

Late Backup

#85

Zoning Case No. C14-2007-0218

RESTRICTIVE COVENANT

OWNER BBCWO DEVELOPERS, LLC,
 a Texas limited liability company

ADDRESS 1016 Mopac Circle, Suite 101, 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 is acknowledged

PROPERTY A 8 32 acre tract of land, more or less, out of the Rachel Saul League
 Abstract No 551, in Williamson County, Texas, the tract of land being
 more particularly described by metes and bounds, in Exhibit "A"
 incorporated into this covenant

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. 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 Owner agrees that all development shall comply with the requirements set forth in the attached Exhibit "B" (*Green Building Items for Zoning Case C14-2007-0218*). The requirements in Exhibit "B" must be completed or otherwise approved by the City before a final certificate of occupancy is issued for the last building in an approved site plan on the Property.
- 2 If any person or entity shall violate or attempt to violate this agreement and covenant, 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 or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
- 3 If any part of this agreement or covenant 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 subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 28th day of February, 2008

OWNER:

BBCWO DEVELOPERS, LLC,
a Texas limited liability company

By



Steve Oden, Jr.,
Managing Member

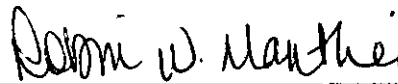
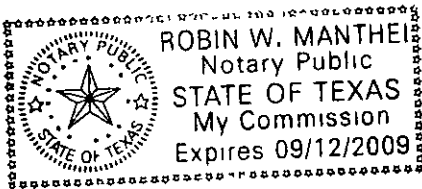
APPROVED AS TO FORM

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 28th day of February, 2008, by Steve Oden, Jr., Managing Member of BBCWO Developers, LLC, a Texas limited liability company, on behalf of the limited liability company



Notary Public, State of Texas

After Recording, Please Return to
City of Austin
Department of Law
P O Box 1088
Austin, Texas 78767-1088
Attention Diana Minter, Legal Assistant



ALL POINTS SURVEYING, INC

EXHIBIT "A"

LEGAL DESCRIPTION OF AN 8.32 ACRE (362,536 SQUARE FEET) TRACT OF LAND BEING A PORTION OF 80 285 ACRES OUT OF THE RACHEL SAUL LEAGUE, ABSTRACT NO.551, WILLIAMSON COUNTY, TEXAS AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

BEGINNING at an iron rod found in the Easterly right-of-way line of North Lake Creek Parkway (R O W varies) common with the Southwesterly corner of a 90 00 acre tract of land as recorded in Volume 1066, Page 121 of the Deed Records of Williamson County, Texas for the Northwesterly corner of the herein described tract of land,

THENCE N71°16'18"E with the Southerly line of said 90 00 acre tract of land a distance 67 72 feet to an iron rod found for an angle point in the Southerly line of said 90 00 acre tract of land for a Northerly angle point of the herein described tract of land,

THENCE N70°01'53"E with the Southerly line of said 90 00 acre tract of land a distance of 314 28 feet to an iron rod found in the Southerly line of said 90 00 acre tract of land for the Northeasterly corner of the herein described tract of land and being in the boundary agreement line per Document No 2001036200, common with the Westerly line of Lot 1, Block "A" Northwoods Section 1 as recorded in Cabinet W, Slide 14-16, Plat Records of Williamson County, Texas,

THENCE S19°24'22"E with said Westerly line of Northwoods Section 1 a distance of 765 22 feet to an iron rod found for an angle point in the Westerly line of said Northwoods Section 1 and being in the said boundary agreement line as recorded in Document No 2001036200 for an angle point in the Easterly line of herein described tract of land,

THENCE S19°35'09"E with the said Westerly line of a Northwoods Section 1 a distance of 147 38 feet to an iron rod found for the Southwesterly corner of said Northwoods Section 1 and being in the Northerly R O W line of Lakeline Mall Boulevard (R O W varies) and being in the boundary agreement line as recorded in Document No 2001036200 for the Southeasterly corner of the herein described tract of land,

THENCE S70°02'55"W with the Northerly right-of-way line of said Lakeline Mall Boulevard (R O W varies) a distance of 197 99 feet to a point for the most Easterly corner of a 0 0657 acre tract of land for roadway purposes as recorded in Volume 1659, Page 141 of the Deed Records of Williamson County, Texas for a point-of-curvature in the Southerly line of herein described land,

THENCE with a curve to the left having a chord bearing S 73°54'07" W a distance of 84 17 feet, an arc distance of 84 18 feet and a radius of 1177 56 feet to a point in the northerly right-of-way line of said Lakeline Mall Boulevard (R O W varies) and being in

EXHIBIT "A"

the northerly line of said 0 0657 acre tract of land for the most southerly southwest corner of the herein described tract of land,

THENCE N19°41'35"W through and across said 80 285 acre tract of land a distance of 241 31 feet to an interior angle point of the herein described tract of land,

THENCE S71°51'25"W through and across said 80 285 acre tract of land a distance of 241 28 feet to a point in the Easterly right-of-way line of said North Creek Parkway (R O W varies) for the most Northerly Southwest corner of the herein described tract of land,

THENCE with a curve to the right having a chord which bears N 06°24'31" W a distance of 150 73 feet, an arc length of 150 89 feet and radius of 940 12 feet to an iron rod found in the Easterly R O W line of said North Lake Creek Parkway (R O W varies) to an iron rod found for a point of tangency in the Westerly line of the herein described tract of land,

THENCE N02°08'09W with the Easterly R O W line of said North Lake Creek Parkway (R O W varies) a distance of 201 14 feet to an iron rod found for a point of curvature in the Easterly line of the herein described tract of land,

THENCE with a curve to the left having a chord which bears N10°51'23"W a distance of 325 39 feet, an arc length of 326 68 feet and radius of 1060 00 feet and with the Easterly R O W line of said North Creek Parkway (R O W. varies) to the **PLACE-OF-BEGINNING** containing 8 32 acres (362.536 square feet) of land more or less

Mark C. Brown

Date

11-9-06

MARK BROWN

Registered Professional Land Surveyor No. 5059

JOB No. 10R17506

The Bearing Basis for the herein described tract of land is a Westerly line of Lot 1 Block "A" Northwoods Section 1 as recorded in Cabinet W, Slides 14-16 of the Plat Records of Williamson County, Texas which bears S19°24'22"E a distance of 765 22'



EXHIBIT B

Green Building Items for Zoning Case No C14-2007-0218

Item 1	Transportation Alternatives - Bicycle Use	Provide covered bicycle parking for 15% of residents and permanent building occupants and provide a safe path from property entrance to bike parking
Item 2	Residential Mechanical Systems	Systems meet ALL of the following requirements <ol style="list-style-type: none"> 1 Dwellings served by split or individual systems sized according to Manual J and installed according to code 2 Air conditioning system components are matched according to ARI (Air-Conditioning & Refrigeration Institute)
Item 3	High Efficacy Lighting	<ul style="list-style-type: none"> • Dwellings at least 50% of all indoor lamps in high use areas are Energy Star-compliant high efficacy lamps OR install 3 Energy Star fixtures in high use area • Common spaces at least 25% of all indoor lamps are Energy Star-compliant high efficacy lamps
Item 4	Building Water Use Reduction/Metering	Site meets BOTH of the following measures <ol style="list-style-type: none"> 1 All dwellings are individual metered or submetered 2 All dwellings are billed individually for water usage
Item 5	Building Water Use Reduction	Each dwelling includes ALL of the following <ol style="list-style-type: none"> 1 lavatory fixtures (max 1.0 gpm) 2 showerheads (max 2.1 gpm) no more than one showerhead installed per shower) 3 kitchen fixtures (max 1.8 gpm)
Item 6	Irrigation Water Reduction	Site meets ALL of the following requirements <ol style="list-style-type: none"> 1 90% of new plants on COA Grow Green list (Native and Adapted Landscape Plants) 2 Plant-based mulch covers all non-turf planting beds to a minimum 4 inch depth 3 Install a minimum of 8 inches of soil below all turf areas
Item 7	Filtration for Indoor Air Quality	Filters installed in ventilation systems shall have a minimum efficiency reporting value (MERV) rating of 7 or greater
Item 8	Moisture Prevention	Site meets ALL of the following requirements <ol style="list-style-type: none"> 1 No vinyl wall coverings or vapor barriers for surface treatments on interior of exterior wall (also include in tenant agreements) 2 Install building envelope drainage plane systems, including flashing and overhang systems 3 Document building will be pressurized (for buildings with mechanical ventilation systems that bring in outside air)
Item 9	Storage and Collection of Recyclables	Provide appropriately sized, easily accessible area dedicated to the separation, collection and storage of materials for recycling, including at minimum, the top four identified recyclable waste stream items
Item 10	Energy Efficient Building - Roofing	Insulation - minimum R32
Item 11	Energy Efficient Building - Equipment/Appliances - Ceiling Fans	Ceiling fans installed in all main rooms and bedrooms (not required in dining rooms/kitchens) AND fans are Energy Star listed
Item 12	Equipment/Appliances - Energy Star Labeled	Dish Washers Energy Star labeled