

**RESTRICTIVE COVENANT**

**OWNER:** Marbella Development L.P., a Texas limited partnership

**ADDRESS:** 4501 Grand Cypress Drive, Austin, Texas 78747

**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 9.939 acre tract of land, more or less, out of the Santiago Del Valle Grant, Abstract No. 24, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, 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. 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. At least 40 percent of the residential units constructed by the owner on the Property shall be available to a family whose earnings do not exceed 60 percent of median family income.
2. 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.
3. 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.
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 subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 15<sup>th</sup> day of August, 2005.

**OWNER:**

**Marbella Development, L.P.,  
a Texas limited partnership**

By: **Marbella Management LLC,**  
a Texas limited liability company  
it General Partner

By:

**Mitchell Davis Kalogridis,  
President**

**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 15<sup>th</sup> day of August, 2005, by Mitchell Davis Kalogrides, President of Marbella Management LLC, General Partner on behalf of Marbella Development, L.P., a Texas limited partnership.

Notary Public, State of Texas

**After Recording, Please Return to:**  
**City of Austin**  
**Department of Law**  
**P. O. Box 1088**  
**Austin, Texas 78767-8828**  
**Attention: Diana Minter, Legal Assistant**



**FIELD NOTES**  
**EXHIBIT A**

Being 9.939 acres out of the Santiago Del Valle Grant, Abstract No. 24, in Travis County, Texas, a portion of that tract described in a deed to Fredco, Inc., recorded in Volume 5569, Page 850, Deed Records, Travis County, Texas, as shown on accompanying survey plat and being more particularly described as follows:

**BEGINNING** at a 1/4" iron pin found in the southeast line of Frontier Valley Drive (60' R.O.W.), at the most westerly corner of Frontier Valley, a subdivision of record in Volume 66, Page 12, Plat Records, Travis County, Texas, for the most northerly corner of this tract.

**THENCE**, with the southeast line of Frontier Valley Drive and the northwest line of this tract, S 45°33'00" W, said course being the bearing base for this survey, 1133.81', to a 1/4" iron pin found at the most northerly corner of Frontier Valley Section 3, a subdivision of record in Volume 76, Page 182, Plat Records, Travis County, Texas, for the most westerly corner of this tract.

**THENCE**, with the northeast line of said subdivision and the southwest line of this tract, S 44°23'07" E, 383.43', to a 1/4" iron pin found in the northwest line of a tract called 99.12 acres in a deed to T. C. Steiner, et al, recorded in Volume 12896, Page 527, Real Property Records, Travis County, Texas, at the most easterly corner of said subdivision, for the most southerly corner of this tract, from said point, a 3/8" iron pin found bears, S 45°23'00" W, 373.48'.

**THENCE**, with the northwest line of said Steiner tract and the southeast line of this tract, N 45°23'00" E, 1134.36', to a 3/8" iron pin found at the most southerly corner of said Frontier Valley subdivision, for the most easterly corner of this tract.

**THENCE**, with the southwest line of said Frontier Valley subdivision and the northeast line of this tract, N 44°27'58" W, 380.13', to the **PLACE OF BEGINNING** and containing 9.939 acres of land, more or less.

Prepared from a survey made on the ground March 13, 2002, by:  
Arpentours Professional Surveying  
8906 Wall Street, Suite 302  
Austin, Texas 78754  
(512) 832-1232



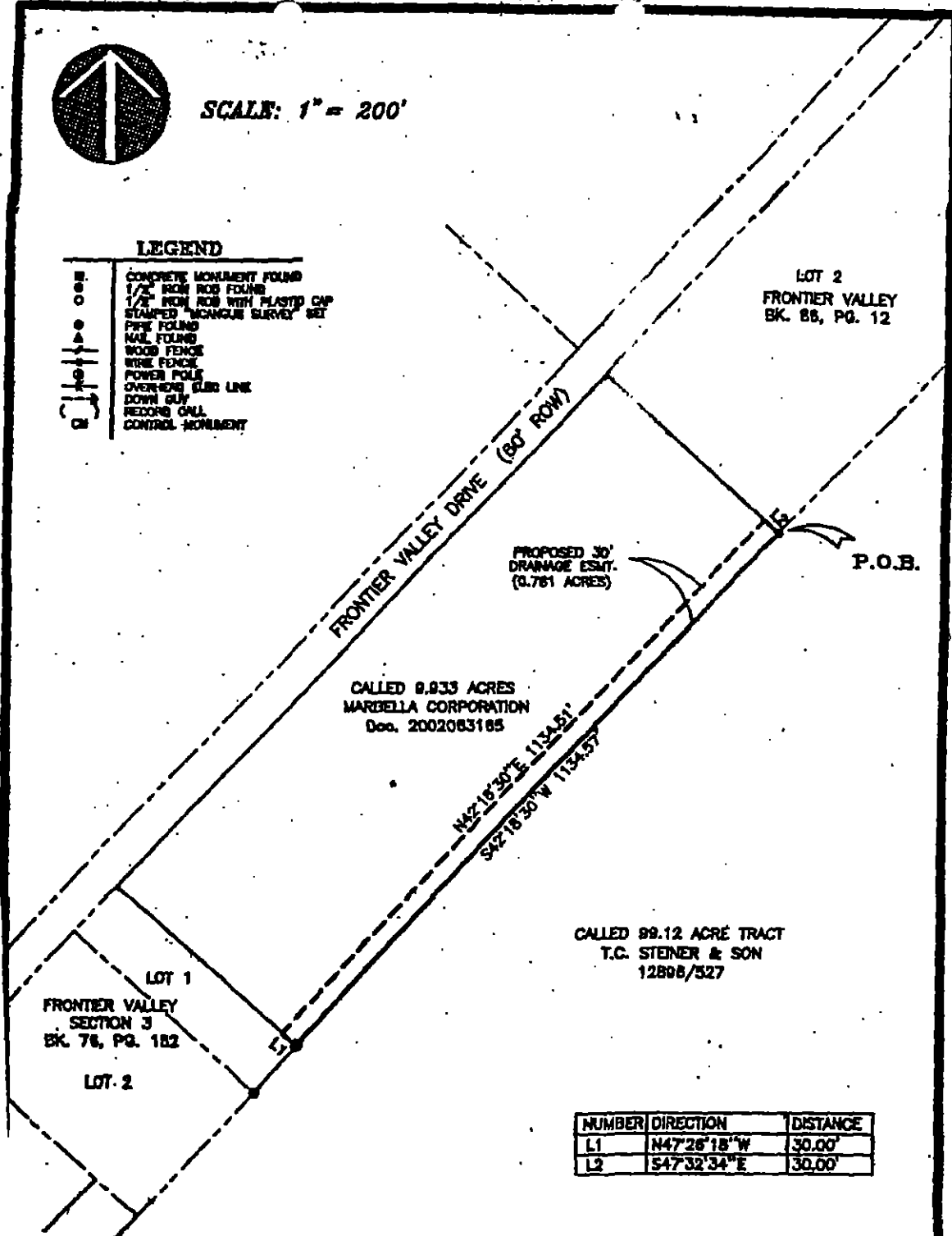
*Robert M. Barcomb*  
Robert M. Barcomb  
R.P.L.S. No 4772



SCALE: 1" = 200'

### LEGEND

CONCRETE MONUMENT FOUND
1/2" IRON ROD FOUND
1/2" IRON ROD WITH PLASTIC CAP
STAMPED "MCANGUS SURVEY SET"
PIPE FOUND
NAIL FOUND
WOOD FENCE
WIRE FENCE
POWER POLE
OVERHEAD CABLE LINE
DOWN GUY
RECORD CALL
CONTROL MONUMENT

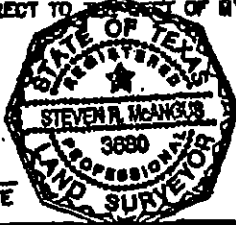


NUMBER	DIRECTION	DISTANCE
L1	N47°28'18\"W	30.00'
L2	S47°32'34\"E	30.00'

I HEREBY CERTIFY THAT THIS MAP OR PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE GROUND UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Steven R. McAngus*  
STEVEN R. McANGUS, R.P.L.S. No. 3680

DATE



**McAngus Surveying**

"SKETCH TO ACCOMPANY EXHIBIT 'A'"

LEGAL DESCRIPTION PROPOSED 30' DRAINAGE EASEMENT  
OUT OF A CALLED 8.933 ACRE TRACT (Doc. 2002063165) IN  
THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24,  
IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

JOB NO. 00-147 FIELD BOOK

1101 HWY. 360 SOUTH, H-100  
AUSTIN, TEXAS 78748  
(512) 328-9308