

RESTRICTIVE COVENANT

(Revised 8/9/06)

OWNER: Prominent Northpoint, L.P., a Texas limited partnership

ADDRESS: 901 Mopac Expressway South, Building One, Suite 200, 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: Prominent Pointe Tract: Lots 1 and 2, Subdivision Owens II, as Recorded in Book 85, Page 140B of the Plat Records of Travis County Texas.

Bluffstone Tract: Lots 1, 2, and 3, Great Hills Village III, as Recorded in Book 87, Page 111B-C of the Plat Records of Travis County Texas.

Great Hills Phase "B" Tract: Lots 9 and 10, Block A, Subdivision Great Hills Phase "B", Document #200600082.

WHEREAS, the Owners 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 Owners 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 Owners of the Property, its heirs, successors, and assigns.

1. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, a landscape plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. Ninety percent of the total plant material used, exclusive of turf, shall be native to Central Texas or on the Grow Green Native and Adapted Landscape Plants list, attached as Exhibit "A". Plants on the Invasive Species/Problem Plants list, attached as Exhibit "B", may not be included.
2. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. The IPM plan shall comply with the guidelines in Section 1.6.9.2

(D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.

3. All residential development shall comply with Austin Energy Green Building Program (GBP) for a minimum one-star rating. All commercial development shall comply with the GBP for a minimum one-star rating, or, shall be designed and built according to the US Green Building Council's Leadership in Energy and Environmental Design ("LEED™") Green Building Rating System, Certified Level. Certification from either the GBP or the LEED™ shall be met as specified by the version of the rating system current at the time of design.
4. The owner shall provide a rainwater collection and irrigation system from rooftop areas of at least one building for irrigation of managed landscaped areas. The rainwater collection system shall provide an overall volume of a minimum of 9,000 gallons of storage. The rainwater collection system shall be maintained at least once a year to remove organic debris and to ensure that the system is functioning as designed.
5. For commercial areas, landscaping shall comply with Hill Country Roadway requirements with low intensity revegetation of natural areas under Appendix A of the Environmental Criteria Manual.
6. The owner will remove parking located within the 100-foot Hill Country Roadway buffer and will restore this area to its natural vegetative condition.
7. Parking requirements are temporarily adjusted to the extent necessary during demolition of the existing surface parking and construction of the parking garage to allow continued occupancy of the existing building.
8. Requirements for construction sequencing are temporarily modified to allow construction of the building, parking garage and utilities to utilize the existing pond and additional erosion and sedimentation controls to allow the construction of the new pond to occur after the garage and utilities are completed.
9. 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.
10. 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.

11. 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.
12. 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 _____ day of _____, 2006.

OWNERS:

**Prominent Northpoint, L.P.,
a Texas limited partnership**

By: Aspen Growth Properties, Inc.,
a Texas corporation,
its general partner

By: _____
Mark McAllister,
President

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 ____ day of _____, 2006 by Mark McAllister, President of Aspen Growth Properties, Inc., a Texas corporation, general partner of Prominent Northpoint, L.P., a Texas limited partnership, on behalf of the corporation and the limited partnership.

Notary Public, State of Texas

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