



**Zoning Case No. C14-05-0108**

**RESTRICTIVE COVENANT**

OWNER: SWD Partners, Ltd., a Texas limited partnership

ADDRESS: 1700 South Mopac Expressway, Austin, Texas 78746

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 1.833 acre tract of land, more or less, out of the James P. Davis Survey No. 14, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner 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. 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 general retail sales (convenience) use may not exceed 2500 square feet of gross floor area.
2. A general retail sales (convenience) use is limited to an accessory use to a medical offices use.
3. If any person or entity shall violate or attempt to violate this agreement and covenant, 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 or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this agreement or covenant 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.
5. 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.
6. 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 subject to the modification, amendment or termination at the time of such modification, amendment or termination.

1-12-04  
# 48

EXECUTED to be effective the 9<sup>th</sup> day of January, 2006.

**OWNER:**

SWD Partners, Ltd.,  
a Texas limited partnership

By: WSD Partners, L.L.C.,  
a Texas limited liability company,  
its General Partner

By:   
Mark A. Banta,

Title: Representative

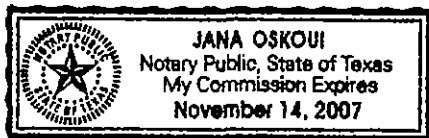
**APPROVED AS TO FORM:**


  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

This instrument was acknowledged before me on this the 9<sup>th</sup> day of January, 2006, by Mark A. Banta, as Representative of WSD Partners, L.L.C., a Texas limited liability company, General Partner, of SWD Partners, Ltd., a Texas limited partnership, on behalf of the company and limited partnership.



  
Notary Public, State of Texas

**Metes and Bounds Description**  
**1.833 Acres**  
**James P. Davis Survey No. 14**  
**Travis County, Texas**

*EXHIBIT A*

BEING a tract containing 1.833 acres of land situated in the James P. Davis Survey No. 14 in the City of Austin, Travis County, Texas and being the same tract as recorded under Volume 11017, Page 1, save and except a called 0.165 acre tract quitclaimed and recorded under Volume 11281, Page 576 of the Real Property Records of Travis County, Texas (R.P.R.T.C.T.). Said 1.833 acre tract being more particularly described by metes and bounds as follows with the basis of bearings being North 28°38'00" East along the southeasterly right-of-way line of Balcones Drive (80' wide) as recorded in Volume 11281, Page 576 of the R.P.R.T.C.T.:

**BEGINNING** at a 1/2-inch iron rod in concrete found marking the most westerly corner of the herein described tract and located in the southeasterly right-of-way line of said Balcones Drive, same being the most northerly corner of Lot 1 of Northland / Balcones Subdivision as recorded under Document No. 200000353 in the R.P.R.T.C.T.;

**THENCE**, North 28°38'00" East, a distance of 297.40 feet along the southeasterly right-of-way line of said Balcones Drive to a 1/2-inch iron rod found marking the most northerly corner the herein described tract, same being the most westerly corner of Lot 4 of Mopac – Balcones Addition, a duly recorded subdivision in Volume 92, Page 208 of the Travis County Plat Records (T.C.P.R.);

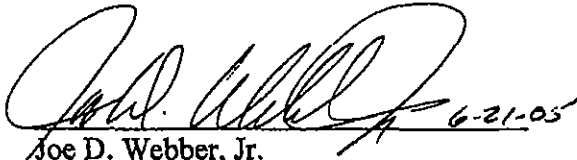
**THENCE**, South 61°19'05" East, a distance of 240.85 feet to a 1/2-inch iron rod found marking the most southerly corner of said Lot 4 and easterly corner of the herein described corner. Said point also being in the northwesterly right-of-way line of Mopac Expressway (right-of-way varies);

**THENCE**, South 28°08'28" West, a distance of 64.03 feet along said northwesterly right-of-way line of Mopac Expressway to a 1/2-inch iron rod with plastic cap stamped "SURVCON INC." set for an angle point;

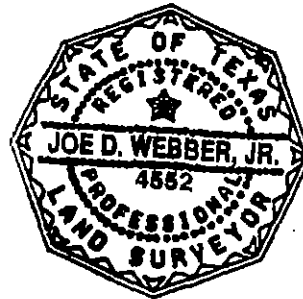
**THENCE**, South 18°26'39" West, a distance of 260.20 feet continuing along said northwesterly right-of-way line of Mopac Expressway to a 1/2-inch iron rod found for the most southerly corner of the herein described tract and marking the most easterly corner of Lot "A" of NCSS Subdivision No. 1, a duly recorded subdivision in Volume 76, Page 390 of the T.C.P.R.;

**THENCE**, North 56°38'50" West, a distance of 89.67 feet leaving said northwesterly right-of-way line of Mopac Expressway to a 1/2-inch iron rod found being an angle point of the herein described tract and marking the most northerly corner of said Lot "A", NCS Subdivision No. 1, same being the most easterly corner aforementioned Lot 1, Northland / Balcones Subdivision;

THENCE, North 56°52'34" West, a distance of 198.68 feet to the POINT OF BEGINNING, and containing a computed area of 1.833 acres (79,849 square feet) of land.

 6-21-05

Joe D. Webber, Jr.  
Registered Professional Land Surveyor  
Registration Number 4552



Prepared by:  
SURVCON INC.  
400 W. 15<sup>th</sup> Street  
Austin, TX 78701  
Job No. 630271-0001  
Surveyed: January 4, 2005

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

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

2006 Jan 13 02:27 PM 2006007270

CRIDERL \$32.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS