

**FIRST AMENDMENT TO THE RESTRICTIVE COVENANT
FOR ZONING CASE NO. C14-85-027(RCA)**

Owner: Ralph McElroy Company, Inc., a Texas corporation

Address: P.O. Box 30104, Austin, Texas, 78755

City: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

City Council: The City Council of the City of Austin

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, Ralph McElroy Company, Inc., a Texas corporation, as Owner of all that certain property described in Zoning Case File No. C14-85-027, entered into that certain Restrictive Covenant, dated as of August 26, 1986, and recorded in the Real Property Records of Travis County, Texas, on September 29, 1986, as Document Number 09899 Pages 0090-0094 (the “***Restrictive Covenant***”).

WHEREAS, the Restrictive Covenant provides it can be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council, and (b) the owner of the Property at the time of such modification, amendment or termination.

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended.

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City and the Owner agree as follows:

1. Sections 1 and 2 of the Restrictive Covenant are hereby deleted in their entirety.
2. Section 3 of the Restrictive Covenant is hereby deleted in its entirety and replaced with the following:

“Any trees between 8 inches and 18.5 inches which are removed or die as a result of improvements on the Property shall be replaced or, as described below, mitigated with trees of equal or greater diameter. Tree regulations in effect at the time of the site plan submittal shall be applicable for trees 19 inches and greater. Mitigation shall be addressed onsite and, when not feasible, fee-in-lieu may be permitted.”
3. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive

Covenant, shall continue in full force and effect on and after the effective date of this Amendment.

4. The City Manager, or his designee, shall execute on behalf of the City, this Amendment as authorized by the City Council of the City of Austin. The Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED to be effective the _____ day of _____, 2016.

OWNERS:

Ralph McElroy Company, Inc., a Texas corporation

By: _____
Ryan McElroy, President

APPROVED AS TO FORM:

CITY OF AUSTIN:

Assistant City Attorney

By: _____
SUE EDWARDS,
Assistant City Manager,
City of Austin

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this the _____ day of _____, 2016, by Ryan McElroy, President of Ralph McElroy Company, Inc., a Texas corporation, on behalf of said entity.

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this the _____ day of _____, 2016, by Sue Edwards, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:

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