

**RESTRICTIVE
COVENANT**

This Restrictive Covenant ("Restrictive Covenant") is executed effective as of the 6th day of March, 2018 (the "Execution Date"), by SEAMLESS GCW, Ltd., a Texas limited partnership, and SEAMLESS 290 WEST DE LTD., a Texas limited partnership, (collectively, "Owner").

R E C I T A L S:

(A) Owner is the owner of the real property in the City of Austin, Travis County, Texas, more particularly described as Tracts 1, 2, 3, and 4 in **Exhibit "A"** attached hereto and made a part hereof (the "Property"). Each of Tract 1, Tract 2, Tract 3, and Tract 4 within the Property is sometimes referred to individually as a "Tract" and collectively as the "Tracts." Each of the Tracts is currently improved with certain existing improvements as of the Execution Date of this Restrictive Covenant. Such existing improvements on a Tract are referred to as the "Existing Improvements" as to such Tract.

(B) Owner has filed a rezoning application with the City of Austin for the purpose of rezoning a portion of the Property for the purposes of constructing a mixed use development project thereon. The zoning information is on record at the City of Austin Planning and Zoning Department in File No. C14-2017-0122 (the "Zoning Case").

(C) In connection with the approval of such rezoning of a portion of the Property (Tract 2 and Tract 4) to "CS-V-CO" zoning, removing the FAR limit imposed in 1989, and in consideration thereof by the City of Austin, Owner has agreed to impose upon the Property the Restrictions (as defined below) for the mutual benefit of Owner and the Zilker Neighborhood Association, Inc., a Texas nonprofit corporation ("ZNA").

(D) ZNA is an organization dedicated to the preservation of the quality of life of residents of the neighborhood located in Austin, Travis County, Texas, in which the Property is located and, subject to the execution and recordation of this Restrictive Covenant, is supporting the Zoning Case for Owner.

NOW, THEREFORE, for and in consideration of the premises set forth in the Recitals above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner does hereby impose the following obligations, restrictions and covenants upon the Property (collectively, the "Restrictions"), which shall be binding upon every person or entity while they are the owners of the Property, or any portion thereof but which will not become effective or enforceable and may not be recorded in the Official Public Records of Travis County, Texas, except in accordance with Section 8 of this Restrictive Covenant. Owner further declares that the Property shall be held, sold and conveyed, subject to the Restrictions beginning on the Effective Date (defined below) and extending for a term of forty (40) years,

unless earlier terminated by a document in writing signed by the Owner(s) of all of the Property and ZNA (the "Term"), after which time the Restrictions shall automatically terminate and be of no further force and effect.

1. Sound Restrictions on Property.

If and when the automotive uses on a Tract are removed and such Tract is redeveloped with a Floor to Area Ratio greater than .3 to 1 (collectively, the "Applicability Conditions"), then (i) the use of outdoor sound equipment to amplify sound within the boundaries of such Tract is prohibited (the "Amplified Sound Restriction"), and (ii) no outdoor sound shall be allowed on such Tract that exceeds seventy (70) decibels as measured at the boundary lines of the Property described on Exhibit "A" attached hereto and generally shown on Exhibit "B" attached hereto. The foregoing notwithstanding, the Amplified Sound Restriction does not apply to the amenities areas of any multi-family development on the Tracts that are for private use by residents. The term "outdoor sound equipment" does not include telephones, computers, radios, televisions or other devices normally used indoors. The restrictions in this Section 1 will not be applicable to a Tract until the Applicability Conditions for such Tract have been satisfied.

2. Other Restrictions on Property.

If and when the Applicability Conditions for a Tract have been satisfied, then such Tract is subject to the following prohibited uses as defined in the City of Austin Land Development Code, Chapter 25-2-4 in effect as of the date hereof:

- Adult-oriented businesses
- Agricultural sales and services
- Alternative Financial Services
- Automotive rentals
- Automotive sales
- Bail bonds
- Campground
- Construction sales and services
- Convenience Storage (except as permitted below)
- Drop-off recycling collection facility
- Drive-in Services
- Equipment sales
- Equipment services
- Exterminating services
- Funeral Services
- Kennels
- Laundry services

Limited warehousing and distribution
Outdoor entertainment
Outdoor sports and recreation
Pawn shop services
Plant nursery
Scrap and salvage services
Service station
Vehicle storage

The foregoing notwithstanding, Convenience Storage is permitted on the Tracts only so long as (i) the Convenience Storage development is limited to no more than one (1) acre of property out of the Tracts, and (ii) Convenience Storage may only access Lamar Boulevard by a shared drive with another use on the Tracts or other adjacent property. Nothing herein restricts Convenience Storage as an accessory use to a multi-family development.

If and when the Applicability Conditions for a Tract have been satisfied, then such Tract will be restricted to prohibit alcohol sales between midnight and 9:00 a.m.

The restrictions in this Section 2 will not apply to a Tract until Applicability Restrictions for such Tract have been satisfied.

3. City Trail. Owner shall dedicate a trail easement located generally within the eastern portion of the Property adjacent to the railroad right-of-way as generally depicted on Exhibit "B" (the "Trail Area"), which is also contained in the City of Austin Urban Trails Master Plan, September 2014. The exact location, alignment and dimensions of the trail easement shall be determined at site development permit review and approval for the project to be developed on the Property. The trail easement will be in form reasonably acceptable to Owner and the City.
4. Binding Effect; Enforcement. This Restrictive Covenant and the restrictions, covenants, benefits and obligations created hereby are benefits and servitudes running with the Property and shall inure to the benefit of Owner and ZNA and their successors and assigns during the Term of this Restrictive Covenant. This Restrictive Covenant may be enforced by ZNA by action at law or in equity, including, without limitation, action for specific performance or injunctive relief; provided, however, in no event shall ZNA take any such action unless and until ZNA has provided Owner with notice in writing (pursuant to Section 9 hereof) and the opportunity to cure before the 10th day following the date of such notice. In enforcing this Restrictive Covenant ZNA may seek the recovery of actual damages incurred along with reimbursement of costs of enforcement. However, in no event shall Owner be liable for punitive or consequential damages resulting from the violation or breach of this Restrictive Covenant.

5. Owner's Obligations. The obligations of Owner hereunder shall be binding on owner and any subsequent owner of the Property or any part thereof only during the period of its ownership of the Property or a portion thereof, and if Owner or any subsequent owner of the Property or any part thereof has conveyed or transferred the Property or a portion thereof to another person or entity, the transferee shall be responsible for all obligations of the transferor with respect to the Property or a portion thereof during the period of the transferee's ownership of the Property or a portion thereof and the transferor shall have no liability for any obligations arising after such transfer or conveyance with respect to the Property or a portion thereof which is the subject of such transfer or conveyance.
6. Severability. If any part of this Restrictive Covenant or any of the foregoing covenants is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Restrictive Covenant and such remaining portion of this Restrictive Covenant shall remain in full effect.
7. Modifications; Amendments; Termination. This Restrictive Covenant may be modified, amended or terminated only by joint written action of all of the following: (a) ZNA. (b) the owner(s) of the portion of the Property affected by the amendment, subject to the modification, amendment or termination, at the time of such modification, amendment or termination, and (c) any mortgagee having a deed of trust lien recorded in the Official Public Records of Travis County, Texas against the Property. Any time following the end of the Term of this Agreement, either ZNA or the Owner of any portion of the Property shall have the right to file a release of this Restrictive Covenant in the Official Public Records of Travis County, Texas, without the necessity of joining in any other party hereto. Notwithstanding anything to the contrary set forth in this Restrictive Covenant, this Restrictive Covenant will automatically terminate and be rendered null and void and of no further force or effect if ZNA ceases to exist or operate, or is no longer a non-profit corporation. Although the foregoing provision for the termination of this Restrictive Covenant is self-operating, Owner and its successors and assigns are entitled, but not required, to record an affidavit in the Official Public Records of Travis County, Texas, certifying that this Restrictive Covenant has automatically terminated in accordance with its terms.
8. Escrow Agreement and Recordation. Concurrently with the parties' execution of this Restrictive Covenant, the parties will enter into an escrow agreement (the "Escrow Agreement") with Heritage Title Company of Austin, Inc. (the "Title Company"), under which the parties will escrow signed and acknowledged originals of this Restrictive Covenant with the Title Company and Owner will escrow the amount of \$10,000 (the "Enforcement Funds") with the Title Company. The Escrow Agreement will provide that (i) this Restrictive Covenant will be recorded by the Title Company in the Official Public Records of Travis County,

Texas within two (2) business days after the City Council of the City of Austin approves on third reading the zoning change for the Property contemplated in the Zoning Case and such zoning becomes effective (the "Recording Condition"), and (ii) upon satisfaction of the Recording Condition, the Enforcement Funds will be available to ZNA from escrow for any future enforcement costs in connection with this Restrictive Covenant. Any unused Enforcement Funds will be disbursed to Owner on the date that is six (6) years after the date of the Escrow Agreement. If the Recording Condition has not been satisfied within one year after the Execution Date, then this Restrictive Covenant will automatically terminate and will be returned, unrecorded, to Owner.

9. Notices. All notices required shall be in writing addressed to the respective parties as set forth below, unless another address shall have been designated as provided below, and shall be delivered by personal delivery, or by registered or certified mail, to the parties as follows:

If to ZNA to: Zilker Neighborhood Association
1600 Barton Springs Road,
Suite 6601
Austin, Texas 78704
Attention: David Piper, ZNA President

If to Owner to: Seamless GCW, Ltd.
4407 Bee Cave Road, Suite 421
Austin, Texas 78746
Attn: Joe Warnock and Dustin Donnell
Email: jwarnock@seamlesslp.com
Email: dustin@donnelldevelopment.com

With a copy to: Armbrust & Brown PLLC
100 Congress Ave., Suite 1300
Austin, Texas 78701
Attn: Gregg Krumme
Email: gkrumme@abaustin.com

Seamless 290 West DE Ltd.
4407 Bee Cave Road, Suite 421
Austin, Texas 78746
Attn: Joe Warnock and Dustin Donnell
Email: jwarnock@seamlesslp.com
Email: dustin@donnelldevelopment.com

10. No Dedication. No provision of this Restrictive Covenant shall ever be construed to grant or create any rights whatsoever in or to any portion of the Property other than the covenants, conditions and restrictions specifically set forth herein. Nothing in this

Restrictive Covenant shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever, save and except the Owner's agreement to grant the trail or greenbelt easement in the Trail Area in accordance with Section 4 hereof.

11. Estoppel Certificates. Any Owner of any portion of the Property (or any ground lessee or any mortgagee holding a first lien security interest in any portion of the Property (whether by fee or leasehold mortgage)) may, at any time and from time to time, in connection with the leasing, sale or transfer of its property, or in connection with the financing or refinancing of its property by any bona fide mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver a written notice to any other Owner or ZNA requesting such Party to execute a certificate certifying that, to the best of such responding party's knowledge, (i) the party requesting such certificate is not in default in the performance of its obligations under this Restrictive Covenant, or, if in default, describing the nature and amount or degree of such default and (ii) such other information regarding the status of the obligations under this Restrictive Covenant as may be reasonably requested. The responding party shall execute and return such certificate within fifteen (15) days following its receipt of a request therefore.
12. Multiple Originals. This Restrictive Covenant may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
13. Headings. The headings herein are included only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this document nor in any way affect the terms and provisions hereof.
14. Venue. Venue for any cause of action arising from this Restrictive Covenant will be in Travis County, Texas.

[SIGNATURE PAGE FOLLOWS]

Executed as of this day of 6th, of MARCH, 2018, but to be effective on the Effective Date (as defined in this Restrictive Covenant).

Agreed to and Accepted by

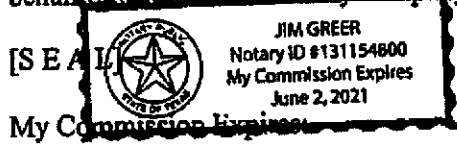
SEAMLESS GCW, LTD., a Texas limited partnership

By: Seamless GCW GP, L.L.C., a Texas limited liability company, its general partner

By: [Signature]
Joe Warnock, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was ACKNOWLEDGED before me, on the 6 day of March, 2018, by Joe Warnock, President of Seamless GCW GP, L.L.C., a Texas limited liability company, the general partner of SEAMLESS GCW, LTD., a Texas limited partnership, on behalf of said limited liability company and said limited partnership.



