

Zoning Case No. C14-2018-0124

RESTRICTIVE COVENANT

OWNER: Milky Way Holdings GP, LLC, a Texas limited liability company

OWNER ADDRESS: 9111 Jollyville Road, Suite 111
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 are acknowledged.

PROPERTY: 32.429 acres of land (approximately 1,412,611 sq. ft.) in the R.L. Preece Survey No. 2, Abstract No. 2269, Travis County, Texas, said 32.429 acres 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 ("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. Development on the Property is subject to the recommendations contained in the Neighborhood Traffic Analysis ("NTA") memorandum from the Land Use Review-Transportation Section of the Development Services Department (the "Department"), dated March 13, 2019. The NTA memorandum shall be kept on file at the Department.
2. Exterior walls of dwelling units on the Property shall be constructed with one of the following materials:
 - A. Materials approved by the Fire Marshal for not less than 1-hour fire resistance-rated construction on the exterior side.
 - B. Non-combustible materials approved by the Fire Marshal.
 - C. Ignition-resistant or factory treated materials on the exterior side of a building or structure on the Property.

3. Wildfire fuels in the area up to 30' from any structure on the Property:
 - A. Trees must maintain a minimum of 18 feet between crowns and be pruned to a height of 10' from the ground or 1/3 the height of the tree crown, whichever is less.
 - B. Lawns, native grasses and other vegetation should be limited in height.
4. Wildfire fuels in the area up to 100' from any structure on the Property:
 - A. Trees must maintain a minimum 12 feet between crowns (or 30' between the crown of a group of trees) and be pruned to a height of 10' from the ground or 1/3 the height of the tree crown, whichever is less.
 - B. Lawns, native grasses, and other vegetation should be limited in height.
5. A water supply source available for use on the Property shall meet the requirements of the 2015 IFC with amendments as adopted by the City of Austin.
6. 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.
7. 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.
8. 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.
10. 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 _____, 2019.

Owner:

Milky Way Holdings GP, LLC, a Texas limited liability company

By: Milestone Community Builders, LLC, a Texas limited liability company, its manager

By: _____
Garrett S. Martin, President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____ 2019, by Garrett S. Martin, as President of Milestone Community Builders, LLC, a Texas limited liability company, manager of Milky Way Holdings, GP, LLC, a Texas limited liability company, on behalf of said company.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin



32.429 ACRES
R.L. PREECE SURVEY NO. 2
TRAVIS COUNTY, TEXAS

A DESCRIPTION OF 32.429 ACRES (APPROXIMATELY 1,412,611 SQ. FT.) IN THE R.L. PREECE SURVEY NO. 2, ABSTRACT NO. 2269, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 79.9 ACRE TRACT CONVEYED TO BERTA BRADLEY BY EXECUTOR'S DEED DATED DECEMBER 31, 1990 AND RECORDED IN VOLUME 11345, PAGE 325, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS (RPRTCT); FURTHER BEING A PORTION OF THAT 40 ACRE TRACT DESCRIBED IN A DEED OF RECORD IN VOLUME 5094, PAGE 2176, DEED RECORDS, TRAVIS COUNTY, TEXAS (DRTCT), AND A PORTION OF A 119.32 ACRE TRACT DESCRIBED IN A DEED TO LANDRUM HICKMAN OF RECORD IN VOLUME 1869, PAGE 319, DRTCT; SAID 32.429 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING for reference at a cotton spindle found for the south corner of said 119.32 acre tract, being the called south corner of said 40 acre tract, same being the south corner of said 79.9 acre tract, also being in the west line of a 467.5 acre tract described in a deed to City of Austin Nature Conservancy, recorded in Volume 11848, Page 1718, RPRTCT, and also being an angle point in the east line of a 91.585 acre tract, described in a deed to RP Preserve, Ltd. in Document No. 1999062334, of the Official Public Records of Travis County, Texas, from which a Mag nail in rock found bears North 25°57'17" East, a distance of 2.60 feet,

THENCE with the common line of said 119.32 acre tract, the 40 acre tract, the 79.9 acre tract, and the 91.585 acre tract, the following two (2) courses and distances:

1. North 04 58'46" West, at a distance of 1337.94 feet passing 0.13 feet right of a 1/2" rebar found for the called southeast corner of Lot 13, Block B, The Preserve at River Place Section 2, a subdivision of record in Document No. 200000178, OPRTCT, and continuing with the common line of the 119.32 acre tract, the 40 acre tract, the 79.9 acre tract and said Lot 13, for a total distance of 1662.93 feet to a calculated southerly west corner and **POINT OF BEGINNING** herein; and
2. North 04 58' 46" West, at a distance of 211.54 feet passing 0.11 feet left of a 1/2" rebar with "TJ Dodd 1882" cap found for the called northeast corner of Lot 13, same being the southeast corner of Milky Way Drive (50' right-of-way width), and continuing with the common line of the 119.32 acre tract, the 40 acre tract, the 79.9 acre tract and the east terminus of Milky Way Drive, at a distance of 268.35 feet passing 0.11 feet left of a 1/2" rebar found for the called northeast corner of Milky Way Drive, same being the southeast corner of Lot 12, Block B, The Preserve at River Place Section 2, and continuing with the common line of the 119.32 acre

tract, the 40 acre tract, the 79.9 acre tract and said Lot 12, for a total distance of 480.00 feet to a calculated point, from which a concrete monument found for an angle point in the common west line of the 119.32 acre tract, the 79.9 acre tract, and the 40 acre tract, for a corner of Lot 3, Block A, Austin Christian Fellowship Phase Two Subdivision, a subdivision of record in Document No. 200700102, OPRTCT, same being in the south line of a 3.75 acre tract described in a deed to Eugene Marcus Banes, III and Emily Puckett Barnes, recorded in Volume 3909, Page 1174, DRTCT, bears North 04°58'46" West, a distance of 526.94 feet;

THENCE crossing the 119.32 acre tract, the 40 acre tract, and the 79.9 acre tract, the following four (4) courses and distances:

1. North 85°01'14" East, a distance of 50.00 feet to a calculated point;
2. North 04°58'46" West, a distance of 497.80 feet to a calculated point;
3. North 55°29'35" East, a distance of 15.70 feet to a calculated point; and
4. North 20°03'33" West, a distance of 181.74 feet to a calculated point in north line of the 40 acre tract, same being the south line of a 40 acre tract described in Volume 2475, Page 123, DRTCT; and from which point the calculated northwest corner of said 40 acre tract described in Volume 5094, Page 2176, DRTCT, for the southwest corner of said 40 acre tract described in Volume 2475, Page 123, DRTCT, bears North 61° 46' 22" West, 75.14 feet;

THENCE South 61°46'22" East, continuing across the 79.9 acre tract and the 119.32 acre tract, with the north line of the 40 acre tract described in Volume 5094, Page 2176, DRTCT, being the south line of the 40 acre tract described in Volume 2475, Page 123, DRTCT, passing a concrete monument found at a distance of 1522.07 feet and continuing, for a total distance of 1522.80 feet to a calculated point in the east line of the 79.9 acre tract, being the east line of the 119.32 acre tract, for the northeast corner of the 40 acre tract described in Volume 5094, Page 2176, DRTCT, same being the southeast corner of the 40 acre tract described in Volume 2475, Page 123, DRTCT, also being in the west line of said 467.5 acre tract, from which a 1/2" rebar with "Chaparral" cap set for the northeast corner of the 79.9 acre tract, being the northeast corner of the 40 acre tract described in Volume 2475, Page 123, DRTCT, same being a corner of said Lot 3, also being an angle point in the west line of the 467.5 acre tract, bears North 27° 59' 03" East, 923.50 feet;

THENCE South 27°59'03" West, with the common line of the 79.9 acre tract, the 119.32 acre tract, the 40 acre tract described in Volume 5094, Page 2176, DRTCT, and the west line of the 467.5 acre tract, at a distance of 1087.06 feet passing 0.40 feet right of a 1/2" iron pipe found, and continuing for a total distance of 1888.43 feet to the calculated south corner herein; and from which point, said cotton spindle found for the south corner of said bears South 27° 59' 03" West, at a distance of 340.55 feet passing 1.32 feet left of a 1/2" iron pipe found and continuing for a total distance of 483.37 feet;

THENCE leaving the west line of said 467.5 acre tract and again crossing said 79.9 acre tract, the 119.32 acre tract, and the 40 acre tract described in Volume 5094, Page 2176, DRTCT, the following two (2) courses and distances:

1. North 04°58'46" West, a distance of 1257.38 feet to a calculated point; and
2. South 85°01'14" West, a distance of 263.00 feet to the **POINT OF BEGINNING** and containing 32.429 acres of land.

Surveyed on the ground on April 28, 2015. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone (4203), US Survey Feet, based on GPS solutions from The National Geodetic Survey (NGS) on-line positioning user service (OPUS) for Chaparral control point "P765". Attachments: Survey Drawing No. 759-011-ZO3.



07 August
2019

Date

Bryan D. Newsome
Registered Professional Land Surveyor
State of Texas No. 5657
TBPLS Firm No. 10124500

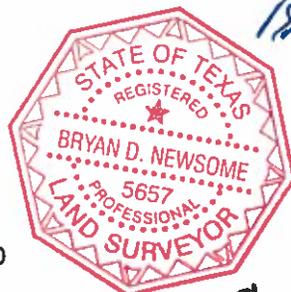


SKETCH TO ACCOMPANY A DESCRIPTION OF 34.508 ACRES
 (APPROXIMATELY 1,503,176 SQ. FT.) IN THE R.L. PREECE SURVEY NO. 2, ABSTRACT NO. 2269, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 79.9 ACRE TRACT CONVEYED TO BERTA BRADLEY BY EXECUTOR'S DEED DATED DECEMBER 31, 1990 AND RECORDED IN VOLUME 11345, PAGE 325, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS (RPRTCT); FURTHER BEING A PORTION OF THAT 40 ACRE TRACT DESCRIBED IN A DEED OF RECORD IN VOLUME 5094, PAGE 2176, DEED RECORDS, TRAVIS COUNTY, TEXAS (DRTCT), AND A PORTION OF A 119.32 ACRE TRACT DESCRIBED IN A DEED TO LANDRUM HICKMAN OF RECORD IN VOLUME 1869, PAGE 319, DRTCT.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N04°58'46"W	1662.93'
L2	N04°58'46"W	480.00'
L3	N04°58'46"W	526.94'
L4	N85°01'14"E	50.00'
L5	N04°58'46"W	464.64'
L6	N55°29'35"E	15.70'
L7	N20°03'33"W	181.74'
L8	N61°46'22"W	75.14'
L9	S61°46'22"E	1522.80'
L10	S27°59'03"W	1888.43'
L11	N04°58'46"W	1257.38'
L12	S85°01'14"W	263.00'

LEGEND	
● ^{CH}	1/2" REBAR WITH "CHAPARRAL" CAP FOUND
●	1/2" REBAR FOUND (OR AS NOTED)
■	CONCRETE MONUMENT FOUND
▲	60D NAIL FOUND (OR AS NOTED)
⊙	1/2" IRON PIPE FOUND
*	COTTON SPINDLE FOUND
△	CALCULATED POINT
()	RECORD INFORMATION

DATE OF SURVEY: 4/28/15
 PLOT DATE: 8/07/19
 DRAWING NO.: 759-011-203
 PROJECT NO.: 759-011
 T.B.P.L.S. FIRM NO. 10124500
 DRAWN BY: BDN
 SHEET 1 OF 5



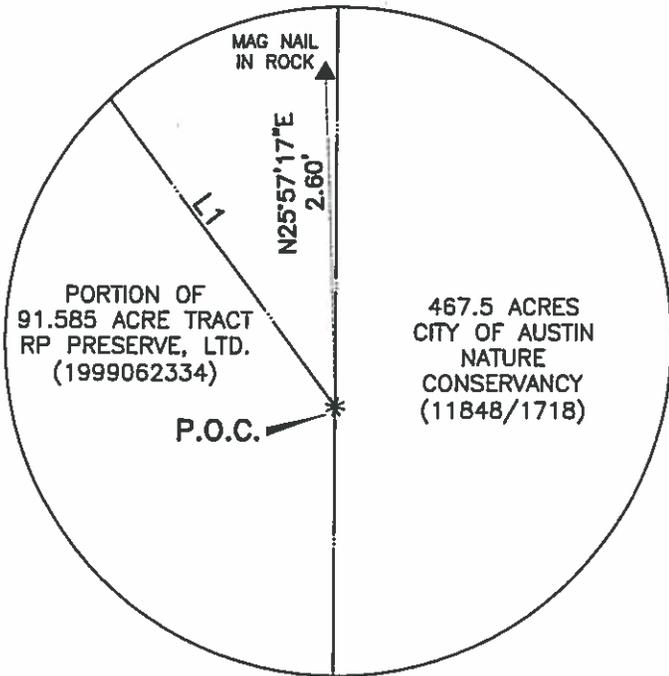
Bryan Newsome
 07 August
 2019

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS)

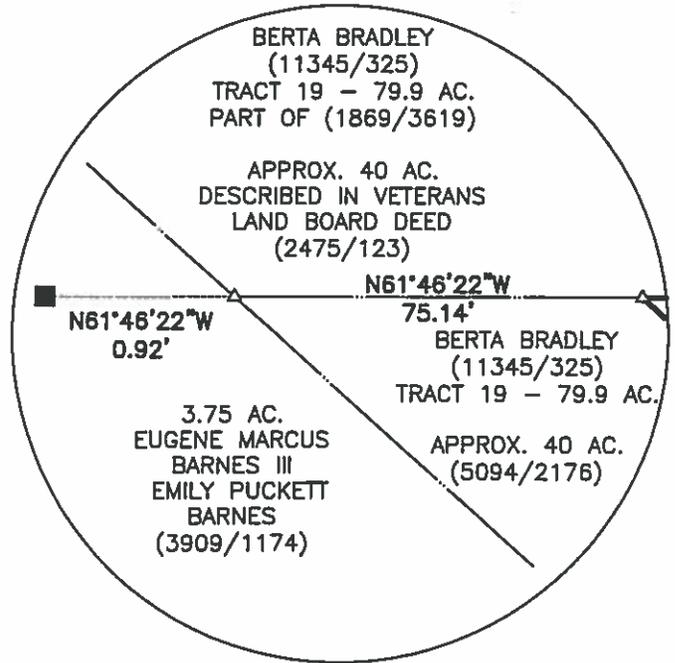
ATTACHMENTS: METES AND BOUNDS DESCRIPTION 759-011-203

Chaparral

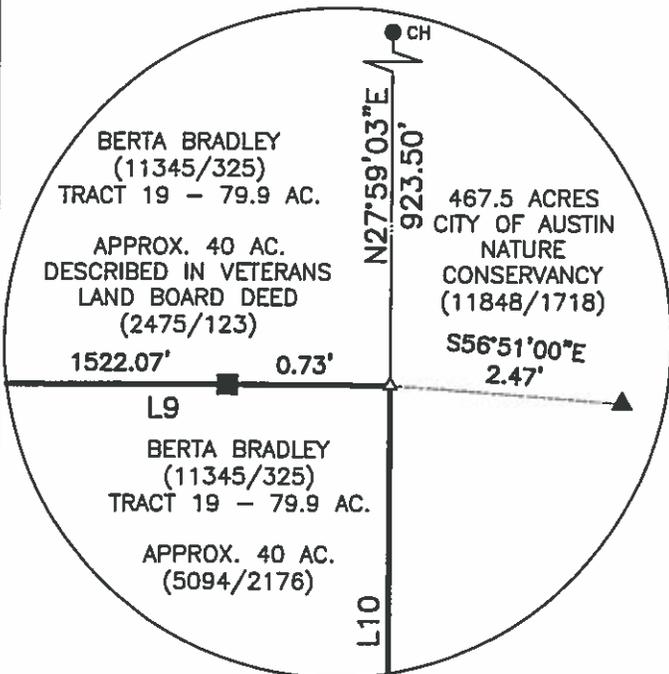
DETAIL "A"
NOT TO SCALE



DETAIL "B"
NOT TO SCALE



DETAIL "C"
NOT TO SCALE



PAGE 5
PAGE 3

BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
(5094/2176)

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

34.508 ACRES
APPROX. 1,503,176 SQ. FT.

L10

0.40' S27°59'03"W 237'
(S29°25'W 2245.70')

467.5 ACRES
CITY OF AUSTIN
NATURE
CONSERVANCY
(11848/1718)

917.16'

340.55'

1.32'

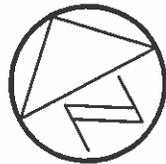
142.82'

P.O.C.

SEE
DETAIL
"A"

SOUTH CORNER OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)
CALLED SOUTH CORNER OF 40 AC.
(5094/2176)

PORTION OF
91.585 ACRE TRACT
RP PRESERVE, LTD.
(1999062334)



1" = 200'

LOT 13
BLOCK B
THE PRESERVE
AT RIVER PLACE
SECTION 2
(200000178)

211.54'
(536.47')

P.O.B.

0.13'

L11

L11

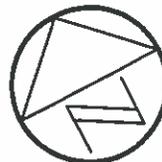
L1

1337.94'

R.L. PREECE
SURVEY NO. 2

BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
DESCRIBED IN VETERANS
LAND BOARD DEED
(2475/123)



1" = 200'

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

LOT 3
BLOCK A
AUSTIN CHRISTIAN
FELLOWSHIP
PHASE TWO SUBDIVISION
(200700102)

SEE
DETAIL
"B"

3.75 AC.
EUGENE MARCUS
BARNES, III
EMILY PUCKETT
BARNES (3909/1174)

BOUNDARY LINE AND
ACCESS AGREEMENT
(13189/248)

LOT 3
BLOCK A
AUSTIN CHRISTIAN
FELLOWSHIP PHASE
TWO SUBDIVISION
(200700102)

BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
(5094/2176)

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

34.508 ACRES
APPROX. 1,503,176 SQ. FT.

LOT 10 LOT 11 LOT 12
BLOCK B

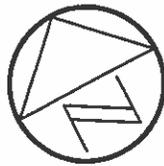
THE PRESERVE AT RIVER
PLACE SECTION 2
(200000178)

MILKY WAY DRIVE
(50' R.O.W. WIDTH)

56.81'
0.11'
L2
L3
211.54' (536.47')

L12
P.O.B.

L11



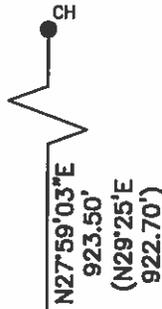
1" = 200'

BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
DESCRIBED IN VETERANS
LAND BOARD DEED
(2475/123)

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

SEE DETAIL "C"



PAGE 4
PAGE 5

L9

BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
(5094/2176)

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

34.508 ACRES
APPROX. 1,503,176 SQ. FT.

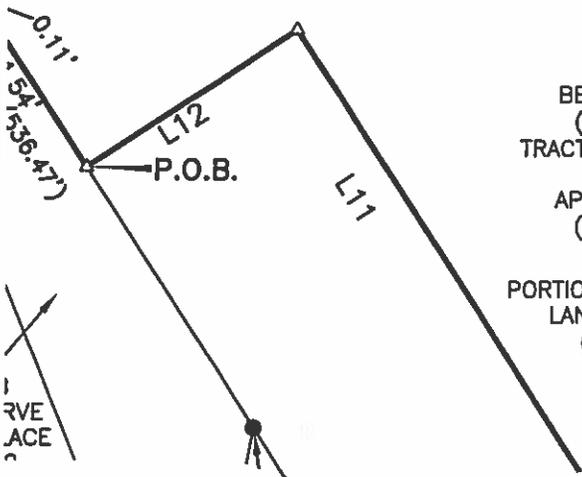
467.5 ACRES
CITY OF AUSTIN
NATURE
CONSERVANCY
(11848/1718)

1087.06'

L10



PAGE 5
PAGE 3



BERTA BRADLEY
(11345/325)
TRACT 19 - 79.9 AC.

APPROX. 40 AC.
(5094/2176)

PORTION OF 119.32 AC.
LANDRUM HICKMAN
(1869/319)

1
RVE
ACE
2

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