

**THIRD AMENDMENT TO RESTRICTIVE COVENANT
FOR ZONING CASE: C14-85-244, PART 7 (RCA3)**

OWNER: Austin H Arboretum Propco, LP, a Delaware limited partnership

OWNER ADDRESS: 980 N. Michigan Avenue, Suite 1700
Chicago, IL 60611-7503

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 City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, the Estate of Fred Morse, Deceased, and Estelle K. Morse, individually, entered into that certain Restrictive Covenant, dated as of July 1, 1986, and recorded in the Real Property Records of Travis County, Texas, on August 19, 1986, in Volume 9839, Page 566 (the “Restrictive Covenant”), as part of City of Austin Zoning Case No. C14-85-244 (Part 7); and

WHEREAS, the Restrictive Covenant encumbers real property, consisting of approximately 73.91 acres, a portion of which is more particularly described in **Exhibit “A”** (“Released Property”) incorporated into this Third Amendment of Restrictive Covenant (“Third Amendment”), and,

WHEREAS, the Restrictive Covenant provides that the covenant can be modified, amended, or terminated by joint action of both a majority of the members of the City Council and the Owner of the Property at the time of such modification, amendment or termination; and

WHEREAS, Austin H Arboretum Propco, LP, a Delaware limited partnership, as the current owner (the “Owner”) of the Released Property on the date of this Third Amendment, desires to amend the Restrictive Covenant to release approximately 3.66 acres more particularly described as the Released Property;

WHEREAS, the City Council agrees the Restrictive Covenant should be amended to release the Released Property.

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

1. The restrictive covenant is amended as of the date hereof to release the Released Property from the terms and provisions of the Restrictive Covenant.

2. Except as expressly provided for in this Third 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 Third Amendment.
3. The City Manager, or his designee, shall execute on behalf of the City, this Third Amendment as authorized by the City Council of the City of Austin. The Third Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED this the _____ day of _____, 2022.

OWNER:

Austin H Arboretum Propco, LP, a Delaware limited partnership

By: SRE 4610 TX GP, LLC, a Delaware limited liability company, its general partner

By: _____
Seth Singerman, President

CITY OF AUSTIN:

By: _____
J. Rodney Gonzales
Assistant City Manager
City of Austin

APPROVED AS TO FORM:

Name: _____
Assistant City Attorney
City of Austin

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____2022, by Seth Singerman, as President of SRE 4610 TX GP, LLC, a Delaware limited liability company as general partner of Austin H Arboretum Propco, LP, a Delaware limited partnership, on behalf of said partnership.

Notary Public, State of _____

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2022, by J. Rodney Gonzales, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

BLEW & ASSOCIATES, PA 10001 NORTH CAPITAL OF TEXAS HIGHWAY
CIVIL ENGINEERS & LAND SURVEYORS AUSTIN, TEXAS 78759 (TRAVIS COUNTY)

TRACT NO. 1:

FIELD NOTES OF A SURVEY OF 3.666 ACRES OF LAND OUT OF THE JAMES P. WALLACE SURVEY NO. "18", IN TRAVIS COUNTY, TEXAS, SAME BEING THE CALLED 3.664 ACRE TRACT OF LAND AS CONVEYED TO INTERVEST- BRADFORD II, LTD. IN VOLUME 13258, PAGE 1542 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 3.666 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" REBAR FOUND IN THE SOUTH R-O-W OF NORTH CAPITAL OF TEXAS HIGHWAY, SAME BEING THE NORTHWEST CORNER OF LOT 1, LOS ARBOLES II SUBDIVISION, AS RECORDED IN VOLUME 95, PAGE 195 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THE NORTHEAST CORNER OF THE AFOREMENTIONED INTERVEST TRACT, FOR THE NORTHEAST CORNER AND THE PLACE OF BEGINNING HEREOF; THENCE, S 26° 54' 46" W, ALONG THE COMMON LINE BETWEEN THE AFOREMENTIONED LOT 1 AND THE INTERVEST TRACT, FOR A DISTANCE OF 337.37 FEET, TO A 1/2" CAPPED REBAR FOUND, SAID POINT BEING THE MOST EASTERLY NORTHEAST CORNER OF LOT 1, STONEBRIDGE I, AS RECORDED IN VOLUME 88, PAGE 319 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THE SOUTHEAST CORNER OF THE SAID INTERVEST TRACT, FOR THE SOUTHEAST CORNER HEREOF; THENCE, ALONG THE NORTH LINE OF THE AFOREMENTIONED LOT 1, STONEBRIDGE I, SAME BEING THE SOUTH LINE OF THE HEREIN DESCRIBED TRACT, THE FOLLOWING SEVEN (7) COURSES;

1. N 62° 49' 58" W, FOR A DISTANCE OF 184.56 FEET, TO A 1/2" CAPPED REBAR FOUND;
2. N 60° 48' 32" W, FOR A DISTANCE OF 105.80 FEET, TO A 1/2" REBAR FOUND;
3. N 56° 27' 40" W, FOR A DISTANCE OF 90.90 FEET, TO A 1/2" REBAR FOUND;
4. N 54° 49' 59" W, FOR A DISTANCE OF 154.23 FEET, TO A 5/8" REBAR FOUND;
5. N 54° 44' 21" W, FOR A DISTANCE OF 146.74 FEET, TO A 1/2" REBAR FOUND;
6. N 55° 31' 14" W, FOR A DISTANCE OF 90.86 FEET, TO A 1/2" REBAR FOUND;
7. N 64° 51' 29" W, FOR A DISTANCE OF 92.92 FEET, TO A 5/8" CAPPED PIPE FOUND BEING MOST NORTHERLY NORTHEAST CORNER OF SAID LOT 1, STONEBRIDGE I, SAME BEING IN THE AFOREMENTIONED SOUTH R-O-W, FOR THE NORTHWEST CORNER OF THE SAID INTERVEST TRACT, AND THE NORTHWEST CORNER HERE;

THENCE, ALONG THE AFOREMENTIONED SOUTH R-O-W, SAME BEING THE NORTH LINE OF THE AFOREMENTIONED INTERVEST TRACT, THE FOLLOWING FOUR (4) COURSES:

1. N 84° 08' 03" E, FOR A DISTANCE OF 3.99 FEET, TO A 1/2" REBAR FOUND;
2. ALONG A CURVE TO THE RIGHT, HAVING AN ARC DISTANCE OF 70.06 FEET, AND A RADIUS OF 343.00 FEET, AND WHICH CHORD BEARS S 89° 23' 19" E, AT A DISTANCE OF 69.93 FEET, TO A 1/2" CONCRETE MONUMENT FOUND, SAID POINT BEING AT A POINT OF CURVATURE;
3. ALONG A CURVE TO THE RIGHT, HAVING AN ARC DISTANCE OF 294.98 FEET, AND A RADIUS OF 3310.00 FEET, AND WHICH CHORD BEARS S 81° 18' 52" E, AT A DISTANCE OF 294.88 FEET, TO A 1/2" CAPPED REBAR FOUND;
4. S 78° 41' 48" E (BEARING BASIS FOR THIS SURVEY), AT A DISTANCE OF 534.93 FEET TO THE PLACE OF BEGINNING AND CONTAINING 3.666 ACRES OF LAND, MORE OR LESS.



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