

RESTRICTIVE COVENANT

OWNER: Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder

ADDRESS: 12554 Riata Vista Circle, 2nd Floor, Austin TX 78727

OWNER: JPMorgan Chase Bank, N.A., Trustee of the Frederic Clarke Morse, Exempt Family Trust

ADDRESS: 2200 Ross Avenue, Floor 10, Dallas, TX 75201-2787

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 191.43 acre tract of land, more or less, located in Travis County, Texas, being more particularly described by metes and bounds in Exhibit A incorporated into this restrictive covenant. (Continental Homes Property); and

A 29.33 acre tract of land, more or less, located in Travis County, Texas, being more particularly described by metes and bounds in Exhibit B incorporated into this restrictive covenant. (JPMorgan Property).

WHEREAS, the Owner (the "Owner", whether one or more) of the Property (now identified as the "Pioneer Hill Tract") and the City of Austin have agreed that the Pioneer Hill Tract should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Pioneer Hill Tract, for the consideration, shall hold, sell and convey the Pioneer Hill Tract, subject to the following covenants and restrictions impressed upon the Pioneer Hill Tract by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Pioneer Hill Tract, its heirs, successors, and assigns.

1. The developer of the Pioneer Hill Tract shall provide access from the tract to Brown Lane, as follows:
 - a) A direct street connection from the Pioneer Hill Tract to Brown Lane is not required.
 - b) A cul-de-sac turnaround is required for the Pioneer Hill Tract during the subdivision stage to terminate Brown Lane in accordance with City of Austin standards.
 - c) The Pioneer Hill Tract shall connect to Brown Lane at the cul-de-sac by means of a commercial Type II driveway.

- d) A public easement along the subject driveway and through the Pioneer Hill Tract shall be required to provide connectivity for bicycle and pedestrian use to and from Brown Lane.
 - e) The developer of the Pioneer Hill Tract is responsible for the design, construction, and delivery of items 1.b through 1.d in accordance with the City of Austin's requirements.
- 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(s) 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 _____, 2011.

OWNER:

Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder

By: CHTEX of Texas, Inc.,
a Texas corporation,
its general partner

By: _____
Richard N. Maier,
Vice President

**JPMorgan Chase Bank, N.A. Trustee of the
Frederic Clarke Morse Exempt Family Trust**

By: _____
Matthew A. Thiesen,
Vice President, Asset Management

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2011, by Richard N. Maier, Vice President of CHTEX of Texas, Inc., a Texas corporation, general partner of Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder, on behalf of the corporation and the limited partnership.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2011, by Matthew A. Thiesen, Vice President, Asset Management, of JPMorgan Chase Bank, N.A., Trustee of the Frederic Clarke Morse Exempt Family Trust.

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, Paralegal