

RESTRICTIVE COVENANT

OWNER: Cottonwood Holdings, LTD., a Texas limited partnership

OWNER ADDRESS: c/o Dwyer Realty Companies
9900 US Highway 290 East
Manor, TX 78653

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 are acknowledged.

PROPERTY: An 87.708 acre tract, situated in the William H. Sanders Survey No. 54, Abstract No. 690, Travis County, Texas, being that 95.945 acre tract conveyed to Eastbourne Blue Bluff, LLC by deed recorded in Document No. 2007101568 of the Official Public Records of Travis County, Texas, SAVE AND EXCEPT that 7.921 acre tract conveyed to the State of Texas described in the Possession and Use Agreement for transportation purposes, recorded in Document No. 20051212508 of the said Official Public Records and SAVE AND EXCEPT that portion of the 0.350 acre tract conveyed to Travis County, Texas, by Right-of-Way deed recorded in Volume 2415, Page 375 of the Deed Records of Travis County, Texas, said 87.708 acres more particularly described by metes and bounds in **Exhibit "A"** incorporated into this covenant, (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;

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 Kimley-Horn Engineering, dated April 17, 2018. All development on the Property is subject to the Development Services Department, Transportation Review Section's staff memorandum ("Memorandum") dated May 7, 2018, and any

amendments to the memorandum that address subsequent TIA updates for the Property. The TIA and Memorandum shall be kept on file at the Development Services 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 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 _____ day of _____, 2018.

Owner:

Cottonwood Holdings, LTD., a Texas limited partnership

By: Cottonwood General Partner, L.C., a Texas limited liability company, its sole General Partner

By: _____
Peter A. Dwyer, President

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____ 2018, by Peter A. Dwyer, as President of Cottonwood General Partner, L.C., a Texas limited liability company, sole general partner of Cottonwood Holdings, LTD., a Texas limited partnership, on behalf of said partnership.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

RECEIVED DEC 07 2012

William H. Sanders Survey No. 54, Abst. No. 690
November 29, 2012
Job # 12533.10

STATE OF TEXAS

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COUNTY OF TRAVIS

FIELDNOTE DESCRIPTION, to accompany map of survey, of an 87.708 acre tract, situated in the William H. Sanders Survey No. 54, Abstract No. 690, Travis County, Texas, being that 95.945 acre tract conveyed to Eastbourne Blue Bluff, LLC by deed recorded in Document No. 2007101568 of the Official Public Records of Travis County, Texas, SAVE AND EXCEPT that 7.921 acre tract conveyed to the State of Texas, described in the Possession and Use Agreement for Transportation Purposes, recorded in Document No. 2005121508 of the said Official Public Records and SAVE AND EXCEPT that portion of the 0.350 acre tract conveyed to Travis County, Texas, by Right-of-Way deed for Lindell Lane, recorded in Volume 2415, Page 375 of the Deed Records of Travis County, Texas, said 87.708 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod pipe found for the northwest corner of the above said 95.645 acre tract, being an interior corner of that 132.1950 acre tract conveyed to Heart of Manor, L.P. by deed recorded in Document No. 2007037703 of the said Official Public Records and the northwest corner of Lot 1, Blue Bluff Subdivision, a subdivision recorded in Book 87, Page 107C of the Plat Records of Travis County, Texas;

THENCE, S61°19'55"E, along the common line between the said 95.645 acre tract and the 132.1950 acre tract, being the northeast line of said Lot 1, for a distance of 1037.72 feet to a ½" iron rod found for an angle point;

TEHNCE, S61°03'10"E, continuing along the above said common line, for a distance of 138.11 feet to a calculated point on the southeast right-of-way line of State Highway 130 (SH 130), for the most westerly corner of the above said 7.921 acre tract, from which a TxDOT Type III monument found (Aluminum Disc in Concrete), bears S66°39'21"E, 0.62 feet and also from which a ½" iron rod found with aluminum cap stamped "LST", bears N29°44'31"W, 12.20 feet;

THENCE, S36°53'22"E, leaving the above said common line and crossing through the 95.645 acre tract, with the southwest line of the said 7.921 acre tract, for a distance of 1082.47 feet to a TxDOT Type III monument found for the point of curvature of a non-tangent curve to the left and most easterly corner of the herein described tract;

TIENCE, continuing across the said 95.645 acre tract, along a westerly line of the 7.921 acre tract, with the said non-tangent curve to the left having a central angle of 02°46'08", a radius of 7557.44 feet, a chord distance of 365.117 feet (chord bears S47°05'15"W), at an arc distance of 78.49 feet pass the a calculated point on the southwest line of aforesaid Lot 1, for a total arc distance of 365.21 feet to a ½" iron rod, with plastic cap marked "Capital Surveying Company, Inc.", set for the point of non-tangency;

Exhibit A

THENCE, S45°43'29"W, continuing across the said 95.645 acre tract, with the westerly line of the 7.921 acre tract, for a distance of 323.97 feet to a TxDOT Type III monument found for the most southerly southwest corner of the said 7.921 acre tract;

THENCE, S43°38'45"E, continuing across the said 95.645 acre tract, with the southerly line of the 7.921 acre tract, for a distance of 83.72 feet to a TxDOT Type III monument found for the most southerly corner of the aforesaid 7.921 acre tract, being a point on the southeast line of the 95.645 acre tract and the northwest right-of-way line of existing Blue Bluff Road;

THENCE, S45°56'34"W, leaving the southerly line of the said 7.921 acre tract, with the common southeast line of the 95.645 acre tract and northwest right-of-way line of Blue Bluff Road, for a distance of 948.37 feet to a 1/2" iron rod found, for the most southerly corner of the aforesaid 95.645 acre tract, being on the apparent northerly line of the said 0.350 acre tract;

THENCE, N61°55'45"W, leaving the northwest right-of-way line of Blue Bluff Road, with the common southwest line of the said 95.645 acre tract and northeast line of the 0.350 acre tract, at a distance of 707.90 feet pass a 60d nail found in a fence post for an angle point on the aforesaid southwest line of the 95.645 acre tract, from which a 1/2" iron rod found, bears N65°05'54"W, 1.97 feet, and continuing with the continuing with the northerly line of the said 0.350 acre tract, across the said 95.645 acre tract, for a total for a distance 752.32 feet to a 1/2" iron rod, with plastic cap marked "Capital Surveying Company, Inc.", set for an angle point;

THENCE, continuing across the said 95.645 acre tract, with the northeast line of the 0.350 acre tract, for the following two (2) courses:

- 1) N62°57'39"W, for a distance of 807.18 feet to a 1/2" iron rod found for an angle point;
- 2) N63°50'12"W, for a distance of 131.52 feet to a 1/2" iron rod found, for the most westerly corner of the aforesaid 95.645 acre tract, the northwest corner of the 0.350 acre tract and a southeast corner of the said 132.1950 acre tract, from which a 1/2" iron rod found for the southwest corner of the 0.350 acre tract bears S 29° 37' 52"W, 2.79 feet;

THENCE, leaving the northeast line of the aforesaid 0.350 acre tract, with the common northwest line of the 95.645 acre tract and southeast line of the 132.1950 acre tract, with the following three (3) courses:

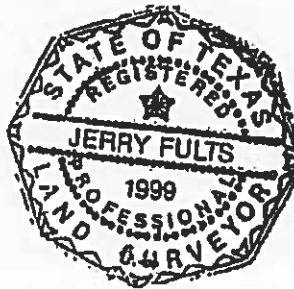
- 1) N27°06'32"E, for a distance of 1040.11 feet to a 1/2" iron rod found, for an angle point;
- 2) N27°02'15"E, for a distance of 522.29 feet to a 1/2" iron rod found, for the most westerly corner of aforesaid Lot 1;

- 3) N26°56'50"E, for a distance of 510.75 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds 87.708 acres of land area.

The bearing basis for this description is the Texas State Plane Coordinate System, Central Zone, NAD 83 Datum, derived from GPS Survey occupations.

That I, Jerry Fults, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein is based on a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 29th day of November, 2012.



Jerry Fults
JERRY FULTS
Registered Professional Land Surveyor
No. 1999 - State of Texas

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