

**RESTRICTIVE COVENANT**

**OWNER:** Haviland Lake Partners, a Texas limited partnership

**ADDRESS:** 13809 Research Boulevard, Suite 1050, Austin, Texas 78759

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** A 43.125 acre tract of land, more or less, out of the Santiago Del Valle Grant Survey, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner (whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Provided that the Property is developed or otherwise used as a residential project in accordance with Ordinance No. \_\_\_\_\_ passed and approved by the City of Austin City Council in connection with Zoning Case No. C14-2010-0174, the Owner agrees to provide the following on the Property as described below:

- a) One access gate shall be installed to provide bicycle/pedestrian access to Old San Antonio Road from the Property located adjacent to Old San Antonio Road ("Bicycle/Pedestrian Access Gate").
- b) One sidewalk shall be installed adjacent to a private drive to be constructed on the Property to connect FM 1626 and Onion Creek Parkway ("Interconnect Sidewalk").
- c) The Bicycle/Pedestrian Access Gate shall be a maximum of six feet and a minimum of four feet wide, and the Interconnect Sidewalk shall be a maximum of five feet wide.
- d) Except as otherwise provided in Section 1 of this Agreement, the location, dimensions, and materials to be used for construction of the Bicycle/Pedestrian

Access Gate and the Interconnect Sidewalk shall be at the Owner's sole discretion.


- e) Construction of the Bicycle/Pedestrian Access Gate and the Interconnect Sidewalk must be completed and approved by the City of Austin before a final certificate of occupancy is issued for the last building in an approved site plan for the Property.
- 2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
- 3. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
- 4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
- 5. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 17<sup>th</sup> day of February, 2011.

**OWNER:**

Haviland Lake Partners, LP,  
a Texas limited partnership

By: Cetara, LLC,  
a Texas limited liability company,  
its general partner

By:   
Jeffrey N. Drinkard,  
Managing Member

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS

§  
§  
§

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the 17<sup>th</sup> day of February, 2011, by Jeffrey N. Drinkard, Managing Member of Cetara, LLC, a Texas limited liability company, general partner of Haviland Lake Partners, LP, a Texas limited partnership, on behalf of the company and the partnership.



Sharon Ann Clemons  
Notary Public, State of Texas

After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767-1088  
Attention: Diaua Minter, Paralegal

Exhibit A

Property Description

**FIELD NOTES  
ZONING FOR 43.125-ACRE TRACT**

ALL THAT CERTAIN PARCEL OR TRACT OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT SURVEY, CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; BEING ALL OF LOT 1C AND A PORTION OF LOT 1A, RESUBDIVISION OF LOT 1, BLOCK "B", DOUBLE CREEK VILLAGE BLOCK "B", AS RECORDED IN DOCUMENT NO. 200900155 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found at the intersection of the south right-of-way line of FM Highway 1626 and the cutback to the east right-of-way line of Old San Antonio Road, said iron rod found also being the most northerly northwest corner of the above described Lot 1C, for the most northerly northwest corner and POINT OF BEGINNING of the herein described tract;

THENCE, with the south right-of-way line of FM Highway 1626, the following two (2) courses:

- 1) Along a curve to the right an arc distance of 112.53 feet, having a radius of 1,869.86 feet and a chord which bears S64°20'33"E a distance of 112.52 feet to a 1" iron pipe found at a point of nontangency; and
- 2) S62°20'48"E, pass a ½" iron rod set with cap stamped TERRA FIRMA at the northeast corner of said Lot 1C at 439.94 feet, and continuing on for a total distance of 850.24 feet to a calculation point for the most northerly northeast corner of this tract;

THENCE S27°39'12"W a distance of 350.00 feet to a calculation point for an inside corner of this tract;

THENCE, three hundred and fifty feet (350) feet southerly of and parallel with the south right-of-way line of FM Highway 1626, the following two (2) courses:

- 1) S62°20'48"E a distance of 413.51 feet to a calculation point at an angle point; and

- 2) S60°20'32"E a distance of 53.58 feet to a calculation point for the most easterly northeast corner of this tract;

THENCE, three hundred and fifty (350) feet westerly of and parallel with the west right-of-way line of Interstate Highway 35, the following two (2) courses:

- 1) S17°33'24"W a distance of 193.40 feet to a calculation point at an angle point; and
- 2) S17°33'05"W a distance of 357.57 feet to a calculation point at an angle point;

THENCE S52°42'14"W a distance of 241.63 feet to a calculation point at an angle point;

THENCE, four hundred and forty (440) feet westerly of and parallel with the west right-of-way line of Interstate Highway 35, S17°30'58"W a distance of 175.34 feet to a calculation point on the centerline of a ninety (90)-foot non-exclusive access easement, as recorded in Document No. 2005182119 of the Official Public Records of Travis County, Texas, for the southeast corner of this tract;

THENCE, with the centerline of said ninety (90)-foot non-exclusive access easement, the following five (5) courses:

- 1) N72°29'28"W a distance of 519.87 feet to a calculation point at a point of curvature of a curve to the left;
- 2) Along said curve to the left an arc distance of 140.35 feet, having a radius of 750.00 feet and a chord which bears N77°51'42"W a distance of 140.15 feet to a calculation point at a point of tangency;
- 3) N83°13'23"W a distance of 181.19 feet to a calculation point at a point of nontangent curvature of a curve to the right;
- 4) Along said curve to the right an arc distance of 192.21 feet, having a radius of 750.00 feet and a chord which bears N75°56'40"W a distance of 191.68 feet to a calculation point at a point of nontangency; and
- 5) N68°32'31"W a distance of 57.35 feet to a calculation point for the most southerly southwest corner of this tract;

THENCE, with the east line of said Lot 1B of said Resubdivision of Lot 1, Block "B", Double Creek Village Block "B" and extension thereof, N21°27'29"E, pass a ½" iron rod set with cap stamped TERRA FIRMA at the southeast corner of said Lot 1B at 45.00 feet, and continuing on for a total distance of 470.00 feet to a ½" iron rod set with cap stamped TERRA FIRMA for an inside corner of this tract;

THENCE, with the north line of said Lot 1B, N68°32'31"W a distance of 437.40 feet to a ½" iron rod set with cap stamped TERRA FIRMA on the east right-of-way line of Old San Antonio Road at the northwest corner of said Lot 1B;

THENCE, with the east right-of-way line of Old San Antonio Road, the following two (2) courses:

- 1) N25°46'37"E a distance of 26.27 feet to a ½" iron rod set with cap stamped TERRA FIRMA at an angle point; and
- 2) N27°25'42"E a distance of 976.67 feet to a ½" iron rod set with cap stamped TERRA FIRMA at the intersection with the cutback line to the south right-of-way line of FM Highway 1626;

THENCE, with the cutback line to the south right-of-way line of FM Highway 1626, N70°33'26"E a distance of 139.15 feet to the POINT OF BEGINNING, and containing 43.125 acres (1,878,544 square feet) of land, more or less.

I HEREBY CERTIFY that these notes were prepared by Terra Firma Land Surveying from a survey made on the ground on February 19, 2009 and are true and correct to the best of my knowledge.

  
Craig C. Cregar  
Registered Professional Land Surveyor



10/21/10  
Date

Revised: October 21, 2010  
Revised: October 7, 2010  
Client: Steelwood Property Company  
Date: October 6, 2010  
WO No.: 0A537-007-00/552  
FB: 594  
File: J:\PROJECTS\...0A537-001-00.CRD

SCALE 1" = 300'

HORIZONTAL DATUM BASED ON THE TEXAS  
STATE PLANE COORDINATE SYSTEM. NAD  
83, TEXAS CENTRAL ZONE. COORDINATES  
AND DISTANCES ARE SURFACE VALUES.  
CONNECTED SCALE FACTOR IS

WHEAT ST  
1.003032727

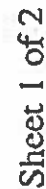
### LEGEND

- 3/2" IRON ROD FOUND  
(UNLESS NOTED)  
1" IRON PIPE FOUND  
CONCRETE MONUMENT FOUND  
1/2" IRON ROD SET W/CAP  
STAMPED "TERRA FERRA"  
CALCULATION POINT  
CONCRETE MONUMENT SET

Received : October 7, 2010  
 Accepted : October 7, 2010  
 Client : Shaw-Wold Property Company  
 Date : October 6, 2010  
 Officer : C. Greer, J. Mahan, M. Conroy  
 Job No : 04537-200-007452  
 Title : Private Access/Over Survey/As-Built

terra  
firma  
LAND SURVEYING

Year	Monetary Resources	Surplus after Audit	Surplus 20/04	9/2/77 25-01/73	1-00	9/7/74 25-12/74
1975	100.00	100.00	100.00	100.00	100.00	100.00
1976	100.00	100.00	100.00	100.00	100.00	100.00
1977	100.00	100.00	100.00	100.00	100.00	100.00
1978	100.00	100.00	100.00	100.00	100.00	100.00
1979	100.00	100.00	100.00	100.00	100.00	100.00
1980	100.00	100.00	100.00	100.00	100.00	100.00
1981	100.00	100.00	100.00	100.00	100.00	100.00
1982	100.00	100.00	100.00	100.00	100.00	100.00
1983	100.00	100.00	100.00	100.00	100.00	100.00
1984	100.00	100.00	100.00	100.00	100.00	100.00
1985	100.00	100.00	100.00	100.00	100.00	100.00
1986	100.00	100.00	100.00	100.00	100.00	100.00
1987	100.00	100.00	100.00	100.00	100.00	100.00
1988	100.00	100.00	100.00	100.00	100.00	100.00
1989	100.00	100.00	100.00	100.00	100.00	100.00
1990	100.00	100.00	100.00	100.00	100.00	100.00
1991	100.00	100.00	100.00	100.00	100.00	100.00
1992	100.00	100.00	100.00	100.00	100.00	100.00
1993	100.00	100.00	100.00	100.00	100.00	100.00
1994	100.00	100.00	100.00	100.00	100.00	100.00
1995	100.00	100.00	100.00	100.00	100.00	100.00
1996	100.00	100.00	100.00	100.00	100.00	100.00
1997	100.00	100.00	100.00	100.00	100.00	100.00
1998	100.00	100.00	100.00	100.00	100.00	100.00
1999	100.00	100.00	100.00	100.00	100.00	100.00
2000	100.00	100.00	100.00	100.00	100.00	100.00
2001	100.00	100.00	100.00	100.00	100.00	100.00
2002	100.00	100.00	100.00	100.00	100.00	100.00
2003	100.00	100.00	100.00	100.00	100.00	100.00
2004	100.00	100.00	100.00	100.00	100.00	100.00
2005	100.00	100.00	100.00	100.00	100.00	100.00
2006	100.00	100.00	100.00	100.00	100.00	100.00
2007	100.00	100.00	100.00	100.00	100.00	100.00
2008	100.00	100.00	100.00	100.00	100.00	100.00
2009	100.00	100.00	100.00	100.00	100.00	100.00
2010	100.00	100.00	100.00	100.00	100.00	100.00
2011	100.00	100.00	100.00	100.00	100.00	100.00
2012	100.00	100.00	100.00	100.00	100.00	100.00
2013	100.00	100.00	100.00	100.00	100.00	100.00
2014	100.00	100.00	100.00	100.00	100.00	100.00
2015	100.00	100.00	100.00	100.00	100.00	100.00
2016	100.00	100.00	100.00	100.00	100.00	100.00
2017	100.00	100.00	100.00	100.00	100.00	100.00
2018	100.00	100.00	100.00	100.00	100.00	100.00
2019	100.00	100.00	100.00	100.00	10	



[illegible]

IN:	BEARING	IN	TABLE	DE'ANCE
1	5 37 35.14	1		70.85
2	5 37 32.20	1		30.65
3	5 37 32.32	1		53.55
4	5 37 32.31	W		55.72

CURVE	20000	15000	10000	5000	REARVIEW
C1	1200.00	13.53	12.54	S 62°20'33"	
C2	1338.35	8.90	5.63	S 18°55'44"	
C3	700.00	13.53	131.74	S 17°35'45" W	
C4	795.00	20.74	203.18	N 25°36'40" W	
C5	400.00	347.63	350.09	N 49°22'15" E	
C6	350.00	274.74	267.86	N 49°28'05" E	
C7	750.00	140.35	140.15	N 7°52'42" W	
C8	785.00	152.71	151.88	N 7°52'40" W	

terra  
firma  
LAND SURVEYING

704 Milwaukee Ave., Suite 200, Chicago, IL 60642 Tel: 312/329-4433 Fax: 312/329-1238