

COUNCIL CHAMBER

April 27, 2005

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located in City Block B/5464 at the southeast corner of Turtle Creek Boulevard and Bandera Avenue, which is the subject of Zoning Case No. Z045-135/12311(RB); and

WHEREAS, the City Council desires to accept the deed restrictions in the attached instrument; Now, Therefore,

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

Section 1. That the deed restrictions in the attached instrument be and are hereby accepted 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. Z045-135/12311(RB).

Section 2. That the deed restrictions in the attached instrument shall be filed in the Deed Records of Dallas 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., Interim City Attorney

By *Casim Bunsod*
Assistant City Attorney

APPROVED BY
CITY COUNCIL

APR 27 2005

Shirley Geig
City Secretary

APPROVED *Dad Cook*
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
 COUNTY OF DALLAS) **KNOW ALL PERSONS BY THESE PRESENTS:**

I.

The undersigned, PRG REALTY PRESTON HOLLOW MOB LP, a Texas limited partnership (the "Owner"), is the owner of the following described property (the "Property"), being in particular a portion of Lot 1, City Block B/5464, of Northwest Plaza, Second Installment, an Addition to the City of Dallas, Dallas County, Texas, and being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

- (1) The maximum height of any and all structures on the Property shall be limited to 60 feet to the mid-line of the roof, except for elevator penthouses or bulkheads; mechanical equipment rooms; cooling towers; tanks designed to hold liquids; ornamental cupolas or domes; skylights; clerestories; visual screens which surround roof-mounted mechanical equipment; chimneys and vent stacks; amateur communications towers; and parapet walls (limited to a height of four feet); any of which may project a maximum of 12 feet above the 60 foot maximum structure height specified above.
- (2) The only main uses allowed on the Property shall be Multifamily and Local Utilities.

III.

These restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated only after public bearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the City

Attorney. If the City Council approves an amendment or termination of these restrictions, the Owners must then file the amending or terminating 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 amendment or termination becomes effective.

V.

These restrictions are 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 that these restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

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 the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

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.

XII.

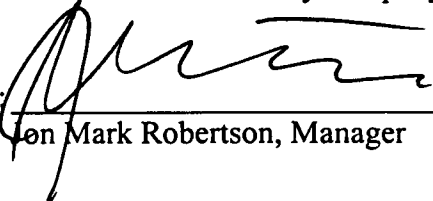
The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this 22nd day of March, 2005.

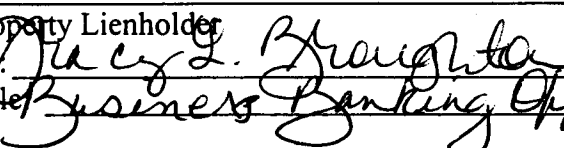
OWNER:

PRG REALTY PRESTON HOLLOW MOB LP,
a Texas limited partnership

By: PRG Realty Preston Hollow LLC,
a Texas limited liability company

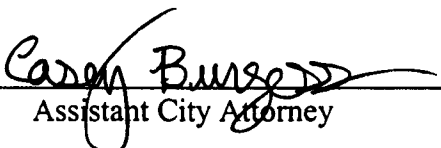
By: 
Jon Mark Robertson, Manager

CONSENT AND CONCURRENCE OF
LIENHOLDER:

Frost National Bank
Property Lienholder
By: 
Title: Business Banking Officer

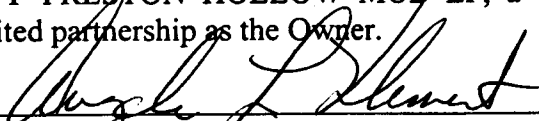
APPROVED AS TO FORM:

THOMAS P. PERKINS, JR.
Interim City Attorney

By: 
Assistant City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 22nd day of March, 2005, by Jon Mark Robertson, Manager of PRG Realty Preston Hollow LLC, a Texas limited liability company, the general partner of PRG REALTY PRESTON HOLLOW MOB LP, a Texas limited partnership, for and on behalf of such limited partnership as the Owner.




Notary Public - State of Texas



THE STATE OF TEXAS §
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COUNTY OF DALLAS §

This instrument was acknowledged before me on the 8th day of April, 2005, by Tracy L. Broughton, Business Banking Officer of Frost National Bank, a national banking association, for and on behalf of such national banking association.



Notary Public – State of Texas



EXHIBIT A**PROPERTY DESCRIPTION:**

BEING a 1.407 acre portion of Block B/5464, Northwest Plaza, Second Installment, an addition to the City of Dallas, Texas according to the plat recorded in Volume 111, Page 2856 of the Map Records of Dallas County, Texas and being all that certain tract of land described in deed to Messina Properties as recorded in Volume 83211, Page 585 of the Deed Records of Dallas County, Texas and more particularly described by metes and bounds as follows:

BEGINNING at a P.K. Nail found in asphalt pavement at the Northwest corner of said Block B/5464 being the Northwest corner of said Messina Tract lying in the East right-of-way line of Turtle Creek Boulevard (a 60-foot wide right-of-way) at its intersection with the North line of a 25-foot wide access and utility easement as dedicated by said plat being the South line of a 15-foot wide alley right-of-way;

THENCE S 89° 34' 46" E, 243.70 feet along the North boundary line of said Block B/5464 with the North line of said access and utility easement and the South line of said alley and with the North boundary line of said Messina Tract to a bolt found in asphalt pavement at the Northeast corner of said Messina Tract;

THENCE S 00° 25' 39" W, 252.49 feet along the East boundary line of said Messina Tract to a railroad spike found in asphalt pavement at the Southeast corner thereof lying in the centerline of a 40-foot wide ingress/egress easement recorded in Volume 69111, Page 897 of the Deed Records of Dallas County, Texas;

THENCE N 89° 38' 00" W, 241.59 feet along the centerline of said ingress/egress easement with the South boundary line of said Messina Tract to a P.K. Nail found in asphalt pavement at the Southwest corner of said Messina Tract lying in the aforesaid East right-of-way line of Turtle Creek Boulevard;

THENCE N 00° 03' 00" W, 252.73 feet along said right-of-way line to the PLACE OF BEGINNING, containing 1.407 acre (61,294 square feet) of land.