

**Zoning Case No. C14-2016-0113**

**RESTRICTIVE COVENANT**

**OWNER:** John Robert Stratton

**OWNER ADDRESS:** P.O. Box 2232, Austin, Texas 78768-2232

**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 description of 6.407 acres (279,070 square feet) out of the Santiago Del Valle Grant, being all of that 2.0-acre tract described as "First Tract" in the deed recorded under Document No. 2009079407 of the Official Public Records of Travis County, Texas, all of that 1.36-acre tract described as "Second Tract" in the deed recorded under Document No. 2009079407 of the Official Public Records of Travis County, Texas, all of that 2-acre tract described in the deed recorded under Document No. 2007175129 of the Official Public Records of Travis County, Texas, and all of that 1-acre tract described in the deed recorded under Document No. 2007185892 of the Official Public Records of Travis County, Texas, said 6.407 acres 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;

WHEREAS, the Austin Fire Department ("AFD") has recommended that no residential dwelling units be constructed within 1000 feet of where hazardous materials are stored on site;

WHEREAS, development of the Property may include residential dwelling units and a portion of the Property is located within 1000 feet of a 4.15-acre tract of land conveyed to Wilson Oxygen and Supply Company pursuant to the deed recorded under Volume 10398, Page 871 of the Official Public Records of Travis County, Texas (the "Hazardous Materials Property"), more particularly described by metes and bounds in **Exhibit "B"**, which is used in a manner involving the storage of hazardous materials, including, but not limited to, toxic, corrosive, flammable, pyrophoric and oxidizing gases;

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. Residential dwelling units are prohibited on the Property in the area that is south of a line that is 1,000 feet north of the northern boundary of the Hazardous Materials Property (the "Hazardous Setback"), as illustrated in **Exhibit "C"**, unless at the time of development application AFD makes an affirmative determination that the Hazardous Setback is no longer needed to protect the public from hazardous materials. If AFD makes such a determination, residential dwelling units are permitted on the Property according to the setbacks in the base zoning district. A site plan or building permit for a residential use on the Property may not be approved, released, or issued, nor shall the Property be developed with residential dwelling units, until the Property has been surveyed by a licensed surveyor to determine the precise location of the Hazardous Setback.
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 21<sup>st</sup> day of June 2017.

**Owner:**

**John Robert Stratton**

By: \_\_\_\_\_

*John Robert Stratton*

John Robert Stratton

**THE STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

This instrument was acknowledged before me on this the 21<sup>st</sup> day of June 2017 by John Robert Stratton.



*Mary Kathleen Eichner*

Notary Public, State of Texas

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin



**Professional Land Surveying, Inc.  
Surveying and Mapping**

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

3500 McCall Lane  
Austin, Texas 78744

**6.407 ACRES  
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 6.407 ACRES (APPROXIMATELY 279,070 SQ. FT.) OUT OF THE SANTIAGO DEL VALLE GRANT, IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT 2.0 ACRE TRACT DESCRIBED AS "FIRST TRACT" IN THE DEED RECORDED UNDER DOCUMENT NO. 2009079407 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT 1.36 ACRE TRACT DESCRIBED AS "SECOND TRACT" IN THE DEED RECORDED UNDER DOCUMENT NO. 2009079407 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT 2 ACRE TRACT DESCRIBED IN THE DEED RECORDED UNDER DOCUMENT NO. 2007175129 OF THE OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, AND ALL OF THAT 1 ACRE TRACT DESCRIBED IN THE DEED RECORDED UNDER DOCUMENT NO. 2007185892 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 6.407 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" iron pipe found in the east right-of-way line of Montopolis Drive (right-of-way width varies) for the northwest corner of said 2.0 acre First Tract, same being the southwest corner of Lot 1, Rivera Subdivision, a subdivision of record in Volume 77, Page 385 of the Plat Records of Travis County, Texas;

