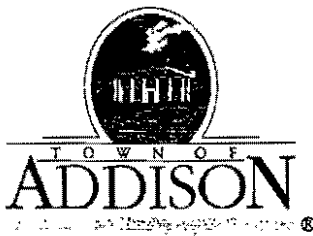


2000-1 Addison Circle  
Fairfield Development 3rd Amendment to Master  
Facilities Agreement - 2003



Post Office Box 9010    Addison, Texas 75001-9010    5300 Belt Line Road    (972) 450-7000  
FAX (972) 450-7043

11-25-03  
#R4-1

Addison 50!

50 YEARS OF FUN!

**MEMORANDUM**

DATE:                    November 18, 2003  
TO:                        Ron Whitehead, City Manager  
FROM:                    Carmen Moran, Director of Development Services  
SUBJECT:                Amendment to Master Facilities Agreement for  
                              Funding of Public Infrastructure in Addison Circle

**BACKGROUND**

In 1995 the Town entered into an agreement a Master Facilities Agreement to facilitate the construction of public infrastructure improvements within the Addison Circle District. There were three parties to the agreement: the Town, Columbus Realty Trust, and Gaylord Properties. The agreement spelled out the terms through which the Town would spend \$9 million to build public improvements in the district. In return, the other parties would dedicate the land for the improvements, participate in the costs, and build residential and commercial developments in Addison Circle. To date, three phases have been built in Addison Circle. The Town has spent \$6,860,055 and Phases 1, 2a, and 2b total almost 1,300 residential units.

The Master Facilities Agreement has been amended two previous times to provide for changes in the way funds were allocated. Columbus Realty Trust (which became Post Properties) and Gaylord Properties have both sold their interests in Addison Circle to TexOK Properties. However, the terms of the agreement were transferable to the new owner and the agreement is still in place.

At this point, TexOK Properties is selling the remaining land in Addison Circle, to NewSource Capital, L.P. NewSource Capital is planning to immediately sell two tracts to separate owners. CityHomes is planning to build a town home development on the east side of Quorum Drive, and Fairfield Residential is looking to build a multi-family development on the west side of Quorum Drive. NewSource Capital, CityHomes, and Fairfield Residential are now looking to the Town to spend the \$2,139,945 that remains to be spent in the district on public infrastructure.

**CONSTRUCTION PHASING**

The Master Facilities Agreement undertook the difficult job of anticipating construction costs for infrastructure that would be built in the future. The Town, Gaylord, and Columbus expected that Addison Circle would build out in phases over 10 to 15 years, and the agreement attempted to schedule what improvements would be built in what sequence. The improvements that have been constructed under the Agreement are shown on the attached map.

**PARK FUNDING**

The Urban Center ordinance lays out very specific standards for the sidewalks, lighting, and landscaping for the streets. Therefore, the Town and developers can both be assured that the future streets, regardless of how they are funded, will be developed to the same standard as the existing streets. However, the parks have not yet been designed. Gaylord and Columbus wanted to be sure that they would be of the same quality of Bosque Park and Esplanade Park. Therefore, the budgets for the two remaining parks were set with ranges for a minimum and maximum to be spent. The range for Quorum North Park (.69 acres) was \$290,000 to \$300,000, and the range for Mews Park (1.43 acres) was \$650,000 to \$700,000. These amounts are specified in the agreement. However, the amounts for streets were only guidelines, and the funds could be moved around among the streets as long as \$9 million dollars total was spent in the district.

Parkview - 321,000 -	189,000 - Quorum improvements
<u>- 290,000</u>	
	\$50,000 - budgeted -
	<u>130,000 - sidewalks</u>
	- 20,000

**SPECTRUM DRIVE**

In 1995, the three parties to the agreement anticipated that Columbus Realty (now Post Properties) and Gaylord Properties would construct the infrastructure improvements, with city funding, as projects came on line. However, after Phase 2b in 1999, Post and Gaylord decided to quit building apartments in Addison Circle because the Metroplex had hit an economic slump. The Town was sorry to see construction stop in Addison Circle; however, the Town typically takes advantage of slower times in the economy to get infrastructure built because it can get better construction bids. The record-low interest rates for bonds made the idea of building even more appealing. The Town decided to sell bonds to build street improvements, and Spectrum Drive was one of the proposed bond projects.

The Town had three reasons for wanting to push up the schedule for Spectrum. First, it felt that if it could get Spectrum built, it would encourage developers to begin building in Addison Circle again. Second, Spectrum will ultimately connect south to Arapaho Road and north to Airport Parkway. The Town would like to get Spectrum built so that it can provide an alternative way in and out of the neighborhood for residents, thus allowing Quorum Drive to be closed for Special events such as Oktoberfest and Kaboom Town. Third, the merchants around Esplanade Park were complaining to the staff because they felt there were not enough on-street parking spaces in Addison Circle. The Town

redesigned Spectrum to provide for head-in parking up both sides of the street, and it wanted to get the additional parking spaces in place to help the merchants.

However, the Agreement listed \$364,000 to be spent on Spectrum Drive, of which approximately \$150,000 remained. The other two parties to the agreement were to pay the remainder, and in order to get the street built, the Town needed them to contribute. The Town began conversations last year with TexOK Properties as to how the road would be funded. TexOK dedicated all the right-of-way needed for the portion of Spectrum that is within the Addison Circle District, but stated that NewSource Capital would pay for Spectrum.

The Town then began conversations with NewSource Capital, which indicated it was planning to defer the funding obligations to the end users, CityHomes and Fairfield Residential. The Town then began conversations with those groups, and both stated that they would like for the Town to "front the money" for Spectrum and they would pay the funds back over time, possibly through a pro-rata assessment with funds due at the issuance of building permits. This plan would mean that the Town might not get paid back for Spectrum for many years, and keeping up with the assessments would be time consuming for both the Building Inspection and Accounting staffs. However, the Town still felt that the timing was still right to build Spectrum, and it began to design and engineer the street. The street has now been designed, and the estimated cost for the portion of Spectrum Drive that is within the Addison Circle district, and thus to be partially funded by developers is \$1,157,000. The Town has approximately \$150,000 left to spend on Spectrum, which means that the other parties to the agreement need to pay the Town \$1 million.

### **CITYHOMES PLAN**

While the Town was having conversations with NewSource Capital about Spectrum, it was also talking about the streets that would be built within the CityHomes and Fairfield developments. Under the Agreement, NewSource Capital (ultimately CityHomes and Fairfield), is entitled to approximately \$1,000,000 in city funding toward the construction of its streets. In a typical development scenario, each developer would build the streets, using contractors it selects, and then dedicate them to the Town once they are finished. However, since the Town would be spending public funds on these streets, it would have to go through the public bidding process. The Town could then assign the contract to the developer to manage. All the streets that are currently in Addison Circle were built through this process.

While CityHomes welcomes the Town's funds, it would prefer to not have to bid the streets because CityHomes (a subsidiary of Centex) is a nationwide company, and it has relationships with contractors that give it volume discounts on construction. CityHomes feels it can build the streets cheaper (though still to the Addison Circle standards) if it uses its own contractors. CityHomes asked the Town if the funds it was going to spend on the interior streets could be all allocated to one street. If so, then CityHomes would build the other streets and they would not have to bid.

## THE SIMPLE PLAN

At this point, the staff hit on what is being called "The Simple Plan." The staff spent several days figuring out how much money it wanted to get from the developers to fund Spectrum, and how much it was going to give to developers for streets and parks. When CityHomes asked if all the money could be spent on one street, the staff realized that the Town was going to be handing the developers about the same amount of money that it hoped to get paid back. The staff realized that if we all just kept our own money, the Town could build Spectrum, CityHomes and Fairfield could build all the internal streets, using their own contractors, and we would end up in the same place.

Under the Simple Plan, the Town builds all of Spectrum Drive, the Mews Park in the amount of \$290,000, and the Quorum North Park in the amount of \$650,000. The developers, at their own cost, must build the remaining streets in the district. Once Spectrum and the parks are constructed, the Town will have spent \$9,000,000 in the district and fulfilled all its obligations under the Master Facilities Agreement.

The Simple Plan benefits the Town because it no longer has to "front the money" for Spectrum. Although the Town might get CityHomes' money for Spectrum within the next couple of years, it could wait many more years for the remaining \$500,000. In addition, it would take new legal agreements (which cost money to prepare) to set up the pro rata schemes, and it would be cumbersome to keep up with the accounting of bits of money paid back over several years.

The Simple Plan benefits the developers because it helps get Spectrum built now as opposed to later. It also keeps the remaining land in Addison Circle from being encumbered with a debt that future developers would have to pay. It also keeps the developers from having to bid the street construction as a public project, which makes building the streets easier, faster, and cheaper.

## FAIRFIELD RESIDENTIAL

The Town discussed the Simple Plan with NewSource Capital, and it was on board with the plan, except that under the Simple Plan, all of the Town's remaining street funds will be spent on Spectrum Drive. Under the more complicated scheme, CityHomes would get the great majority of the funds because it abutted Spectrum Drive, but the Town was planning to allocate some money toward the improvement of the west side of Quorum Drive. NewSource believes the allocation of some money for Quorum is essential in making the deal on the west side of Quorum Drive work, and thus allowing Fairfield Residential to develop that tract within the next year. It is estimated to cost \$404,847 to provide paving, streetscape, drainage, wastewater, water, and electrical improvements for the west side of Quorum Drive, and Fairfield Residential is willing to contribute \$184,447 toward the project. The Town would pay the remaining \$220,400 and would manage the project. The project will not be started until Fairfield pays its share.

404,000  
38,000-est.

As noted above, the Town changed the design for Spectrum Drive to add head-in parking. The additional paving and streetscape have made the street more expensive. If the Town had not changed the design, and thus made the street more expensive, there would be some money left in the \$9 million to be spent on Quorum Drive. Although the additional \$220,400 would take funding in Addison Circle beyond the \$9 million anticipated by the original Master Facilities Agreement, the staff believes the additional funds are a good investment in the Addison Circle infrastructure for a couple of reasons.

First, this additional investment would allow the remaining nine acres in the district to be developed, and would finish out the original Addison Circle district. Addison Circle is a great place, but it needs more people living there to become a real, vibrant community. These additional people make the merchants more successful and keep the unique, pedestrian-oriented atmosphere of Addison Circle working. Fairfield Residential is proposing to build a high-density multi-family product, similar to the existing Post Properties product in Addison Circle, and the staff believes that is a good product for the remaining tract.

Second, while the staff is excited to have the owner-occupied town homes that CityHomes is planning to build, it realizes that as homeowners move into Addison Circle, developing the community will get more difficult. It was already more difficult for CityHomes because it had to build across from six homeowners. If the Fairfield deal goes away and the 183 proposed town homes get built, it may be very difficult to get a multi-family deal done across the street at a later date. Homeowners always seem to want to live next to the same sort of home they live in, and although the Town has always envisioned Addison Circle as a high-density, mixed-density development, that vision could be changed in the future by homeowners living in the neighborhood. The staff has recently seen homeowner opposition change plans for both to the Village on the Parkway redevelopment and the Master Plan amendment for Greenhill School. The Fairfield development is consistent with the Town's vision for the western tract, and it would be nice to get the piece developed before the vision gets changed.

## **SUMMARY**

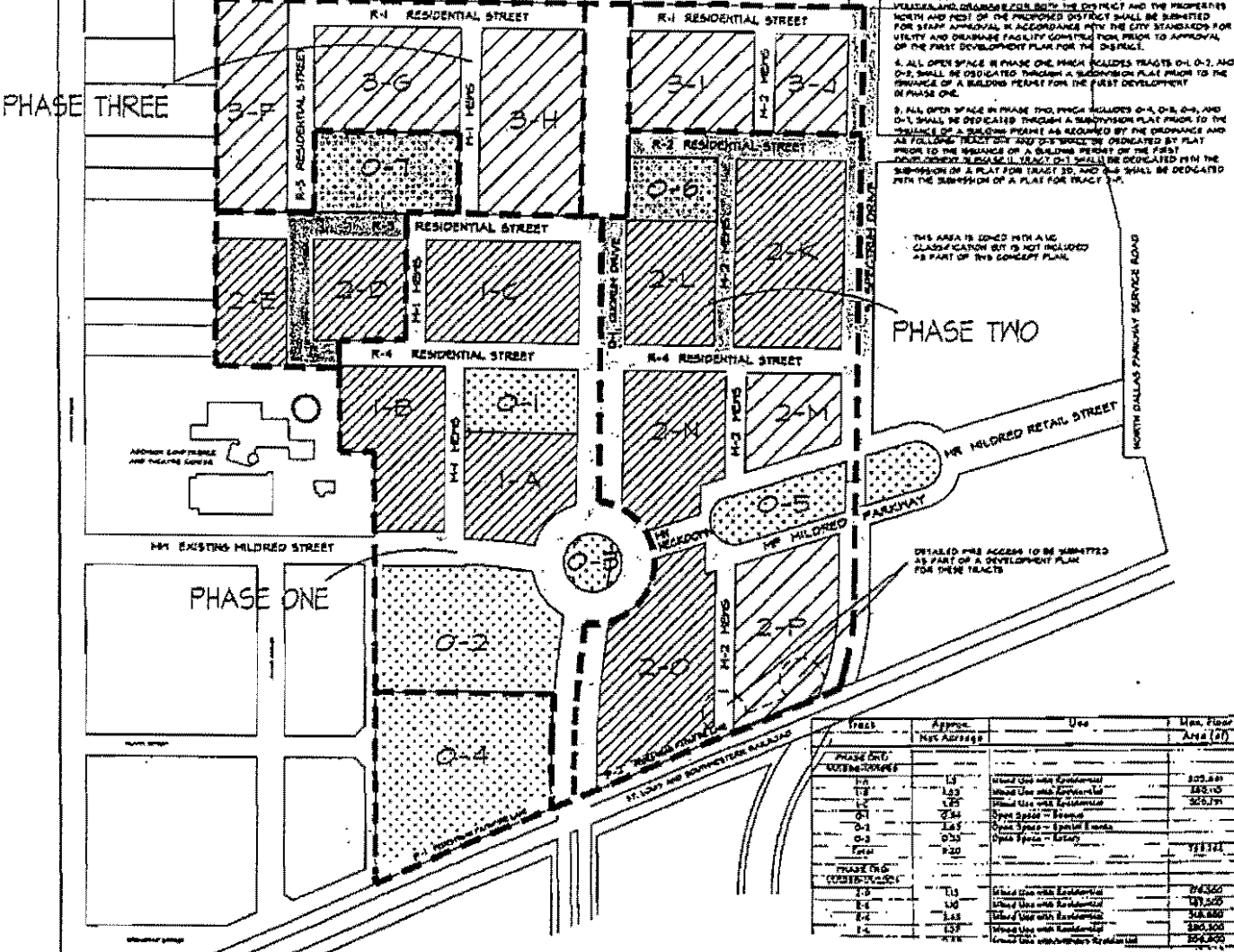
The staff is very excited to have developers wanting to build in Addison Circle again. Staff believes that with the Simple Plan that has been outlined above, the original Addison Circle improvement district could be built out within the next couple of years. The Simple Plan also allows the Town to build Spectrum Drive now without having to wait for property-owner participation. It also allows the developers to build their internal streets faster and more efficiently. The CityHomes and Fairfield developments will bring an estimated \$60 million in ad valorem taxable value to Addison. In addition, they will bring residents, and their sales tax dollars, to Addison Circle and the rest of the Town. For the many reasons listed throughout this memo, the staff recommends the Council approve the Simple Plan, which is described in the Third Amendment to the Master Facilities Agreement.

**VARIATIONS/ALTERATIONS:**

- CONCEPT PLAN SHALL BE SUBMITTED TO THE CITY ENGINEER FOR APPROVAL.
- APPLICATION FOR CONCEPT PLAN APPROVAL INCLUDES THE FOLLOWING:
  - A DETAILED SCHEDULE FOR PHASES AND ALTERNATIVE USES. THIS CONCEPT PLAN INCLUDES A GENERAL TIME SCHEDULE AND PHASING SEQUENCE FOR THE RESIDENTIAL SUBDISTRICT.
  - STREET ADDRESS, NAMES OF STREETS, STREET NUMBERING, FINAL LOCATION OF MHOV STREETS (SHOWS LOCATION FOR MHOV STREETS AND PRELIMINARY ONLY), AND DETAILS REGARDING RIGHTS-OF-WAY AND EASEMENTS TO BE ABANDONED.
- USE OF USES FOR SEPARATE PHASES.
- FLOOR AREAS BY CATEGORY OF USE.
- LOCATION OF PRIVATE RECREATION AREAS.

**GENERAL NOTES:**

1. ANY STREET DIMENSIONS THAT ARE NOT NOTED ON THE DISTRICT MAP OF THE DISTRICT HAVE NO EFFECT, AND DO NOT COMMIT THE CITY OR ADJACENT PROPERTY OWNERS TO OBTAIN R.O.W. OR PARTICIPATE IN THE CONSTRUCTION OF SUCH STREETS.
2. A FINAL STREET DESIGN PLAN FOR THE DISTRICT, ADDRESSING FINAL STREET LOCATION LAYOUT, UTILITY/SEWER MAINS, POTENTIAL DESIGN, SPECIFIC ROAD CROSSINGS OR RAILROAD LINE, DEAD-END STREETS, AND SPECIAL CONSIDERATIONS SHOWN ON THE STREET DESIGN AND LAYOUT FOR THE CONCEPT PLAN SHALL BE SUBMITTED FOR STAFF APPROVAL IN ACCORDANCE WITH STANDARDS IN THE CITY'S SUBDIVISION ORDINANCE AND PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
3. A FINAL UTILITY AND DRAINAGE PLAN FOR THE DISTRICT, ADDRESSING UTILITY/SEWER MAINS, DRAINAGE, AND THE PROPOSED DISTRICT SHALL BE SUBMITTED FOR STAFF APPROVAL IN ACCORDANCE WITH THE CITY STANDARDS FOR UTILITY AND DRAINAGE FACILITY CONTROL PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
4. ALL OPEN SPACE IN PHASE ONE, WHICH INCLUDES TRACTS O-1, O-2, AND O-3, SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE ONE.
5. ALL OPEN SPACE IN PHASE TWO, WHICH INCLUDES O-4, O-5, O-6, AND O-7, SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE TWO. ALL FUTURE TRACT DIVISIONS SHALL BE DEDICATED BY PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE TWO. TRACT O-5 SHALL BE DEDICATED WITH THE SUBMISSION OF A PLAN FOR TRACT O-5, AND O-6 SHALL BE DEDICATED WITH THE SUBMISSION OF A PLAN FOR TRACT O-6.



**RESIDENTIAL SUBDISTRICT**

RESIDENTIAL UNITS REQUIRED TO MEET THE 500 UNIT MINIMUM SHALL BE DEVELOPED ON THOSE SITES DESIGNATED MIXED-USE RESIDENTIAL IN PHASES 1 AND 2.

- MIXED USE WITH RESIDENTIAL (RESIDENTIAL WITH NON-RESIDENTIAL GROUND FLOOR USE)
- MIXED USE WITH RESIDENTIAL ALTERNATIVE USE, MIXED USE WITHOUT RESIDENTIAL

**PUBLIC OPEN SPACE**

- PUBLIC OPEN SPACE FOR EACH PHASE TO BE DEDICATED BY PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT ON THE FIRST DEVELOPMENT WITHIN THAT PHASE.

- Built in Phase 1
- Built in Phase 2a
- Built in Phase 2b
- Eligible to be funded

**CONCEPT PLAN**

Scale: 1" = 100'

Originally submitted March 1, 1992. This plan is part of a set of 7 plan sheets including the site plan and the more plan for Lots 11, 12, and 13 of Block 4, Lot 14 of Block 4, a portion of Lot 15 of Block 4, and Lot 16 and a portion of Lot 17 of Block 4, all being part of John's Addition, and additional undeveloped acreage of the G.W. Howe Survey, situated in T-12 in the Town of Addison, Dallas County, Texas. The plan is being submitted by Bryant Hill of Columbia Land Properties, 11221 North Dallas Parkway, Suite 115, Dallas, Texas 75240. Telephone: 972-3400.

095-032

**Addison Urban Center**

**COLUMBUS**

TOWN OF ADDISON, TEXAS

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THAT THIRD AMENDMENT TO MASTER FACILITIES AGREEMENT, RELATING TO THE FUNDING, DESIGN, AND CONSTRUCTION OF CERTAIN PUBLIC INFRASTRUCTURE WITHIN A PORTION OF THAT AREA OF THE CITY GENERALLY KNOWN AS ADDISON CIRCLE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAID THIRD AMENDMENT ON BEHALF OF THE CITY; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The Town Council of the Town of Addison, Texas does hereby approve that Third Amendment to Master Facilities Agreement, a true and correct copy of which is attached hereto.

Section 2. The City Manager is authorized and empowered to execute the said Third Amendment to Master Facilities Agreement on behalf of the City and to take all steps necessary to carry out the terms thereof.

Section 3. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Mayor R. Scott Wheeler

ATTEST:

By: \_\_\_\_\_  
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Ken Dippel, City Attorney



STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

**THIRD AMENDMENT  
TO MASTER FACILITIES AGREEMENT**

This Third Amendment to Master Facilities Agreement (the "**Amendment**") is entered into this the \_\_\_\_ day of \_\_\_\_\_, 2003 by and between the Town of Addison, Texas, ("**the City**"), and TEXOK Properties, LP, an Oklahoma limited partnership ("**Owner**").

Recitals:

1.     Addison Circle. There is located within the Town of Addison, Texas (the "**City**") certain real property generally known as "**Addison Circle**". The development of the Addison Circle area is controlled by Ordinance No. O95-032 of the City, which Ordinance zoned the area UC Urban Center District and approved a Concept Plan (the "**Concept Plan**") for its development. The UC Urban Center District Regulations (the "**UC District Regulations**") are set forth in Ordinance No. O95-019 of the City, and are codified in Article XIX of Appendix A--Zoning of the City's Code of Ordinances.

2.     Phased Development. As reflected in Ordinance No. O95-032 and the Concept Plan, the Addison Circle area was to be developed in three phases (Phase I, Phase II (to be developed in subphases), and Phase III) with a mixture of uses, including multi-family, residential, retail, office, and civic uses.

3.     City Participation in Public Facilities in Residential Subdistrict. Included within the Addison Circle area is a residential subdistrict, as shown on the Concept Plan. To encourage the implementation of the City's comprehensive plan relating to the development of the residential subdistrict and to assure that such development was adequately supported by appropriate levels of public facilities and services, the City Council, by Resolution R95-043, approved the expenditure of public funds in the amount of \$9 million (the "**City's Funds**") to be used to pay a portion of the design and construction costs of certain public improvements within the residential subdistrict. The residential subdistrict is described in Resolution R95-043 and is referred to herein as the "**Residential Subdistrict**".

4.     Master Facilities Agreement.

A.     In order to establish a process for the allocation of the City's Funds, to coordinate the construction of the public and private improvements within the Residential Subdistrict, and to further the purposes of Resolution R95-043, on July 17, 1995 the City entered into a Master Facilities Agreement with the owners of all of the Residential Subdistrict, being Gaylord Properties, Inc. ("**Gaylord**") and Columbus Realty Trust ("**Columbus**"). Since the date of its execution, the Master Facilities Agreement has been amended twice, first by that "Amendment to Master Facilities Agreement" dated October 28, 1997, and second by that "Second Amendment to Master Facilities Agreement" dated December 2, 1998. The Master Facilities Agreement, as

amended, is referred to herein as the "**Master Facilities Agreement**", and is attached hereto (together with its two amendments) as **Exhibit 1**.

B. The Master Facilities Agreement, in Exhibit 4 thereto (Exhibit 4 being entitled "Addison Urban Center Cost Projections of Infrastructure Improvements" and referred to herein as "**Exhibit 4 to the Master Facilities Agreement**"), describes the nature of the **Public Infrastructure Improvements** (or "**Improvements**", as defined in the Master Facilities Agreement) covered by the Master Facilities Agreement and the maximum amounts to be paid by the City toward the design and construction of each of the Improvements.

5. Previous Expenditures of City Funds. Pursuant to the Master Facilities Agreement, the City has previously expended a portion of the City's Funds, totalling \$6,860,055.00, in connection the development of the following portions of the Residential Subdistrict:

A. Phase I of the Residential Subdistrict Property (Phase I being described in that Assignment and Construction Services Agreement dated April 12, 1996 between the City and Addison Circle One, Ltd., a Texas limited partnership), with the City spending \$4,763,507.00 out of the City's Funds in connection with the Phase I development;

B. Phase IIA of the Residential Subdistrict Property (Phase IIA being described in that Funding, Assignment and Construction Services Agreement dated September 30, 1997 between the City, Addison Circle Two, Ltd., a Texas limited partnership, Gaylord and Columbus), with the City spending \$1,671,548.00 out of the City's Funds in connection with the Phase IIA development; and

C. Phase IIB of the Residential Subdistrict Property (Phase IIB being described in that Funding, Assignment and Construction Services Agreement dated August 10, 1999 between the City, Addison Circle Three, Ltd., a Texas limited partnership, Gaylord Properties, L.P. and Post Apartment Homes, L.P., a Georgia limited partnership), with the City spending \$425,000.00 out of the City's Funds in connection with the Phase IIB development.

6. Remaining City Funds. The sum of \$6,860,055.00 of the City's Funds having been spent by the City as set forth above, there remains the sum of \$2,139,945.00 of the City's Funds (the "**Remaining City Funds**") to be spent in connection with the development of the remaining portion of the Residential Subdistrict, which remaining portion is described and depicted in **Exhibit 2** attached hereto (the "**Remaining Property**").

7. Owner As Successor In Interest. TEXOK Properties, LP, an Oklahoma limited partnership ("**Owner**") is the sole owner of the Remaining Property, and is the successor in interest by way of assignment to all of the rights, duties, and obligations of Gaylord and Columbus under the Master Facilities Agreement solely with respect to the Remaining Property. *[Add additional information regarding how Owner succeeded to the interests of Gaylord/Columbus in the Remaining Property]* Neither Owner nor Owner's successors in interest shall have any rights, duties or obligations except as relate to the Remaining Property.

8. Remaining Improvements.

A. The only Improvements identified in the Master Facilities Agreement which remain to be designed and constructed, which Improvements are to be constructed within the Remaining Property, are as follows (together, the "**Remaining Improvements**"):

1. Quorum Drive Improvements (as defined below in Section 10.C. of these Recitals, and consisting of paving, streetscape *[to be defined]*, storm sewer, and wastewater improvements for that portion of Quorum Drive as depicted and/or described on the attached **Exhibit 4**).
2. Those portions of "R" Street depicted and/or described as "C" Streets on the attached **Exhibit 3** and as further described and/or depicted on the attached Exhibit 4 (the "**R Street Improvements**").
3. Those portions of Mews Street depicted and/or described as "D" Streets on the attached Exhibit 3 and as further described and/or depicted on the attached Exhibit 4 (the "**Mews Street Improvements**").
4. That portion of Spectrum Drive as depicted and/or described on the attached Exhibit 4, in accordance with that document entitled "Construction Specifications and Contract Documents, Spectrum Drive North/South Extension, dated November 7, 2003 and prepared by Huitt-Zollars (a true and correct copy of which is on file in the office of the City's Director of Public Works), as the same may be amended or modified from time to time (the "**Spectrum Drive Improvements**").
5. Quorum North Park (0.69 acres) (as described and/or depicted on the attached Exhibit 4).
6. Mews Park (1.43 acres) (as described and/or depicted on the attached Exhibit 4).

B. Under the Master Facilities Agreement, the minimum amount of the Remaining City Funds to be expended on the design and construction of the Quorum North Park is \$290,000.00, and the minimum amount to be expended on the design and construction of the Mews Park is \$650,000.00, leaving \$1,199,945.00 of the Remaining City Funds to be spent on the street Infrastructure identified in Exhibit 4 to the Master Facilities Agreement and described above in paragraph A. of this Section.

9. Remaining Improvements Cost Differential. Under the existing terms of the Master Facilities Agreement, the City is responsible for spending the Remaining City Funds on the design and construction of the Remaining Improvements. Under the existing terms of the Master Facilities Agreement, if the actual design and construction costs for the Remaining Improvements exceed the total costs projected in Exhibit 4 to the Master Facilities Agreement, the Owner is responsible to pay the difference (the "**Remaining Improvements Cost Differential**").

10. Allocation of Construction of Improvements. In lieu of the City funding, with the Remaining City Funds, a portion of the design and construction of all of the Remaining Improvements, and the Owner funding the Remaining Improvements Cost Differential, the City and the Owner desire to modify their respective funding, design, and construction obligations set forth in the Master Facilities Agreement by allocating their respective obligations to specific

portions of the Remaining Improvements, so that each of the parties will pay in its entirety the design and construction cost of such respective portions (save and except Quorum Drive, as set forth below). The parties agree that such allocation will be as follows:

A. City will pay for, design, and construct the following (together, the "**City Remaining Improvements**") at its sole cost and expense:

1. Spectrum Drive Improvements;
2. Quorum North Park (0.69 acres) (design and construction cost to be at least \$290,00.00 but no more than \$300,000.00); and
3. Mews Park (1.43 acres) (design and construction cost to be at least \$650,000.00 but no more than \$700,000.00); and

B. Owner will pay for, design, and construct the following (together, the "**Owner Remaining Improvements**") at its sole cost and expense:

1. R Street Improvements; and
2. Mews Street Improvements.

C. Quorum Drive.

(1) Quorum Drive is an existing public street within the City, a portion of which lies within the Remaining Property as described and/or depicted on the attached Exhibit 4 (such portion is referred to herein as "**Quorum Drive**"). In connection with the development of the Remaining Property, certain improvements are to be made to both the west side and the east side of Quorum Drive to conform to the Concept Plan and any applicable development plan or ordinance, standard, rule, or regulation of the City (including, without limitation, the UC District Regulations and all appendices and exhibits thereto) (the "**Quorum Drive Improvements**"). The Quorum Drive Improvements include paving, streetscape, drainage, wastewater (sanitary sewer), and electrical improvements. The Quorum Drive Improvements to be constructed on the west side of Quorum Drive are referred to herein as the "**West Side of Quorum Improvements**", and those to be constructed on the east side of Quorum Drive are referred to herein as the "**East Side of Quorum Improvements**".

(2) In order to facilitate the design and construction of the Quorum Drive Improvements, and to assure that the development of the Remaining Property is adequately supported by appropriate levels of public facilities and services, the City desires to increase its funding of the development (ie, to increase the City Funds) by an amount equal to the cost to design and construct the West Side of Quorum Improvements, less the sum of \$184,247.00 to be paid by the Owner to the City (the "**Owner's Quorum Payment**") prior to the City's award of a contract to construct of the West Side of Quorum Improvements). The City shall, in accordance with applicable law and policy, pay for, design, and construct the West Side of Quorum Improvements at its sole cost and expense, less the Owner's Quorum Payment.

(3) Owner shall (i) pay to the City, prior to the City's award of a contract to construct the West Side of Quorum Improvements, the Owner's Quorum Payment, and (ii) pay for all East Side of Quorum Improvements, at Owner's sole cost and expense.

11. Owner Responsible For All Other Public Infrastructure Improvements. In addition to the Owner paying (i) for all costs associated with the design and construction of the Owner Remaining Improvements, (ii) the Owner's Quorum Payment, and (iii) all costs associated with the design and construction of the East Side of Quorum Improvements, Owner shall be responsible, at its sole cost and expense, to pay for the design and construction of all other public infrastructure improvements (other than the City Remaining Improvements and the West Side of Quorum Improvements (less the Owner's Quorum Payment)) necessary or required to serve the Remaining Property in accordance with all applicable laws, ordinances, standards, rules and regulations of the City (including, without limitation, the UC District Regulations and all appendices and exhibits thereto) and any other governmental entity with jurisdiction over the development of the Remaining Property.

12. Amendment to Master Facilities Agreement. By this Agreement, the City and the Owner desire to supplement and amend the Master Facilities Agreement to reflect their intent and desire regarding the funding of the design and construction of the Remaining Improvements.

**NOW, THEREFORE,** for and in consideration of the above and foregoing recitals and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas and TEXOK Properties, LP, an Oklahoma limited partnership, do hereby agree as follows:

Section 1. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Remaining Improvements. The only Improvements identified in the Master Facilities Agreement which remain to be designed and constructed within the Remaining Property, are the Remaining Improvements, as described and defined in the Recitals above.

Section 3. Allocation Between the Parties of All Costs Associated With Specific Remaining Public Infrastructure Improvements. In lieu of the City funding, with the Remaining City Funds, a portion of the design and construction of all of the Remaining Improvements, and the Owner funding the Remaining Improvements Cost Differential, as described in the Recitals above, the City and the Owner desire to allocate their respective funding, design, and construction of public infrastructure obligations set forth in the Master Facilities Agreement to specific portions of the Remaining Improvements, so that each of the parties will pay in its entirety the design and construction cost for such respective portions (save and except Quorum Drive, as described herein). Such allocation shall be as follows:

A. City shall pay for all of the design and construction of (i) the City Remaining Improvements, and (ii) the West Side of Quorum Improvements, less the Owner's Quorum Payment.; and

B. Owner shall pay for all of the design and construction of (i) the Owner Remaining Improvements, (ii) the East Side of Quorum Improvements, and (iii) shall pay to the City, prior to the City's award of a contract to construct the West Side of Quorum Improvements, the Owner's Quorum Payment.

City and Owner shall pay for the entire cost of design and construction of their respective obligations hereinabove, and neither shall seek contribution from the other for their assigned obligations. Inasmuch as the City and the Owner have allocated between themselves the funding, design and construction of the Remaining Improvements, as described above, Section 6, paragraphs A., B., and C. of the Master Facilities Agreement, relating to the process and procedure for the design and management of construction of the Improvements, are not applicable to the design and construction of the Remaining Improvements.

Section 4. Schedule. Subject to the provisions of the Force Majeure clause set forth in Section 11 of the Master Facilities Agreement, the parties agree that the schedule for achieving substantial completion of construction shall be as follows: *[schedule to be agreed upon and included]*.

Section 5. Increase in Remaining City Funds. In order to facilitate the design and construction of the Quorum Drive Improvements, and to assure that the development of the Remaining Property is adequately supported by appropriate levels of public facilities and services, the City shall increase its funding of the development of the Remaining Property (ie, increase the Remaining City Funds) by an amount equal to the cost to design and construct the West Side of Quorum Improvements, less the sum of \$184,247.00 (the Owner's Quorum Payment) to be paid by the Owner to the City. Following its solicitation for bids, but prior to its award of a contract, to construct the West Side of Quorum Improvements, the City shall give Owner written notice of its intent to award such contract, and Owner shall pay to the City the Owner's Quorum Payment not later than 5:00 pm of the third day following the Owner's receipt of such notice. The City shall have no obligation to construct or to cause the construction of the West Side Quorum Improvements until such time as the City has received the Owner's Quorum Payment.

Section 6. Owner Responsible For All Other Public Infrastructure Improvements. In addition to the Owner paying (i) for all costs associated with the of the design and construction of the Owner Remaining Improvements, (ii) the Owner's Quorum Payment, and (iii) all costs associated with the design and construction of the East Side of Quorum Improvements, Owner shall, at its sole cost and expense, pay for the design and construction of all other public infrastructure improvements (other than the City Remaining Improvements and the West Side of Quorum Improvements (less the Owner's Quorum Payment)) necessary or required to serve the Remaining Property in accordance with all applicable laws, ordinances, standards, rules and regulations of the City and any other governmental entity with jurisdiction over the development of the Remaining Property. Owner shall have no obligations, rights or duties under the Master Facilities Agreement, as amended by this Amendment, except as relates to the Remaining Property as set forth and provided herein.

Section 7. Design and Construction In Accordance with City Standards. The Remaining Public Infrastructure Improvements and all other public and other improvements within the Remaining Property shall be designed and constructed in accordance with the laws, ordinances, rules, and regulations of the Town of Addison, including, without limitation, the Concept Plan and any development plan applicable to the Remaining Property.

Section 8. Assignment, Sale of East Quorum Property. It is contemplated by the parties that parcels 3-O, 3-P, O-6, 2-G and 2-F as identified on the Concept Plan for the Addison Urban Center (collectively, the "**East Quorum Property**") will be sold or otherwise transferred by Owner to a successor in interest (hereinafter referred to as "**Successor**") (the remainder of the Remaining Property being herein referred to as the "**West Quorum Property**"). City agrees that Owner may assign its rights, duties, and obligations related to the East Quorum Property under the Master Facilities Agreement and this Amendment to a Successor without further consent of the City if: (i) Successor agrees to accept in writing all of the rights, duties, and obligations of this Amendment as relate and are applicable to the East Quorum Property, and a true and correct copy of such writing is promptly provided to the City after its execution; and (ii) Successor promptly notifies the City of the identification of the Successor after such assignment and the sale or transfer of the East Quorum Property to Successor. The parties hereto agree that the only obligations related to the East Quorum Property that arise under the Master Facilities Agreement, as amended by this Amendment, are to construct, at Successor's sole cost and expense, the Owner Remaining Obligations and the East Side of Quorum Improvements.

Furthermore, the parties hereto agree that after the Successor so notifies the City of the assignment as provided in this paragraph, the Master Facilities Agreement, as to the East Quorum Property only, may not be amended without an agreement in writing between the City and Successor. The City agrees that, as to the West Quorum Property only, a default by Owner under the Master Facilities Agreement, as amended, shall not be considered or deemed to be a breach or default by Successor under this Agreement, and Successor shall be entitled to enforce the terms of the Master Facilities Agreement, as amended by this Amendment, notwithstanding such default by Owner as to the West Quorum Property.

Section 9. Owner's Representations. Owner represents and warrants to the City that Owner is the sole owner of all of the Remaining Property, is the successor in interest by way of assignment to all of the rights, duties, and obligations of Gaylord and Columbus under the Master Facilities Agreement with respect to the Remaining Property.

Section 10. Notice. All notices provided for or permitted under this Amendment shall be in writing and shall be (a) delivered personally; (b) sent by commercial overnight courier with written verification of receipt; or (d) sent by certified or registered U.S. mail, postage prepaid and return receipt requested, to the party to be notified, at the address for such party set forth below or at such other address as is indicated in writing by such party. All notices shall be deemed effective upon receipt.

To City:

5300 Belt Line Road  
Dallas, Texas \_\_\_\_\_  
Attn: City Manager

To Owner:

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

Section 11. No Other Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Master Facilities Agreement shall remain unchanged and in full force and effect.

Section 12. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 13. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

**EXECUTED** at Dallas County, Texas on the day and year first written above.

**TOWN OF ADDISON, TEXAS**

**TEXOK PROPERTIES, LP**

By: \_\_\_\_\_  
Ron Whitehead, City Manager

By: Hurst Holdings, LLC, its sole  
General Partner

By: \_\_\_\_\_  
Stephen T. Hurst, Sole Member

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Carmen Moran, City Secretary

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

[ACKNOWLEDGMENTS]



Master Facilities Agreement With Amendments – EXHIBIT 1

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

**MASTER FACILITIES AGREEMENT**

THIS Master Facilities Agreement (hereinafter "Agreement") is entered into this 17th day of July, 1995, by and between the TOWN OF ADDISON, TEXAS, ("the City"), a municipality organized and existing pursuant to the laws of the State of Texas and municipal charter, and GAYLORD PROPERTIES, INC., a Texas corporation ("Gaylord"), and COLUMBUS REALTY TRUST, a Texas real estate investment trust ("Columbus").

**RECITALS**

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purpose of providing supporting public facilities and services; and

WHEREAS, Gaylord and Columbus hold interests in certain real property located in the City, which real property is described in Section 3 of this Agreement ("the Property"); and

WHEREAS, Gaylord and Columbus desire to develop the Property with a mix of uses that contain primarily multi-family residential uses; and

WHEREAS, the City amended its Comprehensive Plan to provide for an Urban Center & Special Events District in order to reflect the mixing of residential, retail, office and civic uses within an urban framework which is small in scale and compatible with adjacent developments as an appropriate and desired land use; and

WHEREAS, the City amended the text of its Comprehensive Zoning Ordinance to provide for an Urban Center ("UC") District, by way of Ordinance No. 095-019, adopted on May 3, 1995, in order to implement the policies of the Comprehensive Plan relating to the development of the Urban Center & Special Events District; and

WHEREAS, the UC District regulations set forth standards and procedures governing the establishment of land uses within the District; and

WHEREAS, amendment of the City's Zoning Map to an UC District requires simultaneous approval or conditional approval of a Concept Plan for development of land to be included within such District; and

WHEREAS, Gaylord and Columbus requested amendment of the Zoning Map for the Property from the Commercial ("C-1") District to the UC District based on submission of a Concept Plan depicting a development project, which zoning amendment and Concept Plan were approved on July 17, 1995, by Ordinance No. 095-019; and

## Master Facilities Agreement With Amendments – EXHIBIT 1

WHEREAS, Ord. No. 095-019 incorporates certain conditions applicable to the approved Concept Plan for development of the Property and each phase of the development project therein defined; and

WHEREAS, the Concept Plan depicts that the development of the Property will occur in three phases, with multiple subphases in each phase; and

WHEREAS, the Concept Plan represents that the development of the Property will extend over a period of up to 12 years; and

WHEREAS, the development of the Property in accordance with the Concept Plan by Gaylord and Columbus will contribute important direct and indirect economic and social benefits to the City including, but not limited to, creation of a larger, urban-oriented residential population, additional jobs and increased property and sales tax revenues; and

WHEREAS, it is essential to the City's public health, safety and general welfare to assure that the development of the Property is supported by adequate levels of public facilities and services; and

WHEREAS, the City Council by Resolution R95-043 approved expenditure of public funds in the amount of \$9 million in order to participate in the costs of public improvements to serve the development project; and

WHEREAS, a schedule of public improvements to serve each phase and subphase of the development project, together with a schedule of costs for such improvements, has been prepared; and

WHEREAS, the City has adopted by Resolution No. R95044 a professional services procurement procedure, as authorized by and consistent with Tex. Gov't. Code section 2254 et seq.; and

WHEREAS, it is necessary to provide for allocation and expenditure of said authorized funds for public improvements in order to assure that public facilities and services are timely provided to support the development of the Property; and

~~WHEREAS, the City Council has adopted Resolution No. R95062 on July 17, 1995~~  
    , 1995, approving this Agreement with Gaylord and Columbus and authorizing the City Manager to execute same by affixing his hand and the City Seal;

NOW, THEREFORE, for and in consideration of the above and foregoing premises, and other good and valuable consideration, the CITY, GAYLORD and COLUMBUS do hereby contract and agree as follows:

**Section 1. Definitions.** As used in this Master Facilities Agreement, the following terms shall have the meanings indicated below:

## Master Facilities Agreement With Amendments – EXHIBIT 1

"Affiliate" means a corporate parent of either Gaylord or Columbus owning more than 50% of the shares of Gaylord or Columbus, a partnership or joint venture in which Gaylord or Columbus own an interest of more than 50%, or a subsidiary entity of Gaylord or Columbus in which Gaylord or Columbus own an interest of more than 50%.

"Concept Plan" means the Concept Plan for the Property, together with all conditions attached thereto, as approved by the City on July 17, 1995, 1995, and incorporated into Ord. No. 095032 in accordance with the UC District regulations, and as may be amended from time to time. A true and correct copy of Ord. No. 095032 is attached hereto as Exhibit 1 and incorporated herein for all purposes.

"Development Plan" means a final development plan approved for a phase or subphase of the project in accordance with UC District Regulations.

"Phase I" and "Phase II" mean the plans for development of those portions of the Property identified as Phase I and Phase II, respectively, in the Concept Plan.

"Professional Services Procurement Procedure" means the City's Professional Services Procurement Procedure, a true and correct copy of which is attached hereto as Exhibit 2 and incorporated herein for all purposes.

"Public Infrastructure Improvements" or "Improvements" means the public streets, alleys, easements and other public rights-of-way, water, sewer and drainage facilities, park facilities and all other proposed public facilities and improvements shown and described (together with their projected design, inspection and construction costs) in the Concept Plan and in Exhibit 4 attached hereto and incorporated herein for all purposes.

"Urban Center District Regulations" means the zoning district standards and procedures established by Ordinance No. 095-019 of the City.

**Section 2. Purpose and Intent.** The purposes of this Agreement are to encourage implementation of comprehensive plan policies relating to development within the Urban Center and Special Events District and to assure that such development is adequately supported by appropriate levels of public facilities and services.

~~Section 3. Property. The Property subject to this Agreement is that real property described in Exhibit 3, which is attached hereto and made a part of this Agreement as if fully set forth herein, to wit, all the land lying within the Residential Subdistrict of the UC District, as described in Ord. No. 095-032 and as depicted on the Concept Plan attached thereto.~~

### **Section 4. Rights and Obligations of Parties.**

**A. Benefits and Burdens.** The burdens of this Agreement shall bind, and the benefits of this Agreement shall inure to, the parties to this Agreement and each of them and their successors in interest.

**B. Assignment.**

1. Both Gaylord and Columbus shall have the right to transfer or assign their legal and equitable interest in the Property, in whole or in part, or any portion thereof, to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that an assignment or delegation to an Affiliate of Gaylord or Columbus shall not require the written approval of the City, and Gaylord or Columbus shall, upon the City's request, provide the City with written evidence establishing the relationship between Gaylord or Columbus and the Affiliate. Notwithstanding the foregoing, no transfer, assignment or other conveyance by Gaylord and Columbus, or either of them, whether to an Affiliate or otherwise, shall relieve Gaylord or Columbus from its obligations pursuant to this Agreement except as authorized in writing by the City, and the obligations of Gaylord or Columbus under this Agreement may not be transferred or delegated without the written consent of the City, Gaylord and Columbus, except as provided above.

2. During the term of this Agreement, any assignee or transferee of the rights under this Agreement shall observe and perform all of the duties and obligations of Gaylord and Columbus as contained in this Agreement, or as it may be amended or revised, as such duties and obligations pertain to the portion of the Property transferred or assigned. Any transfer or assignment of this Agreement by Gaylord or Columbus shall be in writing and shall clearly provide that the assignee or transferee shall observe and perform all of the duties and obligations of Gaylord or Columbus, respectively, as contained herein.

3. Any and all successors and assignees of Gaylord or Columbus shall have all of the same rights, benefits, duties, obligations and liabilities of Gaylord or Columbus, respectively, under this Agreement.

**Section 5. Public Infrastructure Improvements Schedule.**

**A. Schedule.** Exhibit 4, which is attached hereto and which is made a part of this Agreement as if fully set forth herein, sets forth the nature of the public infrastructure improvements and their costs to be associated with each phase of the development project. The Schedule describes the estimated total costs for a particular Improvement for purposes of Section 7 of this Agreement, and further defines excess and base costs for purposes of Section 8 of this Agreement.

**B. Dedication of Rights-of-Way.** Dedication of all rights-of-way required for a public infrastructure improvement associated with a Phase of the development of the Property shall be made in accordance with conditions established in the Concept Plan or as required by the approved Development Plan.

**Section 6. Procurement, Design and Construction Management.** Procurement of services, project design and construction management for the Public Infrastructure Improvements for each phase or subphase of the development of the Property shall be in accordance with the following provisions:

## Master Facilities Agreement With Amendments – EXHIBIT 1

### A. Design.

1. Except as provided by Paragraph D of this Section 6, Gaylord and Columbus shall, in accordance with the Professional Services Procurement Procedure and the Texas Professional Services Procurement Act, prepare and solicit requests for proposals for all professional design services, including engineering, architecture and surveying, select the most highly qualified provider of services on the basis of demonstrated competence and qualifications, and then attempt to negotiate with that provider a contract at a fair and reasonable price.

2. Following selection of a professional services provider and price negotiation, Gaylord and Columbus shall submit the name and qualifications of the proposed provider of services and the negotiated price, together with all other relevant information (including the request for proposals, proposals submitted by all other providers, and the proposed contract for the professional services) to the City Council for review. The City Council shall evaluate the information submitted and vote to approve or disapprove of the proposed provider of services at the negotiated price. In the event the Council disapproves the same, Gaylord and Columbus shall continue to follow the procedure set forth in the City's Professional Services Procurement Procedure and other relevant law until the City Council approves of the provider of services and the negotiated price.

3. In preparing the request for proposals and the contract for professional services, Gaylord and Columbus shall consult with the City Engineer, City Attorney and other appropriate City Staff.

4. Following approval of a provider of professional services by the City Council, Gaylord and Columbus shall enter into a contract with the provider in accordance with the Council's approval.

5. The City shall pay Gaylord and Columbus the fees for professional services incurred by Gaylord and Columbus in the contract for professional services; provided, however, that the City shall not be obligated to pay such fees to Gaylord and Columbus until such time that: (i) the City has received from Gaylord and Columbus a detailed statement or invoice of the professional services provided, (ii) the final Development Plan for the applicable phase or subphase of the Property has been finally approved, and (iii) a building permit for the applicable phase or subphase of the Property has been issued by the City. Upon the receipt of the said ~~invoice or statement and provided that the other conditions set forth in this Subsection 6.A.5~~ have been fulfilled, the City shall pay Gaylord and Columbus the amount of the invoice or statement within thirty (30) days of the receipt of the invoice or statement.

### B. Construction.

1. Except as provided by Paragraph D of this Section 6, engineering, architectural, construction and other design plans and specifications for the Improvements shall be submitted to the City Engineer for review and approval. The City shall thereafter solicit bids to construct the proposed Improvements in accordance with the competitive bid process required by law. Following the opening of the bids received, the City Engineer shall notify Gaylord and

## Master Facilities Agreement With Amendments -- EXHIBIT 1

Columbus of such bids and the City Staff's proposal to the City Council regarding the award of the bid. The City Council shall thereafter award the bid.

2. In conjunction and simultaneous with the construction of the Improvements, Gaylord and Columbus will be constructing certain private improvements upon that portion of the Property included within the applicable phase or subphase. Therefore, upon the award and execution of the construction contract between the City and the contractor and in order to coordinate the construction of the public and private facilities, the City shall assign all of its rights, powers, duties and obligations under the construction contract to Gaylord and Columbus. Gaylord and Columbus shall thereafter act and serve as the owner and construction manager under such construction contract for all purposes, including inspection, material testing, staking, supervision and coordination of all construction work, in accordance with the following:

(a) Gaylord and Columbus shall use their best efforts to insure that all Improvements are completed in a timely manner in accordance with the construction contract documents, plans and specifications. Gaylord and Columbus shall thoroughly inspect the work of the contractor to guard the City against defects and deficiencies in the Improvements without assuming responsibility for the means and methods used by the contractor.

(b) Except as provided in Subparagraph (c) of this Section 6.B.2., Gaylord and Columbus shall fully and completely pay or settle, by litigation or otherwise, any claims of the construction contractor arising out of the performance of the construction contract without involving the City.

(1) Any construction contract for the construction of the Public Infrastructure Improvements shall specify that the contractor shall look solely to Gaylord and Columbus concerning any claim under the contract. In accordance therewith:

(i) For each such construction contract Gaylord and Columbus shall acquire and maintain, during any period for which a phase or subphase of the development of the Property is under construction, comprehensive general liability insurance in the amount of the construction contract or \$1,000,000, whichever is greater. Such insurance shall cover any and all claims which might arise out of the construction contract, whether by the contractor, a subcontractor, materialman or otherwise. All such insurance shall: (a) be issued by a carrier which is rated "A-1" or better by A.M. Best's Key Rating Guide and licensed to do business in the State of Texas, and ~~(b) name the City as an additional insured. Certified copies of all of~~ such policies shall be delivered to the City upon the execution of a construction contract; provided, however, that the City, in its sole discretion and in lieu of certified copies of such policies, may permit the delivery of certificates of insurance together with the declaration page of such policies, along with the endorsement naming the City as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal or modification of the same, the City shall receive written notice of such cancellation, non-renewal or modification.

(ii) Gaylord and Columbus shall also indemnify the City, its officers and employees against, and hold the City, its officers and employees harmless from, at Gaylord's and Columbus' cost, any and all actions, causes of action, lawsuits, judgments, claims, damages,

## Master Facilities Agreement With Amendments – EXHIBIT 1

costs or fees, including reasonable attorney's fees (including claims for contractual damages, or claims for injury to person or property or death of any person) resulting from or based on, in whole or in part, any act or omission of Gaylord and Columbus under a construction or professional services contract entered into in the development of the Property during construction of the Improvements and until the City's Engineer accepts the Improvements as finally complete. The provisions of this Subparagraph (b)(1)(ii) shall survive the termination of this Agreement.

(c) In the event that claims from a contractor under a construction contract result from the wrongful failure by the City to make construction payments in accordance with the terms of this Agreement, Gaylord and Columbus may seek reimbursement in accordance with this Subparagraph (c). In the event Gaylord and Columbus intend to seek reimbursement from the City for the expense incurred by Gaylord and Columbus in resolving any claim caused directly by the City's wrongful failure to make such construction payments, Gaylord and Columbus shall notify the City in writing of the claim and any proposed settlement or resolution. The City reserves the right upon such notice, and at the City's sole election, to make an audit of all books, records, accounts and other data of the construction contractor relating to the claim and overall performance of the construction contract before approving payment of such claim. The construction contract shall provide for the City's right to audit such claims.

(d) Gaylord and Columbus shall review all invoices or pay estimates received from the contractor and forward the same to the City for payment with such supporting documentation as the City may require. All payments for work performed under the construction contract shall be made by the City to Gaylord and Columbus for forwarding to the construction contractor. The City shall not make a payment under any such invoice or pay estimate unless Gaylord and Columbus have provided to the City a certification regarding the invoice or pay estimate and Gaylord and Columbus have reviewed and approved the same. Gaylord's and Columbus' certification shall be by affidavit sworn to by the appropriate official of Gaylord and Columbus authorized to submit the same, and shall certify that the estimate of work completed for the relevant period is true and correct to the best of Gaylord's and Columbus' information and belief, has been measured and verified in accordance with the construction contract documents, and that all construction contract preconditions to payment have been met. Copies of all material testing results shall be furnished with the certification.

3. All change orders shall be processed and approved in accordance with the City's procedure for the review and approval thereof.

4. The construction contract shall require, among other things, that the contractor provide performance and payment bonds in a form acceptable to the City. The performance and payment bonds shall name the City and Gaylord and Columbus as joint obligees.

5. All Public Infrastructure Improvements shall become the sole property of the City upon completion of the work and acceptance of the work by the City. Upon final completion of the Improvements and acceptance thereof by the City in accordance with the construction contract for the Improvements for each phase or subphase, the City shall take the Public Infrastructure Improvements free from any liens or encumbrances thereon except for any private utility easements and any rights reserved regarding public parking.

## Master Facilities Agreement With Amendments – EXHIBIT 1

6. In accordance with the City's Subdivision Ordinance, Ordinance No. 261, as amended, Gaylord and Columbus shall construct, place or locate all electric utility lines and wires, terminals and other facilities and equipment underground. Within the public streets and rights-of-way, to the extent that Gaylord and Columbus may be liable for the difference between the cost of constructing such electrical utility facilities overhead and placing the same underground, such cost shall be eligible for reimbursement in accordance with Section 7 of this Agreement.

C. **Inspection.** Notwithstanding the foregoing, the City reserves the right to inspect, test, measure or verify the construction work on the Improvements as the City deems necessary. Final payment to the construction contractor shall not be made until all Improvements have been finally completed (as verified by Gaylord and Columbus and the City) in accordance with the construction contract, plans and specifications and have been accepted by the City.

D. **Park Improvements.** In Phase I, the City shall contract for the design and construction of the rotary park/open space ("O-\_\_") depicted on the Concept Plan. In Phase II, the City shall contract for the design and construction of Mildred East Park (center island) ("O-\_\_\_") depicted on the Concept Plan. In the selection of a professional to design the rotary/park and Mildred East Park and the contractor to construct the same, a committee shall be formed by the City and Gaylord and Columbus to evaluate the candidates and to recommend a design professional and contractor to the City Council. The committee shall consist of seven members, four of which shall be City representatives and three of which shall be Gaylord and Columbus representatives. Each member of the committee shall be entitled to vote on the recommendation to the City Council. The City Council shall select the design professional and the construction contractor.

E. **Landscape Maintenance.** The City shall maintain all landscaping and streetscaping in the public right-of-way according to the specifications and standards set forth in each approved Development Plan, and as provided in the Urban Center Public Landscape Maintenance Schedule attached to this Agreement as Exhibit 7. The terms of this Subsection 6.E. shall survive the termination of this Agreement.

### **Section 7. Allocation of Funds, Payment and Participation by Gaylord and Columbus in Excess Costs.**

~~A. Allocation by Phase and Payment.~~ Funds for the design and construction of the Public Infrastructure Improvements shall be allocated in the maximum amount of \$4,500,000 for Phase I and \$4,500,000 for Phase II. If the actual costs of the Public Infrastructure Improvements for either Phase I or Phase II are less than the \$4,500,000 allocated for the respective Phase, the funds remaining for that Phase shall be reallocated to pay for or to reimburse actual costs of Improvements for the other Phase. Payment shall be made by the City in accordance with the procedures set forth in Section 6 of this Agreement, not to exceed the maximum allocation per Phase except as provided herein.

B. **Allocation by Subphase.** If any Phase of the project is to be developed in subphases, payment by the City for any subphase shall not exceed the costs projected in the



## Master Facilities Agreement With Amendments – EXHIBIT 1

Schedule for Public Infrastructure Improvements set forth in Exhibit 4 associated with such subphase, except by amounts by which actual costs for Public Infrastructure Improvements associated with contracts awarded for prior subphases are less than the total costs projected for such prior subphases set forth in Exhibit 4.

**C. Participation in Costs by Gaylord and Columbus.** In the event that actual design and construction costs for any Phase or subphase of the development of the Property (such actual costs being determined at the time of the acceptance and award by the City of a construction contract to construct the Phase or subphase Improvements, and subject to review as a result of any change order with respect to such construction contract) shall exceed the total costs projected in the Schedule for Public Infrastructure Improvements set forth in Exhibit 4, Gaylord and Columbus shall pay the City the difference between actual and projected total costs prior to the commencement of construction of the Improvements for the subphase.

### **D. Limitations on Payments.**

1. The parties recognize that the public parks and open spaces depicted and described in the Concept Plan to be provided to the City by Gaylord and Columbus in the development of the Property must, within limits, meet a certain standard of excellence. Therefore, the parties have agreed, in improving those public parks and open spaces, on a maximum and minimum expenditure for such parks and open spaces as set forth in Exhibit 5, the Schedule for Parks and Open Space Improvements.

2. The City shall not pay for any improvements necessitated by a traffic impact analysis or facilities study required by either the Concept Plan or a Development Plan.

3. No payment for Improvements to any Phase or subphase of the development of the Property shall be made by the City until a Development Plan for the Phase or subphase has been approved and all rights-of-way for the Improvements to serve such Phase or subphase have been dedicated to the City, as required in Section 5 of this Agreement.

**Section 8. Default by Gaylord and Columbus.** In the event of a default by Gaylord and Columbus, the City shall have the right to terminate this Agreement by giving at least thirty days written notice of such termination to Gaylord and Columbus.

**A. Events of Default.** For purposes of this agreement, the following circumstances shall constitute default by Gaylord and Columbus:

1. Failure to submit a Development Plan for a Phase or subphase within Phase I or Phase II within the time specified in the Concept Plan, plus any extensions of time granted by the City pursuant to the UC District regulations.
2. Failure to be granted a certificate of occupancy for all dwelling units approved in a Development Plan or revision thereof within five (5) years following the later of such initial approval or approval of a revision.
3. Failure to meet any other time period required by the Concept Plan, any approved Development Plan, the UC District regulations, or any time

## Master Facilities Agreement With Amendments – EXHIBIT 1

period set forth in this Agreement plus any extensions of time granted by the City.

4. Failure to provide payment to the City for the excess cost of the design and construction of the Public Infrastructure Improvements as required by Section 7.C of this Agreement.
5. Failure to dedicate to the City land and facilities for the Improvements in accordance with the schedule established in the Concept Plan or as required by the approved Development Plan.
6. Failure to satisfy any condition attached to the Concept Plan or approved Development Plan not encompassed in Subparts 1 or 3 of this Subsection 8.A.
7. A violation or breach of any provision of this Master Facilities Agreement.

**B. Cure by Gaylord and Columbus .** Gaylord and Columbus shall have a period of not more than ninety (90) days from the time notice of default and termination is delivered by the City within which to cure any default under Subsections 8.A.2, 4, 5, 6 or 7.

**C. Reimbursement.** In the event of default by Gaylord and Columbus and the termination of this Agreement by the City, Gaylord and Columbus shall reimburse the City a portion of the City's expenditure of funds for the Public Infrastructure Improvements in accordance with the following:

1. For purposes of this obligation to reimburse, the Public Infrastructure Improvements are differentiated as "base costs" and "excess costs." Generally, base costs are those costs which, in the typical development of property, might be provided by a governmental entity; excess costs are those costs which, in such a development, would be provided by a private developer. The estimated "base costs" and "excess costs" for each phase of development for the Property are identified in Exhibit 4 attached hereto and incorporated herein for all purposes.

~~2. Upon default, and following any period of cure provided by this Agreement,~~ Gaylord and Columbus shall be responsible for the excess costs of Public Infrastructure Improvements in accordance with the Schedule set forth in Exhibit 4, as follows (examples of the application of the formula are contained in Exhibit 6 attached hereto and incorporated herein by reference):

a. **Phase I Excess Costs.** Gaylord and Columbus shall be responsible for the total excess costs for Phase I shown on Exhibit 4 which have been expended by the City or for which the City has become obligated under contract to the date of default, reduced by an amount calculated by multiplying such excess costs by a fraction equal to the total number of dwelling units for which a certificate of occupancy has been issued prior to default and/or the period of cure divided by 1,500 dwelling units (see Exhibit 6); provided however, that upon the issuance

## Master Facilities Agreement With Amendments – EXHIBIT 1

of a certificate of occupancy for all of the dwelling units approved in the original or revised Development Plan for Phase I, and upon dedication of all open space land as indicated on the Concept Plan to be dedicated in conjunction with the approval of the first Development Plan in Phase II as required by the adopting Ordinance and Concept Plan (Exhibit 1), Gaylord and Columbus shall be relieved of all obligations to pay excess costs under this Subparagraph 8.C.2.a.

b. **Phase II Excess Costs.** Gaylord and Columbus shall be responsible for the cumulative excess costs for Phase II shown on Exhibit 4 which have been expended by the City or for which the City has become obligated under contract to the date of default, reduced by an amount calculated by multiplying such total cumulative excess costs by a fraction equal to the total number of dwelling units for which a certificate of occupancy has been issued for Phases I and II prior to default and/or the period of cure, divided by 1500 dwelling units (see Exhibit 6). After the time that certificates of occupancy have been issued for a total of 1000 dwelling units in Phases I and II, the obligation to pay excess costs in Phase II shall cease to be cumulative. Thereafter, in the event of default, Gaylord and Columbus shall be responsible only for the excess costs (which have been expended or for which the City has become obligated under contract for the subphase) for each subphase for which a Development Plan is approved, reduced by an amount calculated by multiplying the total excess costs which have been expended or for which the City has become obligated under contract for the subphase by a fraction equal to the total number of dwelling units for which a certificate of occupancy has been issued prior to default and/or the period of cure for such subphase, divided by the number of dwelling units approved in the Development Plan for the subphase (see Exhibit 6).

3. In the event that only part of a Public Infrastructure Improvement listed on Exhibit 4 has been constructed, excess costs for purposes of this Section 8.C will be prorated according to the percentage of completion of the Improvement.

4. Reimbursement to the City shall be provided by Gaylord and Columbus within 30 days of the issuance by the City of the notice of default and termination of this Agreement or, if Gaylord and Columbus is entitled to cure a default as provided by Section 8.B. of this Agreement but fails to do so, within 30 days following the expiration of the cure period.

5. The obligations of Gaylord and Columbus to reimburse the City pursuant to this Section 8.C. (the "Reimbursement Obligations") shall be secured by any one of the following means (the "Reimbursement Collateral"), selected by Gaylord and Columbus:

a. For Phase I, a deed of trust lien on the real property contained within Phase I for the Phase I excess costs, which shall be subordinate and inferior only to any liens for the benefit of the lender or lenders providing financing for such Phase, which deed of trust shall be in the form substantially similar to that attached hereto as Exhibit 8, or as otherwise agreed to by the City and Gaylord and Columbus;

b. For Phase II, a deed of trust lien on the real property contained within the first subphase in Phase II (which subphase shall consist of at least 200 dwelling units) for the Phase II excess costs, which shall be subordinate and inferior only to any liens for the benefit of the lender or lenders providing financing for such subphase, which deed of

## Master Facilities Agreement With Amendments – EXHIBIT 1

trust shall be in the form substantially similar to that attached hereto as Exhibit 8, or as otherwise agreed to by the City and Gaylord and Columbus;

c. An irrevocable letter of credit for the benefit of the City by Bank One, Texas, National Association, or another bank reasonably acceptable to the City, in the maximum amount specified below, which may be drawn upon by the City in the event Gaylord and Columbus shall default in payment of the Reimbursement Obligations; or

d. A lien on other collateral reasonably acceptable to the City.

The maximum amount secured by any lien or the amount of any letter of credit given to secure the Phase I Excess Costs (as defined in Subsection 2.a. above) or the Phase II Excess Costs (as defined in Subsection 2.b. above) shall be the maximum unpaid amount of such costs from time to time outstanding computed pursuant to the terms of this Agreement. The Reimbursement Collateral for the Phase I Excess Costs shall be delivered at the time of the first disbursement of funds by the City to pay the cost of Improvements in Phase I. The Reimbursement Collateral for the Phase I Excess Costs shall be released (or in the case of a letter of credit returned to Gaylord and Columbus) upon the earlier to occur of (i) satisfaction of the obligations of Gaylord and Columbus pursuant to Subsection 2.a. above, or (ii) the failure or refusal of the City to fund its obligation to pay for the cost of the Improvements for Phase I, except as a result of a default by Gaylord and Columbus pursuant to the Agreement. The Reimbursement Collateral for the Phase II Excess Costs shall be delivered at the time of the first disbursement of funds by the City to pay the cost of Improvements in Phase II. The Reimbursement Collateral for the Phase II Excess Costs shall be released (or in the case of a letter of credit returned to Gaylord and Columbus) upon the earlier to occur of (i) satisfaction of the obligations of Gaylord and Columbus pursuant to Subsection 2.b. above, or (ii) the failure or refusal of the City to fund its obligation to pay for the cost of the Improvements for Phase II, except as a result of a default by Gaylord and Columbus pursuant to the Agreement. Gaylord and Columbus shall have the right at any time to substitute one form of the Reimbursement Collateral for another or to substitute one letter of credit for another upon written notice to the City.

**D. Remedies for Failure to Pay Reimbursement.** In the event Gaylord and Columbus fail to reimburse the City in accordance with the terms of this Agreement, the City shall be entitled to exercise any of the following remedies:

~~1. The City shall have the right to foreclose the deed of trust lien or lien on other collateral, or draw upon the irrevocable letter of credit, as described in Subsection 8.C.5. above.~~

2. The City shall have the right to pursue any and all other legal or equitable remedies available to the City, including but not limited to the right to recover damages for breach of contract.

**Section 9. Representations by Gaylord and Columbus.** Gaylord and Columbus hereby represent and warrant that Gaylord and Columbus have, without the joinder of any other person or entity, the full right, power and authority to execute this Contract and to carry out the obligations of Gaylord and Columbus hereunder.

## Master Facilities Agreement With Amendments – EXHIBIT 1

**Section 10. Term.** The term of this Agreement shall begin on the date first set forth above and, unless otherwise terminated in accordance with the provisions of this Agreement, shall end on the later of: (a) the date on which the total certificates of occupancy issued for dwelling units for Phase I and Phase II equal 1,500, or (b) the date on which the City shall have expended all of the funds for which it is obligated hereunder for the design, inspection, review and construction of the Public Infrastructure Improvements.

**Section 11. Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the substantial completion of the construction of any private improvements or any Public Infrastructure Improvements is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences directly related to the construction of the private improvements or the Public Infrastructure Improvements and not related or connected to the financing or funding of the development of the Property or any other financial aspect of such development; delays caused by the franchise utilities serving the Property; fire or other casualty; condemnation proceedings; or any like or similar circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such performance shall be extended for a period of time equal to the period such party was delayed.

**Section 12. Texas Law to Apply; Venue.** The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. Venue under this Agreement lies in Dallas County, Texas.

**Section 13. Entire Agreement.** This Agreement represents the entire and integrated agreement between the City and Gaylord and Columbus and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and Gaylord and Columbus.

**Section 14. Severability.** If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said clause, section, paragraph or portion had not been in the Agreement initially.

**Section 15. Notices.** Where the terms of this Agreement require that notice in writing be provided, such notice shall be deemed delivered three (3) days following the deposit of the notice in the United States mail, postage prepaid, and sent by certified mail, return receipt requested and properly addressed as follows:

TO TOWN OF ADDISON:

P.O. Box 144  
Addison, Texas 75001

Attn: City Manager

TO GAYLORD PROPERTIES, INC.:

10111 <sup>6PE</sup>  
~~1011~~ N. Central Expressway  
Dallas, Texas 75231

Attn: Glenn Stinchcomb

Master Facilities Agreement With Amendments – EXHIBIT 1

TO COLUMBUS REALTY TRUST:

15851 Dallas Parkway  
Suite 855  
Dallas, Texas 75248

Attn: Bryant Nail

**Section 16. Incorporation of Recitals.** The recitals set forth herein are intended, and are hereby deemed, to be a part of this Agreement.

**Section 17. Recording.** This Master Facilities Agreement shall not be recorded except with the express written consent of the City, Gaylord and Columbus.


**Section 18. Incorporation of Exhibits.** Exhibits 1 - 8 attached hereto are hereby incorporated in this Agreement in full by this reference and are deemed to be a part of this Agreement as fully as if set forth in the body hereof.

EXECUTED at Dallas County, Texas on the day and year first written above.

TOWN OF ADDISON, TEXAS

GAYLORD PROPERTIES, INC.

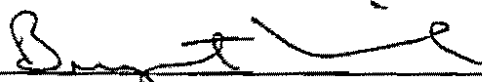
By:   
Ron Whitehead, City Manager

By: 

ATTEST:

COLUMBUS REALTY TRUST

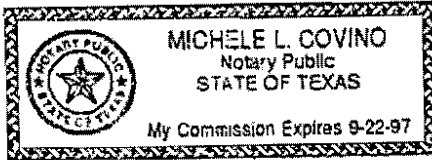
By:   
Carmen Moran, City Secretary

By: 

ACKNOWLEDGMENTS

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

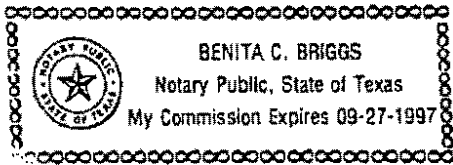
This instrument was acknowledged before me on SEPTEMBER 29, 1995 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.



Michele L. Covino  
NOTARY PUBLIC, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

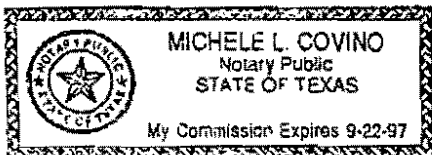
This instrument was acknowledged before me on September 21, 1995 by Clayton J. Bennett, Vice President of Gaylord Properties, Inc., a Texas corporation, on behalf of the said corporation.



Benita C. Briggs  
NOTARY PUBLIC, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on SEPTEMBER 29, 1995 by BYRANT NALL, VICE PRESIDENT DEL. of Columbus Realty Trust, a Texas real estate investment trust, on behalf of the said real estate investment trust.



Michele L. Covino  
NOTARY PUBLIC, State of Texas

# Master Facilities Agreement With Amendments – EXHIBIT 1

## CHAPTER XX

### PROCUREMENT OF PROFESSIONAL SERVICES

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#### SECTION 1. DEFINITION OF PROFESSIONAL SERVICES

Professional Services are those services performed by an individual or group of individuals where education, degrees, certification, license and/or registration is required for qualification to perform the service. The service is usually based on intellectual qualification as opposed to craftsmanship.

Certain Professions are specifically named in the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes).

#### SECTION 2. PROFESSIONAL SERVICES PROCUREMENT ACT (VTCS Article 664-4)

- A. This act states that contracts for the procurement of defined professional services may not be awarded on the basis of bids. Instead, they must be awarded on the basis of demonstrated competence and qualifications, so long as the professional fees are consistent with, and not higher than the published recommended practices and fees of the various professional associations and do not exceed any maximums provided by state law.
- B. Professional services are defined as those performed by a certified public accountant, licensed architect, physician, optometrist, surgeon, registered surveyor, engineer or any group or association thereof.

#### SECTION 3. PROCUREMENT OF ARCHITECTURAL - ENGINEERING SERVICES (VTCS Article 644-4)

- A. When procuring architectural or engineering services, the entity shall use a two-step selection process. First, the entity shall select an individual or firm capable of performing the service, on the basis of demonstrated competence and qualifications. The entity shall then enter into negotiations on a contract at a fair and reasonable price.
- B. If the entity is unable to negotiate a satisfactory contract with the most highly qualified individual or firm, it shall formally end negotiations with that person or firm, and then proceed to the next most highly qualified and repeat the process. Negotiations are carried on in this sequence until a contract is made.
- C. If any agreement or contract is entered into with one of the above mentioned professionals on the basis of a competitive bid, it is contrary to public policy and is void.

#### SECTION 4. PROCUREMENT OF ARCHITECTURAL OR ENGINEERING SERVICES - FEES ESTIMATED TO BE UNDER \$15,000 PER YEAR.

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The Town's staff shall solicit proposals from qualified professionals and the director of the using department will select an individual or firm capable of performing the service, on the basis of demonstrated competence and qualifications. The department director will enter negotiations with the selected individual or firm and follow the procedures established by the ACT, above.

#### SECTION 5. PROCUREMENT OF ARCHITECTURAL OR ENGINEERING SERVICES - FEES ESTIMATED TO BE \$15,000, OR MORE, PER YEAR.

- A. An advertisement shall be placed with a newspaper, normally used for legal advertising,



# Master Facilities Agreement With Amendments – EXHIBIT 1

## CHAPTER XX

### PROCUREMENT OF PROFESSIONAL SERVICES (cont'd)

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soliciting Statements of Qualifications from all qualified professionals interested in providing the needed services. The advertisement shall be run in one edition of the selected newspaper, at least one week prior to the date Statements of Qualifications are due.

- B. The Request for Qualifications (RFQ) shall contain sufficient information to inform potential architects and/or engineers as to the type of project, scope of services to be performed, and the selection criteria to be used. The RFQ will give the relative importance, or weighting, assigned to each of the criteria to be used in the selection process. The following criteria shall be used, but the RFQ is not necessarily limited to these criteria:
1. The firm's experience in successfully performing similar assignments, scope and size, for others.
  2. The firm's current staff, both size and related experience, is qualified to provide the desired services.
  3. Sufficient finances and other resources are available to accomplish the assignment, within the time to be allowed by the Town, and the firm will be able to provide continuing service.
  4. Previous clients, for similar projects, express satisfaction with the firm's work.
  5. The firm's response, as perceived by the Town's staff, is complete and of acceptable quality.
- C. An engineer or architect may be selected after the evaluation of Statements of Qualifications or it may be necessary to interview several of the firm's and further evaluate them on the basis of the interview or a presentation, narrowing the field until one firm is selected for negotiations.
- D. When negotiations are successfully concluded, a recommendation will be made to the City Council that a contract be awarded to the chosen firm. A tabulation showing all of the firms submitting Statements of Qualifications and each firm's score, by criterion, will be attached to the recommendation.

### SECTION 6. PROCUREMENT OF PERSONAL AND PROFESSIONAL SERVICES, OTHER THAN THOSE EXEMPTED FROM COMPETITIVE PRICING

- A. Professional services, other than those named in the ACT, may be contracted through the use of Request for Proposals (RFP) and selection should be made on the basis of criteria similar to those for Engineers and Architects; however, cost should be an additional criteria, in addition to those criteria used for Engineers and Architects.
- B. Services with fees under \$15,000 per year may be solicited, evaluated, and awarded by the Town's staff and the using department's director, similar to the selection process for Engineers and Architects.

# Master Facilities Agreement With Amendments – EXHIBIT 1

## CHAPTER XX PROCUREMENT OF PROFESSIONAL SERVICES (cont'd)

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- C. Services with fees of \$15,000 or more shall be advertised in two editions of the newspaper, one week apart, the last advertisement to run at least one week prior to the due date for RFP's.

The selection process will be similar to that used for Engineers and Architects, and after negotiations are successfully concluded the City Council shall be asked to award a contract.

- D. Below are some of the services held to be professional services in Texas cases or Attorney General Opinions, according to the LBJ School of Public Affairs, Advance Public Purchasing course:

Abstracters, Appraisers, Artists, Attorneys, Auditors, Construction Manager Consultants, Coordinators of Criminal Investigation, Financial Services Advisors, Fiscal Agents, Law Enforcement Consultants, Map Makers, Models, Plat Book Preparers, Private Consultants, Property Tax Consultants, Scientists, Supervisors of Public Construction Projects, Teachers, and Third Party Administrators.

# Master Facilities Agreement With Amendments – EXHIBIT 1

## LAND DESCRIPTION TRACT 1

BEING a tract of land situated in the G. W. Fisher Survey, Abstract No. 482, in the City of Addison, Dallas County, Texas, and being all of Lots 11, 12, and 13, of Block B, and Lots 5, 6, of 7 of Block D, and a portion of Lot 8 of Block D, in Julian's Addition, an addition to the City of Addison, as recorded in Volume 1, Page 538 of the Map Records of Dallas County, Texas, also being a portion of Clara Street as abandoned by the Town of Addison as evidenced by instrument recorded in Volume 91118, Page 1571 of the Deed Records of Dallas County, Texas, and being part of a tract of land standing in the name of Opubco Properties, Inc. as evidenced by instrument recorded in Volume 84151, Page 3619 of the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found at the intersection of the north right-of-way line of the St. Louis and Southwestern Railroad, a 100 foot wide right-of-way, with the east line of a 20 foot alley in Block B of said addition;

THENCE North 00 degrees 01 minute 39 seconds East along the east line of said 20 foot alley a distance of 739.37 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the south right-of-way line of Mildred Street as established by instrument to the Town of Addison, Texas as recorded in Volume 91118, Page 1567 of the Deed Records of Dallas County, Texas;

THENCE South 89 degrees 49 minutes 12 seconds East along the south right-of-way line of Mildred Street a distance of 209.14 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the right having a radius of 776.03 feet;

THENCE continuing along said south right-of-way line and along said curve to the right through a central angle of 07 degrees 00 minutes 45 seconds, an arc distance of 94.98 feet, being subtended by a chord which bears South 86 degrees 18 minutes 50 seconds East, and is 94.92 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE South 82 degrees 48 minutes 27 seconds East continuing along said south right-of-way line a distance of 155.79 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the west right-of-way line of Quorum Drive as established by instrument to the Town of Addison, Texas as recorded in Volume 82093, Page 1073 of the Deed Records of Dallas County, Texas;

THENCE South 07 degrees 00 minutes 23 seconds West along the said west right-of-way line of Quorum Drive a distance of 226.99 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the left having a radius of 1472.39 feet;

THENCE continuing along said west right-of-way line and along said curve to the left through a central angle of 06 degrees 52 minutes 23 seconds, an arc distance of 176.62 feet, being subtended by a chord which bears South 03 degrees 34 minutes 11 seconds West, and is 176.52 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE South 00 degrees 08 minutes 00 seconds West continuing along said west right-of-way line a distance of 131.28 feet to a 1/2 inch iron rod found in the north right-of-way line of said St. Louis and Southwestern Railroad;

THENCE South 66 degrees 45 minutes 00 seconds West along north right-of-way line of said St. Louis and Southwestern Railroad a distance of 456.90 feet to the POINT OF BEGINNING and CONTAINING 6.358 acres of land more or less.

1/1/2004 10/1/2004

# Master Facilities Agreement With Amendments – EXHIBIT 1

## LAND DESCRIPTION TRACT 2

BEING a tract of land situated in the G. W. Fisher Survey, Abstract No. 482, in the City of Addison, Dallas County, Texas, and being all of Lot 3 of Block F, and a portion of Lot 2 of Block F, in Julian's Addition, an addition to the City of Addison, as recorded in Volume 1, Page 538 of the Map Records of Dallas County, Texas, and being part of three tracts of land standing in the name of Opubco Properties, Inc. as evidenced by instruments recorded in Volume 84151, Page 3619, Volume 82020, Page 0684, and Volume 82020, Page 0688 all of the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod set with "Huitt-Zollars" cap at the intersection of the east line of a 20 foot alley in Block F of said addition with the north right-of-way line of Mildred Street as established by instrument to the Town of Addison, Texas as recorded in Volume 91118, Page 1567 of the Deed Records of Dallas County, Texas, said point also being in a platted east line of Addison Conference Center - Addison Centre Theater plat as recorded in Volume 90241, Page 2807 of the Deed Records of Dallas County, Texas;

THENCE North 00 degrees 01 minute 39 seconds East along the east line of said 20 foot alley and the east line of said Addison Conference Center plat a distance of 183.48 feet to a one-inch iron rod found at the most southerly northeast corner of said Addison Conference Center plat;

THENCE South 89 degrees 57 minutes 01 seconds West along a north line of said Addison Conference Center plat a distance of 80.89 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE North 00 degrees 06 minutes 05 seconds West along an east line of said plat a distance of 202.59 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the most northerly northeast corner said plat;

THENCE South 89 degrees 53 minutes 55 seconds West along the north line of said plat a distance of 234.57 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the west line of said Opubco Properties, Inc. as recorded in Volume 82020, Page 0688;

THENCE North 00 degrees 12 minutes 25 seconds East along the west line of said Opubco tract a distance of 850.70 feet to a P.K. nail set in concrete base of fence post at the northwest corner of said Opubco tract;

THENCE South 89 degrees 05 minutes 45 seconds East along the last mentioned Opubco tract and the north line of said Opubco tract as recorded in Volume 82020, Page 0684 a distance of 860.14 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the west right-of-way line of Quorum Drive as established by instrument to the Town of Addison, Texas as recorded in Volume 82093, Page 1073 of the Deed Records of Dallas County, Texas;

THENCE South 00 minutes 55 seconds 13 seconds West along the west right-of-way line of Quorum Drive a distance of 1089.96 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the right having a radius of 1392.39 feet;

THENCE continuing along said west right-of-way line and along said curve to the right through a central angle of 06 degrees 05 minutes 10 seconds, an arc distance of 147.90 feet, being subtended by a chord which bears South 03 degrees 57 minutes 48 seconds West, and is 147.83 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE South 07 degrees 00 minutes 23 seconds West continuing along the west right-of-way line of Quorum Drive a distance of 12.27 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the said north right-of-way line of Mildred Street;

## Master Facilities Agreement With Amendments – EXHIBIT 1

THENCE North 82 degrees 48 minutes 27 seconds West along the North right-of-way line of Mildred Street a distance of 155.53 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the left having a radius of 856.03 feet;

THENCE continuing along said north right-of-way line and along said curve to the left through a central angle of 07 degrees 00 minutes 45 seconds, an arc distance of 104.77 feet, being subtended by a chord which bears North 86 degrees 18 minutes 50 seconds West, and is 104.71 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE North 89 degree 49 minutes 12 seconds West continuing along the north right-of-way line of Mildred Street a distance of 209.35 feet to the POINT OF BEGINNING and CONTAINING 21.255 acres of land more or less.

# Master Facilities Agreement With Amendments – EXHIBIT 1

## LAND DESCRIPTION TRACT 3

BEING a tract of land situated in the G. W. Fisher Survey, Abstract No. 482, in the City of Addison, Dallas County, Texas, and being part of two tracts of land standing in the name of Opubco Properties, Inc. as evidenced by instruments recorded in Volume 84151, Page 3619, and Volume 82020, Page 0684 all of the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod set with "Huitt-Zollars" cap at the intersection of the north right-of-way line of the St. Louis and Southwestern Railroad, a 100 foot wide right-of-way, with east right-of-way line of Quorum Drive as established by instrument to the Town of Addison, Texas as recorded in Volume 82093, Page 1077 of the Deed Records of Dallas County, Texas;

THENCE North 00 minutes 08 seconds 00 seconds East along the east right-of-way line of Quorum Drive a distance of 96.69 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the right having a radius of 1392.39 feet;

THENCE continuing along said east right-of-way line of Quorum Drive and along said curve to the right through a central angle of 06 degrees 52 minutes 23 seconds, an arc distance of 167.03 feet, being subtended by a chord which bears North 03 degrees 34 minutes 12 seconds East, and is 166.93 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE North 07 degrees 00 minutes 23 seconds East continuing along the east right-of-way line of Quorum Drive a distance of 319.26 to a 1/2 inch iron rod set with "Huitt-Zollars" cap at the beginning of a curve to the left having a radius of 1472.39 feet;

THENCE continuing along said east right-of-way line of Quorum Drive and along said curve to the left through a central angle of 06 degrees 05 minutes 10 seconds, an arc distance of 156.40 feet, being subtended by a chord which bears North 03 degrees 57 minutes 48 seconds East, and is 156.33 feet in length to a 1/2 inch iron rod set with "Huitt-Zollars" cap;

THENCE North 00 degrees 55 minutes 13 seconds East continuing along the east right-of-way line of Quorum Drive a distance of 1089.99 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the north line of said Opubco tract as recorded in Volume 82020, Page 0684;

THENCE South 89 degrees 05 minutes 45 seconds East along the north line of said Opubco tract a distance of 543.53 feet to a 18" hackberry tree, from which a 1/2 inch iron rod set with "random" cap bears North 89 degrees 05 minutes 45 seconds West a distance of 2.00 feet;

THENCE South 00 degrees 55 minutes 13 seconds West a distance of 1561.42 feet to a 1/2 inch iron rod set with "Huitt-Zollars" cap in the north right-of-way line of said St. Louis and Southwestern Railroad to a point for a corner;

THENCE South 66 degrees 45 minutes 00 seconds West along the north line of said St. Louis and Southwestern Railroad a distance of 648.95 feet to the POINT OF BEGINNING and CONTAINING 21.477 acres of land more or less.

Master Facilities Agreement With Amendments – EXHIBIT 1

ADDISON URBAN CENTER  
 COST PROJECTIONS OF  
 INFRASTRUCTURE IMPROVEMENTS

06/22/95

SE I

ITEM	BASE COST	EXCESS COST	TOTAL COST
Sum Drive (1650 L.F.)	\$464,000	\$464,000	\$928,000
red West of Quorum (3611 L.F.)	\$140,000	\$140,000	\$280,000
um Rotary Open Space (0.58 Ac)	\$468,000	\$468,000	\$936,000
ue Park (0.96 Ac)	\$0	\$535,000	\$535,000
t R - 3 (425 L.F.)	\$0	\$445,000	\$445,000
t R - 4 (575 L.F.)	\$0	\$596,000	\$596,000
t M - 1 (680 L.F.)	\$0	\$780,000	\$780,000
<b>TOTALS</b>	<b>\$1,072,000</b>	<b>\$3,428,000</b>	<b>\$4,500,000</b>

**Master Facilities Agreement With Amendments – EXHIBIT 1**

	<b>PHASE II</b>		
<b>M</b>	<b>BASE COST</b>	<b>EXCESS COST</b>	<b>TOTAL COST</b>
rum Drive (2075 L.F.) of street)	\$260,000	\$260,000	\$520,000
red East of Quorum (419 L.F.) st of Spectrum)	\$159,000	\$159,000	\$318,000
trum (1275L.F.)	\$182,000	\$182,000	\$364,000
Mildred Open Space (1.13 Ac)	\$305,000	\$305,000	\$610,000
rum North Park (0.69 Ac)	\$0	\$295,000	\$295,000
s Park (1.43 Ac)	\$0	\$675,000	\$675,000
(525 L.F.)	\$0	\$270,000	\$270,000
(400 L.F.)	\$0	\$205,000	\$205,000
(630 L.F.)	\$0	\$322,000	\$322,000
(325 L.F.)	\$0	\$166,000	\$166,000
2 (1275 L.F.)	\$0	\$624,000	\$624,000
red east of Spectrum (590 L.F.)	\$0	\$131,000	\$131,000
<b>TOTALS</b>	<b>\$906,000</b>	<b>\$3,594,000</b>	<b>\$4,500,000</b>

**∴ The above cost projections include costs for private utilities, engineering, special review, independent inspection and construction costs associated with Phases I and II e Urban Center.**

06/22/95



Master Facilities Agreement With Amendments – EXHIBIT 1

SCHEDULE FOR PARKS AND  
OPEN SPACE IMPROVEMENTS  
ADDISON URBAN DISTRICT  
JUNE 21, 1995

	MINIMUM ALLOWANCE	MAXIMUM ALLOWANCE
1.) Quorum Rotary (0.58 Ac)	870,000	1,000,000
2.) Bosque Park (0.96 Ac)	500,000	570,000
<b>SUBTOTAL PHASE I</b>	<b>1,370,000</b>	<b>1,570,000</b>
3.) Quorum North Park (0.69 Ac)	290,000	300,000
4.) East Mildred Open Space (1.13 Ac)	580,000	640,000
5.) Mews Park (1.43 Ac)	650,000	700,000
<b>SUBTOTAL PHASE II</b>	<b>1,520,000</b>	<b>1,640,000</b>
<b>TOTAL</b>	<b>2,890,000</b>	<b>3,210,000</b>

Estimates include all costs associated with bid document preparation, construction, inspection, utility service, etc. necessary to complete the parks.

Master Facilities Agreement With Amendments – EXHIBIT 1

**Example 1. Default during Phase I.**

Council approves Development Plan for 500 dwelling units; Gaylord and Columbus default after certificates of occupancy have been issued for 250 units.

Excess costs = \$3.428 million.

Gaylord and Columbus liability = \$3.428 million, reduced by  $250/1,500 \times \$3.428$  million (12.5% reduction), = \$2.999 million.

**Example 2. Default during Phase II (less than 1,000 dwelling units have received certificate of occupancy approval).**

Gaylord and Columbus constructs 500 dwelling units in phase I, defaults after certificates of occupancy have been issued for 400 dwelling units in Phase II.

Cumulative excess costs for Phase II = \$1 million

Gaylord and Columbus liability = \$1 million, reduced by  $(500 + 400)/1,500 \times \$1$  million (60% reduction), = \$400,000.

**Example 3. Default during Phase II (at least 1,000 dwelling units have received certificate of occupancy approval).**

Gaylord and Columbus constructs 1000 dwelling units in Phases I and II, defaults after certificates of occupancy have been issued for 100 of 200 dwelling units approved in the Development Plan for the next sub-phase of Phase II.

Excess costs for the sub-phase = \$500,000.

Gaylord and Columbus liability = \$500,000, reduced by  $100/200 \times \$500,000$  (50% reduction) = \$250,000.

Master Facilities Agreement With Amendments -- EXHIBIT 1

**Example 1. Default during Phase I.**

Council approves Development Plan for 500 dwelling units; Gaylord and Columbus default after certificates of occupancy have been issued for 250 units.

Excess costs = \$3.428 million.

Gaylord and Columbus liability = \$3.428 million, reduced by  $250/1,500 \times \$3.428$  million (16.6% reduction), = \$2.8566 million.

**Example 2. Default during Phase II (less than 1,000 dwelling units have received certificate of occupancy approval).**

Gaylord and Columbus construct 500 dwelling units in phase I, defaults after certificates of occupancy have been issued for 400 dwelling units in Phase II.

Cumulative excess costs for Phase II = \$1 million

Gaylord and Columbus liability = \$1 million, reduced by  $(500 + 400)/1,500 \times \$1$  million (60% reduction), = \$400,000.

**Example 3. Default during Phase II (at least 1,000 dwelling units have received certificate of occupancy approval).**

Gaylord and Columbus construct 1000 dwelling units in Phases I and II, defaults after certificates of occupancy have been issued for 100 of 200 dwelling units approved in the Development Plan for the next subphase of Phase II.

Excess costs for the subphase = \$500,000.

Gaylord and Columbus liability = \$500,000, reduced by  $100/200 \times \$500,000$  (50% reduction) = \$250,000.

**URBAN CENTER - PUBLIC LANDSCAPE MAINTENANCE SCHEDULE**

**LANDSCAPE MAINTENANCE**

The following minimum standards of landscape maintenance shall be employed:

**PART 1 - GENERAL**

**1.1 SCOPE:**

- A. Complete exterior landscape maintenance as specified and shown on all development plans for the Urban Center District.
- B. Keep all landscaped areas in a healthy and neat condition. Refer to Part 4 Schedules herein.
- C. Include watering, fertilization, pruning, spraying, overseeding, weeding, herbicide applications, bed cultivation, edging, and litter removal in landscape areas.
- D. Coordinate maintenance schedule to assure a minimum amount of inconvenience to facility operators.

**1.2 DAMAGE:**

City is responsible for repairing any damage that results from the maintenance operation.

**PART 2 - PRODUCTS**

**2.1 COMMERCIAL FERTILIZER:**

- A. Shade Trees, Groundcovers, and Non-Flowering Shrubs: 15-5-10 element percentage (3 1/2 ratio) with a minimum 8% sulphur and 4% iron plus trace elements. Nitrogen source to be at least 50% slow release Ureaformaldehyde (UF) or Sulfur Coated Area (SCU).
- B. Flowering Trees, Flowering Shrubs, Perennials, and Annuals: 10-20-10 element percentage (1-2-1 ratio) with trace elements plus minimum 8% sulfur and 4% iron.
- C. Azaleas: Car Pool Acid Azalea and Camellia fertilizer, 5-20-3 analysis plus trace elements.

**2.2 HERBICIDES:**

**A. Shrub and Groundcover Beds:**

1. Pre-emergent: Dacthal granules.

**2.3 PESTICIDES:**

- A. Spray as required for safe control of the particular insect or disease that may infest the plantings.
- B. Complete sprayings with a licensed applicator.

**2.4 BED MULCH:**

- A. Shredded Pine Bark mini-nuggets to match existing.

**PART 3 - EXECUTION**

**3.1 WATERING:**

- A. Check operation of the automatic irrigation system and adjust timing as required.
- B. Take into consideration specific site conditions and compensate system's timing for areas in shade, sloping areas, and weather conditions.
- C. Program the controller so plant and lawn areas receive an inch to an inch and one-half of water per week. Refer to manufacturer for precipitation rates of the sprinkler heads.
- D. Visually check the system weekly during the summer months and monthly December through March.
- E. Promptly repair any damages to system and remedy operation problems.

**3.2 FERTILIZING:**

- A. General: Refer to Part Schedules for fertilizer application intervals. Water thoroughly after each application.
- B. Shade Trees: Fertilize annually at the rate of 1.5 lb. per inch of tree caliper by uniformly broadcasting fertilizer around the drip line of the tree. Use 3 1/2 ratio.

- C. Spring Flowering Trees, Shrubs, Annuals and Perennials. In beds, uniformly spread fertilizer at the rate of 3 lbs. per 100 sq. ft. For trees, broadcast around the drip line at the rate of 1 lb. per inch of tree caliper.

### 3.3 PRUNING:

- A. Trees: Complete this work with experienced tree pruning personnel only. In general, thin out and remove any dead wood and shape to maintain symmetry. DO NOT SHEAR OR TOP TREES.
- B. Spring Flowering Trees and Shrubs: Complete pruning as noted above after blooming period.
- C. Evergreen Shrubs: Prune selectively as their growth warrants to remain in bounds and to eventually form a solid mass. Remove any dead woods as needed. DO NOT SHEAR.
- D. Groundcover: During growing season, shear to remain in bounds. Complete major pruning in early spring. Shear Liriope and Asian Jasmine to a height of 6: in early spring.
- E. Perennials: Cut off and dispose of dead top growth after first frost. Remove blooms as they fade throughout the season.

### 3.4 PEST CONTROL:

- A. Provide complete pesticides control as the need may occur. Carefully inspect lawn and plantings weekly and complete any needed control in a timely manner.
- B. Carefully follow label instructions and complete spraying with licensed personnel only.

### 3.5 WEED CONTROL:

- A. Apply herbicides by a licensed operator as outlined in Part 4, Schedules. Carefully follow label instructions. Replace any damaged plant materials at no cost to the Owner.

### 3.6 WEEDING/CULTIVATING:

- A. Remove weeds and foreign grasses from bed areas weekly. Lightly cultivate beds once every two weeks during growing season.

Discontinue groundcover bed cultivation once groundcovers/shrubs have covered.

**3.7 CLEAN UP/LITTER REMOVAL:**

- A. Clean up and haul off all debris resulting from the maintenance operation plus any debris which may have accumulated in the plant beds.

**3.8 BED MULCH:**

- A. Add mulch material to shrub and groundcover beds as needed to maintain two inch layer of mulch over the planting area.
- B. Discontinue mulching when plants cover ground surfaces.

**3.9 ANNUAL FLOWERS:**

- A. Plant annuals as scheduled in Part 4.
- B. Coordinate color and type with Developer.
- C. Cultivate beds with 1 inch peat moss, thoroughly mixed, prior to each change-out.
- D. Fertilize as noted herein.

END OF SECTION

**SCHEDULES**

**MAINTENANCE SCHEDULE**

TASK	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>FERTILIZE</b>												
Shade Trees				●								
Spring Flowering Trees & Shrubs			(3-1-2 RATIO) AFTER BLOOM							● (1-2-1 RATIO)		
Tree Crapemyrtle					● (1-3-1 RATIO)							
Shrubs/Groundcover			(3-1-2 RATIO)		●			(3-1-2 RATIO)		●		
Annuals				● (1-2-1 RATIO)					(1-2-1 RATIO)		●	
Perennials				●	(1-2-1 RATIO)			●				
<b>HERBICIDES</b>												
Post Emergent			●-----●									
Shrubs/Groundcover		●		●		●		●				
<b>PESTICIDES</b>	●-----●				(AS REQUIRED)							●
<b>PRUNING</b>												
Shade Trees		●										
Spring Flowering Trees & Shrubs			●-----● (AFTER BLOOM)									
Evergreen Shrubs/Groundcover	●-----●				(AS REQUIRED)							●
Tree Crapemyrtle		●				●-----● (REMOVE BUCKER GROWTH)						
<b>CLEAN-UP/LITTER REMOVAL</b>	●-----●											●
<b>IRRIGATION CHECK</b>	●	●	●-----●			(WEEKLY)						●
<b>FLOWER PLANTING</b>				●					(BEDDING PLANTS & BULBS)			●



Master Facilities Agreement With Amendments – EXHIBIT 1

DEED OF TRUST TO SECURE PERFORMANCE

STATE OF TEXAS           §  
                                          §                   KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF DALLAS       §

THAT \_\_\_\_\_, a \_\_\_\_\_, whose mailing address is \_\_\_\_\_, hereinafter called Grantor, for the purpose of securing the indebtedness hereinafter described, and in consideration of the sum of TEN DOLLARS (\$10.00) to us in hand paid by the Trustee hereinafter named, the receipt of which is hereby acknowledged, and for the further consideration of the uses, purposes and trusts hereinafter set forth, have granted, sold and conveyed, and by these presents do grant, sell and convey unto \_\_\_\_\_, Trustee, whose mailing address is \_\_\_\_\_, and his substitutes or successors, that certain tract or tracts of real property (the "Property") described in Exhibit "A" attached hereto and made a part hereof for all purposes.

TO HAVE AND TO HOLD the Property, together with the rights, privileges and appurtenances thereto belonging, unto the said Trustee and to his substitutes or successors forever. And Grantor named herein do hereby bind themselves, their heirs, executors, administrators and assigns to warrant and forever defend the Property unto the said Trustee, his substitutes or successors and assigns forever, against the claim, or claims, of all persons claiming or to claim the same or any part thereof, arising by, through or under Grantor, but not otherwise, and subject to all easements and other restrictions of record as of the date hereof.

This conveyance, however, is made in TRUST for the following purposes:

WHEREAS, Gaylord Properties, Inc. ("Gaylord") and Columbus Realty Trust ("Columbus", Gaylord and Columbus being collectively referred to as "Obligors") and the Town of Addison, Texas ("Beneficiary") have heretofore entered into a certain Master Facilities Agreement (the "Development Agreement"), dated \_\_\_\_\_, 1995, wherein Beneficiary agreed to expend certain funds for the development of public infrastructure and improvements necessary for the development of the Property, and Obligors agree to reimburse the Beneficiary a portion of the funds expended by Beneficiary under certain conditions as set out in Section 8 of the Development Agreement (the "Reimbursement Obligations");

WHEREAS, the Property, which was owned previously by Gaylord, was contributed to Grantor to be developed by Grantor;

WHEREAS, Obligors are partners in Grantor;

## Master Facilities Agreement With Amendments – EXHIBIT 1

WHEREAS, Grantor has agreed to execute this Deed of Trust in order to secure payment of the Reimbursement Obligations as required by the terms of the Development Agreement, and in order to induce Beneficiary to expend funds to develop public infrastructure and improvements to secure the Property.

In the event Obligors do and perform the Reimbursement Obligations and satisfy their obligations pursuant to Section 8 of the Development Agreement with respect to the Phase ( as defined in the Development Agreement) in which the Property is located, then this conveyance shall become null and void and of no further force and effect, and shall be released by Beneficiary.

Grantor agrees that in the event of default in the payment of the Reimbursement Obligations or in the event of default by Grantor in the obligations or covenants contained in this Deed of Trust, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or his successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this Deed of Trust to Secure Performance, and after advertising the time, place and terms of the sale of the Property, then subject to the lien hereof, for at least twenty-one (21) days preceding the date of sale by posting written or printed notice thereof at the courthouse door of the county where the Property is situated, which notice may be posted by the Trustee acting, or by any person acting for him, and the Beneficiary has, at least twenty-one (21) days preceding the date of sale, served written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the indebtedness secured by this Deed of Trust to Secure Performance according to the records of Beneficiary, by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor's most recent address as shown by the records of Beneficiary, in a post office or official depository under the care and custody of the United States Postal Service, the Trustee shall sell the Property, then subject to the lien hereof, at public auction in accordance with such notice at the courthouse door of the county where the Property is situated on the first Tuesday in any month between the hours of 10:00 A.M. and 4:00 P.M., to the highest bidder for cash, and make due conveyance to the purchaser or purchasers, with general warranty binding Grantor, their heirs and assigns; and out of the money arising from such sale the Trustee shall pay, first, all expenses of advertising the sale and making the conveyance, including a reasonable commission to himself and, second, to Beneficiary the full amount of the Reimbursement Obligations that is then owing to Beneficiary, rendering the balance of the sales price, if any, to the person or persons legally entitled thereto; and the recitals in the conveyance to the purchaser or purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Grantor, their heirs and assigns; said sale and deed to be made subject to the Superior Lien (hereinafter defined).

Notwithstanding the provisions of the immediately preceding paragraph, all notices provided for therein may be made in such manner as may be permitted or required by Section 51.002 of the Texas Property Code (as now written or hereafter amended or succeeded) relating to the sale of real estate and/or by Chapter 9 of the Texas Business and Commerce Code,

## Master Facilities Agreement With Amendments – EXHIBIT 1

as amended, relating to the sale of collateral after default by a debtor, or by any other present or subsequent laws.

Beneficiary shall have the right to purchase at any sale of the Property, being the highest bidder and to have the amount for which such Property is sold credited on the total sums owed Beneficiary.

Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the full and final payment and satisfaction of the Reimbursement Obligations, and each substitute and successor trustee shall succeed to all of the rights and powers of the original Trustee named herein.

The term "Grantor" used in this instrument shall also include any and all successors in interest of Grantor to all or any part of the Property as well as any and all purchasers thereof at any sale made hereunder by the Trustee or Substitute Trustee, and the provisions of this Deed of Trust to Secure Performance shall be covenants running with the land.

If this Deed of Trust to Secure Performance is or becomes binding upon one person or upon a corporation, the plural reference to Grantor shall be held to include the singular and all of the agreements and covenants herein undertaken to be performed by and the rights conferred upon Grantor, shall be binding upon and inure to the benefit of not only Grantor respectively but also their respective heirs, executors, administrators, grantees, successors and assigns.

In the event any sale is made of the Property, or any portion thereof, under the terms of this Deed of Trust to Secure Performance, Grantor, their heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the Property so sold to the purchaser at such sale, and in the event of their failure to do so they shall thereupon from and after the making of such sale be and continue as tenants at will of such purchaser, and in the event of their failure to surrender possession of said Property upon demand, the purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said Property in the Justice of the Peace Court in the Justice Precinct in which such Property, or any part thereof, is situated.

The lien of this Deed of Trust and all rights of Beneficiary hereunder are expressly subordinate and inferior to the lien described on Exhibit B hereto (the "Superior Lien"), and Beneficiary, by acceptance hereof, agrees to execute any document reasonably requested by the holder of the Superior Lien to evidence such subordination. Beneficiary, by acceptance hereof, further agrees, when requested by the holder of the Superior Lien, to give such holder notice of any default by Grantor or Obligors in accordance with the terms of the Development Agreement and to permit any such holder the option to cure such default in accordance with the terms of the Development Agreement.

Master Facilities Agreement With Amendments – EXHIBIT 1

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

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

THE STATE OF TEXAS §  
                                  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
1996, by \_\_\_\_\_ of  
\_\_\_\_\_, a Texas corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public - State of Texas

My Commission Expires:  
  
\_\_\_\_\_

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071295ain1  
186:3012-3

Master Facilities Agreement With Amendments – EXHIBIT 1

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

AMENDMENT TO MASTER FACILITIES AGREEMENT

This Amendment to Master Facilities Agreement (the "Amendment") is entered into by and between the Town of Addison, Texas, ("the City"), and Gaylord Properties, L.P., a Texas limited partnership ("Gaylord") (Gaylord being the successor in interest to Gaylord Properties, Inc., a Texas corporation), and Columbus Realty Trust, a Texas real estate investment trust ("Columbus").

RECITALS

1. The City, Gaylord and Columbus entered into that agreement entitled "Master Facilities Agreement" dated July 17, 1995 regarding the construction of certain public improvements within that area generally known as Addison Circle and described as the "Property" in Section 3 of the Master Facilities Agreement.

2. The City, Gaylord and Columbus desire to amend the Master Facilities Agreement as set forth herein.

Now, therefore, for and in consideration of the above and foregoing premises, and other good and valuable consideration, the CITY, GAYLORD and COLUMBUS do hereby contract and agree as follows:

Section 1. Amendment. The Master Facilities Agreement is hereby amended as follows:

A. Section 7 is amended so that it shall hereafter read as follows:

"Section 7. Allocation of Funds, Payment and Participation by Gaylord and Columbus in Excess Costs.

A. Allocation by Phase and Payment. Funds for the design and construction of the Public Infrastructure Improvements shall be allocated in the maximum amount of \$4,800,000 for Phase I (the "City's Phase I Costs") and \$4,200,000 for Phase II. If the actual costs of the Public Infrastructure Improvements for either Phase I or Phase II are less than the maximum amount allocated for the respective Phase, the funds remaining for that Phase shall be reallocated to pay for or to reimburse actual costs of Improvements for the other Phase. Payment shall be made by the City in accordance with the procedures set forth in Section 6 of this Agreement, not to exceed the maximum allocation per Phase except as provided herein.

B. Allocation by Subphase. If any Phase of the project is to be developed in subphases, payment by the City for any subphase shall not exceed the costs projected in the Schedule for Public Infrastructure Improvements set forth in

## Master Facilities Agreement With Amendments – EXHIBIT 1

Exhibit 4 associated with such subphase, except by amounts by which actual costs for Public Infrastructure Improvements associated with contracts awarded for prior subphases are less than the total costs projected for such prior subphases set forth in Exhibit 4.

~~C. Participation in Costs by Gaylord and Columbus.~~ In the event that actual design and construction costs for any Phase or subphase of the development of the Property (such actual costs being determined at the time of the acceptance and award by the City of a construction contract to construct the Phase or subphase Improvements, and subject to review as a result of any change order with respect to such construction contract) shall exceed the total costs projected in the Schedule for Public Infrastructure Improvements set forth in Exhibit 4, Gaylord and Columbus shall pay the City the difference between actual and projected total costs prior to the commencement of construction of the Improvements for the subphase, except as otherwise agreed to by the City and Gaylord and Columbus.

### D. Addison Circle Rotary Art.

1. Exhibit 4 attached hereto ("Addison Urban Center Cost Projections of Infrastructure Improvements") identifies the "Quorum Rotary Open Space (0.58 Ac)" (the "Rotary Open Space") as a Phase I public infrastructure improvement, the projected total cost of which is \$936,000. Such projected cost is exclusively for the design, engineering, and construction of a work of art (the "Rotary Art") to be placed in the rotary park/open space ("O-\_\_\_\_") as depicted on the Concept Plan. The City is the sole owner of the design and concept of the Rotary Art and any copyright or other intellectual property rights in connection with the Rotary Art, and upon construction of the Rotary Art will be the sole owner of the Rotary Art. Exhibit 5 attached hereto ("Schedule for Parks and Open Space Improvements") identifies the maximum allowance for improvements to the Rotary Open Space as \$1,000,000, and such maximum has been allocated by the parties hereto (out of the City's Phase I Costs) for the Rotary Art. Costs and expenses incurred for the design (including, but not limited to, work by artists, architects, and landscape architects), engineering, inspection, and construction of the Rotary Art (the "Rotary Art Costs") may exceed \$1,200,000. Notwithstanding any other provision of this Agreement, to the extent that the Rotary Art Costs exceed \$1,200,000 (the "Excess Rotary Art Costs"), Columbus shall pay to the City one-half (1/2) of all such Excess Rotary Art Costs; provided, however, that Columbus' obligation to pay one-half (1/2) of the Excess Rotary Art Costs shall not exceed \$350,000.

2. The Rotary Art will be constructed pursuant to a construction contract entered into between the City and a third-party contractor. Not later than seven (7) days following the date of the execution of the Rotary Art construction contract by the City (or any additive change order thereto), Columbus shall pay to the City Columbus' share of the Excess Rotary Art Costs as described above. In the event of a deductive change order to the Rotary Art construction contract which would reduce the amount of Columbus' share of the Excess Rotary Art

Master Facilities Agreement With Amendments – EXHIBIT 1

the amount of such reduction not later than seven (7) days following the execution of such change order.

E. Limitations on Payments.

1. The parties recognize that the public parks and open spaces depicted and described in the Concept Plan to be provided to the City by Gaylord and Columbus in the development of the Property must, within limits, meet a certain standard of excellence. Therefore, the parties have agreed, in improving those public parks and open spaces, on a maximum and minimum expenditure for such parks and open spaces as set forth in Exhibit 5, the Schedule for Parks and Open Space Improvements.

2. The City shall not pay for any improvements necessitated by a traffic impact analysis or facilities study required by either the Concept Plan or a Development Plan.

3. No payment for Improvements to any Phase or subphase of the development of the Property shall be made by the City until a Development Plan for the Phase or subphase has been approved and all rights-of-way for the Improvements to serve such Phase or subphase have been dedicated to the City, as required in Section 5 of this Agreement."

Section 2. No Other Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Master Facilities Agreement shall remain unchanged and in full force and effect.

Section 3. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

EXECUTED at Dallas County, Texas on the day and year first written above.

TOWN OF ADDISON, TEXAS

GAYLORD PROPERTIES,<sup>LP</sup> INC.

By: Ron Whitehead  
Ron Whitehead, City Manager

By: CGP RTH

ATTEST:

COLUMBUS REALTY TRUST

By: Carmen Moran  
Carmen Moran, City Secretary

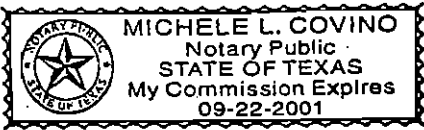
By: Bonnie

Master Facilities Agreement With Amendments – EXHIBIT 1

ACKNOWLEDGMENTS

STATE OF TEXAS §  
§  
~~COUNTY OF DALLAS~~ §

This instrument was acknowledged before me on OCTOBER 28, 1997 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.



Michele L. Covino  
NOTARY PUBLIC, State of Texas

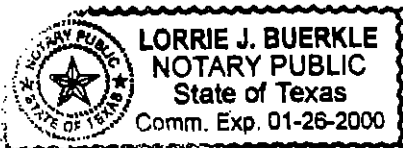
STATE OF ~~TEXAS~~ §  
OKLAHOMA §  
COUNTY OF ~~DALLAS~~ §  
OKLAHOMA

This instrument was acknowledged before me on NOVEMBER 13, 1997 by CLAYTON I. BENNETT, VICE PRESIDENT of Gaylord Properties, <sup>LP</sup>~~Inc.~~, a Texas <sup>limited partnership</sup>~~corporation~~, on behalf of the said <sup>partnership</sup>~~corporation~~.

Joyce Johnson  
NOTARY PUBLIC, State of ~~Texas~~ OKLAHOMA

STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

This instrument was acknowledged before me on October 30, 1997 by Bryant Nail, Vice President of Columbus Realty Trust, a Texas real estate investment trust, on behalf of the said real estate investment trust.



Lorrie J. Buerkle  
NOTARY PUBLIC, State of Texas



**EXHIBIT 4**

**ADDISON URBAN CENTER COST PROJECTIONS OF INFRASTRUCTURE  
IMPROVEMENTS**

COPY

ADDISON URBAN CENTER  
 COST PROJECTIONS OF  
 INFRASTRUCTURE IMPROVEMENTS

06/22/95

SE I

	BASE COST	EXCESS COST	TOTAL COST
um Drive (1650 L.F.)	\$464,000	\$464,000	\$928,000
red West of Quorum (3611 L.F.)	\$140,000	\$140,000	\$280,000
um Rotary Open Space (0.58 Ac)	\$468,000	\$468,000	\$936,000
ue Park (0.96 Ac)	\$0	\$535,000	\$535,000
t R - 3 (425 L.F.)	\$0	\$445,000	\$445,000
t R - 4 (575 L.F.)	\$0	\$596,000	\$596,000
t M - 1 (680 L.F.)	\$0	\$780,000	\$780,000
TOTALS	\$1,072,000	\$3,428,000	\$4,500,000

Master Facilities Agreement With Amendments – EXHIBIT 1

	PHASE II		
	BASE COST	EXCESS COST	TOTAL COST
um Drive (2075 L.F.) of street)	\$260,000	\$260,000	\$520,000
red East of Quorum (419 L.F.) it of Spectrum)	\$159,000	\$159,000	\$318,000
trum (1275L.F.)	\$182,000	\$182,000	\$364,000
Mildred Open Space (1.13 Ac)	\$305,000	\$305,000	\$610,000
rum North Park (0.69 Ac)	\$0	\$295,000	\$295,000
vs Park (1.43 Ac)	\$0	\$675,000	\$675,000
2 (525 L.F.)	\$0	\$270,000	\$270,000
3 (400 L.F.)	\$0	\$205,000	\$205,000
4 (630 L.F.)	\$0	\$322,000	\$322,000
5 (325 L.F.) -	\$0	\$166,000	\$166,000
2 (1275 L.F.)	\$0	\$624,000	\$624,000
dred east of Spectrum (590 L.F.)	\$0	\$131,000	\$131,000
TALS	\$906,000	\$3,594,000	\$4,500,000

e: The above cost projections include costs for private utilities, engineering, special  
a review, independent inspection and construction costs associated with Phases I and II  
he Urban Center.

06/22/95

**Master Facilities Agreement With Amendments – EXHIBIT 1**

**EXHIBIT 5**

**SCHEDULE FOR PARKS AND OPEN SPACE IMPROVEMENTS**

Master Facilities Agreement With Amendments – EXHIBIT 1

SCHEDULE FOR PARKS AND  
OPEN SPACE IMPROVEMENTS  
ADDISON URBAN DISTRICT  
JUNE 21, 1995

	MINIMUM ALLOWANCE	MAXIMUM ALLOWANCE
1.) Quorum Rotary (0.58 Ac)	870,000	1,000,000
2.) Bosque Park (0.96 Ac)	500,000	570,000
SUBTOTAL PHASE I	1,370,000	1,570,000
3.) Quorum North Park (0.69 Ac)	290,000	300,000
4.) East Mildred Open Space (1.13 Ac)	580,000	640,000
5.) Mews Park (1.43 Ac)	650,000	700,000
SUBTOTAL PHASE II	1,520,000	1,640,000
TOTAL	2,890,000	3,210,000

Estimates include all costs associated with bid document preparation, construction, inspection, utility service, etc. necessary to complete the parks.

Master Facilities Agreement With Amendments -- EXHIBIT 1

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

**SECOND AMENDMENT TO MASTER FACILITIES AGREEMENT**

This Second Amendment to Master Facilities Agreement (the "Second Amendment") is entered into by and between the Town of Addison, Texas, ("the City"), and Gaylord Properties, L.P., a Texas limited partnership ("Gaylord") (Gaylord being the successor in interest to Gaylord Properties, Inc., a Texas corporation), and Post Apartment Homes, L.P., a Georgia limited partnership ("Post") (Post being the successor in interest by merger to Columbus Realty Trust).

**RECITALS**

1. The City, Gaylord and Post (by and through its predecessor in interest, Columbus Realty Trust) entered into that agreement entitled "Master Facilities Agreement" dated July 17, 1995 regarding the construction of certain public improvements within that area generally known as Addison Circle and described as the "Property" in Section 3 of the Master Facilities Agreement.

2. The Master Facilities Agreement was amended by that instrument entitled "Amendment to Master Facilities Agreement" dated ~~OCTOBER 28~~, 199~~8~~<sup>7</sup> ~~on~~

3. The City, Gaylord and Post desire to amend the Master Facilities Agreement as set forth herein.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, and other good and valuable consideration, the CITY, GAYLORD and POST do hereby contract and agree as follows:

Section 1. Amendments. The Master Facilities Agreement is hereby amended as follows:

A. Section 7.D. is amended so that it shall hereafter read as follows:

**"D. Addison Circle Rotary Art.**

1. Exhibit 4 attached hereto ('Addison Urban Center Cost Projections of Infrastructure Improvements') identifies the 'Quorum Rotary Open Space (0.58 Ac)' (the 'Rotary Open Space') as a Phase I public infrastructure improvement, the projected total cost of which is \$936,000. Such projected cost is exclusively for the design, engineering, and construction of a work of art (the 'Rotary Art') to be placed in the rotary park/open space ('O-\_\_\_\_') as depicted on the Concept Plan. The City is the sole owner of the design and concept of the Rotary Art and any copyright or other intellectual property rights in connection with the Rotary Art, and upon construction of the Rotary Art will be the sole owner of the Rotary

## Master Facilities Agreement With Amendments – EXHIBIT 1

Art. Exhibit 5 attached hereto ('Schedule for Parks and Open Space Improvements') identifies the maximum allowance for improvements to the Rotary Open Space as \$1,000,000, and such maximum has been allocated by the parties hereto (out of the City's Phase I Costs) for the Rotary Art. As of the date of this Second Amendment, it has been determined that the costs and expenses to be incurred for the design (including, but not limited to, work by artists, architects, and landscape architects), engineering, inspection, and construction of the Rotary Art (the 'Rotary Art Costs') exceed \$1,000,000. Notwithstanding any other provision of this Agreement, out of the first \$1,900,000.00 of Rotary Art Costs, the City shall pay \$1,550,000.00 and Post shall pay \$350,000.00. In the event that Rotary Art Costs exceed \$1,900,000.00, the City shall pay the initial \$200,000.00 of any such excess Rotary Art Costs and Post shall pay the next \$100,000.00 of such excess Rotary Art Costs (the payments by Post, including the payments of \$350,000.00 and \$100,000.00, are herein referred to together as the 'Post Payments'). The City shall be responsible for any Rotary Art Costs which exceed \$2,200,000.00. The City's responsibility under this paragraph for Rotary Art Costs exceeding \$1,000,000 shall be in addition to the City's Phase I and Phase II Costs.

2. Post shall make the Post Payments by making 15 monthly payments to the City in the amount of \$30,000.00 each (the "Monthly Payment") in accordance with the following:

The City has entered into a contract with Westerchil Construction Company ('Westerchil') for the construction of the Rotary Art. Upon the City's receipt of the first invoice for payment from Westerchil, the City shall send to Post a copy of the invoice together with a request for the first Monthly Payment. Post shall make the first Monthly Payment not later than ten (10) days following the date of Post's receipt of the City's request for the first Monthly Payment. The second Monthly Payment shall be due and payable to the City on or before the 15th day of the month next following the month in which the first Monthly Payment is made, and Post shall thereafter make a Monthly Payment to the City on or before the 15th day of each successive month; provided, however, that Post's final \$100,000 (or portion thereof) in Post Payments shall not be due until Post is presented with documentation that the Rotary Art Costs have exceeded \$2,100,000.

During the period of the assembling and placement of the Art Piece, Post may be requested by the City to expend additional funds at or near the Quorum Rotary Open Space to facilitate such assembling and placement (e.g. funding for a fence to protect the construction staging area). Post shall provide documentation to the City of any funds so expended, and Post may deduct the amount expended from its final payment of the Post Payments."

B. Section 15 is amended so that it shall hereafter read as follows:

Master Facilities Agreement With Amendments – EXHIBIT 1

"Section 15. Notices. Where the terms of this Agreement require that notice in writing be provided, such notice shall be deemed delivered three (3) days following the deposit of the notice in the United States mail, postage prepaid, and sent by certified mail, return receipt requested and properly addressed as follows:

TO TOWN OF ADDISON:

P.O. Box 144  
Addison, Texas 75001

Attn: City Manager

TO GAYLORD PROPERTIES, LP, INC.:

10111  
~~1011~~ N. Central Expressway  
Dallas, Texas 75231

David Stary  
Attn: ~~Glenn Stinchcomb~~

TO POST:

15851 Dallas Parkway  
Suite 855  
Dallas, Texas 75248

Attn: Bryant Nail

with a copy to Post's General Counsel:

One Riverside  
4401 Northside Parkway  
Suite 800  
Atlanta, Georgia 30327  
Attn: Sherry W. Cohen"

Section 2. No Other Amendments; No Knowledge of Default. Except to the extent modified or amended herein, all other terms and obligations of the Master Facilities Agreement shall remain unchanged and in full force and effect. To the best of each party's knowledge, there presently exists no default by any of the parties under the Master Facilities Agreement, as amended.

Section 3. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.



Master Facilities Agreement With Amendments – EXHIBIT 1

EXECUTED at Dallas County, Texas on the day and year first written above.

TOWN OF ADDISON, TEXAS

~~GAYLORD PROPERTIES, INC.~~  
GAYLORD Properties LP

By: Ron Whitehead  
Ron Whitehead, City Manager

By: E. K. Gaylord II  
Name: E. K. GAYLORD II  
Title: President

ATTEST:

By: C. Moran  
Carmen Moran, City Secretary

POST APARTMENT HOMES, L.P.,  
a Georgia Limited Partnership,

By: Post GP Holdings, Inc.,  
a Georgia corporation,  
General Partner

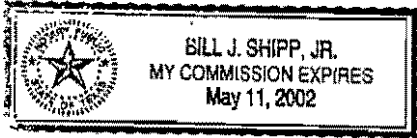
By: Sherry W. Cohen  
Name: Sherry W. Cohen  
Title: Exec. Vice President

Master Facilities Agreement With Amendments – EXHIBIT 1

ACKNOWLEDGMENTS

STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

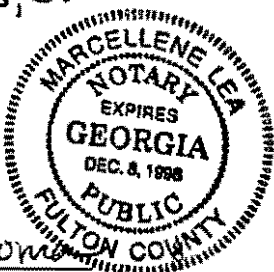
This instrument was acknowledged before me on DECEMBER 2, 1998 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.



Bill J. Shipp, Jr.  
NOTARY PUBLIC, State of Texas

STATE OF Georgia §  
§  
COUNTY OF Fulton §

This instrument was acknowledged before me on the 4th day of December, 1998, by Sherry W. Cohen, Exec. Vice Pres., of Post GP Holdings, Inc., on behalf of said corporation in its capacity as general partner of Gaylord Properties, L.P., a ~~Form~~ limited partnership, on behalf of said limited partnership. Post Apartment Homes, L.P. Georgia



Marcelle Lea  
NOTARY PUBLIC, State of Georgia

STATE OF Oklahoma §  
COUNTY OF Oklahoma §

This instrument was acknowledged before me on the 14th day of December, 1998, by Robert Shaw, E.K. GUILDARD II President of Post GP Holdings, Inc. on behalf of said corporation in its capacity as general partner of Post Apartment Homes, L.P., a Georgia limited partnership, on behalf of said limited partnership. Gaylord Properties LP Texas

Kelly L Weaver  
NOTARY PUBLIC, State of Oklahoma

COPY

ADDISON URBAN CENTER  
 COST PROJECTIONS OF  
 INFRASTRUCTURE IMPROVEMENTS

06/22/95

PHASE I

ITEM	BASE COST	EXCESS COST	TOTAL COST
Quorum Drive (1650 L.F.)	\$464,000	\$464,000	\$928,000
Quorum West of Quorum (3611 L.F.)	\$140,000	\$140,000	\$280,000
Quorum Rotary Open Space (0.58 Ac)	\$468,000	\$468,000	\$936,000
Quorum Square Park (0.96 Ac)	\$0	\$535,000	\$535,000
Quorum Zoning R - 3 (425 L.F.)	\$0	\$445,000	\$445,000
Quorum Zoning R - 4 (575 L.F.)	\$0	\$596,000	\$596,000
Quorum Zoning M - 1 (680 L.F.)	\$0	\$780,000	\$780,000
TOTALS	\$1,072,000	\$3,428,000	\$4,500,000

Master Facilities Agreement With Amendments – EXHIBIT 1

	PHASE II		
	BASE COST	EXCESS COST	TOTAL COST
Turn Drive (2075 L.F.) (of street)	\$260,000	\$260,000	\$520,000
Street East of Quorum (419 L.F.) (West of Spectrum)	\$159,000	\$159,000	\$318,000
Quorum (1275 L.F.)	\$182,000	\$182,000	\$364,000
Mildred Open Space (1.13 Ac)	\$305,000	\$305,000	\$610,000
Quorum North Park (0.69 Ac)	\$0	\$295,000	\$295,000
Quorum South Park (1.43 Ac)	\$0	\$675,000	\$675,000
Street 2 (525 L.F.)	\$0	\$270,000	\$270,000
Street 3 (400 L.F.)	\$0	\$205,000	\$205,000
Street 4 (630 L.F.)	\$0	\$322,000	\$322,000
Street 5 (325 L.F.)	\$0	\$166,000	\$166,000
Street -2 (1275 L.F.)	\$0	\$624,000	\$624,000
Street Mildred east of Spectrum (590 L.F.)	\$0	\$131,000	\$131,000
<b>TOTALS</b>	<b>\$906,000</b>	<b>\$3,594,000</b>	<b>\$4,500,000</b>

Note: The above cost projections include costs for private utilities, engineering, special  
 an review, independent inspection and construction costs associated with Phases I and II  
 the Urban Center.

06/22/95

Master Facilities Agreement With Amendments – EXHIBIT 1

SCHEDULE FOR PARKS AND  
OPEN SPACE IMPROVEMENTS  
ADDISON URBAN DISTRICT  
JUNE 21, 1995

	MINIMUM ALLOWANCE	MAXIMUM ALLOWANCE
1.) Quorum Rotary (0.58 Ac)	870,000	1,000,000
2.) Bosque Park (0.96 Ac)	500,000	570,000
SUBTOTAL PHASE I	1,370,000	1,570,000
3.) Quorum North Park (0.69 Ac)	290,000	300,000
4.) East Mildred Open Space (1.13 Ac)	580,000	640,000
5.) Mews Park (1.43 Ac)	650,000	700,000
SUBTOTAL PHASE II	1,520,000	1,640,000
TOTAL	2,890,000	3,210,000

Estimates include all costs associated with bid document preparation, construction, inspection, utility service, etc. necessary to complete the parks.

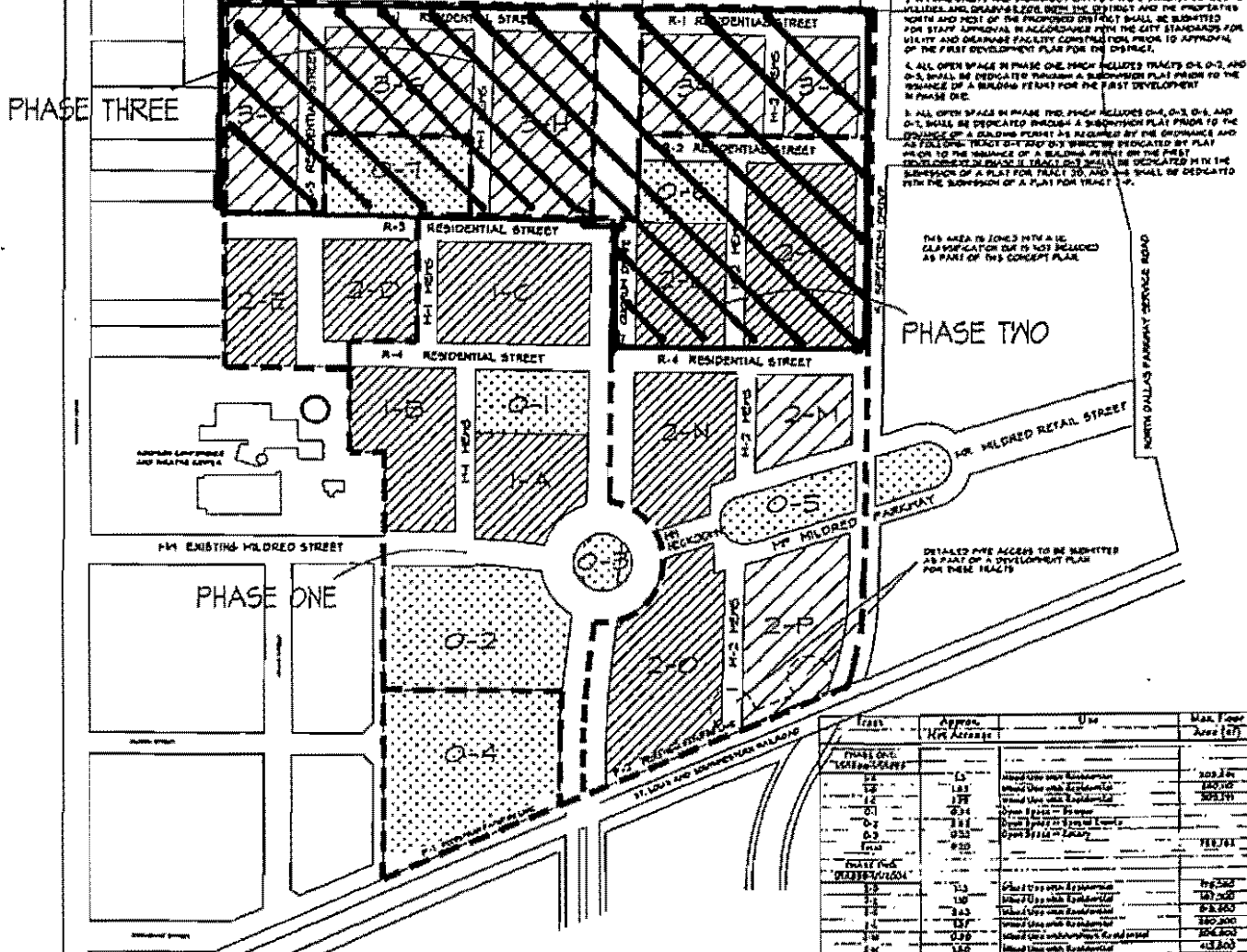
# Remaining Property - EXHIBIT 2

## VARIATIONS/ALTERATIONS

1. USE OF LOTS FOR SEPARATE PHASES
2. FLOOR AREAS BY CATEGORY OF USE
3. LOCATIONS OF PRIVATE RECREATION AREAS
4. A DETAILED TIME SCHEDULE FOR PHASES AND ALTERNATIVE USES. THIS CONCEPT PLAN INCLUDES A GENERAL TIME SCHEDULE AND PHASING SCHEDULE FOR THE RESIDENTIAL SUBDISTRICT.
5. STREET ADDRESS, NAMES OF STREETS, STREET NUMBERS, FINAL LOCATION OF MAIN STREETS, THROUGH LOCATION FOR MAIN STREETS AND SIDEWAYS (ONLY), AND DETAILS RELATIVE TO SIDEWAYS AND CARRIAGES TO BE ADJACENT.

## GENERAL NOTES:

1. LANY STREET DESIGNATIONS SHALL NOT BE WITHIN THE BOUNDARIES OF THE DISTRICT HAVE AN EFFECT, AND DO NOT CONVEY THE CITY OR ADJACENT PROPERTY OWNERS AS OBTAIN RIGHTS OR PARTICIPATE IN THE CONSTRUCTION OF THESE STREETS.
2. A FINAL STREET DESIGN PLAN FOR THE DISTRICT, ADDRESSING FINAL STREET LOCATIONS, LAYOUT, INTERSECTION BARRIERS, ROTARY DESIGN, IMPROVED ROAD CROSSINGS OF RAILROAD LINE, BRANCHING STREETS, AND OTHER APPROPRIATE SUBJECTS ON THE STREET DESIGN AND LAYOUT FOR THE CONCEPT PLAN SHALL BE SUBMITTED FOR STAFF APPROVAL IN ACCORDANCE WITH STANDARDS IN THE CITY'S SUBDIVISION ORDINANCE AND PAGE CODE PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
3. A FINAL UTILITY AND DRAINAGE PLAN FOR THE DISTRICT, ADDRESSING UTILITIES AND DRAINAGE LEGS, BOTH IN THE DISTRICT AND THE PROPERTIES NORTH AND WEST OF THE PROPOSED DISTRICT, SHALL BE SUBMITTED FOR STAFF APPROVAL IN ACCORDANCE WITH THE CITY STANDARDS FOR UTILITY AND DRAINAGE FACILITY CONSTRUCTION PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
4. ALL OPEN SPACE IN PHASE ONE SHALL INCLUDE TRACTS O-1, O-2, AND O-3, SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE ONE.
5. ALL OPEN SPACE IN PHASE TWO SHALL INCLUDE TRACTS O-4, O-5, O-6, AND O-7, SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT AS REQUIRED BY THE ORDINANCE AND ALL FUTURE TRACTS NOT YET DEDICATED BY PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT ON THE FIRST DEVELOPMENT IN PHASE TWO SHALL BE DEDICATED WITHIN THE SUBDIVISION OF A PLAN FOR TRACT O-4.



## RESIDENTIAL SUBDISTRICT

RESIDENTIAL UNITS REQUIRED TO MEET THE 600 DENSITY REQUIREMENT SHALL BE DEVELOPED ON THOSE SITES DESIGNATED MIXED-USE RESIDENTIAL IN PHASES 1 AND 2.

- MIXED USE WITH RESIDENTIAL RESIDENTIAL WITH NON-RESIDENTIAL GROUND FLOOR USES
- MIXED USE WITH RESIDENTIAL ALTERNATIVE USE, MIXED USE WITHOUT RESIDENTIAL

## PUBLIC OPEN SPACE

- PUBLIC OPEN SPACE FOR EACH PHASE TO BE DEDICATED BY PLAN PRIOR TO THE ISSUANCE OF A BUILDING PERMIT ON THE FIRST DEVELOPMENT WITHIN THAT PHASE.

Tract	Approx. Net Acreage	Use	Max. Floor Area (SF)
<b>PHASE ONE</b>			
O-1	1.5	Mixed Use with Residential	209,240
O-2	1.83	Mixed Use with Residential	240,936
O-3	1.97	Mixed Use with Residential	269,748
O-4	0.34	Open Space	0
O-5	1.1	Open Space	0
O-6	0.55	Open Space	0
O-7	0.55	Open Space	0
Total	8.20		719,924
<b>PHASE TWO</b>			
O-3	1.5	Open Space	0
O-5	1.30	Open Space	0
O-6	1.3	Open Space	0
O-7	1.3	Open Space	0
O-8	0.29	Open Space	0
O-9	1.0	Open Space	0
O-10	1.0	Open Space	0
O-11	1.0	Open Space	0
O-12	1.0	Open Space	0
O-13	1.0	Open Space	0
O-14	1.0	Open Space	0
O-15	1.0	Open Space	0
O-16	1.0	Open Space	0
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O-97	1.0	Open Space	0
O-98	1.0	Open Space	0
O-99	1.0	Open Space	0
O-100	1.0	Open Space	0

**PLANNING AND DESIGN INFORMATION**

1. The total allowable floor area for the district shall not exceed a gross F.A. of 1,781,120 sq ft.
2. The development shall be approved and no building permit shall be issued for any use exceeding the maximum number of units allowed for the development subject to the following conditions:
3. No development shall be approved until no building permit shall be issued for any building which shall exceed the total gross F.A. of 1,781,120 sq ft for the district.
4. Total building coverage shall be 15% maximum on building parcels 1/2 or greater.
5. Final building permit shall be issued and no building permit shall be issued on any parcel until the maximum number of units is reached.

# CONCEPT PLAN

Scale: 1" = 100'

## Addison Urban Center

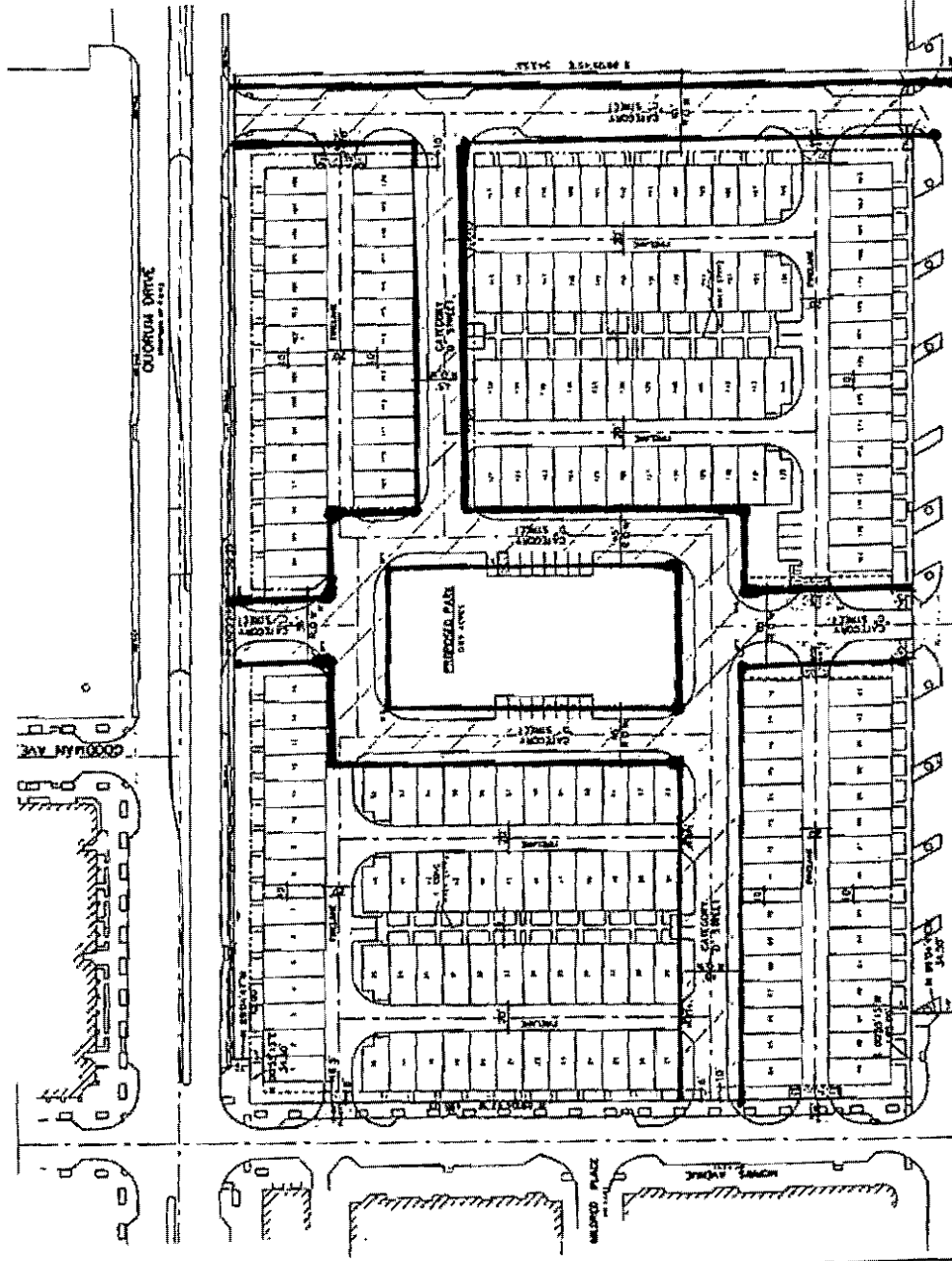
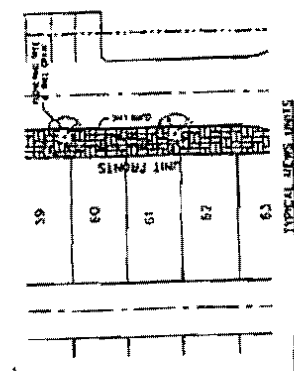
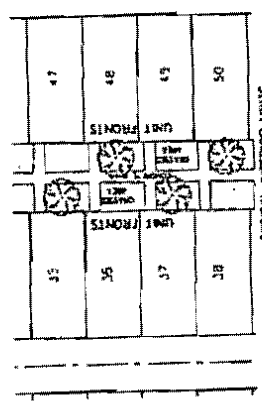
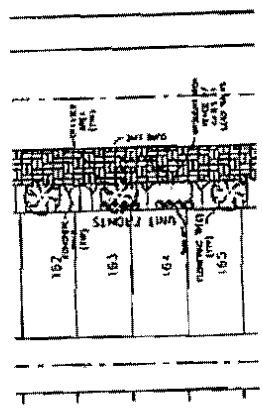
Special District Planning • Addison, Texas

095-032

**COLUMBUS**

RIRL Associates, Inc.

# C AND D Streets - EXHIBIT 3



**PRELIMINARY DEVELOPMENT SITE PLAN**

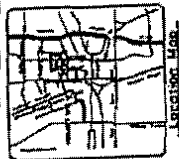
PARK NEW AT ADDISON PLACE  
TOWN OF ADDISON, TEXAS  
COLLIN COUNTY

**DESIGNED BY:**  
BROOKHURST, BAWB, WALKER, INC.  
Civil & Structural Engineering  
1100 West Campbell Street, Suite 100  
Addison, Texas 75001 (972) 821-1981

NO.	DATE	BY	CHKD.	DESCRIPTION
1	11/11/01	WJW	WJW	PRELIMINARY DEVELOPMENT SITE PLAN
2	11/11/01	WJW	WJW	REVISIONS
3	11/11/01	WJW	WJW	REVISIONS
4	11/11/01	WJW	WJW	REVISIONS
5	11/11/01	WJW	WJW	REVISIONS
6	11/11/01	WJW	WJW	REVISIONS
7	11/11/01	WJW	WJW	REVISIONS
8	11/11/01	WJW	WJW	REVISIONS
9	11/11/01	WJW	WJW	REVISIONS
10	11/11/01	WJW	WJW	REVISIONS
11	11/11/01	WJW	WJW	REVISIONS

**PROPERTY OWNER:**  
TRISTAR PROPERTIES, LP  
2005 Fairwood Drive  
Farmers, Oklahoma 75044  
(972) 889-8049

**DEVELOPER:**  
CITIZENSHIPS  
3209 North Fairway Avenue  
Dallas, Texas 75204  
(214) 218-2900



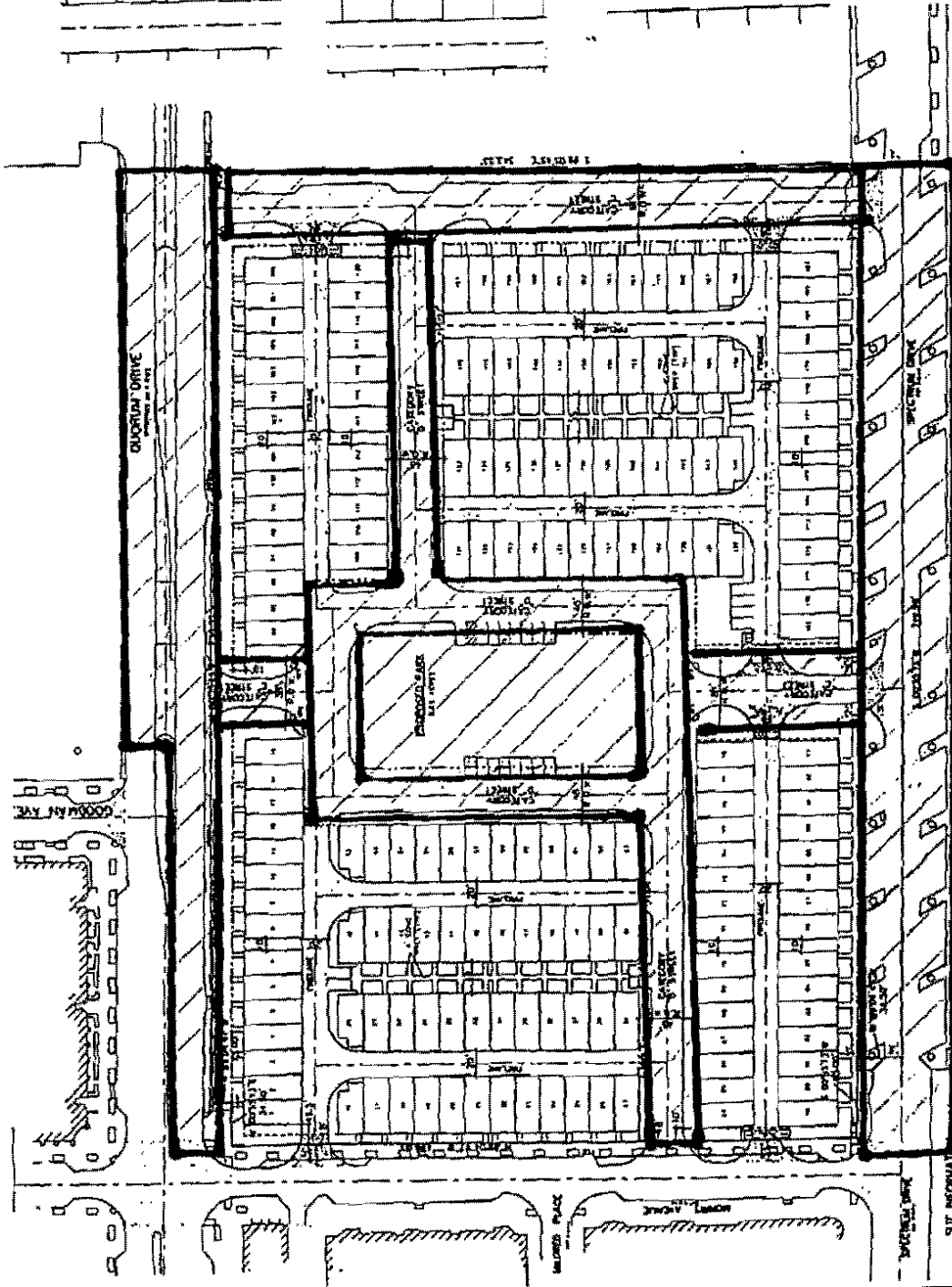
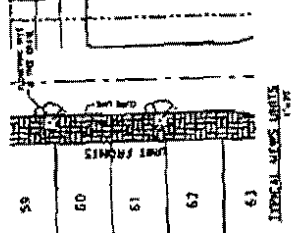
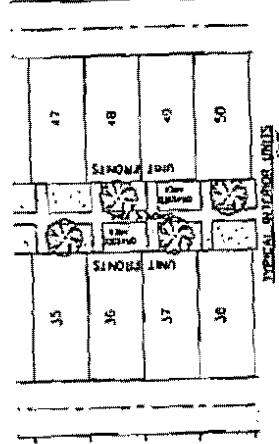
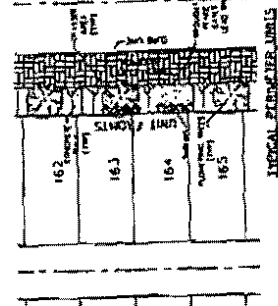
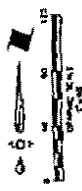
**SITE INFORMATION**

Site Area: 10.27 Acres  
 Total Building Area: 100,000 sq. ft.  
 Total Parking: 100 spaces  
 Total Duplex Units: 100 units  
 Total Perimeter Units: 100 units  
 Total Interior Units: 100 units

Notes:  
 1. All dimensions are approximate.  
 2. All dimensions are subject to change without notice.  
 3. All dimensions are subject to change without notice.  
 4. All dimensions are subject to change without notice.

This plan is for informational purposes only and does not constitute a contract. The actual construction shall be in accordance with the approved final plan and all applicable laws and regulations.

# Remaining Improvements - EXHIBIT 4



**PRELIMINARY DEVELOPMENT SITE PLAN**

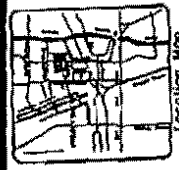
PARK VIEW AT ADDISON PLACE  
TOWN OF ADDISON, TEXAS  
COLLIN COUNTY

ARCHITECT: JAMES WEAKE, INC.  
CONSULTING ENGINEERS: [Faded text]  
1114 South [Faded text], Suite [Faded text], Dallas, Texas 75204  
(214) 762-1000

DATE	NO.	BY	APP.	SCALE	DESCRIPTION
11/27/04	01	JW	JW	AS SHOWN	PRELIMINARY DEVELOPMENT SITE PLAN

**PROPERTY OWNER:**  
TRICOR PROPERTIES, LP  
2005 Fairbairn Drive  
Convent, Louisiana 70034  
(504) 885-1844

**DEVELOPER:**  
CITYSQUARES  
2709 North Fritch Avenue  
Dallas, Texas 75204  
(214) 762-2000



**SITE INFORMATION:**

- Site Area: 12.5 Acres
- Lot Area: 8.5 Acres
- Building Area: 120,000 sq. ft.
- Units: 120
- Garages: 120
- Storage: 120
- Other: 120

Legend:  
 - [Symbol] Lot  
 - [Symbol] Parking  
 - [Symbol] Building  
 - [Symbol] Street  
 - [Symbol] Other



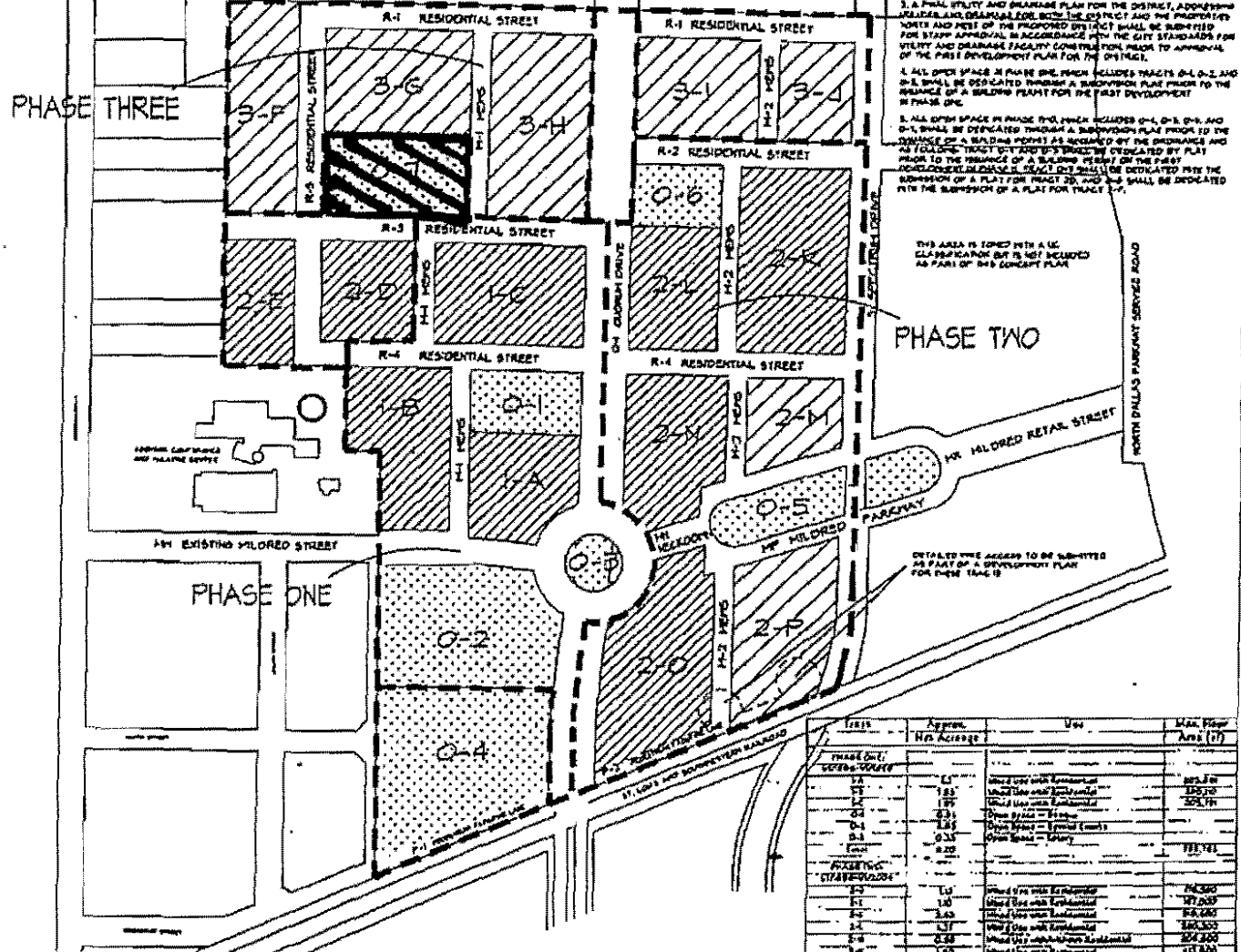
# Remaining Improvements - EXHIBIT 4

## VARIATIONS/ALTERATIONS:

- REQUIREMENTS:
- PURSUANT TO SECTION 15.04 OF THE URBAN CENTER DISTRICT REGULATIONS, THE APPLICATION FOR CONCEPT PLAN APPROVAL, INCLUDES THE FOLLOWING VARIATIONS AND ALTERATIONS FROM THE PROPOSED CONCEPT PLAN SUBMITTAL:
    1. USE OF OPEN SPACE SEPARATE PHASES.
    2. FLOOR AREA BY CATEGORY OF USE.
    3. LOCATION OF PRIVATE RECREATION AREA.
    4. A DETAILED THE SCHEDULE FOR PHASES AND ALTERNATIVE USES. THIS CONCEPT PLAN INCLUDES A GENERAL TIME SCHEDULE AND PHASING SEQUENCE FOR THE RESIDENTIAL SUBDISTRICT.
    5. STREET ADDRESS NUMBERS OF STREETS, STREET NUMBERING, FINAL LOCATION OF SIDE STREETS (SHOWING LOCATION FOR SIDE STREETS AND SIDEWALKS), AND DETAILED RELATIONSHIP OF STREETS AND CATCHMENTS TO BE DEVELOPED.

## GENERAL NOTES:

1. ANY STREETS OR ALLEYS THAT ARE NOT WITHIN THE BOUNDARIES OF THE DISTRICT HAVE NO EFFECT, AND DO NOT GOVERN THE CITY, OR ADJACENT PROPERTY OWNERS, TO OBTAIN A PERMITS OR PARTICIPATE IN THE CONSTRUCTION OF SUCH STREETS.
2. A FINAL STREET DESIGN PLAN FOR THE DISTRICT, ADDRESSING FINAL STREET LAYOUTS, STREET WIDTHS, SIDEWALKS, CURBS, SIDEWALK DESIGN, SPECTRUM ROAD CROSSINGS OF RAILROAD LINE, DRIVE-UP STREETS, AND SIMILAR CONSIDERATIONS SHOWN ON THE STREET DESIGN AND LAYOUT FOR THE CONCEPT PLAN SHALL BE SUBMITTED FOR STAFF APPROVAL, IN ACCORDANCE WITH STANDARDS IN THE CITY'S SUBDIVISION ORDINANCE AND FIRE CODE PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
3. A FINAL STREET DESIGN PLAN FOR THE DISTRICT, ADDRESSING SIDEWALKS, CURBS, SIDEWALK DESIGN, SIDEWALK DESIGN, SPECTRUM ROAD CROSSINGS OF RAILROAD LINE, DRIVE-UP STREETS, AND SIMILAR CONSIDERATIONS SHOWN ON THE STREET DESIGN AND LAYOUT FOR THE CONCEPT PLAN SHALL BE SUBMITTED FOR STAFF APPROVAL, IN ACCORDANCE WITH STANDARDS IN THE CITY'S SUBDIVISION ORDINANCE AND FIRE CODE PRIOR TO APPROVAL OF THE FIRST DEVELOPMENT PLAN FOR THE DISTRICT.
4. ALL OPEN SPACE IN PHASE ONE SHALL INCLUDE TRACTS O-1, O-2, AND O-3, AND O-4 SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE SUBMISSION OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE ONE.
5. ALL OPEN SPACE IN PHASE TWO SHALL INCLUDE O-4, O-5, O-6, AND O-7, AND O-8 SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE SUBMISSION OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE TWO.
6. ALL OPEN SPACE IN PHASE THREE SHALL INCLUDE O-9, O-10, O-11, AND O-12, AND O-13 SHALL BE DEDICATED THROUGH A SUBDIVISION PLAN PRIOR TO THE SUBMISSION OF A BUILDING PERMIT FOR THE FIRST DEVELOPMENT IN PHASE THREE.



## RESIDENTIAL SUBDISTRICT

RESIDENTIAL UNITS REQUIRED TO MEET THE 1500 UNIT MINIMUM SHALL BE DEVELOPED IN THOSE SITES DENOMINATED MIXED-USE RESIDENTIAL IN PHASES 1 AND 2.

- MIXED USE WITH RESIDENTIAL (RESIDENTIAL WITH NON-RESIDENTIAL GROUND FLOOR USES)
- MIXED USE WITH RESIDENTIAL ALTERNATIVE USE; MIXED USE WITHOUT RESIDENTIAL

## PUBLIC OPEN SPACE

- PUBLIC OPEN SPACE FOR EACH PHASE TO BE DEDICATED BY PLAT PRIOR TO THE ISSUANCE OF A BUILDING PERMIT ON THE FIRST DEVELOPMENT WITHIN THAT PHASE.

Tract	Approx. Net Acreage	Use	Max. Floor Area (SF)
<b>PHASE ONE</b>			
O-1	1.1	Open Space - General	0
O-2	1.81	Open Space - General	0
O-3	1.89	Open Space - General	0
O-4	1.81	Open Space - General	0
O-5	0.33	Open Space - General	0
O-6	0.20	Open Space - General	0
O-7	0.20	Open Space - General	0
<b>PHASE TWO</b>			
O-8	1.0	Open Space - General	0
O-9	1.0	Open Space - General	0
O-10	1.0	Open Space - General	0
O-11	1.0	Open Space - General	0
O-12	1.0	Open Space - General	0
O-13	1.0	Open Space - General	0
<b>PHASE THREE</b>			
O-14	1.0	Open Space - General	0
O-15	1.0	Open Space - General	0
O-16	1.0	Open Space - General	0
O-17	1.0	Open Space - General	0
O-18	1.0	Open Space - General	0
O-19	1.0	Open Space - General	0
O-20	1.0	Open Space - General	0
O-21	1.0	Open Space - General	0
O-22	1.0	Open Space - General	0
O-23	1.0	Open Space - General	0
O-24	1.0	Open Space - General	0
O-25	1.0	Open Space - General	0
O-26	1.0	Open Space - General	0
O-27	1.0	Open Space - General	0
O-28	1.0	Open Space - General	0
O-29	1.0	Open Space - General	0
O-30	1.0	Open Space - General	0
O-31	1.0	Open Space - General	0
O-32	1.0	Open Space - General	0
O-33	1.0	Open Space - General	0
O-34	1.0	Open Space - General	0
O-35	1.0	Open Space - General	0
O-36	1.0	Open Space - General	0
O-37	1.0	Open Space - General	0
O-38	1.0	Open Space - General	0
O-39	1.0	Open Space - General	0
O-40	1.0	Open Space - General	0
O-41	1.0	Open Space - General	0
O-42	1.0	Open Space - General	0
O-43	1.0	Open Space - General	0
O-44	1.0	Open Space - General	0
O-45	1.0	Open Space - General	0
O-46	1.0	Open Space - General	0
O-47	1.0	Open Space - General	0
O-48	1.0	Open Space - General	0
O-49	1.0	Open Space - General	0
O-50	1.0	Open Space - General	0
O-51	1.0	Open Space - General	0
O-52	1.0	Open Space - General	0
O-53	1.0	Open Space - General	0
O-54	1.0	Open Space - General	0
O-55	1.0	Open Space - General	0
O-56	1.0	Open Space - General	0
O-57	1.0	Open Space - General	0
O-58	1.0	Open Space - General	0
O-59	1.0	Open Space - General	0
O-60	1.0	Open Space - General	0
O-61	1.0	Open Space - General	0
O-62	1.0	Open Space - General	0
O-63	1.0	Open Space - General	0
O-64	1.0	Open Space - General	0
O-65	1.0	Open Space - General	0
O-66	1.0	Open Space - General	0
O-67	1.0	Open Space - General	0
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O-69	1.0	Open Space - General	0
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O-74	1.0	Open Space - General	0
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O-76	1.0	Open Space - General	0
O-77	1.0	Open Space - General	0
O-78	1.0	Open Space - General	0
O-79	1.0	Open Space - General	0
O-80	1.0	Open Space - General	0
O-81	1.0	Open Space - General	0
O-82	1.0	Open Space - General	0
O-83	1.0	Open Space - General	0
O-84	1.0	Open Space - General	0
O-85	1.0	Open Space - General	0
O-86	1.0	Open Space - General	0
O-87	1.0	Open Space - General	0
O-88	1.0	Open Space - General	0
O-89	1.0	Open Space - General	0
O-90	1.0	Open Space - General	0
O-91	1.0	Open Space - General	0
O-92	1.0	Open Space - General	0
O-93	1.0	Open Space - General	0
O-94	1.0	Open Space - General	0
O-95	1.0	Open Space - General	0
O-96	1.0	Open Space - General	0
O-97	1.0	Open Space - General	0
O-98	1.0	Open Space - General	0
O-99	1.0	Open Space - General	0
O-100	1.0	Open Space - General	0
<b>TOTAL GROSS</b>	<b>100.00</b>	<b>Open Space - General</b>	<b>0</b>

## CONCEPT PLAN

Scale: 1" = 100'

# TOWN OF ADDISON

## Review of Funding Related to Addison Circle Phase IIb Development

### SOURCE OF FUNDS FOR STREETS

2000 Spectrum Bond Proceeds (remaining balance)	\$ 55,900
2002 Spectrum Bond Proceeds	2,300,000
2002 Bond Fund Unallocated Interest Earnings	100,000
South Quorum/Landmark Project (remaining balance)	500,000
Addison Road Widening (remaining balance)	251,050
Street Capital Project Fund Unallocated Interest Earnings	200,000
Total	<u>3,406,950</u>

### APPLICATION OF FUNDS FOR STREETS

Spectrum Construction (Estimated)	3,067,800
Quorum Improvements	339,150
Total	<u>3,406,950</u>

### DIFFERENCE STREETS

\$ -

### SOURCE OF FUNDS FOR PARKS

General Fund Transfer to Street Capital Project Fund	<u>\$ 707,770</u>
------------------------------------------------------	-------------------

### APPLICATION OF FUNDS FOR PARKS

Quorum North Park	<del>-</del> 290,000
Mews Park	650,000
Total	<u>940,000</u>

### DIFFERENCE PARKS

\$ (232,230)

### TOTAL DIFFERENCE IN FUNDING

\$ (232,230)

Sue Ellen  
Please file  
under Addison  
Circle  
Fairfield Development

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

**THIRD AMENDMENT  
TO MASTER FACILITIES AGREEMENT**

This Third Amendment to Master Facilities Agreement (the "**Amendment**") is entered into this the 16<sup>th</sup> day of December, 2003 by and between the Town of Addison, Texas, ("**the City**"), and TEXOK Properties, LP, an Oklahoma limited partnership ("**Owner**").

Recitals:

1.     Addison Circle. There is located within the Town of Addison, Texas (the "**City**") certain real property generally known as "**Addison Circle**". The development of the Addison Circle area is controlled by Ordinance No. O95-032 of the City, which Ordinance zoned the area UC Urban Center District and approved a Concept Plan (the "**Concept Plan**") for its development. The UC Urban Center District Regulations (the "**UC District Regulations**") are set forth in Ordinance No. O95-019 of the City (a true and correct copy of which is attached hereto as **Exhibit 5** and incorporated herein), and are codified in Article XIX of Appendix A-Zoning of the City's Code of Ordinances.

2.     Phased Development. As reflected in Ordinance No. O95-032 and the Concept Plan, the Addison Circle area was to be developed in three phases (Phase I, Phase II (to be developed in subphases), and Phase III) with a mixture of uses, including multi-family, residential, retail, office, and civic uses.

3.     City Participation in Public Facilities in Residential Subdistrict. Included within the Addison Circle area is a residential subdistrict, as shown on the Concept Plan. To encourage the implementation of the City's comprehensive plan relating to the development of the residential subdistrict and to assure that such development was adequately supported by appropriate levels of public facilities and services, the City Council, by Resolution R95-043, approved the expenditure of public funds in the amount of \$9 million (the "**City's Funds**") to be used to pay a portion of the design and construction costs of certain public improvements within the residential subdistrict. The residential subdistrict is described in Resolution R95-043 and is referred to herein as the "**Residential Subdistrict**".

4.     Master Facilities Agreement.

A.     In order to establish a process for the allocation of the City's Funds, to coordinate the construction of the public and private improvements within the Residential Subdistrict, and to further the purposes of Resolution R95-043, on July 17, 1995 the City entered into a Master Facilities Agreement with the owners of all of the Residential Subdistrict, being Gaylord Properties, Inc. ("**Gaylord**") and Columbus Realty Trust ("**Columbus**"). Since the date of its execution, the Master Facilities Agreement has been amended twice, first by that "Amendment to Master Facilities Agreement" dated October 28, 1997, and second by that "Second Amendment

to Master Facilities Agreement" dated December 2, 1998. The Master Facilities Agreement, as amended, is referred to herein as the "**Master Facilities Agreement**", and is attached hereto (together with its two amendments) as **Exhibit 1**.

B. The Master Facilities Agreement, in Exhibit 4 thereto (Exhibit 4 being entitled "Addison Urban Center Cost Projections of Infrastructure Improvements" and referred to herein as "**Exhibit 4 to the Master Facilities Agreement**"), describes the nature of the **Public Infrastructure Improvements** (or "**Improvements**", as defined in the Master Facilities Agreement) covered by the Master Facilities Agreement and the maximum amounts to be paid by the City toward the design and construction of each of the Improvements.

5. Previous Expenditures of City Funds. Pursuant to the Master Facilities Agreement, the City has previously expended a portion of the City's Funds, totalling \$6,860,055.00, in connection the development of the following portions of the Residential Subdistrict:

A. Phase I of the Residential Subdistrict Property (Phase I being described in that Assignment and Construction Services Agreement dated April 12, 1996 between the City and Addison Circle One, Ltd., a Texas limited partnership), with the City spending \$4,763,507.00 out of the City's Funds in connection with the Phase I development;

B. Phase IIA of the Residential Subdistrict Property (Phase IIA being described in that Funding, Assignment and Construction Services Agreement dated September 30, 1997 between the City, Addison Circle Two, Ltd., a Texas limited partnership, Gaylord and Columbus), with the City spending \$1,671,548.00 out of the City's Funds in connection with the Phase IIA development; and

C. Phase IIB of the Residential Subdistrict Property (Phase IIB being described in that Funding, Assignment and Construction Services Agreement dated August 10, 1999 between the City, Addison Circle Three, Ltd., a Texas limited partnership, Gaylord Properties, L.P. and Post Apartment Homes, L.P., a Georgia limited partnership), with the City spending \$425,000.00 out of the City's Funds in connection with the Phase IIB development.

6. Remaining City Funds. The sum of \$6,860,055.00 of the City's Funds having been spent by the City as set forth above, there remains the sum of \$2,139,945.00 of the City's Funds (the "**Remaining City Funds**") to be spent in connection with the development of the remaining portion of the Residential Subdistrict, which remaining portion is described and depicted in **Exhibit 2** attached hereto (the "**Remaining Property**").

7. Owner As Successor In Interest. TEXOK Properties, LP, an Oklahoma limited partnership ("**Owner**") is the sole owner of the Remaining Property, and is the successor in interest by way of conveyance to all of the rights, duties, and obligations of Gaylord under the Master Facilities Agreement solely with respect to the Remaining Property. Neither Owner nor Owner's successors in interest shall have any rights, duties or obligations except as relate to the Remaining Property.

8. Remaining Improvements.

A. The only Improvements identified in the Master Facilities Agreement which remain to be designed and constructed, which Improvements are to be constructed within the Remaining Property, are as follows (together, the "**Remaining Improvements**"):

1. Quorum Drive Improvements (as defined below in Section 10.C. of these Recitals, and consisting of paving of parallel parking spaces, streetscape (as described in the UC District Regulations, and in particular Appendices A and B thereof), storm sewer, and wastewater improvements for that portion of Quorum Drive as depicted and/or described on the attached **Exhibit 4-1**).
2. Those portions of "R" Streets depicted and/or described as "C" Streets on the attached **Exhibit 3** and as further described and/or depicted on the attached **Exhibit 4-1** (the "**R Street Improvements**").
3. Those portions of Mews Streets depicted and/or described as "D" Streets on the attached **Exhibit 3** and as further described and/or depicted on the attached **Exhibit 4-1** (the "**Mews Street Improvements**").
4. That portion of Spectrum Drive as depicted on the attached **Exhibit 2**, which portion, together with additional right-of-way for Spectrum Drive, is depicted and/or described on the attached **Exhibit 4-1**, such portions together to be constructed in accordance with that document entitled "Construction Specifications and Contract Documents, Spectrum Drive North/South Extension, dated November 7, 2003 and prepared by Huitt-Zollars (a true and correct copy of which is on file in the office of the City's Director of Public Works), as the same may be amended or modified from time to time (the "**Spectrum Drive Improvements**").
5. Quorum North Park (0.69 acres) (as described and/or depicted on the attached **Exhibit 4-1** (and being shown thereon as "Proposed Park")).
6. Mews Park (1.43 acres) (as described and/or depicted on the attached **Exhibit 4-2**, and being shown thereon as parcel O-7 (the exterior border of which is outlined, and the interior of which is cross-hatched, in heavy bold print)).

B. Under the Master Facilities Agreement, the minimum amount of the Remaining City Funds to be expended on the design and construction of the Quorum North Park is \$290,000.00, and the minimum amount to be expended on the design and construction of the Mews Park is \$650,000.00, leaving \$1,199,945.00 of the Remaining City Funds to be spent on the street Infrastructure identified in **Exhibit 4** to the Master Facilities Agreement and described above in paragraph A. of this Section.

9. Remaining Improvements Cost Differential. Under the existing terms of the Master Facilities Agreement, the City is responsible for spending the Remaining City Funds on the design and construction of the Remaining Improvements. Under the existing terms of the Master Facilities Agreement, if the actual design and construction costs for the Remaining Improvements exceed the total costs projected in **Exhibit 4** to the Master Facilities Agreement, the Owner is responsible to pay the difference (the "**Remaining Improvements Cost Differential**").

10. Allocation of Construction of Improvements. In lieu of the City funding, with the Remaining City Funds, a portion of the design and construction of all of the Remaining Improvements, and the Owner funding the Remaining Improvements Cost Differential, the City and the Owner desire to modify their respective funding, design, and construction obligations set forth in the Master Facilities Agreement by allocating their respective obligations to specific portions of the Remaining Improvements, so that each of the parties will pay in its entirety the design and construction cost of such respective portions (save and except Quorum Drive, as set forth below). The parties agree that such allocation will be as follows:

A. City will pay for, design, and construct the following (together, the "**City Remaining Improvements**") at its sole cost and expense:

1. Spectrum Drive Improvements;
2. Quorum North Park (0.69 acres) (design and construction cost to be at least \$290,000.00 but no more than \$300,000.00); and
3. Mews Park (1.43 acres) (design and construction cost to be at least \$650,000.00 but no more than \$700,000.00); and

B. Owner will pay for, design, and construct the following (together, the "**Owner Remaining Improvements**") at its sole cost and expense:

1. R Street Improvements; and
2. Mews Street Improvements.

C. Quorum Drive.

(1) Quorum Drive is an existing public street within the City, a portion of which lies within the Remaining Property as described and/or depicted on the attached Exhibit 4-1 (such portion is referred to herein as "**Quorum Drive**"). In connection with the development of the Remaining Property, certain improvements are to be made to both the west side and the east side of Quorum Drive to conform to the Concept Plan and any applicable development plan or ordinance, standard, rule, or regulation of the City (including, without limitation, the UC District Regulations and all appendices and exhibits thereto) (the "**Quorum Drive Improvements**"). The Quorum Drive Improvements include paving of parallel parking spaces, streetscape, drainage, wastewater (sanitary sewer), and electrical improvements, and shall be consistent with the existing improvements to Quorum Drive located immediately north of Morris Drive and immediately south of the Remaining Property. The Quorum Drive Improvements to be constructed on the west side of Quorum Drive are referred to herein as the "**West Side of Quorum Improvements**", and those to be constructed on the east side of Quorum Drive are referred to herein as the "**East Side of Quorum Improvements**".

(2) In order to facilitate the design and construction of the Quorum Drive Improvements, and to assure that the development of the Remaining Property is adequately supported by appropriate levels of public facilities and services, the City desires to increase its funding of the development (ie, to increase the City Funds) by an amount equal to the cost to design and construct the West Side of Quorum Improvements, less the sum of \$184,247.00 to be

paid by the Owner to the City (the "Owner's Quorum Payment") prior to the City's award of a contract to construct of the West Side of Quorum Improvements). The City shall, in accordance with applicable law and policy, pay for, design, and construct the West Side of Quorum Improvements at its sole cost and expense, less the Owner's Quorum Payment.

(3) Owner shall (i) pay to the City, prior to the City's award of a contract to construct the West Side of Quorum Improvements, the Owner's Quorum Payment, and (ii) pay for all East Side of Quorum Improvements, at Owner's sole cost and expense.

11. Owner Responsible For All Other Public Infrastructure Improvements. In addition to the Owner paying (i) for all costs associated with the design and construction of the Owner Remaining Improvements, (ii) the Owner's Quorum Payment, and (iii) all costs associated with the design and construction of the East Side of Quorum Improvements, Owner shall be responsible, at its sole cost and expense, to pay for the design and construction of all other public infrastructure improvements (other than the City Remaining Improvements and the West Side of Quorum Improvements (less the Owner's Quorum Payment)) necessary or required to serve the Remaining Property in accordance with all applicable laws, ordinances, standards, rules and regulations of the City (including, without limitation, the Concept Plan, any development plan applicable to the Remaining Property, the UC District Regulations and all appendices and exhibits thereto, and the City's Subdivision Ordinance) and any other governmental entity with jurisdiction over the development of the Remaining Property.

12. Amendment to Master Facilities Agreement. By this Agreement, the City and the Owner desire to supplement and amend the Master Facilities Agreement to reflect their intent and desire regarding the funding of the design and construction of the Remaining Improvements.

**NOW, THEREFORE,** for and in consideration of the above and foregoing recitals and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas and TEXOK Properties, LP, an Oklahoma limited partnership, do hereby agree as follows:

Section 1. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Remaining Improvements. The only Improvements identified in the Master Facilities Agreement which remain to be designed and constructed are those within the Remaining Property, which are identified in this Amendment as the Remaining Improvements, as described and defined in the Recitals above.

Section 3. Allocation Between the Parties of All Costs Associated With Specific Remaining Improvements. In lieu of the City funding, with the Remaining City Funds, a portion of the design and construction of all of the Remaining Improvements, and the Owner funding the Remaining Improvements Cost Differential, as described in the Recitals above, the City and the Owner desire to allocate their respective funding, design, and construction of public infrastructure obligations set forth in the Master Facilities Agreement to specific portions of the Remaining Improvements, so that each of the parties will pay in its entirety the design and



construction cost for such respective portions (save and except Quorum Drive, as described herein). Such allocation shall be as follows:

A. City shall pay for all of the design and construction of (i) the City Remaining Improvements, and (ii) the West Side of Quorum Improvements, less the Owner's Quorum Payment; and

B. Owner shall pay for all of the design and construction of (i) the Owner Remaining Improvements, (ii) the East Side of Quorum Improvements, and (iii) shall pay to the City, prior to the City's award of a contract to construct the West Side of Quorum Improvements, the Owner's Quorum Payment.

City and Owner shall pay for the entire cost of design and construction of their respective obligations hereinabove, and neither shall seek contribution from the other for their assigned obligations. Inasmuch as the City and the Owner have allocated between themselves the funding, design and construction of the Remaining Improvements, as described above, Section 6, paragraphs A., B., and C. of the Master Facilities Agreement, relating to the process and procedure for the design and management of construction of the Improvements, are not applicable to the design and construction of the Remaining Improvements. Upon the completion of the funding, design and construction of the Remaining Improvements in accordance with the Master Facilities Agreement, as amended by this Amendment, the funding, design and construction obligations of the City and the Owner under the Master Facilities Agreement, as amended by this Amendment, shall be fully and completely satisfied.

Section 4. Schedule. Subject to the provisions of the Force Majeure clause set forth in Section 11 of the Master Facilities Agreement, the parties agree that:

(1) the schedule for achieving substantial completion of construction of the following Remaining Improvements shall be as follows: (a) The Spectrum Drive Improvements shall be substantially completed on or before December 31, 2004; and (b) the Quorum North Park (0.69 acres) shall be substantially completed within six (6) months following the City's approval of the completion of construction of the streets which surround the Quorum North Park (provided Owner has, at the time of such completion of construction, dedicated to the City the Quorum North Park; and

(2) the projected schedule for construction of improvements in connection with the development of the West Quorum Property (as described in Section 8.B. below) is as set forth in Exhibit 7 attached hereto and incorporated herein (with "Fairfield" as used in Exhibit 7 being the anticipated West Quorum Property Successor, as defined in Section 8.B. below).

Section 5. Increase in Remaining City Funds. In order to facilitate the design and construction of the Quorum Drive Improvements, and to assure that the development of the Remaining Property is adequately supported by appropriate levels of public facilities and services, the City shall increase its funding of the development of the Remaining Property (ie, increase the Remaining City Funds) by an amount equal to the cost to design and construct the West Side of Quorum Improvements, less the sum of \$184,247.00 (the Owner's Quorum

Payment) to be paid by the Owner to the City. Following its solicitation for bids, but prior to its award of a contract, to construct the West Side of Quorum Improvements, the City shall give Owner written notice of its intent to award such contract, and Owner shall pay to the City the Owner's Quorum Payment not later than 5:00 pm of the third day following the Owner's receipt of such notice. The City shall have no obligation to construct or to cause the construction of the West Side Quorum Improvements until such time as the City has received the Owner's Quorum Payment.

Section 6. Owner Responsible For All Other Public Infrastructure Improvements. Notwithstanding any other provision of this Amendment, in addition to the Owner paying (i) for all costs associated with the of the design and construction of the Owner Remaining Improvements, (ii) the Owner's Quorum Payment, and (iii) all costs associated with the design and construction of the East Side of Quorum Improvements, Owner shall, at its sole cost and expense, pay for the design and construction of all other public infrastructure improvements (other than the City Remaining Improvements and the West Side of Quorum Improvements (less the Owner's Quorum Payment)) necessary or required to serve the Remaining Property in accordance with all applicable laws, ordinances, standards, rules and regulations of the City and any other governmental entity with jurisdiction over the development of the Remaining Property. Owner shall have no obligations, rights or duties under the Master Facilities Agreement, as amended by this Amendment, except as relates to the Remaining Property as set forth and provided herein.

Section 7. Design and Construction In Accordance with City Standards. The Remaining Improvements and all other public and other improvements within the Remaining Property shall be designed and constructed in accordance with the laws, ordinances, standards, rules, and regulations of the Town of Addison and any other governmental entity with jurisdiction over the development of the Remaining Property, including, without limitation, the Concept Plan, any development plan applicable to the Remaining Property, the UC District Regulations and all appendices and exhibits thereto, and the City's Subdivision Ordinance (the same being Appendix B of the City's Code of Ordinances; and in particular with respect to the Subdivision Ordinance, Section XI (requiring that plans for the construction of improvements be approved by the City's Public Works Department), Section XII (which provides in part that construction of improvements shall be supervised by personnel of the City's Public Works Department), Section XV (regarding issuance of building permit), and Section XVI (providing standards for construction of streets, storm sewers, sanitary sewers, water utilities, and other utilities)). The parties agree that plans and specifications for each of the Remaining Improvements are to be submitted to the City Engineer for review and approval prior to the commencement of construction of such Remaining Improvements, and that the City has the right to inspect, test, measure, or verify the construction work on the Remaining Improvements as the City deems reasonably necessary.

Section 8. Assignment, Sale of Remaining Property.

A. East Quorum Property. It is contemplated by the parties that parcels 3-I, 3-J, O-6, 2-L and 2-K as identified on the Concept Plan for the Addison Urban Center (together with the streets depicted thereon as the R-2 Residential Street and the M-2 Mews) (collectively, the "East

**Quorum Property**", the East Quorum Property being further and more accurately described by metes and bounds in **Exhibit 6** attached hereto and incorporated herein (and being Tract II as described in Exhibit 6)) will be sold or otherwise transferred by Owner to a successor in interest (hereinafter referred to as the "**East Quorum Property Successor**"). City agrees that Owner, in connection with such sale or transfer, may assign its rights, duties, and obligations related to the East Quorum Property under the Master Facilities Agreement and this Amendment to an East Quorum Property Successor without further consent of the City if East Quorum Property Successor agrees to accept in writing the East Quorum Obligations (as hereinafter defined), and a true and correct copy of such writing is promptly provided to the City after its execution (which writing shall identify (name, address, phone number, and other contact information) the East Quorum Property Successor). If the East Quorum Property is sold or otherwise transferred by Owner to East Quorum Property Successor, the parties hereto agree that, (i) as to the Remaining Improvements, the East Quorum Property Successor shall be responsible only for the design and construction, at East Quorum Property Successor's sole cost and expense, of the Owner Remaining Improvements and the East Side of Quorum Improvements, and (ii) further agree that East Quorum Property Successor shall, with respect to the East Quorum Property, comply with all other provisions of the Master Facilities Agreement and this Amendment (including, without limitation, Sections 6 and 7 of this Amendment) (collectively, the "**East Quorum Obligations**").

Furthermore, the parties hereto agree that after the sale or transfer of the East Quorum Property to the East Quorum Property Successor and the assignment to the East Quorum Property Successor of the East Quorum Obligations and delivery of notice of such assignment to the City as provided in this Section 8.A., (i) the Master Facilities Agreement, as to the East Quorum Property only, may not be amended without an agreement in writing between the City and East Quorum Property Successor, and (ii) the City shall be entitled, as to the East Quorum Property, to enforce the terms of the Master Facilities Agreement, as amended by this Amendment, against the East Quorum Property Successor. The City agrees that, as to the West Quorum Property (as defined below) only, a default by Owner (or the West Quorum Property Successor (as defined below), if any) under the Master Facilities Agreement, as amended, shall not be considered or deemed to be a breach or default by East Quorum Property Successor under this Agreement, and East Quorum Property Successor shall be entitled to enforce the terms of the Master Facilities Agreement, as amended by this Amendment, notwithstanding such default by Owner (or the West Quorum Property Successor (as defined below), if any) as to the West Quorum Property.

B. West Quorum Property. It is contemplated by the parties that parcels 3-F, 3-G, 3-H, and O-7 as identified on the Concept Plan for the Addison Urban Center (together with the streets depicted thereon as the R-1 Residential Street, the R-3 Residential Street, and the M-1 Mews) (collectively, the "**West Quorum Property**", the West Quorum Property being further and more accurately described by metes and bounds in **Exhibit 6** attached hereto and incorporated herein (and being Tract I as described in Exhibit 6)) will be sold or otherwise transferred by Owner to a successor in interest (hereinafter referred to as the "**West Quorum Property Successor**"). City agrees that Owner, in connection with such sale or transfer, may assign its rights, duties, and obligations related to the West Quorum Property under the Master Facilities Agreement and this Amendment to a West Quorum Property Successor without further consent of the City if West Quorum Property Successor agrees to accept in writing all of the

WEST SA R.M.W.  
rights, duties, and obligations of this Amendment and the Master Facilities Agreement as relate and are applicable to the West Quorum Property, and a true and correct copy of such writing is promptly provided to the City after its execution (which writing shall identify (name, address, phone number, and other contact information) the ~~East~~ Quorum Property Successor). If the West Quorum Property is sold or otherwise transferred by Owner to West Quorum Property Successor, the parties hereto agree that, as to the Remaining Improvements, the West Quorum Property Successor shall be responsible only for the payment to the City, prior to the City's award of a contract to construct the West Side of Quorum Improvements, of the Owner's Quorum Payment, and further agree that West Quorum Property Successor shall, with respect to the West Quorum Property, comply with all other provisions of the Master Facilities Agreement and this Amendment (including, without limitation, Sections 6 and 7 of this Amendment).

Furthermore, the parties hereto agree that after the sale or transfer of the West Quorum Property to the West Quorum Property Successor and the assignment to the West Quorum Property Successor of all of the rights, duties, and obligations of the Master Facilities Agreement and this Amendment related to the West Quorum Property and delivery of notice of such assignment to the City as provided in this Section 8.B., (i) the Master Facilities Agreement, as to the West Quorum Property only, may not be amended without an agreement in writing between the City and West Quorum Property Successor, and (ii) the City shall be entitled, as to the West Quorum Property, to enforce the terms of the Master Facilities Agreement, as amended by this Amendment, against the West Quorum Property Successor. The City agrees that, as to the East Quorum Property only, a default by Owner (or the East Quorum Property Successor, if any) under the Master Facilities Agreement, as amended, shall not be considered or deemed to be a breach or default by West Quorum Property Successor under this Agreement, and West Quorum Property Successor shall be entitled to enforce the terms of the Master Facilities Agreement, as amended by this Amendment, notwithstanding such default by Owner (or the East Quorum Property Successor, if any) as to the East Quorum Property.

C. Release.

(1) Upon (i) the sale or transfer of the East Quorum Property by TEXOK Properties, LP to the East Quorum Property Successor, and (ii) the assignment by TEXOK Properties, LP to the East Quorum Property Successor of the East Quorum Obligations and delivery of notice of such assignment to the City in accordance with Section 8.A. above, TEXOK Properties, LP shall be released from the East Quorum Obligations.

WEST SA R.M.W.  
(2) Upon (i) the ~~sale~~ or transfer of the West Quorum Property by TEXOK Properties, LP to the ~~East~~ Quorum Property Successor, and (ii) the assignment by TEXOK Properties, LP to the West Quorum Property Successor of all of the rights, duties, and obligations of the Master Facilities Agreement and this Amendment related to the West Quorum Property and delivery of notice of such assignment to the City in accordance with Section 8.B. above, TEXOK Properties, LP shall be released from its rights, duties and obligations under the Master Facilities Agreement and this Amendment as relate to the West Quorum Property.

Section 9. Owner's Representations. Owner represents and warrants to the City that Owner is the sole owner of all of the Remaining Property, and is the successor in interest by way of conveyance to all of the rights, duties, and obligations of Gaylord under the Master Facilities Agreement with respect to the Remaining Property.

Section 10. Notice. All notices provided for or permitted under this Amendment shall be in writing and shall be (a) delivered personally; (b) sent by commercial overnight courier with written verification of receipt; or (d) sent by certified or registered U.S. mail, postage prepaid and return receipt requested, to the party to be notified, at the address for such party set forth below or at such other address as is indicated in writing by such party. All notices shall be deemed effective upon receipt.

To City:

5300 Belt Line Road  
Dallas, Texas \_\_\_\_\_  
Attn: City Manager

To Owner:

2005 Faircloud Dr  
Edmond, OK 73034  
Attn: Steve Hurst

Section 11. No Other Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Master Facilities Agreement shall remain unchanged and in full force and effect.

Section 12. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 13. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

EXECUTED at Dallas County, Texas on the day and year first written above.

**TOWN OF ADDISON, TEXAS**

By: Ron Whitehead  
Ron Whitehead, City Manager

ATTEST:

By: Carmen Morah  
Carmen Morah, City Secretary

**TEXOK PROPERTIES, LP**

By: Hurst Holdings, LLC, its sole  
General Partner

By: Stephen T. Hurst  
Stephen T. Hurst, Sole Member

ATTEST:

By: Bo Deagan

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

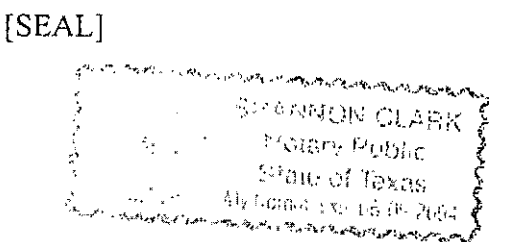
This instrument was acknowledged before me on December 16<sup>th</sup>, 2003 by Ron Whitehead, City Manager, Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.



Gayle Walton  
NOTARY PUBLIC, State of Texas  
My commission expires: 7/16/05

STATE OF TEXAS       §  
                                  §  
COUNTY OF Dallas   §

This instrument was acknowledged before me on December 16, 2003 by Stephen T. Hurst, the sole member of Hurst Holdings, LLC, the said Hurst Holdings, LLC being the sole General Partner of TEXOK Properties, LP, an Oklahoma Limited Partnership, on behalf of the said Limited Partnership.



Shannon Clark  
NOTARY PUBLIC, State of Texas  
My commission expires: 6-9-2004

Master Plans  
Water Sewer &  
Storm Sewer  
In Bookcase

Who picks up the design cost?  
us 30%?

Mike -

Fairfield ✓

Pager Spam

Luke call

---

Drainage in Quorum

36" Storm Drain

We may have to find the  
money to be put in

Needed to accomodate

Who will pay for that?

Where would money come from  
Landmark Park?

How designed, const. & Built?  
we reimburse