

**RESTRICTIVE COVENANT**

**OWNER:** JSTRAINS, LLC, a Texas limited liability company

**ADDRESS:** c/o Kinney Lamar Properties, LLC, P.O. Box 160896, Austin, TX 78716-0896

**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 5,872 square feet tract of land, more or less, out of Lot 11, Block 1, Fredericksburg Road Acres Subdivision, in 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. Live outdoor amplified music is prohibited on the Property.
2. A street tree is defined as a Class I shade tree having a minimum caliper of 2-1/2 inches. A site plan or building permit for the Property may not be approved, released, or issued if the site plan does not provide for the planting of Class I shade trees.
3. Street trees shall be planted along the south property line fronting Oltorf Street, with modifications permitted to accommodate utilities and sight lines. Street trees may be omitted where existing trees remain.
4. The caliper of trees to be planted shall be greater than or equal to what shall be removed from the interior of the property resulting from any development of an approved site plan.
5. 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.
6. 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.
7. 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.

8. 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 14 day of October, 2011.

**OWNER:**

JSTRAIN, LLC,  
A Texas limited liability company

By:

  
John Scott Trainer,  
Managing Member

**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 14 day of October, 2011, by John Scott Trainer, Managing Member of JSTRAIN, LLC, a Texas limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
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

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www.hciaustin.com

FIELD NOTE DESCRIPTION OF 5,872 SQUARE FEET OF LAND, BEING A PORTION OF LOT 11, BLOCK 1, FREDERICKSBURG ROAD ACRES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 3 PAGE 168 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING ALL OF THAT CERTAIN TRACT OF LAND AS CONVEYED TO JSTRAIN, L.L.C. BY WARRANTY DEED RECORDED IN DOCUMENT No. 2010101419 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING FORMERLY DESCRIBED IN A DEED TO J.B. RUSHING AND WIFE, ADDIE RUSHING AS RECORDED IN VOLUME 842 PAGE 535 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/4" iron pipe found in the East right-of-way line of West Oltorf Street for the Southwest corner of Lot 11 and the Northwest corner of Lot 12, of Block 1, Fredericksburg Road Acres, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 3 Page 168 of the Plat Records of Travis County, Texas, and being the Southwest corner and **PLACE OF BEGINNING** of the herein described tract, and from which a 3/4" iron pipe found in the East right-of-way line of West Oltorf Street for the Southwest corner of said Lot 12 bears S 17 deg. 48' 29" E 149.95 ft. (direct tie);

THENCE with the East right-of-way line of West Oltorf Street and with the West line of said Lot 11, N 17 deg. 48' 29" W 56.00 ft. to a 1/2" iron rod set with a plastic cap imprinted with "Holt Carson, Inc." for the Northwest corner of that certain tract of land as conveyed to JSTRAIN, L.L.C. by Warranty Deed recorded in Document No. 2010101419 of the Official Public Records of Travis County, Texas, and being the Northwest corner of this tract;

THENCE leaving the East right-of-way line of West Oltorf Street and crossing the interior of said Lot 11 with the North line of said JSTRAIN, L.L.C. tract, N 72 deg. 15' 28" E 104.88 ft. to a 1/2" iron rod set with a plastic cap imprinted with "Holt Carson, Inc." in the common line of Lot 10 and Lot 11 of said Block 1, Fredericksburg Road Acres, for the Northeast corner of said JSTRAIN, L.L.C. tract, and being the Northeast corner of this tract;

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5,872 SQUARE FEET

THENCE with the common line of said Lot 10 and Lot 11, S 17 deg. 47' 05" E 56.00 ft. to a capped iron rod found (marked "Terra Firma") in the North line of said Lot 12 for the Southwest corner of said Lot 10 and the Southeast corner of said Lot 11 and being the Southeast corner of said JSTRAIN, L.L.C. tract, and being the Southeast corner of this tract, and from which a ½" iron rod found for the Southeast corner of said Lot 10 bears N 72 deg. 15' 28" E 114.93 ft.;

THENCE with the common line of said Lot 11 and Lot 12, S 72 deg. 15' 28" W 104.85 ft. to the **PLACE OF BEGINNING**, containing 5,872 square feet of land.

**PREPARED** May 13, 2011 from survey performed in June, 2010.



Holt Carson

Registered Professional Land Surveyor No. 5166



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