[Signature]
Notary Public, State of Texas

My Commission Expires 6/2/21

Jim Greer
Printed Name of Notary Public

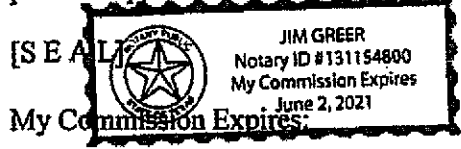
SEAMLESS 290 WEST DE LTD., a Texas limited Partnership

By: JWDD Capital LLC, a Texas limited liability company, General Partner

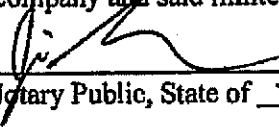
By: [Signature]
Name: Joe Warnock,
Title: President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was ACKNOWLEDGED before me, on the 6 day of March, 2018, by Joe Warnock, President of JWDD Capital LLC, a Texas limited liability company, the general partner of SEAMLESS 290 WEST DE LTD., a Texas limited partnership, on behalf of said limited liability company and said limited partnership.



My Commission Expires:
6/2/21



Notary Public, State of Texas

Jim Greer

Printed Name of Notary Public

Executed as of this day of 6th, of March, 2018, but to be effective on the Effective Date (as defined in this Restrictive Covenant).

Agreed to and Accepted by:

Zilker Neighborhood Association, a Texas nonprofit corporation.

By: David Piper
David Piper, President

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was ACKNOWLEDGED before me, on the 6th day of March, 2018, by David Piper, President of Zilker Neighborhood Association, a Texas nonprofit corporation.

[S E A L]

Lee Ann May
Notary Public, State of TEXAS

My Commission Expires:

7-10-2021

LEE Ann. May
Printed Name of Notary Public

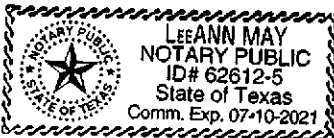


EXHIBIT "A"

Legal Description of the Property

Tract 1: Lot 3, COMMERCIAL SQUARE, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 29, Page 26, of the Plat Records of Travis County, Texas.

Tract 2: 0.606 acres, more or less, being a part of and out of Lot 1 THE MAUFRAIS SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 90, Page(s) 90, of the Plat Records of Travis County, Texas, being more particularly described by the metes and bounds shown on Exhibit "A-1" attached hereto and made a part hereof.

Tract 3: Lot 2A, Commercial Square Resubdivision, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 47, Page(s) 47, of the Plat Records of Travis County, Texas.

Tract 4: 0.894 acres, more or less, being a part of and out of Lot 1 THE MAUFRAIS SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 90, Page(s) 90, of the Plat Records of Travis County, Texas, being more particularly described by the metes and bounds shown on Exhibit "A-2" attached hereto and made a part hereof. (1401 South Lamar)

EXHIBIT "A-1"

Metes and Bounds of Tract 2

BEING a tract of land containing 0.606 acre being a portion of Lot 1, The Maufrais Subdivision, a subdivision in the City of Austin, Travis County, Texas, recorded in Plat Book 90, Pages 90-91, Plat Records, Travis County, Texas. Said 0.606 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at the Northeast corner of said Lot 1, same being in the West line of the International & Great Northern Rail Road right-of-way for the Northeast corner and Point of Beginning hereof,

THENCE with the East line of said Lot 1, same being the West line of said International & Great Northern Rail Road tract the following two (2) courses and distances:

- 1) S 27°05'01" W for a distance of 24.35 feet,
- 2) 146.56 feet along the arc of a curve to the right whose radius is 2814.79 feet and whose chord bears, S 28°35'31" W for a distance of 146.55 feet to a point for the Southeast corner hereof.

THENCE through and across said Lot 1 with the South line hereof, N 55°56'25" W for a distance of 205.97 feet to an existing corner in the North line of said Lot 1, same being the South line of Lot 3, Commercial Square, a subdivision in the City of Austin, Travis County, Texas, recorded in Plat Book 29, Page 26, Plat Records, Travis County, Texas, for the Southwest corner hereof.

