

FILE COPY

**ORIGINAL
FILED FOR RECORD**

Zoning Case No. C814-2015-0074

RESTRICTIVE COVENANT

OWNER: ARG Bull Creek, Ltd., a Texas limited partnership

OWNER ADDRESS: 9111 Jollyville Road, Suite 111, Austin, Texas 78759

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 75.746 tract of land located in the George W. Spear Survey, Abstract No. 697, Travis County, Texas, being a portion of a 100 acre tract of land described in Volume 76, Page 225, of the Deed Records of Travis County, Texas and being the same tract of land called 75.79 acres conveyed by the Texas Board of Mental Health and Mental Retardation to the State of Texas, State Department of Transportation in a deed recorded in Volume 10806, Page 452, of the Real Property Records of Travis County, Texas, said 75.746 acre tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant (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 R-K Traffic Engineering, LLC, dated March 28, 2016, or as amended and approved by the Director of the Development Services Department. All development on the Property is subject to the Development Services Department, Transportation Review Section's staff memorandum ("memorandum") dated July 11, 2016, and any amendments to the memorandum that address subsequent TIA updates for the Property. Development of the Property is subject to Ordinance No. 20161215-075. If

the TIA or memorandum conflict with the ordinance, the ordinance controls. The TIA and memorandum shall be kept on file at the Development Services Department.

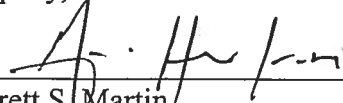
2. For commercial/retail square footage on the Property, amplified sound in areas that are not fully enclosed by permanent, solid walls and a roof shall not extend past 9:00 p.m. on Sunday through Thursday and 9:30 p.m. on Friday, Saturday or a federal holiday.
3. If any person or entity shall violate 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.
4. 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 14th day of December, 2016.


OWNER:

ARG Bull Creek Ltd., a Texas limited partnership

By: ARG Bull Creek GP, LLC, a Texas limited liability company, its General Partner

By: 
Garrett S. Martin
Manager

APPROVED AS TO FORM:

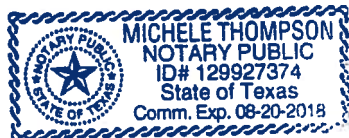

Assistant City Attorney
City of Austin

THE STATE OF TEXAS

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§
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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 14th day of December, 2016, by Garrett S. Martin, as Manager of ARG Bull Creek GP, LLC, a Texas limited liability company, General Partner of ARG Bull Creek Ltd., a Texas limited partnership, on behalf of said partnership.



Michele Thompson
Notary Public, State of Texas

75.746 ACRES

DESCRIPTION OF A 75.746 ACRE TRACT OF LAND LOCATED IN THE GEORGE W. SPEAR SURVEY, ABSTRACT NO. 697, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 100 ACRE TRACT OF LAND DESCRIBED IN VOLUME 76, PAGE 225, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS AND BEING THE SAME TRACT OF LAND CALLED 75.79 ACRES CONVEYED BY THE TEXAS BOARD OF MENTAL HEALTH AND MENTAL RETARDATION TO THE STATE OF TEXAS, STATE DEPARTMENT OF TRANSPORTATION IN A DEED RECORDED IN VOLUME 10806, PAGE 452, OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID 75.746 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a brass capped concrete monument stamped "Texas Department of Transportation" found at the intersection of the easterly right of way line of Bull Creek Road (no recording data found to date)(right of way width varies) and the southerly right of way line of W. 45th Street (right of way width varies) as dedicated by SHOAL VILLAGE, Section Two, according to the map or plat thereof recorded in Plat Book 5, Page 150, of the Plat Records of Travis County, Texas, said brass capped concrete monument being the northwest corner of said 75.79 acre tract, the northwest corner of a 44.07 acre tract of land described in a License Agreement between Texas Department of Transportation and The City of Austin recorded in Document No. 2013075371, of the Official Public Records of Travis County, Texas, and the westernmost corner of said SHOAL VILLAGE, Section Two;

THENCE, South 62°04'56" East (record South 60°43'37" East), along the northerly line of said 75.79 acre tract, the northerly line of said 44.07 acre tract, the southerly line of said SHOAL VILLAGE, Section Two, and southerly line of SHOAL VILLAGE, Section Three, according the map or plat thereof recorded in Plat Book 6, Page 71, of said Plat Records, a distance of 919.16 (record 956.52) feet to a brass capped concrete monument stamped "Texas Department of Transportation" found for an angle corner in the southerly line of said SHOAL VILLAGE, Section Three and said 44.07 acre tract;

THENCE, South 63°02'39" East (record South 62°04'30" East), along the northerly line of said 44.07 acre tract and said 75.79 acre tract, and the southerly line of said SHOAL VILLAGE, Section Three, and southerly line of SHOAL VILLAGE, Section Five, according to the map or plat thereof recorded in Plat Book 6, Page 72, and SHOAL VILLAGE, Section Six, according to the map or plat thereof recorded in Plat Book 7, Page 7, both of said Plat Records, passing a brass capped concrete monument stamped "RM5 1970 EL. 634.07" 3.0 feet south of line at a distance of 37.32 feet, a continuing for a total distance of 306.61 feet to a 1/2 inch iron rod found for the southeast corner of said SHOAL VILLAGE, Section Six and the southwest corner of SHOAL VILLAGE, Section Seven, according to the map or plat thereof recorded in Plat Book 14, Page 80, of said Plat Records, and an angle point in the northerly line of said 79.75 acre tract and said 44.07 acre tract;

