

AT&T WIRELESS SERVICES

**ProMIS SITE INFORMATION FORM
PART ONE**

LOCATION INFORMATION

LOCATION NAME: Loop 360 FSA: FSA 5
FCC MARKET LICENSE NAME (Refer to Pg. 5 & 6 for listing): Austin, Tx (KNKA372)
IS THIS AN AMENDMENT TO AN EXISTING AGREEMENT? No
IF YES, PROPERTY NAME: _____ IF YES, COMMUNICATION SITE NUMBER: AU-096
IF THIS IS AN AMENDMENT, PROCEED TO THE AMENDMENT BLOCK ON PAGE 4.

PROPERTY INFORMATION

PROPERTY NAME: Loop 360
ADDRESS 1: 2631 S. Capital of Texas Highway ADDRESS 2 (Suite, Apt. No.): _____
CITY: Austin STATE: TX ZIP: 78746
COUNTY: Travis COUNTRY: United States
DOES AWS OWN THIS PROPERTY? No
IS AWS REQUIRED TO PAY PROPERTY TAXES? No
IF YES, PAYEE NAME: _____ TAX ID NUMBER (If billed by taxing entity): _____
HAS TITLE POLICY BEEN ORDERED? No TITLE POLICY NUMBER: _____
NAME OF THE TITLE INSURER: _____
California Only - HAS STATEMENT OF LAND CHANGED BEEN FILED? IF YES, DATE FILED: _____

LANDLORD INFORMATION

LANDLORD NAME: Company Name City of Austin, Telecommunications & Regulatory Affairs LANDLORD SITE
NAME (Assigned by Landlord): _____
LANDLORD PHONE NUMBER: 512-499-2466 LANDLORD TAX ID OR SS NO. On file
ADDRESS 1: P.O. Box 1088 ADDRESS 2 (Suite, Apt. No.): _____
CITY: Austin STATE: TX ZIP: 78767
COUNTY: Travis COUNTRY: United States
IS PAYEE DIFFERENT THAN LANDLORD? No (If Yes, Please Provide Name & Address Of Payee)
NAME OF PAYEE: _____
ADDRESS 1: _____ ADDRESS 2 (Suite, Apt. No.): _____
CITY: _____ STATE: _____ ZIP: _____
COUNTY: _____ COUNTRY: _____
CONTACT NAME: Jack Kirfman
ADDRESS 1: P.O. Box 1088 ADDRESS 2 (Suite, Apt. No.): _____
CITY: Austin STATE: TX ZIP: 78767
CONTACT PHONE NO.: 512-499-2466 CONTACT FAX NO.: 512-499-2416

T&T WIRELESS SERVICES

AGREEMENT INFORMATION

AGREEMENT TYPE: License

EXECUTION DATE (Filled in by FSA Property Specialists): _____

AGREEMENT COMMENCES ON: Commencement Letter

INDICATE DATE, IF COMMENCEMENT DATE IS DEFINED: 1/1/2000

INITIAL TERM LENGTH: 5 years LENGTH OF RENEWAL TERMS: 5 years

NUMBER OF RENEWALS: 4

DOES THIS AGREEMENT AUTO-RENEW? Yes

NO. OF DAYS REQUIRED TO RENEW: _____ NO. OF DAYS REQUIRED TO TERMINATE: _____

DOES AWS HAVE A SUBORDINATION AGREEMENT? No

IS MEMORANDUM OF LEASE INCLUDED? No

GROSS SQFT OF PREMISES or SIZE OF GROUND LEASE: 1,000

NET SQFT OF PREMISES (Applies only to buildings): _____

IS THIS AGREEMENT ASSIGNABLE OR SUBLETTABLE?

AFFILIATE:

Assignable: Yes Consent Required: No Reasonable: Yes Rating: No Restrictions

Sublettable: Yes Consent Required: No Reasonable: Yes Rating: No Restrictions

NON-AFFILIATE:

Assignable: No Consent Required: Yes Reasonable: No Rating: _____

Sublettable: No Consent Required: Yes Reasonable: No Rating: _____

LIST TYPES AND AMOUNTS OF INSURANCE DEFINED IN AGREEMENT:

<u>TYPE OF INSURANCE</u>	<u>AMOUNT OF INSURANCE</u>
Comprehensive Liability	<u>\$1,000,000.00</u>
_____	_____
_____	_____
_____	_____
_____	_____

NAME/NAMES OF ADDITIONAL INSURED: City of Austin

IS A DEPOSIT REQUIRED? Yes No - If yes, please fill in the following table

<u>TYPE OF DEPOSIT</u>	<u>AMOUNT OF DEPOSIT</u>	<u>REFUND DUE DATE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

TYPE OF SITES ASSOCIATED WITH THIS AGREEMENT

- Communication Site
 Switch Site
 Retail Site
 Office Site
 Kiosk Site

AT&T WIRELESS SERVICES

ACCOUNTING INFORMATION

RENT AMOUNT: \$4,000.00 FREQUENCY OF PAYMENT: Annually

OTHER PAYMENTS ASSOCIATED WITH SITE (i.e. Utilities, One Time Payment, CAM Charges, etc.):

Type: <input type="checkbox"/>	Amount: _____	Frequency: _____
Type: <input type="checkbox"/>	Amount: _____	Frequency: _____
Type: <input type="checkbox"/>	Amount: _____	Frequency: _____
Type: <input type="checkbox"/>	Amount: _____	Frequency: _____

PAYMENT METHOD: Direct Deposit Check

INCREASE ADJUSTMENT: Fixed Percentage PERCENTAGE or AMOUNT: 4%

FREQUENCY OF ADJUSTMENT (i.e. Start of renewal term, annually, etc.): Annual

If Increase Is CPI, Indicate Type (i.e. Baltimore, MD, (CPI-U)): _____

COMMUNICATION SITE INFORMATION

SITE NAME: Loop 360 SITE NUMBER (Must be the number known by switch): _____

SITE ADDRESS: 2631 S. Capital of Texas Highway

CITY: Austin STATE: TX ZIP: 78746

COUNTY: Travis COUNTRY: United States

GROUND ELEVATION: 756.2

LATITUDE: 30-15-37.066 LONGITUDE (Is a negative value): 97-48-53.409

PRECISION: NAD27 NAD83

SITE ACCESS HOURS: 24 hrs./7 days a week RESTRICTIONS (If Any): _____

CONTACT NAME: Jack Kirfman

ADDRESS 1: P.O. Box 1088 ADDRESS 2 (Suite, Apt. No.): 78767

CITY: Austin STATE: TX ZIP: 78767

CONTACT PHONE NO.: 512-499-2466 CONTACT FAX NO.: 512-499-2416

ADDITIONAL COMMENTS (i.e. Directions to property)

Take Loop 360 north from the intersection of Loop 360 and Ben White Blvd. Go past the intersection of Walsh Tarlton and Loop 360 to the next turn around and then head south. Entrance will be on the right where gate is located. Enter gate and then head north to the site located by the Electrical Transmission Tower.

AMENDMENT INFORMATION

EFFECTIVE DATE OF AMENDMENT: _____

NEW RENT AMOUNT: _____

OTHER INFORMATION IMPACTED BY AMENDMENT: _____

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do NOT send to the IRS.

Please print or type	Name (If a joint account or you changed your name, see Specific Instructions on page 2.)	
	Business name, if different from above. (See Specific Instructions on page 2.) CITY OF AUSTIN	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other	
	Address (number, street, and apt. or suite no.) P.O. BOX 1088	Requester's name and address (optional)
City, state, and ZIP code AUSTIN, TEXAS 78767		

<p>Part I Taxpayer Identification Number (TIN)</p> <p>Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, if you are a resident alien OR a sole proprietor, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2.</p> <p>Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.</p>	<p>List account number(s) here (optional)</p>																																													
<table border="1" style="margin: auto;"> <tr><td colspan="9" style="text-align: center;">Social security number</td></tr> <tr><td style="width: 20px; height: 20px;"> </td><td style="width: 20px; height: 20px;"> </td></tr> <tr><td colspan="9" style="text-align: center;">OR</td></tr> <tr><td colspan="9" style="text-align: center;">Employer identification number</td></tr> <tr><td style="width: 20px; height: 20px;">7</td><td style="width: 20px; height: 20px;">4</td><td style="width: 20px; height: 20px;">6</td><td style="width: 20px; height: 20px;">0</td><td style="width: 20px; height: 20px;">0</td><td style="width: 20px; height: 20px;">0</td><td style="width: 20px; height: 20px;">0</td><td style="width: 20px; height: 20px;">8</td><td style="width: 20px; height: 20px;">5</td></tr> </table>	Social security number																		OR									Employer identification number									7	4	6	0	0	0	0	8	5	<p>Part II For Payees Exempt From Backup Withholding (See the instructions on page 2.)</p>
Social security number																																														
OR																																														
Employer identification number																																														
7	4	6	0	0	0	0	8	5																																						

Part III Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me) and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, (c) the IRS has notified me that I am no longer subject to backup withholding.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)

Sign Here	Signature	Date 2/10/00
------------------	-----------	---------------------

Purpose of form. A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9, if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are an exempt payee.

If you are a foreign person, IRS prefers you use a Form W-8 (certificate of foreign status). After December 31, 2000, foreign persons must use an appropriate Form W-8.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

What is backup withholding? Persons making certain payments to you must withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- You do not certify your TIN when required (see the Part III instructions on page 2 for details), or
- The IRS tells the requester that you furnished an incorrect TIN, or
- The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the Part II instructions and the separate **Instructions for the Requester of Form W-9**.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

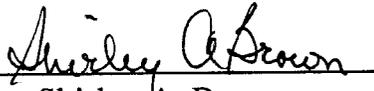
RESOLUTION NO. 991118-55

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

The City Council approves a resolution authorizing a five-year license agreement with four five-year renewal options with **AT&T WIRELESS SERVICES** for site located at 2631 S. Capital of Texas Highway; and authorizes the City Manager to enter into the lease agreement on such terms and conditions as may be reasonable, necessary, or required.

ADOPTED: November 18, 1999

ATTEST:


Shirley A. Brown
City Clerk

**LICENSE AGREEMENT
BETWEEN THE CITY OF AUSTIN AND
TEXAS CELLULAR TELEPHONE COMPANY L.P., A DELAWARE LIMITED
PARTNERSHIP, d/b/a AT&T WIRELESS SERVICES**

THIS LICENSE AGREEMENT (the "Agreement"), made and entered into as of the 17 day of DECEMBER, 1999 (the "Effective Date") by and between the City of Austin (the "City"), a Texas home rule municipal corporation, and Texas Cellular Telephone Company L.P., d/b/a AT&T Wireless Services ("LICENSEE"), a limited partnership organized under the laws of Delaware, for the purposes and consideration hereinafter stated,

For and in consideration of these premises and the mutual covenants herein contained, the City and LICENSEE agree as follows:

1. RECITALS

- 1.1 Licensor owns or otherwise controls a property with certain improvements (collectively, "Property") known as the "Bella Tract" in Austin, Travis County, Texas as recorded in Volume 11223, Page 772, of the Real Property Records of Travis County, Texas, and having the local address of 2631 S. Capital of Texas Highway, Austin, Texas.
- 1.2 Licensor is granting LICENSEE a non-exclusive License to install and operate a personal communication base station and related antenna(s), equipment and accessories ("Station") on the Licensed Area of the "Bella Tract" outlined in Exhibit A.

2. DEFINITIONS

- 2.1 Station(s) shall refer to antennas, electronic equipment, self-contained equipment cabinets, equipment buildings which can be removed without demolition, supporting removable equipment, "power mounts", portable generators, and associated conduits, wiring and cables used by Licensee for the purpose of receiving or transmitting communications signals to provide wireless communications services, to its customers.
- 2.2 Licensed Area shall refer to approximately a 1200 square foot area contained in the Bella Tract, specifically described in Exhibit A, situated adjacent to the City of Austin Electric transmission tower.
- 2.3 Days shall mean calendar days.
- 2.4 Emergency shall mean an unexpected or sudden occurrence that warrants urgent and immediate action to protect lives or property, or to promptly restore communications or utility services.

- 2.5 Usage fee. Annual use and occupancy charges payable to the City for the use of the Licensed Area granted to LICENSEE hereunder.
- 2.6 City Representative. Shall mean the Telecommunications & Regulatory Affairs Manager or designee charged with the administration of this Agreement.

3. PURPOSE

- 3.1 The City, for the term and upon the covenants, terms, and conditions hereinafter provided, grants LICENSEE a non-exclusive license and right to use the Licensed Area to place the LICENSEE's Station for the sole and exclusive purpose of providing wireless communications) service to its customers in the Austin, Texas area. The use of the Licensed Area for any purpose other than that expressly set forth in this section is prohibited and shall be a material default of the Agreement. Nothing herein is intended to be, nor shall be construed as, a grant or authorization to use the public streets or rights-of-way of the City of Austin for the delivery of other services.
- 3.2 LICENSEE shall comply with the provisions of Section 5 below prior to installing the Station in or on the Licensed Area. LICENSEE may not construct any new or additional building or structure on the Licensed Area not otherwise permitted herein. LICENSEE shall have exclusive use only of that portion of the Licensed Area set aside to hold its equipment. The City agrees not to interfere with the operations of LICENSEE as permitted under this Agreement, except in the event of an Emergency. Non-emergency interference shall be deemed a material breach of this Agreement by the interfering party, who shall, upon notice, be responsible for terminating said interference.
- 3.3 The City expressly disclaims all warranties, expressed or implied, of condition or fitness for any purpose, including without limitation warranties of merchantability, with respect to the Licensed Area for the proposed or actual use made thereof by LICENSEE. LICENSEE accepts the Licensed Area **AS IS, WHERE IS, and WITH ALL FAULTS**. LICENSEE represents that it has inspected the Licensed Area, and has found same to be acceptable for its purposes.
- 3.4 The City shall have the first priority in the use of the Property. In the event of any conflict between the use of the Property, including the Licensed Area, by the City and LICENSEE, the use of the Property, including the Licensed Area, by the City shall have priority over any use thereof by LICENSEE.
- 3.5 The Licensed Area shall remain the property of the City and no payment made by Licensee shall create in LICENSEE any ownership right, title, or interest in same.
- 3.6 Nothing contained in this Agreement shall be construed as in any way affecting the rights, privileges, or duties previously conferred and imposed by the City by Agreement, or otherwise, to and upon Third Parties or others not parties hereto. The City reserves the right to continue and extend such rights, privileges, or

duties, and to hereafter admit other and different Third Parties, irrespective of the character or degree of economic competition thereby created, so long as LICENSEE's rights and privileges granted herein are not adversely affected. The foregoing, however, acknowledges that the City, by virtue of entering into and subject to the limitations, terms, and provisions of this Agreement, has approved LICENSEE's use of the Licensed Area for the term and any subsequent renewal terms of this Agreement.

4. COMPLIANCE WITH LAWS

- 4.1 LICENSEE's use of the Licensed Area shall at all times conform to the directives of the City Representative, and all other applicable State, Federal and local laws, rules, and regulations, as such may exist from time to time, including rules governing the placement of equipment to provide wireless communications service.
- 4.2 LICENSEE shall be solely responsible to obtain all licenses, permits or other authorizations required to provide its services or to use, operate or maintain its Station. If LICENSEE is denied any required license, permit or authorization, LICENSEE may upon notice to the City terminate any permit granted hereunder which was predicated upon the grant of such license, permit or authorization. However no termination by LICENSEE under this section shall entitle LICENSEE to any refund of prepaid Usage Charges.
- 4.3 LICENSEE shall construct, install, use, operate and maintain its Station so as not to interfere, either physically or electronically, with the use of the Property by the City or other currently authorized Third Parties. If interference does occur, LICENSEE shall use its best efforts to promptly eliminate the interference, including as necessary the replacement, relocation or modification of its Station. If the interference cannot be eliminated within a reasonable time, then either party may terminate this Agreement upon thirty days' written notice without incurring any liability to the other party as a result of such premature termination. LICENSEE shall be entitled to a pro-rata refund of any prepaid but unearned Usage Fees in the event of a termination under this section. Subject to Section 6.5, any rights, privileges or duties hereafter extended by the City to other and different Third Parties shall not interfere, either physically or electronically, with the prior established use of, in and/or on the Property by Licensee.

5. ESTABLISHING USE

The construction, installation, use, operation and maintenance of LICENSEE's Station shall be performed by LICENSEE at LICENSEE's sole expense. Installations to be accomplished within the Licensed Area to make them suitable for LICENSEE's purposes are specified in the attached Exhibit A and shall be performed at LICENSEE's expense.

6. STATION CHANGES AFTER INITIAL INSTALLATION

- 6.1 Except as provided in Section 6.2, LICENSEE shall not change the type, nature, or location of its Station or alter its use of the Licensed Area without prior written City consent. Nor may any LICENSEE install or construct any other or additional equipment except as authorized by permit granted by the City. Any equipment which is changed or added in violation of this section shall be deemed to be unauthorized, for which the City shall have the rights and remedies set forth in this Agreement. The City may condition its agreement to the installation of additional equipment which occupy a greater amount of space on the Licensed Area upon a renegotiated Usage Charge.
- 6.2 The prior consent of the City shall not be required for the following changes in the Station, but LICENSEE shall provide the City Representative with written notice identifying all such changes within ten (10) days after making the change.
- (a.) Changes incident to routine maintenance and repair of its facilities,
 - (b.) Changes necessitated by an Emergency,
 - (c.) Changes required by the City,
 - (d.) Removal of its Station from the Licensed Area.
- 6.3 Upon written notice by the City Representative, LICENSEE at LICENSEE's expense and risk, shall change, alter, improve, or move its Station(s) as the City may reasonable direct, to avoid interference (either physical or electronic) with the equipment of the City or to accommodate changes in the Licensed Area. However, in the case of an Emergency, as determined by the City, written notice shall not be required and the City may remove or alter LICENSEE's Station without incurring liability to LICENSEE or to any other person.
- 6.4 Other than in case of an Emergency, if LICENSEE fails or refuses to change, alter, improve, or move its Station within thirty (30) days after receipt of the City's written notice (or as otherwise provided in such notice), the City shall have the right (but not the obligation) to perform such work at LICENSEE's sole risk and expense. LICENSEE shall pay the City upon receipt of invoice for the City's full cost for performing such work including overhead and general and administrative expense.
- 6.5 The City may require LICENSEE to change, alter, improve, or move any of its Station to avoid interference (either physical or electronic) with the facilities of subsequent Third Party Licensees if such change can be made without materially impairing LICENSEE's use and operation of its Station or the quality of its wireless communications service to its customers. The cost to implement such changes shall be borne by the Third Parties for whose benefit the changes are being made, unless otherwise agreed by the parties.

- 6.6 The City may use, change, operate, and maintain the Property, including the Licensed Area, as it sees fit for its intended purpose and shall not be liable to LICENSEE for any damage to or interference with the use, maintenance or operation of LICENSEE's Station resulting from the City's use, operation, and maintenance of the Property. In the event that City operation of the Property, including the Licensed Area, has a materially adverse effect on the operation or use of LICENSEE's facilities, LICENSEE shall have the right to terminate this Agreement upon written notice to the City without incurring any liability to the City as a result of such premature termination, and to receive a pro-rata refund of unearned Usage Fees.
- 6.7 In the event that LICENSEE's authorization to use Austin Energy Utility infrastructure adjacent to the Licensed Area is terminated, LICENSEE shall have the right to terminate this Agreement upon written notice to the City without incurring any liability to the City as a result of such premature termination, and to receive a pro-rata refund of unearned Usage Fees.

7. LICENSEE OPERATIONS

- 7.1 All work performed by and on behalf of LICENSEE on the Licensed Area shall be done in a good and thoroughly workmanlike manner, consistent with the best industry practices and all applicable Federal, State and local laws, rules and regulations. In the performance of any work at the Licensed Area, LICENSEE and its contractors shall employ only orderly and competent workers. LICENSEE and its contractors shall comply with all City safety practices and procedures. Workers may not possess any weapon, or use, possess or be under the influence of any alcoholic or other intoxicating beverage, illegal drug or controlled substance while on the Licensed Area. If the City finds any LICENSEE worker to be incompetent, disorderly, or in possession of any weapon, in the possession of or under the influence of alcohol or drugs, LICENSEE shall promptly remove such worker from all work at the Licensed Area and may not again employ such worker at the Licensed Area.
- 7.2 LICENSEE shall have the right of ingress and egress to the Licensed Area at all times during the term of this Agreement upon notice to the City. The City, in coordination with LICENSEE may designate an access route to the Licensed Area.
- 7.3 LICENSEE shall pay all taxes and assessments lawfully levied on its Station on the Licensed Area and any tax, assessments, fee, or charge levied on City's Property solely because of their use by LICENSEE. In no event shall LICENSEE permit any lien to be filed or exist upon the Licensed Area as a result of any claim against LICENSEE. LICENSEE shall promptly pay upon receipt of written notice from the City all such liens together with all fees and costs necessary to discharge same.

- 7.4 The City shall establish electrical service to the Licensed Area sufficient to operate the LICENSEE Station. LICENSEE shall be solely responsible for all fees, costs, and charges to establish, maintain and receive electrical and other utility services attributable to LICENSEE's Station.
- 7.5 Upon completion of any work at the Licensed Area, LICENSEE shall clean up and remove all construction and other debris, and leave the Licensed Area in the same clean condition it was prior to the performance of the work. If LICENSEE fails to clean the Licensed Area to the City Representative's satisfaction, the City may perform the clean-up and removal work, and LICENSEE shall reimburse the City for its full cost to do so upon receipt of invoice.

8. INDEMNITY AND LIMITATION OF LIABILITY

- 8.1 Licensee shall defend (at the option of the City), indemnify, and hold the City, its successors, assigns, officers, elected and non-elected officials and employees harmless from and against any and all claims, demands, suits, causes of action, judgments and liability of every character type or description, including all expenses of litigation, court costs and attorney's fees (collectively "Indemnified Liability") arising out of or concerning this Agreement, or the installation, use, operation, maintenance, transfer, rearrangement or removal of Licensee's Stations, including, but not limited to Indemnified Liability for:
- (a) damage to or loss of the Utility Structures and all lines, facilities and Attachments thereon, whether the property of the City, Licensee or any third party;
 - (b) damage to any other property of any person (including, but not limited to Licensee, the City and their respective contractors), and
 - (c) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including, but not limited to employees of Licensee, the City and their respective contractors),

arising out of, or caused, by the negligence, gross negligence, willful misconduct or strict liability (collectively "Fault") of Licensee or its agents, employees or contractors. It is the expressed intent of the parties that the foregoing indemnity applies only to the negligent acts and not the intentional acts of the City, its successors, assigns, officers, elected and non-elected officials and employees.

- 8.2 If any contractor performs any work or services for Licensee under this Agreement, such contractor shall be required to indemnify the City in writing to the same extent as provided above as a condition of being granted access to the Licensed Area.

8.3 Neither party to this Agreement shall be liable to the other for consequential, incidental, punitive or special damages arising out of any claim for damage to the other's equipment and facilities. As used in this section, consequential damages shall include, without limitation, loss of profits or revenues, loss of use of equipment or property, cost of capital, and claims of the other party's customers.

9. INSURANCE

9.1 During the term of this Agreement LICENSEE shall at all times carry insurance approved by the City (which such approval shall not be reasonably withheld) to protect LICENSEE and the City against any and all claims, demands, actions, judgments, costs, expenses, or liabilities of every kind which may arise, directly or indirectly, from or by reason of losses, injuries, or damages described in this Agreement.

9.2 At a minimum, LICENSEE shall carry and maintain the following coverages and shall furnish the City Risk Manager Certificates of Insurance as evidence thereof:

- Commercial General Liability coverage in the minimum amount of \$1,000,000 per occurrence;
- Worker's Compensation coverage with statutory benefits as set forth in the Texas Worker's Compensation Act and Employer's Liability coverage of not less than \$250,000 bodily injury per accident, \$500,000 bodily injury per disease and \$250,000 per disease per employee,
- Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000.

9.3 The Commercial General Liability and Automobile Liability Policies shall name the City of Austin as an additional named insured as its interest may appear in this agreement. Each policy shall require the insurer to notify the City Risk Manager at least thirty (30) days before any non-renewal, cancellation or material change in coverage. The "other insurance" clause shall not apply to the City; to the extent the City is an additional insured under Licensee's policies. The Worker's Compensation policy shall contain a waiver of all rights of recovery or subrogation against the City, its officers, agents, employees, and elected officials, except for injury caused by the City, its successors, assigns, officers, elected and non-elected officials and employees.

9.4 If any contractor performs any work or services for LICENSEE at the Licensed Area, such contractor shall be required to carry insurance to the same extent as provided above as a condition of being granted access to the Licensed Area.

10. USAGE CHARGES AND PAYMENT

- 10.1 LICENSEE shall pay to the City Usage Charges for each year in the initial term of the Agreement, as follows:

For Licensed Area: \$ 4,000.00 per year

If the term of this Agreement is extended pursuant to Section 11, the annual Usage Charges for each extended term shall be increased in the following manner: The fee payment of \$4,000.00 shall be increased by 4 percent. Pro-rated annual Usage Charges for the period from the Effective Date through December 31, 1999 shall be due upon execution of this agreement.

- 10.2 On or about January 1st of each calendar year, the City shall send LICENSEE an invoice for that calendar year's Usage Charge. The annual Usage Charge in effect for the Initial Term shall be escalated each year throughout the term of this Agreement, including any renewals, by an amount equal to four percent (4%) each year of the Usage Charge in effect for the previous year.
- 10.3 All monetary payments under this Agreement shall be due and payable within thirty (30) days after receipt of invoice. If payment is not timely made, interest shall accrue on the unpaid balance at the lesser of the maximum lawful rate or the prime rate of interest charged by the Chase Bank of Texas, N.A. from the due date until paid. Failure to pay any monetary obligation in full shall be a material default of this Agreement.

11. TERM

- 11.1 The initial term of this Agreement ("Initial Term") shall be five (5) years commencing on the Effective Date, unless terminated earlier in accordance with Section 12 below.
- 11.2 If Licensee is not then in default hereunder, Licensee shall have the right to renew the term of this Agreement for up to four additional terms of five (5) years each ("Renewal Term(s)") Renewal shall be upon the same terms and conditions, except that Usage Charges shall be increased as provided in Section 10.2 above.

12. DEFAULT AND TERMINATION

- 12.1 Right of Suspension. If Licensee shall fail to either make any payment required under this Agreement, within ten (10) days after the date payment is due or timely perform any material obligation under this Agreement, and such failure of performance continues for thirty (30) days after receipt of written notice from the City of Austin, then, in addition to any other available right or remedy, the City of Austin may, upon written notice to Licensee, immediately suspend all rights under this License until such time as the failure of performance is cured, or payment, including accrued interest, has been received. During a period of suspension of

this license Licensee may operate and maintain its then permitted stations, but may not add to, modify, remove, or alter any of its existing Facilities, or install or construct any new Facilities, and the City of Austin shall suspend all review or approval of pending permit applications by Licensee. The payment under protest of a disputed amount in order to avoid, or lift, suspension of this license shall not prejudice the rights of the City of Austin to contest the payment dispute.

12.2 Events of Default. Each of the following shall be an Event of Default under this Agreement:

- a) the failure of a party to make any payment when due, and such nonpayment continues for thirty days after written notice from the other party;
- b) the failure of a party to comply with the terms of a permit granted under this Agreement, and such failure has not been cured within thirty days after written notice from the other party;
- c) the failure of a party to substantially perform its material obligations under this Agreement, and such failure default has not been cured within three months from its receipt of written notice from the other party;
- d) the expiration, revocation, or termination of Licensee's license from the FCC, and such license has not been restored or renewed within sixty days after written notice from the City of Austin;
- e) the making of an assignment for the benefit of a party's creditors, the appointment of a receiver over the assets of a party, the filing by a party of a petition for relief under the Bankruptcy laws of the United States, or the filing of an involuntary Bankruptcy petition against a party which is not dismissed within thirty days from the date of original filing.

12.3 Termination.

- (a). Upon the occurrence of an Event of Default, the party not in default may immediately terminate this Agreement upon written notice to the party in default.
- (b). In the event that LICENSEE's authorization to use Austin Energy Utility infrastructure adjacent to the Licensed Area is terminated, the City shall have the right to terminate this Agreement upon written notice to LICENSEE.

12.4 Destruction of Facilities. If the Licensed Area are substantially destroyed by fire, storm, or other catastrophe, the City of Austin shall be under no obligation to rebuild or restore same, but may elect to terminate this Agreement upon written notice to LICENSEE without incurring any liability to LICENSEE as a result of such premature termination. LICENSEE shall be entitled to a pro-rata refund of any pre-paid but unearned Usage Charges in the event of a termination under this section.

- 12.5 Until such time as all of LICENSEE's Station is removed, LICENSEE shall continue to comply with all the terms of this Agreement and perform all of its duties and obligations hereunder, including, but not limited to, the obligation to pay Usage Charges for its Station. Such payment by LICENSEE or acceptance by the City of Usage Charges shall not act to cure the default which triggered termination or restore LICENSEE's rights to use the Licensed Area hereunder.
- 12.6 If LICENSEE has not removed all its Station from the Licensed Area within the applicable period of time specified above, or such additional period of time granted by the City in writing, then:
- (a) The City may remove and return LICENSEE's Station from the Licensed Area at LICENSEE's sole expense and risk; and
 - (b) LICENSEE shall pay to the City as liquidated expenses, and not as a penalty, for the use and occupancy of said Licensed Area a sum equal to one and a half times the monthly Usage Charge for each month (or part thereof) that the LICENSEE's Station continues to occupy the Licensed Area until all such Station has been removed.
- 12.7 Any termination by the City is subject to appeal to City Council by LICENSEE. The periods of time in which LICENSEE's Station is required to be removed from the Licensed Area under this section shall be suspended during the pendency of a proper appeal of termination. However, LICENSEE may not install any new or additional equipment or make any changes to existing equipment (except for removal) during the pendency of any appeal.

13. ASSIGNMENT

- 13.1 Licensee may not assign, sublet, or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the City of Austin, except that Licensee may, without such consent:
- a) mortgage, pledge, hypothecate, or grant a security interest in, any or all of its property, rights, privileges and franchises, including its interest in this Agreement or any permits granted hereunder, to any financing entity or agent on behalf of any financing entity to whom Licensee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof;
 - b) assign its interest to its parent company, any wholly-owned subsidiary or affiliate of it or its parent company.
 - c) Within ten days of the effective date of an authorized assignment to a financing entity, affiliate, or parent company, Licensee shall notify The City of Austin in writing.

13.2 A purported assignment or transfer made in violation of the provisions of this section shall not be binding upon The City of Austin, but shall be deemed to be a material default of this Agreement by Licensee.

14. NOTICES

All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Routine communications may be sent by first class mail, telefax, or other commercially acceptable means. Notice will be addressed to the parties at the address set forth below:

CITY OF AUSTIN
Telecommunications & Regulatory Affairs
P.O. Box 1088
Austin, Texas 78767
ATTN: Department Manager
(512) 499-2999
FAX: (512) 499-2416

LICENSEE
AT&T Wireless Services
4544 South Lamar Blvd, Suite 600
Austin, Texas 78745
ATTN: Real Estate Manager
(512) 436-7700
FAX: (512) 436-7709

with copy to:
AT&T Wireless Services
10000 Goethe Rd., First Floor
Sacramento, CA 95827
Attn: Senior Counsel

15. MISCELLANEOUS

- 15.1 Integration. This Agreement constitutes the entire understanding of the parties relating to the use of the Licensed Area hereunder; and there shall be no notification or waiver hereof except by writing, signed by the party asserted to be bound thereby.
- 15.2 No Waiver. The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in duly force and effect.
- 15.3 Headings. The descriptive headings of the provision of this Agreement are formulated and are intended to be used only for the convenience of the parties, and shall not be deemed to affect the meaning or construction of any provision hereof.
- 15.4 No Third Party Beneficiary. There is no third party beneficiary to this Agreement, and the provisions of this Agreement shall not impart any rights enforceable by any person, firm, corporation or organization not a party hereto or a successor or assign of a party hereto.

15.5 Applicable Law. The parties hereto agree and intend that disputes which may arise from, out of, under or respecting the terms and conditions of this Agreement, or concerning the rights or obligations of the parties hereunder, or respecting any performance or failure or performance by either party hereunder, shall be governed by the laws of the State of Texas. The parties further agree and intend that venue shall be proper and shall lie exclusively in Travis County, Texas.

15.6 Future Amendment. Either party may propose Agreement amendments intended to address any substantially changed or unforeseen circumstances relevant to the performance of the Agreement or the use, maintenance or operation of the Station. Neither party, however, shall ever be obligated to propose, consider or accept any amendment.

IN WITNESS WHEREOF, the undersigned have executed this agreement at Austin, Travis County, Texas through their duly authorized representative.

THE CITY OF AUSTIN

CITY MANAGER

Texas Cellular Telephone Company
L.P., a Delaware limited partnership,
d/b/a AT&T Wireless Services

By: AT&T Wireless Services of San
Antonio, Inc., its general partner

By: Jesus Garza

Name: Jesus Garza

Title: City Manager

Date: December 13, 1999

By: Linda B. Holmes

Name: Linda B. Holmes

Title: System Development mgr.

Date: 12/17/, 1999

Loop 360 - Austin

COUNTY OF TRAVIS §
 §
STATE OF TEXAS §

RECITALS

The Balcones Canyonlands region of Central Texas is home to several species of animals and plants listed as endangered under the federal Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531, et seq. (the "Act"). Development of endangered species habitat in the region is subject to approval under the Act. To provide an alternative to the burden of each landowner or developer going through an individual 10(a) permit application process, a group of individuals representing federal, state, and local governments, the private business sector, private landowners, and environmental interests, worked since 1988 to create a regional habitat conservation plan, in accordance with Section 10(a) of the Act.

In order to implement the habitat conservation plan, known as the Balcones Canyonlands Conservation Plan (BCCP) - Shared Vision, Travis County and the City of Austin applied for a regional permit under section 10(a)1(b) of the Act. The United States Fish and Wildlife Service ("USFWS") issued the regional permit, permit number PRT-788841 (the "Permit"), to the Permit Holders on May 2, 1996.

In exchange for committing to the completion of a 30,428 acre preserve system that satisfies the requirements of the Permit, the Permit Holders are authorized to assign certain habitat mitigation participation rights (hereinafter referred to as "Participation Rights") to individual landowners or developers ("Participants") for a fee to be used as purchase money for completion of the preserve system. Through participation in the BCCP-Shared Vision, Participants can mitigate for direct and indirect "take" of the species covered in the Permit, in accordance with the special terms and conditions of the Permit.

AGREEMENT

This agreement is entered into this 20th day of February, 2000, by and between Linda Holmes of AT&T Wireless Services (BCCP #0261), a corporation, hereinafter referred to as "Participant" or "Assignee", and the Balcones Canyonlands Coordinating Committee, an entity created pursuant to Section 791.013 of the Texas Government Code, as an instrumentality of the parties to the Interlocal Cooperation Agreement between Travis County and the City of Austin Implementing the Balcones Canyonlands Conservation Plan - Shared Vision, dated the 3rd day of August, 1995, acting by and through its designated representative, hereinafter referred to as "Permit Holders" or "Assignor".

For and in consideration of the mutual covenants and considerations cited herein, Permit Holders and Participant hereby agree with respect to the assignment of certain Participation Rights as provided by the Permit to be furnished or rendered by the Permit Holders to the Participant and the payment for this assignment by the Participant to the Permit Holders as set forth hereinafter.

ARTICLE I.
PROPERTY

Participant is the licensed utility provider of a tract of land consisting of approximately 0.037 acre situated in Travis County, Texas, and more fully described in Exhibit "A" attached hereto ("Property").

ARTICLE II.
ASSIGNMENT OF PARTICIPATION RIGHTS

Upon payment by the Participant of the compensation as provided in ARTICLE III below, the Permit Holders agree to assign unto Participant certain Participation Rights for the exclusive use and benefit of the Property. These Participation Rights are assigned to the Participant for its use and benefit only with respect to the Property and in connection with the issuance of the Permit for the Balcones Canyonlands Conservation Plan ("BCCP-Shared Vision") pursuant to Section 10(a)(1)(B) of the Endangered Species Act, 16 U.S.C. § 1531 et seq. ("ESA"). The term "Participation Rights" shall mean and refer to any and all benefits, rights, credits, offsets or other privileges or entitlements which may be utilized by Participants in conjunction with the BCCP-Shared Vision Permit relating to the existence, dedication, conservation, maintenance or preservation of the black-capped vireo (*Vireo atricapillus*), golden-cheeked warbler (*Dendroica chrysoparia*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Tooth Cave spider (*Neoleptoneta myopica*), Tooth Cave ground beetle (*Rhadine persephone*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Bone Cave harvestman (*Texella reyesi*), and Bee Creek Cave harvestman (*Texella redelli*).

This assignment is expressly made subject to the provisions and requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531, et seq.; Title 50 of the Code of Federal Regulations, including Parts 13, 17, and 21; the Permit; and the BCCP-Shared Vision as provided by the Permit and including the conditions and requirements provided in the Habitat Conservation Plan and Final Environmental Impact Statement, dated March, 1996.

ARTICLE III.
COMPENSATION

For and in consideration of its assignment of these Participation Rights, the Participant shall pay to the Permit Holders the total sum of \$300.00. Payment of this sum is to be paid immediately upon execution of this Agreement by the Participant and the Permit Holders.

ARTICLE IV.
ADDITIONAL RESPONSIBILITIES OF PARTICIPANT; SPECIAL TERMS

For and in consideration of the assignment of Participation Rights, the Participant agrees that it shall comply with all requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531, et seq.; Title 50 of the Code of Federal Regulations, Parts 13, 17, and 21; the BCCP-Shared Vision as provided by the Permit and including the relevant requirements under the Habitat Conservation Plan and Final Environmental Impact Statement, dated March, 1996; and all terms and conditions of this agreement, specifically including those special conditions provided in Exhibit "B" and Exhibit "C", attached hereto and incorporated herein for all purposes.

Furthermore, the Participant promises and warrants to the Permit Holders that it has not petitioned nor received from the USFWS any determination of incidental take in relation to the Property, including receipt of a valid Section 9 letter indicating USFWS determination of "no effect", that it has not previously delivered to the Permit Holders.

ARTICLE V.
BREACH OF PARTICIPANT

Breach of the terms of this Agreement will result in the termination by the Permit Holders of this Agreement and the Participation Rights assigned therein. Notification of breach and termination of rights shall be made by the Permit Holders to the Participant in writing at the address provided in ARTICLE XII below.

ARTICLE VI.
PARTICIPANT'S SOLE RECOURSE FOR BREACH BY THE PERMIT HOLDERS

In the event that the assignment of Participation Rights pursuant to this agreement is ineffective or deficient with respect to the Property due solely, or in part, to the actions or inactions of the Permit Holders, Participant agrees that its sole recourse shall be to sue to recover from the Balcones Canyonlands Coordinating Committee damages in an amount not to exceed the total sum provided in ARTICLE III above, upon surrender of the Participation Rights by Participant to the Permit Holders.

Notwithstanding anything to the contrary herein, the Balcones Canyonlands Coordinating Committee, the City of Austin, and Travis County shall not be responsible to, nor liable to, Participant for any damages resulting from any rules, regulations, action(s), or inaction(s) by the U.S. Department of the Interior and/or the U.S. Fish and Wildlife Service promulgated on or after the date of this assignment that would in any way impair or render ineffective, either partially or in its entirety, any or all benefits to the Participant's Property that accompany the assignment of the Participation Rights herein.

ARTICLE VII.
COVENANTS RUN WITH THE LAND; RECORDATION

Participant agrees that promises and covenants provided herein are intended to be binding upon any heirs, successors, and assigns in interest to the Property. Upon any transfer of any ownership rights to all or part of the Property, this Agreement shall not terminate as to the particular property transferred, but rather shall continue in full force and effect and shall be fully binding upon any heirs, successors, and assigns in interest to the Property, or any portion thereof. Upon execution of this agreement by Permit Holders and Participant, this agreement shall be acknowledged and recorded in the Real Property Records of Travis County.

ARTICLE VIII.
VENUE AND CHOICE OF LAW

The obligations and undertakings of each of the parties to this Agreement shall be performable in Travis County, Texas, and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

ARTICLE IX.
ENTIRETY OF AGREEMENT AND MODIFICATION

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing signed by the party to be charged and expressly approved by an authorized representative of such party. **No official, representative, employee, or agent of the City of Austin, Travis County, or the Permit Holders has any authority to modify or amend this Agreement except pursuant to specific authority to do so granted by the Balcones Canyonlands Coordinating Committee.**

ARTICLE X.
NON-ASSIGNMENT OF RIGHTS

Participant shall not sell, transfer or assign all or any part of the Participation Rights without the prior written consent of the Permit Holders, and any transfer of the Participation Rights without the Permit Holders' consent shall be null and void. Furthermore, no assignment of this Agreement or of any right accruing hereunder shall be made in whole or in part by Participant without the prior written consent of the Permit Holders.

ARTICLE XI.
SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto, where authorized pursuant to this Agreement.

ARTICLE XII.
NOTICE

Any notice to be given hereunder by either party to the other shall be in writing and may be effected by personal delivery in writing, or registered or certified mail, return receipt requested, when mailed to the proper party, at the following addresses:

PARTICIPANT:

Linda Holmes
Systems Development Manager
AT&T Wireless Services
4544 S. Lamar Blvd., Suite 600
Austin, Texas 78745

PERMIT HOLDERS:

Honorable Karen Sonleitner (or her successor)
Balcones Canyonlands Coordinating Committee Member
P.O. Box 1748
Austin, Texas 78767
Attn: BCCP Infrastructure Application #0261

with a copy to:

Jesus Olivares (or his successor)
Secretary of the Balcones Canyonlands Coordinating Committee
P.O. Box 1088
Austin, Texas 78767
Attn: BCCP Infrastructure Application #0261

and with additional copies to:

Honorable Ken Oden (or his successor in office)
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
Attn: File BCCP Infrastructure Application #0261

and:

City of Austin
Department of Law
P.O. Box 1088
Austin, Texas 78767

Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

ARTICLE XIII.
TERM OF AGREEMENT

This Agreement shall terminate upon the expiration or termination of the Permit, or on May 2, 2026, whichever is sooner.

ARTICLE XIV.
HEADINGS

The headings at the beginning of the various provisions of this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.

ARTICLE XV.
NUMBER AND GENDER DEFINED

As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.

ARTICLE XVI.
MULTIPLE COUNTERPARTS

This Agreement may be executed in multiple counterparts each of which shall constitute a duplicate original hereof, but all of which together shall constitute one and the same instrument.

ARTICLE XVII.
TIME OF ESSENCE

Time is of the essence in the Agreement.

EXECUTED AS OF THE LAST DAY SET FORTH BELOW.

PERMIT HOLDERS:

By: [Signature]
John Kuhl
Travis County Program Manager
Balcones Canyonlands Conservation Plan

Date: 2/28/2000

PARTICIPANT:

By: [Signature]
Linda Holmes
AT&T Wireless Services

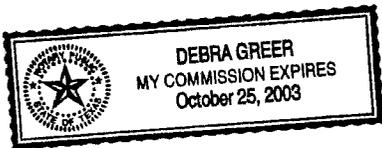
Date: 2-17-2000

ACKNOWLEDGEMENTS

PARTICIPANT:

This instrument was acknowledged before me by **Linda Holmes** on this the 17 day of February, 2000.

[Signature]
Notary Public in and for the State of Texas



Debra T. Greer
Printed Name of Notary

My Commission Expires: 10-25-2003

PERMIT HOLDERS:

This instrument was acknowledged before me by **John Kuhl** on this the 28th day of February, 2000.

Margaret Piper
Notary Public in and for the State of Texas



Margaret Piper
Printed Name of Notary

My Commission Expires: Nov. 24, 2001

EXHIBIT "A"

Description of Land to be Benefitted by Participation Rights

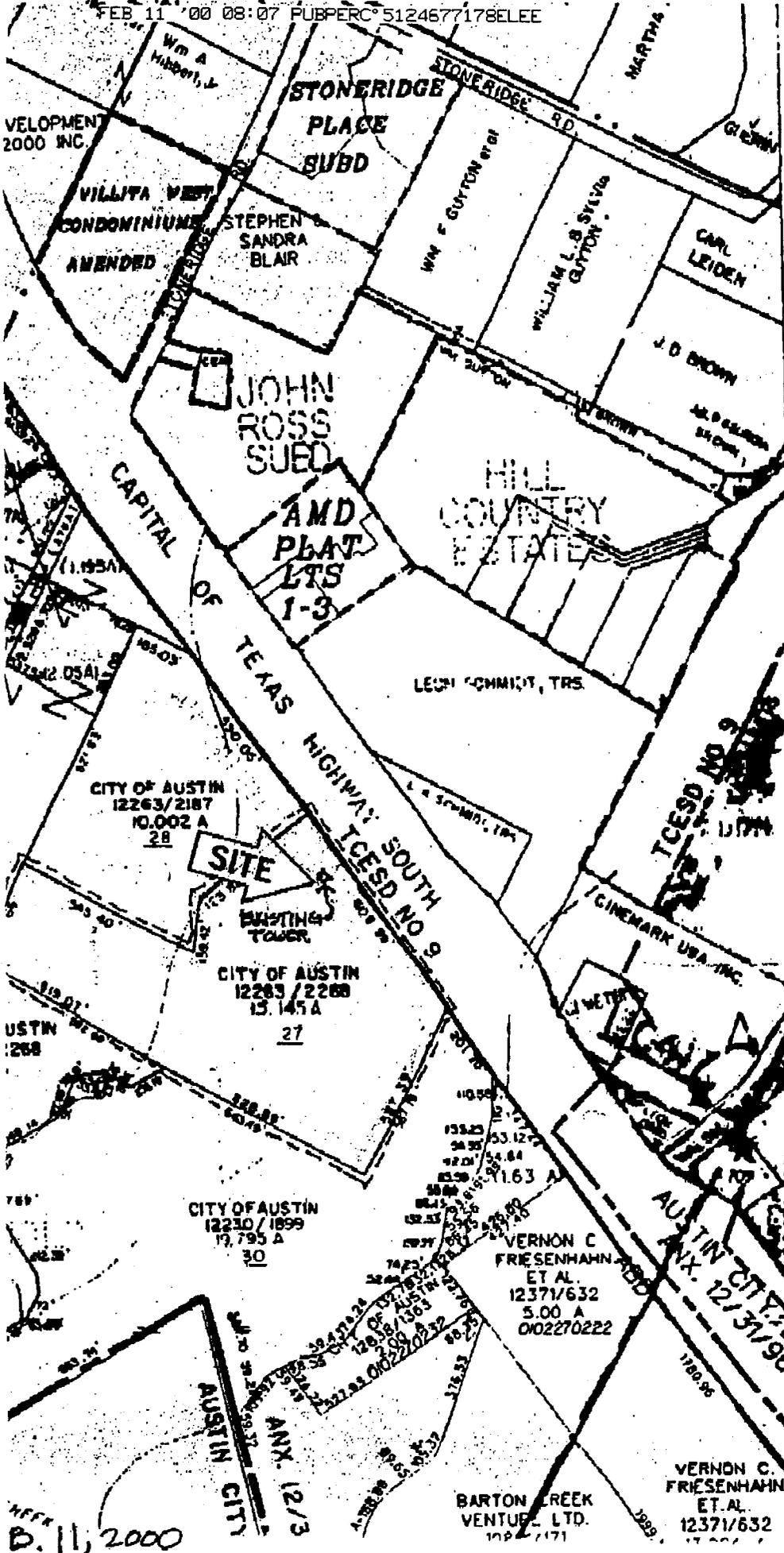
Approximately 0.037 acre (total area of ~1610 square feet) utility easement
out of C. Arnold Survey #78

on the west side of Loop 360

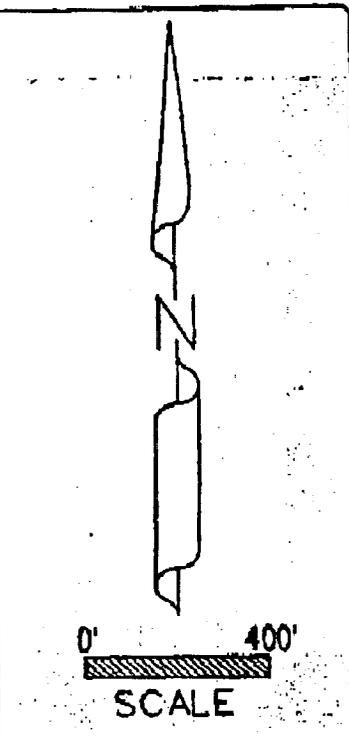
within the City of Austin's property (15.143 acres) known as Barton Creek Wilderness Preserve

Tax Parcel ID#01-0227-0227

(see maps on following two pages)



TRAVIS CENTRAL APPRAISAL D
 8314 CROSS PARK DRIVE
 78714
 P.O. BOX 1490
 78714
 AUSTIN, TEXAS
 (512) 834-9317



1"=100" MAP REFERENCES

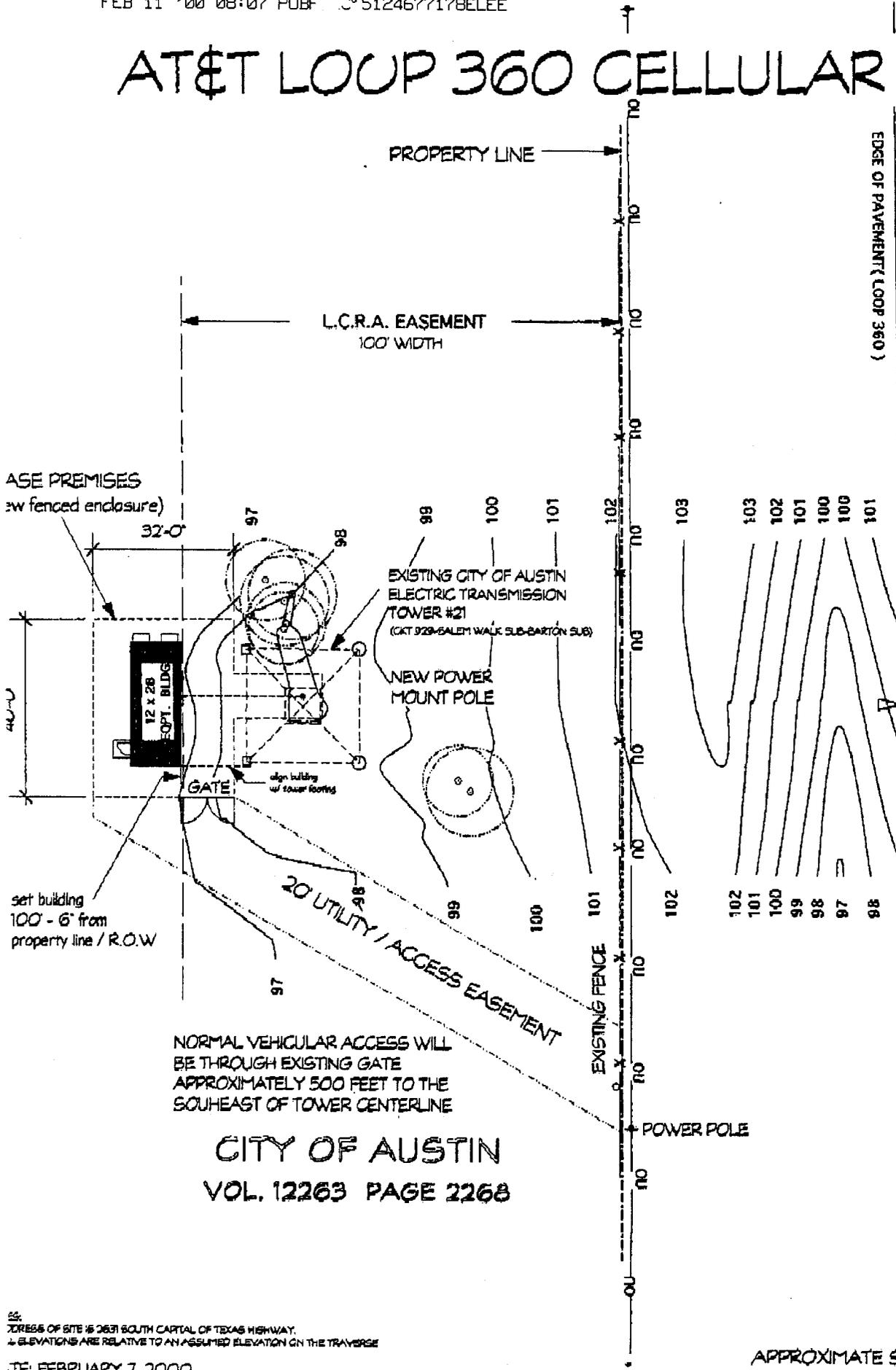
B. 11, 2000

EXHIBIT "B"

Single Family Lot Special Provisions Certificate; Special Terms and Conditions

None apply.

AT&T LOOP 360 CELLULAR SITE



LOOP 360

NORMAL VEHICULAR ACCESS WILL BE THROUGH EXISTING GATE APPROXIMATELY 500 FEET TO THE SOUTHEAST OF TOWER CENTERLINE

CITY OF AUSTIN
VOL. 12263 PAGE 2268

66. ADDRESS OF SITE IS 3631 SOUTH CAPITAL OF TEXAS HIGHWAY.
ELEVATIONS ARE RELATIVE TO AN ASSUMED ELEVATION ON THE TRAVERSE
DATE: FEBRUARY 7, 2000

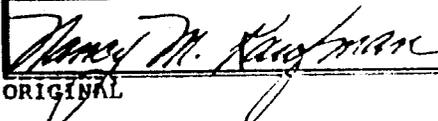


PLAN NORTH

APPROXIMATE SCALE: 1" = 30' - 0"

EXHIBIT "C"

Additional Requirements of Participant

<p>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE</p>  <p>FEDERAL FISH AND WILDLIFE PERMIT</p>		<p>3-201 (10/86)</p>	
		<p>2. AUTHORITY-STATUTES 16 USC 1539(a)(1)(A)</p>	
<p>1. PERMITTEE</p> <p>CITY OF AUSTIN P.O. BOX 1088 AUSTIN, TEXAS 78767</p> <p>TRAVIS COUNTY P.O. BOX 1748 AUSTIN, TEXAS 78767</p>		<p>REGULATIONS (attached) 50 CFR § 13 & 17</p>	
		<p>3. NUMBER PRT-788841</p>	
		<p>4. RENEWABLE</p> <p>XXXX YES ____ NO</p>	<p>5. MAY COPY</p> <p>XXXX YES ____ NO</p>
		<p>6. EFFECTIVE MAY 2, 1996</p>	<p>7. EXPIRES MAY 2, 2026</p>
<p>8. NAME AND TITLE OF PRINCIPAL OFFICER (if # 1 is a business)</p> <p>BRUCE TODD, MAYOR, CITY OF AUSTIN BILL ALESHIRE, COUNTY JUDGE, TRAVIS COUNTY</p>		<p>9. TYPE OF PERMIT ENDANGERED SPECIES</p>	
<p>10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED</p> <p>TRAVIS COUNTY, TEXAS OUTSIDE OF THE PRESERVES IDENTIFIED IN THE HABITAT CONSERVATION PLAN AND FINAL ENVIRONMENTAL IMPACT STATEMENT DATED MARCH 1996</p>			
<p>11. CONDITIONS AND AUTHORIZATIONS:</p> <p>SEE SPECIAL CONDITIONS A THROUGH P ON ATTACHED PAGES 2 THROUGH 11.</p>			
<p>12. REPORTING REQUIREMENTS</p> <p>REPORTS WILL BE PROVIDED TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES APPEARING IN CONDITION G OF THIS PERMIT. REPORTING FORMAT AND CONTENT IS OUTLINED IN CONDITION G OF THIS PERMIT.</p>			
<p>ISSUED BY:</p> 	<p>TITLE</p> <p>REGIONAL DIRECTOR, REGION 2</p>	<p>DATE</p> <p>MAY 2, 1996</p>	

ORIGINAL

CITY OF AUSTIN & TRAVIS COUNTY PERMIT PRT-788841

- A. If during the tenure of this permit, the amount of incidental take is exceeded, issuance of Participation Certificates must be stopped and the permittees must re-initiate consultation with the USFWS to avoid violation of section 9, Endangered Species Act.
- B. Acceptance of this permit serves as evidence that the permittees understand and agree to abide by the terms of this permit and all sections of Title 50 Code of Federal Regulations Parts 13, 17, and 21 (attached) pertinent to issued permits.
- C. The authorization granted by this permit is subject to compliance with, and implementation of, the terms and conditions of the Environmental Impact Statement/Habitat Conservation Plan, Biological opinion, and all specific conditions contained in this permit. If there are any discrepancies between the requirements in these documents, the requirements identified in the special conditions of this issued permit take precedence.
- D. Upon locating any dead, injured, or sick individuals from the list of animal species covered by this permit, or any other endangered or threatened animal species, permittees are required to contact the U.S. Fish and Wildlife Service's Law Enforcement Office, Austin, Texas (512) 490-0948, for care and disposition instructions. Extreme care should be taken in handling sick or injured individuals to ensure effective and proper treatment. Care should also be taken in handling dead specimens to preserve biological materials in the best possible state for analysis of cause of death. In conjunction with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the permittees and their contractor(s) or subcontractor(s) have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- E. The validity of this permit is also conditioned upon observance of all relevant international, state, local, or other Federal law.
- F. The permittees are authorized to "take" (kill, harm, or harass) the following federally-listed endangered species:

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<i>Vireo atricapillus</i>	Black-capped vireo
<i>Dendroica chrysoparia</i>	Golden-cheeked warbler
<i>Tartarocreagris texana</i>	Tooth Cave pseudoscorpion
<i>Neoleptoneta myopica</i>	Tooth Cave spider
<i>Texella reddelli</i>	Bee Creek Cave harvestman
<i>Texella reyesi</i>	Bone Cave harvestman
<i>Rhadine persephone</i>	Tooth Cave ground beetle
<i>Texamaurops reddelli</i>	Kretschmarr Cave mold beetle

Additionally, the permittees would be covered for incidental take of the following species of concern if these species become listed during the life of the permit and the mitigation measures identified in this permit are being performed.

<i>Philadelphus ernestii</i>	Canyon Mock-orange
<i>Croton alabamensis</i>	Texabama croton
<i>Sphalloplana mohri</i>	Flatworm
<i>Candona</i> sp. nr. <i>stagnalis</i>	Ostracod
<i>Caecidotea reddelli</i>	Isopod
Trichoniscinae N. S.	Isopod
<i>Miktoniscus</i> N. S.	Isopod
<i>Cicurina wartoni</i>	Spider
<i>C. ellioti</i>	Spider
<i>C. bandida</i>	Spider
<i>C. reddelli</i>	Spider
<i>C. reyesi</i>	Spider
<i>C. cueva</i>	Spider
<i>C. travisae</i>	Spider
<i>Neoleptoneta cocinna</i>	Spider
<i>Neoleptoneta devia</i>	Spider
<i>Eidmannella reclusa</i>	Spider
<i>Aphrastochthonius</i> N. S.	Pseudoscorpion
<i>Tartarocreagris reddelli</i>	Pseudoscorpion
<i>T. intermedia</i>	Pseudoscorpion
<i>T. N. S. 3</i>	Pseudoscorpion
<i>Texella spinoperca</i>	Harvestman
<i>T. comanche</i>	New Comanche Trail Cave harvestman
<i>Speodesmus</i> N. S.	Millepede
<i>Rhadine s. subterranea</i>	Ground beetle
<i>R. s. mitchelli</i>	Ground beetle
<i>R. austinica</i>	Ground beetle

- G. An annual report, due June 1 of each year beginning in 1997, is to be provided to the Austin Ecological Services Field Office. This report is to include:

1. a list of all development activities west of the MOPAC Railroad that were permitted by the Permit Holders in the previous 12 months,
2. a list of all tracts for which Participation Certificates were purchased,
3. amount of funds collected for land acquisition,
4. amount of funds expended for land acquisition,
5. amount of funds expended for operations and maintenance.
6. an updated map of the lands dedicated to preserve management,
7. a list of public use and habitat management activities that have been undertaken or completed within the bounds of the preserve units, including the status of land management plans undertaken by the permit holders and managing partners, and
8. a copy of all research or investigation reports that have been prepared within the previous 12 months.

In addition to the above annual requirements, the Permit Holders must provide quarterly updates for the tracts for which Participation Certificates were purchased that include the following information:

1. a general map of each tract location and
 2. a tract boundary map that identifies the areas for which the Participation Certificate applies. If a location and/or tract map is not provided to the Permit Holder during the normal permitting process, a street address will meet this requirement.
- H. A copy of a recorded Participation Certificate provided by the Permit Holders must be posted at the property site from the time vegetation clearing begins until the construction is completed. For residential development, completed construction is when all roads and utilities are completed to the extent that they meet the applicable acceptance criteria of the City of Austin or Travis County. For commercial, industrial and multi-family developments completed construction is when buildings are suitable for occupancy.

- I. The funds collected and expended for this Permit and compliance with the financial requirements of the Permit shall be evaluated by financial audits conducted after the sale of Participation Certificates covering 3,000 fee-paid acres or every five years, whichever comes sooner, until permit expiration. Such audits will be coordinated between the USFWS and the Coordinating Committee. This audit may be part of the permittees audit processes as required by State law and shall not be more frequent than every two years.
- J. The funds collected under this Permit will be expended for land or easement acquisition and other preserve system needs in accordance with the following criteria:
1. tracts considered for acquisition will be within or contiguous to the boundaries of the preserve units identified in the issued Permit;
 2. expenditure priority should be in the following decreasing order: Bull Creek, Cypress Creek, South Lake Austin, and North Lake Austin; and
 3. dispensing of funds from the BCCP Fund account should be accomplished as soon as there are adequate funds to complete a transaction or implement a strategy for acquisition, taking into account opportunity, preserve priority and development threat.
- K. The Permit Holders will administer the issuance of the Participation Certificates.
- L. Incidental take that may result from the implementation of land management activities within the boundaries of a preserve and contained in a management plan approved by the Coordinating Committee, are covered and authorized under this Permit.
- M. Incidental take that may result from the implementation of utility and infrastructure corridor projects approved by the Secretary of the Coordinating Committee and within one of the BCCP-Shared vision approved utility and infrastructure corridors, as provided in the final EIS/HCP, Appendix B, is covered and authorized under this Permit.
- N. Incidental take of the Barton Springs salamander is not covered by this Permit. Entities who purchase Participation Certificates for activities within the Travis County portion of the Barton Springs watershed should obtain guidance with respect to avoiding the impacts of their activities on water quality as they relate to the Barton Springs salamander.

- O. The incidental take authorization of this permit does not apply to the "take" of any endangered or threatened species outside of the boundary of the permit as identified in the EIS/HCP dated March 1996 or any modifications/amendments to that boundary.
- P. The "No Surprises" policy of the U. S. Fish and Wildlife Service provides that additional mitigation, lands or financial compensation shall not be required of the permittees or their successors beyond the level of mitigation provided for in the EIS/HCP. With respect to this permit, the EIS/HCP and supporting documents adequately addressed the species listed in special condition 6 above. To be fully covered by the "No Surprises" policy for a specific species, all of the requirements identified for that species must be met.

GOLDEN-CHEEKED WARBLER:

1. Ensure at least 28,428 acres within the seven identified macrosites will be acquired and managed for the golden-cheeked warbler during the permit duration. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are within or contiguous to the proposed preserve boundaries, count toward this goal.
2. In conjunction with the managing partners, control human activities to eliminate or mitigate any adverse impacts of human activities to the warbler on these 28,428 acres, for the acreage acquired.
3. No vegetation clearing activities will be accomplished within golden-cheeked warbler habitat, Zones 1 and 2, from March 1 through August 31 to prevent the disturbance of nesting activities unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the warbler is not nesting within 300 feet of the proposed clearing.
4. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is later.

BLACK-CAPPED VIREO

1. Ensure at least 2,000 acres within the seven identified macrosites will be acquired and managed for the black-capped vireo during the permit duration. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are within or contiguous to the proposed preserve boundaries, count toward this goal.
2. In conjunction with the managing partners, control human activities to eliminate or mitigate any adverse impacts of human activities to the vireo on these 2,000 acres, for the acreage acquired.
3. No vegetation clearing activities will be accomplished within black-capped vireo habitat between March 1 and August 31 to prevent the destruction of an active nest unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the vireo is not nesting within 300 feet of the proposed clearing.
4. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is later.

LISTED KARST INVERTEBRATES

1. Acquire and manage, or implement formal management agreements, as provided in subsection (4) below, adequate to preserve the environmental integrity of the following 35 caves that support federally-listed karst invertebrates:

Amber Cave	Kretschmarr Double Pit
Bandit Cave	Kretschmarr Cave
Beard Ranch Cave	Lamm Cave
Bee Creek Cave	Little Bee Creek Cave
Broken Arrow Cave	M.W.A. Cave
Cave Y	McDonald Cave
Cold Cave	McNeil Bat Cave
Cotterell Cave	New Comanche Trail Cave
Disbelievers Cave	No Rent Cave
Eluvial Cave	North Root Cave
Fossil Cave	Rolling Rock Cave
Fossil Garden Cave	Root Cave
Gallifer Cave	Spider Cave
Hole-In-The-Road	Stovepipe Cave

Japygid Cave
Jest John Cave
Jester Estates Cave
Jollyville Plateau Cave

Tardus Hole
Tooth Cave
Weldon Cave

2. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
3. Where the surface and subsurface hydrogeologic area around a cave identified for protection is not known, the area delineated by the contour level at the bottom of the cave will be managed for cave protection. In the absence of such site specific information, no Participation Certificates are to be awarded within 0.25 miles of the cave entrance until the hydrogeologic areas are properly delineated.
4. Enter into formal management agreement(s) for all caves that are recommended for protection but have yet to be acquired. The management agreement(s) will detail the area to be managed for cave protection, what such management will entail, and who is responsible for the management.

KARST SPECIES OF CONCERN

1. Acquire and manage, or implement formal management agreements, as provided in subsection (4) below, adequate to preserve the environmental integrity of the following 27 caves, in addition to the caves protected for the federally-listed species, that support the karst species of concern:

Adobe Springs Cave	Jack's Joint
Airman's Cave	Lost Oasis Cave
Armadillo Ranch Sink	Lost Gold Cave
Arrow Cave	Maple Run Cave
Blowing Sink	Midnight Cave
Buda Boulder Spring	Moss Pit
Cave X	Pennie Cave
Ceiling Slot Cave	Pickle Pit
District Park Cave	Pipeline Cave

Flint Ridge Cave
 Get Down Cave
 Goat Cave
 Ireland's Cave
 Whirlpool Cave

Slaughter Creek Cave
 Spanish Wells Cave
 Stark's North Mine
 Talus Spring

The caves in which the karst species of concern occur are listed below. To receive the "no surprises" guarantee for the identified species, the caves identified must be protected, as per "1" above.

<u>SPECIES</u>	<u>CAVE</u>
<i>Sphalloplana mohri</i>	Spanish Wells Cave
<i>Candona</i> sp. nr. <i>stagnalis</i>	Cave X
<i>Caecidotea reddelli</i>	Buda Boulder Cave, Cave X, Jack's Joint
<i>Trichoniscinae</i> N. S.	Bandit Cave
<i>Miktoniscus</i> N. S.	Cave X
<i>Cicurina wartoni</i>	Pickle Pit
<i>C. ellioti</i>	Cotterell Cave, Fossil Garden Cave, Gallifer Cave, No Rent Cave, Weldon Cave
<i>C. bandida</i>	Bandit Cave, Ireland's Cave
<i>C. reddelli</i>	Cotterell Cave
<i>C. reyesi</i>	Airman's Cave
<i>C. cueva</i>	Cave X, Flint Ridge Cave
<i>C. travisae</i>	Amber Cave, Broken Arrow Cave, Kretschmarr Cave, McDonald Cave, Root Cave, Spider Cave, Stovepipe Cave, Tooth Cave
<i>Neoleptoneta cocinna</i>	Lost Gold & Stark's North Cave
<i>N. devia</i>	McDonald Cave
<i>Eidmannella reclusa</i>	Tooth Cave, Gallifer Cave, Kretschmarr Cave, Stovepipe Cave
<i>Aphrastochthonius</i> N. S.	Stovepipe Cave
<i>Tartarocreagris reddelli</i>	McDonald Cave
<i>T. intermedia</i>	Airman's Cave
<i>T. N. S. 3</i>	BCNWR
<i>Texella spinoperca</i>	Airman's Cave
<i>T. comanche</i>	New Comanche Trail Cave
<i>Speodesmus</i> N. S.	Bandit Cave, Cave X, Get Down Cave, Goat Cave, Pennie Cave, Pipeline Cave, Slaughter Creek Cave, Whirlpool Cave
<i>Rhadine s. subterranea</i>	Cotterell, Fossil, Fossil Garden, No Rent, McNeil Bat, & Weldon Cave
<i>R. s. mitchelli</i>	Amber, Kretschmarr, & Tooth Cave

R. austinica

Airman's, Arrow, Bandit, Bee Creek, Blowing Sink, Cave Y, Cave X, District Park, Flint Ridge, Get Down, Ireland's, Lost Gold, Lost Oasis, Maple Run, Midnight, Pennie, & Whirlpool

2. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
3. Where the surface and subsurface hydrogeologic area around a cave identified for protection is not known, the area delineated by the contour level at the bottom of the cave will be managed for cave protection. In the absence of such site specific information, no Participation Certificates are to be awarded within 0.25 miles of the cave entrance until the hydrogeologic areas are properly delineated.
4. Enter into formal management agreement(s) for all caves that are recommended for protection but have yet to be acquired. The management agreement(s) will detail the area to be managed for cave protection, what such management will entail, and who is responsible for the management.

CANYON MOCK-ORANGE

Protect and manage the portions of the known populations found within the preserve boundaries, for the acreage acquired.

TEXABAMA CROTON

Protect and manage the populations at Pace Bend Park.