

FIRST AMENDMENT OF RESTRICTIVE COVENANT
FOR ZONING CASE NO. C14-70-077 (RCA)

Owner: The Dale L. Martin and Suzan S. Martin Revocable Trust

Address: 2706 Gonzales Street and 2730 East 7th Street

City: The City of Austin, Texas, a Texas home-rule municipal corporation situated in the counties of Hays, Travis, and Williamson.

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 City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, that certain Restrictive Covenant entered into by Gustaf Johnson, dated August 25, 1970, encompasses 5.305 acres of land out of Outlot 25, Division “A” of the Government Outlots Adjoining the Original City of Austin, being more particularly described in Volume 3922, Page 1635, of the Official Public Records of Travis County, Texas (the “Original Property”); and,

WHEREAS, The Dale L. Martin and Suzan S. Martin Revocable Trust, dated June 10, 1998, is the current owner of a 3.117 acre tract of land out of the Original Property, being more particularly described by metes and bounds in **Exhibit “A”** incorporated into this Restrictive Covenant Amendment (the “Released Property”); and,

WHEREAS, the City owns the remaining portion of the Original Property, less any portion dedicated to the City as right-of-way; and,

WHEREAS, the Owner of the Released Property on the date of this First Amendment and the City desire to amend the Restrictive Covenant with respect to the Released Property so that the Restrictive Covenant no longer has any force or effect on the use of said 3.117 acres of land; and,

WHEREAS, the Restrictive Covenant provides that the covenant can be modified, amended, or terminated by joint action of both a majority of the members of the City Council and the owner of the Property at the time of such modification, amendment, or termination; and,

WHEREAS, the City Council agrees the Restrictive Covenant should be amended to release the Released Property.

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. Paragraph No. 1 of the Restrictive Covenant is hereby amended to no longer apply to the Released Property.

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

EXECUTED this the _____ day of _____, 2023.

OWNERS:

**The Dale L. Martin and Suzan S. Martin
Revocable Trust, dated June 10, 1998**

By: _____

Name: Suzan S. Martin

Title: Trustee

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2023, by Suzan S. Martin, as Trustee of The Dale L. Martin and Suzan S. Martin Revocable Trust, dated June 10, 1998.

Notary Public, State of Texas

CITY OF AUSTIN:

By: _____

Veronica Briseño

Assistant City Manager
City of Austin

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2023, by Veronica Briseño, 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:

City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767-1088
Attention: A. van Niman, Paralegal

APPROVED AS TO FORM:

Name:
Assistant City Attorney
City of Austin

EXHIBIT A



Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

3.117 ACRES OUTLOT 25, CITY OF AUSTIN TRAVIS COUNTY, TEXAS

A DESCRIPTION OF 3.117 ACRES (135,768 SQ. FT.) BEING A PORTION OF OUTLOT NO. TWENTY-FIVE (25) IN DIVISION "A" OF THE GOVERNMENT OUTLOTS TO THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS CONVEYED TO THE DALE L. MARTIN AND SUZAN S. MARTIN REVOCABLE LIVING TRUST IN A SPECIAL WARRANTY DEED DATED JULY 15, 1998, AND RECORDED IN VOLUME 13288, PAGE 254 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID PORTION OF OUTLOT NO. TWENTY-FIVE BEING ALL OF OUTLOT NO. TWENTY-FIVE, LYING SOUTH AND EAST OF BOGGY CREEK TOGETHER WITH A 0.261 ACRE PORTION OF THE VACATED RIGHT-OF-WAY OF GONZALES STREET DATED DECEMBER 18, 1969 AND RECORDED IN VOLUME 3809, PAGE 852 OF THE DEED RECORDS OF TRAVIS COUNTY TEXAS, AND ALSO TOGETHER WITH A 206 SQ. FT. TRACT CONVEYED TO GUSTAF JOHNSON IN A WARRANTY DEED DATED DECEMBER 19, 1969 AND RECORDED IN VOLUME 3830, PAGE 1516 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT A 6.00 ACRE TRACT CONVEYED TO THE CITY OF AUSTIN IN A FINAL JUDGEMENT DATED NOVEMBER 18, 1981 AND RECORDED IN VOLUME 7626, PAGE 185 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND ALSO SAVE AND EXCEPT THAT PORTION WITHIN THE RIGHT-OF-WAY OF PLEASANT VALLEY ROAD, A PORTION OF WHICH IS DESCRIBED AS A 26 SQ. FT. TRACT CONVEYED TO THE CITY OF AUSTIN IN A JUDGEMENT DATED FEBRUARY 28, 1980 AND RECORDED IN VOLUME 7626, PAGE 171 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 3.117 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a City of Austin monument found for the northeast corner of said 6.00 acre tract, being in the south line of Lot 16, Block 3, I.P Jones Subdivision, a subdivision of record in Volume 6, Page 156 of the Plat Records of Travis County, Texas, also being an angle point in the west right-of-way line of Pleasant Valley Road (right-of-way width varies);

THENCE South 12°31'02" West, with the east line of the 6.00 acre tract, being the west right-of-way line of Pleasant Valley Road, a distance of **417.69 feet** to a 1/2 inch rebar with "Chaparral" cap set for the **POINT OF BEGINNING** of herein described tract, being the easternmost southeast corner of the 6.00 acre tract;

THENCE South 12°31'02" West, continuing with the west right-of-way line of Pleasant Valley Road, a distance of **302.17 feet** to a 1/2 inch rebar with "Chaparral" cap set for the north corner of said 26 sq. ft. tract, being the intersection of the west right-of-way line of Pleasant Valley Road, being the north right-of-way line of East Seventh Street (variable width right-of-way);

THENCE South 37°17'41" West, with the west line of the 26 sq. ft. tract, being the north right-of-way line of East Seventh Street, a distance of **11.84 feet** to a 1/2 inch rebar with "Chaparral" cap set for the west corner of the 26 Sq. ft. tract, being in the south line of said 0.261 acre tract;

THENCE with the north right-of way line of East Seventh Street same being the south line of the 0.261 acre tract, with a curve to the left, having a radius of 2924.90 feet, passing at an arc distance of 242.01 feet a 1/2 inch iron pipe found for the east corner of said 206 sq. ft. tract, being an angle point in the south line of said 0.261 acre tract, and continuing, in all, with a delta angle of 05°42'05", an arc length of 291.06 feet, and a chord which bears **North 73°12'06" West**, a distance of **290.94 feet** to 1/2 inch rebar with "Chaparral" cap set for the west corner of the 206 sq. ft. tract, being the intersection of the north right-of-way line of East Seventh Street and the east right-of-way line of Gonzales Street (50' right-of-way width), from which a 1/2 inch rebar found for the intersection of the north right-of-way line of East Seventh Street and the west right-of-way line of Gonzales Street, being a point of curvature in the south line of a 0.322 acre tract described in Volume 7362, Page 343 of the Deed Records of Travis County, Texas, bears with a curve to the left, having a radius of 2924.90 feet, a delta angle of 01°23'06", an arc length of 70.70 feet, and a chord which bears North 76°44'41" West, a distance of 70.70 feet;

THENCE with the east right-of-way line of Gonzales Street, being the west line of the 206 sq. ft. tract and the west line of the 0.261 acre tract, with a curve to the left, having a radius of 73.60 feet, passing at an arc distance of 8.40 feet a Mag nail with "Chaparral" washer set for the north corner of the 206 sq. ft. tract, being the southwest corner of the 0.261 acre tract, and continuing, in all, with a delta angle of 77°49'51", an arc length of 99.98 feet, and a chord which bears **North 26°27'07" West**, a distance of **92.47 feet** to a 1/2 inch rebar with "Chaparral" cap set for the west corner of the 0.261 acre tract;

THENCE North 65°22'08" West, with the east and north right-of-way line of Gonzales Street, a distance of **112.32 feet** to a 1 inch iron bolt found for the southernmost southeast corner of the 6.00 acre tract;

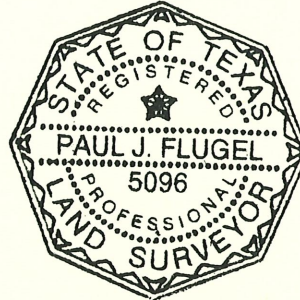
THENCE North 20°37'12" East, with the westernmost east line of the 6.00 acre tract, a distance of **260.06 feet** to a 1 inch iron bolt found for an interior corner of the 6.00 acre tract;

THENCE South 69°14'48" East, with the northernmost south line of the 6.00 acre tract, a distance of **430.85 feet** to the **POINT OF BEGINNING**, containing 3.117 acres, more or less.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS). Attachments: 288-015-TO1

Paul J. Flugel 5-01-2023

Paul Flugel
Registered Professional Land Surveyor
State of Texas No. 5096
TBPELS Firm No. 10124500



AFFIDAVIT OF NO LIENS

[OWNERSHIP TYPE - ENTITY]

Date: November 28, 2023

Affiant: **Suzan S. Martin**

Affiant Title: Trustee of The Dale L. Martin and Suzan S. Martin Revocable Trust

Owner: The Dale L. Martin and Suzan S. Martin Revocable Trust

Grant Document: The document to which this Affidavit of No Liens is attached and referred to.

Property: The property identified in the Grant Document that is the subject of the Grant Document.

Affiant on oath swears or affirms that the following statements are true and are within the personal knowledge of Affiant:

My name is set forth above as Affiant. In my capacity listed above as Affiant Title, I am authorized by the Owner to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this affidavit. I have personal knowledge of the facts contained in this affidavit in my capacity with the Owner that holds title to the Property, I have recently reviewed the Owner's records of ownership concerning the Property, and on the basis of this personal knowledge, after diligent inquiry, as of the date of this affidavit, I attest that:

1. Owner holds title to the Property;
2. there is no lien not subordinated to the Grant Document held by any person, including any bank or similar financial institution, against the Property;
3. there is no lease not subordinated to the Grant Document entered into with any person with respect to the Property;
4. all labor, services, and materials (the "**Labor and Materials**") provided to the Property for improvements, fixtures, and furnishings, or otherwise, at the instance and request of Owner, have been paid in full and no liens with respect to the Labor and Materials have been filed or exist with respect to the Property;

5. there are no actions, proceedings, judgments, bankruptcies, liens not subordinated to the Grant Document, or executions filed or pending against the Owner that would affect the Property; and
6. the Owner is not a debtor in bankruptcy.

Executed effective the Date first above stated.

THE DALE L. MARTIN AND SUZAN S. MARTIN
REVOCABLE TRUST

By: _____
Suzan S. Martin, Trustee

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary, on this day personally appeared Suzane S. Martin, Trustee of The Dale L. Martin and Suzan S. Martin Revocable Trust, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on _____.

[Seal]

Notary Public, State of Texas