

**RESTRICTIVE COVENANT**

OWNER: Stephen Whatley

ADDRESS: 15875 Lomita Springs Dr., San Antonio, Texas 78247

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 0.973 acre (42,399 sq. ft.) tract of land, more or less, out of the James P. Wallace Survey No. 18, 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 on the Property are prohibited from 10:00 p. 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:**

\_\_\_\_\_  
Stephen Whatley

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS** §

**COUNTY OF** \_\_\_\_\_ §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by Stephen Whatley.

\_\_\_\_\_  
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**