

COUNCIL CHAMBER

August 24, 2005

WHEREAS, the termination of deed restrictions in the attached instrument has been volunteered in connection with property located in City Block 8734 near the intersection of Hillcrest Road and Frankford Road, which is the subject of Zoning Case No. Z045-179/12356(RB); and

WHEREAS, the City Council desires to approve the termination of deed restrictions in the attached instrument; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the termination of deed restrictions in the attached instrument be and is hereby approved by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property that is the subject of Zoning Case No. Z045-179/12356(RB).

Section 2. That the termination of deed restrictions in the attached instrument shall be filed in the Deed Records of Collin County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, Texas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Caden Burgess
Assistant City Attorney

APPROVED BY
CITY COUNCIL

AUG 24 2005

Shirley Gray
City Secretary

APPROVED Dan L... APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

TERMINATION OF DEED RESTRICTIONS

THE STATE OF TEXAS)
)
 COUNTY OF COLLIN)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, CROSSING FRANKFORD AT HILLCREST, L.P., a Texas limited partnership ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Martha McBride Survey, Abstract No. 553, City of Dallas ("City"), Collin County, Texas, and being that same tract of land conveyed to the Owner by Plano Independent School District, by deed dated June 27, 2005, and recorded in Volume 1169, Page 843, in the Deed Records of Collin County, Texas, and being more particularly described as follows (the "Property"):

Being a tract of land out of the Martha McBride Survey, Abstract No. 553, in the City of Dallas, Collin County, Texas, and being a part of the 326.993 acre tract conveyed by Hunt Investment Corporation to Frankford Associates by Deed dated September 12, 1977, of record in Volume 1072, Page 82, Deed Records of Collin County, Texas, more particularly described as follows:

Commencing at the centerline intersections of Davenport Road (56 foot R.O.W.) and Frankford Road (50 foot R.O.W.);

THENCE, South 88 deg. 53 min. 14 sec. East, along the centerline of Frankford Road, a distance of 2070.13 feet to a point;

THENCE, North 01 deg. 06 min. 46 sec. East, a distance of 25.00 feet to the POINT OF BEGINNING;

THENCE, North 01 deg. 00 min. 00 sec. East 915.68 feet to a point for a corner;

THENCE, South 89 deg. 00 min. 00 sec. East, a distance of 352.55 feet to a point for a corner; said point being in a curve to the left having a tangent bearing of North 10 deg. 52 min. 39 sec. West;

THENCE, in a Southeasterly direction along said curve to the left having a central angle of 24 deg. 37 min. 21 sec., a radius of 640.00 feet, a tangent of 139.67 feet, an arc distance of 139.67 feet to a point of tangency.

THENCE, South 35 deg. 30 min. 00 sec. East, a distance of 243.97 feet to a point for a corner;

THENCE, North 84 deg. 12 min. 00 sec. West, a distance of 171.55 feet to a point for corner;

THENCE, South 02 deg. 21 min. 36 sec. West, a distance of 485.93 feet to a point for a corner, said point being on the North R.O.W. of Frankford Road (50 foot R.O.W.);

THENCE, North 88 deg. 53 min. 14 sec. West, along said R.O.W. of Frankford Road a

distance of 427.02 feet to the POINT OF BEGINNING AND CONTAINING 406,850 square feet of land or 9.340 acres of land, more or less.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated August 4, 1978, signed by Frankford Associates and recorded in Volume 1130, Page 281, of the Deed Records of Collin County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "A" and made a part of this instrument.

III.

The Owner does hereby terminate and release the restrictions as they apply to the Property. All restrictions are shown on Exhibit A.

IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with this termination.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of CHAPTER 51A, ["PART II OF THE DALLAS DEVELOPMENT CODE,"] of the Dallas City Code, as amended, apply and are incorporated into this instrument as if recited in this instrument.

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of Dallas, Collin County, this the 3rd day of August, 2005.

OWNER:


CROSSING FRANKFORD AT
HILLCREST, L.P., a Texas limited
partnership

By: Crossing Frankford GP, Inc.,
Texas corporation,
General Partner

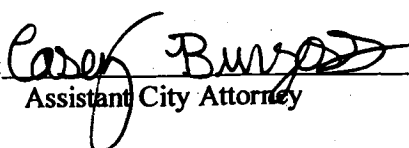
By: 
Donald Ping, President

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Century Bank, N.A.
Property Lienholder or Mortgagee

By: 
Printed Name: Jim Habern
Title: Sr Vice President

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR. City Attorney

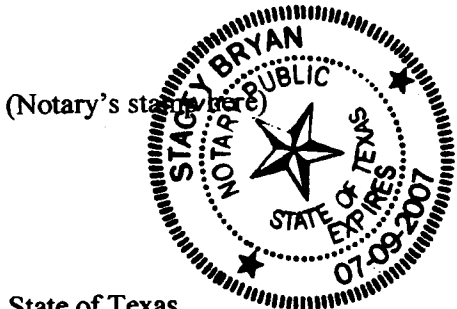
By: 
Assistant City Attorney

Owner Acknowledgment

State of Texas

County of Dallas

This instrument was acknowledged before me on 8/3/05 (date of acknowledgment) by Donald Ping, President of Crossing Frankford GP, Inc., General Partner of Crossing Frankford at Hillcrest, L.P. on behalf of said partnership.



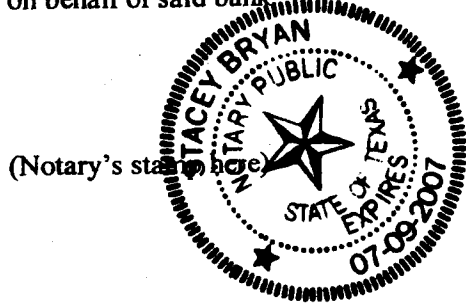
Stacey Bryan
Notary Public in and for the State of Texas

Lender Acknowledgment

State of Texas

County of Dallas

This instrument was acknowledged before me on 8/3/05 (date of acknowledgment) by 8/3/05, in his/her capacity as SA vice President of Century Bank, N.A., on behalf of said bank



Stacey Bryan
Notary Public in and for the State of Texas

ORIGINAL

29536

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DEED RESTRICTIONS

THE STATE OF TEXAS
COUNTY OF DALLAS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Frankford Associates, a Texas general partnership, is the owner of the following described property situated in Collin County, Texas, being in particular a tract of land out of the Martha McBride, Survey, Abstract No. 553 and the William Traugber Survey, Abstract No. 905, City of Dallas, Collin County, Texas, and being a portion of that same tract of land conveyed to Frankford Associates by Hunt Investment Corporation by deed dated September 12, 1977, and recorded in Volume 1072, Page 82 in the Deed Records of Collin County, Texas, and being more particularly described as follows:

(Description on Page 2 of this instrument)

8-31-78

Being a tract or parcel of land situated in the Town of Hewer, Collin County, Texas; and being part of the Martha McBride Survey, Abstract 953, and the William Traugber Survey, Abstract 905, and also being part of the tracts of land conveyed to W. P. Silversen et al by deeds recorded in Volume 669, Page 687, and Volume 676, Page 747, of the Deed Records of Collin County; and being more particularly described as follows:

BEGINNING at a point for corner at the most southerly southeast corner of the 8.4 acre tract of land referred to as the Second Tract in the deed recorded in Volume 669, Page 687, and also being the most southerly southeast corner of the 8.4 acre tract conveyed to the State of Texas by deed recorded in Volume 482, Page 2, of the Deed Records of Collin County, and also being in the centerline of Frankford Road;

THENCE North 22° 57' East along the easterly line of State Highway 289 a distance of 34.00 feet to a point for corner;

THENCE North 33° 03' 30" West continuing along the easterly line of State Highway 289 a distance of 111.81 feet to a point for corner;

THENCE North 2° 57' East continuing along the easterly line of State Highway 289 a distance of 439.1 feet to the beginning of a curve to the left;

THENCE in a northerly direction continuing along the easterly line of State Highway 289 and along said curve to the left having a radius of 5789.58 feet, a central angle of 7° 14' 39", and an arc length of 732.00 feet to a point for corner;

THENCE South 74° 17' 39" East along the most easterly southerly line of said State of Texas tract a distance of 99.21 feet to a point for corner in the common line between said Traugber Survey and McBride Survey;

THENCE North 0° 57' East along said common line a distance of 455.57 feet to a point for corner in the easterly line of State Highway 289;

THENCE in a northerly direction along the easterly line of State Highway 289 and along a curve to the left having a radius of 5789.58 feet, a central angle of 8° 57' 13", and an arc length of 904.74 feet to a point for corner;

THENCE South 89° 00' East along the southerly line of a 20.00 acre tract as recorded in Volume 586, Page 35, of the Deed Records of Collin County, passing the southeasterly corner of said tract, in all a distance of 2685.7 feet to a point for corner;

THENCE South 1° 00' West a distance of 914.13 feet to the beginning of a curve to the left;

THENCE in a southerly and southeasterly direction along said curve to the left having a radius of 1095.92 feet, a central angle of 47° 30", and an arc length of 908.55 feet to the end of said curve to the left;

THENCE South 46° 30' East a distance of 456.7 feet to the beginning of a curve to the right;

THENCE in a southeasterly and southerly direction along said curve to the right having a radius of 766.2 feet, a central angle of 47° 29", and an arc length of 634.98 feet to the end of said curve to the right;

THENCE South 0° 53' West a distance 119.36 feet to a point for corner in the centerline of Study Lane;

THENCE North 39° 01' West along the centerline of Study Lane a distance of 100.00 feet to a point for corner;

THENCE North 38° 53' West continuing along the centerline of Study Lane a distance of 2981.00 feet to an angle point;

THENCE North 89° 14' West a distance of 636.55 feet to a point for corner in the southeast corner of said McBride Survey;

THENCE North 0° 57' East along the west line of said McBride Survey a distance of 156.7 feet to a point for corner in the centerline of Frankford Road;

THENCE North 89° 04' West along the centerline of Frankford Road a distance of 441.25 feet to the place of beginning and containing 199.475 acres.

That the undersigned, Frankford Associates, does hereby impress
of the above described property, SAVE AND EXCEPT the following described
16.886 acres, more or less, out of the above described property, to-wit:

Being a tract of land situated in the Martha McBride Survey, Abstract No. 553, in the City of Dallas, Collin County, Texas, and being part of the 326.993 acre tract of land conveyed to Frankford Associates by Hunt Investment Corporation, and recorded in Volume 1072, Page 82 of the Deed Records of Collin County, Texas, and being more particularly described as follows:

COMMENCING at the Southernmost Southwest corner of Preston Highlands, an addition to the City of Dallas, Texas and part of City Block No. 8734, Dallas, Collin County, Texas, City Plan file No. S-767-261.

THENCE S 89° 00' 00" E, for a distance of 124.0 ft. to the POINT OF BEGINNING, said point also being in the West line of Davenport Road (56' R.O.W. at this point);

THENCE along said West line of Davenport Road, S 01° 00' 00" W, for a distance of 856.12 ft. to the beginning of a curve to the right having a central angle of 49° 59' 35" and a radius of 258.00 ft.

THENCE, continuing with said West line of Davenport Road along said curve a distance of 225.12 ft. to the end of said curve for a point and to the beginning of a second curve to the left having a central angle of 49° 52' 35" and a radius of 31A.00 ft.;

THENCE, continuing with said West line of Davenport Road along said curve a distance of 273.34 ft. to the end of said curve for a point;

THENCE, continuing with said West line of Davenport Road, S 01° 07' 00" W, for a distance of 26.74 ft. to the intersection of said West line of Davenport Road and proposed North line of Frankford Road (100' R.O.W.) for a corner;

THENCE, continuing with said proposed North line of Frankford Road, along a curve to the right having a central angle of 12° 57' 29" and a radius of 950.00 ft., a distance of 214.85 ft. to the end of said curve and to the beginning of a second curve to the left having a central angle of 22° 40' 56" and a radius of 1050.00 ft.;

THENCE continuing with said proposed North line of Frankford Road along said curve a distance of 415.67 ft. to the end of said curve for a point;

THENCE, continuing with said proposed North line of Frankford Road, N 89° 01' 25" W, for a distance of 70.95 ft. to a point for a corner;

THENCE the following courses and distances along the West prong of McKay Branch:

- 1. N 39° 53' 25" E, 363.31 ft. to an angle point;
- 2. N 85° 09' 22" E, 177.63 ft. to an angle point;
- 3. N 32° 41' 19" W, 222.19 ft. to an angle point;
- 4. N 12° 38' 00" E, 59.44 ft. to an angle point;
- 5. N 17° 29' 04" W, 209.69 ft. to an angle point;
- 6. N 07° 35' 41" E, 60.53 ft. to an angle point;
- 7. N 13° 05' 58" E, 305.58 ft. to a point for a corner;

THENCE, S 89° 00' 00" E, 463.35 ft. for a corner;

THENCE, N 01° 00' 00" E, for a distance of 74.62 ft. to a point for a corner;

THENCE, S 89° 00' 00" E, 124.00 ft. to the POINT OF BEGINNING and CONTAINING 735,558.4 sq. ft. or 16.886 acres of land, more or less.

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With the following deed restrictions, to-wit:

The said 199.475 acres, SAVE AND EXCEPT the said 16.886 acres, shall be restricted against multi-family dwellings, as defined in Chapter 51, City Code of the City of Dallas, Texas, but there is no restriction on other uses permitted under shopping center (SC) classification, except that residential use of a density of more than nine ^{dwellings} (9) units per acre is restricted.

These restrictions shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein.

These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning of the property is concerned, it being understood that the execution of this instrument shall not preclude the owner of the property hereby restricted from making application for a change in zoning and/or for alteration, amendment or termination of the deed restrictions herein contained.

These restrictions inure to the benefit of the City of Dallas, and the undersigned owner hereof does hereby grant to the City of Dallas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, either to prevent him from so doing and to correct such violation and for further remedy, the City of Dallas may withhold the Certificate of Occupancy necessary for the lawful use of the property until such restrictions described herein are fully complied with.

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These restrictions are hereby declared covenants running with the land and shall be fully binding upon all persons acquiring property within the above described tract, and any person by acceptance of title to any of the above described property shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

EXECUTED this the 40 day of August, 1978.

FRANKFORD ASSOCIATES

BY MCKAMY DEVELOPMENT CORPORATION
GENERAL PARTNER

BY John F. Skelton III
JOHN F. SKELTON III, President

THE STATE OF TEXAS |
COUNTY OF DALLAS |

BEFORE ME, the undersigned authority, a Notary Public in and for Dallas County, Texas, on this day personally appeared JOHN F. SKELTON III, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of Frankford Associates for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 40 day of August, 1978.

Dean B. [Signature]
Notary Public in and for
Dallas County, Texas

My Commission Expires:
6-18-80



11

MAIL ROOM

For Mr. Cole
Fidelity Union Life Bldg.
Dallas, Texas 75201

MAIL ROOM
Fidelity Union Life Bldg.
Dallas, Texas 75201

FILED

