

Late Backup

FIRST AMENDED RESTRICTIVE COVENANT FOR ZONING CASE NO. C14-85-288.8RCA

Owner: Lantana Tract 32, LP, a Delaware limited partnership

Address: 50 North Water Street, South Norwalk, CT 06854

City: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

City Council: The City Council of the City of Austin

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, Lantana Tract 32, L.P., as owner of all that certain property described in Zoning File No. C14-85-288.8RCA, consisting of approximately 46.7 acres of land as more particularly described as follows:

46.70 acres tract of land, more or less, out of the Thomas Anderson Survey, No. 17, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this restricted covenant amendment (the "Original Property"), and;

the restrictive covenant, recorded in the Real Property Records of Travis County, Texas, in Volume 09889, Page 0108, (the "Restrictive Covenant") imposed certain restrictions and covenants on the Original Property by the Restrictive Covenant of record.

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council, and (b) the Owner of the Original Property at the time of such modification, amendment or termination.

WHEREAS, Lantana Tract 32, LP is the current owner (the "Owner") of the Original Property on the date of this Amendment of Restrictive Covenant ("Amendment") and desires to amend the Restrictive Covenant as to the Original Property.

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended.

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City of Austin and the Owner agree as follows:

1. A site plan or building permit for the Original Property may not be approved, released, or issued, if the completed development or uses of the Original Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Original Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR Engineering, Inc., dated July 29, 2013, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Original Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated August 21, 2013. The TIA shall be kept on file at the Planning and Development Review Department.
2. Prior to the issuance of the first certificate of occupancy on the Original Property, a sidewalk, meeting City standards shall be built on the Original Property adjacent to Vega Avenue. The site development regulations shall not include the sidewalk in the impervious cover calculations.
3. Development of the Original Property shall comply with the tree protection and preservation ordinances, including the Heritage Tree ordinance that is in the code as of the date of this restricted covenant amendment.
4. Development of the Original Property shall comply with the with the Commercial Landscape ordinance that is in the code as of the date of this restricted covenant amendment.
5. Paragraph No. 1 of the Restricted Covenant is deleted.
6. Paragraph No. 2 of the Restricted Covenant is deleted. This section has been moved to the ordinance for zoning case no. C14-2013-0044.
7. The Original Property is part of the Lantana project and is subject to a letter agreement between the Owner and the City of Austin, dated July 10, 2001, see Exhibit "B" ("Letter Agreement"), attached and incorporated herein. The Owner and the City of Austin agree to amend the following sections of the Letter Agreement:

Owner agrees to waive and not enforce its rights under Section 1.a, b, c, d.4), f, g, h, i, j and Sections 3, 4, and 5 of the Letter Agreement, except that Owner may enforce any right to irrigate or re-irrigate as part of a Save Our Springs (SOS) compliant storm water treatment system in the 40 percent natural area. Owner agrees to comply, unless otherwise noted, with current City of Austin Code with respect to the waived sections.
8. Water quality controls, not including limits on impervious cover, shall be designed in compliance with City Code Section 25-8-213 (*Water Quality Control Standards*), Subsection D, and 25-8-514 (*Pollution Prevention Required*), Subsection (A). The City will not approve a site development application for this tract unless compliance with this condition is confirmed.

9. Except as generally described on Exhibit "C", all other areas are subject to a maximum of 8 foot of cut and fill.
10. Development of the Property may not exceed a gross impervious coverage of 25 percent.
11. Owner will provide the property necessary to create a multipurpose public hike and bike trail connecting Rialto Boulevard and Vega Avenue on the Original Property. The width and location of the trail shall be determined prior to the issuance of a site development permit on the Project.
12. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
13. The City Manager, or his designee, shall execute on behalf of the City, this Amendment as authorized by the City Council of the City of Austin. The Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED to be effective the _____ day of _____, 2013.

OWNER:

Lantana Tract 32, LP, a Delaware limited partnership

By: **Green/Lion GP TWO, LLC**, a Delaware limited liability company
Its General Partner

By: _____
Michael D. Crockett
Senior Vice President

CITY OF AUSTIN:

By: _____
SUE EDWARDS,
Assistant City Manager,
City of Austin

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 _____ day of _____, 2013, by Barry P. Marcus, an Assistant Vice President of GREEN/LION GP TWO, LLC, a Delaware limited liability company, general partner of Lantana Tract 32, a Delaware limited partnership.

Notary Public, State of Texas

THE STATE OF TEXAS

§

COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the _____ day of _____, 2010, by Sue Edwards, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

MAY 17, 2012 JOB NO. 1358-01 FIELD NOTE NO. 1358-01
CLIENT: STRATUS PROPERTIES INC. PROJECT: TRACT 32, GO(5)
C.O.A. GRIDS C-20, C-21 & D-20

FIELD NOTES

A DESCRIPTION OF 46.701 ACRES OF LAND SITUATED IN THE THOMAS ANDERSON SURVEY NO. 17, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 251.2047 ACRES OF LAND, DESIGNATED TRACT 2, CONVEYED TO STRATUS PROPERTIES OPERATING CO. BY DEEDS RECORDED IN VOLUME 12115, PAGE 3593 AND VOLUME 13237, PAGE 79 OF THE REAL PROPERTY RECORDS OF SAID COUNTY, SAID 46.701 ACRES AS SHOWN ON THE ACCOMPANYING SKETCH BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod with plastic cap marked "RPLS 4532" set for the most northeasterly corner of Rialto Boulevard, (80 foot wide R.O.W.) dedicated by Rialto Park at Lantana, a subdivision whose plat is recorded in Document No. 200100096 of the Official Public Records of said county on the south R.O.W. line of Southwest Parkway (R.O.W. varies) dedicated by Volume 10559, Page 1 and Volume 10559, Page 18 of said Real Property Records on the north line of said Tract 2;

THENCE along the south R.O.W. line of said Southwest Parkway and said north line the following four (4) courses:

1. a distance of 141.53 feet along the arc of a curve to the right whose radius is 1740.00 feet, central angle is 04°39'38" and whose chord bears S71°07'07"E, 141.49 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,
2. S68°47'14"E, 530.13 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" set for a point of curvature,
3. a distance of 715.20 feet along the arc of a curve to the right whose radius is 11400.00 feet, central angle is 03°35'40" and whose chord bears S66°59'23"E, 715.09 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" set, and
4. S65°12'02"E, 462.32 feet to an "X" marked in concrete found for a point of curvature on the west R.O.W. line of Vega Avenue, a variable width R.O.W.;

THENCE, departing said south R.O.W. line and said north line, along the west R.O.W. line of said Vega Avenue and the east line of said Tract 2 the following six (6) courses:

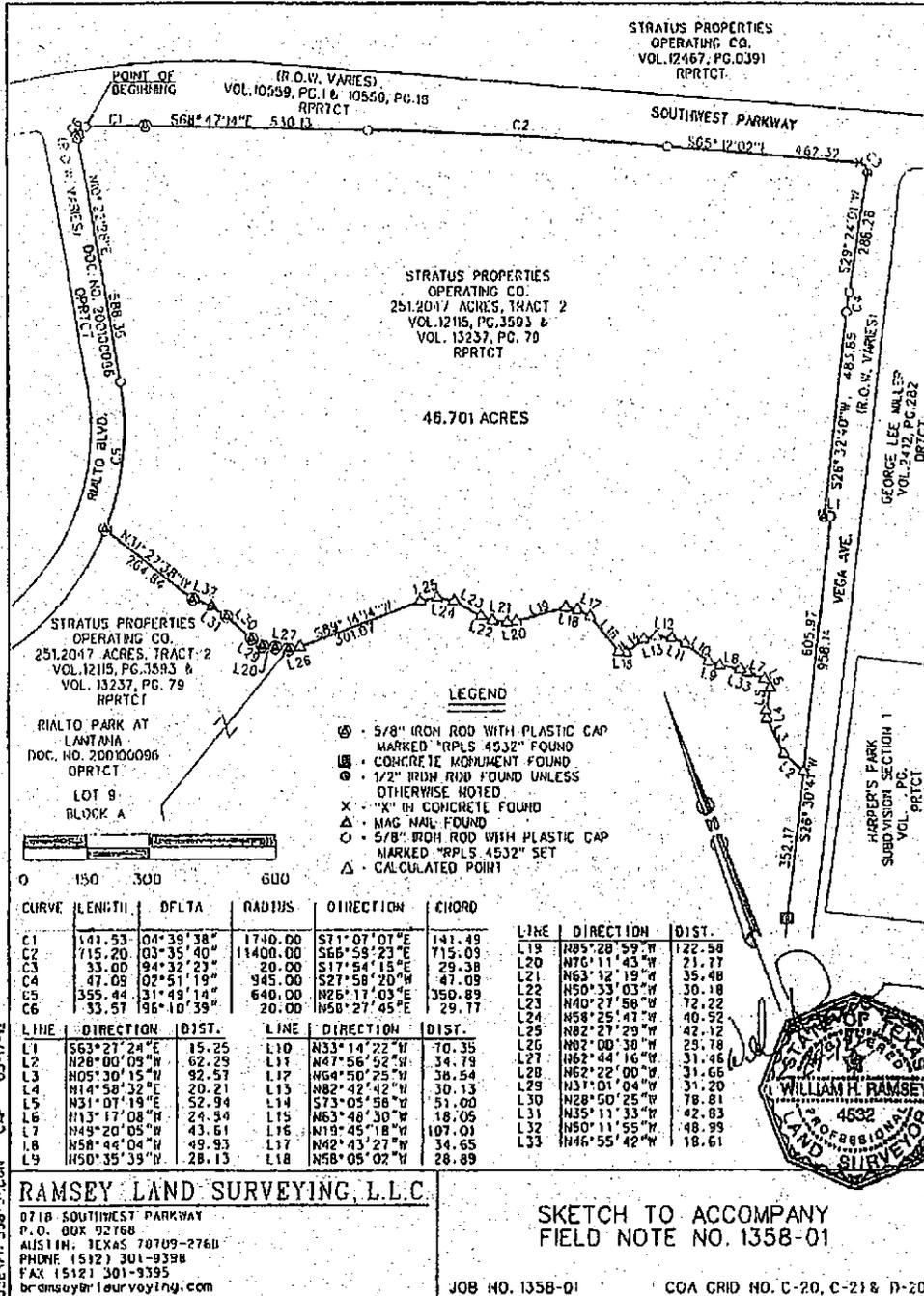
1. a distance of 33.00 feet along the arc of a curve to the right whose radius is 20.00 feet, central angle is

Field Note No. 240-01

14. S73°05'58"W, 51.00 feet to a calculated point,
15. N63°40'30"W, 18.05 feet to a calculated point,
16. N19°45'18"W, 107.01 feet to a calculated point,
17. N42°43'27"W, 34.65 feet to a calculated point,
18. N58°05'02"W, 28.09 feet to a calculated point,
19. N85°28'59"W, 122.58 feet to a calculated point,
20. N76°11'43"W, 21.77 feet to a calculated point,
21. N63°12'19"W, 35.48 feet to a calculated point,
22. N50°33'03"W, 30.18 feet to a calculated point,
23. N40°27'58"W, 72.22 feet to a calculated point,
24. N58°25'47"W, 40.52 feet to a calculated point,
25. N82°27'29"W, 42.12 feet to a calculated point,
26. S89°14'14"W, 301.07 feet to a calculated point, and
27. N82°00'38"W, 28.78 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found for the most easterly corner of Lot 9, Block A of said Rialto Park at Lantana;

THENCE continuing across said Tract 2 along the north line of said Lot 9 the following seven (7) courses:

1. N62°44'16"W, 31.46 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,
2. N62°22'00"W, 31.66 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,
3. N37°01'04"W, 31.20 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,
4. N28°50'25"W, 78.81 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,
5. N35°11'33"W, 42.83 feet to a MAG nail found,
6. N50°11'55"W, 48.99 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found, and





City of Austin

Founded by Congress, Republic of Texas, 1839
Municipal Building, Eighth at Colorado, P.O. Box 1088, Austin, Texas 78768 Telephone 512 490.2

FILED

July 10, 2001

William H. Armstrong, III
Stratus Properties Inc.
98 San Jacinto Blvd., Suite 220
Austin, Texas 78701

Re: The project commonly known as "Lantana," described in the Patton Ranch Revised Preliminary Plan, number CS-84-102(88), approved on August 23, 1988.

Dear Mr. Armstrong:

This letter will memorialize our agreement and avoid a dispute between the City and Stratus Properties Inc., concerning the application of Chapter 245 of the Texas Local Government Code to the project described above. The City and Stratus Properties Inc., agree that the first permit for the project was filed on July 17, 1984, and that the rules and regulations in effect on that date shall govern the project, except as modified and clarified herein. The parties further agree that, except as modified or clarified herein, the project will be subject to those rules and regulations that would be exempt from Chapter 245.

1. Excluding development within (1) Lantana Phase 1, Section 2, (2) Rialto Park at Lantana, and (3) Lantana Lot 6, Block A, the Comprehensive Watershed Ordinance (Ordinance No. 860508-V) will be the base ordinance governing development in "Lantana," with the subject to the following exceptions modifications and clarifications:
 - a. The definition of "Minor Waterway," "Intermediate Waterway," and "Major Waterway" as identified in Williamson Creek Watershed Ordinance No. 810319-M shall govern.
 - b. Delete Section 13-15-223(e), (f).
 - c. Replace Section 13-15-232 with Section 103.3 of Williamson Creek Watershed Ordinance No. 810319-M, but delete Subsection 103.3(c)(5) of Ordinance No. 810319-M. (CW 82)
 - d. Modify Section 13-15-235 to:
 - 1) replace the term "four (4)" with "twelve (12)" in Subsections (a) and (b),
 - 2) delete the phrase "but must be placed in a manner consistent with Section 13-15-237" in Subsection (a),
 - 3) delete the phrase "consistent with Section 13-15-237" in Subsection (b),
 - 4) delete the language in Subsection (c), and replace it with the sentence, "Cut and fill for roadways may extend outside of the allowable roadway clearing widths to the extent necessary to achieve a 3 to 1 slope ratio without

Exhibit B

- structural support; provided, however, that in no event shall cut and fill violate the setback requirements of Subsection (e) below,"
- 5) delete the sentence "Techniques to be used are to be specified with the final plat," in Subsection (d),
 - 6) delete the phrase "and approved by the Director of the Office of Land Development Services" in Subsection (d), and
 - 7) add Subsection (e) to state "No cut and fill shall occur within one hundred (100) feet of the centerline of a minor waterway or within one hundred fifty (150) feet of a critical environmental feature, unless otherwise allowed under this Section, Section 13-15-239, or Section 103.3 of Williamson Creek Watershed Ordinance No. 810319-M. All utilities may be located outside the Critical Water Quality Zone within one hundred (100) feet of the centerline of a minor waterway."
- e. Delete Section 13-15-237, but include the construction on slopes criteria identified in Section 104.2(c) of Williamson Creek Watershed Ordinance No. 810319-M.
 - f. Delete Section 13-15-238, Section 13-15-277 and Section 13-15-287 and replace with the following:
 Structural water quality controls shall be required for all development with impervious cover exceeding twenty (20) percent of the net site area, and shall consist of retention/irrigation basins. The design of the retention/irrigation basins and associated irrigation areas shall be based on the parameters presented in the LCRA Nonpoint Source Pollution Control Technical Manual, Third Edition, dated July 10, 1998. In particular, capture volume for the basins, which will include and satisfy the requirements for stream bank erosion control, will be solely based on Table B-5, Appendix B of the manual. The capture volume will also be deemed to satisfy the City of Austin's 2-year detention requirements. The irrigation area shall be sized in accordance with the formula presented in Appendix C, part 1.g.ii.(3) of the manual. As a clarification, water quality irrigation areas, including irrigation lines and limited removal of vegetation for irrigation purposes, shall be allowed within any required natural areas if/as necessary to reasonably meet the irrigation area requirements. Any disturbance of required natural areas shall be restored to preserve the aesthetic quality of the natural area to the greatest extent feasible. Installation of irrigation lines and associated removal of vegetation for irrigation purposes will not be allowed within the 50-foot roadway vegetative buffer adjacent to Southwest Parkway.
 - g. In Section 13-15-239(a), add the phrase "wastewater lines," to the first sentence between the phrases "other than for" and "yards or hiking trails". Also, the Lantana Southwest Preliminary Plan (C8-84-102.03) is exempt from the provisions of Section 13-15-239 as long as the street and lot configuration and general land use remain substantially consistent with the approved preliminary plan.
 - h. Delete Section 13-15-248(a).
 - i. Delete Section 13-15-274, but include Section 104.2(a), (b) of Williamson Creek Watershed Ordinance No. 810319-M. (10319-M)
 - j. Delete Section 13-15-275, Section 13-15-276, Section 13-15-285 and Section 13-15-286, and replace with the following:

For commercial tracts, the calculated impervious cover shall not exceed forty (40) percent of net site area in the uplands zone, exclusive of adjacent right-of-way impervious cover within the Williamson Creek Watershed. In all cases, right-of-way

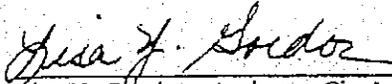
impervious cover for adjacent, existing streets (Southwest Parkway, William Cannon Drive, Vega Avenue) shall not be calculated as part of the allowable impervious cover for any commercial tract. For the portion of the Lantana Southwest Preliminary Plan (C8-84-102.03) covered by this document, the calculated impervious cover shall not exceed twenty-five (25) percent of net site area in the uplands zone.

2. As a clarification, the requirements identified in Sections 13-15-223(a), 13-15-223(b)2., and 13-15-223(d) of the Comprehensive Watershed Ordinance will be satisfied by the FM Properties Operating Co. USFW 10(a) Permit Environmental Assessment/Habitat Conservation Plan, dated July 25, 1994, by SWCA, Inc., in conjunction with the report entitled Topography, Geology, and Soils of the Lantana Tract, Oak Hill Vicinity, Travis County, Texas, dated November 28, 1994, including Addendum Nos. 1, 2, 3 and 4, by Charles Woodruff, Jr., Consulting Geologist.
3. As a clarification, the tree survey described in Section 13-15-223(b)1 will only be required at the site development permitting stage of the development process.
4. Development will consist of raised curb and gutter street cross sections approved with the Preliminary Plan for Patton Ranch (C8-84-102), as revised, including an associated enclosed storm sewer drainage system.
5. Concentrated storm runoff will be dispersed and discharged, wherever practicable, to vegetated buffer areas or grass-lined swales. There will be no requirements for calculated pollutant removal performance standards associated with vegetated buffer areas or retention/irrigation basins.
6. The modifications and clarifications to the Comprehensive Watershed Ordinance described herein shall extend to and control all related references in other sections of the ordinance, so as to allow the modifications and clarifications to be fully implemented.
7. Further, if provisions contained in other sections of the City's Land Development Code and criteria manuals relating to cut and fill, construction on slopes, impervious cover, critical environmental features, water quality, and two-year detention impose different or more restrictive requirements than those contained in the Comprehensive Watershed Ordinance as modified and clarified herein, then the Comprehensive Watershed Ordinance as modified and clarified herein controls.
8. This project predates the Hill Country Roadway requirements. However, Stratus Properties Inc., in order to avoid a dispute regarding the application of those requirements, agrees that development in the project will comply with the height, setback, building materials, and landscaping provisions of the Hill Country Roadway requirements, within 1000 feet of Southwest Parkway, as that ordinance provides. Site plans within the project shall be reviewed administratively. Planning Commission review and approval of any site plan required to develop all or part of this project will not be sought or required, and Stratus Properties Inc. agrees not to assert any claim in litigation or otherwise that Chapter 245 entirely exempts the project from compliance with the agreed upon Hill Country Roadway requirements.

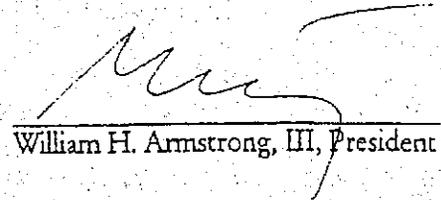
If this letter accurately describes your understanding of our agreement, please indicate your agreement by signing below.

Very truly yours,

Stratus Properties Inc.



Lisa Y. Gordon, Assistant City Manager



William H. Armstrong, III, President

xc: Mayor and City Council
Mike Heitz, Director

L C R A

**NONPOINT SOURCE POLLUTION CONTROL
TECHNICAL MANUAL**



**B. R. (BOB)
CRITENDON P.E.
Engineer**

**P.O. BOX 220
AUSTIN, TEXAS 78767-0220
(512) 473-3200 Ext. 2091
1-800-775-5272
Fax: (512) 473-3501**

LOWER COLORADO RIVER AUTHORITY

Effective: July 10, 1998

Third Edition

LOWER COLORADO RIVER AUTHORITY

7. Streambank Erosion Control Requirements

The basic design approach to controlling streambank erosion is to detain post-development runoff long enough so that the pre-development bankfull flooding condition is approximately maintained for all storm events. This approach requires reducing both the peak and the frequency of bankfull conditions. In the absence of a detailed hydrologic analysis, a simplified approach of detaining and releasing the pre-development 1-year 3-hour design storm over a 24-hour period will be accepted. Table B-5 presents stormwater detention volumes necessary to meet streambank erosion prevention requirements for a range of impervious cover values. Typically, a single water quality BMP or series of BMPs can serve to meet streambank erosion control detention requirements.

TABLE B-5

Streambank Erosion Control Required Detention Volumes

Impervious Cover Percentage	Detention Volume (in.)
20%	0.53
30%	0.66
40%	0.79
50%	0.92
60%	1.05
70%	1.18
80%	1.31
90%	1.44
100%	1.57

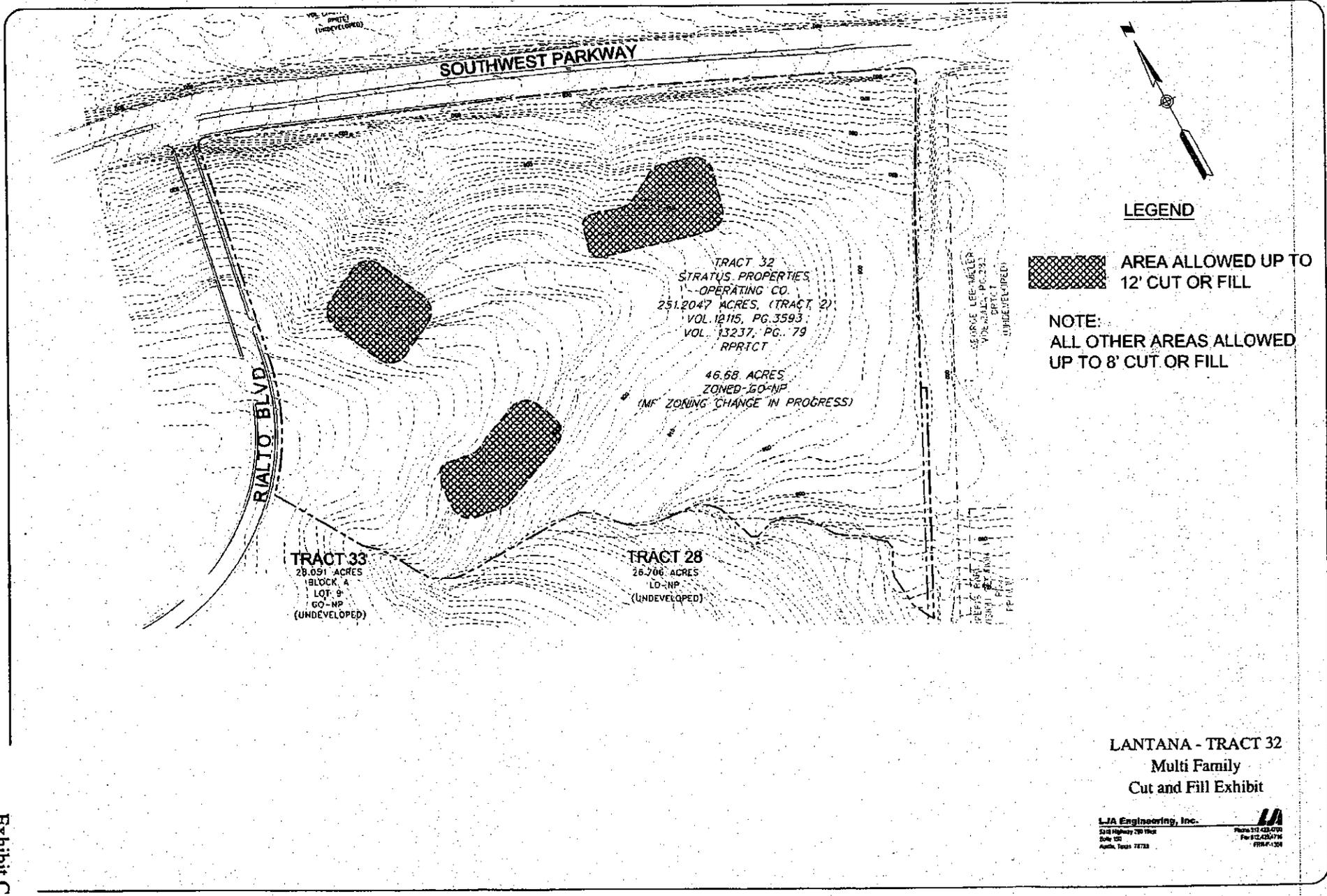
- (2) Pump and Wet Well System - A reliable pump, wet well, and rainfall sensor system must be used distribute the water quality volume. System specifications must be approved by LCRA. The irrigated water may require additional pretreatment to ensure that TSS concentrations are within the acceptable specifications for the irrigation system.
- (3) Irrigation System - Generally a spray irrigation system is required to provide an adequate flow rate for timely distribution of the water quality volume. Alternative irrigation approaches are acceptable but must be approved by LCRA. In the absence of site-specific soil test results documenting a different infiltration rate, the land area required for irrigation shall be as follows:

Formula: $A = V * 1.25$

where: A = Required irrigation area (square feet)

V = Water Quality Volume to be irrigated (cubic feet)

- (4) Offline Design - The pond shall be designed as an offline facility with a splitter structure to isolate the water quality volume. The splitter box shall be designed to convey the 25-year event without causing overtopping of the pond sideslopes.
- (5) Detention Time - The irrigation schedule should allow for complete drawdown of the water quality volume within 2 dry days.
- (6) Safety Considerations - Safety is provided either by fencing of the facility or by managing the contours of the pond to eliminate dropoffs and other hazards. Earthen sideslopes should not exceed 3:1 (h:v) and should terminate on a flat safety bench area. Landscaping can be used to impede access to the facility. The primary spillway opening must not permit access by small children. Outfall pipes above 48 inches in diameter should be fenced.
- (7) Landscaping Plan - A landscaping plan shall be provided indicating how aquatic and terrestrial areas will be stabilized.



AFTER RECORDING RETURN TO:

City of Austin Law Department
P.O. Box 1088
Austin, Texas 78767-1088
Attn: J. Collins, Paralegal