracken, met over several months to consider research and input from the public, various stakeholder groups and individuals. The Task Force consisted of Mayor Pro-Tem Jackie Goodman, Councilmember Raul Alvarez, Councilmember Brewster McCracken, (and their aides), Design Commissioners Girard Kinney and Richard Weiss and Planning Commissioners Chris Riley and Matthew Moore. City staff participated in Task Force meetings as well. The Task Force sought to understand the preferences of citizens and the regulations of other cities prior to developing a recommendation, by reviewing the following:

- Results of the web-based survey of Austin residents and visitors conducted between March 12, 2004 and April 16, 2004. There was a record-setting 5,469 respondents.
- Development requirements in other US cities.
- Interviews of planners in other communities with design regulations.
- Input from individual members of the Austin real estate community.
- Input from public meetings with open Stakeholder group consisting of design and real estate professionals and neighborhood and environmental activists.
- Findings by Robert Gibbs, national retail design expert, and the input from work sessions he led with the stakeholder group.

PROPOSAL

Structure

The intent of these new regulations is to create a built environment of aesthetic and sustainable value that enhances economic development efforts to promote Austin's unique character and natural environment and that upholds an efficient development review process.

The proposed new regulatory system will raise standards for all non-residential and mixed-use development, but within a regulatory structure offering options and flexibility, not strict requirements. **New commercial development will be subject to a set of minimum site and building design standards, recognizing that all new development, regardless of size, should be subject to minimum standards** (See Applicability section below for when proposed minimum requirements would be triggered).

The major change in this proposal is in how development will be regulated. **Certain development regulations (such as development orientation, signage and landscaping) will be tied to the development parcel's roadway frontage(s)**, recognizing both that the roadway provides access to the site and to the urban design framework. The Applicability section below indicates which amendments apply to which roadway types. The Roadway types proposed are:

i. Transit Roadways (roadways to be determined)
ii. Neighborhood Roadways (roadways not considered Transit, Highway or Hill Country).
iii. Highways (see map page 4)
iv. Hill Country Roadways (see map page 5)

Applicability

Not all site plan and building plan permits must comply with the proposed code amendments. The table on page 6 summarizes when a development must comply with a proposed code amendment. In all cases, any regulation from the Neighborhood Plan Combining District (NPCD), Neighborhood Conservation Combining District (NCCD), Traditional Neighborhood Development (TND) and all zoning overlays supersede these proposed code amendments to the extent of conflict. ***Specifically, compatibility standards and neighborhood plans supersede these proposed code amendments to the extent of conflict.*** In addition, the current Code requirements apply where the proposed code amendments do not change the current requirements.

Currently the code does not specifically define what a redevelopment project is, but instead states for certain regulations, such as for water quality in LDC Section 25-8-26, at what point a project triggers compliance.

Redevelopment: In general, projects that completely redevelop a site should comply with the Commercial Design Standards although the Task Force encourages the

identification and adoption of incentives to encourage redevelopment and subsequent compliance with the new standards.

For projects that are partially redeveloping a site the Task Force proposes the following:

- Partial redevelopment should not increase the degree of noncompliance with the Commercial Design Standards.

- Existing City of Austin standards and processes for redevelopment need to be identified and understood. Existing standards are the logical starting point for similar rules related to the Commercial Design Standards.

- There should be a graduated scale or trigger for compliance with the Commercial Design Standards based on the scope of redevelopment.

Summary of Proposed Code Amendments

PCA #	Brief Description	Applicability	Trigger	Roadways	Page #
	Development Orientation				7
DO-1	Definitions	All non-residential zoning districts.	All new buildings, except additions to existing buildings.	All	9
DO-2	Development Orientation on Core Transit Corridors		"	Core Transit Corridors	12
DO-3	Development Orientation on Urban Roadways	"	"	Urban	13
DO-4	Development Orientation on Local Roadways	"	"	Local Roadways	14
DO-5	Development Orientation on Internal Circulation Routes		"	Internal Circulation Routes	15
DO-6	Orient building(s) according to roadway type hierarch			All roadways	16
DO-7	Allow exceptions to maximum front setback to protect natural features and historically-significant resources			Core Transit, Urban and Local Roadways	17
DO-8	Allow Alternative Compliance			All Roadways	18
	Connectivity				17
C-1	Create street-like internal circulation system on large sites.	All non-residential zoning districts. Land use exemption list applies.	Projects that require site plans, except additions.	All	19
C-2	Options to improve pedestrian, bicycle and vehicular connectivity.	"	"	All, with exceptions for Transit and Neighborhood Roadways.	22
C-3	City action to improve pedestrian connectivity and encourage streetscape improvements			Urban and transit Roadways	24
	Parking				25
P-1	Allow reduction of minimum parking requirements	All non-residential zoning districts.	When parking requirement triggered (25-6-471).	All	25
P-2	Allow on-street parking constructed in the public ROW	"	"	Urban and transit and Local Roadways	26

PCA #	Brief Description	Applicability	Trigger	Roadways	Page #
	Landscape				
L-1	Revise general city-wide landscape requirements.	All non-residential land uses.	When landscaping requirement triggered (25-2-981).	All	27
L-2	Require new landscape standards for each roadway	"	"	All	28
	Land Use				30
LU-1	Provide pedestrian service with drive-in services	All drive-in services	New drive-in services	All	30
LU-2	Options to mitigate undesirable features of service stations.	All new service stations.	New	All	30
LU-3	New Vertical Mixed Use zoning option within MU zoning.	All MU zoning	Site plans.	All	30
LU-4	Provide amenity on large sites			All	31
LU-5	Options to promote Envision Central Texas and CAMPO recommended land use patterns			All	31
	Exterior Lighting				33
EL-1	Use fully-shielded and full cut off light fixtures for certain exterior lighting applications.	All non-residential uses and lighting in public ROW.	Projects that require site plans and building permits.	All	34
	Signs				35
S-1	Add new sign definitions.	Current applicability requirements in sign ordinance	Current trigger requirements in sign ordinance	All	36
S-2	Revise city-wide sign regulations.	"	"	All	36
S-3	Revise sign districts, areas and heights.	"	"	All	38
S-4	Provide visible street address numbers.	"	"	All	40
	Screening & Compatibility				41
SC-1	Screen equipment and utilities.	All non-residential zoning districts.	Projects that require site plans.	All	41
	Stormwater Management				42

PCA #	Brief Description	Applicability	Trigger	Roadways	Page #
SM-1	Construct attractive stormwater facilities.	All new stormwater facilities.	Subdivision and site plan.	All	42
	Building Design				43
BD-1	Pedestrian Frontages	All commercial zoning and VMU zoning. Applies to any buildings zoned for industrial use or warehouse use at the point their use is converted to commercial		All	44
BD-2	Waive annual license fee for pedestrian cover and trees in ROW			Core Transit, Urban, Local	46
BD-3	Options to improve building design	All commercial zoning and VMU zoning. Applies to any buildings zoned for industrial use or warehouse use at the point their use is converted to commercial	Projects that require site plans, except additions	All	47
BD-4	Alternative to BD-3 for single story buildings larger than 10,000 square feet.			All	52
BD-5	Alternatives to BD-3 for Drive in Services and Pad Buildings on larger sites			All	53

DEVELOPMENT ORIENTATION

Key Issues

Orientation refers to where buildings sit on a site as well as where their principal entrances or "storefronts" are located. Currently in Austin's code, regulations related to orientation, such as building setbacks, depend solely on the property's zoning. While this approach is common throughout the US, there are three key problems with it:

- The building setbacks and other site development regulations are the same for each property within the same zoning district regardless of where the property is located and what kind of roadway provides its principal access. For example, a property located on a two-lane neighborhood collector street with GR zoning has the same setback and height requirements as a property with GR zoning on a major highway. The desired orientation of a commercial development depends primarily on what roadway it is on and what area of town it is in, but the current code does not consider these differences.

- Linking site development regulations solely by base zoning district results in zoning for site regulations, instead of zoning for land uses. For instance, it is not uncommon for an applicant to request CS zoning for the site development regulations, but only wanting GR uses.

- Along a single stretch of roadway, there are often a variety of zoning districts, each with different site development regulations. Currently, there could be three adjacent parcels on the same roadway with the same land use but with three different setback, height, impervious cover and FAR requirements.

In addition, survey results showed that a strong majority (70.5%), including the majority of real estate professionals, want to see a change in development orientation along non-highway roadways (Urban Roadways) so that buildings are built close to the street. In addition, cities around the US, including San Antonio, TX, Dallas, TX, San Diego, CA, Milwaukee, WI, Sarasota, FL and Portland, OR are now requiring buildings close to the street along certain roadways or within non-downtown zoning districts.

Proposed Code Amendments

Some optional items contain ongoing obligations. To ensure ongoing compliance, all site plans shall list the obligations for the site, and notices of all site plans shall be filed with the county clerk.

DO-1: Definitions

To improve the responsiveness of zoning to location, to remove the inconsistency of having different regulations for the same use on the same roadway, and to create a cohesive development pattern, development orientation will be dependent on the roadway type where the development occurs.

"**Core Transit Corridors**": are defined as the following roads and road sections:

1. Lamar between Airport (north) and Ben White (south)
2. Guadalupe
3. S. Congress to Stassney
4. Barton Springs to Robert E. Lee
5. W. Fifth
6. W. Sixth between Guadalupe and Pressler
7. Riverside to Pleasant Valley
8. Anderson between Burnet and Mopac
9. Burnet between 45th and Anderson
10. S. 1st to Ben White
11. E. 7th to Pleasant Valley
12. E. Cesar Chavez to Pleasant Valley
13. MLK, Lamar to Airport
14. 38th Mopac to Speedway

Criteria for adding Core transit corridors in the future:

1. Population density
2. Neighborhood plan

3. Corridor plan

4. Transit facilities

In the neighborhood planning process, stakeholders should consider and make recommendations concerning roadways they wish to designate as core transit corridors within the neighborhood boundary.

The taskforce recommends that the following roadways be considered core transit roadways in the future:

1. S. Congress from Stassney to Slaughter
2. Slaughter from I35 to Mopac
3. 7th St. from Pleasant Valley to 183
4. Lamar from Anderson to Howard
5. Manor from Dean Keaton to 183
6. Airport from Manor to Lamar
7. Oltorf
8. 51ST from Manor to Airport

"**Urban Roadways**" are defined by the following boundaries:

1. (northern boundary) Mesa to Loop 360, Loop 360 to Great Hills, Great Hills to Braker, Braker to Burnet, Burnet to 183, 183 to Manor
2. (eastern boundary) Manor to Airport Blvd, Airport Blvd to 7th, 7th to Pleasant Valley to Ben White Blvd.;
3. (southern boundary) Ben White;
4. (western boundary) Mopac except for area bounded by Lake Austin Blvd., Exposition, Windsor, Pecos, 38th, Balcones, Mesa, Spicewood Springs.

The taskforce recommends that the urban core boundaries be extended in the future to the following boundaries:

1. Metric to Parmer and Parmer to Burnet on the North
2. 183 to 71 on the East
3. Slaughter to the South

"**Local Roadways**": all roadways that are not Transit, Hill Country or Highway Roadways.

"**Hill Country Roadways**": This roadway type applies on all properties within 1000 feet of FM 2222, FM 2244, FM 620, Loop 360 and Southwest Parkway.

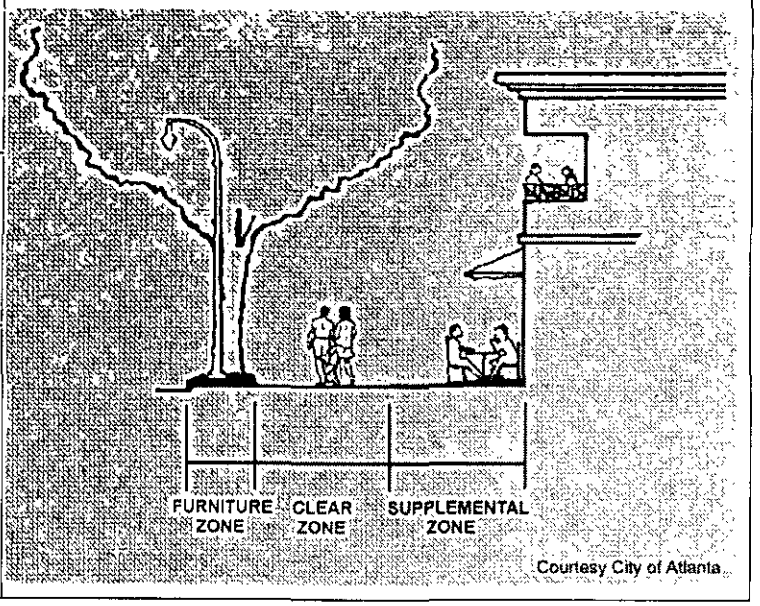
"**Highways**": all freeways, parkways, expressways, and frontage roads identified in the Austin Area Metropolitan Transportation Plan.

"**Internal Circulation Route**": either a public street or a private drive edged by a curb within a development. An Internal Circulation Route may be designed as a matter of right for speeds as low as 20 miles per hour.

"**Clear Zone**":
the area dedicated for an unobstructed sidewalk.

"**Furniture Zone**":
the area between the Clear Zone and the curb.

"**Supplemental Zone**":
an area between the Clear Zone and the building edge for active public uses such as a plaza, outdoor café or patio.



DO-2	Development Orientation on Core Transit Corridors	Core Transit Corridors
Applies to:	All zoning districts except single family. All new buildings, except additions to existing buildings.	

Along Core Transit Corridors, all buildings must be built up to the Clear Zone or the Supplemental Zone along the Core Transit Corridor with the following exceptions:

1. If the lot is deep enough for at least two blocks, [1] buildings may be built up to the Clear Zone on an internal block adjacent to an Internal Circulation Route subject to the requirements of C-2.

2. The following do not have to be built up to the Clear Zone along that roadway so long as parking is not located between the building frontage facing the street:

   a. civic buildings

3. Within each zoning category along Core Transit Corridors, a VMU-option overlay is established subject to the following:

   a. In areas subject to a Neighborhood Plan, VMU structures may not contain uses prohibited for that lot under the Neighborhood Plan

   b. In areas that have not undergone the neighborhood planning process, the VMU overlay is limited to commercially zoned properties.

4. Any surface parking along a Core Transit Corridor must have a row of shade trees between the curb and the parking area.

A central land use goal that resulted from the Envision Central Texas process is to promote increased mixed use infill development. To achieve this goal, public infrastructure improvements are critical along Core Transit Corridors. Therefore, the City Council sets the following policy directives concerning infrastructure: (1) Core Transit Corridors shall receive top priority for sidewalk construction; (2) Austin Energy shall develop and implement a plan to bury utility lines in conjunction with sidewalk construction; (3) the Director of Public Works shall develop and implement a plan to plant street shade trees in conjunction with sidewalk construction; and (4) the City Manager shall develop a program for VMU buildings on Core Transit Corridors to rebate the cost of moving public infrastructure the impedes the developability of property along Core Transit Corridors.

[1] The minimum block length is 276 feet in any direction.

DO-3	Development Orientation on Urban Roadways	Urban Roadways
Applies to:	All zoning districts except residential. All new buildings, except additions to existing buildings.	

1. On Urban Roadways, buildings must be built up to the Clear Zone or Furniture Zone along that roadway and parking is prohibited between the building(s) and the front property line unless the development meets the exceptions set forth below.

    a. If the lot is deep enough for more than one block, buildings may be built up to the Clear Zone on an internal block along an Internal Circulation Route subject to the requirements of C-2.

2. On sites 400 feet deep or less, parking may be located in front of a building if—

    a. at least 40% of the street frontage consists of continuous building façade (divided into no more than two buildings) or 20% of continuous VMU building façade (divided into no more than two buildings) located within 30 feet of the property line; and

    b. there is a row of shade trees between the curb and the parking area; and

    c. A sidewalk at least 6 feet wide lined by shade trees leads to the main customer entrance from the property line. No more than one drive aisle can cross the sidewalk. For multi-tenant developments, there must be a path at least every 330 feet.

3. For sites located on a corner on Urban Roadways,

    a. the building(s) within 100 feet of the corner may not have a parking area between the building and the property line from the corner.

    b. the development may not contain an auto-oriented use with the following exceptions:

        I. A drive-through aisle may be located behind the store (example: Walgreens on 45th and Guadalupe).

DO-4	Development Orientation on Local Roadways	Local Roadways
Applies to:	All non-residential zoning districts (exempt certain land uses, such as industrial). All new buildings, except additions to existing buildings. (auto repair, screened parking, garage doors, loading areas):	

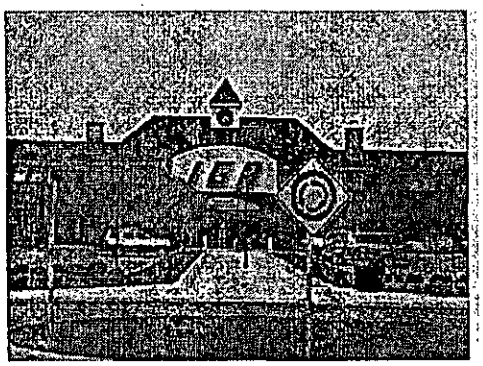
The preferred development model on Local Roadways is to refrain from placing parking between the building and the street. On Local Roadways, this is not required, but if the building is built up to the Clear Zone or Furniture Zone along a Local Roadway, the project is exempt from the connectivity requirements in C-2.

1. Parking along the street frontage must have—

   a. a row of shade trees between the curb and the parking area; and

   b. a sidewalk at least 6 feet wide lined on both sides by shade trees leading to the main customer entrance from the property line. No more than two drive aisles can cross the sidewalk. For multi-tenant developments, there must be a path at least every 330 feet.

A shaded sidewalk at least 6 feet wide leading to the main customer entrance. No more than two drive aisles can cross the sidewalk.
Example from Raleigh code.



2. For sites located on a corner on Local Roadways,

   a. the building(s) within 100 feet of the corner may not have a parking area between the building and the property line unless—

      I. a landscape barrier of shade trees is planted for the entire length of the parking area between the curb and the parking area; or

      II. the building is brought up to the property line on one of the two corner street frontages.

   b. the development may not contain an auto-oriented use unless

      I. a landscape barrier of shade trees is planted for the entire length of the development between the curb and the parking area or

      II. the building is brought up to the property line on one of the two corner street frontages.

DO-5	**Development Orientation on Internal Circulation Routes**	
Applies to:	All non-residential zoning districts (exempt certain land uses, such as industrial). All new buildings, except additions to existing buildings. (auto repair, screened parking, garage doors, loading areas):	

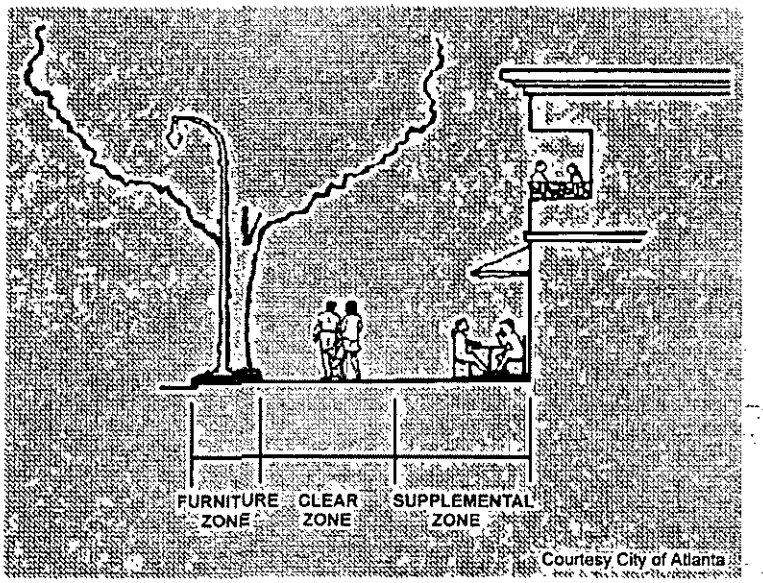
1. Along Internal Circulation Routes (whether built as public streets or as private drives), all buildings must have an adjacent sidewalk to the entrance, followed by an Internal Circulation Route.

2. Parking is prohibited between the building entrance and the curb edge of the Internal Circulation Route. (See Atlanta example below and diagrams in C-1.)

3. Parallel parking and head-in parking are allowed on an Internal Circulation Route.

4. Internal Circulation Routes (whether public roads or private drives) may be designed as a matter of right for speeds as low as 20 miles per hour

    a. Policy: to promote pedestrian safety and pedestrian-oriented development



Development orientation for buildings along public streets or within a development containing a street-like internal circulation system.

Atlanta's Design Standards set out the relationship of buildings to sidewalks and private drives or streets.

DO-6	**Orient building(s) according to roadway type hierarchy.**	**ALL Roadways**
Applies to:	For Transit Roadways, all zoning districts. For Neighborhood, Highway and Hill Country Roadways, all non-residential zoning districts (exempt certain land uses, such as industrial). All new buildings, except additions to existing buildings. In no case would this require orienting development toward a street with zoning of SF6 or below.	

1. At least one customer entrance must either:

   a. face the principle street and connect directly to principal street sidewalk as *established through the roadway type hierarchy indicated in the table above* (Transit Roadway first, etc. if building is located at intersection of two Transit and Urban Roadways, the priority street is that which offers the highest level of transit service.); or

   b. if the principle entrance does not face the street—

      I. the building must be built up to the property line,

      II. the building edge on-street must provide

         A. continuous shade/shelter to the front entrance and

         B. glazing over 50% of the façade along the street.

      III. the entrance must be less than 100 feet from the street face of the building; and

      IV. there must be a buffer strip of shade trees between the building and the parking area.

2. In determining orientation, the following priorities shall govern:

   a. Internal Circulation Route

   b. Core Transit Corridor

   c. Urban Roadway

   d. Local Roadway

   e. Highway or Hill Country Roadway

      I. Unless the higher road runs parallel to the highway and is within 660 feet of the Highway or within 1,000 feet of Hill Country Roadway (i.e., a highway development would not have to orient to the urban/local roadway next to a highway)

DO-7	**Allow exceptions to maximum front setback to protect natural features and historically-significant resources.**	**Urban and Neighborhood Roadways**
Applies to:	All non-residential zoning districts (exempt certain land uses, such as industrial). All new buildings, except additions to existing buildings.	

To protect natural or historic features

If any of the following are within the development orientation area, the setback area shall be increased administratively only to the extent needed to preserve or accommodate the feature.

1. Protected tree,
2. Significant stand of trees (to be defined in landscaping code)
3. Critical environmental feature
4. Natural drainage feature
5. Storm water detention facility placed in the setback due to topography and impractical to build underground
6. Historically-significant resource (determination made by Historic Preservation Officer)
7. Significant scenic amenities not located at the street front shall be granted an administrative waiver

DO-8	**Allow Alternative Compliance**	**ALL Roadways**
Applies to:	All sections of DO.	

To encourage creative and original design, any applicant not wishing to comply with one or more of the Development Orientation provisions may apply to the Director of the department reviewing the application, or its designee, for the applicable permit under this Alternative Compliance provision. Projects seeking an alternate means of compliance under this section may present their proposal to the Design Commission for a letter of support, which may help city staff in evaluating the merits of the proposal.

The Alternative Compliance request shall be granted if the Director makes one of the following findings:

1. The alternative presented in the request is reasonable given the site characteristics of the particular site in questions; or

2. The alternative presented in the request is consistent with good design and the spirit and intentions of the applicable provision, taking into consideration the type of Roadway on which the site is located; or

3. The alternative presented in the request is reasonably necessary to prevent a material change in how one or more of the users of the building in question would function if the request were not granted from their normal way of functioning.

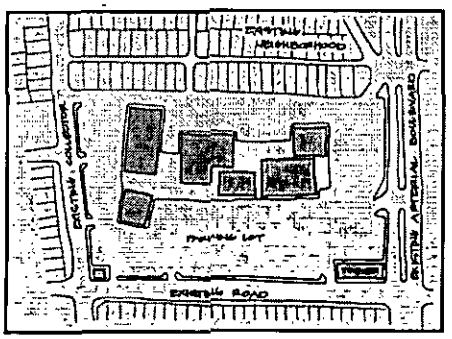
CONNECTIVITY

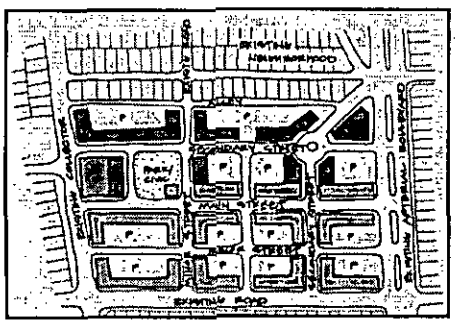
Key Issues

Connectivity refers to how people get to and move within the commercial development, either by foot, bike or motorized transport. Of importance to many of those taking the survey and those concerned with traffic and air quality, is ensuring that access to commercial development is feasible and comfortable by means other than the automobile. These proposed amendments will also help create a built environment that encourages walking and cycling, thus helping to improve air quality and make Austin a fit city.

Proposed Code Amendments

C-1	**Create street-like internal circulation system.**	**ALL Roadways**
Applies to:	All zoning districts on Core Transit Corridors and Urban Roadways. For Local, Highway and Hill Country Roadways, all non-residential zoning districts (exempt certain land uses, such as industrial). Projects that require site plans, except additions to existing buildings.	





Austin's code currently allows commercial and industrial street block lengths of 2,000 feet, and this is only triggered when a street must be constructed through the site, which is rare. To put the 2,000 block length in perspective, downtown blocks are 276 feet by 276 feet. Therefore, a 2,000-foot by 2,000-foot block is the size of 53 downtown blocks. In most cases, commercial development occurs on large sites that are not required to provide internal public streets. This results in "superblocks" of development. Superblocks limit connectivity, increase traffic congestion within the site and on local roadways and complicate redevelopment.

To mitigate the impact of superblocks, any site plan for a development larger than 660 feet in depth and 330 feet in length, measured from curb to curb, must comply with the following:

1. Site must be divided into blocks no longer than 660 feet by 330 feet from curb to curb. The maximum block length applies both to blocks containing building and blocks containing parking fields (a 660' x 330' foot block creates over 217,000 buildable square feet).

    a. The maximum block length standard does not apply to sites zoned for office in the Drinking Water Protection Zone.

    b. The maximum block length standard also does not apply to a Corporate Campus.

        I. A "Corporate Campus" is defined as a site for a single company larger than 10 acres with at least three office buildings larger than 50,000 square feet each.

    c. The maximum site block length of 660' x 330' does apply to all sites zoned for office in the Desired Development Zone.

        I. For office developments in the Desired Development Zone larger than 660' x 330', the maximum office height is increased to 80 feet. This height increase remains subject to compatibility standards.

        II. Developments in the Desired Development Zone larger than 660' x 330' shall receive the same impervious cover credit for Internal Circulation Routes as land condemned for public roadways (provided they are built to the block length standards).

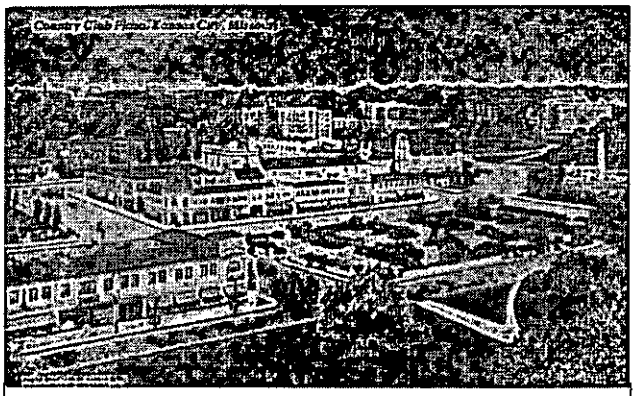
2. An Internal Circulation Route connecting the blocks must form an interconnected grid-like system. Parking is not permitted within Internal Circulation Routes except for parallel parking or head-in parking adjacent to the curb.

    a. Contiguous green space and plazas are not subject to the block-length requirements, but if the contiguous green space or plaza is longer than 150 feet, it must include a pedestrian and bicycle shared use path every 150 feet.

3. Curbside parallel parking is permitted on each new public street.

4. The Fire Code is revised to treat internal private drives the same as city public streets for purposes of parallel and head-in parking provided the private drive meets City of Austin street width standards.

Provide 5 foot sidewalks along all blocks, including blocks containing surface parking. *(See Country Club Plaza and Gresham OR examples below.)* For each Internal Circulation Route and street subject to amendment C-1, a sidewalk is provided on each side. A similar requirement already exists for subdivision developments and for commercial and office blocks edged by public streets. A sidewalk is not required along the frontage of Highways or Hill Country Roadways.

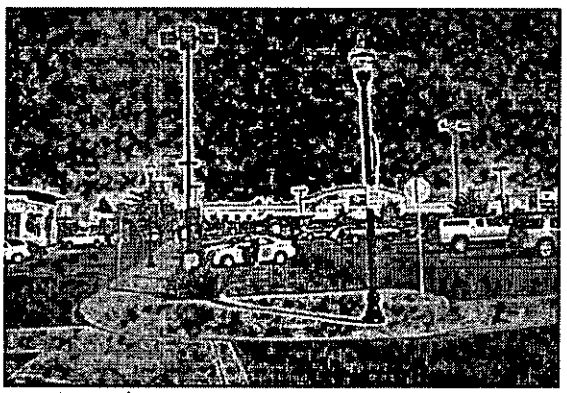


Country Club Plaza in Kansas City, Missouri, opened in 1924. It is the nation's first greenfield suburban shopping center specifically designed for shoppers arriving by cars.

Country Club Plaza followed the conventional format of parking lots in front of the stores, but it did this with a block system of internal drives set up as streets and with the parking lot across the private drives from the stores.

This design has enabled the shopping center to intensify into a mixed use district. Many of the original surface lots are now parking garages or buildings.

Local examples:
La Frontera
Mueller big box area



Gresham OR development with sidewalks surrounding each parking block.

C-2	**Options to improve traffic congestion and improve pedestrian, bicycle and vehicular connectivity.**	**ALL Roadways**
Applies to:	All non-residential zoning districts (exempt certain land uses, such as industrial). All new buildings, except additions to existing buildings.	

To improve traffic congestion and enhance car and pedestrian connectivity, all sites or developments larger than 3 net developable acres shall be required to select at least five of the options below.

If a site or development provides surface parking that amounts to more than 125% of the parking required in Appendix A (the table in the LDC that lists land uses and their respective minimum parking requirements), the site or development must select at least seven of the options below.

Core Transit Corridors and Urban and Local Roadway sites that comply with maximum setbacks of 15 feet and do not have parking between the building and the street do not have to comply with this requirement.

A "shaded sidewalk" means either

1. a sidewalk at least 8 feet wide made of pervious concrete with native shade trees at 20-40 foot intervals or of standard concrete with the trees planted in grates, or

2. a 5 foot sidewalk adjacent to a landscape strip at least 10 feet wide planted with shade trees, or

3. a sidewalk covered with weather-protection materials (such as awnings).

Options:

1. *Provide vehicular and pedestrian connections between sites.*

    a. Provide private drive or public street connections and sidewalk connection to existing private drives or public streets and sidewalks on adjacent sites.

    b. (worth 2 points)

2. *Provide shaded sidewalk alongside building façade facing street and parking lot.*

    a. For at least 70 percent of all building frontages adjacent to or facing parking, a shaded sidewalk at least 6 feet wide and raised above the level of the parking via a defined edge is provided adjacent to the building. ADA ramps alongside the building must also be shaded.

3. *Provide shaded sidewalks within site to all buildings.*

    a. For all sidewalks within a site, provide shade along at least 75% of sidewalks either through shade trees planted in the Furniture Zone at 20-30 foot intervals or through awnings.

4. *Provide pedestrian and bicycle connections from adjacent ROW.*

    a. Where public ROW or parkland is adjacent to the property line, provide pedestrian and bicycle access from that ROW to the building entrance. The pedestrian and bicycle access points must be fully accessible during operating hours.

5. *Provide shaded sidewalk alongside driveways that intersect with a public street.*

6. *Provide solar power shading devices in parking lots.*

7. *Provide pedestrian connection to adjacent residential development.*

    a. If there is a non-residential development adjacent to the site, provide a pedestrian connection to those buildings, up to the property line, and to an existing pathway if one is present on the adjacent site.

8. *Use at least 3 inch caliper trees for all new plantings in parking lots.*

9. *Do not locate utility lines beneath surface parking areas.*

    a. This is designed to facilitate future redevelopment.

10. *Limit curb cuts.*

    a. Connections between site and adjacent arterials and highways occur no more frequently than every 330 feet. An Internal Circulation Route built to full streetscape standards does not count as a curb cut.

11. *At least 50% of the provided parking is constructed of concrete or pervious pavement (for example, pavers, open grid pavement system, pervious concrete).*

    a. If located in the Edwards Aquifer Recharge zone, only concrete may be used to satisfy this option.

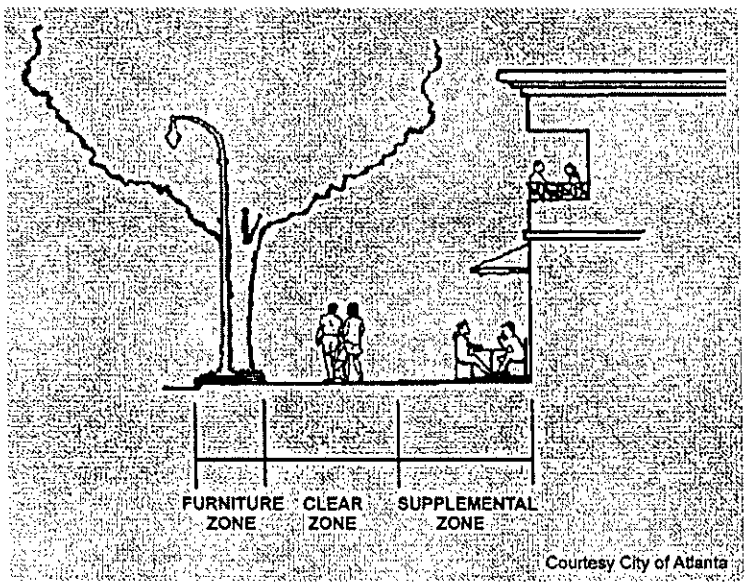
12. *Enhance physical fitness opportunities and multi-modal connectivity by providing shower facilities.*

Land Use	Requirement
Office uses	1 shower facility and 3 lockers for buildings more than 10,000 sf[2]
Commercial uses	1 shower facility and 3 lockers for every building exceeding 50,000 sf of gross floor area
Industrial uses	1 shower facility and 3 lockers for every building exceeding 100,000 sf of gross floor area

C-3	City action to improve pedestrian connectivity and encourage streetscape improvements	Core Transit Corridors

The Director of Planning and Zoning shall define street frontage dimensions for all Core Transit Corridors in the manner set forth in the diagram from Atlanta's code attached below. The required frontage shall include continuous Clear Zones for sidewalks and Furniture Zones for street trees and/or parallel parking.

The Director of Planning and Zoning shall also prepare a plan for rebating the cost of building sidewalks in the Clear Zone and planting street trees and burying utility lines in the Furniture Zones along Transit Roadways. The Director of Planning and Zoning shall complete these items no later than October 1, 2005.



Development orientation for buildings along public streets or within a development containing a street-like internal circulation system.

Atlanta's Design Standards set out the relationship of buildings to sidewalks and private drives or streets.

[2] ADA requirements may not permit a single unisex shower if the expected occupant load exceeds 10. The number of required showers may be increased to 2 ADA showers.

PARKING

Key Issues

For many development projects, surface parking lots account for the largest impervious cover on sites, creating or exacerbating the following problems:

- ***Visually-blighted environment:*** A positive public view from our roadways is critical, as this is the view from which most visitors and residents experience, understand and form an image of the city. Large parking lots offer little visual appeal and tend to detract from the appeal of adjoining buildings and natural environments.
- ***Reduced pedestrian accessibility:*** Many surface parking lots, due to their extreme size, detract from the pedestrian's ability to comfortably and quickly access the principal entrance.
- ***Effect on transportation choices:*** An abundance of free parking focuses attention and resources on the automobile, and tends to discourage the use of alternative modes of transportation.
- ***Inefficient use of land:*** Many retailers exceed Austin's current minimum parking requirement in order to assure more than ample parking during the highest peak shopping days.

Proposed Code Amendments

P-1	**Allow reduction of minimum parking requirements.**	**ALL Roadways**
Applies to:	All non-residential zoning districts.	

The minimum off-street parking requirement shall be reduced:

a) By 1 space for each on-street parking space located in the ROW directly adjacent to the site[3].

b) By 40% for all VMU buildings.[4]

c) By up to 10% to preserve significant trees, and up to 20% to preserve protected trees[5]. If the applicant provides more parking spaces than the minimum required, the additional parking spaces may not result in the removal of significant stands of trees or protected trees.

d) By 3 spaces for each drive that connects to a drive on adjacent property.

[3] Similar ordinances have been adopted in Greensboro, NC, Charlotte, NC and San Diego, CA.
[4] As with the University Neighborhood Overlay, the existing 20% central city parking reduction is not applied
[5] Similar ordinances have been adopted in San Antonio, TX, Dallas, TX, Sarasota, FL and Nashville, TN.

e) By 20 spaces for every car sharing vehicle provided or VMU buildings with at least 100 residential units.

f) By 1 space for each shower facility and 3 lockers provided.

P-2	**Allow on-street parking to be constructed in the public ROW.**	**Core Transit Corridors, Urban and Local Roadways**
Applies to:	All non-residential zoning districts.	

Along Core Transit Corridors, Urban and Local Roadways, parallel parking spaces should be provided within the ROW immediately abutting the development.

On Core Transit Corridors, a development is entitled as a matter of right to parallel parking within the ROW immediately abutting the development. The Director of Public Works may designate certain areas along Core Transit Corridors as not subject to this entitlement, but the Director may not designate more than 20 percent of the frontage of any Core Transit Corridor as exempt from this entitlement. Beginning September 1, 2005, if the Director has not designated an area as exempt from this entitlement and an application to place parking in the ROW is submitted, this application shall be administratively granted immediately. Approval shall be granted administratively immediately upon submission of an application.

On Local Roadways, approval of parallel parking within the ROW is subject to the approval of the Director of Public Works.

LANDSCAPE

Key Issues

The comments from the survey and Task Force discussions indicated that the natural environment is a defining feature of Austin's character and the key element of its attractiveness. In reviewing the current landscape ordinance, stakeholders found that there was not enough incentive to preserve undisturbed areas of native vegetation and so this proposal aims to strengthen natural area preservation.

In addition, landscape needs depend on the development orientation of the site, and since development orientation will vary by roadway type, so will some of the landscape requirements. The table below presents the site characteristics typical of sites for each roadway type and the landscape goals for each roadway.

	Core Transit, Urban & Local Roadway	Hill Country Roadway	Highway
Characteristics	• Buildings close to the street • Combination of undeveloped and developed sites • Close to residential areas	• Building setback varies based on site conditions. • Mostly undeveloped, heavily-wooded sites. • Hilly terrain, with some steep slopes • Close proximity to nature preserves • Endangered species and plants	• Building setback varies based on site conditions and developer preference. • Combination of undeveloped and developed sites. • High noise levels • Often major entryways into the city
Landscape Goals	• Provide shade along public sidewalks for pedestrians • Facilitate future, compact redevelopment • Provide additional screening from residential uses.	• Protect /buffer existing preserves • Emphasize landscape preservation and clustering instead of replacement mitigation • Focus on creating functional, connected wildlife habitat	• Focus on appearance from highway • Facilitate future, compact redevelopment

Proposed Code Amendments

L-1	Revise general city-wide landscape requirements.	ALL Roadways
Applies to:	All non-residential land uses when landscaping requirement is triggered (25-2-981).	

Current landscaping requirements apply, as currently stated in the Code, with the following revisions that apply city-wide to all roadway types.

a) To maintain Austin's distinctive natural environment and to conserve water, plants and trees permitted in the "Grow Green" program and other Native Species may be used to satisfy landscape requirements. (The Grow Green list in the Environmental Criteria Manual will be expanded considerably to include many other species that are particularly suited for street trees and for providing shade.)

b) Unless otherwise noted, "shade" shall mean any plants or structures that provide at least 50% opaque cover during the summer months from April to September.

c) Maintain requirement to provide one tree no more than 50 feet from any parking space, but require that all landscape islands in parking lots are a

minimum of 15 feet wide, rather than 8 feet to allow trees to achieve greater canopy and longer life. (except for projects attempting to keep the site envelope smaller; and projects where tree protection measures that require larger islands)

d) All required shade trees shall have a minimum caliper of 3" at time of planting rather than the 1 ½" currently required.

e) Require 1 or 2 bubblers (depending on species) to be located within the drip line of each planted shade tree.

f) All required ornamental trees shall have a minimum caliper of 1-1/2" at time of planting or if sumac and other similar species are used;

g) Allow the preservation of any natural areas (left undisturbed) to count 1.5 times their surface area toward the minimum required landscape areas of the site. These shall be non-irrigated areas. Any areas that are re-vegetated to become natural areas shall receive temporary irrigation systems for a 2 year period and will also be counted toward 1.5

h) Require heavily-wooded sites (a TBD number of caliper inches per acre) to be processed through an alternative compliance method to allow for highest level of natural landscape preservation possible. (This will require a rules change to require these sites to inventory non-survey trees that are 1" caliper and greater, rather than the current code requirement of only surveying 6" caliper or greater.

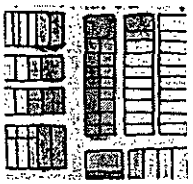
i) Define significant stand of trees.

L-2	**Require new landscape standards for each Roadway.**	**ALL Roadways**
Applies to:	All non-residential land uses when landscaping requirement is triggered (25-2-981).	

On all roadway types, when parking is built up to the sidewalk, the parking lot must be shielded by a landscape buffer.

Proposed		
Core Transit and Local Roadways	Highways	Hill Country
Buildings are located close to the street along Transit and Transit and Local Roadways, and though there is not an extensive frontyard	Highways must comply with current city-wide landscaping requirements, and as amended in L-1, and the following additional	All current hill country landscaping requirements apply, and as amended in L-1, with the following additional requirement:

Proposed		
to landscape, providing shade is important along streetfronts where public sidewalks are located. The city-wide landscaping requirements apply to all Transit and Local Roadways, however projects that comply with the maximum front building setback requirement can elect to not satisfy the 25% landscape yard requirement and instead have: • Plant various tree species spaced between 20 and 30 feet at intervals appropriate for selected tree species along the sidewalk (either on the private property or in ROW, depending on developer preference, utility easement location and approvals from City for license agreement). The planting area must be (a) a sidewalk made of pervious concrete, (b) a sidewalk made of standard concrete with the trees planted in grates or (c) a landscape strip at least 8 feet wide adjacent to the sidewalk. • Light-colored awnings or other pedestrian cover at least eight feet deep projecting from the building (option available only if buildings are located within 15 feet of the property line).	requirements: • Along at least 25 percent of the frontage adjacent to the highway, provide (or preserve) a minimum 15' deep landscape buffer planted with shade trees spaced at approximately 20 foot centers. This requirement is in addition to the 25% frontyard landscaping requirement.	• If the site is located adjacent to dedicated parkland or conservation easement (including BCP and water protection lands), there must be a native vegetated, undisturbed setback, or if preferred by AWU and AFD, a defensible space, of 100 feet from the affected property line. If both this setback and the required roadway vegetative buffer would be more than 20% of the site, the roadway vegetative buffer can be reduced equal to 20% of the square footage of the property.



LAND USE

Proposed Code Amendments

LU-1	Provide pedestrian service with drive-in services.	ALL Roadways
Applies to:	All new drive-in services.	

A business that offers a drive-in service with no walk-in service must provide safe and convenient access for pedestrians.

LU-2	Options to mitigate undesirable features of service stations.	Core Transit, Urban, Local, Hill Country
Applies to:	All new service stations.	

If the planned land use is a service station, the service station must meet the following minimum standards:

a) The street frontage of the service station land must be screened by building or landscape buffer that includes shade trees as referenced in L-2.

b) The number of vehicles that can be serviced simultaneously cannot exceed 16 and the number of vehicle queue lanes cannot exceed 8.

LU-3	New zoning provision of Vertical Mixed Use (VMU)	ALL Roadways
Applies to:	All property currently zoned "MU."	

To encourage mixed use development, a zoning provision within the MU zoning category will be created titled "Vertical Mixed Use" or "VMU." Owners of any property with MU zoning may administratively elect to build under the VMU subdivision.

A VMU building is a building that has the characteristics of the following features:

1. The ground floor must have a different use from upper floors.
2. The building has no front or side setbacks subject to the exceptions allowed in DO-6.
3. The ground floor must have active uses that open onto the sidewalk.
4. Up to 10% of the ground floor may incorporate residential units.

5. The ground floor active uses must comprise at least 75% of the net length of frontage. (Net frontage is determined by taking the gross length of street frontage and subtracting required drive aisles and stairs that occur at the building perimeter subject to the exceptions allowed in DO-5.)

6. Spaces for ground level pedestrian uses shall be at least 24 feet deep.

LU-4	**Provide amenity on large sites**
Applies to:	All site plans larger than 5 acres (net developable land).

For a site that is 5 acres or larger, 2% of the site must be devoted to one of the following types of amenities:

i. Plazas (subject to design rules in criteria manual)

ii. Playgrounds

iii. Natural undisturbed and contiguous open space.

iv. Landscape areas designed for public use.

The areas may be placed in one contiguous location or in separate, distinct areas, which together meet the minimum area of 2% of the site.

A fee may be paid in-lieu of providing an amenity only in the urban core. The fee may be paid to any organization on a list of nonprofit organizations approved by the Director of Planning and Zoning.

The fee will be based on building square footage and will be used by the City to fund parks in the area or open space. Similar legislation may be found in the US, including locally in Round Rock, TX. Open space is required in their C-2 commercial zoning district.

LU-5	**Options to promote Envision Central Texas and CAMPO recommended land use patterns.**	**ALL Roadways**
Applies to:	All site plans.	

