

AMENDMENT OF RESTRICTIVE COVENANT
FOR ZONING CASE NO. C14-85-339

Owners: Solo Star Realty, Inc., a Texas corporation
Austin Korean Presbyterian Church, a Texas non-profit corporation
Yager Development, L.L.C., a Texas limited liability company
Allen Samuels Realty, Inc., a Texas corporation
Burton Landing, L.L.C., a Texas limited liability company

Address: See Below

City: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

City Council: The City Council of the City of Austin

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, VCMS Investments of Travis County, as owner of all that certain property described in Zoning File No. C14-85-339, consisting of approximately 103 acres of land (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas in Volume 10252, Page 88, (the "Restrictive Covenant"), imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record;

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council, and (b) the Owner of the property at the time of such modification, amendment or termination.

WHEREAS, the entities identified in this covenant are the current owners (the "Owners") of the Property on the date of this Amendment of Restrictive Covenant (the "Amendment") and desires to amend the Restrictive Covenant as to the Property.

WHEREAS, the City Council and the Owners agree the Restrictive Covenant should be amended.

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City of Austin and the Owners agree as follows:

1. Paragraphs 3 and 4 of the Restrictive Covenant are deleted in their entirety and the following provision is substituted and renumbered as Paragraph 3 in place of the provisions set forth under Paragraphs 3 and 4:

3. At the time of preliminary plan approval, the area identified on Exhibit "A" shall be dedicated to the City for parkland purposes in order to comply with Chapter 25-1, Article 14 (Parkland Dedication) of the City Code for the property described in Exhibit "B" attached and incorporated into this covenant.

2. Paragraph 8 of the Restrictive Covenant is deleted in its entirety and the following provision is substituted and renumbered as Paragraph 7 in place of the provision set forth under Paragraph 8:

7. A residential collector street with 60 feet of right-of-way and 40 feet of pavement shall be provided by the Owners as generally shown on Exhibit "C" attached and incorporated into this covenant.

3. Except as expressly provided for in this Amendment, each and every one of the remaining terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
4. The City Manager, or his designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No. C14-85-339, as authorized by the City Council of the City of Austin. The Amendment of Restrictive Covenant shall be filed in the Official Public Records of Travis County, Texas.
5. This Amendment of Restrictive Covenant may be executed in any number of counterparts, each of which is deemed to be an original, and all of which are identical.

EXECUTED to be effective the _____ day of _____, 2009.

CITY OF AUSTIN

OWNERS:

Solo Star Realty, Inc., a Texas corporation

Austin Korean Presbyterian Church,
a Texas non-profit corporation

Yager Development, L.L.C.,
a Texas limited liability company

Allen Samuels Realty, Inc., a Texas corporation

Burton Landing, L.L.C., a Texas limited liability company

(SIGNATURES AND ACKNOWLEDGEMENT PAGES TO FOLLOW)

SIGNATURE PAGE FOR
CITY OF AUSTIN

CITY OF AUSTIN:

By: _____
Sue Edwards,
Assistant City Manager,
City of Austin

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2009, by Sue Edwards, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

**SIGNATURE PAGE FOR
SOLO STAR REALTY, INC.**

**Solo Star Realty, Inc.,
a Texas corporation**

By: _____
Daurice White,
Secretary

Address: 1303 Campbell Road,,
Houston, Texas 77055

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on this the ____ day of _____, 2009, by Daurice White, Secretary of Solo Star Realty, Inc., a Texas corporation, on its behalf.

Notary Public, State of Texas

SIGNATURE PAGE FOR
AUSTIN KOREAN PREBYTERIAN CHURCH

OWNER:

**Austin Korean Presbyterian Church,
a Texas non-profit corporation**

By: _____
Roy Kim,
Chair,
New Church Construction Committee

Address: 2000 Justin Lane,
Austin, Texas 78757

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2009, by Roy Kim, in his capacity as Chair of the New Church Construction Committee of the Austin Korean Presbyterian Church, a Texas non-profit corporation, on its behalf.

Notary Public, State of Texas

SIGNATURE PAGE FOR
YAGER DEVELOPMENT L.L.C.

OWNER:

**Yager Development L.L.C.,
a Texas limited liability company**

By: _____
Richard Kunz,
Manager,

Address: 2201 Démona Drive,
Austin, Texas 78733

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2009, by Richard Kunz, Manager of Yager Development L.L.C., a Texas limited liability company, on its behalf.

Notary Public, State of Texas

**SIGNATURE PAGE FOR
ALLEN SAMUELS REALTY, INC.**

OWNER:

**Allen Samuels Realty, Inc.,
a Texas corporation**

By: _____
Jeff A. Wooley,
Secretary

Address: 301 Owen Lane,,
Waco, Texas 76710

THE STATE OF TEXAS §

COUNTY OF McLENNAN §

This instrument was acknowledged before me on this the ____ day of _____, 2009, by
Jeff A. Wooley, Secretary, of Allen Samuels Realty, Inc., a Texas corporation, on its behalf.

Notary Public, State of Texas

SIGNATURE PAGE FOR
BURTON LANDING L.L.C.

OWNER:

**Burton Landing, L.L.C.,
a Louisiana limited liability company**

By: East Yager Manager, L.L.C.
a Louisiana limited liability company

By: _____
Robert Peek,
Member

Address: 7525 Picardy Ave.,
Baton Rouge, LA 70808-4391

THE STATE OF LOUISIANA §

PARISH OF EAST BATON ROUGE §

This instrument was acknowledged before me on this the ____ day of _____, 2009, by Robert Peek, Member of East Yager Manager, L.L.C., a Louisiana limited liability company, and authorized to sign on behalf of Burton Landing L.L.C., a Louisiana limited liability company.

Notary Signature

Printed/typed Name of Notary

Date: _____

AFTER RECORDING RETURN TO:

City of Austin Law Department
P.O. Box 1088
Austin, Texas 78767-1088
Attn: Diana Minter, Paralegal

SCALE: 1" = 400'

PROPOSED PARKLAND TO BE
DEDICATED TO THE CITY OF
AUSTIN AT PRELIMINARY PLAN
APPROVAL. 19.09 ac.

INTERSTATE HIGHWAY 35

100' LCRA ELECTRIC TRANSMISSION ESMT.

YAGER LANE

35'

EXHIBIT "A"



**PAPE-DAWSON
ENGINEERS**

7800 SHOAL CREEK BLVD.
SUITE 220 WEST
AUSTIN, TEXAS 78757
512-454-8711

61.751 ACRES
TRACT 1
IH 35 & YAGER LANE

EXHIBIT B

FN NO. 08-478 (AJM)
AUGUST 8, 2008
BPI JOB NO. 1144-06

DESCRIPTION

OF 61.751 ACRES OF LAND OUT OF THE J.A.G. BROOKE SURVEY NO. 79, SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PART OF THE REMAINING PORTION OF THAT CERTAIN 103.397 ACRE TRACT OF LAND CONVEYED TO SOLO STAR REALTY, INC. BY DEED OF RECORD IN VOLUME 12056, PAGE 1563 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 61.751 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found in the southerly line of Yager Lane (80' R.O.W.), being the northwesterly corner of Lot 1, Block "A" Coppertree, a subdivision of record in Book 84, Pages 121A-121B of the Plat Records of Travis County, Texas, same being the northeasterly corner of said remaining portion of 103.397 acre tract, for the northeasterly corner hereof;

THENCE, S30°32'27"W, leaving the southerly line of Yager Lane, along the easterly line of said remaining portion of 103.397 acre tract, same being the westerly line of said Lot 1, a distance of 1393.73 feet to a 1/2 inch iron rod found at the southwesterly corner of said Lot 1 for an angle point in the easterly line hereof;

THENCE, S59°44'43"E, along a portion of the southerly line of said Lot 1, same being a portion of the easterly line of said remaining portion of 103.397 acre tract, a distance of 78.46 feet to the northerly common corner of Lot 30 and Lot 31 Block "A", Copperfield Section Two-B, a subdivision of record in Book 85, Pages 32B-32C of said Plat Records, for an angle point in the easterly line hereof;

THENCE, leaving the southerly line of said Lot 1, continuing along a portion of the easterly line of said remaining portion of 103.397 acre tract, same being the westerly line of said Copperfield Section Two-B, and in part along the westerly line of that certain tract of land conveyed to the City of Austin by Deed of record in Volume 10467, Page 762 of said Real Property Records, for the remainder of the easterly line hereof, the following three (3) courses and distances:

- 1) S37°15'34"W, a distance of 607.99 feet to an angle point hereof;
- 2) S37°49'09"W, a distance of 379.26 feet to a 1/2 inch iron rod found at the northwest corner of said City of Austin Tract, being the southwesterly corner of Lot 154 of said Copperfield Section Two-B, for an angle point hereof;
- 3) S36°54'26"W, a distance of 125.76 feet to a point in the westerly line of said City of Austin Tract, same being the northeasterly corner of Lot 16 of North Oaks, a subdivision of record in Volume 7, Page 108 of said Plat Records, same also being a point at or near the approximate center of Walnut Creek, for the southeasterly corner hereof;

THENCE, along a line at or near the approximate center of Walnut Creek, being a portion of the northerly of said North Oaks, same being along a portion of the southerly line of the remaining portion of said 103.397 acre tract, for the southerly line hereof, the following five (5) courses and distances

- 1) N32°01'30"W, a distance of 108.74 feet for an angle point;
- 2) N54°31'30"W, a distance of 226.02 feet for an angle point;
- 3) N60°59'06"W, a distance of 180.66 feet for an angle point;
- 4) N75°39'27"W, a distance of 605.76 feet for an angle point;
- 5) N84°41'36"W, a distance of 52.92 feet to a P.K. nail set at or near the approximate center of Walnut Creek, being the northerly line of Lot 6 North Oaks, for the southwesterly corner hereof;

THENCE, leaving the northerly line of said North Oaks Subdivision, over and across the remaining portion of said 103.397 acre tract, along a line at or near the center of an existing creek, for a portion of the easterly line hereof, the following four (4) courses and distances:

- 1) N18°37'33"W, a distance of 238.03 feet to a P.K. nail set for an angle point;
- 2) N07°22'10"W, a distance of 187.49 feet to a P.K. nail set for an angle point;
- 3) N02°51'09"W, a distance of 181.09 feet for to a P.K. nail set for an angle point;
- 4) N01°31'26"W, a distance of 268.95 feet to a 1/2 inch iron rod with cap set in the southerly line of that certain 11.846 acre tract of land conveyed to Allen Samuels Realty, Inc. by deed of record in Document No. 2004028378 of the Official Public Records of Travis County, Texas, from which a 1/2 inch iron rod with cap found in the easterly right-of-way line of Interstate Highway No. 35, (R.O.W. width varies) same being the southwesterly corner of said 11.846 acre tract, bears N73°24'31"W, a distance of 395.02 feet;

THENCE, S73°24'31"E, along a portion of the common southerly line of said 11.846 acre tract and said remaining portion of 103.397 acre tract, a distance of 567.19 feet to a 1/2 inch iron rod with cap found at the southeasterly corner of said 11.846 acre tract and an angle point hereof;

THENCE, N30°15'25"E, along a portion of the common easterly line of said 11.846 acre tract and said remaining portion of 103.397 acre tract, a distance of 376.11 feet to a 1/2 inch iron rod with cap set at the northeasterly corner of said 11.846 acre tract, being the southeasterly terminus of V.F.W. Road (60' Wide R.O.W.), for an angle point in the westerly line hereof, from which a 1/2 inch iron rod with cap found bears S31°08'40"W, a distance of 0.34 feet;

THENCE, N31°08'40"E, leaving the northerly line of said 11.846 acre tract, continuing along said remaining portion of 103.397 acre tract and along the easterly terminus of said V.F.W. Road, a distance of 60.01 feet to a 1/2 inch iron rod found at the southeasterly corner of that certain 10.48 acre tract of land conveyed to Veterans of Foreign Wars of the United States, Inc., Capitol City Post #8787 by deed of record in Volume 3555, Page 659 of said Real Property Records;

THENCE, leaving the northerly right-of-way line of V.F.W. Road, along the easterly lines of said 10.48 acre tract, that certain 4.170 acre tract conveyed to Veterans of Foreign Wars of the United States, Inc., Capitol City Post #8787 by deed of record in Volume 9280, Page 432 of said Real Property Records, and the easterly line of North Park Addition Section One, a subdivision of record in Document No. 200200321 of said Official Public Records, also being a portion of the westerly line of said remaining portion of 103.397 acre tract, the following six (6) courses and distances:

- 1) N30°04'14"E, a distance of 259.53 feet to a 1/2 inch iron rod found at the common easterly corner of said 10.48 acre tract and said 4.170 acre tract for the point of curvature of a non-tangent curve to the left;
- 2) Along said non-tangent curve to the left having a radius of 375.00 feet, a central angle of 47°28'41", passing the common easterly corner of said 4.170 acre tract and said 14.491 acre tract at an arc length of 207.81 feet, and continuing for a total arc length of 310.74 feet and a total chord which bears N06°17'29"E, a distance of 301.93 feet to a 1/2 inch iron rod found;
- 3) N17°23'25"W, a distance of 214.28 feet to a 1/2 inch iron rod found at the point of curvature of a non-tangent curve to the right;
- 4) Along said non-tangent curve to the right having a radius of 655.15 feet, a central angle of 47°44'50", an arc length of 545.97 feet and a chord which bears N06°25'36"E, a distance of 530.31 feet to a 1/2 inch iron rod found at the end of said curve;

- 5) N30°19'22"E, a distance of 435.75 feet to a 1/2 inch iron rod found at the point of curvature of a non-tangent curve to the left;
- 6) Along said non-tangent curve to the left having a radius of 25.00 feet, a central angle of 90°12'10", an arc length of 39.36 feet and a chord which bears N14°39'06"W, a distance of 35.42 feet to a 1/2 inch iron rod found in the southerly right-of-way line of Yager Lane, being the northeasterly corner of said North Park Addition, same being the northernmost northwesterly corner of said remaining portion of 103.397 acre tract and the northwesterly corner hereof;

THENCE, S59°40'13"E, along a portion of the common line of said remaining portion of 103.397 acre tract and Yager Lane, a distance of 140.04 to a 1/2 inch iron rod found, being the northwesterly corner of that certain 6.32 acre tract of land conveyed to Austin Korean Presbyterian Church by deed of record in Document No. 2005241340 of said Official Public Records, for an angle point in the irregular northerly line hereof;

THENCE, leaving the southerly right-of-way line of Yager Lane, along the westerly lines of said 6.32 acre tract, and that certain 19.854 acre tract of land conveyed to Austin Korean Presbyterian Church by deed of record in Document No. 2005241338 of said Official Public Records, same being a portion of the irregular northerly line of said remaining portion of 103.397 acre tract, for a portion of the irregular northerly line hereof, the following four (4) courses and distances:

- 1) Along a curve to the left having a radius of 25.00 feet, a central angle of 89°55'23", an arc length of 39.24 feet and a chord which bears S75°20'20"W, a distance of 35.33 feet to a 1/2 inch iron rod found at the end of said curve;
- 2) S30°19'22"W, a distance of 435.82 feet to the point of curvature of a non-tangent curve to the left;
- 3) Along said non-tangent curve to the left having a radius of 565.15 feet, a central angle of 47°45'08", passing a 1/2 inch iron rod found at an arc length of 287.58 feet and continuing for a total arc length of 471.01 feet and a total chord which bears S06°25'19"W, a distance of 457.50 feet to the end of said curve;
- 4) S17°23'25"E, a distance of 214.19 feet to a 1/2 inch iron rod with cap set at the southwesterly corner of said 19.854 acre tract and an angle point hereof;

THENCE, along the irregular northerly line of said remaining portion of 103.397 acre tract, being the southerly and easterly line of said 19.854 acre tract, for a portion of the irregular northerly line hereof, the following nine (9) courses and distances:

- 1) S60°32'42"E, a distance of 847.51 feet for an angle point;
- 2) S74°13'59"E, a distance of 122.04 feet for an angle point;
- 3) N21°03'11"E, a distance of 278.00 feet for an angle point;
- 4) N44°33'11"E, a distance of 100.00 feet for an angle point;
- 5) N10°33'11"E, a distance of 130.00 feet for an angle point;
- 6) N43°33'11"E, a distance of 50.00 feet for an angle point;
- 7) N07°03'11"E, a distance of 100.00 feet for an angle point;
- 8) N03°03'11"E, a distance of 100.00 feet for an angle point;
- 9) N18°33'11"E, a distance of 100.00 feet to a 1/2 inch iron rod with cap set at the northeasterly corner of said 19.854 acre tract, same being a point in the southerly line of Yager Lane and an angle point in the irregular northerly line of said remaining portion of 103.397 acre tract, for an angle point in the irregular northerly line hereof;

THENCE, S46°37'31"E, leaving the easterly line of said 19.854 acre tract, along a portion of the southerly line of said Yager Lane, a distance of 448.36 feet to the POINT OF BEGINNING, containing an area of 61.751 acres (2,689,856 sq. ft.) of land, more or less, within these metes and bounds.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. THIS FIELDNOTE WAS PREPARED TO ACCOMPANY A LAND TITLE SURVEY.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
221 WEST SIXTH STREET. STE. 600
AUSTIN, TEXAS 78701

Mark J. Jezisek 8/8/08
MARK J. JEZISEK
R.P.L.S. NO. 5267
STATE OF TEXAS



SCALE: 1" = 500'

YAGER LANE

INTERSTATE HIGHWAY 35

100' LOBA ELECTRIC TRANSMISSION EMT.

EXHIBIT "C"

GENERAL LOCATION OF
RESIDENTIAL COLLECTOR



**PAPE-DAWSON
ENGINEERS**

7800 SHOAL CREEK BLVD.
SUITE 253 EAST
AUSTIN, TEXAS 78757
512-454-8711
FAX 512-459-8867