

**RESTRICTIVE COVENANT**

OWNER: BB Retail South, LP, a Texas limited partnership

ADDRESS: 3839 Bee Cave Road, Suite 200, Austin, Texas 78746

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 0.260 acre (11,246 sq. ft.) tract of land, more or less, out of Lot 2, Plaza at Slaughter Creek Section One Subdivision, 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. The Owner of the Property will not object to the City of Austin rezoning the Property to a more restrictive zoning district if the City Code is amended to increase the square footage limitation for a food preparation use.
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 \_\_\_\_\_, 2011.

**OWNER:**

BB Retail South, LP,  
a Texas limited partnership

By: 501 West 15<sup>th</sup>, Inc.,  
a Texas corporation,  
its General Partner

By: \_\_\_\_\_  
Jimmy Nassour,  
Vice President

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 \_\_\_\_\_, 2011, by Jimmy Nassour, as Vice President of 501 West 15<sup>th</sup>, Inc., a Texas corporation, general partner of BB Retail South, LP, a Texas limited partnership, on behalf of the corporation and the partnership.

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

C14-2010-0190

**HOLT CARSON, INC.**  
**PROFESSIONAL LAND SURVEYORS**

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

EXHIBIT A

**REZONING**

**FIELD NOTE DESCRIPTION OF 11,246 SQUARE FEET OF LAND, BEING A PORTION OF LOT 2, PLAZA AT SLAUGHTER CREEK, SECTION ONE, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 86 PAGES 103A-103B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING FOR REFERENCE** at a ½" iron rod found in the East right-of-way line of Manchaca Road for the Southwest corner of Lot 2, Plaza At Slaughter Creek, Section One, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 86 Pages 103A-103B of the Plat Records of Travis County, Texas;

**THENCE** leaving the East right-of-way line of Manchaca Road with the South line of said Lot 2, S 74 deg. 00' 46" E 149.54 ft. to a point in the North line of Lot 1-A, Block A, Resubdivision of Lot 1, Block A, AAA Facilities Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Document No. 200200053 of the Official Public Records of Travis County, Texas;

**THENCE** entering the interior of said Lot 2, N 16 deg. 59' 40" E 100.74 ft. to a point for the Southwest corner and **PLACE OF BEGINNING** of the herein described tract of land;

**THENCE** continuing across the interior of said Lot 2 with the West line of this tract, N 16 deg. 59' 40" E 39.81 ft. to a point for the Northwest corner of this tract;

**THENCE** continuing across the interior of said Lot 2 with the North line of this tract, the following five (5) courses;

- 1) S 73 deg. 00' 20" E 42.00 ft.;
- 2) S 16 deg. 59' 40" W 5.50 ft.;
- 3) S 73 deg. 00' 20" E 120.70 ft.;
- 4) S 16 deg. 59' 40" W 6.30 ft.;
- 5) S 73 deg. 00' 20" E 89.20 ft. to a point on a building wall line for the Northeast corner of this tract;

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**REZONING 11,246 SQUARE FEET**

THENCE continuing across the interior of said Lot 2 with a building wall line and the East line of this tract, S 16 deg. 59' 40" W 28.20 ft. to a point for the Southeast corner of this tract;

THENCE continuing across the interior of said Lot 2 with a building wall line for the South line of this tract, the following seven (7) courses;

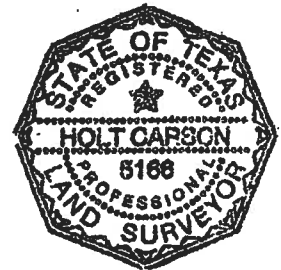
- 1) N 73 deg. 00' 20" W 39.90 ft.;
- 2) S 16 deg. 59' 40" W 6.00 ft.;
- 3) N 73 deg. 00' 20" W 40.25 ft.;
- 4) S 16 deg. 59' 40" W 18.88 ft.;
- 5) N 73 deg. 00' 20" W 99.94 ft.;
- 6) N 11 deg. 46' 32" W 28.60 ft.;
- 7) N 73 deg. 00' 20" W 58.04 ft. to the **PLACE OF BEGINNING**, containing 11,246 square feet of land.

**PREPARED:** October 28, 2010



Holt Carson

Registered Professional Land Surveyor No. 5166



see accompanying sketch: C 865094

**references:**

TCAD Parcel No. 04 3021 05 02

City of Austin Grid: E14

