

(P)

Zoning Case No. C14-06-0027

copy

RESTRICTIVE COVENANT

OWNER Tommy J Cain

ADDRESS 705 River Road, Austin, Texas 78734

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 4 655 acre tract of land, more or less, out of the A E Livingston Survey Abstract No 478, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant

WHEREAS, the Owners 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 Owners 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. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns

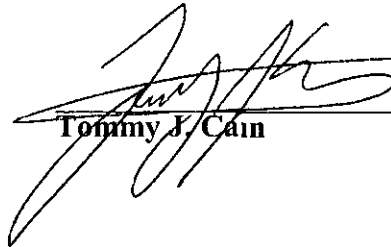
- 1 A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Transportation Group, dated February 2006, or as amended and approved by the Director of the Watershed Protection 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 Watershed Protection and Development Review Department, dated May 31, 2006. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
- 2 If any person or entity shall violate or attempt to violate this agreement and covenant, 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 or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
- 3 If any part of this agreement or covenant 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.

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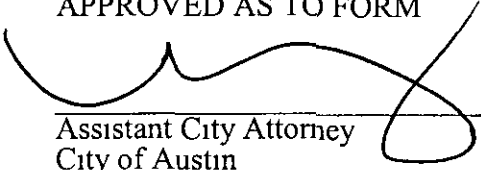
- 5 This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination

EXECUTED this the 18th day of July, 2006

OWNER:


Tommy J. Cain

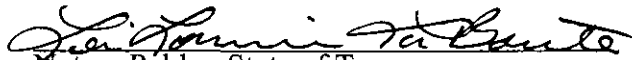
APPROVED AS TO FORM


Assistant City Attorney
City of Austin

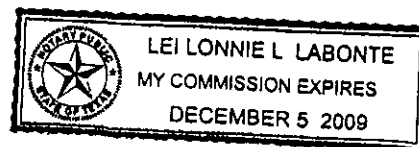
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 18th day of July, ~~20~~ 2006, by Tommy J. Cain


Notary Public, State of Texas

After Recording, Please Return to
City of Austin
Department of Law
P O Box 1088
Austin, Texas 78767
Attention Diana Minter, Paralegal



Restrictive covenant-TJ CAIN

CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.

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

EXHIBIT A

C14-06-0027

FIELD NOTE DESCRIPTION OF 4 655 ACRES OF LAND OUT OF THE A E LIVINGSTON SURVEY ABSTRACT No 478 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (5 ACRE) TRACT OF LAND AS CONVEYED TO CECIL L BRIGGS BY DEED RECORDED IN VOLUME 3971 PAGE 1926 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, LESS THAT PORTION NOW LYING WITHIN THE RIGHT-OF-WAY OF F M HIGHWAY No 620, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

BEGINNING at a ½" iron pipe found for the Northwest corner of that certain (5 acre) tract of land as conveyed to Cecil L Briggs by deed recorded in Volume 3971 Page 1926 of the Deed Records of Travis County, Texas, and for the Southwest corner of that certain (11 722 acre) tract of land as conveyed to Nootsie, Ltd by deed recorded in Volume 11948 Page 4104 of the Real Property Records of Travis County, Texas, and being the Northwest corner and **PLACE OF BEGINNING** of the herein described tract,

THENCE with the common line of said Briggs (5 acre) tract and said Nootsie (11 722 acre) tract, S 63 deg 17' 47" E 1014 62 ft to a ½" iron rod found with a plastic cap imprinted with "D Seelig" on the West right-of-way line of F M Highway No 620 for the Northeast corner of this tract, and from which the record Northeast corner of said Briggs (5 acre) tract and the Southeast corner of said Nootsie (11 722 acre) tract being in the approximate centerline of F M Highway 620 bears S 63 deg 17' 47" E 75 53 ft ,

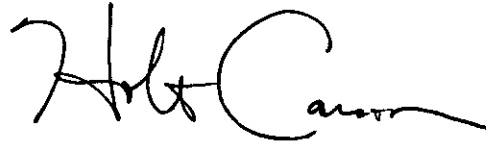
THENCE crossing the interior of said Briggs (5 acre) tract, S 40 deg 18' 34" W 210 43 ft to a ½" iron pipe found on the South line of said Briggs (5 acre) tract and for an angle corner of that certain (155 992 acre) tract of land as conveyed to Nootsie, Ltd by deed recorded in Volume 11935 Page 1373 of the Real Property Records of Travis County, Texas, and being the Southeast corner of this tract, and from which the record Southeast corner of said Briggs (5 acre) tract bears S 63 deg 15' 17" W 75 59 ft ,

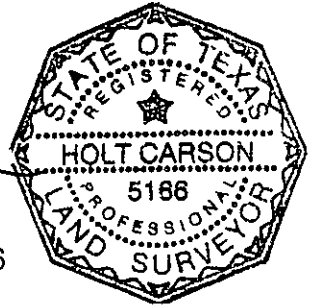
THENCE with the common line of said Briggs (5 acre) tract and said Nootsie (155 992 acre) tract, N 63 deg 15' 17" W 971 63 ft to a ½" iron pipe found for the Southwest corner of said Briggs (5 acre) tract and for the most easterly Northeast corner of said Nootsie (155 992 acre) tract and being the Southwest corner of this tract,

THENCE with the West line of said Briggs (5 acre) tract, the following two (2) courses,

- 1) N 28 deg 31' 54" E 197 50 ft to a ½" iron rod found with a plastic cap
imprinted with "D Seelig",
- 2) N 28 deg 37' 16" E 6 42 ft to the **PLACE OF BEGINNING**, containing 4 655
acres of land

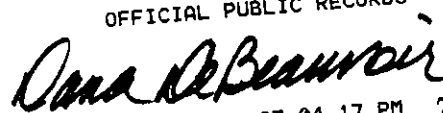
PREPARED February 28, 2006


Holt Carson
Registered Professional Land Surveyor No 5166



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



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DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS