

AMENDED RESTRICTIVE COVENANT

OWNER: S/H AUSTIN PARTNERSHIP, a Texas general partnership

ADDRESS: 315 East Commerce St., Suite 300, San Antonio, Texas 78205

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: Lots 9, 10, 11, and 12, Block 29, Original City of Austin, as more particularly described in the map or plat on file in the General Land Office of the State of Texas.

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. 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. If the Property is redeveloped for an administrative and business offices use that exceeds a floor-to-area ratio of 8.0 to 1.0, the following applies:
 - a) The Owner shall design and construct streetscape improvements in compliance with the City of Austin Great Streets design criteria as the criteria existed on March 1, 2009. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
 - b) 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 Traffic Impact Analysis shall be submitted to the Planning and Development Review Department.

- c) All commercial development shall be designed and built according to the Austin Green Building Program (GBP), Three Stars Building Rating System. Prior to issuance of a certificate of occupancy by the City, certification must be provided by a GBP certified consultant showing that the project has been designed and constructed consistent with GBP Silver guidelines.
- d) The Owner has agreed to the following.
 - i) Owner will maintain off-street loading and unloading facilities for service and delivery vehicles in the existing alley and prohibiting loading and unloading facilities from 3rd Street and Colorado Street.
 - ii) Owner will coordinate with the City of Austin on public parking opportunities as part of its site plan for a downtown way-finding system initiative.
 - iii) Owner will coordinate with the City to address issues such as valet parking adjacent to the site.
 - iv) Owner shall provide an access study at the time of the site plan application, including information on loading and trash collection internal to the site and any on-street parking adjacent to the site.
- 2. The owner will comply with the Downtown Plan, which requires substantial compliance with the Urban Design Guidelines for Austin as adopted by the City Council on January 29, 2009.
- 3. 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.
- 4. 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.
- 5. 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.
- 6. 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 _____, 2012.

OWNER:

**S/H AUSTIN PARTNERSHIP,
a Texas general partnership**

By: HPI-Austin Properties, Inc.,
a Texas corporation,
its general partner

By: _____
John S. Beauchamp
Vice President

By: Silver Austin Properties, L.P.,
a Texas limited partnership,
its general partner

By: Silver Austin Management, L.L.C.
a Texas limited liability company
its general partner

By: _____
John S. Beauchamp
Authorized Representative

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____, 2012, by John S. Beauchamp, Vice President of HPI-Austin Properties, Inc., a Texas corporation, general partner of S/H Austin Partnership, a Texas general partnership, on behalf of the corporation and the partnership.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____, 2012, by John S. Beauchamp, Authorized Representative of Silver Austin Management, L.L.C., a Texas limited liability company, general partner of Silver Austin Properties, L.P, a Texas limited partnership, general partner of S/H Austin Partnership, a Texas general partnership, on behalf of the general partnership, limited partnership and the limited liability company.

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: J. Collins, Paralegal