

3548

SUBDIVISION CONSTRUCTION AGREEMENT

1. Parties. The parties to this Subdivision Construction Agreement (the "Agreement") are Jester Limited Partnership (individually and collectively, the "Subdivider") and the City of Austin, Texas (the "City").

2. Effective Date. This Agreement is effective on the date the City approves the final plat for the subdivision described in Paragraph 3 of this Agreement by the Planning Commission's approval of the plat in accordance with City ordinances (the "Effective Date").

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the Jester Point 2, Section 6-D Subdivision, as shown in City's File Number C8-81-014.02.5A, (the "Subdivision") and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the "Property"); and

4. Subdivider seeks authorization from the City to subdivide the Property in accordance with the requirements imposed by Texas statutes and the City's ordinances, regulations, and other requirements; and

5. City ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

6. The purpose of this Agreement is to protect the City from the expense of completing subdivision improvements required to be installed by the Subdivider; and

7. This Agreement is authorized by and consistent with state law and the City's ordinances, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. Improvements. The Subdivider agrees to construct and install, at Subdivider's expense, all external and internal subdivision improvements required to comply with City ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the "Improvements," any one of which is an "Improvement"), unless the City and Subdivider have otherwise agreed by executing a separate written agreement that the Subdivider shall fund all or a proportionate share of the required External Subdivision Improvements. All Improvements shall be constructed in conformance with the City's requirements, procedures, and specifications (including without limitation environmental protection requirements such as erosion controls and site restoration), pursuant to construction plans, permits, and specifications approved by the City prior to commencement of construction,

and subject to inspection, certification, and acceptance by the City.

9. Completion. Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the "Completion Date"); provided, however, that if the Subdivider or the Issuer delivers to the City no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the City a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. Warranty. The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the City accepts the dedication of a completed Improvement or group of Improvements (the "Warranty Period"), as such Improvement or group of Improvements is separately identified and listed on Exhibit B. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the City's acceptance of dedication of any of the Improvements, the City may require the Subdivider to post a maintenance bond or other financial security acceptable to the City to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the City shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the City.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the City, a cash deposit to be held by the City in escrow, or an irrevocable letter of credit in the amount of Twenty-two thousand two hundred and No/100 Dollars (\$ 22,200.00) (the "Stated Amount"), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the City, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the City's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the "Issuer"). During the term of this Agreement and subject to the terms of Paragraph 23 of this Agreement, the City may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this Agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referred to in this Agreement as the "Letter of Credit".

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12. Increase in Security. If, from time to time, the City determines the estimated total cost of constructing the Improvements exceeds the Stated Amount, the Subdivider shall provide, no later than thirty (30) days after notice and demand, an additional financial guarantee of performance meeting the requirements of Paragraph 11 in an amount equal to the additional estimated cost.

13. Reduction in Letter of Credit. After the acceptance of any Improvement, the amount which the City is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the estimated cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, the City shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the City shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the City determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the City shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the City estimates to be the cost of completing all Improvements incomplete as of the time of such estimate.

City's Obligations

14. Inspection and Certification. The City agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with City standards and specifications. The inspections and certifications will be conducted in accordance with standard City policies and requirements. The Subdivider grants the City, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

15. Notice of Defect. The City will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for such Improvement or is otherwise defective. The Subdivider will have thirty (30) days from such notice to cure or substantially cure the defect. The City may not declare a default under this Agreement during the 30-day cure period on account of any such defect unless it is clear that the subdivider does not intend to cure the defect. Notwithstanding the previous sentences in this Paragraph, if, in the reasonable opinion of the City, the defect creates an immediate and substantial harm to the public health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5)

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days and the City may declare a default under this Agreement if not satisfied that the defect is cured after the cure period.

16. Use of Proceeds. The City will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the City's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The City may, in its sole discretion, complete some or all of the unfinished Improvements at the time of default, regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced, and without incurring any obligation to complete any of the unfinished Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the City pursuant to one or more draws under the Letter of Credit shall be maintained by the City in an interest bearing account or accounts until such funds, together with accrued interest thereon (the "Escrowed Funds"), are disbursed by the City. The City may disperse all or portions of the Escrowed Funds as Improvements are completed and accepted by the City, or in accordance with the terms of a written construction contract between the City and a third party for the construction of Improvements. Escrowed Funds not used or held by the City for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the City to the Issuer of the Letter of Credit no later than sixty (60) days following the City's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

17. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the City shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the City intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the City shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

18. Cost Participation by City. If the City and Subdivider agree the City will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

19. Conditions of Draw on Security. The City may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- a. Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- b. Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;

c. Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the City, in accordance with Paragraph 11 of this Agreement; or

d. Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The City shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the City shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the City intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the City, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the City shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraph (b) or (c), the Issuer or the Subdivider may deliver to the City a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the City a substitute or confirming Letter of Credit.

20. Procedures for Drawing on the Letter of Credit. The City may draw upon the Letter of Credit in accordance with Paragraph 19 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The City may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

21. Measure of Damages. The measure of damages for breach of this

Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the City's requirements, procedures, and specifications, including without limitation associated administrative expenses. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

22. Remedies. The remedies available to the City, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

23. Provisions for the Benefit of Issuer. The provisions of Paragraphs 9, 10, 11, 13, 16, 17, 19, 20, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, and 37 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

24. Third Party Rights. No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the City (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the City in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 23.

25. Indemnification. The Subdivider hereby expressly agrees to indemnify and hold the City harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the City if the City is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the City. Notwithstanding anything to the contrary contained in this Agreement, the Subdivider does not agree to indemnify and hold the City harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the City, its agents, contractors, employees, tenants, or licensees.

26. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a 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, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

27. Attorney's Fees. Should either party or the Issuer, to the extent Issuer is named as a specific beneficiary, be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

28. Assignability. The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider and on any person acquiring an ownership interest in the Property through the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the City. The City's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. An assignment shall not be construed as releasing the Subdivider from Subdivider's obligations under this Agreement, and Subdivider's obligations hereunder shall continue notwithstanding any assignment approved pursuant to this Paragraph, unless and until the City executes and delivers to the subdivider a written release of Subdivider from the obligations imposed by this Agreement. The City agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The City, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

29. Expiration. This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

30. Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider: Jester Limited Partnership
c/o DH Investment Company
PO Box 702
Lufkin TX 75901

if to City: Department of Planning and Development
City of Austin
P. O. Box 1088
Austin, Texas 78767-8828
Attn: Bob Senecal, Fiscal Officer

if to the Issuer: at Issuer's address shown on the
Letter of Credit

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in

accordance with the provisions of this Paragraph.

31. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

32. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for Travis County, Texas, or the United States District Court for the Western District of Texas, Austin Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

33. Release Upon Completion. Upon acceptance of all Improvements, the City agrees: (a) to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors and assigns, and the Property from all provisions of this Agreement except those contained in Paragraph 10, and (b) to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the City for the completion of the Improvements.

34. Captions Immaterial. The numbering, order, and captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this Agreement.

35. Entire Agreement. This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

36. Authorization to Complete Blanks. By signing and delivering this Agreement to the appropriate official of the City, the Subdivider authorizes completion of this Agreement by filling in the Effective Date below.

37. Binding Agreement. The execution and delivery of this Agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental action of the City. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the Effective Date. These representations and agreements are for the benefit of the Issuer, and have been relied on by the Issuer in issuing the Letter of Credit.

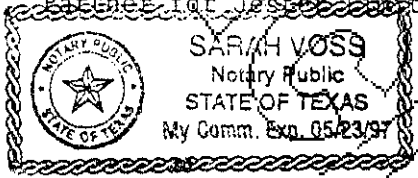
EXECUTED by the parties to be effective as of the 28th day of August, 1995.

Alice Glasco
Alice Glasco, Assistant Director

David A. Hill
David A. Hill, President
DH Investment Company, General Partner

STATE OF Texas :
COUNTY OF Travis :

This instrument was acknowledged before me on the 28th day of August, 1995 by David A. Hill as President of DH Investment Company, General Partner for Jester Limited Partnership.



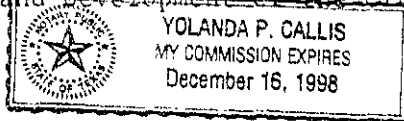
My Commission Expires:

Sarah Voss
Signature of Notary

Sarah Voss
Printed Name of Notary

STATE OF TEXAS :
COUNTY OF TRAVIS:

This instrument was acknowledged before me on the 28th day of August, 1995 by Alice Glasco as Assistant Director for the Department of Planning and Development of the City of Austin.



My Commission Expires:

Yolanda P. Callis
Signature of Notary

Printed Name of Notary

- EXHIBITS:
Exhibit A - Property Description
Exhibit B - Subdivision Improvements

Unofficial Document

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

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METES AND BOUNDS DESCRIPTION

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE A.E. PATTON SURVEY NO. 541 SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO JESTER LIMITED PARTNERSHIP OF RECORD IN VOLUME 11723 PAGE 1640 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 13.895 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a concrete monument found at the most northerly corner of Lot 33, Block "B", JESTER POINT 2, SECTION 5-B, a subdivision of record in plat book 88 pages 202-203 of the Travis County, Texas Plat Records and being the southeast corner of Lot 47, Block "B", JESTER POINT 2, SECTION 6-B, a subdivision of record in plat book 91 pages 55-58 of the Travis County, Texas plat records, being a westerly line of said Jester Limited Partnership for the southwesterly corner of the herein described tract;

THENCE with the easterly line of said Lot 47, Block "B" JESTER POINT 2, SECTION 6-B for a westerly line of the herein described tract $N04^{\circ}30'53"E$ 203.91 feet to an iron rod found at the southwest corner of Lot 48, Block "B" of said JESTER POINT 2, SECTION 6-B, being an angle point in the easterly line of said Lot 47, Block "B", JESTER POINT 2, SECTION 6-B for the most westerly northwest corner of the herein described tract;

THENCE with a southerly line of said JESTER POINT 2, SECTION 6-B for a northerly line of the herein described tract $S82^{\circ}51'51"E$ 96.81 feet to an iron rod found for an angle point and $S87^{\circ}30'00"E$ 176.87 feet to an iron rod found at a point of curvature, being the southeast corner of Lot 50, Block "B", JESTER POINT 2, SECTION 6-C, a subdivision of record in plat book 93 pages 217-218 of the Travis County, Texas Plat Records for an interior "ell" corner of the herein described tract;

THENCE with the easterly line of said Lot 50, Block "B", JESTER POINT 2, SECTION 6-C, for a westerly line of the herein described tract being a curve to the right, having a radius of 225.00 feet, an arc distance of 71.18 feet and whose chord bears $N06^{\circ}33'47"W$ 70.88 feet to an iron rod found at the point of tangency for an angle point and $N02^{\circ}30'00"E$ 50.00 feet to an iron rod found at an interior "ell" corner of said JESTER POINT 2, SECTION 6-C for the most northerly northwest corner of the herein described tract;

THENCE with a southerly line of said JESTER POINT 2, SECTION 6-C for a northerly line of the herein described tract $N86^{\circ}57'05"E$ 50.24 feet to an iron rod found in the westerly line of Lot 64, Block "B" of said JESTER POINT 2, SECTION 6-C, being an interior "ell" corner of said JESTER POINT 2, SECTION 6-C for the most northerly northeast corner of the herein described tract.

THENCE with the westerly line of said Lot 64, Block "B", JESTER POINT 2, SECTION 6-C for an easterly line of the herein described tract S02°30'00"W 54.86 feet to an iron rod found at a point of curvature, being a curve to the left, having a radius of 175.00 feet, an arc distance of 80.71 feet and whose chord bears S10°42'47"E 80.00 feet to an iron rod found at the southwest corner of said Lot 64, Block "B", JESTER POINT 2, SECTION 6-C for an interior "ell" corner of the herein described tract;

THENCE with the southerly line of said Lot 64, Block "B", JESTER POINT 2, SECTION 6-C for a northerly line of the herein described tract N78°31'57"E 122.76 feet to an iron rod found at the southwest corner of Lot 65, Block "B", of said JESTER POINT 2, SECTION 6-B, being the southeast corner of said Lot 64, Block "B", JESTER POINT 2, SECTION 6-C for an angle point in a northerly line of the herein described tract;

THENCE with a southerly line of said JESTER POINT 2, SECTION 6-B and continuing with a northerly line of the herein described tract the following three (3) courses and distances as enumerated below:

- 1) N50°30'48"E 204.08 feet to an iron rod found for an angle point herein,
- 2) N35°40'28"E 100.25 feet to an iron rod found for an angle point herein,
- 3) N62°40'18"E 121.91 feet to an iron rod found in a westerly line of that certain tract of land described in a deed to Texas Commerce Bank - Austin National Association of record in volume 11634 page 1570 of the Travis County, Texas Deed Records, being the easterly line of said Jester Limited Partnership tract, being the southeasterly corner of Lot 68, Block "B", of said JESTER POINT 2, SECTION 6-B for the most easterly northeast corner of the herein described tract;

THENCE with a westerly line of said Texas Commerce Bank - Austin National Association tract, being the easterly line of said Jester Limited Partnership tract for an easterly line of the herein described tract S43°30'38"E 600.00 feet to a concrete monument found at the northeast corner of Lot 29, Block "B", of said JESTER POINT 2, SECTION 5-B, same being the northeast corner of said JESTER POINT 2, SECTION 5-B, being the southeast corner of said Jester Limited Partnership tract for the most easterly corner of the herein described tract;

THENCE with the northerly line of said JESTER POINT 2, SECTION 5-B, being the southerly line of said Jester Limited Partnership tract for the southerly line of the herein described tract the following four (4) courses and distances as enumerated below:

- 1) S32°28'19"W 435.00 feet to an iron rod found for an angle point herein,

- 2) S76°20'40"W 311.21 feet to an iron rod found for an angle point herein,
- 3) N62°54'20"W 462.55 feet to an iron rod found for an angle point herein,
- 4) N51°55'00"W 324.54 feet to the PLACE OF BEGINNING containing 13.895 acres of land.

Prepared by TRIMBLE LAND SURVEYING, INC. this the 5th day of May, 1995.

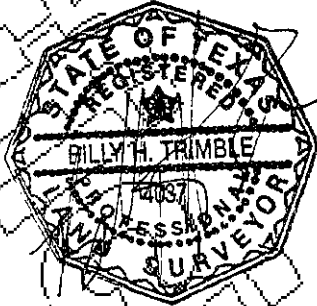


EXHIBIT B: SUBDIVISION IMPROVEMENTS

External Subdivision Improvements. Subdivider and City agree the following improvements located outside the boundaries of the Subdivision are required in connection with the approval and development of the Subdivision (collectively, the "External Subdivision Improvements"). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the City in an amount equal to Subdivider's pro-rata share of the estimated cost to construct and install the External Subdivision Improvements, in the amount listed below, as follows:

<u>Description of Improvement(s)</u>	<u>Total Estimated Cost</u>
a) Erosion/Sedimentation Controls	\$ 4,000.00
b) Restoration	\$ 18,200.00

PLEASE RECORDING RETURN TO:
CITY OF AUSTIN/PLANNING DEPT.
307 W. 2nd
AUSTIN, TX 78701
ATTN: Hector Avila

FILED
95 SEP -5 PM 12:09
DANA GIBSON, CLERK
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

SEP 5 1995



Dana Gibson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

!2515 0520

RECEIVED SUBMITTER TRAVIS COUNTY CLERK RECORDS DEPT.
DATE: 9/5/95 FILE DATE: 9/5/95 TRAVIS DATE: 9/5/95
PAGE: 115 OF 115