A central result of the Envision Central Texas process and a core recommendation of CAMPO staff is that Central Texas developments need to mix uses to reduce suburban sprawl and traffic congestion.

Therefore, all developments with any of the Preferred Items may elect to take all of the Development Bonuses on that site.

Preferred item	
Development contains at least 100 lineal feet of VMU buildings.	
Development Bonuses	
Queuing requirements are reduced by 50 percent for each drive-through service in the development.	Buildings in the development may aggregate points in BD-5 rather than each building needing the minimum number of points.
Reduce by 2 the number of options needed to comply with C-2 for each 100 lineal feet of VMU buildings.	

Preferred Item	
Development contains an integrated mix of uses, with at least 25% of the built area dedicated to at least two designated uses. Integrated means the uses are in walking distance from each other—i.e., not more than ¼ mile apart—and connected by sidewalks.	
Development Bonuses	
	Buildings in the development may aggregate points in BD-5 rather than each building needing the minimum number of points.
Queuing requirements are reduced by 50 percent for each drive-through service in the development.	Reduce by 2 the number of options needed to comply with C-2.

EXTERIOR LIGHTING

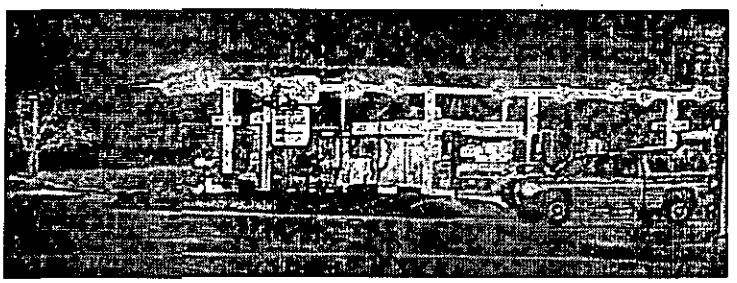
Key Issues

The Land Development Code currently does not regulate exterior lighting, except if triggered by compatibility standards when single-family zoning or uses are located near commercial uses.

Poor lighting causes four major problems:

1. *Reduces public safety.* Glare and excessive contrast makes it difficult to see well at night. In fact, the major reason older drivers prefer not to drive at night is due to the glare caused by poor lighting[6]. Excessive contrast makes it difficult for the eyes to adjust quickly resulting in impaired vision, which can lead to tragedy for pedestrians, cyclists and drivers.
2. *Wastes energy.* Lighting that is excessive, poorly configured or ineffective wastes energy and money.
3. *Causes light trespass.* Even if a residential area is not located within the area that triggers compatibility standards for a commercial development, light may still trespass onto residential areas.
4. *Creates light pollution.* The inability to see the night sky due to city lighting is light pollution. The pollution reduces the attractiveness of Austin as a place to live and inhibits both basic amateur and professional astronomical viewing.

Many cities throughout the US have adopted city-wide lighting ordinances including Tucson, AZ, Albuquerque, NM, Seattle, WA and Hailey, ID.



Photos from www.darksky.org

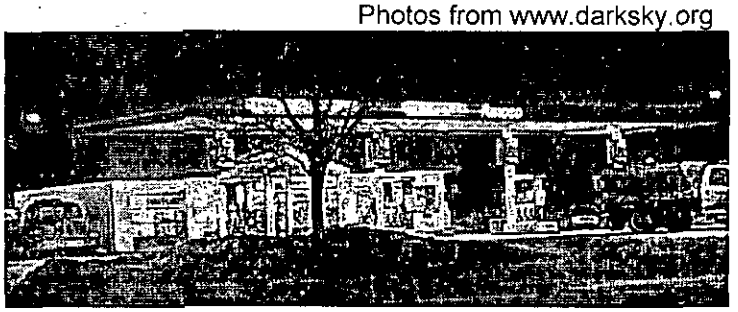


Photo A.
Poor lighting

Photo B.
Good lighting

[6] International Dark Sky Association www.darksky.org

Proposed Code Amendments

EL-1	**Use fully-shielded and full cut off light fixtures for certain exterior lighting applications.**	ALL Roadways
Applies to:	All site plans and building permits.	

The following outdoor lighting applications shall be illuminated by fixtures that are both fully-shielded and full cut-off:

- public street and pedestrian lighting;
- parking lots;
- roadways and pathways;
- buildings and structures;
- recreational areas;
- billboards;
- product display area lighting;
- building overhangs and open canopies.

New Definitions

Fully-Shielded. A lighting fixture constructed in such a manner that the light source is not visible when viewed from the side and all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

Full Cut-off: A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 above nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10%) at or above a vertical angle of 80 above nadir. This applies to all lateral angles around the luminaire.

Light fixture. The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.

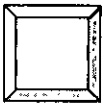
Submission of Plans and Evidence of Compliance with Code

All building permit plans must submit the following information:

a) Location on the premises of all lighting fixtures, both proposed and any already existing on the site and in adjacent ROWs;
b) Description of all lighting fixtures, both proposed and existing. The description may include, but is not limited to, catalog cuts and illustrations by manufacturers (including sections where required).

Lamp or Fixture Substitution
Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the designated official for approval, together with adequate information to assure compliance with this Code, which must be received prior to substitution.

Non-Conforming Lighting
All outdoor lighting fixtures lawfully installed prior to and operable on the effective date of this Code are exempt from all requirements of this code until January 1, 2015. Compliance with the intent of this Code at all State and Federal facilities is encouraged.



SIGNS

Key Issues

Four main concerns were expressed in the stakeholder discussions and survey comments about signage in Austin:

1. Survey results indicated that "monument" signs are preferable to pole signs on scenic roadways. Projecting and hanging signs are preferable on transit and neighborhood roadways, where development will be located close to the public sidewalk, however these are currently not permitted.

2. Upward lit and internally-lit signs contribute to light pollution and glare.

3. Address numbers are difficult to find, and sometimes are not present at all, making it difficult to find a business. Improving the visibility of street addresses also helps emergency service personnel find a place.

4. The basic and most important function of signage is to identify the destination. This function is often lost because signage appears to be so unregulated that competition for dominance for the attention of the viewer makes it difficult to find a single sign among the cacophony of signage. The beauty of the landscape and architecture is thus obscured by the proliferation of signs.

Currently the City of Austin does not have sign inspection, and enforcement is extremely limited, responding only to registered complaints. To insure that current and the proposed new regulations are enforced, the Task Force will propose a fee ordinance in the near future to require annual sign fees to support enforcement staff.

Changes to all the commercial sign districts are proposed, however please note that the historic district signage requirements are not affected by this proposal.

Proposed Code Amendments

S-1	Add new sign definitions.	All
Applies to:	All signs subject to sign ordinance, as currently stated in Code.	

Currently, the sign ordinance defines commercial flag, freestanding sign, multi-tenant center sign, projecting sign, roof sign, sidewalk sign and wall sign. The Task Force recommends defining and permitting the following other types of signs not currently defined in the Code:

Awning sign. Any awning containing signage used to identify a business, profession, service, product, or activity conducted, sold or offered on the premises.

Hanging sign. A sign that is suspended from the underside of a horizontal plane surface projecting from the building or is directly attached to the building façade and majority of sign area is perpendicular to the building facade. This includes projecting signs.

Internally Illuminated Sign. A sign illuminated by light sources enclosed entirely within the sign cabinet and not directly visible from outside the sign.

Monument sign. Any freestanding sign that does not have more than 15% free clearance between the face of the sign and the ground or is supported by a monolithic structure which is the same width or greater then the rest of the sign.
Pole sign- A freestanding sign that has more than 15% free clearance between the face of the sign and the ground.

S-2	Revise city-wide sign regulations.	ALL Roadways
Applies to:	All signs subject to sign ordinance, as currently stated in Code.	

1. If the sign is produced by an artist selected from the juried image registry maintained by the Arts in Public Places (AIPP) Program, the allowable sign area may be increased by 100%, as long as the company name and logo do not exceed the maximum sign district area. AIPP website: http://www.ci.austin.tx.us/aipp/

2. Internally illuminated signs are permitted only if constructed with an opaque background and translucent text and symbols. Internally illuminated signs are prohibited on Hill Country Roadways only.

3. New pole signs will be prohibited on all Core Transit Corridors and Urban and Local Roadways. All existing pole signs citywide will be reclassified to be permitted non-conforming uses.

4. Whenever an applicant seeks a new signage permit for a property containing a pole sign, all non-conforming pole signs will be required to be removed as a condition of the permit.

    a. An exemption to this provision exists for existing multi-tenant pole signs. New multi-tenant pole signs are still prohibited on all Core Transit, Urban and Local Roadways and all Neighborhood Roadways.

5. The sign area calculation includes all applications of stripes, graphics and trade mark paint colors that constitute corporate branding.
   Except for:
    a. prototype colors that are light colors as recommended in the green building matrix.
    a. awnings that provide pedestrian cover over pathways.

S-3	**Revise sign districts, areas and heights**	**ALL Roadways**
Applies to:	All signs subject to sign ordinance, as currently stated in Code.	

As part of the proposal to tie regulations to roadway type, the Task Force proposes that the sign ordinance be modified to reflect the creation of the Highway, Hill Country Roadway and Core Transit, Urban and Local Roadway Types.

Current Regulations				Proposed Regulations		
Sign Districts	**Applicability**	**Signs Permitted**		**Sign Districts**	**Applicability**	**Signs Permitted**
Expressway Corridor	IH-35, US 183, US 290, SH 71	• Freestanding or roof • Wall • Commercial flag	→	Highway	Designated AMATP highways	• Pole, monument or roof • Perpendicular • Wall • *Awning or* Commercial Flag
Scenic Roadway	Roadways listed in LDC 25-10-6[7] and Hill Country Roadways	• Freestanding • Wall	Scenic → / Hill Country → / Scenic →	Hill Country Roadway	Currently-*designated Hill* Country Roadways	• Monument • *Perpendicular* • Wall
Local Sign	TND, NPCD Infill options	• Wall, awning, berm or hanging sign	→	Transit & Local Roadway	All other roadways	• Monument • Perpendicular • *Wall or Awning or* Commercial Flag • Sidewalk
Neighborhood Commercial	LO, LR, CR and W/LO zoning districts	• Freestanding • Wall • Commercial flag	→			
Commercial Sign	Includes land not in any other sign district.	• Freestanding or roof • Wall • Commercial flag	→			

[7] The following are subject to the Scenic Roadway sign district regulations (those in bold are Hill Country Roadways): Arterial 8 (Adelaide Dr./Forsythia Dr.); Barton Springs Road; Loop 1; **Loop 360** (south of US 183); **RM 620** (from SH 71 to Anderson Mill Road); **RM 2222** (west of Mopac); **RM 2244**; Lake Austin Blvd.; West Cesar Chavez St.; Riverside Drive; Spicewood Springs Road (from Mesa Dr to Loop 360); William Cannon Dr (Brodie to Southwest Pkwy); Escarpment Blvd (William Cannon Dr. to Arterial 11 (SH45); Arterial 5 (McKinney Falls Pkwy from US 183 to William Cannon Dr.); FM 973 (from SH 71 to US 183); SH 71 east of IH 35; US 183 South of SH 71; Cameron Rd. (north of 183); Parmer Lane (except for the area between Loop 1 and IH 35); Stassney Lane, east of IH 35; Slaughter Lane; and Old Spicewood Springs Rd. (from Loop 360 to Old Lampasas Trail); **Southwest Parkway**.

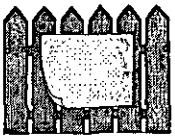
Table of Proposed Changes to the Sign Area and Height Requirements

Sign Districts	Signs Permitted	Proposed Sign Area and Height
Highway		
	(1) Monument or Roof for each street frontage	Decrease current maximum size and height applicable to the Expressway Sign District: • Pole, Monument and Roof Sign Area **FROM** 60sf sign area for lots with less than 86 linear feet of street frontage, or 300 sf sign area for lots with more than 86 linear feet of street frontage **TO** TOTAL signage (all signs) 100 sf for single tenant, and 100 sf for each additional tenant up to a maximum of 300sf. • Pole Sign Height **FROM** the greater of 35 feet above frontage street pavement grade; or 20 feet above grade at the base of the sign **TO** 35 feet above finished grade of sign. • Monument Sign Height **TO** 12 feet above finished grade of sign. • Roof Sign Height **FROM** lesser of five feet above the building façade or five feet above the maximum height permitted for a freestanding sign **TO** the same (maintain current requirements).
	(1) Projecting or Hanging for each store	Projecting or hanging signs cannot exceed: • 35 square feet in area • Lesser of 6 feet, or distance equal to 2/3 the width of abutting sidewalk (same as current downtown requirements for projecting signs)
	(1) Awning or Commercial Flag, for each store	Signs on awnings and commercial flags count towards wall sign area calculation.
	Wall	**FROM** Wall cannot exceed 20% of building façade area of the first 15 feet of the building and 10% of total building façade area, OR 64sf, whichever is less **TO** 1 sf for each 1 lineal feet of building façade to a maximum of 400 sf.
Hill Country Roadway		Along Hill Country Roadways, the signs must comply with the Hill Country building materials requirements.
	(1) Monument	Maintain current requirements: Sign area cannot exceed 0.4 square feet for each linear foot of street frontage or 64 square feet.
	Wall	**FROM** total sign area (including all signs, except freestanding) is limited to 10% of the façade area of the first 15 feet of the building **TO** 1 sf for each 1 lineal feet of building façade to a maximum of 400 sf.

Core, Transit, Urban, Local Roadways		
	(1) Monument for each street frontage	• Maintain current requirements: Sign area cannot exceed 0.4 square feet for each linear foot of street frontage or 64 square feet • A monument sign cannot exceed 12 feet in height above finished grade of sign.
	(1) Projecting or Hanging for each store	Projecting or hanging signs cannot exceed: • 35 square feet in area • Lesser of 6 feet, or distance equal to 2/3 the width of abutting sidewalk (same as downtown requirements for projecting signs)
	Awning	Counts towards wall sign area calculation.
	Wall	**FROM** Wall cannot exceed 10% of building façade area of the first 15 feet of the building (in neighborhood commercial sign districts) and 20% of the first 15 feet of the building façade (in commercial sign districts), OR 64sf, whichever is less **TO** 1 sf for each 1 lineal feet of building façade to a maximum of 400 sf.
	(1) Commercial Flag for each store	Counts towards wall sign area calculation.
	Sidewalk	Maintain current requirements

S-4	**Provide visible street address numbers.**	**ALL Roadways**
Applies to:	All non-residential land uses.	

Street addresses, visible from the public ROW, must be located on the sign or the building. The street address, up to 10 square feet, does not count towards sign area.



SCREENING & COMPATIBILITY

Key Issues

Two of the goals of this initiative is to improve the quality of development near neighborhoods and to reduce the visual impacts of the more unattractive components of development, such as dumpsters and loading areas. Several amendments are proposed to accomplish both goals.

Proposed Code Amendments

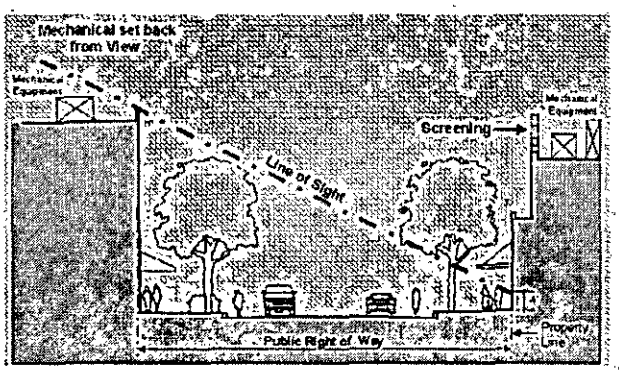
SC-1	Options to screen equipment and utilities.	ALL Roadways
Applies to:	All non-residential zoning districts. Projects that require site plans.	

Currently, screening of mechanical equipment, trash dumpsters and other utilities is required when residential uses are located near the commercial development and in the downtown CBD and DMU zoning districts. The Task Force wants to extend this requirement city-wide to all commercial development, regardless of location. For all non-residential development within the City of Austin, regardless of roadway type, at least 2 of the following three options shall be chosen:

a) All mechanical, solid waste and utility-related equipment must be screened from public view, including rooftop equipment. (Major utility facilities and antennae are exempt from requirement.) See illustration below.

b) Set storage, utilities, trash collection and loading areas at least 20 feet away from all sidewalks and residential uses. The accessible ADA route required to serve the storage, trash collection and loading area is not considered in determining compliance with this option.

c) Structural screening of dumpsters and loading areas consists of same building materials as the main building.



STORMWATER MANAGEMENT

Key Issues

Concerns about the design of stormwater management facilities were expressed in the survey comments and during stakeholder discussions. Many stormwater facilities are constructed with concrete walls and are not integrated aesthetically or functionally into the site, resulting in an unattractive facility, even if screened with vegetation.

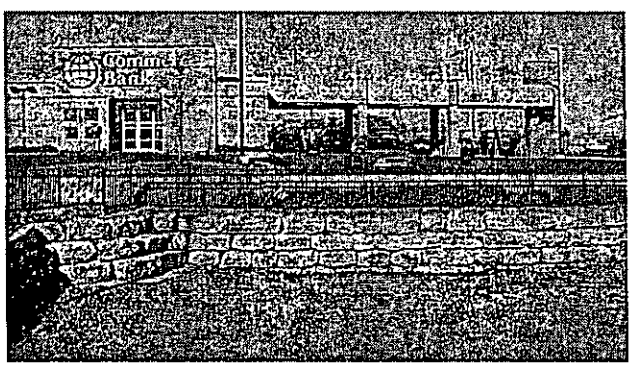
Proposed Code Amendments

SM-1	**Construct attractive stormwater facilities.**	**ALL Roadways**
Applies to:	All new stormwater facilities (triggered by subdivision and site plan).	

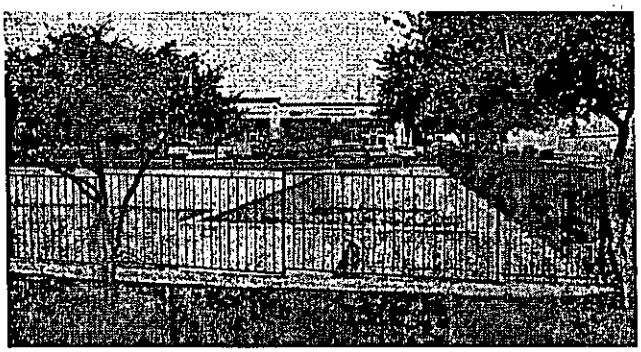
All stormwater facilities are required to comply with the requirements below.

- All supporting walls of structural facilities that extend within 50 feet of a public ROW must be constructed of or faced with stone.
- If fencing is required, chain-link fences are prohibited if within 50 feet of the public ROW.

Landscaping around the facilities would still be required, however use of plants to screen the facility would not be required.



Facility constructed of stone and would comply with proposal SM-1.



Facility that complies with current requirements, but not with proposed SM-1.

BUILDING DESIGN

Key Issues

Building design is regulated in many communities throughout the US (an estimated 3,000 cities[8]) to improve the look of the community, and in some communities, to enforce a certain character or style. For instance, in Sante Fe, NM adobe-style buildings are required. In Austin, as heard from stakeholders and as seen in some survey comments, diversity in building design is important, so the proposal is not prescriptive about requiring buildings to be of a certain style. The proposal instead provides options that help insure buildings have visual appeal and contain functional design elements, including shade and weather protection, that make the pedestrian experience at all sites pleasant.

These Building Design standards aim to strengthen Austin's unique character and help buildings to better function in Austin's environment. Creating buildings with appropriate human scale, lessening the impact of branded architecture that does not speak to our unique character and conditions, and increasing quality, adaptability, and sustainability in Austin's building stock are additional goals that these building standards address.

Alternate Means of Compliance- in an effort to insure that these standards do not restrict creativity or stifle innovation, the building design standards may be satisfied if the applicant can demonstrate to staff that a non-compliant proposed design meets the spirit and intentions of the design standards. Projects seeking an alternate means of compliance may present their proposed design to Austin's Design Commission for a letter of support, which may help city staff in evaluating the merits of the alternate design. The extent to which buildings containing national retailer branding on their façade (other than attached signs) may submit a request for an alternative compliance waiver shall be addressed in the code drafting of criteria.

[8] American Planning Association

BD-1	Pedestrian frontages.	ALL Roadways
Applies to:	All non-residential land uses (except office and non-transit roadway industrial). Land use exemption list applies (tbd). Projects that require building permits, except additions and interior and exterior remodels.	

This section refers to any building frontage visible and accessible to the public (i.e. oriented to the street, open space, parking, etc.). These areas shall be designed with pedestrian functionality and activity in mind, including opportunities for windows, shade/shelter, building entrances, and pedestrian amenities. Building facades facing loading areas, rear service areas, or facades adjoining other buildings (attached to more than 50% of the sidewall) are not required to comply with BD-1 standards.

A. Glazing on building facades

Glazing provides interest for the pedestrian, connects the building exterior and interior, puts eyes on the street, promotes reusability, and provides a human scale element on building facades.

1. At least 40% of the front wall area that is between 2 and 10' above grade shall consist of glazing, at least half of which is clear glazing.

2. At least 25% of the wall area between 2 and 10 feet on all other publicly visible facades must consist of glazing.

3. Second-floor front facades must provide a minimum of 25% glazing between 3' and 8', as measured from that story's finished floor level.

4. If a single story building has a façade higher than 20 feet, the façade area above 15 feet is subject to the same window requirement as the second floor requirement.

5. To facilitate the development of a street wall, any façade that is built up to an interior mid-block property line is not required to have glazing on that façade if no prohibitions and no contractual or legal impediments exist that would prevent a building being constructed on the adjacent property up to the wall of the façade.

6. An administrative waiver may be granted for buildings that cannot comply with this regulation because of the function of the building, as long as the building (a) is designed to allow for the future addition of glazing (i.e. concrete tilt wall panels would be required to have knock out panels at least 12' wide x 12'tall over 25% over the waived façade, (b) the façade facing the street meets the glazing requirement and (c) the building no national retailer branding on its façade. In addition, the façade receiving the waiver must achieve a level of façade articulation as specified in BD-4)

B. Building entrances

Like windows, multiple building entrances help prevent long continuous wall planes and promote pedestrian activity along building frontages.

1. Building entrances shall be located at intervals of no more than 75' along the primary public façade. If the primary public façade is not the street facing façade, there must be a shaded pedestrian pathway (as described in the connectivity section) linking the street and the building entrance.

2. If building entrances are located greater than 75' apart (or there is a single entrance point on a façade greater than 150'), the areas between the entrances (or from building edge to the entrance) shall incorporate landscape areas, raised planters, at least 25 linear feet of see-through glazing for each 100 feet of frontage, and shaded pedestrian amenities that connect the entrances.

C. Shade and Shelter

Austin's climate requires shade and shelter amenities in order to accommodate pedestrian activity. Shaded pathways will provide greater connectivity between sites and allow for a more continuous and walkable network of buildings. Shading/ shelter along building facades will help connect the building to the site and better respond to Austin's conditions. Shade and shelter devices include covered walkways, awnings, canopies, balconies, etc.

1. Building facades along the street shall have a shaded pathway or shade device along 50% of the façade.

2. Building entrances shall be located under a shade device.

3. Buildings within the site shall be shaded along all public areas and pedestrian pathways to the building entrances (at least 50% of all frontages facing parking shall be shaded or have a shelter device).

   A building may receive an administrative waiver of the shade device requirement by demonstrating how the proposed landscape design satisfies the shade requirement along building frontages through landscaping.

BD-2	**Waive annual license fee for pedestrian cover and trees in ROW.**	**Urban and Local**
Applies to:	All land uses on Urban and Neighborhood Roadways.	

Currently in the CBD and DMU zoning districts, owners of buildings with pedestrian cover, such as awnings or balconies over the public sidewalk, do not pay an annual license fee, which is typically charged by the City for all private structures in the ROW. This amendment would extend that to all zoning districts to encourage the construction of buildings with pedestrian cover over the public sidewalk.

In addition, trees planted in the ROW will be considered pedestrian cover, and the annual license fee for those will be waived too. It is the policy of the City Council that shade trees are an important component of the public right-of-way just as utility lines are an important component. Therefore, by October 1, 2005, the Director of Public Works shall complete a plan for all Transit Roadways specifying how and where shade trees may be planted in the ROW at intervals not less than every 30 feet. As of October 1, 2005, approval of an application to plant shade trees in the ROW along Transit Roadways in the locations and manner specified in the Director's plan shall be granted administratively immediately upon submission of the application.

BD-3	Options to improve building design	ALL Roadways
Applies to:	All commercial zoning (except office). Applies to any buildings zoned for industrial use or warehouse use at the point their use is converted to commercial Land use exemption list applies. Projects greater than 10,000 s.f. (and projects < 10,000 s.f. that contain any exterior prototype design features of a chain store) that require building plans, except additions and interior and exterior remodels. Projects less than 10,000 sq ft. that do not contain any exterior prototype design features of a chain store are exempted from this section.	

The purpose of these Building Design standards is to increase the quality of the building stock in Austin and encourage buildings that function, both aesthetically and contextually, within the fabric of Austin, while discouraging prototype or standardized formula buildings that do not speak to our unique character and conditions.

This section is intended to mitigate some of the design features that do not speak to the unique character of Austin, and help improve the character and massing of Austin's building stock.

Each building plan must earn 1 point from the matrix below except as follows:

1. A building that has any portion of the exterior consisting of prototype design features by a national chain must earn at least 5 points, two of which must come from Group B.

2. A building must earn 3 points if it has prototype design features by a national chain BUT has no prototypical designs above 12 feet and has no prototypical roof or parapet design.

3. If the building plan shows any of the design features listed below, one additional point must be earned for each design feature (except as noted).

    a. Building is one story and greater than 20 feet tall, floor to bottom of roof structure.

    b. Building façade exceeds 200 feet without entrances every 75 feet.

    c. Individual use is greater than 100,000 s.f.

    d. Building is a pad building located in the CBD with any of the following features (2 negative points):

        I. drive-through;

        II. building is separated from other buildings by surface parking on at least two sides;

e. False fronts or shaped parapets are created to increase apparent size of building or house signage/corporate identity logos, etc.

   I. If used, building parapets must not be greater than 50% higher than the distance of the building from grade to roof.

   II. For example, a building that is 20 feet tall from the grade to the roof cannot have a parapet greater than 10 feet tall from roof to top of parapet.

f. Concrete block is used on more than 25% of a façade visible to the public (2 points if concrete block is used on more than 75%)

g. EIFS is used as a material on the ground floor (below 10')

h. Pad building with drive-in (Core Transit Corridor only).

VMU buildings are exempted from BD-3. Points are listed for VMU buildings for the sole purpose of providing aggregation values for LU-5.

Group A **3 points**	**Group B** **2 points**	**Group C** **1 point**
VMU structure (1 extra point if VMU structure contains at least 25% residential and 25% of either office or retail) [9]	Provide "liner" stores (at least 75% of building façade must be storefronts for at least two other uses).	Green Building rating: 1 point for each star above code required minimum (if applicable). No double credit for Green Building points from Group B
	"Sustainable roof"	Building contains liner stores inlaid into façade of user. (1 point for each liner store)
	Building integrates solar power generation into building design (e.g., rooftop solar panels or Building Integrated Photovoltaics)	Façade articulation
	Green building rating of 2 stars.	Primary entrance design
		Roof design
		Building materials
		Glazing on ground-floor facades that face the street or parking lot have a Visible Transmittance (VT) of 0.6 or higher.
		Improves storefronts to new regulatory standard for glazing type/size & shading.
		Complies with neighborhood design guidelines, as prescribed in the Urban Design Criteria Manual.
		90% of all frontages facing parking shall be shaded or have a shelter device

[9] VMU structures are exempted from BD3. Points are assigned purely for aggregating point values for LU-5.

Definition of Options

1. **Façade Articulation** is one of the following design features, none of which can be national chain prototype features:

    a. Changes in plane with a depth of at least 24 inches, either diagonally, horizontally, or vertically, at intervals of not less than 20 feet and not more than 100 feet; or

    b. Changes of color, texture, or material, either diagonally, horizontally or vertically, at intervals of not less than 20 feet and not more than 100 feet; or

    c. A repeating pattern of wall recesses and projections, such as bays, offsets, reveals or projecting ribs, that has a relief of at least eight inches.

2. **Primary Entrance Design** consists of at least three of the following design elements at the primary entrance (none of which can be national chain prototype features), so that the primary entrance is architecturally prominent and clearly visible from the abutting street:

    a. Architectural details such as arches, friezes, tile work, murals, or moldings.

    b. Integral planters or wing walls that incorporate landscaping or seating.

    c. Enhanced exterior light fixtures such as wall sconces, light coves with concealed light sources, ground-mounted accent lights, or decorative pedestal lights.

    d. Prominent three-dimensional features, such as belfries, chimneys, clock towers, domes, spires, steeples, towers, or turrets.

    e. A repeating patters of pilasters projecting from the façade wall by a minimum of eight inches or architectural or decorative columns.

3. **Roof Design** must have at least one of the following design elements, none of which can be national chain prototype features:

    a. Parapets with horizontal tops having height changes of at least one foot occurring horizontally no less than every 100 feet.

        I. Parapets that do not have horizontal tops must have pitched or rounded tops with a pattern that repeats or varies no less than every 100 feet.

II. All parapets must have detailing such as cornices, moldings, trim, or variations in brick coursing.

b. Sloping roofs with at least two of the following design elements:

I. Slope of at least 5:12.

II. Two or more slope planes.

III. Overhanging eaves extending at least three feet beyond the supporting wall.

4. A **sustainable roof** is roofing that has either:

a. a Solar Reflectance Index (SRI)[10] as required in the table below for a minimum of 75% of roof surface; OR

b. a vegetated roof for at least 50% of the total roof area with a rainwater collection system; OR

c. a combination of a vegetated roof with rainwater collection system and SRI-compliant roof for at least 75% of roof area.

Low-slope roof: less than or equal to 2:12	SRI = 78
Steep slope roof: > 2:12	SRI = 29

5. **Building materials** are defined as

a. limestone or

b. brick

I. if the building user will be a chain store, the brick color shall not be the same as or substantially similar to any of the prototypical brick colors used by the chain store.

[10] Solar Reflectance Index (SRI) combines reflectivity and emittance to measure a roof's overall ability to reject solar heat. The Environmental Energy Technologies Division at Lawrence Berkeley National Laboratory (http://eande.lbl.gov/CoolRoof/membrane.htm) lists SRI values associated with several different brands and types of low-slope membranes. Steep slope roofing applications can be found with a SRI up to 62.]

BD-4	Alternative to BD-3 for single story buildings larger than 100,000 square feet.	ALL Roadways
Applies to:	All non-residential land uses (except office). Land use exemption list applies. Projects that require building plans, except additions less than 30% of total square footage or less than 5,000 square feet and interior and exterior remodels.	

Large buildings such as big box stores play a significant affect on the built environment due to their size and the amount of land they use. They can be difficult to adapt to different uses.

Instead of complying with BD-3, a single story commercial building larger than 100,000 square feet may elect as a matter of right to comply with the following standards:

1. Building façade consists of 75% masonry or limestone excluding the window area and rear service area on sides visible to the public.
2. Use of prototypical franchise designs above 12 feet and use of prototype roof and prototype parapet design features is prohibited.
3. Façade articulation (as defined in BD-3).
4. Building has 40% glazing on the front façade (at least half of which is clear and see-through into the store) and 25% glazing and cutouts for an additional 25% glazing on sides visible to the public.
5. Building has a Green building rating of at least 2 stars.

BD-5	Alternative to BD-3 for Drive in Services and Pad Buildings on larger sites	ALL Roadways
Applies to:	Pad buildings and single use Drive in Services.	

Pad sites are generally set to the front of large lots and are the most visible buildings from the street frontage.

Instead of complying with BD-3, a pad building may comply with the following standards:

1. Use of prototypical franchise designs above seven feet is prohibited (i.e., no prototype roof designs).

2. The portion of the building below seven feet consists of either

   a. Limestone; or

   b. brick that has a different color than the prototype brick color; or

   c. for a building that occupies a pad or portion of a building within a planned project or shopping center, the building has similar design characteristics and shares vocabulary with the rest of the shopping center. This includes use of similar materials, patterns, rhythms, and proportions to the rest of the center.

3. Pad sites shall not have any parking located between the building and the street on Core Transit Corridors, Urban Roadways and Local Roadways.

Revisions to Design Standards Codification
November 2005

1. **DO-1: Core Transit Corridor Definitions**

   a. Change northern boundary of Lamar to Banyon

   b. Add Airport from Lamar to I-35

      I. Keep the section of Airport from I-35 to Manor in the future CTC section

   c. For list of suggested future CTC's, add Far West from Mopac to western side of Chimney Corner

   d. Definition of Internal Circulation Route amended:

      "**Internal Circulation Route**": either a public street or a private drive edged by a curb within a development. An Internal Circulation Route may be designed as a matter of right at the sole discretion of the developer for speeds as low as 20 miles per hour. An Internal Circulation route may be closed off to auto traffic to create a pedestrian-only street so long as the Internal Circulation Route meets the design criteria described in this definition (i.e., roadway edged by a curb). An Internal Circulation Route shall not be treated as a curb cut.

2. **DO-2: Development orientation on CTC's**

   a. Add the roads designated as future CTC's to the VMU overlay

3. **C-1: Create street-like internal circulation system**

   a. Permit internal blocks abutting ICR's to be subdivided so individual blocks can be sold off and developed.

   b. <u>Amend C-1(1) language on impervious cover credit as follows</u>:

      1. Developments outside the Barton Springs Zone larger than 660' x 330' shall receive the same impervious cover credit as land condemned for public roadways for the following:

         a. Internal Circulation Routes (provided they are built to the block length standards)

         b. Sidewalks and curbs along Internal Circulation Routes and adjacent public roadways.

         c. Public plazas

i. (impervious cover credit only transfers to VMU structures and structured parking with first floor liner stores)

d. Publicly accessible greenbelts with running trails or bike paths

i. (impervious cover credit only transfers to VMU structures and structured parking with first floor liner stores)

e. Publicly accessible parks or children's playgrounds

i. (impervious cover credit only transfers to VMU structures and structured parking with first floor liner stores)

c. Amend C-1(1) language to permit No Parking signs instead of red painted curbs

A property owner may elect at the property owner's sole discretion to place no parking signs in lieu of painting curbs red. If the property owner elects to place no parking signs, the property owner does not have to paint the curbs red.

d. Amend C-1(1) to allow a single block up to 660 by 660 feet.

On sites larger than 15 acres, the site may contain one block with a maximum dimension of 660 feet by 660 feet for each 30 acres (i.e., one 660 x 660 block on a site 15-30 acres, two 660 x 660 blocks on a 30-60 acre site, etc.).

4. **C-2: Options to Improve Traffic Congestion**

a. Allow exception for pad buildings with only one curb cut and clarify definitional inconsistency

To improve traffic congestion and enhance car and pedestrian connectivity, all sites or developments larger than 3 net developable acres shall be required to select at least five of the options below.

If a site or development provides surface parking that amounts to more than 125% of the parking required in Appendix A (the table in the LDC that lists land uses and their respective minimum parking requirements), the site or development must select at least seven of the options below.

Transit and Urban and Local Roadway sites that do not have parking between the building and the street do not have to comply with this requirement. Transit and Urban and Local Roadway sites less than three net developable acres that have parking between the building

and the street shall be required to select at least three of the options below.

When a pad building with a drive-in is only permitted a single curb cut, the pad building site may contain a circulation lane between the building and the curb without triggering the requirements of this section. The circulation lane may not have parking and cannot be wider than 14 feet.

5. **C-3: City action to encourage streetscape improvements**

a. Expand sidewalk and street tree rebate and clarify that these only apply to VMU and to UNO-compliant structures

The Director of Planning and Zoning shall prepare a plan for rebating the cost of building sidewalks in the Clear Zone and planting street trees and burying utility lines in the Furniture Zones. The rebates only apply for VMU structures and only apply to costs incurred for improvements in the public right-of-way (which are normally public sector financial obligations).

The rebate may be structured in the following fashion: (1) the developer pays the costs of the improvements; (2) the cost is rebated over a period of years from a percentage of the property tax increment realized through higher property valuations; and (3) the rebate is not paid in any year in which the property valuation is lower than the pre-improvement value and the tax payment is lower than the tax payment for the property for the year prior to the improvement.

Within UNO, a VMU development that meets UNO standards may receive a rebate for an entire block.

6. **LU-3: New Zoning Provision of Vertical Mixed Use**

a. To encourage mixed use development, a zoning provision within the MU zoning category will be created titled "Vertical Mixed Use" or "VMU." Owners of any property with MU zoning may administratively elect to build under the VMU subdivision.

b. The Task Force requests that Clarion prepare a new separate zoning district of VMU as a going forward option for rezoning. This new zoning district may contain different tiers with different heights for each tier. The new zoning district will be considered as part of final code adoption.

c. A VMU building shall have the following features:

I. The ground floor must be designed to have a different use from upper floors. The second floor may be designed to have the same use as the ground floor so long as there is

at least one more floor above that has a different use from the first two floors.

II. The building has no front or side setbacks. Portions of the building may be set back for public plazas with no gates and with active uses at grade opening directly onto the plaza. The setback restrictions are subject to the alternative compliance exceptions allowed in DO-8.

III. The ground floor is designed to accommodate active uses that open onto the sidewalk along at least 75% of the net length of frontage. (Net frontage is determined by taking the gross length of street frontage and subtracting required drive aisles and stairs that occur at the building perimeter subject to the exceptions allowed in DO-5.)

IV. Spaces for ground level pedestrian uses shall be at least 24 feet deep.

V. VMU structures 60 feet high or less are not subject to density caps, FAR or building coverage restrictions but are still subject to height restrictions and compatibility standards.

A. The density caps, FAR and building coverage restrictions are relics of the city's current Euclidean suburban-oriented development code. Within 90 days of final passage by Council of the codification of these standards, city staff shall present this new standard to the Neighborhood Planning Teams for each Neighborhood Plan in existence at the time of code adoption. Neighborhoods with already approved Neighborhood Plans may request by the 90th day to opt out of this specific provision for all or some of the VMU-eligible properties within their planning area. The Planning Commission will review any requests and Council will consider whether to approve or deny any request within 45 days of the 90-day deadline. This is a one-time only request to opt-out and opting out will not be a subject of future Neighborhood Plans.

d. The City Manager shall prepare a plan to establish a dedicated development review team for VMU and Integrated Mixed Use projects.

I. The dedicated development review team shall include license reviews.

II. Any VMU developments or Integrated Mixed Use developments submitted for review shall be assigned to this dedicated team and shall receive review priority over any non-VMU and non-Integrated Mixed Use submissions.

III. VMU and Integrated Mixed Use developments shall receive the same expedited review deadlines as exist in the SMART housing program. These deadlines shall include deadlines for license reviews and approvals.

e. For VMU projects, the City Manager shall prepare a program to waive fees, permit deferred payment of development fees and permit fees in lieu of on-site compliance. The program shall include, at a minimum, the following:

I. For infill redevelopment projects, VMU developments do not have to pay the parkland dedication fee.

A. VMU greenfield projects still must pay the parkland dedication fee.

II. Extend to VMU projects all fee-in-lieu of programs available in the CBD relating to fees in lieu of on-site detention. The Task Force also requests that Clarion prepare new standards reflecting national best practices relating to storm water, regional detention and water quality treatment methods. These standards shall apply to VMU structures and Integrated Mixed Use developments only.

III. Because VMU structures are designed to promote more pedestrian-oriented communities, reimburse VMU projects for any required offsite traffic improvements and do not count any project pedestrian traffic as part of the calculation to determine whether a traffic impact analysis is required.

f. For VMU redevelopment sites with existing curb cuts, permit flexibility on spacing if the VMU development reduces the overall number (to accommodate, e.g., parking garage entrances)

g. The Task Force requests that Clarion prepare an amendment to the Austin Building Code to clarify that VMU structures do not have to meet office or retail standards in the residential portions of VMU structures.

h. Create a separate Green Building standard for VMU (currently, AE has different standards for residential and commercial, which creates difficulties in vertical mixed use with residential).

7. **LU-5: Options to promote Envision Central Texas recommended land use patterns**

a. Expand VMU overlay to promote shift of single use large sites to mixed use land patterns:

I. Redevelopment of Large Single Use Developments: A VMU-option overlay is established for developments larger than 3 acres along (1) Highways, (2) Hill Country Roadways, (3) Local Roadways and (4) Urban Roadways. The overlay has the following limitations:

A. In areas subject to a Neighborhood Plan that are not located on Core Transit Corridors or future Core Transit Corridors, the overlay only applies to properties with an MU designation and may not contain uses prohibited for that lot under the Neighborhood Plan.

B. In areas that have not undergone the neighborhood planning process, the VMU overlay applies only to commercially zoned properties and does not apply to properties zoned exclusively for residential.

C. The VMU structure entitlement only extends to VMU buildings constructed as part of a block system meeting the requirements of C-1 and C-2.

D. The redevelopment must comply with compatibility standards.

b. Additional development bonus for mixed use redevelopments:

All developments with any of the Preferred Items may elect to take all of the Development Bonuses on that site.

Preferred item	
Development contains at least 100 lineal feet of VMU buildings.	
Development Bonuses	
Queuing requirements are reduced by 50 percent for each drive-through service in the development.	Buildings in the development may aggregate points in BD-5 rather than each building needing the minimum number of points.
Reduce by 2 the number of options needed to comply with C-2 for each 100 lineal feet of VMU buildings.	Existing impervious cover is grandfathered for the VMU structures and their accompanying structured parking. This grandfathering overrides any current impervious cover or setback requirements or overlays.

Preferred Item	
Integrated Mixed Use Development: the uses are in walking distance from each other (i.e., not more than ¼ mile apart), the uses are connected by sidewalks or Internal Circulation Routes, and one of the following applies: (1) Site contains at least two uses, and two of the uses each comprise at least 25% of the built area; or (2) 20% of the building footprint consists of VMU structures.	
Development Bonuses	
Queuing requirements are reduced by 50 percent for each drive-through service in the development.	Buildings in the development may aggregate points in BD-5 rather than each building needing the minimum number of points.
Existing impervious cover is grandfathered subject to the following limitations: A. The re-development meets the standards of C-1, C-2 and DO-5; and B. The grandfathered impervious cover may only be transferred to VMU structures and their accompanying structured parking. This grandfathering overrides any current impervious cover or setback requirements or overlays.	Reduce by 2 the number of options needed to comply with C-2.
For redevelopment projects larger than 5 acres, the VMU parking standards apply to the entire redevelopment so long as 20 percent of the building footprints consist of VMU structures.	

Signs

8. **Enforcement: clarify sign fee provision**

To insure that current and the proposed new regulations are enforced, the City Manager shall prepare a fee ordinance to require annual sign fees to support enforcement staff.

9. **S-2: Revise city-wide sign regulations**

a. S-3: New pole signs will be prohibited on all Urban and Transit Roadways and all Neighborhood Roadways. New pole signs are not prohibited on Highways and are not prohibited within the first 660 feet from a Highway. All existing pole signs citywide in the areas subject to the prohibition will be reclassified to be permitted non-conforming uses.

b. **S-2(4)-provision regarding trigger for removal of non-conforming signs**

1. When an applicant seeks a new sign permit for a property containing a pole sign, all non-conforming pole signs for the applicant's business in that development will be required to be removed as a condition of the permit.

2. This requirement is subject to the following exemptions and exceptions:

a. An exemption to this provision exists for existing multi-tenant pole signs. (New multi-tenant pole signs are still prohibited on all Urban and Transit Roadways and all Neighborhood Roadways.)

b. This requirement applies only to the sign permit applicant and does not trigger a requirement for non-applicants located in the same development to remove their pole signs.

c. The following do not, by themselves, require removal of a pole sign:

i. The sign is being re-faced, receiving maintenance, repainting or repair if the cabinet as a whole is not replaced;

ii. A replacement of the sign is needed due to any damage caused by a terrorist act, weather or any other act of God; or

iii. The federal, state or local government requires relocation of the sign.

10. **S-2(5): exceptions to sign area calculation's inclusion of corporate branding:**

The sign area calculation includes all applications of stripes, graphics and trade mark paint colors that constitute corporate branding. This calculation is subject to the following exemptions and exceptions:

1. The following are not included in sign area calculations:

   a. prototype colors that are light colors as recommended in the green building matrix;

   b. awnings that provide pedestrian cover over pathways;

   c. canopies that have sign faces no higher than three feet.

2. A pad building may dedicate up to 25% of the total roof area for branding (such as painted stripes) without triggering inclusion of that area in the sign area calculation under the following circumstances:

   a. The 25% area is compact and contiguous;

   b. The building contains no other application of stripes, graphics or trade mark paint colors that constitute corporate branding.

   If a pad building meets these requirements, the roof area will not be included in the sign area calculation, and only the attached signs will be included in the building's sign area calculation.

11. **S-3: Revise maximum size for wall signs**

Wall signs cannot exceed one square foot for each one lineal foot of building façade to a maximum of 400 square feet. This maximum size is subject to the following exception: any business with less than 64 lineal feet of building façade is permitted a sign up to 64 square feet.

12. **S-4: Information sign provisions:**

1. Street addresses, visible from the public ROW, must be located on the sign or the building.

2. The following do not count toward sign area calculations:

   a. The street address, up to 10 square feet;

   b. Directory signs;

   c. Menu signs;

   d. Directional signs.

Building Design

13. **BD-5: Standards for drive-in and pad buildings:**

    a. Clarify that BD-5 does not apply to pad buildings on Core Transit Corridors

14. **BD-3: Building Design**

    a. *The following is an example of a building that would meet the standards* contained in BD-3:

        Pad building not located on a Core Transit Corridor

    I. The pad building is a national chain prototype with the following:

        A. a natural stone façade, and

        B. metallic roof with uncolored metallic finish, and

        C. minimum 2-star Green Building, and

        D. Glazing on ground-floor facades that face the street or parking lot have a Visible Transmittance (VT) of 0.6 or higher, and

        E. 90% of all frontages facing parking are shaded or have a *shelter device.*

    b. Clarify that building design requirements apply to exterior remodels and do not apply to interior remodels