

Case: C14-85-149.70 (RCA)

FIRST AMENDMENT
TO RESTRICTIVE COVENANT

This **FIRST AMENDMENT TO RESTRICTIVE COVENANT** ("Amendment") is made as of the date set forth below by Parmer Lane Baptist Church, successor-in-interest to Windsor Park Baptist Church of Austin, Texas, Inc., a Texas non-profit corporation ("Church"), the Pflugerville Independent School District ("PISD"), and the HCRI Texas Properties, Ltd. ("HCRI") as an amendment to that certain Restrictive Covenant dated August 20, 1986 and recorded in Volume 9922, Page 591 of the Real Property Records of Travis County, Texas ("Restrictive Covenant").



RESTRICT 2004028267

8 PGS

RECITALS

A. The Restrictive Covenant covers approximately 40.693 acres in Travis County, Texas as more particularly described in Exhibit A of said restrictive covenant and incorporated herein by reference (the "Restricted Property").

B. The Church, PISD and HCRI are all of the owners of that certain area of real property located wholly within the Restricted Property and containing approximately 11.897 acres, which tract is more particularly described in Exhibit C of the Restrictive Covenant ("Tract C") and attached hereto as **Exhibit A** of this Amendment.

C. Paragraph 13 of said Restrictive Covenant states "This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above-described property at the time of such modification, amendment or termination."

D. The Restrictive Covenant imposes certain conditions on Tract C that the parties hereto desire to terminate.

NOW THEREFORE, the parties hereto agree as follows:

1. Recitals. The foregoing Recitals are incorporated herein for all purposes.
2. Deletion of Driveway Restriction. Paragraph 8 of the Restrictive Covenant is hereby deleted in its entirety. Accordingly, no limit is imposed by the Restrictive Covenant on driveway access to Parmer Lane from any portion of Tract C.
3. Council Approval. The City Manager, or her designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant, as authorized by the City Council of the City of Austin.

2/5/04
#2-2

3 pgs

4. Miscellaneous. Except as provided herein, the Restrictive Covenant shall remain in full force and effect. In the event of a conflict between this Amendment and that of the other provisions of the Restrictive Covenant, the provision of this Amendment shall govern and prevail. This Amendment shall be recorded in the Official Public Records of Travis County, Texas upon its full execution and receipt of Council approval.

EXECUTED to be effective as of the later of the dates set forth below.

PARMER LANE BAPTIST CHURCH,
a Texas non-profit corporation
P.O. Box 270110
Austin, TX 78727-0110

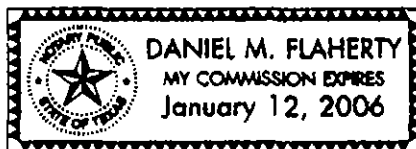
By: Edgar W. Hudgins
Edgar W. Hudgins, Trustee

Date: 1/16/04

ACKNOWLEDGMENT

STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on 1-16, 2004, by Edgar W. Hudgins, Trustee on behalf of **PARMER LANE BAPTIST CHURCH**, a Texas non-profit corporation, on behalf of said non-profit corporation.



Daniel M. Flaherty
Notary Public
Name of Notary: DANIEL M. FLAHERTY
My Commission Expires: 01/12/2006

**PFLUGERVILLE INDEPENDENT
SCHOOL DISTRICT**

1401 West Pecan
Pflugerville, Texas 78660

By: Elizabeth Gardner
Dr. Elizabeth Gardner, Superintendent

Date: 01-23-04

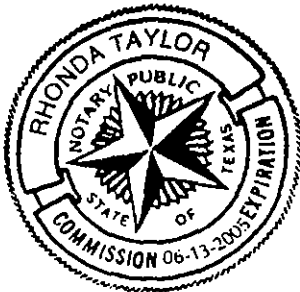
ACKNOWLEDGMENT

STATE OF TEXAS §

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COUNTY OF TRAVIS §

This instrument was acknowledged before me on Jan. 23, 2003, by Dr. Elizabeth Gardner, Superintendent of the **PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT**, on behalf of said independent school district.



Rhonda Taylor
Notary Public

Name of Notary: Rhonda Taylor

My Commission Expires: 6-13-05

HCRI TEXAS PROPERTIES, LTD.

One Seagate Suite 1500

Toledo, Ohio 43604

By: Health Care REIT, Inc., its general
partner

By: Erin C. Ibele

Erin C. Ibele, Vice President and
Corporate Secretary

Date: 1-22-04

ACKNOWLEDGMENT

STATE OF OHIO §

COUNTY OF Lucas §

This instrument was acknowledged before me on January 22, 2004, by Erin C. Ibele, Vice President and Corporate Secretary of Health Care REIT, Inc., a Delaware corporation, and the general partner of **HCRI TEXAS PROPERTIES, LTD.**, a Texas limited partnership, on behalf of said limited partnership.

Rita J. Rogge
Notary Public

Name of Notary:

My Commission Expires:



RITA J. ROGGE
Notary Public, State of Ohio
Commission Expires: 2/26/05

CITY OF AUSTIN:

By: Lisa Y. Gordon
LISA Y. GORDON
ASSISTANT CITY MANAGER,
CITY OF AUSTIN

Date: 2/11/04

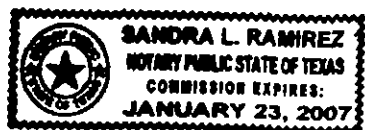
ACKNOWLEDGMENT

STATE OF TEXAS §

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COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 11th day of February, 2004.



Sandra L. Ramirez
Notary Public
Name of Notary: Sandra L. Ramirez
My Commission Expires: Jan. 23, 2007

EXHIBIT A
(Tract C Property)

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

EXHIBIT A

Barry Campbell Engineering, Inc.

6200 LA CALMA • AUSTIN, TEXAS 78752 • (512) 452-5528

FIELD NOTES

11.897 Acres

FIELD NOTES FOR A 11.897 ACRE TRACT OUT OF THE WILLIAM B. HARRISON SURVEY IN TRAVIS COUNTY, TEXAS AND ALSO BEING PART OF A 32.763 ACRE TRACT, CONVEYED AS 32.824 ACRES IN VOLUME 3475, PAGE 2370 OF THE TRAVIS COUNTY, TEXAS, DEED RECORDS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the Northeast corner of Valley View Estates as recorded in Plat Book 59, Page 81 of the Travis County, Texas, Plat Records for the POINT OF BEGINNING.

THENCE N. 1 deg. 40' E., a distance of 546.42 feet to the Northwest corner of said 32.763 acre tract and a point on the South R.O.W. line of Parmer Lane.

THENCE with the South R.O.W. of Parmer Lane, the following three (3) courses:

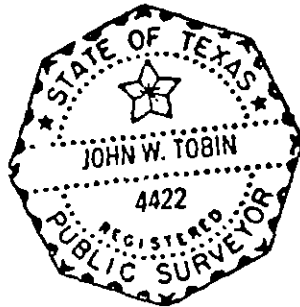
- 1) S. 59 deg. 32' E., a distance of 654.00 feet to a point;
- 2) N. 73 deg. 56' E., a distance of 30.85 feet to a point;
- 3) S. 60 deg. 39' E., a distance of 21.71 feet to a point;

THENCE leaving the R.O.W. of Parmer Lane and through the interior of said 32.763 acre tract, the following seven (7) courses:

- 1) S. 30 deg. 13' W., a distance of 323.78 feet to a point of curve to the left;
- 2) Along said curve whose elements are: Delta, 27 deg. 00' Radius, 400 feet; chord bears S. 16 deg. 43' W., 186.76 feet in all an arc distance of 188.50 feet;
- 3) S. 3 deg. 13' W., a distance of 80.06 feet to a point;
- 4) S. 1 deg. 01' E., a distance of 374.40 feet to a point;
- 5) S. 88 deg. 59' W., a distance of 264.98 feet to a point of curve to the right;
- 6) Along said curve whose elements are: Delta, 30 deg. 47' Radius, 300 feet; chord bears N. 75 deg. 37' 30" W., 159.25 feet, in all an arc distance of 161.18 feet to a point;
- 7) N. 60 deg. 14' W., a distance of 15.65 feet to a point on the centerline of Shag Bark Trail and also being on the East line of Valley View Estates.

THENCE N. 1 deg. 40' E. and with the East line of Valley View Estates, a distance of 658.12 feet to the POINT OF BEGINNING and containing 11.897 acres of land.

Field Notes compiled from recorded deeds and plats for zoning purposes only--not based upon an actual on the ground survey.



John W. Tobin
John W. Tobin, R.P.S. #4422
✓ 6-17-86

AFTER RECORING RETURN TO:

LAW DEPARTMENT
CITY OF AUSTIN
P.O. BOX 1088
AUSTIN, TEXAS 78767

ATTN: Diana Minter, Paralegal

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Feb 17 02:49 PM

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BENAVIDESV \$28.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS