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February 15, 2013

Greg Guernsey, Director  
Planning and Development Review Department  
505 Barton Spring Road, Suite 500  
Austin, Texas 78704

RE: Restrictive Covenant Termination – 9101-9201 IH-35 South  
(C14-99-0132)

Dear Greg:

I represent NL Land Holdings, Ltd, the owner of the above referenced property. In 1999, the subject property was encumbered with a restrictive covenant that is associated with zoning case number C14-99-0132. As part of the rezoning process, a rollback condition was approved by the City Council and it reads as follows:

If use of the property as general commercial services (CS) use is discontinued for 90 consecutive days, the owner of the property will not object to the City of Austin rezoning the property to warehouse limited office (W/LO) district as defined in Chapter 25-2 of the City Code. Normal cessation of a use, or temporary discontinuance for purpose of maintenance or rebuilding of the property after damage or destruction shall not be included in calculating the period of discontinuance.

**Justification:**

The use described in the restrictive covenant never commenced. The property has remained undeveloped since 1999/2001 when the property was zoned CS-CO. The land area affected by the restrictive covenant, which comprises 1.88 acres, is part of a larger site that is in the ETJ. The entire site, including the area in the city limits consists of 15.995 acres. My client, NL Land Holdings, Ltd. acquired the property in 2007 and intends to sell the entire 15.995 acres to someone who plans on developing the site as a business park with a mix of commercial uses (see attached conceptual site plan).

It is also important to note that according to the planning commission motion and council action, which adopted the planning commission motion, calls for a rollback to W/LO **only if the use is convenient storage.** However, the signed and recorded restrictive covenant has completely different language from what was actually approved by both the

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and recorded restrictive covenant has completely different language from what was actually approved by both the planning commission and city council (see attached planning commission minutes and city council action reflected on second/third reading summary sheet).

3. The rollback to W/LO as written in the restrictive covenant creates uncertainty for the potential buyer. There is a fear that the city could at any time pursue the zoning rollback.
4. Finally, similarly situated properties should be treated similarly. The properties to the north of the site and west of IH 35 (South Park Meadows and Double Creek Village, next to Akins High School) are zoned CS-CO without a rollback requirement. Therefore, terminating the restrictive covenant would be equitable treatment of the subject property.

The recorded restrictive covenant my client, NL Land Holdings, Ltd., is seeking to terminate is attached. Please let me know if you have any questions or need additional information.

Sincerely,



Alice Glasco, President  
AG Consulting

Cc: John Lewis  
Jerry Rusthoven, Zoning Division Manager  
Wendy Rhoades, Zoning Planner

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