THENCE, South 63°11'51" East (record South 62°04'30" East), along the northerly line of said 44.07 acre tract and said 75.79 acre tract, the southerly line of said SHOAL VILLAGE, Section Seven, and OAK HAVEN, Section Three, according to the map or plat thereof recorded in Plat Book 11, Page 40, of said Plat Records, passing a 5/8 inch iron pipe found for the southeast corner of said SHOAL VILLAGE, Section Seven and southwest corner of said OAK HAVEN, Section Three, at a distance of 198.54 feet, passing the northeast corner of said 44.07 acre tract at a distance of 327.57 feet, and continuing for a total distance of 358.38 feet to a point in Shoal Creek for the northeast corner of said 75.79 acre tract;

THENCE, along the easterly line of said 75.79 acre tract, the following six (6) courses and distances:

1. South 01°03'01" West (record South 02°43'06" West), a distance of 61.77 (record 61.92) feet to a point;
2. South 34°01'00" East (record South 32°24'52" East), a distance of 148.14 feet to a point;
3. South 23°10'38" West (record South 24°46'46" West), a distance of 151.23 feet to a point in the approximate center meander line of Shoal Creek;
4. South 07°43'12" East (record South 06°07'04" East), a distance of 163.80 feet to a point in the approximate center meander line of Shoal Creek;
5. South 12°37'00" West (record South 14°13'08" West), a distance of 281.04 feet to a point in the approximate center meander line of Shoal Creek;
6. South 01°22'52" West (record South 02°59'00" West), a distance of 514.51 feet to a point in the approximate center meander line of Shoal Creek and in the north line of that tract of land conveyed to the City of Austin in a Deed recorded in Volume 5154, Page 2230, of the Deed Records of Travis County, Texas;

THENCE, continuing along the easterly line of said 75.79 acre tract and the easterly line of said 44.07 acre tract, and the north line of said City of Austin tract and along the northerly and westerly line of RIDGELEA, according to the map or plat thereof recorded in Plat Book 4, Page 258, of said Plat Records, the following three (3) courses and distances:

1. North 62°12'19" West (record North 60°36'11" West), passing a 1/2 inch iron rod found for the most northeasterly corner of said RIDGELEA and northwest corner of said City of Austin Tract at a distance of 42.01 feet and continuing for a total distance of 396.56 feet, to a 1/2 inch iron rod found for the northern most corner of said RIDGELEA;
2. South 31°30'27" West (record South 32°46'32" West), passing the southeast corner of said 44.07 acre tract at a distance of 609.87 feet and continuing for a total distance of 972.58 (record 974.01) feet to a calculated point, from which a brass capped concrete monument stamped "RM9 1970 EL. 624.66" found bears North 27°08' West (record North 25°59' West), a distance of 1.41 (record 1.77) feet;
3. South 28°08'46" West (record South 29°29'34" West), a distance of 369.86 feet to a brass capped concrete monument stamped "Austin State School Annex No. 1 1970" found in the

easterly right of way line of said Bull Creek Road for the westernmost corner of said RIDGELEA and the southeast corner of said 75.79 acre tract;

THENCE, along the said easterly right of way line of Bull Creek Road and westerly line of said 75.79 acre tract, the following three (3) courses and distances:

- 1. North 23°46'51" West (record North 22°26'02" West), a distance of 2035.83 (record 2035.22) feet to a brass capped concrete monument stamped "Texas Department of Transportation" found at the beginning of a non-tangent curve to the right;
2. With said curve to the right having a radius of 199.11 feet, an arc length of 175.61 (record 175.11) feet, a delta angle of 50°32'01" (record 50°30'59"), and a chord which bears North 01°24'51" East (record North 02°49'28 East), a distance of 169.97 (record 169.92) feet to a brass capped concrete monument stamped "Texas Department of Transportation" found at the end of said curve;
3. North 26°42'40" East (record North 27°56'08" East), passing a brass capped concrete monument stamped "Texas Department of Transportation" found for the southwest corner of said 44.07 acre tract at a distance of 559.26 feet and continuing for a total distance of 1055.60 (record 1055.89) feet to the POINT OF BEGINNING containing 75.746 acres of land within these metes and bounds.

Reference is herein made to the map of this tract accompanying this description.

Bearing Basis: Texas Coordinate System of 1983, (Central Zone (NAD_83 (2011))). All distances and coordinates were adjusted to the surface using a surface adjustment factor of 1.000074449. (SURFACE = GRID X SURFACE ADJUSTMENT FACTOR)

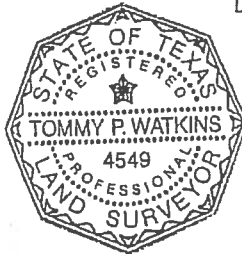
I certify that this description was prepared from a survey made in January, 2015, on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.

[Handwritten signature of Tommy P. Watkins]

01/14/2015
Date

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



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

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

Dec 16, 2016 01:43 PM 2016208261

BARTHOLOMEWD: \$58.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS