PRESENTED TO PLANNING COMMISSION ON DECEMBER 9, 2014

Zoning Case No. C14-2014-0011A
C14-2014-0011B

RESTRICTIVE COVENANT

OWNER: Rancho Garza, Ltd., a Texas limited partnership

ADDRESS: 17830 Serene Hills Pass, Austin, Texas 78738

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: 22.779 acre tract of land out of the Thomas Anderson Survey No. 17, Abstract No. 2, said 22.779 acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant; and,

10.036 acre tract of land out of the Thomas Anderson Survey No. 17, Abstract No. 2, said 10.036 acre tract of land being more particularly described by metes and bounds in Exhibit "B" attached and incorporated into this covenant (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 Engineering, Inc., dated November 6, 2014, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Property is subject to the Planning and Development Review Department, Transportation Review Section's staff memorandum ("memorandum"), and any amendments to the memorandum that address subsequent TIA updates for the Property. The TIA and memorandum shall be kept on file at the Planning and Development Review Department.

DRAFT

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 4th day of DECEMBER, 2014.

OWNER:

RANCHO GARZA, LTD., a Texas limited partnership

By: RANCHO GARZA INVESTMENTS, INC., a Texas corporation, its general partner

By: _____
RON WHITE
President

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 4 day of December, 2014, by Ron White, President of Rancho Garza investments, Inc., a Texas corporation, general partner of Rancho Garza, Ltd., a Texas limited partnership, on behalf of the partnership.

NOTARY PUBLIC STATE OF TEXAS
Rafael Lopez
Notary Public
State of Texas
My Comm. Exp. 10/1/16

Notary Public, State of Texas

PRESENTED TO PLANNING COMMISSION ON DECEMBER 9, 2014

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

DRAFT

C14-2014-0011A

22.779 Acres
Thomas Anderson Survey No. 17
Abstract No. 2
Travis County, Texas

DESCRIPTION

BEING A 22.779 ACRE TRACT OF LAND SITUATED IN THE THOMAS ANDERSON SURVEY NO. 17, ABSTRACT NO. 2, IN TRAVIS COUNTY, TEXAS, AND BEING ALL OF LOT 1, BLOCK E, GARZA RANCH, A SUBDIVISION IN TRAVIS COUNTY, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 90, PAGE 4-7, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A CALLED 5.40 ACRE TRACT OF LAND CONVEYED TO ELI JAMES GARZA DESCRIBED IN A GENERAL WARRANTY DEED RECORDED IN DOCUMENT NO. 2004018557, OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO ELI GARZA (ELI GRAZA TRACT) IN A DEED RECORDED IN VOLUME 6512, PAGE 1843, OF THE DEED RECORDS OF SAID COUNTY, AND A REMAINDER OF A CALLED 124.7 ACRE TRACT CONVEYED TO BEN GARZA BY A DEED RECORDED IN VOLUME 460, PAGE 564, OF THE DEED RECORDS OF SAID COUNTY, SAID 22.779 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/4" diameter iron pipe found for the northwest corner of said called 5.40 acre tract, being the northeast corner of Lot 2, Block E, of said GARZA RANCH, and being in the south line of that certain tract of land conveyed to the City of Austin in a Special Warranty Deed, recorded in Volume 12593, Page 3432, of the Real Property Records of Travis County, Texas and the northwest corner of the herein described tract;

THENCE, South 62°18'02" East (record South 59°24' East) with the common line of said 5.40 acre tract and said City of Austin tract, passing a 3/4 inch diameter iron pipe found for the northeast corner of said 5.40 acre tract, the northwest corner of said remainder of a called 124.7 acre tract, the southeast corner of said City of Austin tract and the southwest corner of a called 6.6 acre tract of land conveyed to the City of Sunset Valley in a General Warranty Deed recorded in Document No. 2013223873, of the Official Public Records of Travis County, Texas, at a distance of 892.33 feet and continuing along the south line of said called 6.6 acre tract for a total distance of 944.26 feet to a point for northeast corner of said remainder tract and the northeast corner of the herein described tract;

THENCE, South 10°36'34" West, with the east line of the herein described tract, passing the northwest corner of Lot 2, GARZA BRODIE SUBDIVISION, a subdivision in said County according to the map or plat thereof recorded in Document No. 200300238, of the Official Public Records of said County at a distance of 2.02 feet, passing a 1/2 inch iron rod found for the southwest corner of said Lot 2 and the northwest corner of Ben Garza Lane (70 foot right-of-way), dedicated by said GARZA BRODIE SUBDIVISION at a distance of 243.89 feet, passing the northwest corner of Lot 1, of said GARZA BRODIE SUBDIVISION at a distance of 317.12 feet and continuing for a total distance of 544.68 feet to a point in the west line of said Lot 1, for the southeast corner of said remainder tract and for the intersection of the west line of said Lot 1, GARZA BRODIE SUBDIVISION, with the north line of the remainder of that certain right-of-way, a.k.a. Ben Garza Lane (BGL), dedicated to the public in a correction document recorded in Volume 3513, Page 459, of the Deed Records of said County, from which a 1/2 inch iron rod found for an angle point in said west line of Lot 1 and southerly line of said BGL bears, South 10°36'34" West, a distance of 359.47 feet;

THENCE, North 62°46'21" West, departing the west line of said GARZA BRODIE SUBDIVISION with the northerly line of said BGL and south line of the remainder of said called 124.7 acre tract, a distance of 53.03 feet to a point in the east line of said Eli Garza Tract and an angle point in the said northerly line of BGL, for the southeast corner of said remainder tract;

THENCE, with the common line of said Eli Garza Tract and said BGL, the following two (2) courses and distances:

1. South 10°26'51" West (record South 13°32' West), a distance of 307.58 feet to a 1/2 inch iron rod found for the southeast corner of said Eli Garza Tract and the southeast corner of the herein described tract;
2. North 62°44'59" West (record North 60°00' West), a distance of 273.01 feet (record 269.3 feet), to a point for the southwest corner of said Eli Garza Tract and southeast corner of a 0.2193 acre tract dedicated for street right-of-way purposes by said GARZA RANCH;

THENCE, with the common line of said Eli Garza Tract and said 0.2193 acre tract the following two courses and distances:

1. North 27°21'35" East (record North 19°41' East), a distance of 2.98 feet to an 1/2 inch iron rod found;
2. North 16°49'20" East (record North 19°41' East), a distance of 5.28 feet to an 1/2 inch iron rod found for the northeast corner of said 0.2193 acre tract and southeast corner of said Lot 1, Block E;

THENCE, North 62°47'29" West, departing the west line of the Eli Garza Tract with the common line of said 0.2193 acre tract and said Lot 1, Block E, a distance of 1191.75 feet to a point in the curving east right-of-way line of MOPAC LOOP 1 South, and the east line of Parcel 10C, conveyed to the State of Texas in a deed recorded in Volume 10336, Page 912, of the Real Property Records of said County, for the southwest corner of said Lot 1, Block E and northwest corner of said 0.2193 acre tract, and the southwest corner of the herein described tract, from which a 1/2 inch iron rod found for the southeast corner of said Parcel 10C and southwest corner of said 0.2193 acre tract bears, a chord bearing of South 29°52'57" West (record South 29°53'06" West), a chord distance of 6.63 feet (record 7.01 feet);

THENCE, with the common line of said MOPAC LOOP 1 South, said Parcel 10C and said Lot 1, Block E, the following two (2) courses and distances:

1. With said curve, to the right, having a radius of 2848.29 feet, an arc length of 297.77 feet, a delta angle of 5°59'23", and a chord which bears North 32°56'39" East , a distance of 297.63 feet to point, at the end of said curve, from which a TxDOT Type II monument with a brass cap found bears, North 02°40' East a distance of 1.13 feet;
2. North 45°44'06" East, a distance of 159.24 feet (record 159.42 feet), to a 1/2 inch iron rod found for the common corner of said Lot 1 and Lot 2, Block E, in the east line of said MOPAC LOOP 1 South and said Parcel 10C;

THENCE, departing said MOPAC LOOP 1 South and said Parcel 10C, with the common line of said Lot 1 and Lot 2, Block E, the following five (5) courses and distances:

1. South 31°54'06" East, a distance of 63.59 feet to a 1/2 inch iron rod found;
2. South 69°44'41" East, a distance of 48.68 feet to a 1/2 inch iron rod found;
3. North 89°38'11" East, a distance of 40.18 feet to a 1/2 inch iron rod found;
4. North 49°51'15" East, a distance of 94.67 feet to a 1/2 inch iron rod found;
5. South 80°11'18" East, a distance of 78.36 feet to a 1/2 inch iron rod found for the southwest corner of said called 5.40 acre tract;

THENCE, North 27°14'07" East (record North 30°00' East), departing the north line of said Lot 1, Block E, with the common line of said Lot 2, Block E, and said called 5.40 acre tract, a distance of 266.24 feet to POINT OF BEGINNING containing 22.779 acres of land within these metes and bounds.

Reference is herein made to the Land Title Survey plat of this tract accompanying this description.

Bearing Basis: South line of Lot 1, Block E, Garza Ranch, Vol. 90, Pages 4-7, of the Plat Records of Travis County, Texas. (North 62°47'29" West)

I certify that this description was prepared from a survey made on the ground in May, 2014, under my supervision.

CUNNINGHAM-ALLEN, INC.

6/12/2014
Date

Tommy P. Watkins, R.P.L.S.
Texas Registration No. 4549
3103 Bee Caves Rd., Ste. 202
Austin, TX 78746
512.327.2946
TBPLS Firm Reg. No. 10000900

STATE OF TEXAS
REGISTERED
TOMMY P. WATKINS
4549
PROFESSIONAL
LAND SURVEYOR

C14-2014-0011B

10.036 Acres
Thomas Anderson Survey No. 17
Abstract No. 2
Travis County, Texas

DESCRIPTION

BEING A 10.036 ACRE TRACT OF LAND SITUATED IN THE THOMAS ANDERSON SURVEY NO. 17, ABSTRACT NO. 2, IN TRAVIS COUNTY, TEXAS, AND BEING ALL OF THOSE THREE (3) TRACTS OF LAND DESCRIBED AS, "TRACT 1": LOT 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN DOCUMENT NO. 200800187, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, "TRACT" 2: 6.33 ACRES, BEING THE REMAINDER OF A 7.695 ACRE TRACT OF LAND DESCRIBED AS TRACT 2 IN DEED TO ELI GARZA AND EARL C. McCOMIS, RECORDED IN VOLUME 4210, PAGE 764 OF THE DEED RECORDS OF SAID COUNTY; "TRACT 3": 1.36 ACRES, BEING THE REMAINDER OF A 1.55 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN DEED TO ELI GARZA AND EARL C. McCOMIS, RECORDED IN VOLUME 4210, PAGE 764, OF THE DEED RECORDS OF SAID COUNTY; SAID 10.036 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 3/4" diameter iron pipe found for the northwest corner of said called 5.40 acre tract, being the northeast corner of Lot 2, Block E, of said GARZA RANCH, and being in the south line of that certain tract of land conveyed to the City of Austin in a Special Warranty Deed, recorded in Volume 12593, Page 3432, of the Real Property Records of Travis County, Texas and the northwest corner of the herein described tract;

THENCE, with the east and south line of Lot 2, Block E, GARZA RANCH the west line of said called 5.40 acre tract and north line of Lot 1, Block E, GARZA RANCH, the following six (6) courses and distances:

1. South 27°14'07" West, a distance of 266.24 feet to a 1/2 inch iron rod found;
2. North 80°11'18" West, a distance of 78.36 feet to a 1/2 inch iron rod found;
3. South 49°51'15" West, a distance of 94.67 feet to a 1/2 inch iron rod found;
4. South 89°38'11" West, a distance of 40.18 feet to a 1/2 inch iron rod found;
5. North 69°44'41" West, a distance of 48.68 feet to a 1/2 inch iron rod found;
6. North 31°54'06" West, a distance of 63.59 feet to an 1/2 inch iron rod found in the east right-of-way line of MOPAC LOOP 1 South and the east line of Parcel 10C, conveyed to the State of Texas in a deed recorded in Volume 10336, Page 912, of the Real Property Records of said County, for the northwest corner of said Lot 1, Block E and the southwest corner of said Lot 2, Block E;

THENCE, with said east right-of-way line and west line of said Lot 1, Block E the following two courses and distances:

1. South 45°44'06" West, a distance of 159.24 feet to a point for the beginning of a curve to the left;
2. With said curve to the left, having a radius of 2848.29 feet, an arc length of 297.77 feet, a delta angle of 5°59'23", and a chord which bears South 32°56'39" West, a distance of 297.63 feet, to the southwest corner of said Lot 1, Block E;

THENCE, South 29°22'32" West, over and across the Ben Garza Lane right-of-way a distance of 57.04 feet to a point at the intersection of the south right-of-way line of Ben Garza Lane and the east right-of-

way line of MOPAC LOOP 1 South, being also the northeast corner of Parcel 11C conveyed to the State of Texas in a deed recorded in Volume 10336, Page 912, of the Real Property Records of said County, the northwest corner of said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION and the **POINT OF BEGINNING** of the herein described tract, from which a 1/2 inch iron rod found bears, North 71°55' West 0.27 feet;

THENCE, South 62°36'46" East, with the common line of said Ben Garza Lane, dedicated to the public in a correction document recorded in Volume 3513, Page 459, of the Deed Records of said County, and said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION, a distance of 337.36 feet to a 3/4 inch iron pipe found in the east line of said "Tract 2", 6.33 acres, for the northeast corner of said Lot 1;

THENCE, with the common line of said Ben Garza Lane and said "Tract 2", 6.33 acres, the following two courses and distances:

1. North 27°32'14" East, a distance of 20.00 feet to a point for the northwest corner of said "Tract 2", 6.33 acres;
2. South 62°46'26" East, a distance of 761.71 feet to a 1/2 inch iron rod with cap marked "ALL STAR 5729" found for the northeast corner of said "Tract 2", 6.33 acres, and the northwest corner of a 0.333 acre tract of land described in a Quit Claim Deed recorded in Document No. 2003121793, of the Official Public Records of said County, from which a 1/2 inch iron rod marked "ALL STAR 5729" found in said Ben Garza Lane right-of-way line, for the northeast corner of said 0.333 acre tract bears, South 62°46'26" East, a distance of 82.89 feet;

THENCE, South 26°18'28" West, departing said Ben Garza Lane right-of-way with the common line of said "Tract 2", 6.33 acres, and said 0.333 acre tract, and the common line of said "Tract 2", 6.33 acres, and a 0.348 acre tract of land described in a Quit Claim Deed recorded in Document No. 2003121792, the Official Public Records of said County, a distance of 360.23 feet to a point in the north line of said "Tract 3", 1.36 acres, for the southeast corner of said "Tract 2", 6.33 acres, and southwest corner of said 0.348 acre tract;

THENCE, South 62°46'01" East, with the common line of said "Tract 3", 1.36 acres, and said 0.348 acre tract and the common line of said "Tract 3", 1.36 acres, and a 0.348 acre tract of land described in a General Warranty Deed recorded in Document No. 2004163680, of the Official Public Records of said County, a distance of 135.82 feet to a point for the eastern most northeast corner of said "Tract 3", 1.36 acres, and the northwest corner of a 0.191 acre tract of land described in a Deed recorded in Document No. 2008096911, of the Official Public Records of said County, from which a 1/2 inch iron rod found bears, North 36°22' East a distance of 0.41 feet and a 1/2 inch iron rod found for the southeast corner of said 0.348 acre tract bears, South 62°46'01" East, a distance of 27.76 feet;

THENCE, South 27°16'59" West with the common line of said "Tract 3", 1.36 acres, and said 0.191 acre tract a distance of 65.00 feet to a point in the north line of HEB/AUSTIN #23 SUBDIVISION, according to the map or plat thereof recorded in Volume 100, Page 327, of the Plat Records of said County, and for the common corner of said "Tract 3", 1.36 acres, and said 0.191 acre tract, from which a 1/2 inch iron

rod stamped "SUMMIT SURVEYING" found bears, South 21°41' West, a distance of 0.57 feet and a 3/4 inch iron pipe found for the southeast corner of said 0.191 acre tract bears, South 62°46'01" East ,a distance of 128.16 feet;

THENCE, North 62°46'01" West, with the common line of said "Tract 3", 1.36 acres, and said HEB/AUSTIN #23 SUBDIVISION, a distance of 906.05 feet (record 905.46 feet), to a 3/4 inch iron pipe found in the east line of Lot 1 of the RESUBDIVISION OF LOT 1, BLOCK D, GARZA RANCH, according to the map or plat thereof recorded in Document No. 200600224, of the Official Public Records of said County, and for a common corner of said "Tract 3", 1.36 acres and said HEB/AUSTIN #23 SUBDIVISION;

THENCE, with the common line of said "Tract 3", 1.36 acres and said Lot 1 of the RESUBDIVISION OF LOT 1, BLOCK D, GARZA RANCH, the following two courses and distances:

1. North 27°37'09" East, a distance of 65.00 feet to a point for the northwest corner of said "Tract 3", 1.36 acres;
2. South 62°46'01" East, a distance of 1.38 feet to a point in the common line of said "Tract 3", 1.36 acres and "Tract 2, 6.33 acres" for the easternmost northeast corner of said Lot 1 of the RESUBDIVISION OF LOT 1, BLOCK D, GARZA RANCH, and southeast corner of said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION, and for the beginning of a curve to the left, from which a 3/4 inch iron pipe found in the east line of said "Tract 2", 6.33 acres, for the northeast corner of said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION bears, North 27°22'23" East, a distance of 340.09 feet;

THENCE, with the common line of said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION, the north line of said RESUBDIVISION OF LOT 1, BLOCK D, GARZA RANCH and Lot 2, of said AMENDED PLAT OF GARZA McCOMIS SUBDIVISION the following two courses and distances:

1. With said curve to the left, having a radius of 132.40 feet, an arc length of 105.76 feet, a delta angle of 45°46'03", and a chord which bears North 39°40'34" West, a distance of 102.97 feet to a point at the end of said curve;
2. North 62°34'33" West, a distance of 246.51 feet to a point in the curving east right-of-way line of MOPAC LOOP 1 South, in the east line of said Parcel 11C for the common corner of said Lot 1 and Lot 2, from which a 1/2 inch iron rod found at the intersection of the said east right-of-way line of MOPAC LOOP 1 South and the north right-of-way line of William Cannon Boulevard and for a corner in the south line of Lot 4, of said RESUBDIVISION OF LOT 1, BLOCK D, GARZA RANCH, bears, South 30°06'55" West, a distance of 13.79 feet (chord), South 30°15'09" West, a distance of 489.25 feet and South 06°53'50" West, a distance of 81.14 feet;

THENCE, with the common line of said MOPAC LOOP 1 South right-of-way and said "Tract 1", Lot 1, AMENDED PLAT OF GARZA McCOMIS SUBDIVISION, the following three (3) courses and distances:

1. With said curve to the right, having a radius of 2881.29 feet, an arc length of 128.09 feet, a delta angle of 2°32'50", and a chord which bears North 28°42'26" East, a distance of 128.09 feet to

2. North 27°26'01" East, a distance of 103.75 feet to a 1/2 inch iron rod found at the beginning of a curve to the right;

1) With said curve to the right, having a radius of 2848.29 feet, an arc length of 68.02 feet, a delta angle of 01°22'06", and a chord which bears North 28°07'04" East, a distance of 68.02 feet to POINT OF BEGINNING containing 10.036 acres of land within these metes and bounds.

Reference is herein made to the Land Title Survey plat of this tract accompanying this description.

Bearing Basis: South line of Lot 1, Block E, Garza Ranch, Vol. 90, Pages 4-7, of the Plat Records of Travis County, Texas. (North 62°36'46" West)

I certify that this description was prepared from a survey made on the ground in May, 2014, under my supervision.

CUNNINGHAM-ALLEN, INC.

6/12/2014

Tommy P. Watkins, R.P.L.S.
Texas Registration No. 4549
3103 Bee Caves Rd., Ste. 202
Austin, TX 78746
512.327.2946
TBPLS Firm Reg. No. 10000900

Date

STATE OF TEXAS
REGISTERED
TOMMY P. WATKINS
4549
PROFESSIONAL
LAND SURVEYOR