**THENCE** South 63°58'01" East, with the north line of the 2.0 acre First Tract, same being the south line of said Lot 1, a distance of 631.34 feet to a 1/2" iron pipe found for the northeast corner of the 2.0 acre First Tract, same being the southeast corner of Lot 1, also being in the west line of a 1.502 acre tract described in Document No. 2009213206 of the Official Public Records of Travis County, Texas, and conveyed to Dalor, Ltd in Document No. 2013180854 of the Official Public Records of Travis County, Texas;

**THENCE** South 28°00'27" West, with the west line of said 1.502 acre tract, same being the east line of the 2.0 acre First Tract, a distance of 55.59 feet to a 1/2" rebar found for the southwest corner of the 1.502 acre tract, same being the northwest corner of a 4.999 acre tract described in Document No. 2009213206 of the Official Public Records of Travis County, Texas, and conveyed to Dalor, Ltd in Document No. 2013180854 of the Official Public Records of Travis County, Texas;

**THENCE** South 27°43'58" West, with the west line of said 4.999 acre tract, in part being the east line of the 2.0 acre First Tract, in part being the east line of said 2 acre tract, and in part being the east line of said 1.36 acre tract, a distance of 478.01 feet to a 1/2" iron pipe found for the southwest corner of the 4.999 acre tract, same being the

southeast corner of the 1.36 acre tract, also being an angle point in the north line of Lot 3, Block A, Montopolis-Ben White Subdivision, a subdivision of record in Document No. 200100029 of the Official Public Records of Travis County, Texas;

**THENCE** North 47°47'47" West, with the north line of said Lot 3, in part being the south line of the 1.36 acre tract, and in part being the south line of said 1 acre tract, a distance of 356.88 feet to a 1/2" rebar found for an angle point in the common line of Lot 3 and the 1 acre tract;

**THENCE** North 47°31'07" West, with the common line of Lot 3 and the 1 acre tract, a distance of 294.55 feet to a 1/2" rebar found for the northwest corner of Lot 3, same being the southwest corner of the 1 acre tract, also being in the east right-of-way line of Montopolis Drive;

**THENCE** North 27°40'10" East, with the east right-of-way line of Montopolis Drive, in part being the west line of the 1 acre tract, in part being the west line of the 2 acre tract, and in part being the west line of the 2.0 acre First Tract, a distance of 350.71 feet to the **POINT OF BEGINNING**, containing 6.407 acres of land, more or less.

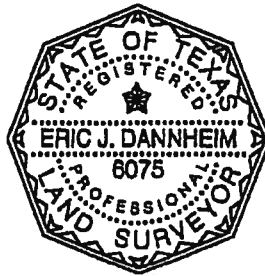
Surveyed on the ground August 25, 2016. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS) for Chaparral control point "P711".

Attachments: Drawing 562-051-BASE.



8/26/16

Eric J. Dannheim                      Date  
Registered Professional Land Surveyor  
State of Texas No. 6075  
TBPLS Firm No. 10124500



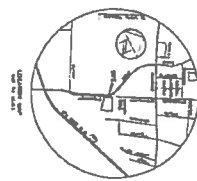
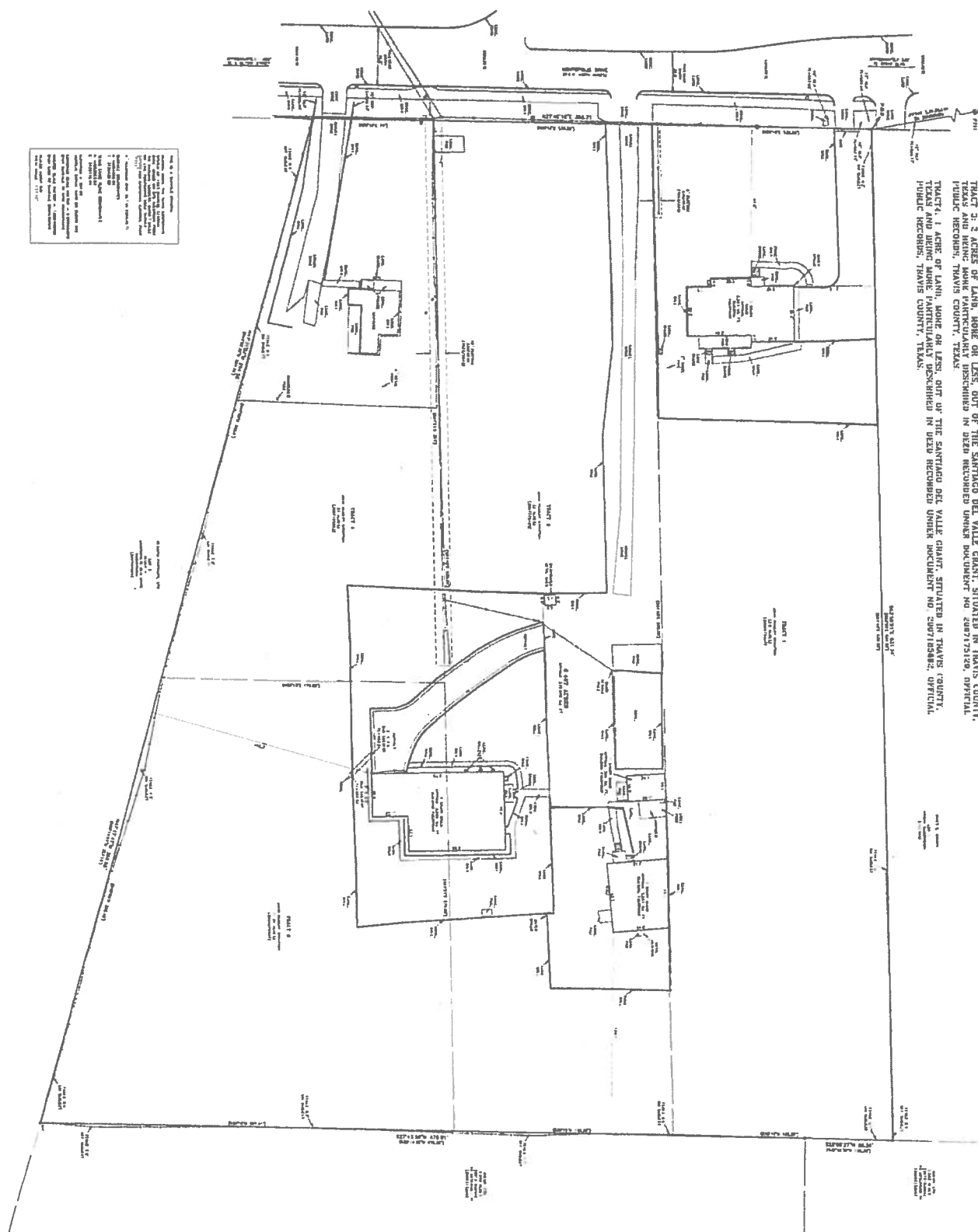
AN ALTA/ENOS LA TITILE SURVEY BY 8,407 ACRES (APPROXIMATELY 270,000 SQ. FT.) HEREIN, ALL OF THE FOLLOWING TRACTS:

TRACT 1: 2.0 ACRES OF LAND, MORE OR LESS, OUT OF THE SANFORD DEL VALLE GRANT, SITUATED IN TAVAS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS "TRACT 1" IN DEED RECORDED UNDER DOCUMENT NO. 2007017407, OFFICIAL PUBLIC RECORDS, TAVAS COUNTY, TEXAS.

TRACT 2: 1.28 ACRES OF LAND, MORE OR LESS, OUT OF THE SANFORD DEL VALLE GRANT, SITUATED IN TAVAS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS "TRACT 2" IN DEED RECORDED UNDER DOCUMENT NO. 2007017407, OFFICIAL PUBLIC RECORDS, TAVAS COUNTY, TEXAS.

TRACT 3: 2 ACRES OF LAND, MORE OR LESS, OUT OF THE SANFORD DEL VALLE GRANT, SITUATED IN TAVAS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED IN DEED RECORDED UNDER DOCUMENT NO. 2007017407, OFFICIAL PUBLIC RECORDS, TAVAS COUNTY, TEXAS.