THENCE with the West line of the herein described tract being the North line of said Lot 1, same being the South line of said Lot 3, the following three (3) courses and distances:

- 1) N 52°05'35" E for a distance of 145.30 feet to a point for the Northwest corner hereof,
- 2) S 62°12'12" E for a distance of 60.10 feet,
- 3) S 72°40'25" E for a distance of 88.02 feet to the Point of Beginning and containing 0.606 acre of land, more or less.

EXHIBIT "A-2"

**Metes and Bounds of Tract 4
(Attached)**

EXHIBIT "A-2"

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.8928 ACRE (38,890 SQUARE FEET) OUT OF LOT 1 OF THE MAUFRAIS SUBDIVISION, RECORDED IN VOLUME 90, PAGE 90-91 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS (P.R.T.C.T.), SAID 0.8928 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2-inch iron rod with an illegible cap found for angle point in the north line of said Lot 1, same being an angle point in the south line of Lot 3 of Commercial Square Subdivision, recorded in Volume 29, Page 26 (P.R.T.C.T.), said point being the westernmost corner of a 0.606 acre tract of land conveyed to Seamless GCW, LTD, called Tract 2, recorded in Document Number 2009197813 of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.);

THENCE, crossing said Lot 1, with the south line of said 0.606 acre Seamless GCW tract, **S57°20'38"E**, a distance of **206.21** feet to a 1/2-inch iron rod with "RPLS 4337" cap found for the southernmost corner of said 0.606 acre Seamless GCW tract, being in the east line of said Lot 1, same being the west right-of-way line of the Union Pacific Railroad (called the International and Great Northern Railroad per plat, Volume 90, Pages 90-61), (100' Right-of-way);

THENCE, with the east line of said Lot 1, same being the west right-of-way line of said Railroad, with a curve to the right, having a radius of **2,814.79** feet, an arc length of **95.46** feet, and a chord which bears **S29°48'00"W**, a distance of **95.46** feet to a 1/2-inch iron rod found for the southeast corner of said Lot 1, same being the easternmost corner of Lot 2 of said Maufrais Suidivision;

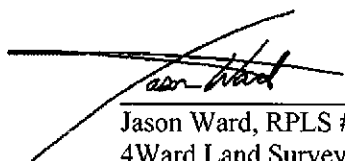
THENCE, with the south line of said Lot 1, same being the north line of said Lot 2, **N57°16'46"W**, a distance of **411.91** feet to a 1/2-inch iron rod found in the east right-of-way line of South Lamar Boulevard for the southwest corner of said Lot 1, same being the northernmost corner of said Lot 2;

THENCE, with the east right-of-way line of South Lamar Boulevard and the west line of said Lot 1, with a curve to the left, having a radius of **1,954.86** feet, an arc length of **94.89** feet, and a chord which bears **N33°16'11" E**, a distance of **94.88** feet to a 1/2-inch iron rod with "RPLS 4337" cap found for the northwest corner of said Lot 1;

THENCE, with the north line of said Lot 1 and the east right-of-way line of South Lamar Boulevard, **S57°20'38" E**, passing at a distance of 4.93 feet a 1/2-inch iron rod found for the southwest corner of said Lot 3, same being an angle point in the east right-of-way line of South Lamar Boulevard, and continuing with the common line of said Lot 1 and said Lot 3, for a total distance of **199.93** feet to the **POINT OF BEGINNING** and containing 0.8928 Acre (38,890 Square Feet) of land, more or less.

Notes:

All bearings are based on the Texas State Plane Coordinate System, Grid North, Central Zone (4203); all distances were adjusted to surface using a combined scale factor of 1.000059212078. See attached sketch (reference drawing: 00555_ALTA_Rev-2.dwg.)


Jason Ward, RPLS #5811
4Ward Land Surveying, LLC

2/28/18

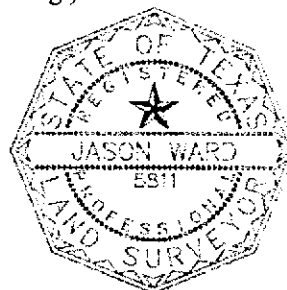
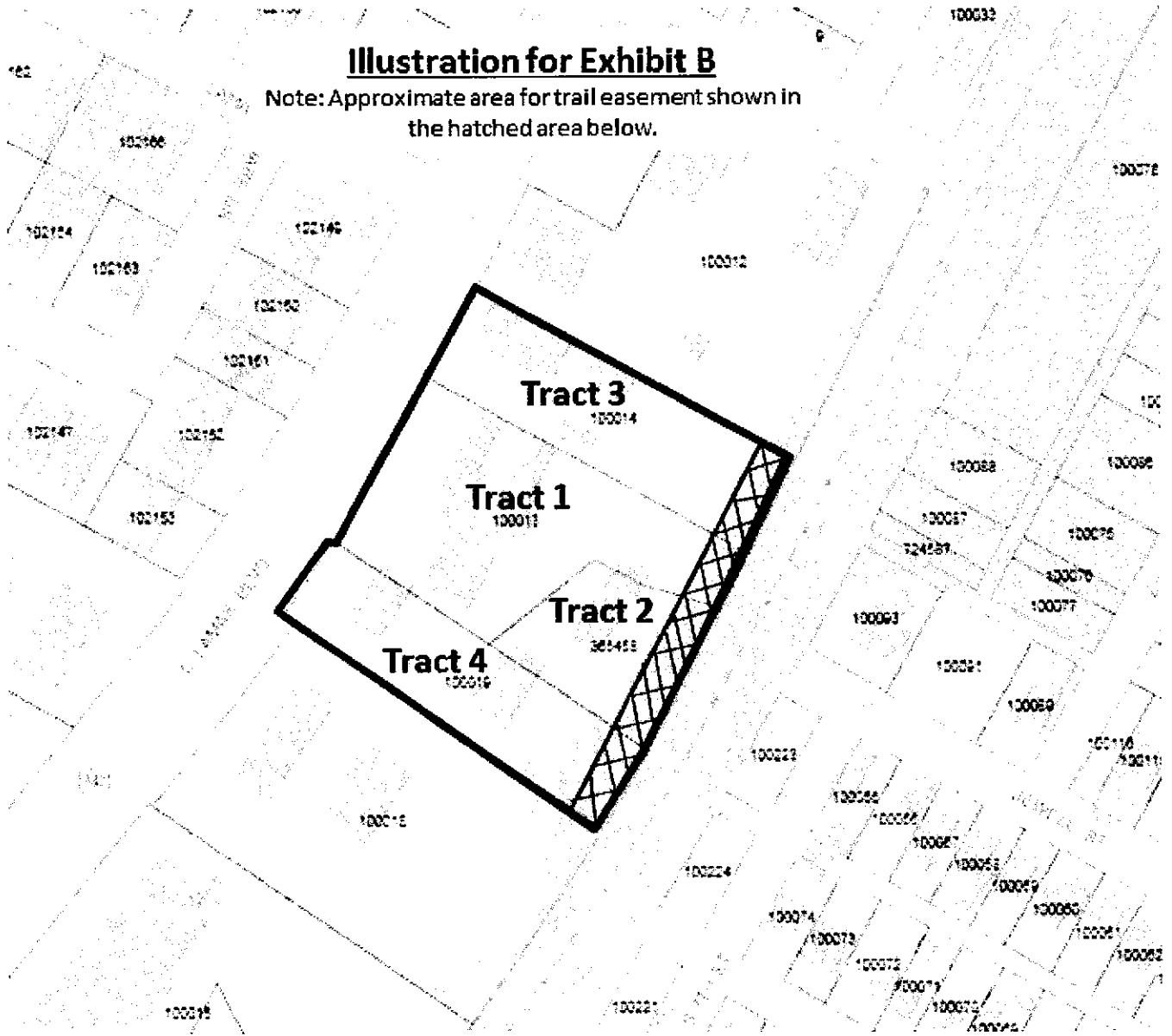


EXHIBIT "B"

Trail Area



{W0731846.14}



**FILED AND RECORDED
OFFICIAL PUBLIC RECORDS**

Dana DeBeauvoir

**DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS**

March 12 2018 10:26 AM

FEE: \$ 82.00 2018036158