

#98

Zoning Case No. C14-2011-0050

**RESTRICTIVE COVENANT**

OWNER: International Business Machines Corporation, a New York corporation

ADDRESS: 11400 Burnet Road, Austin, Texas 78758

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 13.673 acre tract of land, more or less, out of Lot 2, Block "A", IBM Subdivision East, the 13.673 acre tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner (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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR Engineering, Inc., dated August 22, 2011, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated September 12, 2011. The TIA shall be kept on file at the Planning and Development Review Department.
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 2<sup>nd</sup> day of DECEMBER, 2011.

**OWNER:**

International Business Machines Corporation,  
a New York corporation

By: Nick D'Anniballe  
Nick D'Anniballe,  
Director Real Estate Investments

APPROVED AS TO FORM:

Chad Shaw  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS<sup>87</sup> §  
WESTCHESTER<sup>87</sup>  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 2<sup>ND</sup> day of December, 2011, by Nick D'Anniballe, Director Real Estate Investments, of International Business Machines Corporation, a New York corporation, on behalf of said corporation.

Ann C. McEvilly  
Notary Public, State of Texas NY

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

**ANN C. McEVILY**  
Notary Public, State of New York  
# 02MC4929713  
Qualified in Westchester County  
Commission Expires 8/8/2014

13.673 ACRES  
ENDEAVOR REAL ESTATE GROUP  
ZONING TRACT

FN. NO. 11-324(MJJ)  
OCTOBER 3, 2011  
BPI JOB NO. R010123110005

#### DESCRIPTION

OF 13.673 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 2, BLOCK "A" IBM SUBDIVISION EAST, OF RECORD IN VOLUME 94, PAGE 88 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; SAID 13.673 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING**, at a 1/2 inch iron rod with cap set in the easterly right-of-way line of Burnet Road (F.M. 1325 - R.O.W. varies), being in the southerly line of Lot 1, Block "A" of said IBM Subdivision East and the northeasterly corner of that certain 0.295 acre Street Deed of record in Document No. 2001185633 of the Official Public Records of Travis County, Texas, being the northwesterly corner of said Lot 2, for the northwesterly corner hereof, from which a 1/2 inch iron rod found for the northwesterly corner of said 0.295 acre Street Deed of Record, being the southwesterly corner of said Lot 1 bears, N62°24'54"W, a distance of 10.23 feet;

**THENCE**, S62°24'54"E, leaving the easterly line of Burnet Road, along the common line of said Lot 1 and said Lot 2, for the northerly line hereof, a distance of 255.76 feet to the **POINT OF BEGINNING** and northeasterly corner hereof;

**THENCE**, S62°24'54"E, in part along the common line of said Lot 1, Block "A" IBM Subdivision East and said Lot 2 and in part over and across said Lot 2, for the northerly line hereof, a distance of 1134.68 feet to a point in the westerly line of that certain tract of land conveyed to the City of Austin of record in Volume 9837, Page 422 of the Real Property Records of Travis County, Texas, being the easterly line of said Lot 2, for the northeasterly corner hereof;

**THENCE**, S22°01'26"W, along the westerly line of said City of Austin tract, being the easterly line of said Lot 2, for the easterly line hereof, a distance of 402.70 feet to the southeasterly corner hereof;

**THENCE**, leaving the westerly line of said City of Austin tract, over and across said Lot 2, for the southerly line hereof, the following seven (7) courses and distances:

- 1) N81°18'52"W, a distance of 613.78 feet to the point of curvature of a curve to the left;
- 2) Along said curve to the left having a radius of 40.00 feet, a central angle of 67°56'07", an arc length of 47.43 feet and a chord which bears, N47°20'48"W, a distance of 44.70 feet to the end of said curve;
- 3) N81°18'52"W, a distance of 44.06 feet to the point of curvature of a curve to the right;

- 4) Along said curve to the right having a radius of 225.00 feet, a central angle of  $32^{\circ}47'55''$ , an arc length of 128.80 feet and a chord which bears,  $N64^{\circ}54'54''W$ , a distance of 127.05 feet to the end of said curve;
- 5)  $N48^{\circ}30'57''W$ , a distance of 140.22 feet to the point of curvature of a curve to the left;
- 6) Along said curve to the left having a radius of 225.00 feet, a central angle of  $24^{\circ}41'17''$ , an arc length of 96.95 feet and a chord which bears,  $N60^{\circ}49'37''W$ , a distance of 96.20 feet to the end of said curve;
- 7)  $N74^{\circ}27'15''W$ , a distance of 25.00 feet to the southwesterly corner hereof;

**THENCE**,  $N15^{\circ}24'07''E$ , continuing over and across said Lot 1, for the westerly line hereof, a distance of 589.96 feet to the **POINT OF BEGINNING**, containing an area of 13.673 acres (595,576 sq. ft.) of land, more or less, within these metes and bounds.

THE BASIS OF BEARINGS IS TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83(93).

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE ABOVE LAND DESCRIPTION WAS DETERMINED BY A SURVEY MADE ON THE GROUND BY ME OR UNDER MY DIRECTION AND SUPERVISION.

BURY & PARTNERS  
ENGINEERS-SURVEYORS  
221 W. SIXTH STREET , STE. 600  
AUSTIN, TEXAS 78701

*Mark J. Jezisek* 10/3/11  
MARK J. JEZISEK      DATE  
R.P.L.S. NO. 5267  
STATE OF TEXAS



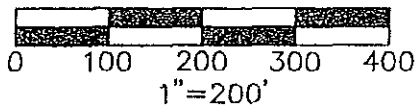
# LEGEND

P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

LOT 1, BLOCK "A"  
IBM SUBDIVISION EAST  
VOL. 94, PG. 88



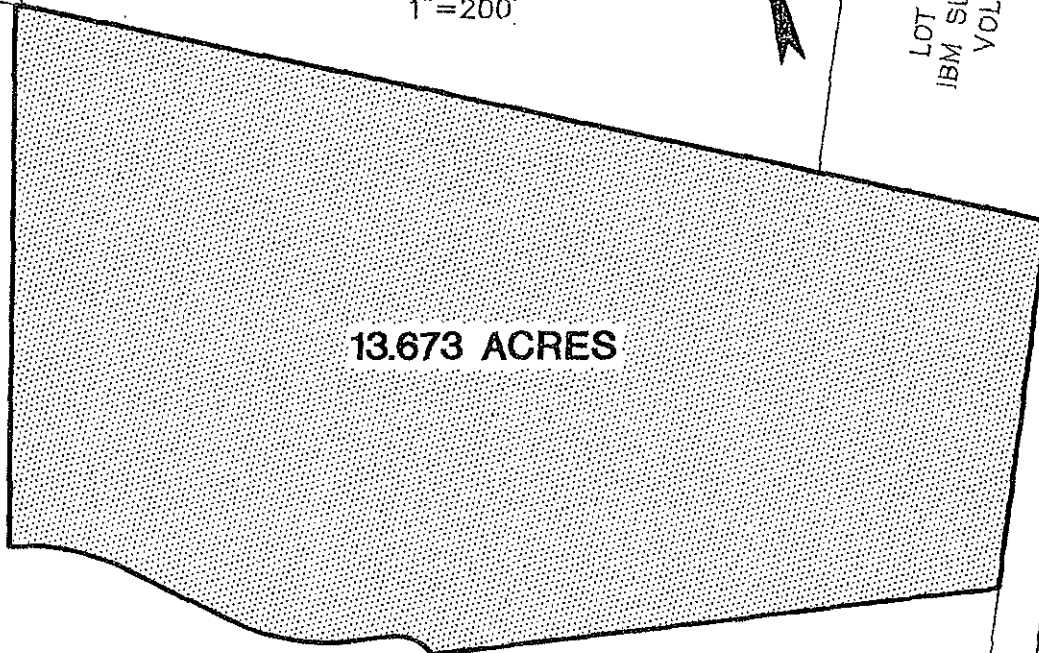
P.O.B.  
TRACT 2



P.O.C.  
TRACT 2

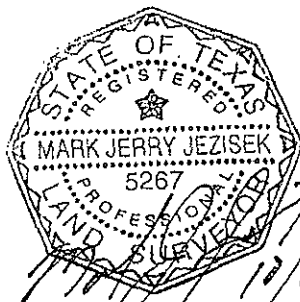
LOT 2, BLOCK "A"  
IBM SUBDIVISION EAST  
VOL. 94, PG. 88

BURNET ROAD (F.M. HIGHWAY 1325) (120' R.O.W.)



13.673 ACRES

LOT 2, BLOCK "A"  
IBM SUBDIVISION EAST  
VOL. 94, PG. 88



33.56 ACRES  
CITY OF AUSTIN  
VOL. 3050, PG. 2340

CITY OF AUSTIN  
VOL. 9837, PG. 422

LOT 1 BLOCK "A"  
HARDAGE SUBDIVISION  
DOC. NO. 199900271

**Bury+Partners**

ENGINEERING SOLUTIONS  
221 West Sixth Street, Suite 600  
Austin, Texas 78701  
Tel. (512)328-0011 Fax (512)328-0325  
Bury+Partners, Inc. ©Copyright 2011

## SKETCH TO ACCOMPANY DESCRIPTION

OF 13.673 ACRES OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 2, BLOCK "A" IBM SUBDIVISION EAST, A SUBDIVISION OF RECORD IN VOLUME 94, PAGE 88 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

**ENDEAVOR REAL ESTATE GROUP**

DATE: 10/03/11

FILE: H:\101231\005\101231005EX3.DWG

FN No.: 11-324(MJJ)

DRAWN BY: M.J.J.

PROJ. No: R010123110005

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