

#14

Zoning Case No. C14-2015-0078

**Late Backup**

**RESTRICTIVE COVENANT**

OWNER: Matthews-Barnes Brothers Investments, LP, a Texas limited partnership

ADDRESS: 11750D Research Boulevard, Austin, Texas 78759

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:

1411 West 5th Street: Lots 10 - 12, Block 1, Outlot 1, Division Z, Pressler Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 2, Page 137, of the Plat Records of Travis County, Texas,

403 Paul Street: Lots 7-9, Block 1, Outlot 1, Division Z, Pressler Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 2, Page 137, of the Plat Records of Travis County, Texas, plus the vacated portion of the adjacent alley as recorded in Volume 943, Page 444 of the Real Property Records of Travis County, Texas (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. Outdoor amplified sound is prohibited on the Property.
2. A late hours permit under City Code Section 25-2-808 (*Restaurants and Cocktail Lounges*) is prohibited on the Property.
3. 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 7 day of October, 2015.

**OWNER:**

Matthews-Barnes Brothers Investments, LP, a  
Texas limited partnership

By: D.R. Brothers Management, LLC, a Texas  
limited liability company, its general partner

By:   
Duke M. Covert, Member/Manager

By:   
Danay C. Covert, Member/Manager

By:   
Rox B. Covert, Member/Manager

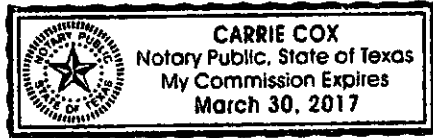
APPROVED AS TO FORM:

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

THE STATE OF TEXAS  
COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the 7 day of October, 2015, by Duke M. Covert, Member/Manager of D.R. Brothers Management, LLC, a Texas limited liability company, general partner of Matthews-Barnes Brothers Investments, LP, a Texas limited partnership.

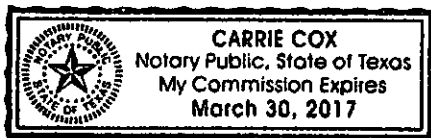


Carrie Cox  
Notary Public, State of Texas

THE STATE OF TEXAS  
COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the 7 day of October, 2015, by Danay C. Covert, Member/Manager of D.R. Brothers Management, LLC, a Texas limited liability company, general partner of Matthews-Barnes Brothers Investments, LP, a Texas limited partnership.



Carrie Cox  
Notary Public, State of Texas

THE STATE OF TEXAS  
COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the 6th day of October, 2015, by Rox B. Covert, Member/Manager of D.R. Brothers Management, LLC, a Texas limited liability company, general partner of Matthews-Barnes Brothers Investments, LP, a Texas limited partnership.



Laurie Lynn Bukowsky  
Notary Public, State of Texas

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