TRACT 4: A CERC OF LAND, MORE OR LESS, OUT OF THE SANFORD DEL VALLE GRANT, SITUATED IN TAVAS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED IN DEED RECORDED UNDER DOCUMENT NO. 2007017407, OFFICIAL PUBLIC RECORDS, TAVAS COUNTY, TEXAS.

[illegible][illegible]

**Chaparral**  
Proclamation Land Surveying, Inc.  
Survey and Mapping  
Professional Land Surveyors  
10000 N. 31st St., Suite 100  
Phoenix, AZ 85018  
Phone: (602) 998-1000  
Fax: (602) 998-1001

EXHIBIT "A"  
**J. LEROY BUSH**

REGISTERED PUBLIC SURVEYOR

4023 HANLUCK

AUSTIN, TEXAS 78701

PHONE 412-0880

June 24, 1987

FIELD NOTES TO 4.15 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, SAME BEING ALL OF THAT CERTAIN (4.15 ACRE) TRACT OF LAND CONVEYED TO THE BEN FRANKLIN CORPORATION BY DEED RECORDED IN VOLUME 8991, PAGE 568 OF THE TRAVIS COUNTY DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron rod found in a west line of that certain (39.973 acre) tract of land conveyed to Crenshaw/Carter by deed recorded in Volume 7115, Page 1733 of the Travis County Deed Records, same being at the Northeast corner of Lot A, A-1 Addition, according to the map or plat of said subdivision recorded in Book 77, Page 228 of the Plat Records of Travis County, Texas, same being at the Southeast corner of that certain (4.15 acre) tract of land conveyed to Ben Franklin Corporation by deed recorded in Volume 8991, Page 568 of the Travis County Deed Records, for the Southeast corner and Place of Beginning of the herein described tract;

THENCE with the north line of Lot A, and the south line of the said Ben Franklin Corp. tract, N 67 deg. 30' 30" W 600.43 ft. to an iron rod found in the east R.O.W. line of Montopolis Drive, at the Southwest corner of the said Ben Franklin Corp. tract, for the Southwest corner of this tract;

THENCE with the east line of Montopolis Drive, N 29 deg. 56' E at 332.40 ft. pass an iron rod found at the original Southwest corner of that certain (0.60 acre) tract of land conveyed to Udo Haufler by deed recorded in Volume 3924, Page 288 of the Travis County Deed Records, same being the original Northwest corner of that certain (1.54 acre) tract of land conveyed to Udo Haufler by deed recorded in Volume 3748, Page 488 of the Travis County Deed Records, and continuing along the same course for a total distance of 382.70 ft. to an iron rod found at the original Northwest corner of the said Haufler (0.60 acre) tract, same being at the Northwest corner of the said Ben Franklin Corp. tract, for the Northwest corner of this tract;

THENCE with the north line of the said Ben Franklin Corp. tract, S 55 deg. 36' 20" E 517.27 ft. to an iron rod found at the Northeast corner of the said Ben Franklin Corp. tract, for the Northeast corner of this tract;

THENCE with the east line of the said Ben Franklin Corp. tract, S 13 deg. 11' W 276.42 ft. to the Place of Beginning, containing 4.15 acres of land.

SURVEYED June 1987  
**EXHIBIT A**

By   
J. Leroy Bush 10888 0873

**EXHIBIT B**



1,000'

1,000'

The location of the "Hazardous Setback" depicted in this Exhibit is only an approximation and is depicted solely for illustrative purposes. The actual location of the "Hazardous Setback" may only be determined by a survey conducted by a licensed surveyor retained by the Owner of the Property or the Owner's authorized agent.

WILSON OXYGEN & SUPPLY CO.  
DBA PRAXAIR

4.15 Acre Tract Conveyed to Wilson Oxygen & Supply Co. by deed recorded in Volume 10398, Page 871 of the Official Public Records of Travis County, Texas, which Tract is described as the "Hazardous Materials Property" in the Restrictive Covenant for Zoning Case No. C14-2016-0113 to which this Exhibit is attached.

**EXHIBIT C**



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