

Zoning Case No. C14-2017-0028**RESTRICTIVE COVENANT**

OWNER: Great Hills Retail, Inc., a Florida corporation

OWNER ADDRESS: 191 North Wacker Drive, Suite 2500, Chicago, Illinois 60606

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: Lot 1, Schmidt Tract No. One Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 81, Page 111, of the Official Records of Travis County, Texas, and

Being 0.491 acres (approximately 21,396 square feet), being out of and a part of Lot-1, Oak View-Section Two, according to the map or plat thereof recorded in Volume 80, Page 259, of the Plat Records of Travis County, Texas, and being also all of a 0.49055 acre tract conveyed to Schmidt Investments, Ltd., in a Warranty Deed dated May 31, 1997, and recorded in Volume 12946, Page 1823, of the Real Property Records of Travis County, Texas, described in Volume 12563, Page 2202, of the Real Property Records of Travis County, Texas, said 0.0491 acre tract being more particularly described by metes and bounds in **Exhibit "A"** incorporated into this covenant (cumulatively referred to as the "Property"),

WHEREAS, the Owner (the "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 ("Agreement"). 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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the

total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Big Red Dog Engineering, dated May 7, 2017, or as amended, and approved by the Director of the Development Services Department. All development on the Property is subject to the Development Services Department, Transportation Review Section's staff memorandum ("memorandum") dated August 24, 2017, and any amendments to the memorandum that address subsequent TIA updates for the Property. The TIA and memorandum shall be kept on file at the Development Services Department.

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 22nd day of January, 2018.

Owner:

Great Hills Retail, Inc., a Florida corporation

By:


Mark S. Hudgins, Vice President

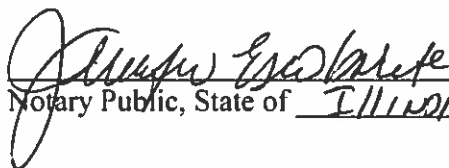
THE STATE OF Illinois

COUNTY OF Cook

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This instrument was acknowledged before me on this the 22 day of January 2018,
by Mark S. Hudgins, as Vice President of Great Hills Retail, Inc., a Florida corporation, on
behalf of said corporation.




Notary Public, State of Illinois

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

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



**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**0.491 ACRES
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 0.491 ACRES (APPROXIMATELY 21,396 SQ. FT.), BEING OUT OF AND A PART OF LOT-1, OAK VIEW-SECTION TWO, ACCORDING TO MAP OR PLAT THEREOF RECORDED IN VOLUME 80, PAGE 259, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND BEING ALSO ALL OF A 0.49055 ACRE TRACT CONVEYED TO SCHMIDT INVESTMENTS, LTD., IN A WARRANTY DEED DATED MAY 31, 1997 AND RECORDED IN VOLUME 12946, PAGE 1823 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, DESCRIBED IN VOLUME 12563, PAGE 2202 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.491 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the southwest corner of said 0.49055 acre tract, same being the southernmost southwest corner of said Lot-1, and also being an angle point in a north line of Lot 1, Schmidt Tract No. One, a subdivision of record in Volume 81, Page 111 of the Plat Records of Travis County, Texas;

THENCE North 03°48'23" East, with the west line of the 0.49055 acre tract, same being a west line of Lot-1, Oak View-Section Two, and also being an east line of said Lot 1 Schmidt Tract No. One, a distance of 240.20 feet to a calculated point, from which a 1/2" rebar with "Bury Partners" cap found bears North 77°38'27" West, a distance of 0.55 feet;

THENCE North 86°15'32" West, with a south line of the 0.49055 acre tract, same being a south line of Lot-1, Oak View-Section Two, and also being the north line of Lot 1, Schmidt Tract No. One, a distance of 14.81 feet to an "X" in concrete found;

THENCE with the north and east lines of the 0.49055 acre tract, crossing Lot-1, Oak View-Section Two, the following six (6) courses and distances:

1. With a curve to the right, having a radius of 20.24 feet, a delta angle of 41°18'48", an arc length of 14.59 feet, and a chord which bears North 52°39'18" East, a distance of 14.28 feet to a 1/2" rebar found;
2. South 86°16'39" East, a distance of 85.62 feet to a 1/2" rebar found;
3. With a curve to the right, having a radius of 4.50 feet, a delta angle of 89°42'34", an arc length of 7.05 feet, and a chord which bears South 40°35'28" East, a distance of 6.35 feet to a 1/2" rebar found;

EXHIBIT A

4. South $04^{\circ}03'57''$ West, a distance of 222.63 feet to a 1/2" rebar found;
5. North $86^{\circ}27'38''$ West, a distance of 1.32 feet to an "X" in concrete found;
6. South $03^{\circ}18'42''$ West, a distance of 22.33 feet to a Mag nail with washer found for the southeast corner of the 0.49055 acre tract, same being a south line of Lot-1, Oak View-Section Two, and also being a north line of Lot 1, Schmidt Tract No. One;

THENCE North $86^{\circ}19'59''$ West, with the south line of the 0.49055 acre tract, same being a south line of Lot-1, Oak View-Section Two and also being a north line of Lot 1, Schmidt Tract No. One, a distance of 83.87 feet to the **POINT OF BEGINNING**, containing 0.491 acres of land, more or less.

Surveyed on the ground May 24, 2016. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS). Attachments: Drawing 927-003-BASE.


Eric J. Dannheim
Registered Professional Land Surveyor
State of Texas No. 6075
TBPLS Firm No. 10124500

6/2/16

Date

