

Zoning Case Nos. C14-2018-0146

RESTRICTIVE COVENANT

OWNER: Formula Market, Inc., a Texas corporation

OWNER ADDRESS: 10111 Treasure Island Drive
Austin, Texas 78730

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 are acknowledged.

PROPERTY: A 2.465 acre tract or parcel of land out of and part of the Noel M. Bain Survey No. 1, Abstract Number 61, situated in Travis County, Texas, said 2.465 acre of land being more particularly described by metes and bounds in **Exhibit “A”** incorporated into this covenant, (the “Property”).

WHEREAS, the Owner 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 CBD Engineering, Inc., dated February 12, 2019, or as amended and approved by the Director of the Austin Transportation Department. All development on the Property is subject to the Austin Transportation Department’s staff memorandum dated April 18, 2019 (“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 Austin Transportation 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 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 _____ day of _____, 2019.

Owner:

Formula Market, Inc., a Texas corporation

By: _____
Akber Ali, President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____ 2019, by Akber Ali, President of Formula Market, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

Exhibit A

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE NOEL M. BAIN SURVEY NUMBER 1, ABSTRACT NUMBER 61, SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF THAT CERTAIN CALLED 20.403 ACRE TRACT OF LAND, PART 2, CONVEYED TO SR DEVELOPMENT INC. IN DOCUMENT NO. 2011036233, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.TX.), SAID 2.465 ACRE TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a capped Iron rod found at a northwestern corner of said 20.403 acre tract, being also in the southern right-of-way line of Ross Road (70' R.O.W.) and also being in the eastern right-of-way line of Elroy Road (R.O.W. varies), for the northernmost northwestern corner and POINT OF BEGINNING of the herein described tract,

THENCE, with the common boundary line of said 20.403 acre tract and the right-of-way line of said Ross Road, the following two (2) courses and distances, numbered 1 and 2

1. N64°13'31"E, a distance of 55.97 feet to a capped iron rod found, at a point of curvature to the left, and
2. with said curve to the left having a radius of 505.00 feet, an arc length of 159.14, and whose chord bears N55°11'49"E, a distance of 158.48 feet to a calculated point, for the northernmost corner of the herein described tract,

THENCE, crossing said 20.403 acre tract, the following five (5) courses and distances, numbered 1 through 5,

1. S24°41'07"E, a distance of 224.25 feet to a calculated point,
2. S17°00'31"E, a distance of 303.98 feet to a calculated point, for the southeastern corner of the herein described tract, and
3. S73°14'57"W, a distance of 213.41 feet to a calculated point, at a point of curvature to the right,
4. with said curve to the right having a radius of 684.83 feet, an arc length of 66.31, and whose chord bears N21°23'48"W, a distance of 66.28 feet to a calculated point, for the southernmost corner of the herein described tract, and
5. N18°36'51"W, a distance of 31.73 feet to a calculated point, in the western boundary line of said 20.403 acre tract and being also in the eastern right-of-way line of said Elroy Road,

THENCE, with the common boundary line of said 20.403 acre tract and the right-of-way line of said Elroy Road, the following four (4) courses and distances, numbered 1 through 4,

1. N16°45'24"W, a distance of 180.27 feet to a calculated point, at a point of curvature to the left,
2. with said curve to the left having a radius of 640.00 feet, an arc length of 74.44, and whose chord bears N22°35'54"W, a distance of 74.40 feet to a calculated point,
3. N25°49'17"W, a distance of 109.38 feet to a calculated point, and
4. N21°22'38"E, a distance of 10.31 feet to the POINT OF BEGINNING and containing 2.465 acres of land.

Surveyed by:

[Signature] 10-14-15

Robert J. Gertson, R.P.L.S. #6367
Carlson, Brigance & Doering, Inc.
5501 West William Cannon Drive
Austin, TX 78749
Phone: (512) 280-5160
rgertson@cbdeng.com

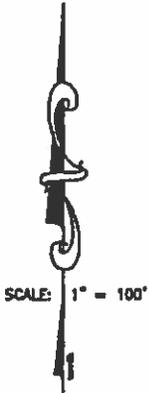


BEARING BASIS: TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE (4203), NAD83

EXHIBIT "A"

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SKETCH TO ACCOMPANY FIELD NOTES



LEGEND

- △ CALCULATED POINT
- CAPPED IRON ROD FOUND

NOEL M. BAIN SURVEY NO. 1,
ABSTRACT NO. 61

SAJA INVESTMENTS INC
(2.000 ACRES)
DOCUMENT NO. 2011063308

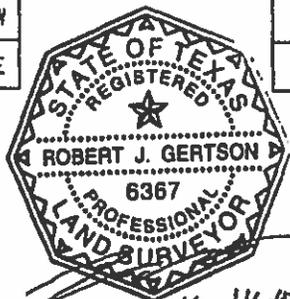
ELROY ROAD
(R.O.W. VARIES)

2.465 ACRES
SR DEVELOPMENT INC.
PART 2
(20.403 ACRES)
DOCUMENT NO. 2011036233

SR DEVELOPMENT INC.
PART 2
(20.403 ACRES)
DOCUMENT NO. 2011036233

Line #	Length	Direction
L1	31.73	N18°36'51"W
L2	10.31	N21°22'38"E

Curve #	Length	Radius	Chord Direction	Chord Length	Tangent	DELTA
C1	159.14	505.00	N55°11'49"E	158.48	80.24	18°03'21"
C2	66.31	684.83	N21°23'48"W	66.28	33.18	5°32'52"
C3	74.44	640.00	N22°35'54"W	74.40	37.26	6°39'52"



BEARING BASIS: TEXAS COORDINATE SYSTEM, CENTRAL ZONE (4203)

Carlson, Brigrance & Doering, Inc.
 FORM ID #F3791 REG. # 10024900
 Civil Engineering Surveying
 5301 West Wilshire Canyon Austin, Texas 78749
 Phone No. (512) 280-5180 Fax No. (512) 280-5145

PATH:- J:\4736\SURVEY\LOT 1 C3 COMMERCIAL.dwg

10-14-18

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