

Zoning Case No. C14-05-0120RCA
Zoning Case No. C14-2013-0054RCA

FIRST AMENDED RESTRICTIVE COVENANT

OWNER: E290/Parmer, Ltd, a Texas limited partnership

ADDRESS: c/o Endeavor Real Estate Group, 504 Lavaca Street, Suite 1160, Austin, Texas 78701

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: 12.46 acre tract of land out of the James Manor Survey No. 40, said 12.46 acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant; and,

3.14 acre tract of land out of the William H. Sanders Survey No. 54, Abstract No. 690 and the James Manor Survey No. 40, Abstract No. 546, said 3.14 acre tract of land being more particularly described by metes and bounds in Exhibit "B" attached and incorporated into this covenant.

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 WHM transportation Engineering Consultants, Inc., dated January, 2006, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated January 11, 2006. The TIA shall be kept on file at the Planning and Development Review Department.

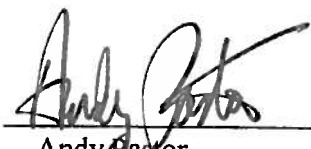
2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and 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 30th day of July, 2013.

OWNER:

E290/PARMER, LTD,
a Texas limited partnership

By: EGP Retail Management, L.L.C.,
a Texas limited liability company,
its sole General Partner

By: 
Andy Pastor
Executive Vice 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 30 day of July, 2013, by Andy Pastor, Executive Vice President of EGP Retail Management, L.L.C., a Texas limited liability company, general partner of E290/Parmer, LTD, a Texas limited partnership on behalf of said partnership.

Mary Anne Hartman
Notary Public, State of Texas





12.463 ACRE TRACT
(542,874 Sq. Ft.)
50198-06ex1.dwg

EN NO. 50198-06-2
JULY 18, 2005
JOB NO. 50198-06

FIELD NOTE DESCRIPTION

OF A 12.463 ACRE TRACT OF LAND SITUATED IN THE JAMES MANOR SURVEY NO.40, TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 12.609 ACRE TRACT OF LAND AS CONVEYED TO G & G VENTURE NUMBER ONE, A TEXAS GENERAL PARTNERSHIP IN VOLUME 8534, PAGE 457 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 12.463 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A FOUND CONCRETE MONUMENT LOCATED IN THE NORTHWESTERLY LINE OF THE BUTLER FAMILY PARTNERSHIP TRACT AS DESCRIBED IN VOLUME 12271, PAGE 872 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, FOR THE SOUTHERLY CORNER OF THAT CERTAIN 0.073 ACRE TRACT, CONVEYED TO THE STATE OF TEXAS, AS DESCRIBED IN VOLUME 13105, PAGE 799 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

THENCE, S 27°51'03" W, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID BUTLER FAMILY PARTNERSHIP TRACT, A DISTANCE OF 256.91 FEET TO A FOUND CONCRETE MONUMENT FOR THE NORTHEASTERLY CORNER OF THAT CERTAIN SAVE & EXCEPT 3.366 ACRE TRACT, STATE OF TEXAS PARCEL 1216;

THENCE, S 27° 44' 23" W, ALONG THE EASTERLY LINE OF SAID 3.366 ACRE TRACT, A DISTANCE OF 393.47 FEET TO A FOUND 1/4 INCH IRON ROD IN THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. STATE HIGHWAY 290 (R.O.W. VARIES), MARKING THE NORTHEASTERLY CORNER OF THAT CERTAIN RIGHT OF WAY EASEMENT OF RECORD IN VOLUME 2246, PAGE 380 AND VOLUME 3144, PAGE 1018 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, SOUTHWESTERLY, ALONG THE NORTHERLY LINE OF SAID RIGHT OF WAY EASEMENT OF RECORD, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5879.65 FEET, A CENTRAL ANGLE OF 05° 23' .53", AN ARC LENGTH OF 553.94 FEET AND A CHORD BEARING: S 67° 54' 05" W, A DISTANCE OF 553.75 FEET TO A FOUND 1/4 INCH IRON ROD MARKING THE SOUTHEASTERLY CORNER OF THAT CERTAIN 5.26 ACRE TRACT CONVEYED TO JOHN CHAPMAN OF RECORD IN VOLUME 12881, PAGE 2279 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, N 09°34'39" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE 5.26 ACRES, PASSING AT A DISTANCE OF 260.25 FEET A FOUND CONCRETE MONUMENT, AND CONTINUING FOR A TOTAL DISTANCE OF 800.24 FEET TO A FOUND 1/4 INCH IRON ROD FOR THE NORTHEASTERLY CORNER OF THE SAID 5.26 ACRES, SAME BEING THE SOUTHEASTERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO AUSTIN HB RESIDENTIAL PROPERTIES, LTD., AS DESCRIBED IN VOLUME 13100, PAGE 1, THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE, N 28°00'42" E, ALONG THE COMMON BOUNDARY LINE BETWEEN THIS TRACT AND THE SAID AUSTIN HB RESIDENTIAL PROPERTIES LTD. TRACT, A DISTANCE OF 501.13 FEET TO A FOUND CONCRETE MONUMENT LOCATED IN THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. FARMER LANE;

THENCE, ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF E. FARMER LANE, THE FOLLOWING COURSES:

S 48°09'45" E, A DISTANCE OF 391.13 FEET TO A FOUND CONCRETE MONUMENT

SOUTHEASTERLY, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1332.32 FEET, CENTRAL ANGLE OF 10°29'35", AN ARC LENGTH OF 244.00 FEET AND A CHORD BEARING: S 39°54'46" E, 243.66 FEET, TO THE POINT OF BEGINNING, AND CONTAINING 12.463 ACRES, MORE OR LESS.

I, JAMES W. RUSSELL, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

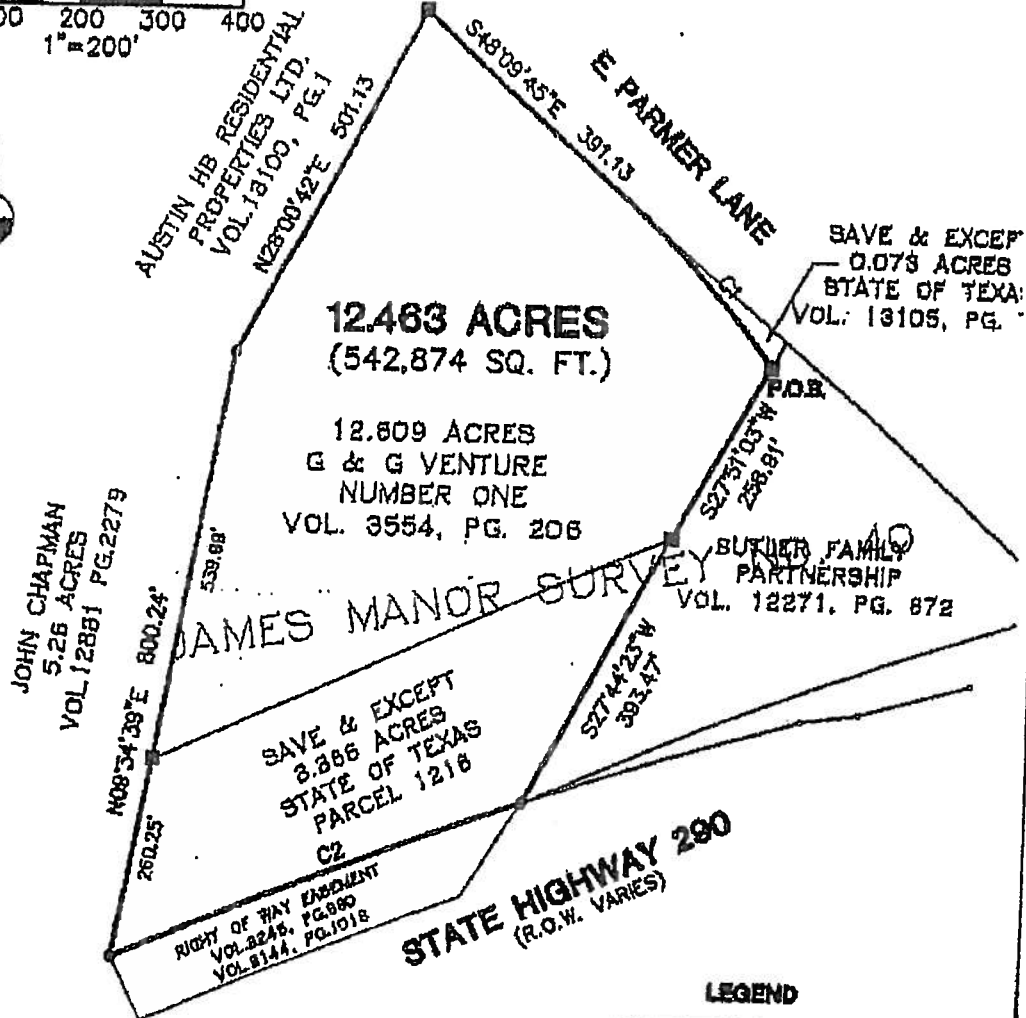
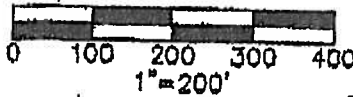
BURY & PARTNERS, INC.
ENGINEERS AND SURVEYORS
10000 SAN PEDRO, SUITE #100
SAN ANTONIO, TEXAS 78216

James W. Russell 7/18/05
JAMES W. RUSSELL
R.P.L.S #4230
STATE OF TEXAS



CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD DIRECTION	CHORD
C1	10°29'35"	1332.32	244.00	S38°54'48"E	243.68
C2	9°23'53"	5879.65	553.84	S67°54'05"W	553.76



LEGEND

- 1/2" IRON ROD FOUND
- MONUMENT FOUND
- P.O.B. POINT OF BEGINNING

Bury-Partners
ENGINEERING SOLUTIONS
18100 E. Pedro Avenue, Suite 100
San Antonio, TX 78216
Tel. 214-585-0000 Fax (214) 585-0000
BuryPartners-H, Inc. Copyright 2005

SKETCH TO ACCOMPANY DESCRIPTION OF
OF A 12.463 ACRE TRACT OF LAND SITUATED IN THE JAMES
MANOR SURVEY NO. 40, TRAVIS COUNTY, TEXAS AND BEING A
PORTION OF THAT CERTAIN 12.809 ACRE TRACT OF LAND AS
CONVEYED TO G & G VENTURE NUMBER ONE, A TEXAS
GENERAL PARTNERSHIP IN VOLUME 3554, PAGE 206 OF THE
OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

**PARMER LANE •
US 290
AUSTIN, TEXAS**

DATE: 07/18/05 DRAWN BY: MTH FILE: H:\50198\08\50198-08.dwg FN NO. 50198-08-2 PROJECT No. 50198-08



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

Office: 512-443 1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

3.142 ACRES

**WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690
JAMES MANOR SURVEY NO. 40, ABSTRACT NO. 546
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 3.142 ACRES OF LAND, BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 5.26 ACRES, MORE OR LESS, SITUATED IN THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690, AND THE JAMES MANOR SURVEY NO. 40, ABSTRACT NO. 546 IN TRAVIS COUNTY, TEXAS, DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED FEBRUARY 28, 1997, TO JOHN CHAPMAN, RECORDED IN VOLUME 12881, PAGE 2279 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAVE AND EXCEPT THAT CERTAIN 2.138 ACRES AWARDED TO THE STATE OF TEXAS IN CONDEMNATION CLAUSE NO. 2602, PROBATE COURT NO. ONE IN TRAVIS COUNTY, TEXAS; SAID 3.142 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with aluminum TXDOT cap found in the east line of the 5.26 acre tract, also being the west line of a 12.609 acre tract described in Volume 8534, Page 457 of the Deed Records of Travis County, Texas, for the northeast corner of the said 2.138 acre tract (also described in Document No. 2005018755 of the Official Public Records of Travis County, Texas), from which a 1/2" rebar with aluminum TXDOT cap found bears North 65°03'23" East, a distance of 522.72 feet;

THENCE South 65°04'37" West, with the north line of the 2.138 acre tract and over and across the 5.26 acre tract, a distance of 360.76 feet to a 1/2" rebar with aluminum TXDOT cap found in the west line of the 5.26 acre tract, also being the east line of a 365.243 acre tract described in Volume 13100, Page 1 of the Real Property Records of Travis County, Texas, from which a 1/2" rebar with aluminum TXDOT cap found bears South 65°03'58" West, a distance of 1258.13 feet;

THENCE with the east line of the 365.243 acre tract and the west line of the 5.26 acre tract, the following four (4) courses:

1. North 27°52'53" East, a distance of 87.51 feet to a 5/8" rebar found;
2. North 07°12'26" East, a distance of 168.42 feet to a 1.5" Iron pipe found;
3. North 28°04'23" East, a distance of 554.98 feet to a 3/8" rebar found;
4. South 62°03'53" East, a distance of 106.19 feet to a 3/8" rebar found for the

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northeast corner of the 5.26 acre tract, also being an angle point in the east line of the 365.243 acre tract and angle point in the west line of the 12.609 acre tract;

THENCE South 09°34'58" West, with the east line of the 5.26 acre tract and the west line of the 12.609 acre tract, a distance of 539.89 feet to the **POINT OF BEGINNING**, containing an area of 3.142 acres of land, more or less.

Surveyed on the ground June, 2006. Bearing basis is Grid Azimuth for Texas Central Zone, 1983/93 HARN values from LCRA control network. Attachments: Survey Drawing No. 014-074-T15.



Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995

Date

6-16-06

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