



RESTRICTIVE COVENANT

AUSTIN CITY CLERK  
RECEIVED

2011 AUG 12 AM 8 04

OWNER: 510 W. 8<sup>th</sup> St., L.P., a Texas limited partnership

ADDRESS: c/o Michael McHone, 1904 Guadalupe Street, Suite A, Lower Level, Austin, Texas 78705

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 0.1699 acre tract of land, more or less, being a portion of Lots 1 and 2, Block 102, Original City of Austin, 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. If a building or structure is constructed to a height that exceeds 60 feet, then a minimum of 50 percent of the net rentable conditioned space above 60 feet in height shall be for residential uses.
2. A cocktail lounge use is prohibited in a pad site building on the Property.
3. A cocktail lounge use is a conditional use if associated with an onsite club, hotel, or bed and breakfast residential use.
4. 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.
5. 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.
6. 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.
7. 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.

7-28-11  
#128

EXECUTED this the 13<sup>th</sup> day of July, 2011. AUSTIN CITY CLERK  
RECEIVED

OWNER:

2011 AUG 12 AM 8 04

510 W. 8th St., L.P., a Texas Limited Partnership,

By: M.R. McHone/S. Hamm, Inc.,  
a Texas corporation,  
its General Partner

By: Michael R. McHone

Michael R. McHone,  
President

APPROVED AS TO FORM:

Chad Shaw  
Assistant City Attorney  
City of Austin

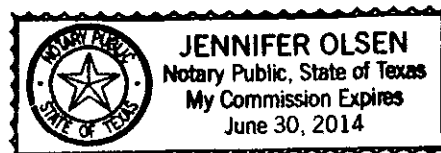
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 13<sup>th</sup> day of July, 2011, by Michael R. McHone, President of M.R. McHone/S. Hamm, Inc., a Texas corporation, general partner of 510 W. 8<sup>th</sup> St., L.P., a Texas limited partnership, on behalf of the corporation and limited partnership.

Jennifer Olsen  
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



*Land Surveyors, Inc.*

8333 Cross Park Drive

Austin, Texas 78754

Office: 512.374.9722

Fax: 512.873.9743

AUSTIN CITY CLERK

RECEIVED

2011 AUG 12 AM 8 04

## EXHIBIT A

## METES AND BOUNDS DESCRIPTION

BEING 0.1699 OF ONE ACRE (7,399 SQUARE FEET) OF LAND, BEING A PORTION OF LOTS 1 AND 2, BLOCK 102 IN THE ORIGINAL CITY OF AUSTIN PLAN, ACCORDING TO THE MAP THEREOF RECORDED IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS AND BEING THE SAME PROPERTY CONVEYED TO ETHEL HARTMAN AND DESCRIBED AS 0.171 ACRES BY INSTRUMENT OF RECORD IN VOLUME 1918, PAGE 338 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron pipe found for the southwest corner of said Lot 1, Block 102, Original City of Austin, being the southwest corner of said 0.171 acre tract and also being at the intersection of the east right-of-way line of Nueces Street (80' R.O.W.) with the north right-of-way line of West 8<sup>th</sup> Street (R.O.W. varies); from which a 1/2 rebar found with aluminum cap (stamp illegible) at the intersection of the west right-of-way line of said Nueces Street with the north right-of-way line of said West 8<sup>th</sup> Street bears North 70°48'23" West a distance of 79.93 feet (record: 80.00 feet);

THENCE North 19°11'48" East (record: North 18°53'00" East), along the west line of the 0.171 acre tract, the west line of Lot 1, Block 102, Original City of Austin and the east right-of-way line of Nueces Street a distance of 63.98 feet (record: 64.00 feet) to a 1/2" iron pipe found at the northwest corner of the 0.171 acre tract and being the southwest corner of the north 1/2 of Lot 1, Block 102, Original City of Austin as conveyed to Michael J. McGinnis and, along with the north 1/2 of Lot 2, Block 102, Original City of Austin are called "Second Tract" by instrument of record in Document Number 2004236655 of the Official Public Records of Travis County, Texas; from which a 1/2" rebar found with aluminum cap, which reads "Kent MacMillan Surveyor, RPLS 4341, 602" for the northwest corner of said McGinnis' "Second Tract" and being the northwest corner of Lot 1, Block 102, Original City of Austin bears North 19°11'48" East a distance of 63.99 feet (record: 64.00 feet);

THENCE, South 70°49'25" East (record: South 71°08' East), along the north line of the 0.171 acre tract, being the south line of McGinnis' "Second Tract" and the south line of the north 1/2 of Lot 1 and Lot 2, Block 102, Original City of Austin a distance of 115.62 feet (record: 116.10 feet) to a 1/2" rebar set with plastic cap, which reads "BASELINE, INC." for the northeast corner of the 0.171 acre tract and being the northwest corner of that tract of land conveyed to Patton/800 San Antonio, L.P. by instrument of record in Document Number 2003121284 of the Official Public Records of Travis County, Texas and described therein as "Tract 1"; from which a calculated point in the west right-of-way line of San Antonio Street (80.00' R.O.W.) for northeast corner of Lot 4, Block 102 as conveyed to Michael J. McGinnis and, along with the north 1/2 of Lot 3, Block 102, Original City of Austin are called "First Tract" by instrument of record in said Document Number 2004236655 of the Official Public Records of Travis County, Texas bears South 70°49'25" East a distance of 163.81 feet and is 0.4' east of a 1/2" iron pipe found;

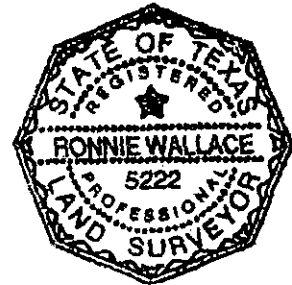
THENCE South  $19^{\circ}11'48''$  West (record: South  $18^{\circ}53'00''$  West), along the east line of the 0.171 acre tract, being parallel with the west line of the 0.171 acre tract and the east right-of-way line of Nueces Street and being the west line of the Patton/800 San Antonio L.P. Tract 1 a distance of 64.00 feet (record: 64.00 feet) to a calculated point 0.3' south of a  $1/2''$  rebar found; said calculated point being the southeast corner of the 0.171 acre tract and being in the north right-of-way line of West 8<sup>th</sup> Street and being the northwest corner of a 1,230.75 square foot tract of land conveyed to Patton/800 San Antonio, L.P. by instrument of record in said Document Number 2003121284 of the Official Public Records of Travis County, Texas and known therein as "Tract 2" and being a portion of vacated West 8<sup>th</sup> Street as described in Volume 5315, Page 1258 of the Deed Records of Travis County, Texas; from which a  $1/2$  rebar found for the southwest corner of said 1,230.75 square foot tract bears South  $17^{\circ}53'39''$  West a distance of 7.30 feet (record: South  $18^{\circ}28'$  West a distance of 7.22 feet) and a  $1/2''$  rebar found in said west right-of-way line of San Antonio Street for the northeast corner of the 1,230.75 square foot tract and being the southeast corner of the Patton/800 San Antonio, L.P. Tract 1 bears South  $70^{\circ}49'00''$  East a distance of 164.24 feet (record: South  $70^{\circ}49'$  East a distance of 163.51 feet);

THENCE North  $70^{\circ}49'00''$  West (record: North  $71^{\circ}08'00''$  West), along the south line of the 0.171 acre tract, the south line of Lot 1 and Lot 2, Block 102, Original City of Austin and the north right-of-way line of West 8<sup>th</sup> Street a distance of 115.62 feet (record: 116.10 feet) to the POINT OF BEGINNING.

This parcel contains 0.1699 of one acre (7,399 square feet) of land, more or less, out of the Lots 1 & 2, Block 102, Original City of Austin Plan, Travis County, Texas.

Bearing Basis: the north right-of-way line of West 8<sup>th</sup> Street being North  $70^{\circ}49'$  West, as cited in Quitclaim Deed from the City of Austin to Frank W. McGee, Jr. of record in Volume 5315, Page 1258 of the Deed Records of Travis County, Texas.

Ronnie Wallace 20 September 2010  
Ronnie Wallace Date  
Registered Professional Land Surveyor  
State of Texas No. 5222



File: S:\Projects\804 San Antonio\Docs\Field Notes\501 W 8<sup>th</sup> Street\_fn.doc  
Dwg: S:\Projects\804 San Antonio\Dwg\510 W 8<sup>th</sup> Street Title Survey.dwg

2011 AUG 12 AM 8 04

RECEIVED  
AUSTIN CITY CLERK



(NOT TO SCALE)

WEST 8TH STREET

**SAN ANTONIO STREET**  
(80' R.O.W.)

## WAGNER

## GENERAL NOTES

### SURVEYOR'S CERTIFICATION

HENRY CERRY, PARTNER, SUBSTANTIALLY AGREES WITH THE CURRENT ETHICS SOCIETY OF PROFESSIONAL SANITARIANS STANDARDS AND EXPECTATIONS FOR A CATEGORY 1A, COUNCILMAN, SANITARY AND WAS MADE ON THE BASIS OF HIS KNOWLEDGE AND BELIEFS. CERRY STATED THAT HE BELIEVES THE STANDARDS AND EXPECTATIONS SET BY THE ETHICS SOCIETY OF PROFESSIONAL SANITARIANS ARE REASONABLE AND FAIR, BUT HE DOES NOT BELIEVE THAT THE STANDARDS ARE ENFORCEABLE. CERRY STATED THAT HE BELIEVES THE STANDARDS ARE REASONABLE AND FAIR, BUT HE DOES NOT BELIEVE THAT THE STANDARDS ARE ENFORCEABLE. CERRY STATED THAT HE BELIEVES THE STANDARDS ARE REASONABLE AND FAIR, BUT HE DOES NOT BELIEVE THAT THE STANDARDS ARE ENFORCEABLE.

LAND TITLE SURVEY OF 0.1699 OF ONE ACRE (7,300 SQUARE FEET) OF LAND, BEING A PORTION OF LOTS 1 & 2, BLOCK 102 IN THE ORIGINAL CITY OF AUSTIN PLAN, ACCORDING TO THE MAP THEREOF RECORDED IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS AND BEING THE SAME PROPERTY CONVEYED TO ETHEL HARTMAN AND DESCRIBED AS 0.171 ACRES BY INSTRUMENT OF RECORD IN VOLUME 1918, PAGE 338 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS

BASELINE LAND SURVEYORS, INC.  
PROFESSIONAL LAND SURVEYING SERVICES  
8333 EDWARDS BLVD  
AUSTIN TEXAS 78764  
OFFICE: 512-478-9721 FAX: 512-478-9723  
Home: 512-478-9721

ROBERTO PROFFERMAN, LAND SENATOR  
STATE OF TEXAS NO. 5222

01 of 01

**SHEET**

Scale (Plot): 1"=20'

Date: 09/24/10

Drawn By: RLW

Checked By: gws

Revision 1:

Revision 2:

Revision 3:

AUSTIN CITY CLERK  
RECEIVED

FILED AND RECORDED 2011 AUG 12 AM 8 04  
OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

AUG 02, 2011 10:25 AM

PEREZTA: \$36.00

2011111451

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.