

## **TERMINATION OF RESTRICTIVE COVENANT**

**Owner:** **HW TOSCA INVESTMENT, L.P.**, a Texas limited partnership  
**Address:** 1100 S. Lamar, Suite 1502, Austin, Travis County, Texas 78704

and

**DPS MEGACENTER 2000, LTD**, a Texas limited partnership  
5100 W. US Hwy 290, Bldg Two, Austin, Travis County, Texas 78735

and

**HIGHLANDS WELLS BRANCH LLC**, a Texas limited liability company  
7701 North Lamar Blvd., Suite 100, Austin, Travis County, Texas 78752

**Cities:** The City of Austin, a home-rule municipal corporation and political subdivision of the State of Texas, in Travis County and Williamson County, Texas.

The City of Pflugerville, a home-rule municipal corporation and political subdivision of the State of Texas, in Travis County and Williamson County, Texas.

**Consideration:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin and the City of Pflugerville, the receipt and sufficiency of which is acknowledged.

### **Recitals:**

1 The Property is defined as the following:

Tract 1: HW Tosca Investment, L.P, is the owner of the property described in the Wells Branch Parkway/Heatherwilde Boulevard Declaration of Easements and Restrictive Covenants Regarding the Maintenance of Drainage Facilities ("Restrictive Covenant"), recorded as Document No. 2008034698, and the First Amendment to the Restrictive Covenant, ("First Amendment"), recorded as Document No. 201203353, consisting of Lots 1, 2, 3 and 4 of the Final Plat of Santa Clara Subdivision according to the plat recorded as Document No. 201800117 of the Official Plat Records of Travis County, Texas;

Tract 2: DPS Megacenter 2000, Ltd, is the owner of the property described in the Wells Branch Parkway/Heatherwilde Boulevard Declaration of Easements and Restrictive Covenants Regarding the Maintenance of Drainage Facilities ("Restrictive Covenant"), recorded as Document No. 2008034698, and the First Amendment to the Restrictive Covenant, ("First Amendment"), recorded as Document No. 201203353, consisting of Lot 1 of the Carmen Subdivision according to the plat recorded in Document No. 201100198 of the Official Plat Records of Travis County, Texas;

- Tract 3: Highlands Wells Branch LLC, is the owner of the property described in the Wells Branch Parkway/Heatherwilde Boulevard Declaration of Easements and Restrictive Covenants Regarding the Maintenance of Drainage Facilities ("Restrictive Covenant"), recorded as Document No. 2008034698, and the First Amendment to the Restrictive Covenant, ("First Amendment"), recorded as Document No. 201203353, consisting of Lots 2A and 2B of the Final Plat of the Resubdivision of Lot 2, Block A of the Final Plat of Carmen Subdivision according to the plat recorded as Document No. 201800050 of the Official Plat Records of Travis County, Texas;
2. In 1997, the Property was annexed into the jurisdictions of the City of Austin and the City of Pflugerville (collectively "City").
  3. Because the Restrictive Covenant is voided due to the filing of replacement drainage easements affecting the Property by the appropriate jurisdiction, the Owner and the City desire to terminate the Restrictive Covenant.
  4. The City and the Owner, as the current owners of the Property, agree the Restrictive Covenant should be terminated.

### **Agreement:**

City and the Owner agree as follows:

1. The Restrictive Covenant and First Amendment are terminated and each term, condition, and provision will have no effect after the effective date of this Termination of Restrictive Covenant.
2. This Termination of Restrictive Covenant will be filed in the Official Public Records of Travis County, Texas.

The remainder of this page is intentionally left blank.

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**OWNER ONE:**

HW TOSCA INVESTMENT L.P., a Texas limited partnership

By: HW Tosca Investment Management, L.L.C.,  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Philip Spertus  
President

**STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary, on this day personally appeared Philip Spertus, President of HW Tosca Investment Management, L.L.C., a Texas limited liability company, General Partner of HW Tosca Investment, L.P., a Texas limited partnership, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on \_\_\_\_\_, 2018.

[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**OWNER TWO:**

**DPS MEGACENTER 2000, Ltd**, a Texas limited partnership

By: DPS Megacenter 2000 GP, L.L.C.,  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Jerry R. Reed  
President

**STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary, on this day personally appeared Jerry R. Reed, President of DPS Megacenter 2000 GP, L.L.C., a Texas limited liability company, General Partner of DPS Megacenter 2000 Ltd, a Texas limited partnership, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on \_\_\_\_\_, 2018.

[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**OWNER THREE:**

**Highlands Wells Branch LLC**, a Texas limited liability company

By: \_\_\_\_\_  
Sam Kumar  
President

**STATE OF TEXAS**                    §  
**COUNTY OF TRAVIS**           §

Before me, the undersigned notary, on this day personally appeared Sam Kumar, President of Highland Wells Branch, L.L.C., a Texas limited liability company, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on \_\_\_\_\_, 2018.

[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF AUSTIN:**

By: \_\_\_\_\_  
Rodney Gonzales  
Director, Development Services Department

**STATE OF TEXAS**           §  
**COUNTY OF TRAVIS**       §

Before me, the undersigned notary, on this day personally appeared Rodney Gonzales, Director of the Development Services Department of the City of Austin, a municipal corporation, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on \_\_\_\_\_, 2018.

[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**APPROVED AS TO FORM:**  
CITY OF AUSTIN, TEXAS  
LAW DEPARTMENT

**REVIEWED:**  
CITY OF AUSTIN, TEXAS  
DEVELOPMENT SERVICES DEPARTMENT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Attorney

By: \_\_\_\_\_  
Name: Ron Czajkowski  
Title: Engineer C – Land Use Review

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF PFLUGERVILLE:**

By: \_\_\_\_\_  
Trey Fletcher  
Interim City Manager

**STATE OF TEXAS                   §**  
**COUNTY OF TRAVIS           §**

Before me, the undersigned notary, on this day personally appeared Trey Fletcher, Interim City Manager for the City of Pflugerville, a municipal corporation, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on \_\_\_\_\_, 2018.

[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**After Recording, Please Return to:**

**City of Austin  
Development Services Department  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Ron Czajkowski  
Case No: SP-2017-0314C**

**After recording, please return a copy to:**

**City of Pflugerville  
Development Engineering Director  
PO Box 589  
Pflugerville, TX 78691  
Attention: Cynthia Pierce**