



SUPPLEMENTARY DECLARATION NO. 209

LAS COLINAS AREA CCIX

DALLAS COUNTY, TEXAS

This Supplementary Declaration, made this 4th day of November, 2008 by HINES LAS COLINAS LAND LIMITED PARTNERSHIP, hereinafter called the "Declarant").

- A. Declarant's predecessor in interest, Las Colinas Corporation ("LCC"), executed a Declaration (as previously corrected and supplemented (the "Declaration") on the 22nd of August, 1973, applicable to certain real property described in Exhibit "A" thereto and located in or adjacent to the City of Irving, County of Dallas, State of Texas.
- B. The Declaration was filed of record in Volume 73166, Page 1001, of the Deed Records of Dallas County, Texas, a Correction to Declaration was filed of record in Volume 77154, Page 1096, of the Deed Records of Dallas County, Texas, a Second Correction to Declaration was filed of record in Volume 79122, Page 0749, of the Deed Records of Dallas County, Texas, and a Third Correction to Declaration was filed of record in Volume 82071, Page 3244, of the Deed Records of Dallas County, Texas.
- C. LCC assigned all of its rights as "Declarant" under the Declaration to Las Colinas Land Limited Partnership ("LCLLP") pursuant to a Corrected Assignment and Transfer of Rights of Declarant under Declaration dated as of June 29, 1989, recorded in Volume 92041, Page 0446, of the Deed Records of Dallas County, Texas.
- D. LCLLP assigned all of its rights as "Declarant" under the Declaration to Declarant pursuant to an Assignment and Transfer of Rights of Declarant and Class B Member under Declaration dated as of December 23, 2005, recorded in Volume 200503641275, Deed Records, Dallas County, Texas.
- E. Additional real property has been added to the scheme of the Declaration as contemplated in Article I, Section 3, thereof by recording Supplementary Declarations in the Deed Records of Dallas County, Texas.
- F. Article V of the Declaration (entitled Protective Covenants), as originally written and as modified by the previous Supplementary Declarations is applicable only to the real property described in Exhibit "A" to the Declaration and in Exhibits to the previous Supplementary Declarations and not to additional real property which may be added to the scheme of the Declaration by subsequent Supplementary Declarations.
- G. Article I, Section 3, of the Declaration permits the addition of additional property to the scheme thereof by filing a Supplementary Declaration of record, which Supplementary Declaration may modify Article V of the Declaration as it pertains to the additional property.

- H. Declarant desires to add additional property located within the boundaries of the property described in Exhibit "A-209" to the Declaration to the scheme of the Declaration and to modify Article V of the Declaration as it pertains to the additional property.
- I. The following terms have the following definitions: **Canal** means the Lake Carolyn Canal; **District** means Dallas County Utility and Reclamation District; and **Architectural Control Committee** means the Architectural Control Committee of The Las Colinas Association.

NOW THEREFORE, Declarant declares as follows:

- 1. The real property described in Exhibit "A-209" attached hereto and incorporated herein by reference for all purposes (designated as **Area CCIX** for purposes of this Supplementary Declaration) is and shall be subject to the scheme of the Declaration, and is and shall be held, transferred, sold, conveyed, used, and occupied subject to covenants, restrictions, easements, charges, and liens set forth in the Declaration (the Declaration being incorporated herein by reference for all purposes) as modified herein.
- 2. Article V of the Declaration is modified by the addition thereto of the following Section 209, which is applicable only to Area CCIX:

Section 209. **Covenants Applicable to Area CCIX.** The following provisions are applicable to any and all construction, improvement, alteration, addition, and use of, in, or to Area CCIX of the Properties:

- a. **Use Limitations.** Sites in Area CCIX may be used for multifamily residential purposes, restaurants, health clubs, child care, other retail sales, personal services facilities, general office, professional, medical, banking, financial institutions and hotel; Sites in Area CCIX may be used for surface parking facilities and structured parking facilities without ancillary uses with the written approval of the Architectural Control Committee. The following uses of sites in Area CCIX are not permitted:
 - (1) Warehouses and manufacturing.
 - (2) Any use which involves a noxious odor or any excessive noise level which constitutes a nuisance.
 - (3) Any use which violates any part of this Section 209.
- b. **Minimum Setback Lines.**
 - (1) No structure of any kind and no part thereof, other than encroachments as permitted by Section 52-44 of Irving Zoning Ordinance No. 1144, may be placed within these setback lines:
 - (A) 25 feet from Wingren Drive.

- (B) 50 feet from State Highway 114 Service Road.
 - (C) 20 feet from the dry wall of the Canal.
 - (D) 5 feet from any other internal public or private street.
- (2) The following Improvements are expressly excluded from this restriction:
- (A) Structures below and covered by the ground.
 - (B) Steps, walks, driveways, and curbing.
 - (C) Planters, walls, fences, or hedges, not to exceed four feet in height.
 - (D) Landscaping.
 - (E) Guardhouses.
 - (F) Gatehouses.
 - (G) Aerial pedestrian crossings or connections.
 - (H) Canopies.
 - (I) Minor encroachments of adequately screened parking structures or parking areas.
- (3) Declarant may grant exceptions to or variances from any setback lines established in b(1) above, except for b(1)(C), provided that any variances or exceptions must be in writing.
- (4) Exceptions to or variances from b(1)(C) may be granted only upon written approval of the Board of Directors of the District. If the District ceases to function as a separate political subdivision of the State, exceptions to or variances from b(1)(C) may be granted only by the Architectural Control Committee, provided any exceptions or variances must be in writing.
- c. Minimum Building Height. The building or buildings in Area CCIX for multifamily or hotel uses must have a minimum height of at least 3 stories, the floor level of the first story being at or above the top of curb elevation of the State Highway 114 Service Road abutting the site. The building or buildings in Area CCIX for all uses except multifamily or hotel uses must be a minimum height of one story, the floor level being at or near the top of curb elevation of the State Highway 114 Service Road abutting the site. Exceptions to or variances from this minimum height requirement may be granted only upon written approval of the Declarant.
- d. Minimum Habitable Building Floor Level. The lowest habitable floor level of any building, other than basement mechanical storage and parking levels may not

be lower than elevation 425.0 feet (MSL) mean sea level. No opening through the outside wall of any building is permitted lower than elevation 425.0 feet (MSL) mean sea level.

e. Parking Areas. Parking areas shall:

- (1) Be curbed and guttered with concrete and paved with 5" reinforced concrete placed on a 6" lime stabilized base or an equivalent pavement section engineered by a registered professional engineer as approved by the Architectural Control Committee.
- (2) For ground level surface parking, have a maximum grade slope of 6% and a minimum grade slope of 1%.
- (3) Not be provided in front of the minimum setback lines established above, nor be provided in front of any building facing a public or private street unless expressly approved in writing by the Architectural Control Committee (which may not approve parking in front of minimum setback lines unless a written variance approving same is granted by Declarant).
- (4) Be adequately screened by use of walls, berms, trees, landscaping or other means reasonably acceptable to the Architectural Control Committee in accordance with its customary use of discretion. Screening shall occur between all ground level surface parking areas (not to include entrances and exits), adjacent public and private streets and adjacent exterior boundary lines.
- (5) Be sufficient to accommodate all parking needs for employees, company vehicles, customers and visitors without the use of onstreet parking. Parking shall meet or exceed the off-street parking requirements of the City of Irving, Development Codes, Zoning and Subdivision Ordinances as amended from time to time or as otherwise approved by the City of Irving.

Declarant may grant exceptions to or variances from any part of this subsection e, provided that any variances or exceptions must be in writing.

f. Driveways. Driveways must:

- (1) Be constructed as specified in paragraph e(1) above.
- (2) Have a minimum width of 12 feet.

g. Signs. All signs must be approved by the Architectural Control Committee in writing prior to installation. Normally, approval will be limited to those signs that:

- (1) Identify the name and business of the occupant, or give directions, or offer the premises for sale or for lease.
- (2) Are not of an unusual size or shape when compared to the building or buildings on the premises.
- (3) Preserve the quality and atmosphere of the area.
- (4) Hotels with a minimum height of five (5) stories may have one (1) logo sign per street front on the roof spandrel area (but not on top of the roof and such logo shall not include any names, words or similar copy).

No signs, symbols, advertising insignia or similar items are permitted on top of or on the face of buildings at a location higher than the area immediately above those levels where there are ground level outside entrances into the buildings; provided, Declarant may grant exceptions to or variances from the restrictions in this sentence as long as they are in writing. Signs of a flashing or moving character or inappropriately colored signs are not permitted. The Association may, but is not obligated to, remove any sign erected without written approval.

h. Landscaping. Landscaping must:

- (1) Be completed on all sites contemporaneously with completion of other improvements, but in no event later than 120 days after first occupancy of buildings.
- (2) Conform to a landscaping plan approved by the Architectural Control Committee under Article IV of the Declaration. Normally, approval will be limited to landscaping plans that:
 - (A) Provide automatic underground sprinkling systems for all landscaped areas;
 - (B) Permit reasonable access to public and private utility lines and easements for installation and repair; and
 - (C) Include at least one tree for each 4,500 square feet of area between exterior building walls (including parking structures) and public or private street right-of-way lines and adjacent boundary lines.
- (3) Owners of sites adjacent to the Canal must provide landscaping, including hardscape structures and walks as well as plant materials, within the property owned by the District along that portion of the Canal adjacent to their respective sites in accordance with plans submitted by the owners and subjectively approved by the Board of Directors of the District and the Architectural Control Committee. The adjacent property Owner shall maintain the improvements in that portion of land along the Canal in

accordance with standards established from time to time by the District and the Association.

- (4) Owners shall provide landscaping, including hardscape structures and walks as well as plant materials within the area adjacent to any public or private street in accordance with plans submitted by the Owners and subjectively approved by the Architectural Control Committee. Owners shall maintain the improvements within these areas in accordance with standards established from time to time by the Association.

i. Screening.

- (1) Storage areas, incinerators, storage tanks, vehicles based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof mounted equipment which rise above the roof line), and maintenance facilities must either be housed in closed buildings or otherwise screened from public view in a manner and at a location approved in writing by the Architectural Control Committee. Screening at ground level would normally include landscaping, earthen berms or permanent walls of comparable building materials and be located as far from property lines as reasonably possible.
- (2) Trash containers may be placed at the front entrance to the building, but must be screened from public view by permanent walls constructed of stucco or other Approved Masonry Materials (hereafter defined) and the use of opaque decorative metal access gate(s), all as approved in writing by the Architectural Control Committee.
- (3) Except as otherwise governed by Federal statutes and/or rulings and regulations of the Federal Communications Commission applicable to the use of antennas by residents of multi-family residential complexes, antennas, including, without limitation, dish type antennas, and towers must be approved by the Architectural Control Committee, which may consider things like size, location, and ability to screen the antenna(s) and tower(s) from view from adjacent properties and from public or private streets and highways.

j. Loading Docks and Areas.

- (1) Loading docks may not be located on the street-side of any building or structure, except that either the Declarant or the Architectural Control Committee may approve a street-side location in writing (subject to express screening requirements).
- (2) Loading areas may be located on the street-side of any building or structure for the limited purpose of short-term loading and unloading of furniture, appliances and other personal belongings of residents of the building during move-in or move-out, but not otherwise.

- (3) Loading areas may not encroach setback areas, except that Declarant may give written approval for such encroachments.
- (4) Loading docks and areas must be screened in a manner approved in writing by the Architectural Control Committee considering factors like location and views from adjacent and nearby properties and public rights-of-way.

Declarant may grant exceptions to or variances from any part of this subsection j., provided that any variances or exceptions must be in writing.

k. Exterior illumination. Illumination is required for all exterior building walls that face existing or proposed public or private streets, the Canal and for all parking areas and walkways between buildings and parking areas unless otherwise waived or modified by Declarant in writing. All exterior illumination must conform to plans approved in writing by the Architectural Control Committee.

l. Special Canal Front Requirements.

- (1) Development plans and architectural plans for building and parking garage structures facing on the Canal must:
 - (A) Provide attractive facades facing on the Canal; and
 - (B) Provide public pedestrian access at the Canal level and around the perimeter of the site.
- (2) Automobile parking areas, loading docks, cooling towers, antennas, and other similar equipment and installations shall be screened from view from the Canal and from boats traveling on the Canal, as specified in paragraph 2.i. above.
- (3) Driveways viewed from the Canal must be minimized and carefully landscaped so that views of vehicles from across the Canal and from boats traveling on the Canal are minimized.
- (4) Special attention must be given to landscaping and its drainage in all areas that lie between building structures and the Canal, and must conform to plans and specifications approved by the District and the Architectural Control Committee. Owners shall maintain the improvements within these areas in accordance with standards established from time to time by the District and the Association.
- (5) Boat docking, loading and unloading facilities, and storm sewers and storm sewer discharge structures, may be constructed only at locations approved in writing by the Board of Directors of the District and the facilities must conform to designs approved by the District. All roof drainage and other collected storm water run-off must be carried into

either a public storm sewer facility or into the Canal in a manner subjectively approved by the District. All discharge structures into the Canal for all collected storm water run-off must be below elevation 417.0 feet (MSL) mean sea level and must be subjectively approved by the District.

m. Construction Standards.

- (1) All building sides must be faced with stucco, face brick, stone, architectural precast or with similar quality face materials approved in writing by the Architectural Control Committee (collectively, **Approved Masonry Materials**), except that exterior insulation and finish systems (EIFS) may be used in the Urban Center only for multifamily projects with a principal building that is at least 150 feet tall, and then only with a written variance from Declarant. The aggregate of the exterior surface area of the first 4 floors of all buildings, excluding the surface areas of doors, windows and other openings, in Area CCIX must contain a minimum of 35% of Approved Masonry Materials, other than stucco. The granting of a variance for the use of EIFS in the Urban Center for multifamily buildings that qualify for a variance is in Declarant's sole discretion, including, without limitation, any conditions to the granting of the variance. If Declarant grants a variance for the use of EIFS materials, the appearance of any proposed EIFS materials is subject to approval by Declarant in its sole discretion. If Declarant approves any EIFS materials, the approved EIFS materials will be deemed to be compatible and harmonious with other improvements near Area CCIX and to be in conformity with both the specific and general intent of the protective covenants. Windows may not be glazed or reglazed with mirrored or reflective glass and the spandrel area between window openings may not be faced with a glass material without prior written approval of both the Architectural Control Committee and Declarant.
- (2) The exterior facade of all buildings, including garage structures, at ground or street level facing State Highway 114 Service Road or Wingren Drive must be of an attractive design approved by either Declarant or the Architectural Control Committee.
- (3) Subject to the provisions in m(1) above, construction must conform to plans and specifications approved in writing by the Architectural Control Committee under Article IV of the Declaration. Normally, approval will be limited to those plans which:
 - (A) Do not include wooden frames except in multifamily structures of 4 stories or less (multifamily structures may include 4 stories of wooden frame construction on top of a one story concrete or steel structure, as permitted by the codes and regulations of the City of Irving).

- (B) Preserve the quality and atmosphere of the area and are compatible and harmonious with improvements on adjacent property.
 - (C) Do not include exterior fire escapes.
- (4) Facilities for the collection, storage, sorting, removing, and disposing of all waste materials must be housed or screened in a manner approved in writing by either Declarant or the Architectural Control Committee. All facilities and plans for the disposal of wastes other than through public sanitary sewers (including, without limitation, shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Control Committee and the District.
 - (5) All structures, excluding balconies, must be equipped with gutters, downspouts, or other drainage conveyances approved by the Architectural Control Committee.
 - (6) All utility lines (public or private) shall be underground.
 - (7) Once commenced, construction must be diligently pursued so it is not left in a partly finished condition for a period longer than ninety (90) days without written approval from the Architectural Control Committee.
3. No approval of plans and specifications and no publication of requirements or guidelines herein or in the Declaration or otherwise by the Association or the Architectural Control Committee or granting of any exceptions or variances by Declarant may be construed as representing or implying that improvements built in accordance therewith will be free of defects or comply with applicable laws or ordinances. Any approvals and observations incident thereto concern matters of an aesthetic nature. No approvals and guidelines may be construed as representing or guaranteeing that any improvements built in accordance therewith will be designed or built in a good and workmanlike manner. The granting of any exceptions or variances by Declarant shall be in Declarant's sole discretion. Declarant, the Association, their respective directors, officers, employees, and agents, the Architectural Control Committee, and members of the Architectural Control Committee are not responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land subject to the Declaration for any defects in any plans or specifications submitted, revised, or approved, any loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, any loss or damage arising from the noncompliance of the plans or specifications with any governmental ordinance or regulation, or any defects in construction undertaken pursuant to the plans and specifications. Approval of plans and specifications by the Architectural Control Committee may not be construed as approval by the City of Irving, Texas, as the approval processes are mutually exclusive. Unconditional approval of a complete set of plans and specifications by the Architectural Control Committee satisfies the requirements of all applicable subsections of this Supplementary Declaration that require written approval by the Architectural Control Committee for the plans and specifications.

.Any determination made by Declarant under this Supplementary Declaration, and the grant or denial of any exception or variance by Declarant under this Supplementary Declaration, is in Declarant's sole discretion.

4. This Supplementary Declaration is hereby subordinated and made subject to that certain Deed of Trust (the "Deed of Trust") dated of even date herewith, executed by Gateway Properties, LLC, a Nevada limited liability company ("Borrower"), to Ted M. Benn, Esq., as Trustee, for the benefit of Declarant, and any amendment, renewal, substitution, extension or replacement thereof and each advance made thereunder as though the Deed of Trust, and each such amendment, renewal, substitution, extension or replacement were executed and recorded, and the advance made, prior to the execution of this Supplementary Declaration. If Declarant takes title to or succeeds to Borrower's interest in Area CCIX, as mortgagee in possession, or otherwise, or forecloses on Area CCIX pursuant to the Deed of Trust, or takes a deed in lieu of foreclosure, this Supplementary Declaration shall automatically terminate without the execution of any further instruments and any transfer of such interest of Borrower and/or transfer of title or possession of Area CCIX by Declarant shall not be subject to or encumbered by this Supplementary Declaration; provided, however, that in the event of any such termination, Declarant may execute and record such instruments as Declarant deems necessary or appropriate to evidence the termination of this Supplementary Declaration.
5. The Declaration, except as expressly modified herein, remains in force and effect and is ratified and confirmed.

[Signature Page Follows.]

EXECUTED as of the day and year first written above.

HINES LAS COLINAS LAND LIMITED PARTNERSHIP, a
Texas limited partnership

By: Hines Las Colinas Land GP LLC,
its General Partner

By: Hines Interests Limited Partnership,
its sole member

By: Hines Holdings, Inc.,
its General Partner

By: [Signature] JCO
Name: Clayton Elliott
Title: Senior Vice President

STATE OF TEXAS §
 §
COUNTY OF Dallas §

This instrument was acknowledged before me on November 4 2008, by
Clayton Elliott, the Senior Vice President
of Hines Holdings, Inc., the General Partner of Hines Interests Limited Partnership, the sole
member of Hines Las Colinas Land GP LLC, the General Partner of Hines Las Colinas Land
Limited Partnership, a Texas limited partnership, on behalf of said corporation, limited liability
company and limited partnerships.

[Signature]
Signature of Notary Public

[Personalized Notary Seal]

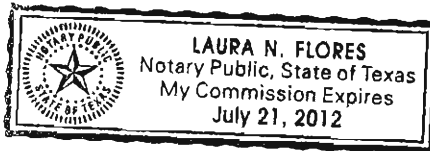


EXHIBIT A-209

LAS COLINAS AREA CCIX

LEGAL DESCRIPTION

Being all of Lot 2, Block A, Las Colinas Urban Center, Installment No. 39, an addition to the City of Irving, Dallas County, Texas, according to the plat thereof recorded in Volume 96170, Page 3625, Map Records, Dallas County, Texas.

FILED AND RECORDED



OFFICIAL PUBLIC RECORDS

A handwritten signature in black ink, appearing to read "JFW".

John F. Warren, County Clerk
Dallas County TEXAS

January 20, 2009 02:59:19 PM

FEE: \$60.00

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