

Zoning Case No. C14-2019-0082

RESTRICTIVE COVENANT

OWNER: KC 600 Industrial, LLC, a Texas limited liability company

OWNER ADDRESS: 1221 South MoPac Expressway, Suite 400
Austin, Texas 78746

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: 4.262 acres (approximately 185,649 sq. ft.), being all of Lots 10, 11, 12, 13, 14, and a portion of Lot 15, St. Elmo Heights Section 1, according to the map or plat thereof, recorded in Volume 5, Page 158, Plat records of Travis County, Texas, said 4.262 acres 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 Big Red Dog, Inc., dated September 6, 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 September 11, 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 8 day of November, 2019.

Owner:

KC 600 Industrial, LLC, Texas limited liability company

By: KC Vecchio, LLC, a Texas limited liability company, its
sole member


Mitchell S. Johnson, Chief Executive Officer

THE STATE OF TEXAS §

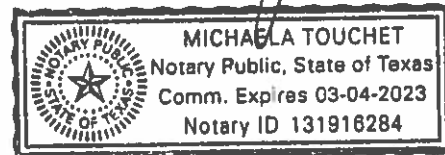
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 8th day of November, 2019, by Mitchell S. Johnson, as Chief Executive Officer of KC Vecchio, LLC, a Texas limited liability company, as sole member of KC 600 Industrial, LLC, a Texas limited liability company, on behalf of said company.


Notary Public, State of Texas

APPROVED AS TO FORM:

Name:
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

**4.262 ACRES
ST. ELMO HEIGHTS SEC. 1
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 4.262 ACRES (APPROXIMATELY 185,649 SQ. FT.), BEING ALL LOTS 10, 11, 12, 13, 14 AND A PORTION OF LOT 15, ST. ELMO HEIGHTS SECTION 1, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 5, PAGE 158, PLAT RECORDS, TRAVIS COUNTY, TEXAS. SAID PORTION OF LOT 15 BEING ALL OF LOT 15 LESS, SAVE AND EXCEPT THAT PORTION CONVEYED BY CORPORATE STREET DEED IN VOLUME 6655, PAGE 60, DEED RECORDS, TRAVIS COUNTY, TEXAS AND THAT PORTION CONVEYED IN STREET DEED IN VOLUME 10681, PAGE 805, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS AND BEING THE SAME PROPERTY DESCRIBED IN DOCUMENT NO. 2005007551, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 4.262 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the north right-of-way line of Industrial Boulevard (80' right-of-way width) as shown on the plat of said St. Elmo Heights Section 1, for the southwest corner of said Lot 10, same being the southeast corner of Lot 9 of said St. Elmo Heights Section 1;

THENCE North 27°22'49" East, with the west line of said Lot 10, being the east line of said Lot 9, a distance of 342.08 feet to a 1/2" rebar found in the south right-of-way line of the Missouri Pacific Railroad (Bergstrom Spur, 50' right-of-way width), for the northwest corner of said Lot 10, being the northeast corner of said Lot 9;

THENCE South 62°41'16" East, with the south right-of-way line of Bergstrom Spur, being the north lines of said Lots 10, 11, 12, 13, 14 and 15, a distance of 519.91 feet to a 1/2" rebar with "Chaparral" cap set for the intersection of the south right-of-way line of Bergstrom Spur and the west right-of-way line of Terry-O Lane (right-of-way width varies), being the northwest corner of a 13,885 square foot tract described in the said Street Deed;

THENCE crossing said Lot 15, with the west right-of-way line of Terry-O Lane, same being the west line of said 13,885 square foot tract, the following two (2) courses and distances:

1. South 19°51'34" West, a distance of 328.32 feet to a 1/2" rebar found;

EXHIBIT "A"

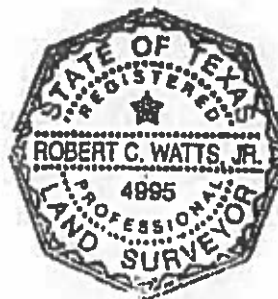
2. With a curve to the right, having a radius of 15.00 feet, a delta angle of $98^{\circ}36'36''$, an arc length of 25.82 feet, and a chord which bears South $68^{\circ}54'40''$ West, a distance of 22.75 feet to a Mag nail with "Chaparral" washer set for the intersection of the west right-of-way line of Terry-O Lane and the north right-of-way line of Industrial Boulevard, same being the southwest corner of said 13,885 square foot tract, being also a point in the south line of said Lot 15, from which, a $1/2''$ rebar bears South $62^{\circ}38'16''$ East, a distance of 17.11 feet;

THENCE North $62^{\circ}38'16''$ West, with the north right-of-way line of Industrial Boulevard, same being the south lines of said Lots 10, 11, 12, 13, 14 and 15, a distance of 547.80 feet to the **POINT OF BEGINNING**, containing 4.262 acres of land, more or less.

Surveyed on the ground April 25, 2013. Bearing Basis: The Texas Coordinate System of 1983 (NAD 83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS) for Chaparral control point "R474". Attachments: Drawing 229-027-BASE.

Robert C. Watts, Jr.

Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995



S-17-13

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