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BOUNDARY LINE AGREEMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

THIS BOUNDARY LINE AGREEMENT (this "Agreement") is made and entered into as of this 1 day of April, 2010, by and between STATE STREET APARTMENTS, LLC, a Texas limited liability company ("State Street"), and LOUIS R. NICHOLSON and EUSTACIA C. NICHOLSON (together, "Nicholson").

WITNESSETH:

A. State Street owns or is purchasing that certain real property located at 1808 W. 35th Street, Austin, Travis County, Texas, and more particularly described as Lots 3, 4, and 5, Block 1, of OAKMONT HEIGHTS, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 3, Page 147, of the Plat Records of Travis County, Travis, together with all improvements located thereon (the "State Street Tract").

B. Nicholson owns that certain real property located at 1810 W. 35th Street, Austin, Travis County, Texas, and more particularly described as Lot 6-A, NORMAN DUMBLE RESUBDIVISION of Lots 6, 7 & 8, Block 1, OAKMONT HEIGHTS, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 43, Page 9, of the Plat Records of Travis County, Travis, together with all improvements located thereon (the "Nicholson Tract").

C. State Street has been provided with a survey of the State Street Tract, dated as of January 28, 2010 (the "Survey"), prepared by Jose Antonio Trevino, Registered Professional Surveyor No. 5552, a copy of such Survey being attached hereto as Exhibit "A" and made a part hereof, which Survey depicts a brick wall and columns along the boundary of the State Street Tract and Nicholson Tract (the "Wall").

D. State Street and Nicholson, on behalf of themselves and their respective successors and assigns, desire to confirm their agreement and acknowledgment of the exact location of the common boundary line between the State Street Tract and the Nicholson Tract in order to eliminate any doubt or uncertainty about the location of such common boundary line.

NOW, THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, State Street and Nicholson do hereby agree as follows:

1. Agreement Concerning the Boundary Line. The common boundary line between the State Street Tract and the Nicholson Tract shall be as shown and reflected on the plat of the subdivision in which the State Street Tract is located, as depicted on the Survey.

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2. Estoppel. State Street and Nicholson hereby expressly agree, acknowledge and affirm that each is forever estopped from claiming any other boundary line between their respective tracts other than as described and set forth in Paragraph 1 above. State Street and Nicholson further acknowledge and agree that the Wall does not mark or otherwise represent the actual boundary line between the State Street Tract and the Nicholson Tract, it being understood and agreed that the Wall has no relevance in terms of establishing the common boundary line between such tracts.

3. Waiver of Adverse Claims. State Street and Nicholson hereby waive, each as to the other party and its tract, any claim(s) of adverse possession and/or prescriptive rights and/or encroachment they may have, if any, insofar as such claim(s), if any, relates to property situated beyond the boundary line of their respective tracts as described and set forth in Paragraph 1.

4. Nicholson's Use. In consideration of the execution of this Agreement by Nicholson, State Street grants to Nicholson the right to maintain the Wall in its current location and the right of exclusive use of any part of the State Street Tract located west of the Wall for a period of 60 years beginning the date of this Agreement. During such period, Nicholson shall maintain the Wall in good repair and condition at Nicholson's sole expense. In the event of any damage or destruction of the Wall or any portion thereof, Nicholson, Nicholson's heirs or assigns may repair or reconstruct the Wall in its current location. Notwithstanding the foregoing, in the event any damage is caused to the Wall by State Street, or any contractor, invitee or guest of State Street (but excluding damage caused by a tenant of State Street or any invitee or guest of such tenant), then State Street will immediately repair such damage at State Street's sole expense. After the end of said 60 year period, Nicholson may abandon the Wall in place without any liability for the removal thereof, and State Street may remove or relocate the Wall at State Street's sole discretion and expense.

5. Construction and Setback. In consideration of the execution of this Agreement by State Street, Nicholson acknowledges that the building setback line on the State Street Tract is 10 feet from the common boundary line (not 10 feet from the Wall) and agrees that improvements may be constructed on the State Street Tract up to 36 feet in height, provided that during the term of this Agreement no improvements may be constructed on the State Street Tract that would cause the relocation of the Wall.

6. Enforcement. If either party should employ an attorney to enforce its rights pursuant to this Agreement because of a default by the other party, the defaulting party shall reimburse the non-defaulting party for reasonable attorney's fees thereby incurred.

7. Binding Effect. This Agreement shall be construed as covenants running with the land as to both the State Street Tract and the Nicholson Tract, and, thus, is binding upon the parties hereto and their respective legal and personal representatives, heirs, successors and assigns.

8. Authority. State Street and Nicholson each hereby represents and warrants to the other that they have full requisite power and authority to enter into this Agreement, and that the

joinder or consent to this Agreement by any other party, including without limitation that of any partner, lender, lienholder or tenant, either is not required or has already been obtained.

9. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

EXECUTED as of the date first written above.

STATE STREET:

STATE STREET APARTMENTS, LLC,
a Texas limited liability company

By: 

Allen T. Cowden, President


NICHOLSON:


LOUIS R. NICHOLSON


EUSTACIA C. NICHOLSON


STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1 day of April 2010, 2010, by Allen T. Cowden, as President of State Street Apartments, LLC, a Texas limited liability company, on behalf of said company.


Notary Public, State of Texas

STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 29th day of MARCH, 2010, by Louis R. Nicholson and Eustacia C. Nicholson.


Notary Public, State of Texas



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Copy of Survey



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

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DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS