

RESTRICTIVE COVENANT

OWNER: Stratagem Development, Ltd., a Texas limited partnership

ADDRESS: 3001 S. Lamar Blvd., Suite 101, Austin, TX 78704

OWNER: Freddie H. Robbins

ADDRESS: P.O. Box 2014, Taos, NM 87571

OWNER: Stuart B. Robbins

ADDRESS: 725 Chestnut Street, Waban, MA 02648

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: Tract One: A 0.241 acre tract of land, more or less, out of Outlot 36, Division E of the Government Outlots of the City of Austin, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant; and

Tract Two: A 0.411 acre tract of land, more or less, being the north 136 feet of the west 128 feet of Outlot 36, Division E, of the Government Outlots of the City of Austin, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant.

WHEREAS, the Owner ("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;

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. If a building is constructed to a height that exceeds 120 feet, the Owner shall design and construct streetscape improvements along Guadalupe Street and West 18th Street in compliance with the City of Austin Great Streets design criteria as the criteria existed on June 5, 2008. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owners shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.

2. If a building is constructed to a height that exceeds 170 feet, then 20 percent of the gross floor area shall be allocated for residential uses.
3. 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.
4. 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.
5. 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.
6. 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.

[SIGNATURE PAGES TO FOLLOW]

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

EXECUTED this the _____ day of _____, 2008.

OWNERS:

**STRATAGEM DEVELOPMENT, LTD.,
a Texas limited partnership**

By: Soward-Ryan Ventures, LLC,
a Texas limited liability company,
its general partner

By: _____
Brent Ryan, Manager

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2008, by Brent Ryan, Manager, of Soward-Ryan Ventures, LLC, a Texas limited liability company, the general partner of Stratagem Development, Ltd., a Texas limited partnership, on behalf of the limited liability company and limited partnership.

Notary Public, State of Texas

OWNER:

FREDDIE H. ROBBINS

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____,
2008, by Freddie H. Robbins.

Notary Public, State of _____

OWNER:

STUART B. ROBBINS

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____,
2008, by Stuart B. Robbins.

Notary Public, State of _____

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