

**Transferring Tract
RESTRICTIVE COVENANT**

OWNER MaBe-Westminster Glen Phase III, Ltd

ADDRESS 2911 Turtle Creek Blvd , Suite 400, Lock Box 411
Dallas, Texas 75219

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 Lots 21 and 51, Block A, Westminster Glen Phase III

WHEREAS, the above described Property (hereinafter, "Transferring Tract") includes certain acres of impervious cover available for transfer, based upon certain acres being restricted from development under Section 25-8-395, 25-8-435, 25-8-455, or 25-8-484 of the Land Development Code and according to the notes on the plat of record, and

WHEREAS, the Owner of the Transferring Tract intends to transfer some or all of the acres of impervious cover available for transfer to one or more tracts of land (hereinafter, "Receiving Tracts") at the time the Receiving Tracts are platted, in accordance with all applicable Land Development Code requirements

NOW, THEREFORE, it is declared that the Owner of the Transferring Tract, for consideration, shall hold, sell, and convey the Transferring Tract subject to the following covenants and restrictions impressed upon the Transferring Tract by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Transferring Tract, its heirs, successors, and assigns

- 1 That portion of the transferring Tract designated as Lots 21 and 51, Block A, Westminster Glen Phase III on the subdivision plat filed of record at Document No _____ of the Official Public Records of Travis County, shall be left in an undisturbed state, except to the extent otherwise permitted pursuant to the Conservation Easement of record at Document No _____ of the Official Public Records of Travis County, Texas which has been granted to and accepted by the City of Austin, in relation to the land included within the Transferring Tract
- 2 In accordance with the plat notes on the subdivision plat for the Transferring Tract filed of record at Document No. _____ of the Official Public Records of Travis County, the Transferring Tract includes 14 061 acres of impervious cover available for transfer which have been transferred from the Transferring Tract, in accordance with applicable Land Development Code requirements
- 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

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

This agreement may be modified, amended, or terminated only by joint action of both (a) the director of the Watershed Protection and Development Review Department of the City of Austin, or such other City department as may succeed to its duties, and (b) by the Owner(s) of the Property, subject to the modifications, amendment, or termination at the time of such modification, amendment or termination

All citations to the Land Development Code shall refer to the Austin City Code, as amended from time to time, unless otherwise specified. When the context requires, singular nouns and pronouns include the plural

EXECUTED to be effective this 24th day of June, 2002

MABE-WESTMINSTER GLEN PHASE III, LTD ,
A Texas limited partnership

By MaBe, Inc , a Texas corporation as general partner

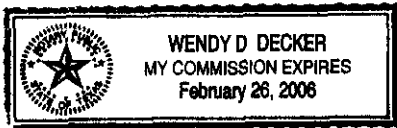
By

Name Stephen A. Louder
Title President

THE STATE OF TEXAS §

COUNTY OF Dallas §

This instrument was acknowledged before me on this 24th day of June, 2002, by Stephen A. Louder the President of MaBe, Inc , a Texas corporation, acting as general partner of MaBe-Westminster Glen Phase III, Ltd , a Texas limited partnership, on behalf of said limited partnership



Wendy D. Decker
Notary Public, State of Texas

Accepted

City of Austin, Texas

By _____
Name _____
Title _____

Reviewed

Mark Cott
City of Austin Law Department

Lienholder Consent To Restrictive Covenant

Recitals

M&B Westminister Glen Phase III, Ltd, a Texas limited partnership, is the owner ("Owner") of the following property ("Property")

Lots 21 and 51, Block A, of Westminister Glen Phase III, a subdivision in Travis County Texas, according to the plat thereof recorded at Document No _____ of the Official Public Records of Travis County, Texas

Colonial Bank ("Lienholder") holds liens against the Property under the following described document:

Deed of Trust, Security Instrument and Assignment of Rents, Leases, Incomes and Agreements dated to be effective May 21, 2002, from Owner to Roy Salley, Trustee, securing the payment of one promissory note of even date in the original principal amount of \$2,500,000.00, payable to Lienholder, of record in Document No 2002097294 of the Official Public Records of Travis County, Texas, and

Owner has granted to the City of Austin ("City") the foregoing Restrictive Covenant against and running with the Property.

Agreement

In consideration of \$10.00 and other good and valuable consideration, the receipt of which is acknowledged, the Lienholder agrees as follows:

- 1 Lienholder consents to the Owner's grant of the foregoing Restrictive Covenant against and running with the Property
- 2 Lienholder agrees that any foreclosure of its liens will not extinguish the City's rights and interests in the Restrictive Covenant
- 3 Lienholder affirms that the undersigned has the authority to bind the Lienholder, and that all corporate or partnership acts necessary to bind the Lienholder have been taken

Executed on the date of the acknowledgement below

LIENHOLDER:

Colonial Bank

By Vickie Wright
Name Vickie Wright
Title Vice President

STATE OF TEXAS §
COUNTY OF DALLAS §

Before me, the undersigned Notary Public, on this day personally appeared Vickie Wright, the VICE PRESIDENT of Colonial Bank, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same for the purposes and consideration, and in the capacity therein expressed.

Given under my hand and seal of office this 24th day of June, 2002



Cheryl Dodson
Notary Public, State of Texas

Return to: COA Watershed Protection
P.O. Box 1088
Austin, TX 78767
attn: Nikki Hoelzer

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dana Debeauvoir

07-18-2002 10 16 AM 2002132358
ZAVALAR \$17 00
DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility carbon or photocopy, discolored paper, etc All blockouts, additions and changes were present at the time the instrument was filed and recorded