

Late Backup

Zoning Case No. C14-2013-0089RC

RESTRICTIVE COVENANT

OWNER: Ethos (Austin) LP, a Texas limited partnership

ADDRESS: 722 N. Main Street, Fort Worth, Texas 76164

OWNER: Kalogridis and Kalogridis Development, LLC, a Texas limited liability company

ADDRESS: 2110-B Boca Raton Drive, Suite 102, Austin, Texas 78747

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: Lot 2, Block A, Marbella Section 2 Subdivision, a subdivision in the City of Austin, Travis County, Texas, in Document No. 201300233 of the Official Public Records of Travis County, Texas; and,

Lot 1, Block A, Marbella Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Document No. 201200065 of the Official Public Records of Travis County, Texas, hereinafter cumulatively referred to as the "Property"

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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR, Inc., dated July 17, 2013 or as amended and approved by the Director of the Planning and Development Review Department. All development on the

Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated October 2, 2013. The TIA shall be kept on file at the Planning and Development Review Department.

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 1st day of November, 2013.

OWNERS:

Ethos (Austin) LP,
a Texas limited partnership

By: **Ethos Austin Gen Par, LLC, a**
Texas limited liability company
its General Partner

By: 
Donald L. Hudgins, Jr.
Sole Member

**Kalogridis and Kalogridis Development,
LLC, a Texas limited liability company**

By: _____

**Mitchell Kalogridis
Governing Person**

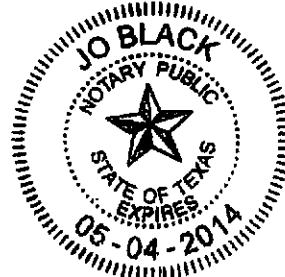
APPROVED AS TO FORM:

**Assistant City Attorney
City of Austin**

THE STATE OF TEXAS §
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 1st day of NOVEMBER, 2013, by Donald L. Hudgins, Jr., Sole Member of Ethos Austin Gen Par LLC, a Texas limited liability company, general partner of Ethos (Austin) LP, a Texas limited partnership, on behalf of the partnership.

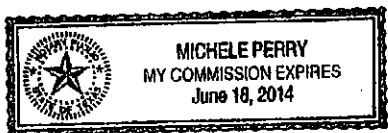
Notary Public, State of Texas



THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 4th day of November, 2013, by Mitchell Kalogridis, Governing Person of Kalogridis and Kalogridis Development, LLC, a Texas limited liability company, on behalf of the company.




Notary Public, State of Texas

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