

**Zoning Case No. C14-04-0059****RESTRICTIVE COVENANT**

OWNER: C.M. Gatton, Trustee of the Carol Martin Gatton Trust

ADDRESS: 1000 West State Street, Bristol, Tennessee 37620

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 14.674 acre tract of land, more or less, out of the S.F. Slaughter Survey No. 1 and 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 to and 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 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 WHM Transportation Engineering Consultants, Inc., dated December, 2004, or as amended and approved by the Director of the Watershed Protection 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 Watershed Protection and Development Review Department, dated February 9, 2005. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. The minimum square footage for a restaurant (limited) use and restaurant (general) use on a stand-alone pad site is 300 square feet.
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.

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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.

EXECUTED this the 7 day of MARCH, 2005.

OWNER:

C.M. Gatton,
Trustee of the Carol Martin Gatton Trust

By: C. M. Gatton
C.M. Gatton, Trustee

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
City of Austin

THE STATE OF TENNESSEE §

COUNTY OF SULLIVAN §

This instrument was acknowledged before me on this the 7 day of MARCH, 2005 by C.M. Gatton, Trustee of the Carol Martin Gatton Trust.

[Signature]
Notary Public Signature

Name of Notary: FRANK WINSTON

My Commission Expires: 4-3-2005



**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**14.674 ACRES
EDWIN TABB HARRELL**

A DESCRIPTION OF A 14.674 ACRE (639,216 S.F.) TRACT OF LAND OUT OF THE S.F. SLAUGHTER SURVEY NO. 1, AND THE SANTIAGO DEL VALLE GRANT ABSTRACT NO. 24, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 285.4 ACRE TRACT OF LAND AS CONVEYED TO EDWIN TABB HARRELL BY QUITCLAIM DEED DATED FEBRUARY 13, 1998, AND RECORDED IN VOLUME 13125, PAGE 503 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 14.674 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the east line of the 285.4 acre Harrell tract, being also in the west line of Interstate Highway 35 (IH35) (right-of-way width varies) and being the southeast corner of the herein described tract, from which a 1/2" rebar found bears South 12°57'42" West, a distance of 647.36 feet;

THENCE leaving the west line of Interstate Highway 35, over and across the 285.4 acre Harrell tract, the following two (2) courses:

1. North 65°06'06" West, a distance of 1000.00 feet to a 1/2" rebar with cap set for the southwest corner of the herein described tract;
2. North 12°57'42" East, a distance of 653.00 feet to a 1/2" rebar with cap set in the north line of the 285.4 acre Harrell tract, being also in the south line of a 22.91 acre tract recorded in Volume 12125, Page 101, of the Real Property Records of Travis County, Texas, from which a 1/2" rebar found bears North 65°12'08" West, a distance of 560.11 feet;

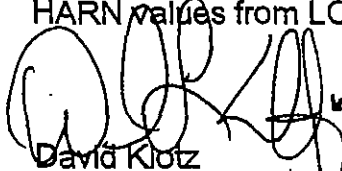
THENCE South 65°12'08" East, with the north line of the 285.4 acre Harrell tract, and the south line of the 22.91 acre tract, a distance of 383.45 feet, to a 1/2" rebar found in the north line of the 285.4 acre Harrell tract, being also the southeast corner of the 22.91 acre tract, and the southwest corner of a 5.59 acre tract recorded in Volume 12702, Page 1549, of the Real Property Records of Travis County, Texas;

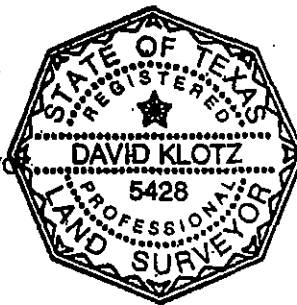
THENCE South 65°02'21" East, along the north line of the 285.4 acre Harrell tract, and the south line of the 5.59 acre tract, a distance of 616.55 feet to a 1/2" rebar with cap set for the northeast corner of the 285.4 acre Harrell tract, being also the southeast corner of the 5.59 acre tract and in the west line of Interstate Highway 35 (IH35), from which a PK nail found in the center of a Texas Department of Transportation (TxDOT) type I concrete monument (destroyed) bears North 12°57'42" East, 334.20 feet, and South 77°02'21" East, 0.75 feet;

THENCE South $12^{\circ}57'42''$ West, along the east line of the 285.4 acre Harrell tract, and the west line of Interstate Highway 35 (IH35), a distance of 300.34 feet to a 1/2" rebar found at TxDOT Station 1300+00, from which a 1/2" rebar found in the east right-of-way line of IH35 bears South $77^{\circ}03'12''$ East, a distance of 299.86 feet;

THENCE continuing South $12^{\circ}57'42''$ West, along the east line of the 285.4 acre Harrell tract, and the west line of Interstate Highway 35 (IH35), a distance of 352.66 feet to the **POINT OF BEGINNING**, containing 14.674 acres of land, more or less.

Prepared from a survey made on the ground February, 2004. Attachments: Survey Drawing 040-028-BD1. Bearing basis: Grid azimuth for Texas central zone, 1983/93. HARN values from LCRA control network

 03/23/04
David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428



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

2005 Mar 22 01:52 PM 2005048746

BENAVIDESV \$22.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS