

RESTRICTIVE COVENANT

OWNER: Vincent J. Stagliano

ADDRESS: 5501 St. Andrews Court, Plano, Texas 75903

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 11.72 acre tract of land, more or less, out of the A.E. Livingston Survey No. 255, Abstract No. 278, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more) 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 ("Agreement"). 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. Hours of operation of a business are prohibited from 2:00 a.m. through 6:00 a.m.
2. If any person or entity shall violate or attempt to violate this Agreement, 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, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement 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.
4. 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.
5. 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, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2010.

OWNER:

Vincent J. Stagliano

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 _____, 2010, by Vincent J. Stagliano.

Notary Public, State of Texas

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

HOLT CARSON, INC.
PROFESSIONAL LAND SURVEYORS

1904 FORTVIEW ROAD
AUSTIN, TEXAS 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

EXHIBIT A
January 12th, 2007

FIELD NOTE DESCRIPTION OF 11.72 ACRES OF LAND OUT OF THE A. E. LIVINGSTON SURVEY No. 455, ABSTRACT No. 478 IN TRAVIS COUNTY, TEXAS, AND BEING ALL OF THAT CERTAIN (11.722 ACRES) TRACT OF LAND AS CONVEYED TO NOOTSIE II, LTD., BY SPECIAL WARRANTY DEED RECORDED IN DOCUMENT No. 2004178506 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found in the West right-of-way line of F.M. Highway No. 620, and being the Southeast corner of the certain (12.00 Acres) tract of land as conveyed Wiggers Real Estate Partnership, Ltd. by Warranty Deed recorded in Document No. 2002251944 of the Official Public Records of Travis County, Texas, and being the Northeast corner of that certain (11.722 Acres) tract of land as conveyed to Nootsie II, Ltd. by Special Warranty Deed recorded in Document No. 2004178506 of the Official Public Records of Travis County, Texas, and being the Northeast corner, and **PLACE OF BEGINNING** of the herein described tract;

THENCE with said West right-of-way F.M. Highway No. 620 and the East line of said Nootsie II, Ltd. (11.72 Acres) tract, **S 40 deg. 18' 43" W 299.93 ft.** to a 1/2" iron rod found for an angle point of said Nootsie II, Ltd. (11.722 Acres) tract, and being in the North line of that certain (0.992 acre) tract as conveyed to Southern Union Realty Company by Warranty Deed recorded in Volume 9850 Page 487 of the Real Property Records of Travis County, Texas, and being an angle point of this tract;

THENCE with North line of said Southern Union Realty (0.992 acre) tract and with a line of said Nootsie II, Ltd. (11.722 Acres) tract, **S 63 deg. 14' 47" E 74.92 ft.** to a point in F.M. Highway No. 620 for the Northeast corner of said Southern Union Realty (0.992 acre) tract, and being an angle point of said Nootsie II, Ltd. (11.722 Acres) tract, and being an angle point of this tract;

THENCE through the interior of said F.M. Highway No. 620 with the East line of said Southern Union Realty (0.992 acre) tract and with the East line of said Nootsie II, Ltd. (11.722 Acres) tract **S 40 deg. 04' 48" W 200.11 ft.** to a point for the Southeast corner of said Southern Union Realty (0.992 acre) tract and for the Southeast corner of said Nootsie II, Ltd. (11.722 acre) tract, and being the Northeast corner of that certain (5 Acres) tract of land as conveyed Cecil L. Briggs by deed recorded in Volume 3971 Page 1926 of the Deed Records of Travis County, Texas, and being the Southeast corner of this tract;

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THENCE with the common line of said Briggs (5 Acres) tract, and said Nootsie II, Ltd. (11.722 Acres) tract, **N 63 deg. 17' 47" W** at 75.32 ft. passing a 1/2" iron rod found with a plastic cap imprinted with "D. Seelig" on the West right-of-way line of F.M. Highway No. 620 and at 220.38 ft. passing a 1/2" iron rod found for the Southwest corner of said Southern Union Realty (0.992 acre) tract, and continuing with the same bearing for a total distance of **1089.68 ft.** to a 1/2" iron pipe found for the Northwest corner of said Briggs (5 Acres) tract, and being in the East line of that certain (151.706 Acres) tract of land as conveyed to Nootsie II, Ltd. by Special Warranty Deed recorded in Volume 11935 Page 1373 of the Real Property Records of Travis County, Texas, an being the Southwest of said Nootsie II, Ltd. (11.722 Acres) tract, and being the Southwest of this tract;

THENCE with common line of said Nootsie II, Ltd. (151.706 Acres) tract, and said Nootsie II, Ltd. (11.722 Acres) tract for the following two (2) courses:

- 1) **N 28 deg. 49' 20" E 196.14 ft.** to a 1/2" iron pipe found for an angle point of this tract;
- 2) **N 29 deg. 03' 22" E 124.79 ft.** to a 1/2" iron rod found for the Northwest corner of said Nootsie II, Ltd. (151.706 Acres) tract, and being an angle point of said Nootsie II, Ltd. (11.722 Acres) tract, and being the Southeast corner of that certain (19.494 Acres) tract of land as conveyed to Wiggers Real Estate Partnership, Ltd. by Warranty Deed recorded in Document No. 2002251944 of the Official Public Records of Travis County, Texas, and being an angle point of this tract;

THENCE with common line of said Wiggers (19.494 Acres) tract, and said Nootsie II, Ltd. (11.722 Acres) tract, **N 25 deg. 12' 19" E 126.00 ft.** to a 1/2" iron rod found for the Southwest corner of that certain (12.00 Acres) tract of land as conveyed to Wiggers Real Estate Partnership, Ltd. by Warranty Deed recorded in Document No. 2002251944 of the Official Public Records of Travis County, Texas, and being the Northwest corner of said Nootsie II, Ltd. (11.722 Acres) tract, and being the Northwest corner of this tract;

THENCE with the common line of said Wiggers (12.00 Acres) tract, and said Nootsie (11.722 Acres) tract, **S 65 deg. 19' 00" E 1123.24 ft.** to the **PLACE OF BEGINNING**, and containing 11.72 Acres of land.

PREPARED: January 12th, 2007

BY:



Holt Carson
Registered Professional Land Surveyor No. 5166

see accompanying map: B 785074

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