

- 3 The sorting, handling, moving, storing, removing and disposing of all trash and waste materials must be housed or screened from public view. Not more than one (1) waste receptacle area shall be permitted for each building, unless a greater number is justified by the building size or by a building of an unusual shape, use or configuration, it being the intention of Declarant to encourage the use of trash compactors and to reduce the number of trash dumpsters used within the Properties.
- 4 Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing garbage grinder disposal and grease trap.
- 5 All structures shall be equipped with gutters, downspouts, and/or other drainage conveyances. All surface drainage, including roof drainage of buildings, shall be designed to conform to the overall drainage of the Properties.
- 6 No excavation shall be made except in conjunction with construction of an improvement. During construction, appropriate erosion controls shall be installed and maintained, and when such improvement is completed all exposed openings shall be back-filled and graded.
- 7 All lighting in parking and driveway areas shall be hooded so as to minimize off-site glare and hazards to vehicular traffic.
- 8 Chain link or other wire fabric fences will not be allowed except temporarily as a container at construction sites.
- 9 Once commenced, construction shall be diligently pursued and completed within two (2) years after commencement. If construction is not completed within such 2-year period, then upon written notice from the Owners of 51% of the land area within the Properties [excluding the Owner in violation of this provision (the "Violator")], the Violator, at its sole cost and expense, must promptly either (i) restore the property to the condition in which it existed prior to commencement of construction, or (ii) complete such construction within six (6) months after such notice.
- 10 All construction shall comply with all applicable governmental laws, ordinances, rules and regulations, and shall have received all required governmental permits or approvals.

ARTICLE III MAINTENANCE

Section A. Duty of Maintenance. Owners and occupants (including lessees) of any portion of the Properties shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep the property so owned or occupied, including buildings, improvements, grounds or drainage easements or rights-of-way incident thereto, and vacant land, in a well-maintained, safe,

clean and attractive condition at all times. Required maintenance includes, but is not limited to, the following:

- 1 Prompt removal of all litter, trash, dead vegetation, refuse and waste,
- 2 Lawn mowing on a regular basis (Maximum grass height for developed properties - 6", undeveloped property - 9"),
- 3 Tree and shrub pruning,
- 4 Watering landscaped areas,
- 5 Keeping exterior lighting facilities in working order,
- 6 Keeping lawn and garden areas alive (and replacing dead vegetation), free of weeds, and attractive,
- 7 Keeping driveways in good repair;
- 8 All painted improvements and other painted structures shall be repainted by the Owner thereof at Owner's sole cost and expense as often as is reasonably necessary to ensure the attractiveness and aesthetic quality of such structure or improvement,
- 9 Complying with all government health and police requirements,
- 10 Repair of exterior damages to improvements,
- 11 Cleaning of abutting landscaped areas lying between public right-of-way lines and lot lines unless such streets, waterways or landscaped areas are maintained by applicable governmental authorities, and
- 12 The Owner or Owners of the "Phase 5 Lots" (as described on Exhibit A attached hereto) shall maintain the development sign and associated landscaping and lighting, in a good and attractive condition at all times

ARTICLE IV MISCELLANEOUS PROVISIONS

Section A. Duration. This Declaration and the covenants and restrictions set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by every Owner of any part of the Properties, including Declarant, and their respective legal representatives, heirs, successors and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2018 (the "Original Term"), unless extended or terminated as provided herein.

- 1 Upon expiration of the Original Term, this Declaration shall be automatically extended for successive periods of five (5) years (each such period an "Extended Term" or collectively, the "Extended Terms"), unless terminated as provided below
- 2 At any time during the Original Term, this Declaration may be terminated by written instrument signed and acknowledged by the Owners of ninety percent (90%) of the total land area within the Properties,
- 3 At any time during any Extended Term, this Declaration may be terminated by written instrument signed and acknowledged by the Owners of seventy-five percent (75%) of the total land area within the Properties

Notwithstanding any provision herein to the contrary, no such termination of this Declaration shall be effective until the recording of a certified copy of the signed and acknowledged instrument in the Real Property Records of Travis County, Texas

Section B Amendment, Variances During the Original Term, this Declaration may be amended by written instrument signed and acknowledged by the owners of ninety percent (90%) of the total land area within the Properties. During any Extended Term, this Declaration may be amended by written instrument signed and acknowledged by the Owners of seventy-five percent (75%) of the total land area within the Properties. Any of the covenants and restrictions set out in this Declaration, other than this Section B, may be waived for the benefit of a requesting Owner by written instrument signed and acknowledged by the owners of fifty-one percent (51%) of the total land area within the Properties (exclusive of the land area owned by the requesting Owner). Any such amendment or waiver shall become effective when an instrument is filed for record in the Real Property Records of Travis County, Texas, with the signatures of the requisite number of the Owners of the Properties

Section C Enforcement If any Owner or occupant has failed in any of its duties or responsibilities hereunder or has failed to comply with any covenant or restriction set forth herein (such person or entity, whether one or more, hereinafter referred to as the "Violator"), then Declarant or any other Owner (other than the Violator) shall have the right to enforce any of the covenants and restrictions set out in this Declaration. Declarant or any such other Owner shall give such Violator written notice of such failure and the Violator must, within ten (10) days after receiving such notice, commence and diligently pursue cure of its violation hereunder. Should such Violator fail to fulfill this duty and responsibility within such 10-day period, then Declarant or such other Owner shall have the right and power (but not the obligation) to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Violator (which shall include all Owners and occupants, including a lessee causing the violation, of any part of the Properties on which such violation has occurred and such work is performed) shall jointly and severally be liable for the reasonable cost of such care, maintenance and repairs. If the Violator fails to reimburse Declarant or such other Owner, as the case may be, within ten (10) days after receipt of a statement for such work, then said indebtedness shall be a debt of the Violator, jointly and severally, and shall constitute a lien against that portion of the Properties on

which said work was performed and shall bear interest at the annual rate equal to the lesser of (i) fourteen percent (14%) or (ii) the maximum rate allowed by law, from the expiration of such 10-day period until paid in full

Enforcement of the covenants and restrictions set forth in this Declaration shall be by any proceeding at law or in equity against any Violator, either to restrain violation or to recover damages, and against the land, to enforce any lien created by this Declaration, and failure by any Owner (including the Declarant) to enforce any lien created by this Declaration shall in no event be deemed a waiver of the right to do so thereafter

Section D Severability of Provisions If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null, or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null, or void, the remaining paragraphs, sections, sentences, clauses, or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses, and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses, or phrases shall become or be illegal, null or void

Section E Notice Wherever written notice to an Owner (or Owners) is permitted or required hereunder, such shall be given by the mailing of such notice to the Owner at the address of such Owner appearing in the Official Public Records of Travis County, Texas. In such event, such notice shall conclusively be deemed to have been given by placing same in the United States mail, properly addressed, certified with return receipt requested, when received or refused by the addressee or returned to the sender

Section F Titles The titles, headings, and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof

Section G Successors and Assigns The provisions hereof shall be binding upon and inure to the benefit of the Owners, including the Declarant, and their respective heirs, executors, administrators, successors and assigns

Section H Assignment of Rights and Obligations of Declarant The rights of Declarant hereunder are fully assignable to any person, association or entity and any and all obligations and duties of Declarant are fully delegable to, and assumable by, any person, association or entity

Section I Estoppel Certificates Any Owner (or any mortgagee holding a first lien security interest in any portion of the Properties) may, at any time and from time to time, in connection with the leasing, sale or transfer of the portion of the Properties owned by such Owner or in connection with the financing or refinancing of such portion of the Properties by any bona fide mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver a written notice to any other Owner requesting such Owner to execute a certificate certifying that, to the best of such Owner's knowledge, (i) the Owner requesting such certificate is not in default in the performance of its obligations under this Declaration or, if in default, describing the nature and amount or degree

of such default, and (11) such other information regarding the status of the obligations under this Declaration as may be reasonably requested. An Owner shall execute and return such certificate within fifteen (15) days following its receipt of a request therefor, failing which such Owner shall be deemed to have confirmed the factual certification requested.

EXECUTED as of the day and year first above written

DECLARANT

DAVENPORT LIMITED,
A Texas Limited Partnership

By Westview Development, Inc.,
General Partner

By [Signature]

Name P.D. Gully

Title VP

STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on the 21 day of August 2000, by P.D. Gully, Vice President of Westview Development, Inc., a Texas corporation, on behalf of said corporation, as general partner of Davenport Limited, a Texas limited partnership, on behalf of said Texas limited partnership.



[Signature]
Notary Public, State of Texas

Printed Name of Notary

My commission expires _____

After recording, return to

AUSTIN TITLE COMPANY
4130 Spicewood Springs Rd.
Suite 100
Austin, Texas 78759
(512) 346-4020

29

Exhibit A

"PHASE 6 LOTS"

Lots 37-43, Block A, and Lot 17, Block E, DAVENPORT WEST P U D SECTION 5, PHASE 6, a subdivision in Travis County, Texas, according to the map or plat thereof recorded as Document #200000169, of the Official Public Records of Travis County, Texas

"PHASE 5 LOTS"

Lots 2-5, Block D, DAVENPORT WEST P U D SECTION 5, PHASE 5, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded as Document #200000171, of the Official Public Records of Travis County, Texas

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dana Debeauvoir

08-24-2000 01 18 PM 2000135842
DAVILAM \$33 00
DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS



DEVELOPMENT CONSULTANTS

- 3607 Lone Man Mountain Road • Wimberley, TX 78676 • PHONE (512)82-1633 • FAX (512)842-2183
fgroup@bigplanet.com

March 10, 2003

Mr. Mike Heitz, Director
Watershed Protection and Development Review Department
City of Austin
505 Barton Springs Rd.
Austin, TX 78704

**RE: SP - 00 - 2395B; SP - 00 - 2395B; SPC - 99 - 0227A; SP - 00 2396B;
SPC - 99 - 0226A; SP - 00 - 2463B; SP - 00 - 2233D**

Dear Mr. Heitz:

On behalf of our client, Hill Partners, please accept this as our request for an extension of the referenced site plans for one (1) year from the original date of expiration. These site plans are all contained within the Davenport West PUD and are in compliance with current applicable City and County ordinances.

In addition to being in compliance, the following work has been completed or is in process of being completed:

Davenport A:

Building A is complete
Building C is nearing completion
Building D is awaiting building permits
Building B is designed and on hold

Davenport B:

Some of the gravity Wastewater line is complete, the force main and the fire main to serve Davenport Part A is stubbed out. Two buildings and a parking garage have been designed and put on hold.

Davenport C:

Storm sewer line is complete with the box culvert serving Davenport A and C are complete and in place. Again, building plans have been completed by the Architect and are on hold.

All of the water quality ponds for the entire project are complete and a fee in lieu of detention has been paid. All wet and dry utilities are in place along with all of the access drives and parking for the completed buildings is complete.


Mr. Mike Heitz
March 10, 2003
Page Two

We are requesting this extension for reasons beyond our control. The demand for office space is in a downturn both locally and nationally.

Attached herewith are six (6) sets of redlined plans, applications and submittal checks for each of the above referenced site plans. I thought, and Tammie Williamson agreed, that to submit six identical letters would not accomplish anything since these site plans are so tightly joined together.

Thank you for your consideration of our request; we stand ready to answer any and all questions from your staff.

Very sincerely,



W. M. Faust, Partner
The Faust Group

DOC. NO.
89027447

FILM CODE
00004456180

RESTRICTIVE COVENANTS
DAVENPORT RANCH WEST PLANNED UNIT DEVELOPMENT
Section Five
City of Austin Case
No. CS14-88-0001

3:15 PM 2772

31.00 INDX
1 1-04/04/89

STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS: 890274.47-DOC#
7908.88-CHK#

WHEREAS, Davenport Limited, a Texas limited partnership ("Declarant"), is the owner of approximately 98.35 acres of land in Travis County, Texas, being more fully described in Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Declarant, its successors or assigns, intends to develop the Property and has agreed to impose certain restrictions and covenants on such development in order to assure its compatibility with other existing and planned development for the area; and

WHEREAS, the City of Austin, Texas (the "City") and Declarant have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreements in writing;

NOW, THEREFORE, Declarant, for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand paid by the City, the sufficiency and receipt of which are hereby acknowledged, does hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land for the benefit of the City, and which shall be binding upon Declarant, its successors and assigns, to wit:

ARTICLE I.

Land Use and Site Development Standards

1.01 The Property is part of Davenport Ranch West Planned Unit Development described and included as part of City of Austin Case No. CS14-88-0001 (the "PUD"). The PUD is schematically

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS
10909 1672

represented separate tracts ("Tracts") with the Property and certain other land on the conceptual site plans (the "Concept Plans") submitted as part of the PUD, which Concept Plans (and all other materials in the above-referenced City of Austin Case) are incorporated herein. The development contemplated on the Concept Plans will be phased over a number of years. Nothing herein shall be construed to limit or prevent the right of Declarant or Declarant's successors or assigns to amend the Concept Plans or any other provision of this Restriction, subject to the terms set forth herein and other applicable City requirements.

1.02 Nothing in this Restriction shall be construed to prohibit the exercise by the City Council of the City of its police powers and its authority under the City Charter and the laws of the State of Texas, or to limit or prevent the right of Declarant (or its successors in ownership of any portion of the land within the Property) from seeking variances under any or all of the ordinances applicable to such land. The approval of the Concept Plans for the PUD, and the zoning and land uses and the preliminary subdivision plats pertaining to the Property, shall not lapse or expire and may be modified in accordance with applicable provisions of the Code of the City of Austin and state law. Declarant shall submit a site plan for review and approval by the City, pursuant to applicable City ordinances, rules and regulations (including applicable provisions of this Restriction and ordinances approved by the City Council in connection with the PUD), prior to site development. The terms and provisions of this Restriction are intended to be consistent with the Concept Plans submitted as part of the PUD and approved by the City Council in connection with its zoning the Property as a Planned Unit Development zoning district in the above referenced City of Austin Case.

1.03 All public facilities constructed within the Property, including without limitation streets, street lights, street