

Zoning Case Nos. C14-2020-0055**RESTRICTIVE COVENANT**

OWNER: COOPER MILLY HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY

OWNER ADDRESS: 1230 Main Street, Suite 700
Columbus, SC 29201

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: Tract 1:
Being 99.454 acres of land, more or less, situated in the William H. Sanders Survey No. 54, Abstract No. 690, Travis County, Texas, said 99.454 acres of land being more particularly described by metes and bounds in **Exhibit “A”** incorporated into this covenant, and

Tract 2:
Being 48.394 acres of land, more or less, situated in the William H. Sanders Survey No. 54, Abstract No. 690, Travis County, Texas, said 48.394 acres of land being more particularly described by metes and bounds in **Exhibit “B”** incorporated into this covenant (collectively referred to as 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 HDR, Engineering, Inc., dated June 23, 2020, with subsequent updates on August 27, 2020, September 4, 2020 and September 23, 2020, 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 October 23, 2020 (“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 _____ day of _____, 2020.

OWNER:

Cooper Milly Holdings, LLC, a Delaware limited liability company

By: _____
Leighton Lord, President

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this the _____ day of _____
_____, 2020, by Leighton Lord, as President Cooper Milly Holdings, LLC, a Delaware limited liability company, on behalf of said company.

Notary Public, State of Texas

99.454 ACRES
WILLIAM H. SANDERS SURVEY NO. 54
ABSTRACT No. 690
TRAVIS COUNTY, TEXAS

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**EXHIBIT A - TRACT 1
PROPERTY DESCRIPTION**

BEING 99.454 ACRES OF LAND, MORE OR LESS, SITUATED IN THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NUMBER 690, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 161.405 ACRES OF LAND, CONVEYED TO COOPER MILLY HOLDINGS, LLC, DESCRIBED IN SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NO. 2019185923, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS (O.P.R.T.C.TX.), SAID 99.454 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 60D nail found for the most easterly corner of a called 12.852 acre tract conveyed to Decker land Holdings, LP, described in Document No. 2007226680, O.P.R.T.C.TX., same being the most southerly corner of a called 5.408 acre tract, conveyed to 290 & 130, LLC, described in Document No. 2005169042, O.P.R.T.C.TX., from which, a 2-inch TxDOT aluminum cap found for the northwest corner of said 161.405 acre tract, same being in the southerly Right-of-Way (ROW) line of US-Highway 290 (ROW Varies), bears North 27°16'54" East, a distance of 753.72 feet;

THENCE, South 26°39'49" West, along the common line of said 161.405 acre tract and said 12.852 acre tract, a distance of 120.80 feet to a 5/8-inch iron rod with plastic cap stamped "PELOTON BOUNDARY" set for the northwest corner and **POINT OF BEGINNING** of the herein described tract;
(Grid Coordinates: N=10,096,685.26, E=3,160,836.73)

THENCE, South 62°29'04" East, over and across said 161.405 acre tract, a distance of 1138.92 feet to a 1/2-inch iron rod found for the northeast corner of the herein described tract, same being in the westerly Right-of-Way (ROW) line of TX-130 (ROW Varies);

THENCE, South 33°08'05" East, along said westerly ROW line of TX-130, a distance of 1313.75 feet to a 5/8-inch iron rod with plastic cap stamped "PELOTON BOUNDARY" set for the most easterly northeast corner of herein described tract, from which an iron rod with a 2-inch TxDOT aluminum cap found bears South 33°08'05" East, a distance of 0.86 feet, same being on the westerly line of a 150-foot railroad ROW quitclaimed to the City of Austin in Volume 9837, Page 414 and Volume 9837, Page 422, Real Property Records, Travis County, Texas (R.P.R.T.C.TX.);

THENCE, departing said westerly ROW line of TX-130, and along the westerly line of said 150-foot Railroad ROW, the following four (4) courses and distances:

1. South 36°21'24" West, a distance of 254.41 feet to a 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" found for the beginning of a curve to the right;

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2. Along said curve to the right, having a radius of 3332.47 feet, an arc length of 836.90 feet, and a chord bearing and distance of South 43°33'30" West, 834.70 feet to a found 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING";
3. South 50°48'33" West, a distance of 387.68 feet to a found 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING";
4. South 50°44'25" West, a distance of 353.90 feet to a 5/8-inch iron rod with plastic cap stamped "PELTON BOUNDARY" set for the southeast corner herein;

THENCE, departing said 150-foot ROW, over and across said 161.405 acres, the following three (3) courses and distances:

1. North 39°49'10" West, a distance of 360.85 feet, to a 5/8-inch iron rod with plastic cap stamped "PELTON BOUNDARY" set at the beginning of a curve to the left;
2. Along said curve to the left, having a radius of 1500.00 feet, an arc length of 1197.00 and a chord bearing and distance of North 62°40'49" West, 1165.49 feet to a 5/8-inch iron rod with plastic cap stamped "PELTON BOUNDARY" set at the end of said curve;
3. North 85°32'29" West, a distance of 206.84 feet to a 5/8-inch iron rod with plastic cap stamped "PELTON BOUNDARY" set for the southwest corner of the herein described tract, same being on the west line of the said 161.405 acres, same being the east line of that certain 99.720 acres conveyed to Heart of Manor, LP, by deed recorded in Document No. 2007037703, O.P.R.T.C.TX.;

THENCE, North 26°39'49" East, along the common line of said 161.05 acre tract and the said 99.720 acre tract, a distance of 44.40 feet, to a 1/2-inch iron rod found for an angle point;

THENCE, North 26°51'50" East, continuing along said common line, a distance of 530.18 feet to a 1/2-inch iron rod found for the northeast corner of said 99.720 acres, same being the south east corner of that certain 53.38 acre tract conveyed to Decker Land Holdings, LP, recorded in Document No. 2007226684, O.P.R.T.C.TX.;

THENCE, North 26°39'49" East, along the common line between said 161.405 acre tract and the said 53.38 acre tract to the **POINT OF BEGINNING**, containing 99.454 acres of land, more or less.

99.454 ACRES

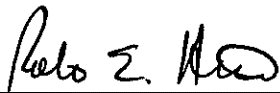
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ABSTRACT No. 690

TRAVIS COUNTY, TEXAS

All bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System (SPCS), Central Zone (4203), NAD83/93. All distances shown hereon are surface values represented in U.S. Survey Feet and may be converted to grid by dividing by a combined adjustment factor of 1.0000742.



Robert E. Hysmith

Registered Professional Land Surveyor No. 5131

Peloton Land Solutions

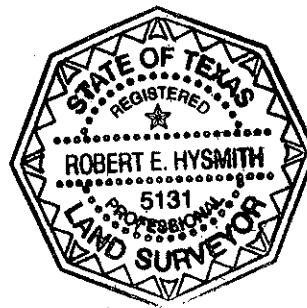
4214 Medical Parkway

Suite 300

Austin, Texas 78756

(512) 831-7700

TBPLS Firm No. 10194108



6/15/20

48.394 ACRES
WILLIAM H. SANDERS SURVEY NO. 54
ABSTRACT No. 690
TRAVIS COUNTY, TEXAS

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**EXHIBIT B – TRACT 2
PROPERTY DESCRIPTION**

BEING 48.394 ACRES OF LAND, MORE OR LESS, SITUATED IN THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NUMBER 690, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 161.405 ACRES OF LAND, CONVEYED TO COOPER MILLY HOLDINGS, LLC, DESCRIBED IN SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NO. 2019185923, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS (O.P.R.T.C.TX.), SAID 48.394 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod with cap stamped "PELTON BOUNDARY", set for the southwest corner of the said 161.405 acre tract, being the southeast corner of that certain 99.720 acres conveyed to Heart of Manor, LP recorded in Document No. 2007037703, O.P.R.T.C.TX. and being in the north Right-of-Way, (ROW), line of that certain 150-foot wide railroad tract conveyed to the City of Austin by deeds recorded in Volume 9837, Page 414 and Volume 9837, Page 422, Real Property Records of Travis County, Texas, (R.P.R.T.C.TX.), (Grid Coordinates: N=10,093,113.81, E=3,159,011.47);

THENCE, North 27°45'58" East, departing said north ROW line, along the common line between said 161.405 acres and the said 99.720 acres, a distance of 1342.94 feet to a 1/2-inch iron rod found for an angle point;

THENCE, North 26°46'34" East, continuing along said common line, a distance of 343.38 feet to a 5/8-inch iron rod with cap stamped "PELTON BOUNDARY", set for the northwest corner herein;

THENCE, over and across said 161.405 acre tract, the following three, (3), courses and distances:

1. South 85°32'29" East, a distance of 206.84 feet to a 5/8-inch iron rod with cap stamped "PELTON BOUNDARY", set at the beginning of a curve to the right;
2. Along said curve to the right, having a radius of 1500.00 feet, an arc length of 1197.00 feet and a chord bearing and distance of South 62°40'49" East, 1165.49 feet to a 5/8-inch iron rod with cap stamped "PELTON BOUNDARY", set at the end of said curve;
3. South 39°49'10" East, a distance of 360.85 feet to a 5/8-inch iron rod with cap stamped "PELTON BOUNDARY", set on the northwesterly ROW line of said 150-foot railroad tract, for the northeast corner herein;

THENCE, along said northwesterly ROW line, the following six (6) courses and distances:

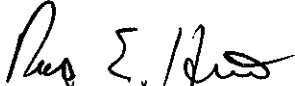
1. South 50°44'25" West, a distance of 367.72 feet to a 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" found for the beginning of a curve to the right;

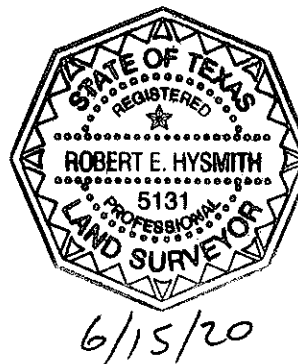
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2. Along said curve to the right, having a radius of 2754.16 feet, an arc length of 176.79 feet, and a chord bearing and distance of South 52°40'03" West, 176.76 feet to a found 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" at the beginning of a compound curve to the right;
3. Along said curve to the right, having a radius of 1783.25 feet, an arc length of 267.65 feet, and a chord bearing and distance of South 58°39'42" West, 267.40, to a 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" found for the beginning of a compound curve to the right;
4. Continuing along said curve to the right, having a radius of 1783.24 feet, an arc length of 742.66 feet, and a chord bearing and distance of South 74°56'00" West, 737.30 feet, to a 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" found at the beginning of a compound curve to the right;
5. Along said curve to the right, having a radius of 2753.84 feet, an arc length of 176.80 feet, and a chord bearing and distance of South 88°51'55" West, 176.77 feet, to a found 1/2-inch iron rod with plastic cap stamped "CAPITAL SURVEYING" at the end of said curve;
6. North 89°24'15" West, a distance of 710.81 feet to the **POINT OF BEGINNING**, containing 48.394 acres of land, more or less.

All bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System (SPCS), Central Zone (4203), NAD83/93. All distances shown hereon are surface values represented in U.S. Survey Feet and may be converted to grid by dividing by a combined adjustment factor of 1.0000742.


Robert E. Hysmith
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Peloton Land Solutions
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Suite 300
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(512) 831-7700
TBPLS Firm No. 10194108



APPROVED AS TO FORM:

Name: _____

Assistant City Attorney
City of Austin

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