

Zoning Case No. C14-2013-0134

RESTRICTIVE COVENANT

OWNER: Dessau 21, LTD, a Texas limited liability company

ADDRESS: 1406 Camp Craft Road, Suite 200-D, Austin, Texas 78746

OWNER: Dessau 21 MAJ, LTD, a Texas limited liability company

ADDRESS: 1404 Wilshire Boulevard, Austin, Texas 78722

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: 6.28 acre tract of land out of the Samuel Cushing Survey, A-164 the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and 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 Robert Halls & Associates, dated April 28, 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.

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 _____ day of _____, 2014.

OWNER:

DESSAU 21, LTD, a Texas limited liability company

Paul C. Joseph Jr., General Partner

DESSAU 21 MAJ, LTD, a Texas limited liability company

Mary Ann Joseph, General Partner

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 ____ day of _____,
2014, by Paul C. Joseph Jr., General Partner of Dessau 21, LTD, a Texas limited liability
company, on behalf of the company.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this the ____ day of _____
, 2014, by Mary Ann Joseph, General Partner of Dessau 21 MAJ, LTD, a Texas limited liability
company, on behalf of the company.

Notary Public, State of Texas

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UDG #
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ZONING
6.28 ACRES
PAUL JOSEPH SUBDIVISION
TRAVIS COUNTY, TEXAS

DESCRIPTION

DESCRIBING 6.28 ACRES OF LAND SITUATED IN THE SAMUEL CUSHING SURVEY, A-164, TRAVIS COUNTY, TEXAS, SAME BEING ALL OF LOT 1, PAUL JOSEPH SUBDIVISION, A SUBDIVISION RECORDED IN DOCUMENT 200600059, OFFICIAL PUBLIC RECORDS OF SAID COUNTY, SAID 6.28 ACRES OF LAND ALSO BEING A PORTION OF THAT CERTAIN 21.27 ACRE TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEEDS TO DESSAU 21, LTD, EXECUTED ON JUNE 19, 1997 AND RECORDED IN VOLUME 12965, PAGE 184 AND VOLUME 12965, PAGE 186, BOTH OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, SAID 6.28 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a ½" iron rod found at the west corner of said Lot 1, same being the north corner of Lot 1-A, Resubdivision of Lot 1 Kruger Subdivision, a subdivision recorded in Book 43 Page 46, Plat Records of said County and in the southeast right-of-way line of Dessau Road (R.O.W. varies);

THENCE, with the northwest line of said Lot 1, same being the southeast line of said Dessau Road, the following four courses:

- 1) N24°25'29"E, 198.35 feet to a ½" iron rod found;
- 2) N25°23'53"E, 78.62 feet to a concrete monument found;
- 3) N21°54'39"E, 87.24 feet to a ½" iron rod found;
- 4) N23°59'18"E, 170.52 feet to a ½" iron rod found at the north corner of said Lot 1, same being a west corner of Lot 2 of said Paul Joseph Subdivision;

THENCE, with the northeast line of said Lot 1, same being a southwest line of said Lot 2, S62°35'48"E, 528.78 feet to a ½" iron rod found at the east corner of said Lot 1, same being an interior corner of said Lot 2;

THENCE, with the southeast line of said Lot 1, same being a northwest line of said Lot 2, S27°28'54"W, 534.87 feet to a ½" iron rod found at the south corner of said Lot 1, same being a west corner of said Lot 2 and in the northeast line of Lot 3, Resubdivision of a portion of Lot 2 Kruger Subdivision, a subdivision recorded in Book 102 Page 333-334, Plat Records of said County;

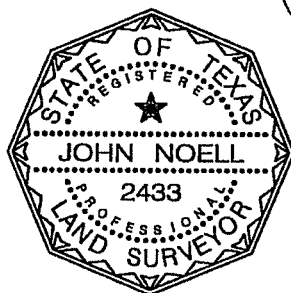
THENCE, with the southwest line of said Lot 1, same being the northeast line of said Lot 3, N62°29'36"W, 278.66 feet to a ½" iron rod found at a north corner of said Lot 3, same being the east corner of said Lot 1-A;


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ZONING
6.28 ACRES
PAUL JOSEPH SUBDIVISION
TRAVIS COUNTY, TEXAS

THENCE, with the southwest line of said Lot 1, same being the northeast line of said Lot 1-A, N62°25'19"W, 217.82 feet to the POINT OF BEGINNING and containing 6.28 acres of land.

Field Notes Prepared by:
URBAN DESIGN GROUP
3660 Stoneridge Road, # E101
Austin, Texas 78746
(512) 347-0040




John Noell, R.P.L.S. #2433

10.4.13
Date

Bearing Basis: Texas State Plane Coordinate System, NAD 83, Texas Central Zone

SCANNED

After Recording, Please Return to:

City of Austin

Law Department

P. O. Box 1088

Austin, Texas 78767

Attention: J. Collins, Paralegal
