



**AMENDMENT OF RESTRICTIVE COVENANT**  
**FOR**  
**ZONING CASE: C14-86-300**

OWNER: 1) HOME DEPOT U.S.A., INC., a Delaware corporation  
2) SAINT EDWARD'S UNIVERSITY, INC.  
3) BROTHERS OF THE HOLY CROSS OF TEXAS

ADDRESS: 1) 2800 Forest Lane, Dallas, Texas 75234, Attention: Legal Department  
2) 3001 S. Congress Ave., Austin, Texas 78704, Attention: David A. Dickson  
3) c/o 3001 S. Congress Ave., Austin, Texas 78704, Attn: David A. Dickson

CITY: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

CITY COUNCIL: The City Council of the City of Austin.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, Home Depot U.S.A., Inc., a Delaware corporation ("Home Depot"), Saint Edward's University, Inc. and Brothers of the Holy Cross of Texas, a Texas non-profit corporation, as owners of all that certain property described in Zoning File No. C14-86-300, consisting of approximately 183 acres of land (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Volume 10787, Page 344 (the "Restrictive Covenant") imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record; and,

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council and (b) the Owners of the Property at the time of such modification, amendment or termination; and,

WHEREAS, HOME DEPOT is the current owner of the Property identified as Tract 1 in the Restrictive Covenant on the date of this Amendment and desires to amend the Restrictive Covenant; and,

WHEREAS, the City Council and the Owners agree the Restrictive Covenant should be amended as to Tract 1 only;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreements hereinafter set forth, the City of Austin and the Owners, agree as follows:

1. Section 3 is amended to permit Construction Sales and Services and Plant Nursery use on the property identified as Tract 1.
2. The conditions imposed by Section 10 do not apply to Tract 1.

3. Section 11 is amended as to Tract 1 as follows:

If any person or entity shall attempt to amend this agreement and covenant, the Owners, at their own expense, agree to notify all the person or persons owning real property within the Sherwood Oaks Subdivision and the property owners along Woodward Street between South Congress and IH-35, and the designated representative of a neighborhood association registered with the City of Austin whose boundaries include the Property, at least 45 days before presentation of the proposed amendment to any city body, including the Planning Commission, by U.S. Mail as per current ownership list available from the Travis County Tax Appraisal District, not included in any required notice by the City of Austin.

4. Section 12 of the covenant is amended as to Tract 1 as follows:

If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, and the South River City Citizens (the "SRCC"), to prosecute proceedings at law or in equity, against such persons or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions, and to collect damages for such actions. If the City chooses not to prosecute, the SRCC would not be required to post a bond in a preliminary injunction if the SRCC proves a violation.

5. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.

6. The City Manager, or his designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No. C14-86-300, as authorized by the City Council of the City of Austin. This Amendment of Restrictive Covenant for Zoning File No. C14-86-300 shall be filed in the Real Property Records of Travis County, Texas.

EXECUTED to be effective the 19<sup>th</sup> day of July, 2000.

**OWNERS:**

*RD*

**HOME DEPOT U.S.A., INC.,**  
a Delaware corporation

By: *[Signature]*

Printed Name: B. A. Smith

Title: Sr. V.P. / Corp. Secretary

JUL 19 2000

**SAINT EDWARDS UNIVERSITY, Inc.** *ED*

By: *[Signature]*

David A. Dickson, Jr.

Vice President for Financial Affairs

BROTHERS OF THE HOLY CROSS OF TEXAS

By: Richard Criss  
Printed Name: RICHARD CRISS  
Title: PROVINCIAL

CITY OF AUSTIN:

By: Marcia L. Conner  
MARCIA L. CONNER,  
ASSISTANT CITY MANAGER  
CITY OF AUSTIN

STATE OF ~~TEXAS~~ Georgia §  
COUNTY OF ~~TRAVIS~~ Cobb §

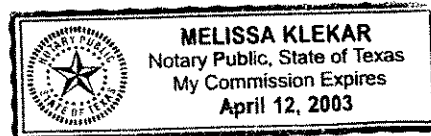
This instrument was acknowledged before me on this the 19th day of July, 2000, by Larry A. Smith, Sr. V.P./Corp. Secretary of HOME DEPOT U.S.A., INC., a Delaware corporation, on behalf of said corporation.



Glenda M. Wiggins  
Notary Public, State of ~~Texas~~ Georgia

STATE OF TEXAS §  
COUNTY OF TRAVIS §

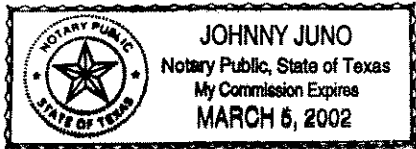
This instrument was acknowledged before me on this the 12th day of July, 2000, by David A. Dickson, Jr., Vice President of Financial Affairs for SAINT EDWARD'S UNIVERSITY, on behalf of said university.



Notary Public, State of Texas  
Melissa Klekar

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

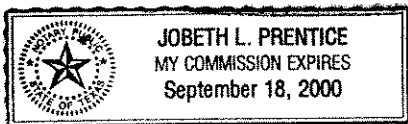
This instrument was acknowledged before me on this the 12<sup>th</sup> day of July, 2000, by Richard CRITZ, PROVINCIAL of BROTHERS OF THE HOLY CROSS OF TEXAS, a Texas non-profit corporation, on behalf of said non-profit corporation.



Johnny Juno  
Notary Public, State of Texas

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on this the 25<sup>th</sup> day of July, 2000, by Marcia L. Conner, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.



Jobeth L. Prentice  
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

CITY OF AUSTIN LAW DEPARTMENT  
P.O. BOX 1546  
AUSTIN TX 78767-1546  
ATTN: DIANA MINTER, PARALEGAL

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

Dana Debeauvoir  
08-01-2000 12:57 PM 2000120723  
RYCZEK \$15.00  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS