RESTRICTIVE COVENANT

OWNER: Nathan P. Chelstrom and wife, Farrah D. Chelstrom

ADDRESS: 2700 Edgewater Drive, Austin, Travis County, Texas 78733

CONSIDERATION: Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid by the City of Austin, the receipt and sufficiency of which is hereby acknowledge and accepted by Owner.

PROPERTY: Tract 1, 0.387 acre tract of land out of Lot 14, C Bar Ranch, Lakeview Acres, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 5, Page 43, Plat Records of Travis County, Texas, being more particularly described by metes and bounds in Exhibit A, attached hereto; and

Tract 2, 0.062 acre tract of land out of the A. Richardson Survey No. 12 Abstract No. 120, in Travis County Texas, and being out of that certain tract described in a Road Vacation instrument recorded in Volume 3721, Page 678, Deed Records of Travis County, Texas; being more particularly described by metes and bounds in Exhibit B, attached hereto and collectively referred to as the "Property".

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions as conditions for the grant of an environmental variance by the Zoning & Platting Commission ("ZAP") of the City of Austin pursuant to City Code Section 25-8-452 (*Critical Water Quality Zone*) and for the approval by the Parks and Recreation Board ("Parks Board") for placement of fill in Lake Austin pursuant to City Code Section 25-8-652 (*Fills at Lake Austin, Town Lake, and Decker Lake*); and

WHEREAS, Owner requested approval of the Parks Board on July 15, 2010 to place fill in Lake Austin; and

WHEREAS, the Parks Board approved the Owner's request and recommended approval of site plan permit file no. SP-2010-0082D to the Planning and Development Review Department ("PDRD"), subject to the following conditions: (1) prohibition on boat dock construction; (2) construction of an Environmental Resource Management ("ERM") wave abatement strategy; (3) construction of a larger wetland bench at or near the water's edge; (4) tree mitigation provided on the lot, outside the area covered by the wetland bench; (5) designation of the wetland bench as a "no build" area to be continuously maintained by the owner; and (6) prohibition of irrigation below a specific contour line; and

WHEREAS, in addition to Parks Board approval required for placement of fill in Lake Austin by City Code Section 25-8-652, approval of an environmental variance by ZAP was also required for construction of a bulkhead and placement of fill in Critical Water Quality Zone (CWQZ) of Lake Austin under City Code Section 25-8-452; and

WHEREAS, the sovereign authority of the City of Austin with power to grant an

environmental variance is the Zoning & Platting Commission, subject to first receiving and considering the recommendation of the Environmental Board; and

WHEREAS, on September 1, 2010, the Environmental Board recommended to the Zoning & Platting Commission approval of a variance from City Code Section 25-8-452 to allow construction of a bulkhead with associated fill in the CWQZ of Lake Austin, subject to development in the site plan permit of (i) a wave abatement strategy; (ii) a larger wetland bench that is at or near the water's edge; (iii) tree mitigation on the lot, but outside of the wetland bench area; (iv) a covenant of perpetual maintenance by the owner of the wetland bench area; (v) a covenant by the Owner to perpetually maintain the wetland bench area as a "no build" area; (vi) the removal of the existing piers from the site which pose a navigation hazard; and (vii) a covenant to prohibit effluent irrigation of the 494 foot msl contour line in the wetland vegetation area; and

WHEREAS, the Parks Board's condition prohibiting the construction of a boat dock on the property was not supported or adopted in the recommendation of the Environment Board; and

WHEREAS, PDRD recommended against approval of the environmental variance to ZAP; and

WHEREAS, ZAP approved the environmental variance subject to the recommendations of the Environmental Board at its September 7, 2010 meeting; and

WHEREAS, the conditions of the environmental variance adopted by ZAP require a restrictive covenant which runs with the land and binds the present and future owners of the Property so long as development approved by site plan permit no. SP-2010-0082D is maintained on the Property;

WHEREAS, the Owner disputes the validity of the Parks Board's condition purporting to prohibit construction of a boat dock on the property;

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. 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. Any tree mitigation for trees removed from the Property required pursuant to an applicable City of Austin ordinance shall be satisfied by placement of new trees outside the wetland vegetation area as identified in site plan permit no. SP-2010-0082D, Sheet 2 of 2 attached hereto and incorporated herein by reference as Exhibit C.

2. No building or construction shall be permitted in the wetland vegetation area identified in Exhibit C, except for encroachment of an approved balcony for the permitted single-family home.

3. The wetland vegetation area identified in Exhibit C shall be perpetually maintained in accordance with the requirements of site plan permit no. SP-2010-0082D at the sole cost

and expense of Owner.

4. No effluent irrigation may be located within the wetland vegetation area described in Exhibit C or anywhere on the Property below the 494-foot msl contour line.

5. No boat dock may be constructed on the property.

6. If any person or entity shall violate or attempt to violate this Restrictive Covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person violating or attempting to violate this Restrictive Covenant.

7. If any part of this Restrictive Covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Restrictive Covenant, and such remaining portion of this Restrictive Covenant shall remain in effect.

8. If at any time the City of Austin fails to enforce this Restrictive Covenant, whether or not any violations of it are known, such failure of it shall not constitute a waiver or estoppel of the right to enforce it.

9. This Restrictive Covenant may be modified, amended or terminated only by joint action of both the Owner of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination and the director of the Planning & Development Review Department or its successor entity.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 31 day of May, 2011.

By: _____
NATHAN P. CHELSTROM, OWNER

By: _____
FARRAH D. CHELSTROM, OWNER

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

BEFORE ME, a Notary Public, on this day personally appeared NATHAN P. CHELSTROM, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this 31st day of May, 2011.

VANESSA RODRIGUEZ
Notary Public
STATE OF TEXAS
My Commission Expires 07-22-12

_____
Notary Public, in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §
§

BEFORE ME, a Notary Public, on this day personally appeared FARRAH D. CHELSTROM, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this 26th day of May, 2010.

CARLOS A SAMUDIO
NOTARY PUBLIC
State of Texas
Comm. Exp. 11-19-2014

Notary Public in and for the State of Texas

ACCEPTED: PLANNING AND
DEVELOPMENT REVIEW DEPARTMENT

CITY OF AUSTIN

By:
Name: Greg Guernsey
Title: Director, Planning and Development Review Department

APPROVED AS TO FORM:

By:
Name: Brent D. Lloyd
Assistant City Attorney

Steinman Luevano Structures, LLP

May 6, 2010

Mr. & Mrs. Nathan Clairborn
1000 Castle Rd. Unit B
Austin, TX 78703-2908

RE: Clairborn Residence
3700 Edgewater Dr.
Austin, Texas

Job #: 10062710

Dear Nathan & Fornie:

On Thursday, May 6, 2010, a representative of our office visited the above referenced site to observe the existing bulkhead to render an opinion as to the structural integrity of the wall and whether it appears to be constructed substantial enough to support the lands that are currently being backfilled.

Currently the wall appears to be performing well. It is our understanding that the wall is constructed on a concrete footing with an 8" vertical reinforced CMU wall. We did not observe any cracks in the wall such as a bulge or settlement. It appears that the wall will support the current lands and any future loads that may be placed at the future. Since the retaining wall construction is supported by piings and not by the grade behind the wall, we do not anticipate any additional soil pressure will be applied to the wall.

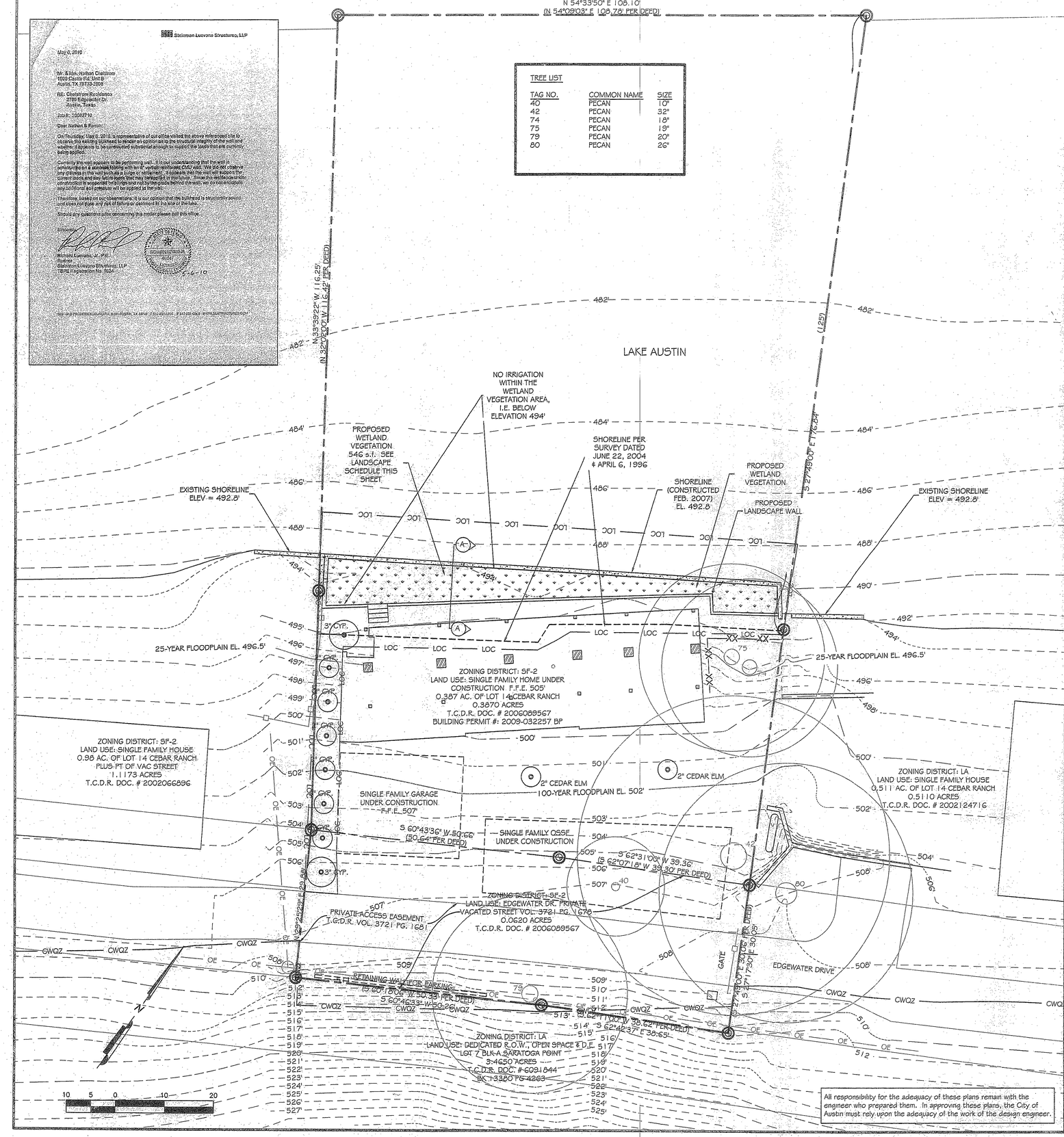
Therefore, based on our observations, it is our opinion that the bulkhead is structurally sound and does not pose any risk of failure or detriment to the site or the lake.

Should any questions arise concerning this matter please call this office.

Sincerely,

Richard Luevano, Jr., P.E.
President
Steinman Luevano Structures, LLP
TBPE Registration No. F-6024

STATE OF TEXAS
RICHARD LUEVANO, JR.
100016
LICENSED
PROFESSIONAL ENGINEER
5-6-10



TREE LIST		
TAG NO.	COMMON NAME	SIZE
40	PECAN	10"
42	PECAN	32"
74	PECAN	18"
75	PECAN	19"
79	PECAN	20"
80	PECAN	26"

All responsibility for the adequacy of these plans remain with the engineer who prepared them. In approving these plans, the City of Austin must rely upon the adequacy of the work of the design engineer.

LANDSCAPE SCHEDULE FOR WETLAND AREA PLAN

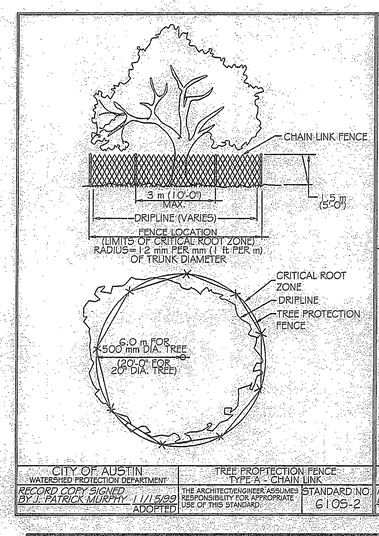
WETLAND AREA TO BE VEGETATED WITH 1 GAL. PLANTS ON 3-FOOT CENTERS. THE FOLLOWING PLANTS SHALL BE UTILIZED:

- IRIS (IRIS VIRGINICA, HEXAGONA OR FULVA)
- EASTERN GAMA GRASS (TRIPSACUM DACTYLOUDES)
- MUHLY BUNCH FRASS (MUHLENBERGIA SSP)
- HORSE TAIL (EQUISETUM SSP)

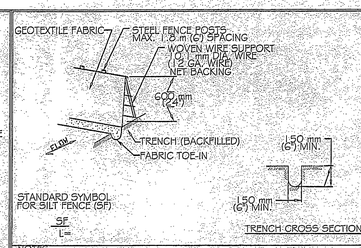
FILL AREA SHALL ALSO HAVE ONE 10-GAL. TREE PLANTED THEREIN, BALD CYPRESS OR EQUAL. TOTAL 1 GAL. PLANTS = 61

LEGEND

- - 905 - -	EXISTING GRADING CONTOUR
	PROPERTY LINE
—LOC—	LIMITS OF CONSTRUCTION
— S/LOC —	SILT FENCE & LOC
—OE—	OVERHEAD ELECTRIC
—XX—XX—	TREE FENCE PROTECTION
— CWQZ —	CRITICAL WATER QUALITY ZONE
	ZONING DISTRICTS
(125')	PER APRIL 6, 1996 SURVEY



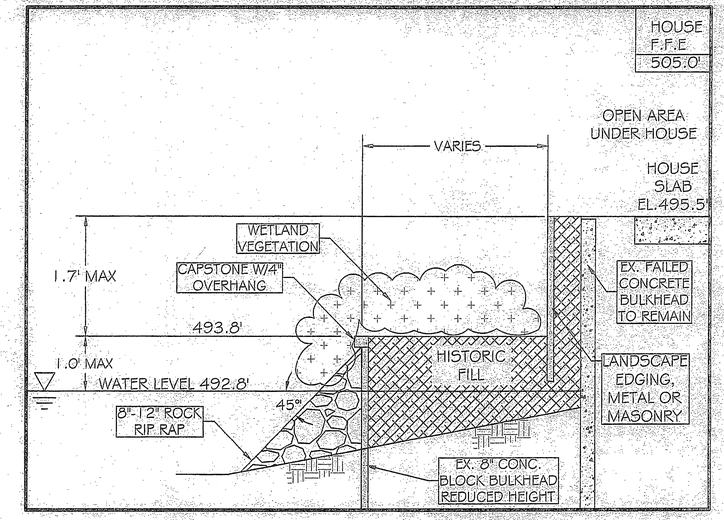
CITY OF AUSTIN WATERSHED PROTECTION DEPARTMENT	TREE PROPTECTION FENCE TYPE A - CHAIN LINK	
RECORD COPY SIGNED BY J. PATRICK MURPHY 1/11/599 ADOPTED	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.	STANDARD NO. 6105-2



NOTES:

1. STEEL POSTS WHICH SUPPORT THE SILT FENCE SHALL BE INSTALLED ON A SLIGHT ANGLE TOWARD THE ANTICIPATED RUNOFF SOURCE. POST MUST BE EMBEDDED A MINIMUM OF 300 mm (1').
2. THE TOP OF THE SILT FENCE SHALL BE TRENCHED IN WITH A SPADE OR MECHANICAL TRENCHER. THE TRENCH SHALL BE DOWNSLOPE FACE OF THE FENCE, IF FEASIBLE, AND PERPENDICULAR TO DIRECTION OF FLOW. WHERE FENCE CAN NOT BE TRENCHED IN DUE TO SURFACE PAVEMENT, THE FABRIC FLAP SHALL BE WEIGHTED DOWN WITH WASHED GRAVEL ON UPHILL SIDE TO PREVENT FLOW UNDER FENCE.
3. THE TRENCH MUST BE A MINIMUM OF 150 mm (6 inches) DEEP AND 150 mm (6 inches) WIDE TO ALLOW THE SILT FENCE FABRIC TO BE LAID IN THE GROUND AND BACKFILLED WITH COMPACTED MATERIAL.
4. SILT FENCE SHOULD BE SECURELY FASTENED TO EACH STEEL SUPPORT POST OR TO WOVEN WIRE, WHICH IS IN TURN ATTACHED TO THE STEEL FENCE POST.
5. INSPECTION SHALL BE MADE WEEKLY OR AFTER EACH RAINFALL EVENT AND REPAIR OR REPLACEMENT SHALL BE MADE PROMPTLY AS NEEDED.
6. SILT FENCE SHALL BE REMOVED WHEN THE SITE IS COMPLETELY STABILIZED SO AS NOT TO BLOCK OR IMPEDE STORM FLOW OR DRAINAGE.
7. ACCUMULATED SILT SHALL BE REMOVED WHEN IT REACHES A DEPTH OF 150 mm (6 inches). THE SILT SHALL BE DISPOSED OF ON AN APPROVED SITE AND IN SUCH A MANNER THAT WILL NOT CONTRIBUTE TO ADDITIONAL SILTATION.

CITY OF AUSTIN WATERSHED PROTECTION DEPARTMENT	SILT FENCE	
RECORD COPY SIGNED BY J. PATRICK MURPHY 5/23/00 ADOPTED	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD	STANDARD NO. 6425-1



Bulkhead Section A-A
NTS

NO.	DATE	REVISION	APP'VD

STATE OF TEXAS
BRUCE S. AUPPERLE
52027
LICENSED
PROFESSIONAL ENGINEER

AUPPERLE COMPANY
Engineering, Planning & Development Services
2219 Westlake Drive #110, Austin, Texas 78746 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1094

2700 EDGEWATER DRIVE

SITE PLAN

DESIGNED: DMM
APPROVED:
SCALE:
2700 EDGEWATER DRIVE
DATE: FEBRUARY 17, 2009
SHEET 2 of 2

2

2700 EDGEWATER DRIVE - SP-2010-0082D

SP-2010-0082D