

COUNCIL CHAMBER

071314  
April 25, 2007

WHEREAS, approval of the termination of two sets of deed restrictions described in the attached instruments has been requested in connection with Lot 1B of City Block A/5456, located at the southeast corner of Central Expressway and Park Lane, and containing 33.3171 acres, which is the subject of Zoning Case No. Z067-162; and

WHEREAS, the City Council desires to approve the termination of these two sets of deed restrictions as described in the attached instruments; Now, Therefore,

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

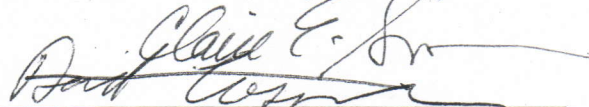
**Section 1.** That after a public hearing before the city plan commission and the city council, the termination of the two sets of deed restrictions in the attached instruments is hereby approved by the City Council of the City of Dallas, Texas, in conjunction with the development of property that is the subject of Zoning Case No. Z067-162.

**Section 2.** That the attached termination of deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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


**APPROVED AS TO FORM:**

**THOMAS P. PERKINS, City Attorney**

By:   
Assistant City Attorney

APPROVED BY  
CITY COUNCIL

APR 25 2007

  
City Secretary

APPROVED  APPROVED  
HEAD OF DEPARTMENT

DIRECTOR OF FINANCE

APPROVED \_\_\_\_\_  
CITY MANAGER

**TERMINATION OF DEED RESTRICTIONS**

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

I.

The undersigned, Harvest NPE, L.P. (the "Owner"), is the owner of the following described property (the "Property"), being in particular a tract of land situated in the City of Dallas, Dallas County, Texas, and being part of Lots 1 and 2 of NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 72126, Page 2169, Deed Records, Dallas County, Texas, as amended by Certificate of Correction recorded in Volume 74151, Page 694, Deed Records, Dallas County, Texas and being part of Lots 3 and 4, City Block A/5456 of Second Installment, NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 74009, Page 1, Deed Records, Dallas County, Texas, as amended by certificate of Correction recorded in Volume 74151, Page 696, Deed Records, Dallas County, Texas, and being the same tract of land conveyed to Park Lane/Central Associates, Ltd. as recorded in Volume 96040, Page 3150, Deed Records, Dallas County, Texas, and being more particularly described in Exhibit A.

II.

The Property was impressed with certain deed restrictions as shown in an instrument dated April 22, 2003, signed by Fulcrum Park I, Ltd. and recorded in Volume 2003076, Page 00382, Instrument Number 200302293703 of the Deed Records of Dallas County, Texas, a true and correct copy of which is attached to this instrument as Exhibit B and made a part of this instrument.

III.

The Owner does hereby terminate and release the following restrictions as they apply to the Property, to wit:

- 1.       The maximum floor area allowed on the Property is 1,377,881 sq. ft.

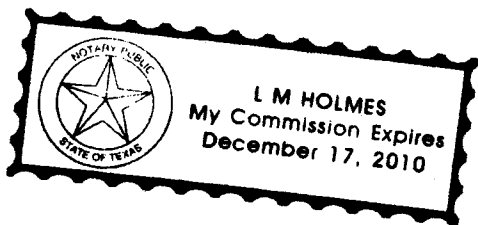
IV.

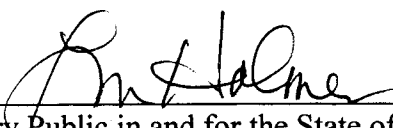
The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of March, 2007, by **Eliot B. Barnett**, as Manager of Harvest/NPE GP LLC, a Delaware limited liability company, as general partner of **HARVEST/NPE L.P.**, a Delaware limited partnership, who is personally known to me to be the person who signed the foregoing instrument and he acknowledged that the execution thereof was his free act and deed as such manager for the uses and purposes therein expressed, and that the said instrument is the act and deed of said partnership for the uses and purposes therein expressed.

WITNESS my hand and official seal this 29<sup>th</sup> day of March, 2007.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

CONSENT AND CONCURRENCE OF  
LIENHOLDER OR MORTGAGEE

Bank of America, N.A., a national banking  
association

By: 33  
Printed Name: SERGIO REYES  
Title: SENIOR VICE PRESIDENT

APPROVED AS TO FORM:  
Tom Perkins, City Attorney

By: Chae E. Inan  
Assistant City Attorney

STATE OF TEXAS

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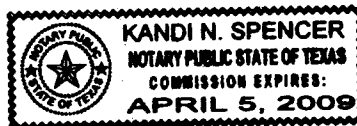
COUNTY OF DALLAS

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Sergio Lopez Senior Vice President Bank of America, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Kandi N. Spencer  
Notary Public in and for said State

My Commission Expires:

April 5, 2009



STATE OF TEXAS

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COUNTY OF DALLAS

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

\_\_\_\_\_  
Notary Public in and for said State

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A**

Being a tract or parcel of land situated in the City of Dallas, Dallas County, Texas and being a part of Lots 1 and 2 of NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 72126, Page 2169, Deed Records, Dallas County, Texas, as amended by Certificate of Correction recorded in Volume 74151, Page 694, Deed Records, Dallas County, Texas and being a part of Lots 3 and 4, Block A/5456 of Second Installment, NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 74009, Page 1, Deed Records, Dallas County, Texas as amended by Certificate of Correction recorded in Volume 74151, Page 696, Deed Records, Dallas County, Texas, and being the same tract of land conveyed to Park Lane/Central Associates, LTD. as recorded in Volume 96040, Page 3150, Deed Records, Dallas County, Texas, being more particularly described as follows;

Beginning at a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner at the intersection of the south line of Park Lane (variable width right-of-way) with the westerly line of Dallas Area Rapid Transit (100 right-of-way), being the northeast corner of said Lot 4;

Thence South 10°30'00" West with the westerly line of said Dallas Area Rapid Transit a distance of 686.12 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner in the westerly line of said Dallas Area Rapid Transit;

Thence South 87°05'11" West with the common line between said Park Lane/Central Associates tract and a 17.501 acre tract conveyed to Raymond D. Nasher as recorded in Volume 95033, Page 227, Deed Records, Dallas County, Texas, a distance of 377.81 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North 02°54'49" West with the common line between said Park Lane/Central Associates tract and said Raymond D. Nasher tract a distance of 18.00 feet to a P.K. nail set for corner;

Thence South 87°05'11" West with the common line between said Park Lane/Central Associates tract and said Raymond D. Nasher tract a distance of 563.26 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner in the easterly line of North Central Expressway (State Highway No. 75-variable width right-of-way) and being in the easterly line of a tract conveyed to the State of Texas recorded in Volume 91208, Page 1245, Deed Records, Dallas County, Texas;

Thence North 02°44'17" East with the easterly line of said State of Texas tract a distance of 80.49 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North 00°58'46" West with the easterly line of said State of Texas tract a distance of 147.37 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North 00°02'31" West with the easterly line of said State of Texas tract a distance of 171.38 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North 03°37'31" West with the easterly line of said State of Texas tract a distance of 222.57 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North  $19^{\circ}30'52''$  East with the easterly line of said State of Texas tract a distance of 31.44 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North  $65^{\circ}47'39''$  East with the southeasterly line of said State of Texas tract a distance of 31.44 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North  $88^{\circ}56'03''$  East with the south line of said State of Texas tract a distance of 38.25 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North  $83^{\circ}44'32''$  East with the south line of said State of Texas tract a distance of 220.34 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner;

Thence North  $04^{\circ}49'33''$  West with the easterly line of said State of Texas tract a distance of 10.29 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner in the south line of said Park Lane;

Thence North  $87^{\circ}05'11''$  East with the south line of said Park Lane a distance of 493.58 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG" set for corner in the south line of Park Lane and being the beginning of a curve to the right;

Thence in a southeasterly direction with the south line of said Park Lane and with said curve to the right having a central angle of  $13^{\circ}27'46''$ , a radius of 1240.48 feet, an arc length of 291.48 feet and having a chord of South  $86^{\circ}10'56''$  East and a chord distance of 290.81 feet to the POINT OF BEGINNING and containing 688,940 square feet or 15.8159 acres of land, more or less.

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**DEED RESTRICTIONS**

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04/22/03

THE STATE OF TEXAS §  
                                          §  
COUNTY OF DALLAS §

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Fulcrum Park I, Ltd., a Texas limited partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land situated in the City of Dallas, Dallas County, Texas, and being part of Lots 1 and 2 of NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 72126, Page 2169, Deed Records, Dallas County, Texas, as amended by Certificate of Correction recorded in Volume 74151, Page 694, Deed Records, Dallas County, Texas and being part of Lots 3 and 4, City Block A/5456 of Second Installment, NorthPark East, an addition to the City of Dallas according to the Plat recorded in Volume 74009, Page 1, Deed Records, Dallas County, Texas, as amended by Certificate of Correction recorded in Volume 74151, Page 696, Deed Records, Dallas County, Texas, and being the same tract of land conveyed to Park Lane/Central Associates, Ltd. as recorded in Volume 96040, Page 3150, Deed Records, Dallas County, Texas, and being more particularly described in the attached Exhibit "A" incorporated herein by reference.

II.

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

- 1. The maximum floor area allowed on the Property is 1,377,881 sq. ft.

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 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 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 Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the

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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, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, 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.

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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 mortgages 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 the 9th day of JANUARY, 2003.

Owner:

FULCRUM PARK I, LTD.  
a Texas limited partnership

By: [Signature]

As Its: CFO

CONSENT AND CONCURRENCE OF  
LIENHOLDER:

[Signature]  
Property Lienholder or Mortgagee

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

APPROVED AS TO FORM:

Madeleine B. Johnson

By: [Signature]  
Assistant City Attorney

DEED RESTRICTIONS - Page 3

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EXHIBIT A

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