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THIRTY-FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CIRCLE C RANCH SUBDIVISION

THE STATE OF TEXAS § RETURN TO
 § ALAMO TITLE COMPANY
COUNTY OF TRAVIS § 3305 NORTHLAND DR, #100
 § AUSTIN, TEXAS 78731
 § GF# 1000709-1A

This Thirty-Fourth Amendment to Declaration of Covenants, Conditions and Restrictions is made to be effective the date set forth below by Phoenix Holdings, Ltd , a Texas limited partnership RH Development/Park West CC, Inc , a Texas Corporation ("RH"), the owner of the Additional Land (as defined below), is joining this Amendment to evidence RH's consent to the addition of the Additional Land and the other provisions of this Amendment

RECITALS:

A By Declaration of Covenants, Conditions and Restrictions for Circle C Ranch Subdivision recorded in Volume 10585, Page 110, Real Property Records of Travis County, Texas (the "**Original Declaration**"), Circle C Development Corporation, a Texas corporation (the "**Original Declarant**") imposed certain covenants, restrictions, charges and liens upon certain real property as therein described

B. The Original Declaration has been amended by documents recorded in Volume 10627, Page 771, Volume 10729, Page 1153, Volume 10778, Page 284, Volume 10847, Page 1704, Volume 10961, Page 0851, Volume 11003, Page 1060, Volume 11134, Page 1045, Volume 11824, Page 0883, Volume 11924, Page 0139, Volume 11924, Page 0959, Volume 11925, Page 0009, Volume 11929, Page 0356, Volume 12081, Page 1479, Volume 12219, Page 0642, Volume 12231, Page 1241, Volume 12236, Page 2799, Volume 12265, Page 0471, as corrected in Volume 12403, Page 0495, Volume 12280, Page 0080, Volume 12377, Page 0508, Volume 12492, Page 0516, Volume 12618, Page 0678, Volume 12667, Page 0072, Volume 12667, Page 0169, Volume 12705, Page 0016, Volume 12721, Page 1542, Volume 12864, Page 1216, Volume 13114, Page 0757, Volume 13224, Page 0043, Document No 1999160088, Document No 2000011673, Document No 2000093548, Document No 2000114433 respectively, of the Real Property Records of Travis County, Texas, (which Original Declaration, as so amended, is herein referred to as the "**Declaration**")

C Circle C Development Corporation assigned its rights and privileges as "Declarant" under the Declaration to Circle C Development Joint Venture; Circle C Development Venture subsequently assigned its rights and privileges as "Declarant" under the Declaration to Circle C Land Corp , a Texas corporation; and Circle C Land Corp subsequently assigned its rights and privileges as "Declarant" under the Declaration to Phoenix Holdings, Ltd , a Texas limited partnership (hereinafter referred to as the Declarant")

D Article I, Section 3 of the Declaration provides that Declarant has the right at any time and from time to time to bring within the scheme of the Declaration additional properties, and further has the right to supplement or modify the Declaration as may be appropriate for such additional property

E Declarant desires to bring certain property within the scheme of the Declaration and to modify the Declaration as to said property as hereinafter set forth, and RH, as owner of said property desires to consent to such addition on the terms set forth below

NOW, THEREFORE, Declarant and RH hereby declare as follows

1 Addition to Property Subject to Declaration The following tract of land (the "**Additional Land**") is hereby added to the Properties subject to and covered by the Declaration

28.44 acres of land, more or less, as more particularly described as PARK WEST AT CIRCLE C, PHASE TWO, a subdivision in Travis County, Texas, according to the

plat thereof recorded in Volume 103, Page(s) 32-34 of the Plat Records of Travis County, Texas

2 Modification of the Declaration as to the Added Tract The Additional Land shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, charges and liens as set forth in the Declaration, provided that as the same relate to the Additional Land only, the terms and provisions of the Declaration are modified as follows

(a) Article III, Section 6 of the Declaration is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

Section 6. Commencement Date of Assessments With respect to each Lot within the Additional Land, the first annual assessment provided for herein shall commence on the date hereof

(b) Article IV, Section 10 of the Declaration is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

Section 10. Governmental Authorities Declarant, its successors and assigns, and all future Owners and their successors and assigns by their acceptance of their respective deeds, and the Association shall be bound by and subject to all applicable laws, ordinances, rules or regulations, including without limitation obtaining all permits required for the construction, erection, placement, alteration or maintenance of improvements on The Properties. No improvements or addition or change or alteration thereof shall be constructed, erected, placed, altered or maintained on The Properties, including the Common Area, which is in violation of the applicable laws, ordinances, rules or regulations of any governmental entity or agency with jurisdiction over the portion of The Properties on which such improvements are so constructed, erected, placed, altered or maintained. Notwithstanding anything to the contrary herein contained, Declarant, the Association, the Committee, RH, and their respective officers, directors, agents and employees shall have no obligation to enforce or report any violation of any such law, ordinance, rule or regulation. The approval of plans and specifications by the Committee shall not be deemed or construed to constitute a determination that such plans and specifications comply with any applicable law, ordinance, rule or regulation. The subdivision plat for the Additional Land, and plans for the construction of subdivision improvements within the Additional Land have been approved by the City of Austin, and no further approval of such plat or plans is required

Article IV of the Declaration is amended to include the following as a new Section 12

Section 12. Special Provisions Regarding Additional Land Notwithstanding anything in this Article IV to the contrary, the Architectural Control Committee shall not unreasonably withhold or delay approval of plans submitted for the construction of the initial improvements or landscaping upon any Lot within the Additional Land or any Common Area within the Additional Land

(c) Article V, Section 2 of the Declaration is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

Section 2. Minimum Square Footage Within Improvements The living area of the main residential structure located on any Lot, exclusive of porches and parking facilities, shall not be less than one thousand two hundred (1,200) square feet and not more than three thousand (3,000) square feet for the Lots within the Additional Land

(d) Article V, Section 3(b) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

b Use No manufacturing, trade, business, commerce, industry, profession, or other occupation whatsoever will be conducted or carried on in The Properties or any part thereof, or in any building or other structure erected thereon, save and except sales and construction management offices with the prior written approval of the Architectural Control Committee

(e) Article V, Section 3(h) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

h Carports, sports courts, swimming pools or storage sheds No carports, sport courts of any kind, swimming-pools, or storage sheds shall be constructed, erected or permitted to remain on any Lot without the express prior written approval of the Architectural Control Committee. Any outdoor lighting related to carports, sports courts, swimming pools, or storage sheds shall be subject to the requirements of Section 5 hereof

(f) Article V, Section 4 is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

Section 4 Minimum Setback Lines All setback lines shall be in accordance with the approved final plat(s) for the Additional Land. No structure may be placed within the setback lines, however, the following improvements are allowed within minimum setback areas

- a structures below and covered by the ground,
- b steps, walks, driveways, and curbing,
- c retaining or screening walls as approved by the Architectural Control Committee,
- d landscaping;
- e utility facilities such as underground meter boxes and check valves
- f any other improvement approved in writing by the Architectural Control Committee, provided that roofed structures other than relatively minor encroachments shall in no event be so approved

(g) The last paragraph of Article V, Section 6 is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

Notwithstanding anything herein contained to the contrary, (i) no paper or cardboard signs will be permitted on any Lot, and (ii) any and all signs, if allowed, shall comply with all applicable laws, ordinances, rules or regulations of any governmental entity or agency with jurisdiction over the portion of The Properties on which such signs are so constructed, erected, placed, or maintained

(h) Article V, Section 7(b) is hereby amended to add the following provision thereto

- iii Detailed landscape plans for all Common Areas shall be submitted to the Architectural Control Committee for review and approval. Such landscape plans shall include, but need not be limited to, land forming and berming, irrigation systems, landscape subsurface drainage systems, paving, site furnishings, decorative walls, nonstructural retaining walls and introduced vegetation, and shall be consistent with the Design Guidelines and the provisions of this Section 7, provided, the Architectural Control Committee may waive or modify any such requirement as the Architectural Control Committee may deem reasonable or appropriate. No revision or modification to such landscape plans shall be made without the prior written approval of the

Architectural Control Committee Notwithstanding the forgoing, the Architectural Control Committee confirms that the requirements for improvements and landscaping of Common Areas in the Additional Land shall be for landscaping similar to existing landscaping along La Crosse Ave west of Escarpment

(i) Article V, Section 7(e) (ii) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

- ii Required Landscaping All Owners shall be required to landscape front yards, back yards, side yards, and adjacent to building foundations Trees, shrubs, ground covers, seasonal color and turf grass shall be used in these areas to achieve the landscape intent for land use according to the Design Guidelines

Either permanent turf grass or Winter Rye shall be established in all turf areas shown on the approved landscape plan by the builder prior to the occupancy of any residence constructed on a Lot Winter Rye shall be considered a temporary measure to reduce soil erosion through the winter season Except for areas in the back yard of each residence, where sodding is not required, Winter Rye shall be completely replaced with turf grass according to the approved landscape plan by May 1 of the following year

Trees, shrubs and turf areas (as provided above) shall be planted by the builder prior to the occupancy of any residence constructed on a Lot, the season notwithstanding

Note Refer to Screening Section 8 of Article V for required landscaping for screening situations

(j) Article V, Section 7(e) (iv) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

- iv Required Trees The land use listed below shall be landscaped with the following numbers of shade trees The shade trees shall be no smaller in size than 3" caliper

<u>Land Use</u>	<u>Required Number of Trees</u>
Single Family	Two per front yard within 10' 0" of Right-of-Way (Four for corner lots, two on the front and two on the side)

(k) The last paragraph of Article V, Section 7 is hereby deleted in its entirety

(l) Article V, Section 8 (c) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

e Fences The Owner of each Lot upon which a residential structure has been constructed (or is under construction) shall construct or cause to be constructed, at such Owner's expense, a privacy fence along the rear and side Lot lines, the materials and location of which shall be subject to approval by the Architectural Control Committee Wood, masonry, and wrought iron are all acceptable fencing materials All fencing along LaCrosse shall be masonry as approved by the Architectural Control Committee Cost of construction and maintenance of fences along common Lot lines may be shared by the Owners of adjacent Lots; however, each such Owner shall be fully liable for the construction and maintenance of fences along the rear and side Lot lines of his respective Lot

(m) Article V, Section 9(a) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

a Roofs No roofing materials shall be used within the Additional Land without the prior written approval of the Architectural Control Committee. Minimum roof pitch allowed for the single-family residential structures shall be a 4:12 pitch. Tile roofs shall be required for all homes. Any variance by the Architectural Control Committee for roofs must be approved by RH.

(n) Article V, Section 9(b) is hereby amended to delete the first sentence thereof in its entirety, and to substitute the following in its place and stead

Exterior building materials and colors (including garage doors and trim) must be approved by the Architectural Control Committee and RH.

(o) Article V, Section 9(b)(iii) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

iii Exterior masonry wall surface materials shall be limited to stone and/or stucco. Any change or variation from this requirement must be approved by RH and the Architectural Control Committee.

(p) Article V, Section 9 (b) (iv) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

iv The exterior walls of all residential structures constructed on any Lot within the Additional Land must have a minimum of 100% masonry coverage on all sides (exclusive of windows, eaves, soffits and doors), unless a reduction in such requirement is approved in writing by the Architectural Control Committee and RH.

(q) Article V, Section 9(b) (vi) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

vi No above level swimming pool shall be installed on any lot. Any swimming pool shall be designed, engineered, constructed and maintained in compliance with all applicable laws, ordinances, rules, regulations and permit requirements of any governmental entity or agency with jurisdiction over the portion of The Properties on which such pool is so constructed and maintained.

(r) Article V, Section 9(e) (ii) is hereby deleted in its entirety, and the following is substituted in the place and stead thereof

ii All telephone, electric, cable, or other service lines shall be installed underground and shall comply with all applicable laws, ordinances, rules, regulations and permit requirements of any governmental entity or agency with jurisdiction over the portion of The Properties on which such lines are so installed and maintained and the requirements of the entities providing such service. Control boxes, service boxes, transformers or other above-ground installations shall have landscaping around such installations.

(s) Article V of the Declaration is hereby amended to add the following thereto

Section 10. No Access from Greenbelt Access to and from the Lots through, over or across the portion of the Additional Land designated as a "Drainage Easement, Greenbelt, Park, Common Area or PUE" on the plat of the Additional Land is prohibited without the express prior written approval of the owner of such Drainage Easement, Greenbelt, Common Area, Park or PUE and the Architectural Control Committee, which approval may be subject to

such terms, provisions and conditions as such owner and/or the Architectural Control Committee may determine

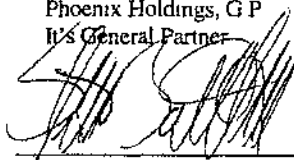
- (l) Article VIII, Section 2 is hereby amended to add the following thereto

Notwithstanding the foregoing, the terms, provisions, covenants, restrictions, conditions, charges and liens set forth herein (but not as to any other provision of the Declaration) may be amended, modified, or terminated, in whole or in part, and the Additional Land may be withdrawn entirely from the Declaration, at any time by the joint approval of Declarant, RH (For so long as RH owns any of the Additional Land), and the Owner(s) of at least ninety percent (90%) of the Lots within the Additional Land, if any. Any such amendment, modification, termination, or withdrawal shall become effective when an instrument executed by Declarant, RH (for so long as RH owns any of the Additional Land) and/or the requisite number of Owner(s) of any Lots within the Additional Land is filed for record in the Real Property Records of Travis County, Texas

3 In consideration of the benefits to the Additional Land and the subsequent owners thereof as a result of being brought within the scheme of the Declaration, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RH has joined in this Thirty-Fourth Amendment to confirm and declare that it has consented to and approved, and does hereby consent to and approve, the addition of the Additional Land to the Properties covered by the Declaration, on and subject to the terms and provisions of this Amendment, does further declare that the Additional Land shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, charges and liens as set forth in the Declaration, provided that as the same relate to the Additional Land, the terms and provisions of the Declaration are modified as set forth in this Amendment, and does further hereby in all respects adopt, confirm, ratify and approve this Amendment. Additionally, and for the consideration expressed and acknowledged by RH hereinabove, RH confirms and declares that the Additional Property is encumbered by, and is subject to, all terms and conditions of that one certain Post-Closing Agreement dated July 2, 1996, as referenced in the Memorandum of Post-Closing Agreement of even date therewith, recorded in Volume 12721, Page 1471, Real Property Records of Travis County, Texas, and as amended by First Amendment to the Post-Closing Agreement dated August 7, 1998, (the "Post-Closing Agreement") and that RH will perform all obligations and requirements as provided as amended therein, including but not limited to the obligation of RH, as a successor in interest to the Buyer under the Post-Closing Agreement, to dedicate the right-of-way for La Crosse Avenue as a public street, all as more particularly provided for in the Post-Closing Agreement. Notwithstanding the foregoing, Declarant confirms that as of the date hereof, RH has performed, or caused to be performed, all obligations of RH under the Post-Closing Agreement other than (i) dedication of the right-of-way for La Crosse Avenue, (ii) conveyance of Lot 104, Block "A", of the Additional Land to the Association, and (iii) construction of a masonry wall within Lot 104, Block "A" of the Additional Land, in accordance with Paragraph 5 of the Post-Closing Agreement. Regardless of when said obligations were or are performed, Declarant hereby waives and/or releases any claim for damages (including without limitation lost profits, time value of money, and/or attorney's fees) arising out of any failure by RH to perform such obligations within any time frame stated in the Post-Closing Agreement. Declarant specifically acknowledges (A) that the Buyer Infrastructure Improvements were not completed by December 31, 1999, and waives and releases any claim of loss or damage arising from such failure to complete by Buyer Infrastructure by that date, (B) that an Amendment to the Declaration to include the Additional Land was not to executed and delivered within five (5) days after a final plat for the Additional Land was approved, and waives and releases any claim of loss or damage arising from such failure by RH or RH's predecessor in interest to execute and deliver such an Amendment by that date, and (C) that the street deed for a ~~2.33~~ ^{2.071} acre portion of the section of La Crosse Avenue that is described in the Post-Closing Agreement is being delivered concurrently with the execution of this Agreement and waives and releases any claim of loss or damage arising from any claimed failure of RH to timely deliver such deed. Any remaining portions of La Crosse Avenue as described in the Post-Closing Agreement that are owned by RH will be dedicated by RH to the City of Austin through a street deed within 30 days of a written request made by the Declarant or any other party authorized by Declarant to make such a request.

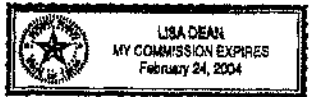
EXECUTED this the 6th day of October, 2000

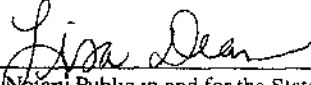
PHOENIX HOLDINGS, LTD.
a Texas limited partnership

By Phoenix Holdings, G P
It's General Partner

By _____
Steve Bartlett, Vice President

STATE OF TEXAS §
 §
 §
COUNTY OF TRAVIS

This instrument was acknowledged before me on the 6th day of October, 2000, by Steve Bartlett, Vice-President of Phoenix Holdings, G P , Inc., a Texas Corporation as General Partner of Phoenix Holdings, Ltd, a Texas limited partnership on behalf of said partnership





Notary Public in and for the State of Texas

RH Development/Park West CC, Inc ,
a Texas corporation

By 

Wesley J Peoples, Vice President

THE STATE OF TEXAS §
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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 9th day of October, 2000 by Wesley Peoples, Vice President of RH Development/Park West CC, Inc , a Texas corporation



NOTARY PUBLIC, State of Texas



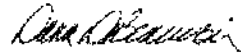
AFTER RECORDING, RETURN TO:

~~Steve Bartlett
Circle C Homeowners Association
1111 West 41st Street
Austin, Texas 78703~~

RETURN TO ALAMO TITLE

RETURN TO ALAMO TITLE

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



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DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS