

EXHIBIT D

ATTACHMENT 1
Tier 1 and Tier 2 Compliance Summary
October 2016

Tier 1 Requirements – Section 2.3.1	Compliance/ Superiority
<p>A. meet the objectives of the City Code;</p> <p>B. provide for development standards that achieve equal or greater consistency with the goals in Section 1.1 (<i>General Intent</i>) than development under the regulations in the Land Development Code;</p>	<p>YES. The Project is located in the urban core and within an Urban watershed. The Project is located near Mopac Expressway and is located along the proposed Shoal Creek Urban Trail and an existing CapMetro bus route. The Project will promote the Imagine Austin priority of creating a “compact and connected” City increasing population density within the urban core. The Project is compatible with surrounding uses and zoning which is consistent with the general neighborhood preferences. Except as set forth in the Proposed Code Modifications Summary, the Project will comply with the current City Code requirements.</p> <p>YES. The Project will meet the goals of Section 1.1 as follows:</p> <ol style="list-style-type: none">1. <u>Preserve Natural Environment.</u> The Project will preserve all of the high quality heritage trees on the Property, and remove only a handful poor to fair condition “heritage” pecan trees. The Project will provide for greater open space than required by the City Code. The Project will provide green water quality controls and will provide water quality controls and drainage improvements for the entire site. The current state office development does not have any detention or flood control facilities.2. <u>High Quality Development and Innovative Design.</u> The Project will utilize mixed use and urban design principles that will allow clustering of uses in higher densities that promote urban

living, working and shopping on the site and encourage use of alternative transportation options. The Project will integrate pedestrian and bicycle connectivity throughout the Property. The Project will be designed to make use of scenic views from public spaces. Parking structures will be used in connection with office and apartment uses. Higher development intensity will be focused along Bull Creek Road and the interior of the Property and lower development intensity will be located near existing single family residences.

3. Adequate Public Facilities and Services. The Project will provide (i) a large on-site, publicly accessible signature park space with park improvements and amenities open to the public providing recreation and natural open space to the whole City; (ii) plazas and other open and community spaces with public amenities that will provide opportunities for people to gather and socialize; (iii) hike and bike trails along Bull Creek Road and Shoal Creek and improvements to enhance transit use so that area residents will have greater transportation options; (iv) roadway intersection improvements through the use of turn lanes and signalization funded 100% by the Applicant, (v) water system improvements that will improve water pressure (especially for fire flow purposes) to the area, (vi) a pedestrian and bicycle bridge across Shoal Creek.

YES. Even though the Project is an "urban property", the Project will exceed these requirements by providing at least 19.38 acres of open space as shown on the Parks Plan Exhibit. This *minimum* amount of open space for the purpose of determining compliance with Tier 1 and Tier 2 requirements is also shown on the Parks Plan Exhibit and is approximately 11 and 12 acres respectively. The Applicant actually intends that the Project will provide more open space than the minimum 19.38 acres. This open space, which the Applicant may sometimes also refer to as "Park Space",

C. provide a total amount of open space that equals or exceeds 10 percent of the residential tracts, 15 percent of the industrial tracts, and 20 percent of the nonresidential tracts within the PUD, except that:

1. a detention or filtration area is excluded from the calculation unless it is designed and maintained as an amenity; and

<p>2. the required percentage of open space may be reduced for urban property with characteristics that make open space infeasible if other community benefits are provided;</p>	<p>will be publicly accessible and offer excellent recreational and natural areas throughout the Project.</p>
<p>D. comply with the City's Planned Unit Development Green Building Program;</p>	<p>YES. The Project will comply with at least a 2-star Green Building requirement.</p>
<p>E. be consistent with applicable neighborhood plans, neighborhood conservation combining district regulations, historic area and landmark regulations, and compatible with adjacent property and land uses;</p>	<p>YES. There is no applicable neighborhood plan, NCCD or historic area or landmark regulations applicable to the site. However, as stated above, the largely residential Project will be compatible with area land uses and zoning districts and is consistent with the principles and priorities of Imagine Austin. In addition, the Applicant believes the Project is consistent with neighborhood preferences established in surveys conducted by the Applicant and with the Bull Creek Road Coalition's Design Principles.</p>
<p>F. provide for environmental preservation and protection relating to air quality, water quality, trees, buffer zones and greenbelt areas, critical environmental features, soils, waterways, topography, and the natural and traditional character of the land;</p>	<p>YES. The Project will preserve all of the higher quality heritage oak trees on the Property, and remove only a handful poor to fair condition "heritage" pecan trees. The project will preserve a minimum of 75% of Protected Size native tree inches on site. The Project will provide for greater open space than required by the City Code. The Project will provide green water quality controls and will provide water quality controls and drainage improvements for the entire site. The current state office development does not have any detention or flood control facilities. The Project will not propose any flood plain modifications. The Project will incorporate the natural features, topography and character of the land in its overall design.</p>
<p>G. provide for public facilities and services that are adequate to support the proposed development including school, fire protection, emergency service, and police facilities;</p>	<p>YES. As stated above, the Project will provide (i) a large on-site, publicly accessible signature park space with park improvements and amenities open to the public providing recreation and natural open space to the whole City; (ii) plazas and other open and</p>

<p>community spaces with public amenities that will provide opportunities for people to gather and socialize; (iii) hike and bike trails along Bull Creek Road and Shoal Creek and improvements to enhance transit use so that area residents will have greater transportation options; (iv) roadway intersection improvements through the use of turn lanes and signalization funded 100% by the Applicant, (v) water system improvements that will improve water pressure (especially for fire flow purposes) to the area, and (vi) a pedestrian and bicycle bridge across Shoal Creek. In addition, there are currently existing adequate school, fire protection, emergency service, and police facilities located in the area. Bryker Woods School for example is populated by approximately 20% - 30% of transfer students and, therefore, has sufficient capacity to meet the needs of the Project.</p>	<p>community spaces with public amenities that will provide opportunities for people to gather and socialize; (iii) hike and bike trails along Bull Creek Road and Shoal Creek and improvements to enhance transit use so that area residents will have greater transportation options; (iv) roadway intersection improvements through the use of turn lanes and signalization funded 100% by the Applicant, (v) water system improvements that will improve water pressure (especially for fire flow purposes) to the area, and (vi) a pedestrian and bicycle bridge across Shoal Creek. In addition, there are currently existing adequate school, fire protection, emergency service, and police facilities located in the area. Bryker Woods School for example is populated by approximately 20% - 30% of transfer students and, therefore, has sufficient capacity to meet the needs of the Project.</p>
<p>H. exceed the minimum landscaping requirements of the City Code;</p>	<p>YES. The Project will exceed the minimum Code requirements for landscaping. The Project will implement an Integrated Pest Management Plan, which shall apply to all sites and uses within the PUD. The project Design Guidelines require minimum 3" caliper street trees on all internal streets. Under conventional zoning, Tracts A, C, D, and E would be residential zoning districts and would not require street trees under Subchapter E. This area of additional street trees represents 34.24 acres or approximately 45% of the total project area. Additionally, street trees will be required along Bull Creek Road where they would not be required by Subchapter E. The Design Guidelines will additionally require that a minimum of 95% of all non-turf plant materials be from or consistent with the City's Grow Green Guide.</p>
<p>I. provide for appropriate transportation and mass transit connections to areas adjacent to the PUD district and mitigation of adverse cumulative transportation impacts with sidewalks, trails, and roadways;</p>	<p>YES. There is currently a CapMetro bus route located on Bull Creek Road adjacent to the Property that provide transit to major employment centers like the Seton Medical Center, the University of Texas and downtown. The Applicant is in discussions with CapMetro about how to provide enhancements to this transit stop</p>

<p>to facilitate increased ridership. In addition, the Project will provide greater pedestrian and bicycle trails and sidewalks along Bull Creek Road, within the Property and along Shoal Creek, including a pedestrian and bicycle bridge across Shoal Creek. A TIA has been performed and demonstrates that impacts on area intersections from the Project are properly mitigated with turn lane and signal improvements.</p>	<p>to facilitate increased ridership. In addition, the Project will provide greater pedestrian and bicycle trails and sidewalks along Bull Creek Road, within the Property and along Shoal Creek, including a pedestrian and bicycle bridge across Shoal Creek. A TIA has been performed and demonstrates that impacts on area intersections from the Project are properly mitigated with turn lane and signal improvements.</p>
<p>J. prohibit gated roadways;</p>	<p>YES. The Project will prohibit gated communities.</p>
<p>K. protect, enhance and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance; and</p>	<p>NOT APPLICABLE. There are no such areas within the Property. However, the Applicant is willing to memorialize the prior use of the site for the education of disabled African Americans in public spaces located within the Project.</p>
<p>L. include at least 10 acres of land, unless the property is characterized by special circumstances, including unique topographic constraints.</p>	<p>YES. The Property is approximately 75.74 acres.</p>
<p>Additional Requirements – Section 2.3.2</p>	<p>Compliance/ Superiority</p>
<p>A. comply with Chapter 25-2, Subchapter E (<i>Design Standards And Mixed Use</i>);</p>	<p>MODIFICATIONS REQUESTED. As permitted by Section 2.2 of PUD Code Provisions, the Applicant will be proposing modifications to the Subchapter E standards that will replace and supersede Subchapter E. The Project Design Guidelines meet the intent and purposes of Subchapter E, while making compliance simpler and easier to implement.</p>
<p>B. inside the urban roadway boundary depicted in Figure 2, Subchapter E, Chapter 25-2 (<i>Design Standards and Mixed Use</i>), comply with the sidewalk standards in Section 2.2.2., Subchapter E, Chapter 25-2 (<i>Core Transit Corridors: Sidewalks And Building Placement</i>); and</p>	<p>MODIFICATIONS REQUESTED. As permitted by Section 2.2 of PUD Code Provisions, the Applicant has proposed modifications to the Subchapter E sidewalk and building placement standards that will replace and supersede Subchapter E. The Project Design Guidelines meet the intent and purposes of Subchapter E, while making compliance simpler and easier to implement.</p>
<p>C. contain pedestrian-oriented uses as defined in Section 25-691(C) (<i>Waterfront Overlay District Uses</i>) on the first floor of a multi-story commercial or mixed use building.</p>	<p>YES. The Project will contain pedestrian-oriented uses on the first floor of multi-story commercial or mixed use buildings located along roadways with pedestrian walkways. The size of</p>

<p>the Project is such that some interior buildings that are not located on significant pedestrian walkways do not have such uses.</p>	
<p>Compliance/ Superriority</p>	
<p>Tier 2 Requirements – Section 2.4</p> <p>A. <u>Open Space</u> – Provides open space at least 10% above the requirements of Section 2.3.1.A. (<i>Minimum Requirements</i>). Alternatively, within the urban roadway boundary established in Figure 2 of Subchapter E of <u>Chapter 25-2</u> (<i>Design Standards and Mixed Use</i>), provide for proportional enhancements to existing or planned trails, parks, or other recreational common open space in consultation with the Director of the Parks and Recreation Department.</p>	<p>YES. The Project will provide at least 19.38 acres of open space as shown on the Park Plan Exhibit which is far above the requirement in Section 2.3.1.A. This <i>minimum</i> amount of open space for the purpose of determining compliance with Tier 1 and Tier 2 requirements is also shown on the Parks Plan Exhibit and is approximately 11 and 12 acres respectively. The Applicant actually intends that the Project will provide more open space than the minimum 19.38 acres. This open space will largely consist of dedicated parkland and will be publicly accessible and offer excellent recreational and natural areas throughout the Project.</p>
<p>B. <u>Environment/Drainage</u> –</p>	
<p>1. Complies with current code instead of asserting entitlement to follow older code provisions by application of law or agreement.</p>	<p>NOT APPLICABLE.</p>
<p>2. Provides water quality controls superior to those otherwise required by code.</p>	<p>YES. The project will meet current code requirements for water quality volume. The Project will provide water quality controls through the use of a wet pond and/or Green Water Quality Controls for a minimum of 50% of the required water quality volume on-site, which provide superior Total Suspended Solid and nutrient removal to more conventional controls and also offer wetland and habitat benefits that are particularly appropriate to the Project. Makeup water for the wet pond will be provided by air conditioner condensate from commercial buildings on site. Site plans for commercial buildings will be required to include plumbing connections to the makeup water system unless it has been demonstrated that prior connections (from other buildings on site) will provide sufficient makeup water for the pond. Potable</p>

	or well water may be used for makeup water only during buildout of the project.
3. Uses green water quality controls as described in the Environmental Criteria Manual to treat at least 50 percent of the water quality volume required by code.	YES AS MODIFIED. The project will provide that a minimum of 10 acres of impervious cover on the site will drain to and be treated by Green Water Quality Controls such as rain gardens, and rainwater capture systems. Biofiltration ponds shall not be counted toward this requirement.
4. Provides water quality treatment for currently untreated, developed off-site areas of at least 10 acres in size.	NOT APPLICABLE.
5. Reduces impervious cover by five percent below the maximum otherwise allowed by code or includes off-site measures that lower overall impervious cover within the same watershed by five percent below that allowed by code.	NOT APPLICABLE. The site is not currently zoned. While a baseline may be established by City Council, Council has been directed by City Staff that the baseline is solely for determining development bonuses and not for other zoning factors. As such, it would not be appropriate to apply the established baseline to determine environmental superiority.
6. Provides minimum 50-foot setback for at least 50 percent of all unclassified waterways with a drainage area of 32 acres.	NOT APPLICABLE.
7. Provides volumetric flood detention as described in the Drainage Criteria Manual.	NO.
8. Provides drainage upgrades to off-site drainage infrastructure that does not meet current criteria in the Drainage or Environmental Criteria Manuals, such as storm drains and culverts that provide a public benefit.	NOT APPLICABLE.
9. Proposes no modifications to the existing 100-year floodplain.	YES. The Project will not modify the existing 100-year flood plain.
10. Uses natural channel design techniques as described in the Drainage Criteria Manual.	NOT APPLICABLE.
11. Restores riparian vegetation in existing, degraded Critical Water Quality Zone areas.	NO. Existing riparian vegetation along the top of the bank is already in good condition and will be protected by a Riparian

	<p>Grow Zone. This Riparian Grow Zone will also serve as wetland mitigation.</p> <p>NOT APPLICABLE.</p> <p>YES AS MODIFIED. The Project will preserve more than 75% of all Protected Size native caliper inches. The Project will preserve all of the higher quality heritage oak trees on the Property, and remove only a handful of poor to fair condition "heritage" pecan trees. The heritage pecan trees to be removed are of a variety that is not native to the area and structurally poor and of lower quality. The Applicant has met with the City Arborist to discuss removal of these small number of trees and the preservation of all of the high-quality heritage oak trees. Additionally, the project will provide additional protection for the ¾ critical root zone for all protected and heritage trees within the Signature Grove, which includes all trees around the proposed pond and the highest quality oak trees throughout the Signature Park.</p> <p>NO. While the Project will utilize native and adapted trees from the Grow Green Guide, a commitment to 100% native seed stock is not feasible at this time.</p> <p>NO. While the project does propose a Riparian Grow Zone along the Critical Water Quality Zone boundary that would effectively increase the waterway buffer for Shoal Creek, it also proposes a reduction in the Wetland CEF buffer.</p> <p>YES. The Project will cluster development along Bull Creek Road and the interior of the Property and away from Shoal Creek and the large oak groves located on the Property where a large amount of open space will be provided instead.</p> <p>NO.</p>
12. Removes existing impervious cover from the Critical Water Quality Zone.	
13. Preserves all heritage trees; preserves 75% of the caliper inches associated with native protected size trees; and preserves 75% of all of the native caliper inches.	
14. Tree plantings use Central Texas seed stock native and with adequate soil volume.	
15. Provides at least a 50 percent increase in the minimum waterway and/or critical environmental feature setbacks required by code.	
16. Clusters impervious cover and disturbed areas in a manner that preserves the most environmentally sensitive areas of the site that are not otherwise protected.	
17. Provides porous pavement for at least 20 percent or more of all paved areas for non-pedestrian in non-aquifer recharge areas.	

<p>18. Provides porous pavement for at least 50 percent or more of all paved areas limited to pedestrian use.</p>	<p>NO.</p>
<p>19. Provides rainwater harvesting for landscape irrigation to serve not less than 50% of the landscaped areas.</p>	<p>NO. Due to the size of the proposed parks in particular, this option is not feasible for this Project.</p>
<p>20. Directs stormwater runoff from impervious surfaces to a landscaped area at least equal to the total required landscape area.</p>	<p>YES. The Project will direct stormwater runoff from impervious surfaces to a landscaped area at least equal to the total required landscape area.</p>
<p>21. Employs other creative or innovative measures to provide environmental protection.</p>	<p>YES. The Project will provide flood mitigation for the 9.39 acres of existing impervious cover on site that is not currently detained. The current state office development does not have any detention or flood control facilities, and current code does not require new development to detain for existing impervious cover. If the Project participates in the RSMP, the RSMP fee will be paid as if the current 9.39 acres of impervious cover does not exist.</p> <p>The City of Austin Watershed Protection Department will choose the most effective flood mitigation option for the site, which may include onsite detention in compliance with the Environmental Criteria Manual or RSMP participation, at the time of commercial site plan or residential subdivision application. The City of Austin selected flood mitigation option will be required to demonstrate no downstream adverse impact up to the confluence of Shoal Creek with Lady Bird Lake.</p> <p>Additionally, the Project will provide educational signage for the Wetland CEF.</p>
<p>C. <u>Austin Green Builder Program</u> – Provides a rating under the Austin Green Builder Program of three stars or above.</p>	<p>NO. While certain buildings and development within the Project may meet or exceed a 3-star rating, requiring such compliance for all such buildings and development is not feasible.</p>
<p>D. <u>Art</u> – Provides art approved by the Art in Public Places Program in open spaces, either by providing the art</p>	<p>YES AS MODIFIED. The Project will provide art in public places through development of a public art plan developed by the</p>

<p>directly or by making a contribution to the City's Art in Public Places Program or a successor program.</p>	<p>Applicant that will consist of a minimum of three (3) significant art pieces. The Applicant will consult with and consider the City's Art in Public Places (AIPP) program in implementing this program.</p>
<p>E. <u>Great Streets</u> – Complies with City's Great Streets Program, or a successor program. Applicable only to commercial, retail, or mixed-use development that is not subject to the requirements of <u>Chapter 25-2, Subchapter E (Design Standards and Mixed Use)</u>.</p>	<p>YES AS MODIFIED. The Project will provide private street cross sections that will meet the intent and purposes of the Great Streets Program through its Project Design Guidelines.</p>
<p>F. <u>Community Amenities</u> –</p> <ol style="list-style-type: none"> 1. Provides community or public amenities, which may include spaces for community meetings, community gardens or urban farms, day care facilities, non-profit organizations, or other uses that fulfill an identified community need. 2. Provides publicly accessible multi-use trail and greenway along creek or waterway. 	<p>YES. The Project will provide community and public amenities including spaces for community meetings, gatherings and other community needs, and publicly accessible multi-use trails and greenways along Shoal Creek. The project will also provide a pedestrian and bicycle bridge across Shoal Creek.</p>
<p>G. <u>Transportation</u> – Provides bicycle facilities that connect to existing or planned bicycle routes or provides other multi-modal transportation features not required by code.</p>	<p>YES. The Project will provide (i) bicycle trails and shared use paths throughout the project that will facilitate connection to existing and planned bike routes and trails, (ii) a pedestrian and bicycle bridge across Shoal Creek, (iii) a location for a B-cycle Station, (iv) at least 8 car-sharing parking spaces, (v) shower facilities in all office buildings over 10,000 SF, (vi) bike parking for a minimum of 10% of required vehicular spaces, (vii) bicycle cage parking in multifamily buildings, and (viii) improved bus stops developed in consultation with CapMetro and the neighborhood.</p>
<p>H. <u>Building Design</u> – Exceeds the minimum points required by the Building Design Options of Section 3.3.2. of <u>Chapter 25-2, Subchapter E (Design Standards and Mixed Use)</u>.</p>	<p>NO. While certain buildings and development within the Project may exceed such minimum points, requiring such compliance for all such buildings and development is not feasible. The intent and purpose of such building design will be met through the Project Design Guidelines.</p>

<p>I. <u>Parking Structure Frontage</u> – In a commercial or mixed-use development, at least 75 percent of the building frontage of all parking structures is designed for pedestrian-oriented uses as defined in <u>Section 25-2-691(C) (Waterfront Overlay District Uses)</u> in ground floor spaces.</p>	<p>NO. While certain buildings and development within the Project may meet such percentage, requiring such compliance for all such buildings and development is not feasible.</p>
<p>J. <u>Affordable Housing</u> – Provides for affordable housing or participation in programs to achieve affordable housing.</p>	<p>YES. The Applicant will provide a substantial on-site affordable housing component as more particularly set forth in the The Grove at Shoal Creek Affordable Housing Plan.</p>
<p>K. <u>Historic Preservation</u> – Preserves historic structures, landmarks, or other features to a degree exceeding applicable legal requirements.</p>	<p>NOT APPLICABLE. There are no such features within the Property. However, the Applicant is willing to memorialize the prior use of the site for the education of disabled African Americans in public spaces located within the Project.</p>
<p>L. <u>Accessibility</u> – Provides for accessibility for persons with disabilities to a degree exceeding applicable legal requirements.</p>	<p>YES. The Project will provide for accessibility for person with disabilities to a degree exceeding applicable legal requirements.</p>
<p>M. <u>Local Small Business</u> – Provides space at affordable rates to one or more independent retail or restaurant small businesses whose principal place of business is within the Austin metropolitan statistical area.</p>	<p>NO. While the Applicant fully intends to actively seek local small businesses for the Project and may use incentives to induce such local businesses, given the on-site affordable housing commitment, increased parks and open space commitments, and increased traffic mitigation commitments, requiring a specific criteria for affordable retail rates is not feasible.</p>