

STATE OF TEXAS           §  
                                     §  
COUNTY OF LUBBOCK   §

**PERFORMANCE AGREEMENT**

This Performance Agreement (the "Agreement") is made effective on August 28th, 2026 ("Effective Date"), by and between LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC., a Texas nonprofit corporation (hereinafter referred to as "LEDA") and AMBROSE SERVICES, LLC, a for profit Indiana limited liability company, and AMS 2027 BTS – Lubbock TX, LLC, a Delaware limited liability company, (hereinafter referred to as "Recipients"), by and through their duly authorized officers and affiliate organizations under the terms and conditions that follow. LEDA and Recipients may collectively be referred to as the "Parties."

1. **Applicable Law:** It is understood by and between the parties that the term "Act," as used herein, is intended to mean the Development Corporation Act of 1979, as amended. (Sec. 501.001 *et seq.*, Local Government Code, formerly Sec 5190.6, VACS). The parties hereto covenant and agree to comply with the terms of the Act as set forth in this Agreement.
2. **Parties:**
  - A. LEDA, a Texas non-profit corporation as well as a tax exempt 501(c)4 entity, was created by the City of Lubbock, Texas, as an Industrial Development Corporation under the Act for the purpose of creating and retaining positions and encouraging new businesses to be established in Lubbock, Texas, to stimulate business and commercial activities, as well as all other purposes allowed by the Act.
  - B. Contingent on the Closing of the Purchase and Sale Agreement (each as hereafter defined), Recipients are preparing a new Project which shall include the construction of a new approximately 100,000 square foot distribution facility located in Lubbock Business Park (NAICS 493110, General Warehousing and Storage). Total capital investment for this Project is expected to be approximately \$12,000,000. The tenant of this facility anticipates investing an additional \$2,000,000 in personal property and equipment and creating approximately thirty (30) new jobs in the City of Lubbock.
  - C. Recipients are for-profit limited liability companies authorized to do business in Texas.
3. **Purpose:** The purpose for this agreement is to formalize the agreements between LEDA and Recipients for the conveyance of certain real property associated with Recipients' Project and specifically state the covenants, representations of the parties, and the incentives associated with Recipients' commitment to abide by the provisions of the Act

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and to abide by the terms of this Agreement which has been approved by the Board of Directors of LEDA as complying with the specific requirements of the Act. It is expressly agreed that this Agreement and the Purchase and Sale Agreement together constitute a single transaction and that Recipients' development, milestone, payback, reversion, and other performance obligations under this Agreement are expressly conditioned upon the Closing (as defined in the Purchase and Sale Agreement) and the conveyance of the Property to Recipients. No failure by Recipients to close under the Purchase and Sale Agreement, and no termination of the Purchase and Sale Agreement before Closing, shall constitute a default or trigger any payback, reversion, liquidated damages, forfeiture, or other remedy under this Agreement.

**4. Definitions:**

- A. The "Act" shall refer to the Development Corporation Act of 1979, as amended, as Sec. 501.001 *et seq*, Local Government Code, formerly Sec 5190.6, VACS.
- B. "AMS" means AMS 2027 BTS – Lubbock TX, LLC, a Delaware limited liability company, which, for clarity, is one of the Recipients.
- C. "Closing" shall mean the closing of the conveyance of the Property to AMS under the Purchase and Sale Agreement.
- D. "LEDA" shall refer to Lubbock Economic Development Alliance, Inc. a Texas non-profit corporation, created by the City of Lubbock as an "Industrial Development Corporation", pursuant to the Act.
- E. "LEDA Delay" means any delay in Recipients' performance of their obligations herein caused by the actions or omissions of LEDA and beyond the reasonable control of Recipients.
- F. "Measurement Dates" shall mean the dates upon which the determination is made as to whether Recipients are in compliance with this Agreement. The Measurement Dates shall be:
  - 1. One hundred and eighty (180) days following the Effective Date of this Agreement (the "First Measurement Date");
  - 2. Twelve (12) months following the recording of the Special Warranty Deed in Lubbock County, Texas (the "Second Measurement Date");
  - 3. Eighteen (18) months following the recording of the Special Warranty Deed in Lubbock County, Texas; the ("Third Measurement Date"); and
  - 4. Thirty-six (36) months following the recording of the Special Warranty Deed in Lubbock County, Texas the ("Fourth Measurement Date").

Notwithstanding anything to the contrary contained in this Agreement, for the purpose of this definition of Measurement Dates, the term "recording of the Special

Warranty Deed” shall mean the earlier to occur of (i) the date the Deed is actually recorded in the Official Public Records of Lubbock County, or (ii) the date that is ten days following the Closing Date as that term is defined in the Purchase and Sale Agreement defined below.

- G. “Payback Provisions” shall mean Recipients’ repayment and property reversion obligations as described in Section 9 herein.
- H. “Project” shall refer to the project identified in Section 2B.
- I. “Property” is defined as approximately ten (10) acres in the Lubbock Business park as identified in the Purchase and Sale Agreement, Exhibit B to this Agreement (the “Purchase and Sale Agreement”).
- J. “Purchase and Sale Agreement” means that certain Purchase and Sale Agreement to be entered into concurrently herewith by and between LEDA and AMS, the form of which is attached hereto as Exhibit B.
- K. “Recipients” shall refer to AMBROSE SERVICES, LLC, and AMS 2027 BTS-Lubbock, TX, LLC, both for-profit limited liability companies authorized to do business in Texas.
- L. “Recipient Request” may include the identification of the cost of the project by Recipients to the facility or other purpose within Section 2(4) of the Act.
- M. “Term” as used herein shall begin with the Effective Date of this Agreement and shall terminate upon LEDA’s verification that the minimum required capital investment to earn the incentive has been achieved but not later than four (4) years after the Effective Date, unless earlier terminated in accordance with this Agreement. Notwithstanding anything to the contrary, Recipients’ development, milestone, payback, reversion, and other performance obligations shall not commence unless and until Closing occurs, and if the Purchase and Sale Agreement is terminated for any reason before Closing, this Agreement shall automatically terminate without penalty, default, payback, reversion, liquidated damages, forfeiture, or other liability to Recipients, except for any obligations expressly stated to survive termination.

##### **5. Representations of Recipients:**

- A. Recipients represent that, if Closing occurs, they will utilize the conveyed Property for the development of the facility involved and associated with the Project contemplated herein.
- B. Recipients represent that they are authorized to do business in Texas and have authorization to enter into this Agreement on their behalf.
- C. Recipients represent that they have sought from LEDA economic assistance in connection with Recipients’ Project.

- D. Recipients represent that they have conferred with attorneys of their own choosing and are fully knowledgeable of the terms of the Act and understand the reporting requirements of the Act, as well as all conditions precedent and subsequent as required to be eligible for the Property offered by LEDA, including the Payback Provisions as outlined in Section 9 herein.
- E. Recipients represent that they acknowledge that any failure to perform reporting requirements may trigger only the remedies expressly set forth in Section 9, and only following Closing, written notice, and expiration of all applicable cure periods.
- F. Recipients understand and agree that any variations as to any term of this Agreement or any terms or conditions of the incentive as stated must be mutually agreed to in written supplements or addenda. No oral agreements, amendments, or representations will be binding on either party.
- G. Recipients represent that they understand the Payback Provisions set forth herein.

**6. Representations by LEDA:**

- A. LEDA represents that it is established as an Industrial Development Corporation under the Act and further represents that Recipients' Project and the costs applied toward Recipients' Project as stated in this Agreement have been found by the Board of Directors of LEDA, sitting as fact finders, to be in compliance with the requirements and purposes of the Act, the provisions of LEDA's charter, as well as for the benefit of the City of Lubbock, Lubbock County, Texas, and the trade area.
- B. LEDA represents that it has authority to enter into this Agreement. LEDA understands and agrees that any variation in terms of this Agreement, the incentive offered to Recipients, or the commitment made by Recipients will only be binding if mutually agreed to in writing.
- C. LEDA represents that the grant and conveyance of the Property for no monetary consideration is a lawful and enforceable transaction under all applicable laws.
- D. LEDA and its representatives agree to maintain confidentiality of all of Recipients' records to the extent allowable by applicable laws.

**7. Incentives:**

**A. Conveyance of Real Property:**

- 1. Upon Closing, LEDA shall grant and convey to Recipients the SURFACE ESTATE of approximately 10.813 acres of land, planned to be platted as future lot 18 of the Lubbock Business Park, as identified by the Special Warranty Deed and described within Exhibit A and pursuant to the terms

and conditions as set forth in the Purchase and Sale Agreement, attached as Exhibit B.

2. The value of the Property at the time of conveyance is stipulated to be \$1,300,000 based on the value of \$130,000 for each full acre of land. Subject to the provisions set forth in this Agreement, including the Conditions for Conveyance of Real Property in Section 8 and the Payback Provisions in Section 9, it is acknowledged and agreed that the Property will be conveyed to Recipients for no monetary consideration.
3. If Closing has not occurred on or before the First Measurement Date and the Purchase and Sale Agreement has not been extended by the parties thereto, either Party may terminate this Agreement by written notice without penalty, default, payback, reversion, liquidated damages, forfeiture, or other liability except as specifically contemplated by the Purchase and Sale Agreement. Following Closing, Recipients shall use commercially reasonable efforts to cause the Special Warranty Deed to be duly recorded in the Official Public Records of Real Property of Lubbock County, Texas no later than ten (10) days following the Closing Date as that term is defined in the Purchase and Sale Agreement and to provide evidence of such recording to LEDA within five (5) days following such recording. LEDA will reasonably cooperate with Recipients and any closing agent to facilitate timely Closing and recording, and failure to satisfy the foregoing recording evidence requirement shall be subject to the notice and cure provisions of this Agreement before any remedy may be pursued.
4. Intentionally omitted.
5. The Property will be conveyed subject to the following right of reversion, which will be incorporated by reference in the Special Warranty Deed:
  - i. It is expressly agreed that Recipients shall:
    - a. Commence site development activities on the Property by the Second Measurement Date, subject to Force Majeure and LEDA Delay; and
    - b. Commence construction of the facility by the Third Measurement Date, subject to Force Majeure and LEDA Delay; and
    - c. Obtain a Certificate of Occupancy from the City of Lubbock, Texas by the Fourth Measurement Date, subject to Force Majeure and LEDA Delay.
  - ii. If Recipients fail to meet the requirements of Section 7(A)(5)(i), LEDA shall have the following remedies, and only if LEDA first

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delivers written notice specifying the alleged failure in reasonable detail and Recipients fail to cure such alleged failure within thirty (30) days after receipt of such notice:

- a. If Recipients fail to meet the requirements of Sections 7(A)(5)(i)(a) or 7(A)(5)(i)(b) and such failure continues after the notice and cure required by Section 7(A)(5)(ii), as LEDA's sole and exclusive remedy for such failure, LEDA may require that Recipients convey the Property to LEDA within thirty (30) days after written request from LEDA free and clear of liens and encumbrances created by Recipients other than those (1) construction, utility, or access easements created in the ordinary course of site development, or (2) caused by LEDA. Notwithstanding the foregoing, Recipients may, at Recipients' sole option and in lieu of conveying the Property to LEDA, pay LEDA the sum of \$1,300,000 (the "Liquidated Damages") within thirty (30) days after LEDA's written request to convey the Property, and such sum shall constitute liquidated damages in full satisfaction of Recipients' failure hereunder. After the conveyance of the Property to LEDA or the payment of the Liquidated Damages to LEDA, as applicable, this Agreement shall automatically terminate, and neither party shall have any further obligations hereunder.
- b. If Recipients fail to meet the requirements of Section 7(A)(5)(i)(c) and such failure continues after the notice and cure required by Section 7(A)(5)(ii), as LEDA's sole and exclusive remedy for such failure, Recipients shall pay LEDA the Liquidated Damages as liquidated damages, and not as a penalty, within thirty (30) days after a final written demand from LEDA.

iii. For the purposes of this Section 7:

- a. Commencement of site development activities shall mean the initiation of physical, on-site work necessary to prepare the Property for vertical construction of the Project, including, at a minimum, the mobilization of equipment and personnel and the start of observable grading, clearing, excavation, installation of temporary erosion or stormwater controls, or extension of on-site utilities pursuant to approved plans and permits. Activities limited solely to surveying, staking, testing, permitting, planning, or other off-site or administrative work shall not, standing alone, constitute commencement of site development activities.

- b. Commencement of construction of the facility shall mean the initiation of construction of the primary building or structure comprising the Project, evidenced by any vertical construction and/or the pouring of concrete footings or foundations following completion of site preparation. Preparatory activities that do not include vertical construction or foundation work, including stockpiling of materials or delivery of equipment without foundation installation, shall not constitute commencement of construction.
- iv. Recipients shall satisfy any milestone by delivering to LEDA reasonable evidence of achievement, which may include photographs, permits, notices to proceed, contractor mobilization records, construction schedules, invoices, lien waivers, architect, engineer, general contractor or project manager certifications, City records, utility correspondence, documentation of submittal to any governmental authorities where applicable, or other customary project documentation (such materials, collectively, when delivered to LEDA in writing, the "**Milestone Satisfaction Submission**"). Within thirty (30) business days after receiving the Milestone Satisfaction Submission in writing from Recipients, LEDA shall either confirm satisfaction of the applicable milestone or deliver a written objection describing with specificity any objective deficiencies, which objections shall be made, if at all, in LEDA's commercially reasonable discretion. If LEDA does not deliver such objection within thirty (30) business days after receipt of the Milestone Satisfaction Submission, the applicable milestone shall be deemed satisfied.
- v. With respect to Section 7(A)(5)(i)(c), if Recipients have completed all work required for a Certificate of Occupancy and have timely applied for required inspections or issuance (meaning that Recipients have submitted all application materials and payments to the relevant governmental authority or authorities at least forty-five [45] days prior to the Fourth Milestone Date), but issuance is delayed or withheld due solely to the delay of such governmental authorities' review and response, the Fourth Measurement Date shall be extended until the applicable governmental entity responds to Recipients' application.
- 6. Recipients acknowledge that the Property is currently subject to the covenants, restrictions, and rules of the Lubbock Business Park recorded at Document No. 2007000124 of the Official Public Records of Lubbock County, Texas as amended under Clerk's File No. 2007031921, of the Official Public Records of Lubbock County, Texas, subject to variance set forth by instrument recorded under Clerk's File No. 2007048156, of

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the Official Public Records of Lubbock County, Texas; as amended by the Second Amended Declaration recorded under Clerk's File No. 2011022487, of the Official Public Records of Lubbock County, Texas; as modified by instruments recorded under Clerk's File No. 2010033886 and Clerk's File No. 2018046768, of the Official Public Records of Lubbock County, Texas (collectively, "Restrictions of Lubbock Business Park"), attached hereto as Exhibit C.

7. It is understood that the Property may only be used in a manner that satisfies the Restrictions of the Lubbock Business Park. Further, the Property may only be used in a manner that is included in one of the North American Industry Classification System sectors described in Section 501.002(12) of the Texas Local Government Code in effect on the date of this Deed or as such list of sectors may be expanded from time-to-time; and described in Section 501.101(2) of the Texas Local Government Code in effect on the date of this Deed or as such list of sectors may be expanded from time-to-time. These use restrictions shall be restrictions contained in the deed from LEDA to Recipients and shall run with the land.
8. LEDA shall have the right of first refusal described in this Section 7(A)(8) (the "**ROFR**") during the period commencing on the date of Closing and expiring on the earlier of (a) the consummation of the first sale of the Property to which this Section 7(A)(8) applies, (b) the date that Recipients obtain a Certificate of Occupancy from the City of Lubbock (as defined at Section 7(A)(5)(iii)); and (c) the date that is three (3) years after the date of Closing (the "**ROFR Period**"). The ROFR shall be subject to the following provisions:
  - i. Triggering Sale. If, during the ROFR Period, AMS desires to accept a bona fide written offer from an unrelated third party for the voluntary sale of all of AMS's fee interest in the Property (a "**Third-Party Offer**"), AMS shall deliver written notice to LEDA (a "**ROFR Notice**") identifying the material terms of the Third-Party Offer, including purchase price, deposit, contingencies, and closing date, together with a copy of the Third-Party Offer (which may include reasonable redactions) or other reasonably sufficient evidence of such terms.
  - ii. Election. LEDA may elect to purchase the Property on the same material terms and conditions set forth in the ROFR Notice by delivering written notice to AMS within thirty (30) days after LEDA's receipt of the ROFR Notice. LEDA's election must be unconditional, except for conditions expressly included in the Third-Party Offer, and if LEDA fails to timely deliver an election notice, LEDA will be deemed to have waived the ROFR with respect to the Third-Party Offer.

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- iii. Closing with LEDA. If LEDA timely and validly exercises the ROFR, AMS and LEDA shall proceed to closing on the terms set forth in the ROFR Notice, with the closing to occur on the later of (a) the closing date stated in the Third-Party Offer, and (b) thirty (30) days after LEDA's election, unless the parties otherwise agree in writing.
- iv. Permitted Third-Party Sale. If LEDA does not timely and validly exercise the ROFR, AMS may sell the Property to the proposed purchaser or its affiliate without re-offering the Property to LEDA so long as the sale closes within one hundred eighty (180) days after the expiration of LEDA's election period or LEDA's earlier written waiver, and the purchase price is at least ninety-five percent (95%) of the purchase price stated in the ROFR Notice. A sale satisfying the preceding sentence may be consummated on other terms that are not materially more favorable to the purchaser, taken as a whole, than the terms described in the ROFR Notice.
- v. Re-Offer. If AMS does not close the proposed sale within the one hundred eighty (180) day period, or if AMS proposes to close at a purchase price less than ninety-five percent (95%) of the purchase price stated in the ROFR Notice, then AMS must deliver a new ROFR Notice and again comply with this Section 7(A)(8) before consummating any sale, unless the ROFR has expired or otherwise terminated.
- vi. Excluded Transfers. The ROFR shall not apply to any transfer to US Venture, Inc. dba U.S. AutoForce ("USAF"); any parent or affiliate of USAF or any entity under common control with USAF; any parent or affiliate of AMS or any entity under common control with AMS; any internal reorganization or merger of AMS or any transfer of direct or indirect ownership interests in AMS or its affiliates; any financing, mortgage, deed of trust, foreclosure, deed in lieu of foreclosure or transfer to or by a lender or its designee; or any portfolio sale, any lease or occupancy arrangement, any easement or similar non-fee interest, or any transfer of less than the entire Property.
- vii. Termination. The ROFR shall automatically terminate and be of no further force or effect upon the earliest of (a) consummation of a sale of the Property permitted under this Section 7(A)(8), whether to Seller or to a third party, (b) expiration of the ROFR Period, and (c) Seller's written release of the ROFR. In the event the ROFR Period has expired or the ROFR has otherwise terminated, LEDA shall confirm the same in writing to AMS within ten (10) days of written request from AMS.

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9. AS IS PROVISION. The Property will be conveyed to Recipients subject to the "as is" provision contained in the Special Warranty Deed, the agreed form of which is attached as Exhibit C to the Purchase and Sale Agreement, which provision will be in the Special Warranty Deed.

THIS CONVEYANCE IS AN ARMS-LENGTH CONVEYANCE BETWEEN THE PARTIES. THE CONVEYANCE WAS BARGAINED ON THE BASIS OF AN AS IS, WHERE IS TRANSACTION AD REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY STATED IN THIS DEED AND LEDA'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE PERFORMANCE AGREEMENT AND THE PURCHASE AND SALE AGREEMENT BETWEEN THE PARTIES (COLLECTIVELY, THE "TRANSACTION AGREEMENTS").

EXCEPT FOR THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY STATED IN THIS DEED AND LEDA'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE TRANSACTION AGREEMENTS, THE PROPERTY IS CONVEYED TO GRANTEE IN AN AS IS, WHERE IS CONDITION WITH ALL FAULTS. ALL WARRANTIES ARE DISCLAIMED, EXCEPT THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY IN THIS DEED AND LEAD'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE TRANSACTION AGREEMENTS.

GRANTEE SPECIFICALLY ACKNOWLEDGES THAT BY ACQUIRING THE PROPERTY, GRANTEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM LEDA, ITS AGENTS, OR BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY, OTHER THAN THOSE SET FORTH IN THIS DEED AND IN THE TRANSACTION AGREEMENTS.

8. **Conditions for Conveyance of Real Property:** It is specifically agreed and understood by and between the parties that LEDA has agreed to make the incentives available to Recipients strictly upon the following terms and conditions:

- A. Any use of LEDA's name for publicity in connection with Recipients' business or activities must be approved in advance by LEDA. It is understood that LEDA may make known its contributions to Recipients in whatever public manner LEDA deems appropriate.

- B. Recipients shall have delivered to LEDA reasonable evidence of their authority for the execution and performance of this Agreement, as well as timely delivery of all other information expressly called for in this Agreement.
- C. Following Closing and subject to Force Majeure and LEDA Delay, Recipients must actively pursue the construction of the Project to the extent contemplated by Section 7(A)(5)(i) of this Agreement and must maintain for the duration of the Term legal status under federal and state law such that each Recipient remains qualified to do business in the State of Texas.
- D. For the duration of this Agreement, the operations or activities of Recipients and their employees shall be performed and conducted in a professional businesslike manner and shall be in keeping with federal and state laws and regulations, and any ordinances of the City of Lubbock and/or governmental entities which may have jurisdiction over Recipients' operations and activities.
- E. Recipients certify that the Recipients do not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, any of the Recipients are convicted of a violation under 8 U.S.C. § 1324a(f), Recipients shall repay the amount of the public subsidy provided under this Agreement (which amount, for clarity, equals the Liquidated Damages), with interest at the legal pre-judgment interest rate, with reasonable attorney's fees, not later than the 120<sup>th</sup> day after the date LEDA notifies Recipients of the violation.
- F. Any information obtained by LEDA or its agents or assigns during negotiations leading up to the execution of the Agreement or otherwise about the business, has or will be returned upon the execution of this Agreement, subject to a right to a continuing examination by LEDA in order to comply with LEDA's legal reporting obligations, if any.
- G. Following Closing, Recipients shall, in good faith and following reasonable prior written request, engage in a confidential review and examination of material records with LEDA and LEDA's third-party accountants, limited to records evidencing the capital investment, certificate of occupancy, and any other requirements under this Agreement. If Recipients fail to provide the documentation reasonably necessary to complete such review by the stated deadlines, the Payback Provisions in Section 9 may be triggered pursuant to the terms set forth in Section 9.
- H. Recipients shall not permit or allow any lien or other encumbrance of any kind to be placed on the Property except those related to and incurred for the financing, development, construction, or installation of real or personal property improvements comprising the Project contemplated under this Agreement. Recipients agree to timely pay all taxes on the Property during the Term.

- I. Recipients agree to comply with all Texas sales and use tax laws regarding the purchase, use and storage of personal property and other applicable expenditures associated with this Project and its location.

**9. Payback Provisions and Events of Default:**

- A. Recipients acknowledge that LEDA and Recipients are required to remain in conformance with the statutory provisions of the Act. Following Closing, no default shall exist, and LEDA may not exercise any remedy, unless LEDA first delivers written notice specifying the alleged failure in reasonable detail and Recipients fail to cure within the applicable cure period. In the event no cure period is specified, then the cure period shall be deemed to be thirty (30) days. LEDA may exercise only the remedies expressly provided in this Agreement, and such remedies shall be sole and exclusive and subject to the limitations set forth herein. In the event a particular remedy is not otherwise specifically set forth for the applicable Recipients' failure, then LEDA's sole remedies shall be to (i) seek specific performance, (ii) seek an injunction, or (iii) require Recipients to pay the Liquidated Damages.
- B. In addition to the other provisions for default contained in this Agreement, subject to the occurrence of Closing, the following provisions shall apply:
  - i. Recipients provided to LEDA an estimated capital investment of \$12,000,000 to be expended in the form of real and personal property improvements for this Project. LEDA based its decision to grant the incentive to Recipients partly upon such capital investment. In light of this, Recipients must spend an actual capital investment amount no less than \$9,600,000, representing 80% of the stated estimated capital investment and considered the minimum capital investment required to earn the incentive, by the Fourth Measurement Date, subject to Force Majeure and LEDA Delay. Capital investment will be measured by documentation of construction or personal property purchase invoices to be provided to and verified by LEDA or LEDA's third-party accountant, in each case acting reasonably. If LEDA or its third-party accountant does not deliver a written objection describing specific objective deficiencies within thirty (30) days after receipt of such documentation, the capital investment requirement shall be deemed satisfied.
  - ii. If adequate documentation of the capital expenditures is not provided to LEDA or LEDA's third-party accountants within sixty (60) days following the date the Certificate of Occupancy is issued by the City but in no case later than thirty-eight (38) months following the recording date of the Special Warranty Deed, subject to Force Majeure and LEDA Delay, then, LEDA may send written notice to Recipients alleging a default of Recipients' capital

investment requirement as contemplated at Section 9(B)(i), and Recipients shall have thirty (30) business days from the date of such notice to provide the Investment Information. If, after the expiration of the foregoing thirty (30) business day cure period, Recipient has still not provided adequate documentation of the capital expenditures, as LEDA's sole and exclusive remedy for such failure, Recipients shall pay LEDA the Liquidated Damages as liquidated damages, and not as a penalty, within thirty (30) days after a final written demand from LEDA.

C. Notwithstanding anything to the contrary, Recipients' aggregate liability arising out of this Agreement shall not exceed the Liquidated Damages. The monetary payment amounts described in this Agreement are liquidated damages and not penalties, are intended to be a reasonable estimate of damages that would be difficult to ascertain, and constitute LEDA's sole and exclusive monetary remedy. LEDA shall not be entitled to recover consequential, special, punitive, exemplary, incidental, diminution-in-value, lost-profit, or duplicative damages, and LEDA shall not pursue both reversion and a monetary payment for the same alleged failure.

**10. Assignment, Merger, and Termination Due to Merger, Etc.:** This Agreement shall not be assignable, either in whole or in part, provided that (a) Recipients may assign either of their interests in this Agreement to their respective parents, affiliates, or successors by merger, or otherwise pursuant to a consolidation, conversion, internal reorganization, equity transfer, portfolio transaction, financing, foreclosure, deed in lieu of foreclosure on this project only; and (b) Recipients may assign this Agreement to any purchaser of the Property (which may include USAF, any parent or affiliate of USAF, or any entity under common control with USAF), so long as such transferee assumes any remaining obligations under this Agreement from and after the date of transfer. In the event this Agreement is terminated as the result of an unpermitted assignment, such termination shall not disqualify the new entity from applying to LEDA for new incentive consideration.

**11. Development of Land:** LEDA and Recipients acknowledge and agree that Recipients intend to develop the Property.

**12. No Privity of Endeavor Nor Joint Venture:** It is specifically agreed that there shall be no privity of endeavor nor joint venture whatsoever between LEDA and Recipients and the sole connection between the parties is the contribution of the economic assistance by LEDA under the restricted conditions as set forth herein and that such contributions as stated herein are for the sole purposes as set forth herein and it shall in no way be construed as a continuing basis of financial support by LEDA to Recipients. The parties hereto have entered into this Agreement in an arms-length transaction. NO agency relationship or fiduciary relationship is intended to be created by this Agreement and no such relationship shall be determined to exist.

**13. Good Faith – Normal Business Operations:** The parties agree that this Agreement has been entered into in good faith and that each party shall act in good faith in complying with

its provisions. The parties further agree to transact all their business under and that which relates to this Agreement in accordance with their normal business operations.

**14. Miscellaneous Provisions:**

A. Notices: for the purposes of any notices to be given, pursuant to the terms of this Agreement, the parties shall use the following addresses, or any other address as may be changed by the parties, upon written notice to the other party, as follows:

1. LEDA

John Osborne, CEO and President  
Lubbock Economic Development Alliance, Inc.  
1500 Broadway, Suite 600  
Lubbock, Texas 79401

2. With a copy to:

Ann Manning, Attorney at Law  
Underwood Law Firm  
P.O. Box 16197  
Lubbock, Texas 79490

3. Recipients

AMBROSE SERVICES, LLC

Attn: Craig Forgey  
c/o Ambrose Property Group, LLC  
8888 Keystone Crossing, Suite 1150  
Indianapolis, IN 46240

AMS 2027 BTS – Lubbock TX, LLC

Attn: Craig Forgey  
c/o Ambrose Property Group, LLC  
8888 Keystone Crossing, Suite 1150  
Indianapolis, IN 46240

With a copy to:

Joe Hawkins, SVP & General Counsel  
Ambrose Property Group, LLC  
8888 Keystone Crossing, Suite 1150  
Indianapolis, IN 46240

Notices shall be deemed to be given upon the earliest of actual receipt, refusal of delivery, or three (3) business days after deposit in the United States Mail, Certified Mail, Return Receipt Requested, to the above-described addresses or as may be changed pursuant to the terms and conditions hereof. Any notice alleging a default or triggering any cure period or remedy shall describe the alleged failure

in reasonable detail, identify the contractual provision at issue, and include reasonably available supporting information.

- B. No Waiver of Immunity: Notwithstanding any other provisions of this Agreement, including, without limitation, the provisions of Sections 7, 8 and 9 of this Agreement, nothing in this Agreement shall or may be deemed to be or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or limitation to which LEDA, the City of Lubbock, its elected officials, its officers, employees, representatives, or agents are or may be entitled, including without limitation, any waiver of immunity suit.
- C. Venue; Governing Law: All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in the City of Lubbock, Lubbock County, Texas. Exclusive venue for any action, cause of action, lawsuit, or other proceeding under or in connection with this Agreement shall be and lie in Lubbock County, Texas and the parties hereby submit themselves to the jurisdiction thereof; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof. Recipients hereby waive and agree not to assert by way of motion, as a defense, or otherwise, in any suit, action, or proceeding, any claim that (i) they are not subject to such venue or the jurisdiction of the courts of Lubbock County, Texas, (ii) the suit, action, or proceeding is brought in an inconvenient forum, or (iii) the venue of the suit, action, or proceeding is improper.
- D. Entire Agreement: This instrument constitutes the entire Agreement between the parties hereto and neither this Agreement nor any of the Exhibits attached hereto, if any, can be altered, changed, or amended in any respect except by an instrument in writing duly executed by both parties.
- E. Partial Invalidity: In the event that any portion of this Agreement should be found or declared to be invalid for any reason, the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties. The parties agree that it is their intent for this Agreement to be determined as being an indivisible obligation of the parties.
- F. Binding Effect: This Agreement shall be binding upon the undersigned, their successors, and assigns, subject to the express terms of this Agreement concerning assignment.
- G. Force Majeure: For purposes of this Agreement, "**Force Majeure**" means any event, circumstance, condition, or delay beyond Recipients' reasonable control, whether or not foreseeable and whether or not similar to the events listed herein, including strikes, labor disputes, riots; delays in an applicable utility provider delivering utility capacity; war, terrorism, civil commotion, acts of God, weather, casualty, epidemics, pandemics; governmental restrictions and moratoria; or any other circumstances beyond Recipients' reasonable control and customarily considered to be force majeure in the State of Texas. Each affected deadline,

milestone, cure period, and performance obligation shall be tolled day-for-day for the duration of the Force Majeure, plus a reasonable period for remobilization or resumption of performance. Recipients shall provide notice of a Force Majeure when reasonably practicable, but failure to provide prompt notice shall not waive the extension except to the extent LEDA is materially prejudiced thereby.

- H. Nonwaiver: The failure of either party to insist upon the strict performance of any term or condition of this Agreement shall not be deemed a waiver of any right or remedy that that party may have, and shall not be deemed a waiver of any subsequent breach of any such term or condition.

[signature page follows]

EXECUTED in multiple counterparts, each of which is an original, on this 28<sup>th</sup> day of August, 2026.

LUBBOCK ECONOMIC DEVELOPMENT  
ALLIANCE, INC.

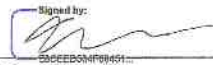
  
John Osborne, CEO and President

ATTEST:

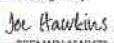
  
Notary

RECIPIENTS:

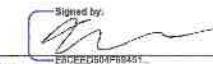
Ambrose Services, LLC  
an Indiana limited liability company

Signed by:   
By: \_\_\_\_\_

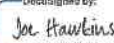
ATTEST:

DocuSigned by:  
  
Joe Hawkins

AMS 2027 BTS – Lubbock TX, LLC  
A Delaware limited liability company

Signed by:   
By: \_\_\_\_\_

ATTEST:

DocuSigned by:  
  
Joe Hawkins

**EXHIBIT A**

**CURRENT DESCRIPTION AND DEPICTION OF THE PROPERTY**

METES AND BOUNDS DESCRIPTION of a 10.813-acre tract located in Section 7, Block A, Lubbock County, Texas, being a portion of that 168.31-acre tract described in County Clerk File Number (CCFN) 2006037689, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a "DuraNail" found in the North line of Section 7, Block A, Lubbock County, Texas, at the Northeast corner of Lot 11, Lubbock Business Park, an addition to the City of Lubbock, Lubbock County, Texas, as recorded in County Clerk File Number (CCFN) 2012014772 OPRLCT, for the Northwest corner of this tract;

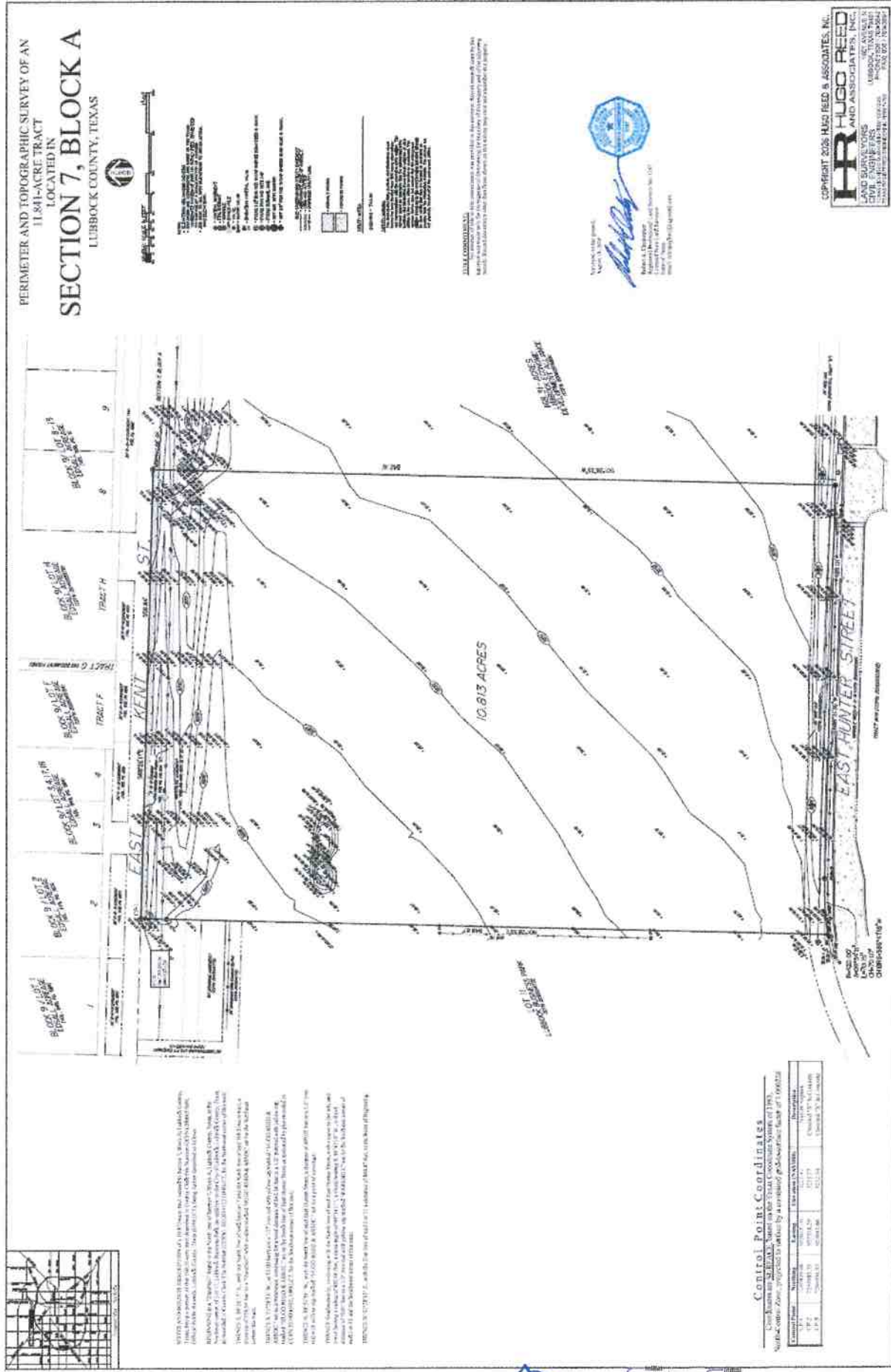
THENCE S. 88°26'17" E., with the North line of said Section 7 and the North line of said 168.31-acre tract, a distance of 558.84 feet to a "DuraNail" with washer marked 'HUGO REED & ASSOC' set for the Northeast corner this tract;

THENCE S. 01°28'33" W., at 32.00 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set in in reference, continuing for a total distance of 842.16 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set in the North line of East Hunter Street as dedicated by plat recorded in CCFN 2010000302, OPRLCT, for the Southeast corner of this tract;

THENCE N. 88°31'36" W., with the North line of said East Hunter Street, a distance of 489.01 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for a point of curvature;

THENCE Southwesterly, continuing with the North line of said East Hunter Street, with a curve to the left, said curve having a radius of 420.00 feet, a delta angle of 09°34'11", a chord bearing S. 86°41'18" W., a chord distance of 70.07 feet to a 1/2" iron rod with yellow cap marked "PARKHILL" set for the Southeast corner of said Lot 11 and the Southwest corner of this tract;

THENCE N. 01°28'33" E., with the East line of said Lot 11 a distance of 848.87 feet, to the Point of Beginning.



LEDA AMS AS AS

**EXHIBIT B**

**PURCHASE AND SALE AGREEMENT**

[Attached]

LEDA  AMS  AS 

**EXHIBIT C**

**RESTRICTIONS OF THE LUBBOCK BUSINESS PARK**

[Attached]

Return to

William F. "Pete" Baker  
McCluskey Hargreaves,  
Brazill & Grif  
P O Box 6170  
Lubbock, TX 79493

STATE OF TEXAS §  
COUNTY OF LUBBOCK §

**DECLARATION OF PROTECTIVE COVENANTS**

**LUBBOCK BUSINESS PARK**

Lubbock Economic Development Alliance, Inc. ("LEDA"), a Texas not-for-profit corporation serving as the development corporation for the City of Lubbock pursuant to Art. 5190.6, Tex. R. Civ. Stat., as the current owner and developer of The Lubbock Business Park being that 586.151 acre tract of land being Section 7, Block A, Lubbock, Lubbock County, Texas and being the same property deceded to LEDA in that certain Correction Special Warranty Deed filed under Document Number 2006037689 in the Official Public Records of Lubbock County, Texas (the "Business Park"), does hereby make the following Declaration of Protective Covenants (the "Declaration") as to conditions, covenants, and restrictions to which the land making up the Business Park may be put, hereby specifying that this Declaration shall constitute covenants to run with all of the land making up the Business Park as provided by law and shall be binding upon the undersigned and all present or future owners of said land and all parties or persons claiming or to claim any interest therein. The Business Park (which is also described on Exhibit A hereto) may from time to time be referred to herein as the "Premises."

**DEFINITIONS:** The following words, when used in the Declaration, shall have the following meanings:

1. "Building Area" shall mean and refer to all portions of a Building Site on which a permanent structure can be built, exclusive of any easements, Common Areas, and behind building setback lines.
2. "Building Site" shall mean and refer to any individual lot or parcel of land out of the Premises which is designated as such by LEDA in an instrument or on a plat filed for record in Lubbock County, Texas, or in a deed executed by LEDA. All of the foregoing is subject, however, to the authority of LEDA to enlarge, reduce the size of, change the boundaries of, or combine one or more Building Sites at any time, or from time to time, if such change, in the sole discretion of LEDA, will better serve the purposes and intent of this Declaration and is consented to by the Owner(s) of the Building Site(s) affected thereby. Any such change in one or more previously existing Building Site(s) shall be evidenced by a re-plat approved by LEDA and the City of Lubbock, Texas (the "City of Lubbock"), executed by the appropriate Owner(s) and filed for record in Lubbock County, Texas.
3. "Committee" shall mean and refer to the Architectural Control Committee established in accordance with subpart D of this Declaration.
4. "Common Area" shall mean and refer to an area reserved for pedestrian use, utility access, and landscaping and shall contain trees, grass, signage, or other landscape materials. Common areas may be located entirely or partially within



DECLAR 2007000124  
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one or more setback areas established herein including, without limitation, on a Building Site as required by this Declaration. Common Area does not include any irrigation well or wells now owned or to be owned by LEDA including the right of ingress and egress to said wells for the purpose of operation, repair and maintenance.

5. "Developer" shall mean and refer to LEDA and its successors and assigns. As of the effective date of any assignment by the Developer or any other owner of any part of Business Park, the assignee therein, as to the interest assigned, shall succeed to all the right, powers and duties of Developer or such other assignor under this Declaration, and the assignor thereof shall cease to have any obligations, duties or responsibilities under this Declaration, as to the interest assigned.
6. "Easements" or "Utility Easements" shall mean the easements which subject the properties located within the Premises to certain existing easements for access, utilities, surface water drainage from rainfall and storms, and other uses. LEDA reserves the right to dedicate, convey or otherwise create by instruments or plats filed for record in the Official Public Records of Lubbock County, Texas, easements for streets, utilities and other purposes over, on or under the Premises at or prior to the time LEDA parts with title to the land within each respective easement. All such recorded easements are incorporated herein by reference, and the title conveyed by LEDA to any Building Site shall be subject thereto, whether or not so provided in the deed conveying same. LEDA's title to any utility lines, facilities and appurtenances within the easements shall not pass to the purchaser of any Building Site, but shall remain with LEDA and may be given, sold or leased by LEDA to any public authority, utility company, rail spur entity, or holder of a public franchise at any time thereafter. After the conveyance by LEDA of a Building Site, at LEDA's request, the Owner thereof shall be obligated to dedicate or convey an additional easement(s) required by the City of Lubbock, Lubbock County, Texas, or any public utility company for water, sanitary sewer, drainage, electric power, and/or gas service or any company approved by the Committee and providing cable television, phone, or communication service to the Premises or any part thereof, provided the easement(s) are confined to that part of the Building Site within its Building Setback Area.
7. "Interior Property Line" shall mean and refer to any Building Site perimeter or exterior boundary except the Street Property Line, as that term is defined herein, and shall be synonymous with "real property line," "side line," and "side property line," unless the context clearly requires a different meaning.
8. "Landscape Areas" shall mean and refer to all areas located within the Premises not covered by parking, streets, buildings or structures, storage areas, or entrances to the Premises. Building Sites shall be maintained by Owner(s) of said property.
9. "Owner" shall mean and refer to the record owner(s), whether one or more persons or entities, of the fee simple title to the surface estate in a Building Site.

During the period of any ground lease on a Building Site, all of the obligations and duties of the Owner thereof shall also be binding upon and enforceable against the ground or building lessee(s).

10. "Premises" shall mean and refer to the surface estate in the tracts of land, as specified herein, and to the surface estate in any other tract(s) of land which become subject to the provisions of this Declaration in the manner provided herein.
11. "Street" or "Streets" shall mean and refer to (i) the streets shown on the plat of the Business Park (as amended from time to time), (ii) any and all other public streets that may or might be dedicated and/or opened to public use on the Premises during the term and any extended term of this Declaration, and the term shall be deemed to be synonymous with "road," "boulevard," or "highway" unless the context clearly requires a different meaning.
12. "Street Property Line" shall mean and refer to any Building Site perimeter or exterior boundary that coincides with the boundary of a Street right-of-way, inclusive of future Streets, if any, in the Business Park.
13. "Warehousing, Manufacturing, Distribution, Processing" shall mean and refer to any commercial, light manufacturing or light industrial operation or use, not otherwise prohibited herein, which is performed or carried out entirely within a building or buildings so designed and constructed, that the enclosed operations and uses do not cause or produce an emittance, nuisance, or annoyance to the occupants of adjoining or adjacent Building Sites. Such prohibited use includes, but is not limited to, vibration, sound, electro-mechanical disturbance, radiation, air or water pollution, dust, or emission of odorous, toxic or non-toxic matter, smoke, glare, trash, junk, or water spray. Such operation or use shall not be hazardous on account of excessive danger of fire or explosion, and may not create any condition which would amount to a public nuisance under common law. Owner shall be responsible for ensuring that such operation and use is in conformance with all federal, state and municipal laws.

#### ADDITION(S) TO EXISTING PROPERTIES

LEDA shall have the right, in its sole discretion, to bring within the plan of this Declaration the surface estate in one or more other tracts of land, at any time or from time to time, by executing and filing for record in Lubbock County, Texas, a supplement or amendment to this Declaration which describes said additional tract(s) of land and states LEDA's intention to extend the plan of this Declaration thereto. Said supplement or amendment may modify or amend the terms and provisions of this Declaration insofar as they relate to the tract(s) of land described therein and/or may subject the same to additional terms and provisions. Upon the filing for record of said supplement or amendment, the surface estate in the tract(s) of land described therein shall become subject to the reservations, covenants, obligations, assessments, liens, terms and provisions set forth in this Declaration, except as otherwise provided in said supplement or amendment.

**A. Objectives of Covenants:**

1. To protect the owners and tenants of Building Sites against improper uses that would depreciate property values.
2. To protect against construction of structures built of improper or unsuitable materials.
3. To encourage the construction of attractive permanent structures which conform to a common architectural concept, the provision for adequate and suitable landscaping, and the proper placement of improvements of the Building Sites.
4. To provide adequate parking areas and access to lots.
5. To generally promote the welfare and safety of occupants, tenants, and Owners of Lubbock Business Park.

**B. Permitted Uses:**

1. Lubbock Business Park shall be used for commercial purposes only. Such purposes shall be limited to the construction, leasing, operation and maintenance of warehousing, manufacturing, distribution, processing, and related facilities, such as the common areas, in accordance with applicable and current zoning as established by the City of Lubbock.
2. For the purpose of this Agreement, Lubbock Business Park is divided into two (2) categories which relate to use, and are referred to herein as "Building Area" and "Common Area," respectively. The construction, establishment and maintenance of buildings within Lubbock Business Park shall be confined within the Building Setbacks designated on the applicable plat or plats of the subdivision or portions thereof.
3. "Common Area" shall include all of the areas within Lubbock Business Park designated for use in common for the benefit of the owners and occupants, more specifically being the landscape, utility, drainage, landscaped medians, access, fire lane easements and easements for ingress and egress to the public street system.

**C. Performance Standards:**

The following performance standards shall be observed by the Owners, lessees and other interested parties with respect to the Premises:

1. No noxious or offensive trades, services or activities (as determined by LEDA) shall be conducted nor shall any use or activity become an annoyance or nuisance by reason of unsightliness, odor, glare, vibration, dust, smoke or noise as set forth

in the definition of "Warehousing, Manufacturing, Distribution, Processing" in paragraph 13, above. Owners shall obey all current and laws, regulations or ordinances, including but not limited to Federal Aviation Administration Regulations related to the airport located near the Business Park.

2. No materials, supplies, equipment, products, raw materials, or articles of any nature shall be stored or permitted to remain on any Building Site within the Premises unless properly screened, both horizontally and vertically, as approved by the Committee or expressly approved in writing by LEDA.
3. Each owner or tenant shall keep its parcel and improvements within the Premises in a safe, clean, and neat condition and shall remove any rubbish or trash of any character generated on the premises or accumulated from without. No disposal of rubbish shall be permitted by means contrary to ordinances of the City of Lubbock. Each owner or tenant shall keep the grass and weeds located on its property mowed so as to maintain a neat appearance for the Business Park. Should any owner or tenant fail to keep grass and weeds on its property mowed, LEDA shall have the right to mow or otherwise control the weeds or grass and assess the cost against the owner of the property.
4. No heating, air conditioning, electrical, lighting or other equipment shall be installed on a roof or hung on exterior walls or placed upon exterior landscaped areas, unless the same is screened and installed in a manner approved in writing by LEDA.
5. No storage of non-business related assets shall be permitted B including, without limitation, vehicles, boats, trailers, horse trailers, campers, mobile homes or recreational vehicles, buses or other mobile machines, equipment, animals or other assets without the express written consent of LEDA.

D. Architectural Control:

1. LEDA shall appoint an Architectural Control Committee (the "Committee") (hereinafter referred to as "LEDA"), which may consist of LEDA's Board of Directors or a committee of three (3) individuals approved by LEDA. LEDA shall have the right to remove any member or members of any such committee at any time without cause.
2. The principal objective of the Committee shall be to insure that all buildings, landscaping, screening, storage areas, fencing, and signage constructed within Lubbock Business Park adhere to the Declaration of Protective Covenants set forth herein.
3. No improvement (as that term is hereinafter defined), shall be erected, constructed, placed or altered within Lubbock Business Park until plans and specifications in such form and detail as the Committee may deem necessary shall have been submitted to and approved in writing by the Committee. Any

improvement or proposed future improvement must comply with all federal, state or municipal laws applicable at the time such improvement plans are submitted to the Committee. The decision of the Committee shall be final, conclusive and binding upon the submitting party (the "Applicant"). Once approved, the Committee's actions shall be binding and not subject to revocation for any reason other than for purposes of health, welfare, or public policy.

4. A. Preliminary plans and specifications for the initial construction shall be prepared by a licensed architect and/or engineer shall be submitted by Owner's representative to the Committee, c/o Lubbock Economic Development Alliance, Inc., 1500 Broadway, 6th Floor, Lubbock, Texas 79401, or such address as may be described by the Committee, and shall include the following (unless specifically waived by LEDA):
  - a. A topographical survey showing contour grades (with no greater than one foot contour intervals) and showing the location of all improvements, structures, walks, patios, drive-ways, fences and walls.
  - b. Exterior elevations.
  - c. Exterior materials, colors, textures and shapes.
  - d. Landscaping plan, including walkways, fences, walls, and site amenities, elevation changes, watering systems, vegetation and ground cover.
  - e. Parking area and drive-way plan for service, employee, and public users.
  - f. Screening, including size, location, method, and views.
  - g. Utility connections.
  - h. Signs, including size, shape, color, location, content, lighting and materials.
- B. Upon approval of preliminary plans and specifications, four (4) sets of proposed final plans and specifications shall be submitted to the Committee, c/o Lubbock Economic Development Alliance, Inc., 1500 Broadway, 6th Floor, Lubbock, Texas 79401, or such address as may be described by the Committee, which shall include in addition to all items required to be specified in the preliminary plans and specifications, the following additional items (unless specifically waived by LEDA):
  - a. A topographical survey showing existing and finished grades at lot corners and at corners of proposed improvements. Lot drainage provisions shall be included as well as cut and fill details if any appreciable change in the lot contour is contemplated - complying with City of Lubbock requirements.
  - b. Structural design - prepared by a licensed engineer.
  - c. Exterior illumination, including location and method.
  - d. Fire protection system - complying with City of Lubbock codes.

- e. A listing of all state and federal regulatory requirements, if any, which relate directly or indirectly to the care, manufacturing, or handling of products used in the manufacturing process or as to the product(s) manufactured.

The Committee's primary purpose in approving plans and specifications is to insure architectural aesthetic compliance and compatibility with buildings constructed within the Premises. The Committee's approval is in no way construed to replace nor supersede any required approvals by the City of Lubbock Building Code Officials, nor any other City, State, or Federal agency in regards to means or methods of construction, health or life safety code compliance, regulatory permitting, structural considerations, or other permit processes.

- C. After completion of the initial construction, any future modifications to the Property shall be limited to those items, drawings, or plans reasonably necessary for the Committee to evaluate and approve or decline the proposed modifications.
- 5. Improvements which shall be subject to the Committee review and approval process shall mean and include all buildings and roof structures, parking areas, loading or dock areas, trackage, site access, fences, walls, hedges, mass plantings, poles, driveways, fountains, signs, changes in any exterior color or shape, and any new exterior construction or exterior improvement. Subsequent to the completion of initially approved improvements, any exterior construction or exterior improvements thereafter proposed to be completed, including but not limited to, the category of improvements described above, shall be subject to a review and approval requirements only if such exterior construction or improvements will exceed \$5,000.00 in cost. The term improvements shall not include garden shrub or tree replacements, or any other replacement or repair of any magnitude which ordinarily would be expressed in accounting practice and which does not change exterior colors or exterior appearances.
  - 6. Neither the Committee, nor any Owners (and/or lessees) of the land or improvements within Lubbock Business Park, as the case may be, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner (and/or tenant) of land or improvements within Lubbock Business Park by reason of mistake of judgment, negligence or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.
  - 7. The Owner shall secure the Committee's written approval of the Committee's preliminary and final plans and specifications, prior to the start of any construction on the Building Site. The Committee shall expeditiously review all plans submitted and shall normally issues their findings within thirty (30) days of the Committee's receipt of such plans. In any case, the Committee shall respond to submittals within sixty (60) days. If any Improvement is erected, constructed,

placed or altered in any variance to plans and specifications previously approved by the Committee (whether approved by action or waived by no action) then said Committee has the right to take legal action against the Applicant. Said Applicant shall be liable for all legal expense incurred by the Committee. Once Owner has received the Committee's written approval, neither LEDA nor the Committee shall have the authority to require Owner to change or modify the exterior of buildings being properly maintained pursuant to these protective covenants.

**E. Architectural and Building Controls:**

All access, drainage, utility, fire lane easements and set back lines shall be shown on the most recent plats of this subdivision and all applicants shall be subject to said requirements. These requirements shall be used as general construction guidelines and are subject to change or modification by the Committee until Owner's construction commences.

**1. Site Landscape Areas**

- a. All Building Sites not covered by buildings, parking spaces, storage areas, Common Areas, sidewalks, or access areas shall be landscaped by the Owner with appropriate plant or landscape materials as approved by LEDA and subject to industry standards applicable to Property usage and shall be maintained in a healthy and growing condition at all times. All cost and maintenance expenses associated with this landscaping shall be the responsibility of the Owner.
- b. All landscaping shall be in accordance with the plans submitted to LEDA, which plans shall describe or depict all walkways, fences, walls, elevation changes, watering systems, vegetation and ground cover. Owner shall be responsible for research, review, and advice to LEDA regarding any particular trade or industry standards applicable to Owner.
- c. Landscape design for Landscape Areas will follow the general principals of landscaping originally installed on the Premises, within the Common Areas.

**2. Building Wall Finish**

- a. All walls exposed to the exterior shall be composed of concrete panels, constructed in a manner in accordance with all City of Lubbock building codes and zoning ordinances, as approved by the Committee.

**3. Canopies, Overhangs, and Covered Walkways**

- a. Canopies and overhangs shall be constructed in a manner in accordance with all City of Lubbock building codes and zoning ordinances, as approved by the Committee.

4. Roofs

- a. Roofs shall be constructed in a manner in accordance with all City of Lubbock building codes and zoning ordinances, as approved by the Committee.

5. Sidewalks and Pavements

- a. Pavement material for sidewalks shall be concrete, brick pavers, concrete with patterns of tile, or brick.
- b. Pavement materials for parking or road surface shall be concrete or asphalt.
- c. Pavement for storage areas shall be caliche base, crushed stone, concrete or asphalt.

6. Parking and Loading Facilities

- a. Adequate loading and maneuvering space will be provided at loading areas and will be properly graded and as inconspicuous as practicable. Loading and maneuvering space for business related activities is intended to be located on the Building Site as acceptable to and approved in writing by the Committee and separated from other visitor or employee access unless specifically waived or approved in writing by LEDA. Access and separation of traffic for loading and maneuvering space shall be approved by the Committee.
- b. With respect to the buildings to be constructed within Lubbock Business Park after the date hereof, if warranted by the intended use or uses thereof, parking spaces auxiliary thereto in excess of the requirements of the City of Lubbock may be required.
- c. Adequate space for circulation of traffic will be provided by each building Owner or tenant.
- d. Covered parking may be provided if approved by LEDA.
- e. Adequate off-street parking shall be provided to accommodate all parking needs of and for the occupants, employees, visitors, and invitees on each Building Site, irrespective of the use made thereof. The number, type and location of each specific type of parking spaces on the Building Site shall be approved by LEDA prior to the construction of any improvements on the Building Site, and shall contain at a MINIMUM:
 

|                      |                                    |
|----------------------|------------------------------------|
| Warehousing          | 1 space per 1,000 sq. ft. of area  |
| Manufacturing Office | 2 spaces per 1,000 sq. ft. of area |
| Office               | 4 spaces per 1,000 sq. ft. of area |
- f. Accessible parking shall be provided as required by Texas law and City of Lubbock ordinances and zoning regulations.

7. Exterior Lighting

- a. All exterior lighting shall be approved by LEDA, shall be used in all parking and walkway areas, and be subject to conform and be in compliance with industry requirements where such requirements become applicable to the user of the Property (i.e., American Institute of Baking or other industry or regulatory standards).

8. Exterior Storage and Dumpster Screening

- a. All exterior storage will be enclosed by an eight (8) foot high solid screen, or as approved by LEDA, with locked gate and shall be kept in good repair, and must be approved by LEDA.
- b. All garbage storage, more specifically garbage dumpsters, shall be enclosed on three sides by an eight (8) foot high solid screen, and must be approved by LEDA.

9. Signs

- a. All signs attached to a building must be parallel to the building facade or roof overhang and shall remain stationary.
- b. All signs must be approved by LEDA and conform to City of Lubbock sign ordinance.

10. Building Height

- a. Maximum building heights shall conform to current zoning limitations. Building heights shall also comply with current and future Lubbock International Airport and Federal Aviation Administration limitations.

11. Screening

- a. Screening barriers shall be of a design and height and constructed of materials approved by LEDA prior to the placement thereof on such site. Lots adjacent to major thoroughfares, expressways or business park interior roads shall be screened using landscaped berms at the back of curb, unless expressly waived in writing by the Committee.
- b. All such screened uncovered storage areas shall be limited to the rear two-thirds of the Building Site, but under no circumstance shall any materials, machines or equipment be stored within forty (40) feet of any Street unless expressly waived in writing by the Committee.

12. Loading/Unloading

- a. Delivery vehicle loading and unloading shall occur on-site only. On street delivery vehicle loading and unloading is not permitted.
- b. Loading/Unloading facilities shall be separated from employee, customer and visitor circulation and parking areas and shall be screened from public view in a manner approved by LEDA.

13. Electric/Utility Service

- a. All electric, gas, communication, and other utility services from the point of connection with the serving utility to a building will be underground and all service transformers will be ground mounted unless specifically approved by LEDA. No utility service requiring the installation of a pole on a Building Site will be permitted without prior approval by LEDA.

F. Ingress, Egress and Utilities:

1. There are now and may hereafter be established walkways for pedestrian use on, over, and across all parking areas and walkways.
2. There is hereby established in favor of all owners and tenants and their licensees, invitees and permittees access for ingress and egress, to the public street system over and across all areas designated for access.
3. There may be established reciprocal and nonexclusive easements for construction, installation, maintenance, removal, use, and replacement of sewers; water and gas pipes and systems; drainage lines and systems; electric power conduits, wires and systems; telephone conduits, wires and systems; and other public utilities, beneath the ground surface of the common areas at the location or locations shown on the recorded plats of Lubbock Business Park. Any proposed future easements shall be first submitted to LEDA provided that in the performance of such work, the party performing the work shall:
  - a. Make adequate provision for the safety and convenience of all persons using the surface of such areas.
  - b. Replace and restore the areas and facilities to the condition in which they were prior to the performance of such work.
  - c. Hold all other parties to this Declaration of Protective Covenants harmless against claims including costs and attorney's fees arising from the performance of such work or use of such easements.
4. There are no reciprocal parking easements granted by this Declaration. Landowners, however, may either among themselves, or singularly or collectively with their respective tenants, enter into such agreements. Any such agreements in existence upon the date of recordation of this Declaration in the deed records of

Lubbock County, Texas, are hereby deemed to be consistent with this Declaration.

G. Modification Provision:

This instrument may not be modified, terminated or rescinded without the consent of LEDA (the consent or approval of lessees, licensees, or others having a possessory interest or security interest shall not be required) and then only by a written instrument duly executed, acknowledged and recorded in the office of the County Clerk of Lubbock County, Texas. No modification of this instrument that affects the rights of existing Owners shall be applicable without the express written consent of the Owners affected except modifications dealing with public health and safety.

H. Not a Public Dedication:

Nothing herein contained shall be deemed to be a gift of dedication of any portion of Lubbock Business Park to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this agreement shall be strictly limited to and for the purposes herein expressed.

I. Severability:

If any clause, sentence, or other portion of these covenants and restrictions shall become illegal, null, or void for any reason or shall be held by any court of competent jurisdiction to be so, the remaining portions shall remain in full force and effect.

WITNESS THE EXECUTION hereto as of the date of acknowledgment by each of the parties hereto.

LUBBOCK ECONOMIC DEVELOPMENT  
ALLIANCE, INC.

By: 

Gary C. Lawrence  
Its: Chief Executive Officer  
and President

STATE OF TEXAS

COUNTY OF LUBBOCK

§  
§  
§

This instrument was acknowledged before me this 29<sup>th</sup> day of DECEMBER, 2006, by Gary C. Lawrence, Chief Executive Officer and President of Lubbock Economic Development Alliance, Inc., a Texas non-profit corporation, on behalf of said corporation.



Linda M Davis  
NOTARY PUBLIC, STATE OF TEXAS

# EXHIBIT "A"

A 586.151 acre tract of land being Section 7, Block A, Lubbock County, Texas, being further described as follows:

BEGINNING at a railroad spike found in the North line of Section 7, Block A, at the Northwest corner of this tract which bears N. 89/45'50" E. a distance of 260.03 feet from the Northwest corner of Section 7, Block A, Lubbock County, Texas;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 126.02 feet to a point at the Northwest corner of a tract of land recorded in Volume 393, Page 505, Deed Records of Lubbock County, Texas, for a corner of this tract;

THENCE S. 00/14'10" E. (Deed North-South), along the West line of said tract recorded in Volume 393, Page 505, at 12.00 feet pass a 1/2" iron rod with cap set in reference, continuing for a total distance of 112.00 feet to a 1/2" iron rod with cap set at the Southwest corner of said tract recorded in Volume 393, Page 505, for a corner of this tract;

THENCE N. 89/45'50" E. (Deed East-West), along the South line of said tract recorded in Volume 393, Page 505, a distance of 100.00 feet to a 1/2" iron rod with cap set at the Southeast corner of said tract recorded in Volume 393, Page 505 for a corner of this tract;

THENCE N. 00/14'10" W. (Deed North-South), along the East line of said tract recorded in Volume 393, Page 505, at 100.00 feet pass a 1/2" iron rod with cap set in reference, continuing for a total distance of 112.00 feet to a 1/2" iron rod with cap set in the North line of said Section 7, Block A, at the Northeast corner of said tract recorded in Volume 393, Page 505, for a corner of this tract;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 12.75 feet to a point at the Northwest corner of a tract of land described in Volume 1856, Page 255, Deed Records of Lubbock County, Texas, for a corner of this tract;

THENCE S. 00/12'16" E. (Deed S. 00/08'26" W. 122.00 feet), along the West line of said tract described in Volume 1856, Page 255, at 0.14 feet pass a railroad spike found in reference, at 30.15 feet pass a 3/8" iron rod found in reference, continuing for a total distance of 122.16 feet to a 3/8" iron rod found at the Southwest corner of said tract of land recorded in Volume 1856, Page 255, for a corner of this tract;

THENCE N. 89/48'18" E. (Deed S. 89/51'34" E.), along the South line of said tract described in Volume 1856, Page 255, a distance of 117.00 feet to a 1/2" iron rod with cap set at the Southeast corner of said tract of land recorded in Volume 1856, Page 255, for a corner of this tract;

THENCE N. 00/12'16" W. (Deed N. 00/08'26" E. 122.00 feet), along the East line of said tract of land recorded in Volume 1856, Page 255, at 92.01 feet pass a 3/8" iron rod found in reference, at 122.02 feet pass a railroad spike found in reference, continuing for a total distance of 122.24 feet to a point at the Northeast corner of said tract recorded in Volume 1856, Page 255, in the North line of said Section, for a corner of this tract;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 4648.15 feet to a railroad spike found in the West right-of-way line of North Martin Luther King Jr. Boulevard, in Warranty Deed to the City of Lubbock in instrument of record in Volume 1489, Page 603, Deed Records of Lubbock County, Texas, at the Northeast corner of this tract;

THENCE S. 00/23'49" E. (Deed S. 01/55'42" W. 319.88 feet), along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 319.17 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southwesterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the right, said curve having a radius of 5674.58 feet, a central angle of 01/37'03" (Deed 01/37'00"), a chord distance of 160.19 feet (Deed 160.11 feet) and a chord bearing of S. 00/26'08" W. (Deed S. 02/44'12" W.) to a 3/8" iron rod found at a point of intersection;

THENCE S. 01/13'02" W. (Deed S. 03/32'42" W. 1237.52 feet), continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 1237.51 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southwesterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the left, said curve having a radius of 5784.58 feet, a central angle of 01/37'59" (Deed 01/38'00"), a chord distance of 164.86 feet (Deed 164.90 feet) and a chord bearing of S. 00/26'11" W. (Deed S. 02/43'42" W.) to a 3/8" iron rod found at a point of intersection;

THENCE S. 00/25'41" E. (Deed S. 01/54'42" W. 1989.74 feet), continuing along the West right-of-way line of said North Martin Luther King, Jr. Boulevard, a distance of 1989.94 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southeasterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the left, said curve having a radius of 5784.58 feet, a central angle of 01/43'31" (Deed 01/43'30"), a chord distance of 174.18 feet (Deed 174.15 feet) and a chord bearing of S. 01/15'41" E. (Deed S. 01/02'57" W.) to a 3/8" iron rod with cap found at a corner of this tract;

THENCE S. 02/08'33" E., continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 231.56 feet to a 1/2" iron rod found at the Northeast corner of Lot 1, Lubbock Fire Department Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 5943, Page 156, Real Property Records of Lubbock County, Texas, at a corner of this tract;

THENCE S. 89/41'40" W. (Plat S. 89/40'40" W.), along the North line of said Lot 1, a distance of 800.00 feet to a 1/2" iron rod with cap found at the Northwest corner of said Lot 1 at a corner of this tract;

THENCE S. 00/24'52" E. (Plat S. 00/25'30" E.), along the West line of said Lot 1, a distance of 1000.00 feet to a 1/2" iron rod with cap found at the Southwest corner of said Lot 1, in the North right-of-way line of East Ursuline Street for the Southermost Southeast corner of this tract;

THENCE S. 89/40'40" W., along the North right-of-way line of said East Ursuline Street, a distance of 4374.50 feet to a 1/2" iron rod with cap set for a point of curvature;

THENCE Northwesterly around a curve to the right, said curve having a radius of 15.00 feet, central angle of 90/00'00" and a chord distance of 21.21 feet to a 1/2" iron rod with cap set in the East right-of-way line of North Ash Avenue for a non-tangent point of intersection;

THENCE N. 00/17'44" W., along the East right-of-way line of North Ash Avenue, a distance of 922.44 feet to a 1/2" iron rod with cap set in the East right-of-way line of Interstate No. 27 as reflected in Deed (Controlled Access Highway Facility) to the State of Texas in instrument of record in Volume 1418, Page 686, Deed Records of Lubbock County, Texas, for a point of intersection;

THENCE Northeasterly, along the East right-of-way line of said Interstate No. 27, granted to the State of Texas in instrument of record in Volume 1418, Page 686, and in Volume 1383, Page 149, respectively, Deed Records of Lubbock County, Texas, along a curve to the left, said curve having a radius of 1910.08 feet, a central angle of 16/39'08", a chord distance of 553.19 feet and a chord bearing of N. 17/17'30" E. for a point of intersection;

THENCE N. 09/38'33" E. (Deed N. 09/50'00" E. 1005.24 feet), continuing along the East right-of-way line of said Interstate No. 27, as reflected in Deed (Controlled Access Highway Facility) to the State of Texas in instrument of record in Volume 1383, Page 149, Deed Records of Lubbock County, Texas, a distance of 1005.21 feet to a 1/2" iron rod with cap set for a corner of this tract;

THENCE N. 04/37'38" W. (Deed N. 04/10'19" W. 1406.38 feet), continuing along the East right-of-way line of said Interstate No. 27, a distance of 1406.23 feet to a 1/2" iron rod found at a corner of this tract;

THENCE N. 01/29'08" W. (Deed N. 01/07'00" W. 1429.55 feet), continuing along the East right-of-way line of said Interstate No. 27, a distance of 1427.37 feet to the Point of Beginning, containing 586.151 acres of land.

## FILED AND RECORDED



OFFICIAL PUBLIC RECORDS

*Kelly Pinion*

Kelly Pinion, County Clerk

Lubbock County TEXAS

January 03, 2007 03:23:04 PM

FEE \$71.00

2007000124

Record and return to:  
Tommy J. Swann  
P.O. Box 6170  
Lubbock, TX 79493-6170



DECLAR 2007031921  
38 PGS

AMENDED DECLARATION

**LUBBOCK BUSINESS PARK**

STATE OF TEXAS  
COUNTY OF LUBBOCK

KNOW ALL MEN BY THESE PRESENTS:

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION is made by Lubbock Economic Development Alliance, Inc. (LEDA), (hereinafter called "Developer"), a Texas not-for-profit corporation serving as the development corporation for the City of Lubbock a municipal corporation (hereinafter called "City") pursuant to Art. 5190.6, Tex. R. Civil Statutes.

RECITALS:

A. LEDA is the present owner and developer of the **Lubbock Business Park (LBK)**, (hereinafter called "the Initial Tract") real property described as a 586.151 acre tract of land being Section 7, Block A, Lubbock County, Texas, further described in Exhibit "A" attached hereto and incorporated herein by reference.

B. Section 7, Block A, Lubbock, Lubbock County, Texas and being the same property deeded to LEDA in that certain Correction Special Warranty Deed filed under Document Number 2006037689 in the Official Public Records of Lubbock County, Texas.

C. It is the desire and intention of the Developer to develop all of the property described in Exhibit "A".

D. It is the desire and intention of Developer to subject and impose upon the Initial Tract (of the property described in Exhibit "A" as may be from time to time added to the scheme of this Declaration pursuant to the provisions of Article VI below) certain conditions, covenants, restrictions and reservations hereinafter set forth for the purpose of insuring the proper use and appropriate development and improvement of same.

NOW, THEREFORE, the Developer, joined by the City, hereby declares that the property described in Exhibit "A" as may be from time to time designated by Developer in accordance with the provisions of Article VI below is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the conditions, covenants, restrictions, reservations, charges and liens hereinafter set forth.

## ARTICLE I

### DEFINITIONS AND PURPOSES

Section 1.01 Definitions. The following words, when used in this Declaration and any Supplementary Declaration (defined in Article VI below), unless the context shall prohibit, shall have the following meanings:

(a) "Property" shall mean the real estate lying within the boundaries set out in Exhibit "A" attached hereto and incorporated herein by reference which may hereinafter be made subject to the conditions, covenants, restrictions and reservations of this Declaration pursuant to any Supplementary Declaration filed by the Developer in accordance with Article VI below, whether or not such additional real estate is owned by Developer on the date hereof.

(b) "Building Site" or "Site" shall mean any plot of land, the size and dimensions of which shall be established by the legal description in the original conveyance from Developer to the first fee owner of said plot of land other than Developer. A Building Site or Site may also be established by the Developer by an instrument in writing executed, acknowledged and recorded by the Developer which designates a plot of land as a Building Site for purposes of this Declaration. If two or more contiguous Building Sites, as defined above, are acquired by the same Owner in fee, such commonly owned contiguous Building Sites may, at the option of said Owner, be combined and treated as a single Building Site for purposes hereof.

(c) "Common Areas" shall mean and refer to the medians within public streets dedicated by the City or Developer within the Property and to the entry ways into the Property.

(d) "Developer" shall mean Lubbock Economic Development Alliance and its successors and shall also include any person or entity to which Lubbock Economic Development Alliance may assign (by specific assignment) its rights and duties under this Declaration as such assignment is contemplated by Section 7.05 below.

(e) "Owner" shall mean the party or parties owning fee title to any land (exclusive of Common Areas) within the Property; provided, however, that for purposes of this Declaration, the City shall not be included in the definition of Owner and provided further that Developer shall be considered the Owner of all land (exclusive of Common Areas) within the Property owned by the City to which the Developer has an option to purchase pursuant to the Option. In the event an Owner of any Building Site consists of more than one person or entity, such persons shall within thirty (30) days after the date of their acquisition of any Building Site, execute and deliver to the Developer a written instrument, including a power of attorney appointing and authorizing one individual or entity as their agent to receive all notices and demands required to be given pursuant to the terms and provisions of this Declaration, to execute any and all documents, consents and instruments required under the terms and provisions of this Declaration and to cast all votes and to take any and all actions required or permitted to be taken by them under the terms and provisions of this Declaration. The Owner may change its designated agent by written notice to the Developer, but

such change shall be effective only after actual receipt of the notice by Developer.

Section 1.02 Purpose. The Property is hereby made subject to the conditions, covenants, restrictions and reservations contained herein, all of which shall be deemed to run with the Property and each and every parcel thereof, to insure proper use and appropriate development and improvement of said Property so as to (a) protect the Owners (and their tenants) against the improper development and use of acreage within the Property; (b) prevent the erection within the Property of improvements constructed of improper or unsuitable materials or with improper quality and methods of construction; (c) insure adequate and reasonably consistent development of the Property; (d) encourage and insure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function; (e) provide adequate off-street parking and loading facilities; and (f) generally promote the welfare and safety of the Owners, tenants and occupants of acreage within the Property.

## ARTICLE II

### BUILDING SITE MAINTENANCE

Section 2.01 Duty of Maintenance. Each Owner and occupant (including a tenant) of any Building Site shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Building Site so owned or occupied, including buildings, improvements, private drives, easement areas and grounds in connection therewith or appurtenant thereto (specifically including the parkway area between the property line and any adjacent street curb), in a well-maintained, clean, neat, wholesome and attractive condition at all times and shall comply in all respects with all governmental health, fire and safety statutes, ordinances, regulations or requirements. Maintenance requirements shall include, but are not limited to, the following:

- (a) All rubbish, trash, garbage, litter, refuse and other waste shall be stored in clean and sanitary solid waste receptacles and shall be promptly removed from the Building Site prior to its accumulation.
- (b) All exterior lighting and mechanical facilities shall be kept in good working order.
- (c) All parking areas shall be striped and all parking areas, driveways and roads kept in good repair.
- (d) All exterior damage to any improvements shall be promptly repaired and the exterior of all improvements shall be repainted as needed.
- (e) All lawn areas shall be timely mowed and edged during the growing season of March through October and as needed to keep an even, well groomed appearance during the months of November through February; shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive; and shall be kept free of weeds.
- (f) All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including the removal of deadwood

therefrom) according to their plant culture and the landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately. All bed areas shall be kept free of weeds and cultivated periodically as needed.

Section 2.02 Enforcement of Maintenance Duties. If, in the opinion of the Developer, any Owner has failed in any of the foregoing obligations or duties, then the Developer may give the Owner written notice of such failure and the Owner must within ten (10) days after receiving such notice, perform the obligation or duty required. Should any Owner fail to fulfill this obligation or duty within such period, then the Developer through its authorized agent or agents shall have the right and power to enter onto the premises and perform such obligation or duty without any liability for damages for wrongful entry, trespass or otherwise to any person. Each Owner of any Building Site on which such work is performed shall be liable for the cost of such work and shall promptly reimburse the Developer for such cost. If such Owner shall fail to reimburse the Developer within ten (10) days after receipt of a statement for such work from the Developer, then said indebtedness shall be a debt of Owner and shall constitute a lien against the Building Site on which said work was performed. This debt shall bear interest and be subject to the costs as provided for in Section 2.03 below and shall be collectable in the same manner as provided for therein. Similarly, the lien referred to herein shall have the same attributes as the lien set forth in Section 2.04 below, which provisions are incorporated herein by reference, and the Developer shall have identical powers and rights with respect to said lien as it has with respect to the lien described in Section 2.04, including but not limited to the right to release, subordinate or foreclose same.

Section 2.03 Owner's Obligation for Building Site Maintenance. In the event the Developer incurs cost to maintain the Owners property, this debt shall be the debt of said Owner. In the event of default of payment for indebtedness incurred in paragraph 2.02 above, the Owner of the property shall be obligated to pay interest at the annual interest rate stated below. The Owner shall be responsible for building site maintenance costs incurred by the Developer, as described in paragraph 2.02 above, together with all costs and expenses of collection, including reasonable attorneys' fees and the Developer shall have the right to bring suit against the Owner to recover a money judgment for these amounts (i.e., the cost of maintenance described in paragraph 2.02 above plus interest, costs and reasonable attorneys' fees) without foreclosing or waiving the liens securing same as provided for in Section 2.04 below. The annual interest rate shall be a rate equal to three percent (3%) over the prime interest rate as published from time to time in the Wall Street Journal, from the due date until paid, but not to exceed the maximum rate of interest which Developer may lawfully charge.

Section 2.04 Lien and Foreclosure. All sums assessed resulting from the failure of the Owner to maintain the Building Site in the manner provided in Article II but unpaid, together with interest thereon and the cost of collection, including attorney's fees as provided above, shall become a continuing lien and charge on the property, which shall bind such property in the hands of the Owner, and his heirs, devisees, personal representatives, successors and assigns. The aforesaid lien shall be superior to all other liens and charges against the said property, except only for ad valorem tax liens and all sums unpaid on a mortgage lien or deed of trust lien of record, securing in either instance sums borrowed for the acquisition or improvement of the property in question. The Developer shall have the power to release the aforesaid lien or to subordinate it to any other lien and such power shall be entirely discretionary with the Developer. To evidence the aforesaid lien, the Developer shall prepare a written notice of lien

setting forth the amount of the unpaid indebtedness, the name of the Owner of the property covered by such lien and a description of the property. Such notice shall be signed by the Developer and shall be recorded in the office of the Lubbock County Clerk. Subsequent to the recording of a notice of lien as provided above, the Developer may institute suit against the Owner to foreclose the lien judicially. In any such suit or proceeding, the Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred. The Developer shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a lien on any part of the property, the Developer shall report to said mortgagee any unpaid indebtedness remaining unpaid on that property for longer than thirty (30) days after the same are due. Also, any mortgagee holding a lien on any part of the property affected by the lien may, but shall not be required to, pay any unpaid indebtedness and upon such payment such mortgagee shall be assigned the debt and lien securing same, said assignment to be without recourse or warranty.

Section 2.05 Common Areas Exempt. All Common Areas as defined in Article I, Section 1.01 hereof and all portions of the Property owned by or otherwise dedicated to any political subdivision shall be exempted from the potential lien created herein.

### ARTICLE III

#### ARCHITECTURAL CONTROL

Section 3.01 Architectural Review Committee. There is hereby established an Architectural Review Committee (the "Committee"). The Committee shall consist of three (3) members which may consist of LEDA's Board of Directors or a committee of three (3) individuals approved by the Developer. The vote of two members shall constitute action of the Committee. The members of the Committee shall be appointed by and serve at the pleasure of the Developer.

Section 3.02 Function of the Committee. The Committee shall have the sole authority and responsibility to approve and regulate the design and construction of all Improvements (as that term is defined in Section 3.03 below) within the Property so as to assure compliance with the intent and purpose of this Declaration. All Improvements shall be designed and constructed strictly in accordance with the plans and specifications approved by the Committee and no Improvement shall be commenced until the plans and specifications for same (in such form, content and detail as the Committee may deem necessary) have been submitted to and approved by the Committee, which approval shall not be unreasonably withheld. Approval of plans and specifications shall be based, among other things, on the adequacy of Site dimensions, structural design, conformity and harmony of the external design with neighboring structures and Sites, the relation of finished grades and elevations to neighboring Sites, and conformity to both the specific and general intent of this Declaration. The Committee shall have the right to employ, at Developer's expense (or at the expense of the person or entity having the right to appoint the Committee if Developer has relinquished said right), professional consultants to assist it in discharging its duties. Any decision of the Committee in its areas of responsibility shall be final, conclusive, and binding upon all Owners and their tenants.

Section 3.03 Definition of "Improvement". An "Improvement" shall mean and include all land preparation or excavation, landscaping, buildings, structures, parking areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes,

swimming pools, tennis courts, signs, glazing or reglazing of exterior windows and any other construction which affects the exterior color or appearance of any building or structure. The term "Improvement" specifically includes both original improvements and all later changes or alterations. It does not, however, include garden shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or appearances.

Section 3.04 Submission of Plans and Specifications. Plans and specifications submitted shall be in triplicate and shall include the following:

- (a) A statement regarding the proposed use of the building.
- (b) A grading plan showing existing contour grades (in 1-foot contour intervals), finished spot grades, building finished floor elevation, and showing the location of all improvements, structures, walks, curbs, patios, driveways, shown at lot corners and at improvements. Lot drainage provisions sewer locations, shall be indicated as well as cut and fill details if any changes occur in the finished lot contour at any exterior boundary of the plat.
- (c) A site plan showing the location of all improvements, structures, walks, curbs, patios, driveways, fences, walls, all parking areas with number and size of parking spaces, trash receptacle location, required fire lanes, site ingress and egress, and the location of all truck doors, rail doors, personnel doors, entry doors, exterior glass or windows, and any other opening in the building.
- (d) A soil report.
- (e) A structural design.
- (f) A roof drainage plan.
- (g) All exterior elevations.
- (h) All exterior materials, textures and shapes.
- (i) Screening sizes, shapes, locations, methods and materials.
- (j) A landscaping plan, including walkways, fences, walls, elevation changes, water features, vegetation and ground cover. Plans shall include plant material list, spacing and sizes.
- (k) An irrigation plan showing area coverages and manufacturer's name and equipment type.

- (l) Utility connections, utility easements, location of any above ground equipment and proposed screening. Utilities are defined as telephone or other data transmission cable, gas, electrical, sanitary sewer, water, storm sewer.
- (m) Exterior paint, material and colors for all improvements, structures, signs, screening, fence and walls.
- (n) Exterior illumination, including location and fixture type.
- (o) A rail spur plan if applicable.
- (p) Signs (including any building marketing and tenant identification signs), sizes, shapes, locations and materials.
- (q) Specifications.
- (r) A detailed list of all requested waivers or variances.
- (s) Such other information as may be requested by the Committee.

The Committee may at its sole discretion permit plans and specifications to be submitted in scheduled phases and may, but shall not be required to, give conditional or partial approvals to plans or specifications; provided, however, no permitted delay in the submission of plans or specifications and no conditional or partial approval shall in any way obligate the Committee to any subsequent or additional approval, waiver or variance.

Section 3.05 Form of Committee Action. All actions of the Committee, including approval of plans and specifications and the granting of waivers or variances, shall be in writing, signed by at least one member of the Committee. Any approval, waiver or variance in any form other than as set forth in the immediately preceding sentence shall not be binding on the Committee or the Developer. However, if the Committee fails either to approve or to disapprove an Owner's plans and specifications (including resubmission of disapproved plans and specifications which have been revised) within forty-five (45) days after they have been submitted to it (provided that all required information has been submitted), it shall be conclusively presumed that said plans and specifications have been approved; subject, however, to the conditions, covenants, restrictions and reservations contained elsewhere herein. The Committee shall notify the Owner in writing upon receipt of all required plans and specifications and the aforesaid forty-five (45) day period shall commence on the date of such notification.

Section 3.06 Limitation of Liability. Neither the Developer, the Committee nor any of the members of such Committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner of land affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications. Further, the construction of any Improvement shall be the sole responsibility of the Owner and any recommendation with respect to any plans or specifications or the means or

method of construction made by the Committee or any member thereof shall not alter the Owner's responsibility for the safe and proper design and construction of said Improvement; nor shall it give rise to any claim by anyone against the Developer or Committee or any member thereof for any defect in design or construction of any Improvement.

Section 3.07 Enforcement by Committee. No Improvement shall be constructed, erected, placed, altered (by addition or deletion), maintained or be permitted to remain on any Site except in accordance with plans and specifications which have been approved by the Committee. Any Improvement not designed and constructed in accordance with plans and specifications approved by the Committee shall conclusively be deemed in violation of this Declaration and shall be removed or corrected by the Owner to the satisfaction of the Committee. In addition to any other remedy provided for in this Declaration, the Developer may bring suit to enjoin the commencement or continuance of construction of any Improvement for which the Committee has not approved plans and specifications and may also bring suit to enjoin the continuance of construction of any Improvement that is not being constructed in accordance with plans and specifications previously approved by the Committee.

ARTICLE IV  
REGULATION OF USE AND IMPROVEMENTS WITHIN  
THE LUBBOCK BUSINESS PARK

Section 4.01 Property Involved. The provisions of this Article IV shall apply only to Building Sites within the property described in Exhibit A.

Section 4.02 Permitted Uses. Sites within the Lubbock Business Park may be used only for office, office-showroom, warehousing, assembling, processing, bioscience, light manufacturing, wholesaling, research and development and distribution purposes. Further, upon written approval of the Architectural Review Committee, the Sites within the Initial tract may be used for other commercial uses compatible with and ancillary to the aforementioned uses (including, but not limited to, banks, retail shops, gasoline service stations, hotels, restaurants, etc.)

Section 4.03 Prohibited Uses. The following use of Sites within the Initial Tract are prohibited:

- (a) Any use which is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or which constitutes a nuisance or is hazardous by reason of fire or explosion, or injurious to the reputation of any Site in the Initial Tract.
- (b) Any use which is in violation of the laws of the United States, the State of Texas, or any other governmental authority having jurisdiction over the Initial Tract.
- (c) Overnight parking of campers, mobile homes, boats, or motor homes, except that such parking is permitted in covered or enclosed areas.
- (d) Any use which involves the raising, breeding, or keeping of any animals or poultry.

- (e) Uses not otherwise permitted in Section 4.02 above.

Section 4.04 Building Setback Lines. No building, fence, wall or other structure or any part thereof, shall be erected or placed within the following setback lines:

- (a) Thirty feet (30') from any street right-of-way.
- (b) Ten feet (10') from the side and rear property line.
- (c) Seventeen feet (17') from the right-of-way line of any railroad spur or lead track.

Section 4.05 Site Coverage. No more than fifty-five percent (55%) of any Building Site shall be covered by buildings or any lesser amount as defined in the Zoning Ordinance of the City of Lubbock.

Section 4.06 No Subdivision of Sites. No Building Site shall be subdivided or resubdivided.

Section 4.07 Parking. Parking shall be governed as follows:

- (a) Adequate off-street parking shall be provided by each Owner. If parking needs increase, additional off-street parking shall be provided by the Owner. No parking shall be permitted on any street or at any place other than on the on-site paved parking spaces to be provided by the Owner of a Building Site. Each Owner and tenant shall be responsible for compliance with the foregoing by his employees and Visitors.
- (b) The location, number and size of parking spaces shall meet the requirements defined in the Zoning Ordinance of the City of Lubbock.
- (c) All light duty parking areas shall be paved with Concrete having the strength and durability equal to or better than that of five inch (5-inch) thick, 3,000 p.s.i. concrete. All heavy duty drives and parking areas shall be paved with Concrete having the strength and durability equal to or better than that of six and one half inch (6.5-inch) thick, 3,000 p.s.i. concrete. All pavement sections should be constructed on a minimum of six inches (6-inches) of compacted subgrade.
- (d) All parking areas shall be illuminated and shall be screened from view from public streets by means and materials approved by the Architectural Review Committee.

Section 4.08 Loading & Receiving Areas. Loading and receiving areas shall be governed as follows:

- (a) All loading and receiving areas shall be paved with concrete having the strength and durability equal to or better than that of six and one half (6.5-inch) thick, 3,000 p.s.i. concrete. This pavement section should be constructed on a minimum of 6-inches (6-inches) of compacted subgrade

(b) All loading and receiving areas shall be screened from view from public streets by means and materials approved by the Architectural Review Committee.

Section 4.09 Outside Storage. No materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be permitted to be stored on any area exterior to the building without the approval of the Architectural Review Committee. Any permitted outside storage shall be screened from view of adjoining properties and public streets with a six foot screen of either dense vegetation, brick or split faced concrete masonry units. Wood fencing will not be allowed as a method for screening outside storage.

Section 4.10 Solid Waste Receptacle. Each Building Site shall have a minimum of one commercial solid waste container. Said Commercial waste container shall be maintained in good mechanical condition. All waste containers shall be emptied as often as necessary so as to prevent such container from overflowing and at least once every seven days if such container is used for deposit of garbage or other putrescible material. All garbage or putrescible material must be bagged or wrapped so as to be air tight before depositing in the waste containers. Lids and doors of waste containers are to be kept in a closed position at all times except during times when such container is being emptied or filled. Each waste container shall be screened from view from all adjacent property or public streets by means of permanent landscaping or solid masonry walls at least the height of the waste container and preferably completely enclosed.

Section 4.11 Landscaping. It is the desire and intention of Developer to maintain a comprehensive landscaping standard using landscape plant material native to this region within the LBK. All landscaping plant material installed within the LBK shall comply with the "Recommended Landscape Plant Materials" as established in Exhibit "B". All areas of the lot that are not built upon (building, drives or parking lot) are to be landscaped; minimum softscape/landscape lot coverage to be 20%. Use of exposed aggregate concrete to meet landscape requirement is prohibited. Each Building Site, including portions thereof located within any setback lines or easement areas and including the parkway area between the property line and any adjacent street curb, shall be landscaped in accordance with landscaping plans submitted to and approved by the Architectural Review Committee. Such landscaping plan shall include information regarding the total Site, scale, type of sodding, seeding, trees, shrubs and plants, their size and locations. The landscape plan shall provide information regarding other customary landscape treatment for the entire Site, including fences, walls, drainage and screening. All landscaped plans shall also include an underground sprinkler system. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended or revised without the prior approval of the Architectural Review Committee. Further, it shall be the responsibility of the Owner of a Building Site to maintain all landscaped areas of his property including those portions lying within setback lines and easement areas (unless said area is at the main entrance to the LBK) including the parkway area between the property line and any adjacent street curb and to construct a concrete sidewalk with a minimum width of six feet. A sample landscaping treatment plan depicting acceptable tree spacing is included with Exhibit B of this document.

All landscaping required hereunder or otherwise to be provided on any Building Site shall be completed within sixty (60) days after the substantial completion of construction of any building on the Building Site; provided, however, if weather conditions do not permit installation at such time, then such landscaping shall be completed as soon thereafter as weather conditions permit. If

any Owner fails to undertake and complete the required landscaping, the Developer may at its option, and after ten (10) days notice to said Owner, complete same in accordance with previously approved landscape plans or if no landscape plans have been approved, in accordance with Developer's own plan as approved by the Architectural Review Committee. If the Developer performs any landscape work, the Owner of the Building Site on which such work is performed shall be liable for the cost of such work and shall promptly reimburse the Developer for such cost. If such Owner shall fail to reimburse the Developer within ten (10) days after receipt of a statement for such work from the Developer, then said indebtedness shall be a debt of Owner and shall constitute a lien against the Building Site on which said work was performed. This debt shall bear interest at the rate and be subject to the costs as provided for in Section 2.03 above and shall be collectable in the same manner as provided for therein. Similarly, the lien referred to herein shall have the same attributes as the lien set forth in Section 2.04 above, which provisions are incorporated herein by reference, and the Developer shall have identical powers and rights with respect to said lien as it has with respect to the lien described in Section 2.04 including, but not limited to, the right to release, subordinate or foreclose same.

Section 4.12 Signs. It is the desire and intention of the Developer to maintain a comprehensive signage standard for the LBK. All entrance and tenant identity signs shall comply with the requirements, design, and installation as established in Exhibit "C" "Business Park Signs". Signs shall be governed as follows:

(a) No sign (including, but not limited to, a building marketing sign or a tenant identification sign) shall be permitted on any Building Site without the prior approval of the Architectural Review Committee as to size, number, location, design and color. Normally, such approval will be limited to those signs which:

- (1) Identify the name and business of the occupant, or which give directions, or which 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.

(b) Any permitted sign shall conform to all governmental ordinances and regulations applicable to same.

Section 4.13 Utility Connections. All utility connections and installation, including electrical and telephone or other data transmission cable, shall be underground. No utility meter or apparatus shall be located on any pole or attached to the outside of any building wall which is exposed to view from any public street. All transformers shall be placed on or below the surface of the property.

Additionally, if placed on the surface, a transformer shall be adequately screened from view of public streets and adjoining properties by means and materials approved by the Architectural Review Committee.

Section 4.14 Height Restrictions. No building or appurtenance, including, but not limited to, water towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilation fans, or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts or antennas, shall

exceed a height equal to the lower of (1) the Federal Aviation Administration height restrictions for proposed construction in the vicinity of the Lubbock Preston Smith International Airport or, (2) two times the distance from the front building line to the street right-of-way. The maximum building height in this calculation will be measured as if the finish floor elevation were the same as the top of the curb elevation at the midpoint of the lot along the front yard of the Site.

Section 4.15 On-Site Drainage. No water shall be drained or discharged from any Building Site, except in accordance with grading plans approved by the Architectural Review Committee. Further no Owner shall interfere with the drainage established by the grading plan for the remainder of the Property or any other property adjacent to such Site. All roof drainage shall flow from the roof to the ground through a downspout interior to the building's outer walls.

Section 4.16 Building Exteriors. All colors of materials on the building exteriors must be approved by the Architectural Review Committee. Further, all exterior wall surfaces of any building shall be masonry construction (brick, split faced or burnished Concrete Masonry Units), pre-cast or tilt up concrete, glass block, storefront or curtain wall glazing or flat metal panels (such as alucobond), its equivalent or better, and no exterior wall surface of any building shall be covered with sheet or corrugated aluminum, asbestos, iron, wood or steel; provided, however, that accent treatments (less than 25% of the wall surface) will be allowed. Approved accent materials are: stucco, plaster, and horizontal ribbed metal panels. Windows are encouraged. Support or annex buildings must utilize the approved building materials previously noted.

Water towers, storage tanks, processing equipment, stand fans, skylights, cooling towers, communication towers, solar equipment and any other structure or equipment shall be architecturally compatible with the building or shielded from view from any public street by means and materials approved by the Architectural Review Committee.

Section 4.17 Roofs. Generally, roofs should be screened from view with parapets. If a roof is exposed to view, then it must be of an "architectural standing seam metal roof material", minimum width between standing seams should be 16 inches, in addition, the roof should have a minimum of a 12 inch overhang. Minimum roof slope when exposed to view is 3 and 12.

Section 4.18 Driveways. The following shall govern driveways serving a Building Site:

- (a) Driveways onto and off of East Yucca Lane shall not be located within one hundred sixty feet (160') of an intersecting street, unless the traffic on the side of East Yucca Lane where the driveway is located is moving away from the intersection, in which case, the driveway shall not be located within sixty feet (60') of the intersection. Driveways onto and off of other streets shall be located no closer than sixty feet (60') to the corner of an intersecting Street. Distances shall be measured from the tangency line of the curb radius to the tangency line of the closest driveway curb radius.
- (b) All driveways shall have a minimum radius of twenty feet (20') and a maximum width of forty feet (40').
- (c) No more than two curb cuts onto each adjacent Street shall be permitted on any Site.

- (d) All driveways opening onto streets with medians shall be centered on the center of the median opening unless it is offset by one hundred feet (100') or more.
- (e) Driveways shall be paved with concrete having a strength and durability equal to, or better than, six and one half inch (6.5-inch) thick, 3,000 p.s.i. concrete.

Section 4.19 Exterior Lighting. Exterior lighting shall be governed as follows:

- (a) All exterior walls facing East Yucca Lane shall be illuminated.
- (b) All exterior lighting shall be compatible and harmonious throughout the Property and shall be designed, installed, directed, altered and maintained in accordance with plans and Specifications submitted to and approved by the Architectural Review Committee. Sample of approved lighting types are included on Exhibit D.

Section 4.20 Approvals, Waivers and Variances. It is the intent of this Declaration that the regulation of Sites within the Initial Tract as set forth in this Article IV be strictly adhered to. Notwithstanding that intent, it is recognized that particular circumstances may from time to time and on a case-by-case basis necessitate the waiving or varying of certain of the requirements set out in this Article IV. Therefore, for good cause shown, the Architectural Review Committee may, in its sole discretion, and on a case-by-case basis waive or vary the requirements and standards set forth in this Article IV so long as such waiver or variance does not violate the overall scheme and intent of this Article IV. Any waiver or variance, when granted, shall be final and binding upon all Owners. The granting of a waiver or variance to one Owner shall not automatically entitle another Owner to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own merits. Further, the granting of a waiver or variance to an Owner shall not automatically entitle that Owner to any subsequent or additional waiver or variance. All approvals, waivers and variances by the Committee shall be in writing and signed by at least one member of the Committee and, if requested by the applicant, shall be in recordable form. Any approval, waiver or variance in any form other than as set forth in the immediately preceding sentence shall not be binding on the Committee or the Developer.

## ARTICLE V

### DEVELOPER'S RIGHT OF REPURCHASE

Section 5.01 Right of Repurchase. If an Owner of a Building Site, his successors or assigns, fails to commence construction of a building thereon within two (2) years from the date of the deed conveying the Building Site from the Developer to the Owner, then in such event, the Developer, its successors or assigns, at any time thereafter shall have the continuing right to repurchase the Building Site by giving the Owner written notice of its intent to repurchase. Upon the exercise of the Developer's repurchase right, the Owner shall reconvey the Building Site to the Developer within thirty (30) days after the date of the Developer's notice of its intent to repurchase. The repurchase price shall be the price paid by the Owner to the Developer for the Building Site when the Building Site was purchased by the Owner from the Developer. The repurchase price shall be paid in cash at the closing of the reconveyance to the Developer and the reconveyance deed from the Owner to the Developer shall be by Special Warranty

Deed containing no exceptions other than the exceptions contained in the original deed from the Developer to the Owner. Ad valorem taxes and other assessments against the Building Site shall be prorated on and as of the date of such reconveyance. The rights of the Developer to repurchase the Building Site shall be specifically enforceable and shall be binding upon the original Owner, his successors and assigns, and shall be considered a covenant running with the Building Site.

Section 5.02 Release and Waiver. Upon commencement of construction of a building on the Building Site within the said two-year period, the repurchase right provided in Section 5.01 above shall terminate and the Developer shall upon receipt of a written request from Owner, execute a release of such repurchase right in recordable form. In addition, by written instrument executed by Developer, Developer may, in its sole discretion, extend the two-year period within which construction of a building must commence; or otherwise limit or waive entirely its right of repurchase under Section 5.01.

Section 5.03 Definition of "Commencement of Construction". For purposes of Sections 5.01 and 5.02 above, "commencement of construction of a building" shall mean that the Owner of the Building Site has obtained approval of the Architectural Review Committee as set forth in Article III hereof; obtained building permits from the appropriate governmental authorities authorizing construction of a building and improvements as approved by the Architectural Review Committee; entered into a construction contract with a contractor licensed to do business in Texas for the construction of a building; and expended at least the sum of one hundred thousand dollars (\$100,000.00) pursuant to such construction contract for on-site construction work.

## ARTICLE VI

### EXTENSION OF DECLARATION TO INCLUDE ADDITIONAL PROPERTY

Section 6.01 Means of Extending this Declaration to Additional Property. The Developer may add to the scheme of this Declaration any additional Property located within the boundaries set out on Exhibit "A" attached hereto and incorporated herein by reference, whether or not the Property to be added is contiguous to other properties covered by this Declaration. This may be done by the Developer filing a Supplementary Declaration (herein so called) in the recording office where this Declaration is recorded, at which time, the scheme of this Declaration shall be extended to the property so added. The property so added shall then come within the definition of "Property" as set forth in Article I, Section 1.01 hereof.

Section 6.02 Contents of a Supplementary Declaration. Each Supplementary Declaration shall include a legal description of the property so added and shall designate that Property with the term "Area" followed by an Arabic numeral and "Section" followed by another Arabic numeral so as to differentiate each respective Area and Section from other Areas and Sections within the Property. Each Supplementary Declaration shall also contain covenants and restrictions to which the added property shall be subject. Such covenants and restrictions may contain additions, deletions and modifications from those contained in Article IV of this Declaration as may be necessary to reflect the different character or use, if any, of the added property. In no event, however, shall such Supplementary Declaration revoke, modify or in any way change the provisions of the other Articles hereof, nor shall any Supplementary Declaration revoke, modify or add to the covenants established by Article IV of this Declaration for the Initial Tract. **It is the intention of the Developer that the requirements established by this Declaration are to replace any**

**covenants established by any previously filed Declaration for the Initial Tract.**

Section 6.03 Developer's Right to Exempt Additional Property. At any time prior to the time a property has been added to this Declaration, the Developer may, at its sole and unimpaired discretion, exempt that property from being subject to being added to this Declaration. This shall be done by Developer filing in the recording office where this Declaration is recorded a written instrument describing the property to be exempted and stating that said property shall not thereafter be subject to being added to the scheme of this Declaration. Upon such filing no person (including the Developer) shall have the right to add to this Declaration the property so exempted without the prior written consent of the owner thereof.

ARTICLE VII

ENFORCEMENT OF COVENANTS AND ASSIGNMENT  
OF DEVELOPER'S RIGHTS AND DUTIES

Section 7.01 Abatement and Suit. The conditions, covenants, restrictions and reservations contained in this Declaration shall run with the land and be binding upon and inure to the benefit of the Developer and the Owners of every Building Site within the Property. Violation of any condition, covenant, restriction or reservation herein contained shall give to the Developer the right to enter upon the portion of the Property wherein said violation or breach exists and to summarily abate and remove at the expense of the Owner any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions of this Declaration, or to institute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these conditions, covenants, restrictions and reservations, to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

The conditions, covenants, restrictions and reservations of this Declaration may be enforced as herein provided only by Developer or the Architectural Review Committee; provided, however, that if an Owner notifies Developer of a claimed violation of these conditions, covenants, restrictions and reservations and Developer fails to act within sixty (60) days after receipt of such notification, then and in that event only, an Owner may separately, at his own cost and expense, enforce the conditions, covenants, restrictions and reservations herein contained.

Section 7.02 Deemed to Constitute a Nuisance. Every violation of this Declaration or any part thereof is hereby declared to be and constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an Owner, tenant or occupant shall be applicable against every such violation and may be exercised by Developer. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision thereof, the losing party or parties shall pay the reasonable attorneys' fees of the prevailing party or parties in the amount as may be fixed by the court in such proceedings.

Section 7.03 Remedies Cumulative. All remedies provided herein or at law or in equity shall be cumulative and not exclusive. The failure of the Developer to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions,

covenants, restrictions or reservations and Developer shall not be liable therefor.

Section 7.04 Certificate of Compliance. Upon payment of a reasonable fee not to exceed fifty dollars (\$50.00) and upon written request of any Owner, tenant, mortgagee, prospective Owner, prospective tenant or prospective mortgagee of a Building Site, Developer shall issue and acknowledge a certificate in recordable form setting forth the amounts of any unpaid assessments, if any, against that Building Site; and setting forth generally whether or not said Owner is in violation of any of the terms and conditions of this Declaration. Said written statement shall be conclusive upon the Developer in favor of the persons who rely thereon in good faith. Such statement shall be furnished by Developer within a reasonable time, but not to exceed fifteen (15) business days from the receipt of a written request for such certificate. In the event Developer fails to furnish such certificate within fifteen (15) business days, it shall be conclusively presumed that there are no unpaid assessments relating to the Building Site as to which the request was made and that said Building Site is in conformance with all of the terms and conditions of this Declaration.

Section 7.05 Assignments of Developer's Rights and Duties. Any and all of the rights, powers and reservations of Developer herein contained may be assigned by Developer to any person, corporation, association or other entity which will assume any or all of the duties of Developer hereunder. To be effective, such assignment must be in writing and specifically refer to the rights, powers and reservations of the Developer hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Developer herein. Upon such assignment, and to the extent thereof, Developer shall be relieved from all liabilities, obligations and duties hereunder from and after the date of such assignment. The term "Developer", as used herein, includes all such assignees and their heirs, successors and assigns.

Anything contained elsewhere herein to the contrary notwithstanding, the mere conveyance or transfer of ownership of land within the Property by Developer to any third party, whether by deed or other instrument of conveyance, shall in no way convey any right, power or reservation of Developer hereunder.

Section 7.06 Relinquishment of Rights by or Dissolution of Developer. If at any time: (i) the Developer ceases to exist and has not made an assignment of the rights, powers and reservations of Developer herein contained; (ii) the Developer or the assignee of its rights, powers and reservations hereunder, files a written notice in the recording office where this Declaration is filed that it has relinquished its rights, powers and reservations hereunder; (iii) the Developer ceases to be an Owner (as that term is defined in Article I, Section 1.01 above) of land within the Property, then, upon the occurrence of any such event, the Owners of a majority of the acreage (exclusive of Common Areas) within the Property may organize a Property owner's association to be incorporated under the laws of the State of Texas as a non-profit corporation, which association shall succeed to and assume all of the Developer's rights, powers and reservations hereunder. Such an association shall have as its members all of the Owners of the Building Sites within the Property. Each member shall be entitled to one vote for each one thousand (1,000) square feet (or major fraction thereof) of land owned within the Property by such member. Upon such succession and assumption, the

association shall assume Developer's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Developer herein. Upon such succession and assumption, the Developer shall be relieved from all liabilities, obligations and duties hereunder.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

Section 8.01 Term. This Declaration, every provision hereof and every covenant, condition, restriction and reservation contained herein, shall continue in full force and effect for a term beginning on the date this Declaration is recorded and continuing through and including December 31, 2037, and shall thereafter be automatically extended for successive periods of five (5) years until terminated as provided in Section 8.02 below.

Section 8.02 Termination and Modification.

(a) Article IV of this Declaration (or any equivalent Article contained in any Supplementary Declaration), dealing with the regulation of uses and improvements, may be terminated, extended, modified or amended as to that area of the Property, upon a vote of the Owners owning a majority of the acreage (exclusive of the Common Areas) within that area of the Property voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided, however, that during the initial period of this Declaration, to-wit, prior to December 31, 2037, no such termination, extension, modification or amendment shall be effective without the written approval of Developer. Such termination, extension, modification or amendment shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by such Owners (and by Developer as required herein) in the recording office where this Declaration is filed. All other Articles of this Declaration or any provision thereof, or any covenant, condition, restriction or reservation contained herein, may be terminated, extended, modified or amended as to the whole of said Property or any portion thereof, upon a vote of the Owners owning a majority of the acreage (exclusive of the Common Areas) within the Property voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided, however, that during the initial period of this Declaration, to-wit, prior to December 31, 2037, no such termination, extension, modification or amendment shall be effective without the written approval of Developer. Such termination, extension, modification or amendment shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by such Owners (and by Developer as required herein) in the recording office where this Declaration is filed.

(b) If for any reason the Developer's rights under the Option expire or are terminated pursuant to the terms of said Option, then in such event any portion of the Property which has not been purchased by the Developer at or prior to the time of such expiration or termination shall no longer be subject to this Declaration.

Section 8.03 Notices. All notices, approvals, or other communications required or permitted to be given under this Declaration

shall be in writing and shall be considered as properly given or made: (i) on the second day after being mailed from within the United States by first class United States mail, certified mail, return receipt requested, postage prepaid and addressed to the person to whom it is intended at the address of said person as set forth below, whether actually received or not; or (ii) when actually received by the person to whom it is intended if given in any other manner. The mailing address for a Building Site Owner shall be the address of said Owner as shown on the tax rolls of the city having taxing authority over the Building Site. The mailing address for the Developer shall be in care of Lubbock Economic Development Alliance, Wells Fargo Center, 1500 Broadway, 6th Floor Lubbock, Texas 79401: Lubbock Business Park Manager. Developer may change its address by filing a written instruction in the recording office where this Declaration is filed stating its new address.

Section 8.04 Parties Bound. The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Developer, the Owners of all Building Sites located within the Property, the Owners of additional property made subject to this Declaration and their respective heirs, successors, personal representatives and assigns. Notwithstanding the above, upon the sale of a Building Site, the Owner so selling shall not have any further liability for the obligations thereon which shall accrue against that Building Site after the date of the conveyance; provided, however, that nothing herein shall be construed so as to relieve an Owner of any Building Site from any liabilities or obligations incurred prior to such sale pursuant to this Declaration. Furthermore, any such sale shall not enlarge or extend the time for commencement of construction of a building upon a Building Site nor modify Developer's right of repurchase pursuant to Article V hereof.

Section 8.05 Severability of Provisions. If any Article, Section, subsection, paragraph, sentence, clause or phrase of this Declaration or any Supplementary Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining Articles, Sections, subsections, paragraphs, sentences, clauses and phrases of this Declaration or any Supplementary Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining Articles, Sections, subsections, paragraphs, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more of the other Articles, Sections, paragraphs, sentences, clauses or phrases shall become or be illegal, null or void.

Section 8.06 Number and Gender. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number (singular or plural) and any other gender (masculine, feminine or neuter) as the context requires.

Section 8.07 Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration, or any part thereof.

Section 8.08 Applicable Law and Venue. This Declaration and the rights and obligations created hereby shall be construed in accordance with the laws of the State of Texas and venue for the enforcement of same shall lie exclusively in Lubbock County, Texas, and any person or entity affected hereby expressly waives the right to be sued elsewhere.

WITNESS THE EXECUTION hereto as of the date of acknowledgment by each of the parties hereto.

LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC.

By: \_\_\_\_\_

Gary C. Lawrence, its Chief Executive Officer  
and President

STANDARD INTERNATIONAL, LLC

By: \_\_\_\_\_

Gary C. Lawrence, attorney-in-fact,  
pursuant to that certain Agreement Regarding  
Conveyance of Land, Easement, Covenants and  
Restrictions and Power of Attorney Coupled with  
an Interest dated December 29, 2006 and recorded  
at Document No. 2007000125 in the Official Public  
Records of Lubbock County, Texas

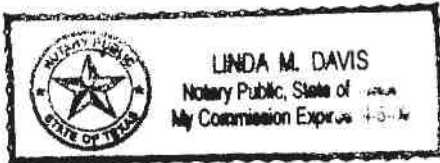
STATE OF TEXAS

§

COUNTY OF LUBBOCK

§

This instrument was acknowledged before me this 2<sup>ND</sup> day of August, 2007, by Gary C. Lawrence, Chief Executive Officer and President of Lubbock Economic Development Alliance, Inc., a Texas non-profit corporation, on behalf of said corporation.



Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS

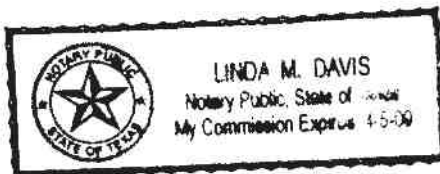
STATE OF TEXAS

§

COUNTY OF LUBBOCK

§

This instrument was acknowledged before me this 2<sup>ND</sup> day of August, 2007, by Gary C. Lawrence, Attorney-in-Fact for Standard International, LLC., a Texas limited liability company, on behalf of said corporation.



Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS

***EXHIBIT A***

***LUBBOCK BUSINESS PARK  
PROPERTY DESCRIPTION***

EXHIBIT "A"

A 586.151 acre tract of land being Section 7, Block A, Lubbock County, Texas, being further described as follows:

BEGINNING at a railroad spike found in the North line of Section 7, Block A, at the Northwest corner of this tract which bears N. 89/45'50" E. a distance of 260.03 feet from the Northwest corner of Section 7, Block A, Lubbock County, Texas;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 126.02 feet to a point at the Northwest corner of a tract of land recorded in Volume 393, Page 505, Deed Records of Lubbock County, Texas, for a corner of this tract;

THENCE S. 00/14'10" E. (Deed North-South), along the West line of said tract recorded in Volume 393, Page 505, at 12.00 feet pass a 1/2" iron rod with cap set in reference, continuing for a total distance of 112.00 feet to a 1/2" iron rod with cap set at the Southwest corner of said tract recorded in Volume 393, Page 505, for a corner of this tract;

THENCE N. 89/45'50" E. (Deed East-West), along the South line of said tract recorded in Volume 393, Page 505, a distance of 100.00 feet to a 1/2" iron rod with cap set at the Southeast corner of said tract recorded in Volume 393, Page 505 for a corner of this tract;

THENCE N. 00/14'10" W. (Deed North-South), along the East line of said tract recorded in Volume 393, Page 505, at 100.00 feet pass a 1/2" iron rod with cap set in reference, continuing for a total distance of 112.00 feet to a 1/2" iron rod with cap set in the North line of said Section 7, Block A, at the Northeast corner of said tract recorded in Volume 393, Page 505, for a corner of this tract;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 12.75 feet to a point at the Northwest corner of a tract of land described in Volume 1856, Page 255, Deed Records of Lubbock County, Texas, for a corner of this tract;

THENCE S. 00/12'16" E. (Deed S. 00/08'26" W. 122.00 feet), along the West line of said tract described in Volume 1856, Page 255, at 0.14 feet pass a railroad spike found in reference, at 30.15 feet pass a 3/8" iron rod found in reference, continuing for a total distance of 122.16 feet to a 3/8" iron rod found at the Southwest corner of said tract of land recorded in Volume 1856, Page 255, for a corner of this tract;

THENCE N. 89/48'18" E. (Deed S. 89/51'34" E.), along the South line of said tract described in Volume 1856, Page 255, a distance of 117.00 feet to a 1/2" iron rod with cap set at the Southeast corner of said tract of land recorded in Volume 1856, Page 255, for a corner of this tract;

THENCE N. 00/12'16" W. (Deed N. 00/08'26" E. 122.00 feet), along the East line of said tract of land recorded in Volume 1856, Page 255, at 92.01 feet pass a 3/8" iron rod found in reference, at 122.02 feet pass a railroad spike found in reference, continuing for a total distance of 122.24 feet to a point at the Northeast corner of said tract recorded in Volume 1856, Page 255, in the North line of said Section, for a corner of this tract;

THENCE N. 89/45'50" E., along the North line of said Section, a distance of 4648.15 feet to a railroad spike found in the West right-of-way line of North Martin Luther King Jr. Boulevard, in Warranty Deed to the City of Lubbock in instrument of record in Volume 1489, Page 603, Deed Records of Lubbock County, Texas, at the Northeast corner of this tract;

THENCE S. 00/23'49" E. (Deed S. 01/55'42" W. 319.88 feet), along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 319.17 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southwesterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the right, said curve having a radius of 5674.58 feet, a central angle of 01/37'03" (Deed 01/37'00"), a chord distance of 160.19 feet (Deed 160.11 feet) and a chord bearing of S. 00/26'08" W. (Deed S. 02/44'12" W.) to a 3/8" iron rod found at a point of intersection;

THENCE S. 01/13'02" W. (Deed S. 03/32'42" W. 1237.52 feet), continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 1237.51 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southwesterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the left, said curve having a radius of 5784.58 feet, a central angle of 01/37'59" (Deed 01/38'00"), a chord distance of 164.86 feet (Deed 164.90 feet) and a chord bearing of S. 00/26'11" W. (Deed S. 02/43'42" W.) to a 3/8" iron rod found at a point of intersection;

THENCE S. 00/25'41" E. (Deed S. 01/54'42" W. 1989.74 feet), continuing along the West right-of-way line of said North Martin Luther King, Jr. Boulevard, a distance of 1989.94 feet to a 3/8" iron rod found at a point of intersection;

THENCE Southeasterly, continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, around a curve to the left, said curve having a radius of 5784.58 feet, a central angle of 01/43'31" (Deed 01/43'30"), a chord distance of 174.18 feet (Deed 174.15 feet) and a chord bearing of S. 01/15'41" E. (Deed S. 01/02'57" W.) to a 3/8" iron rod with cap found at a corner of this tract;

THENCE S. 02/08'33" E., continuing along the West right-of-way line of said North Martin Luther King Jr. Boulevard, a distance of 231.56 feet to a 1/2" iron rod found at the Northeast corner of Lot 1, Lubbock Fire Department Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 5943, Page 156, Real Property Records of Lubbock County, Texas, at a corner of this tract;

THENCE S. 89/41'40" W. (Plat S. 89/40'40" W.), along the North line of said Lot 1, a distance of 800.00 feet to a 1/2" iron rod with cap found at the Northwest corner of said Lot 1 at a corner of this tract;

THENCE S. 00/24'52" E. (Plat S. 00/25'30" E.), along the West line of said Lot 1, a distance of 1000.00 feet to a 1/2" iron rod with cap found at the Southwest corner of said Lot 1, in the North right-of-way line of East Ursuline Street for the Southernmost Southeast corner of this tract;

THENCE S. 89/40'40" W., along the North right-of-way line of said East Ursuline Street, a distance of 4374.50 feet to a 1/2" iron rod with cap set for a point of curvature;

THENCE Northwesterly around a curve to the right, said curve having a radius of 15.00 feet, central angle of 90/00'00" and a chord distance of 21.21 feet to a 1/2" iron rod with cap set in the East right-of-way line of North Ash Avenue for a non-tangent point of intersection;

THENCE N. 00/17'44" W., along the East right-of-way line of North Ash Avenue, a distance of 922.44 feet to a 1/2" iron rod with cap set in the East right-of-way line of Interstate No. 27 as reflected in Deed (Controlled Access Highway Facility) to the State of Texas in instrument of record in Volume 1418, Page 686, Deed Records of Lubbock County, Texas, for a point of intersection;

THENCE Northeasterly, along the East right-of-way line of said Interstate No. 27, granted to the State of Texas in instrument of record in Volume 1418, Page 686, and in Volume 1383, Page 149, respectively, Deed Records of Lubbock County, Texas, along a curve to the left, said curve having a radius of 1910.08 feet, a central angle of 16/39'08", a chord distance of 553.19 feet and a chord bearing of N. 17/17'30" E. for a point of intersection;

THENCE N. 09/38'33" E. (Deed N. 09/50'00" E. 1005.24 feet), continuing along the East right-of-way line of said Interstate No. 27, as reflected in Deed (Controlled Access Highway Facility) to the State of Texas in instrument of record in Volume 1383, Page 149, Deed Records of Lubbock County, Texas, a distance of 1005.21 feet to a 1/2" iron rod with cap set for a corner of this tract;

THENCE N. 04/37'38" W. (Deed N. 04/10'19" W. 1406.38 feet), continuing along the East right-of-way line of said Interstate No. 27, a distance of 1406.23 feet to a 1/2" iron rod found at a corner of this tract;

THENCE N. 01/29'08" W. (Deed N. 01/07'00" W. 1429.55 feet), continuing along the East right-of-way line of said Interstate No. 27, a distance of 1427.37 feet to the Point of Beginning, containing 586.151 acres of land.

***EXHIBIT B***

***RECOMMENDED LANDSCAPE PLANT  
MATERIALS***

**Recommended List of Landscape Plant Material**

| <i>Plant</i>                       | <i>Common Name</i>      | <i>Botanical Name</i>            | <i>Min. Size</i> | <i>Variety</i>                       |
|------------------------------------|-------------------------|----------------------------------|------------------|--------------------------------------|
| <b>Canopy/Shade Trees:</b>         |                         |                                  |                  |                                      |
|                                    | Cedar Elm               | Ulmus crassifolia                | 3" cal.          |                                      |
|                                    | Chinese Pistache        | Pistachia chinensis              | 3" cal.          |                                      |
|                                    | Lacebark Elm            | Ulmus parvifolia                 | 3" cal.          |                                      |
|                                    | Live Oak                | Quercus virginiana               | 3" cal.          |                                      |
|                                    | Bur Oak                 | Quercus macrocarpa               | 3" cal.          |                                      |
|                                    | Bald Cypress            | Taxodium disticum                | 3" cal.          |                                      |
|                                    | Bald Cypress            | Taxodium disticum                | 3" cal.          | "Shawnee Brave"                      |
|                                    | Pecan                   | Carya illinoensis                | 3" cal.          |                                      |
| <b>Ornamental Trees:</b>           |                         |                                  |                  |                                      |
|                                    | Desert Willow           | Chilopsis linearis               | 15 gal.          |                                      |
|                                    | Flowering Crabapple     | Malus spp.                       | 2" cal.          |                                      |
|                                    | Crape Myrtle            | Lagerstroemia indica             | 15 gal.          | see shrub list below                 |
|                                    | Redbud                  | Cercis canadensis                | 15 gal.          | 'Texas' or 'Oklahoma'                |
|                                    | Chaste Tree             | Vitex agnus-castus               | 15 gal.          |                                      |
|                                    | Russian Olive           | Eleagnus augustifolia            | 2" cal.          |                                      |
|                                    | Yaupon Holly            | Ilex vomitoria                   | 15 gal.          |                                      |
|                                    | Chitalpa                | Chitalpa tashkentensis           | 15 gal.          |                                      |
|                                    | Red Haw                 | Crataegus calpodendron           | 15 gal.          |                                      |
| <b>Coniferous/Evergreen Trees:</b> |                         |                                  |                  |                                      |
|                                    | Mondell Pine            | Pinus eldarica                   | 6' Ht.           |                                      |
|                                    | Austrian Pine           | Pinus nigra                      | 6' Ht.           |                                      |
|                                    | Deodor Cedar            | Cedrus deodora                   | 6' Ht.           |                                      |
| <b>Shrubs:</b>                     |                         |                                  |                  |                                      |
|                                    | Blue Carpet Juniper     | Juniperus squamata 'Blue Carpet' | 5 gal.           |                                      |
|                                    | Blue Mist Spirea        | Caryopteris clandonensis         | 5 gal.           |                                      |
|                                    | Butterfly Bush          | Buddleia davidii                 | 5 gal.           |                                      |
|                                    | Cotoneaster             | Cotoneaster horizontalis         | 5 gal.           |                                      |
|                                    | Barberry                | Berberis thunbergii atropurpurea | 5 gal.           |                                      |
|                                    | Dwarf Chinese Holly     | Ilex cornuta rotunda             | 5 gal.           |                                      |
|                                    | Firethorn               | Pyracantha coccinea              | 5 gal.           |                                      |
|                                    | Halls Honeysuckle       | Locinera japonica                | 5 gal.           |                                      |
|                                    | Eleagnus                | Eleagnus X ebbingei              | 5 gal.           |                                      |
|                                    | Indian Hawthorne        | Raphioloepis indica              | 5 gal.           | 'Olivia', 'Clara', 'Indian Princess' |
|                                    |                         |                                  |                  |                                      |
|                                    | Manhattan Euonymus      | Euonymous kiautschovicus         | 5 gal.           |                                      |
|                                    | Nellie R. Stevens Holly | Ilex x 'Nellie R. Stevens'       | 5 gal.           |                                      |
|                                    | Littleleaf Boxwood      | Buxus microphylla                | 5 gal.           |                                      |
|                                    | Rose of Sharon          | Hibiscus syriacus                | 5 gal.           |                                      |
|                                    | Crape Myrtle            | Lagerstroemia indica             | 5 gal.           | 'Watermelon Red'                     |

| <i>Plant</i> | <i>Common Name</i>       | <i>Botanical Name</i>          | <i>Min. Size</i> | <i>Variety</i>         |
|--------------|--------------------------|--------------------------------|------------------|------------------------|
|              | Crape Myrtle             | Lagerstroemia indica x fauriei | 5 gal.           | ‘Tuscarora’, ‘Natchez’ |
|              | Tam Juniper              | Juniperus sabina               | 5 gal.           |                        |
|              | Crimson Pigmy barberry   | Berberis thunbergii            | 5 gal.           | ‘Crimson pigmy’        |
|              | Texas Sage               | Leucophyllum frutescens        | 5 gal.           |                        |
|              | Nandina, Heavenly Bamboo | Nandina domestica              | 5 gal.           |                        |
|              | Flowering Quince         | Chaenomeles speciosa           | 5 gal.           |                        |
|              | Fraser Photinia          | Photinia x fraseri             | 5 gal.           |                        |
|              | Possumhaw                | Ilex deciduous                 | 5 gal.           |                        |
|              | Evergreen Sumac          | Rhus virens                    | 5 gal.           |                        |
|              | Apache Plume             | Fallugia paradoxa              | 5 gal.           |                        |
|              | Three-Leaf Sumac         | Rhus trilobata                 | 5 gal.           |                        |

**Perennials:**

|  |                      |                            |        |                       |
|--|----------------------|----------------------------|--------|-----------------------|
|  | Artemesia            | Artemesia spp.             | 1 gal. | ‘Powis Castle’        |
|  | Black-Foot Daisy     | Melampodium leucanthum     | 1 gal. |                       |
|  | Coneflower           | Echinacea purpurea         | 1 gal. |                       |
|  | Daylily              | Hemerocallis spp.          | 1 gal. |                       |
|  | Dianthus             | Dianthus chinensis         | 1 gal. |                       |
|  | Hardy Hibiscus       | Hibiscus moscheutos        | 1 gal. |                       |
|  | Hybrid Columbine     | Aquilegia x hybrida        | 1 gal. |                       |
|  | Lambs ears           | Stachys byzantina          | 1 gal. |                       |
|  | Lavendar Cotton      | Santolina chamaecyparissus | 1 gal. |                       |
|  | Lindheimer’s Gaura   | Gaura lindheimeri          | 1 gal. |                       |
|  | May Night Sage       | Salvia sylvestris          | 1 gal. |                       |
|  | Mexican Bush Sage    | Salvia leucantha           | 1 gal. |                       |
|  | Autumn Sage          | Salvia greggii             | 1 gal. |                       |
|  | Russian Sage         | Perovskia atriplicifolia   | 1 gal. |                       |
|  | Turk’s Cap           | Malvariscus arboreus       | 1 gal. | ‘Drummondii’          |
|  | Yarrow               | Achillea clavennae         | 1 gal. |                       |
|  | Autumn Joy Stonecrop | Sedum x                    | 1 gal. | ‘Autumn Joy’          |
|  | Indian Blanket       | Gaillardia                 | 1 gal. |                       |
|  | Lily Turf            | Liriope muscari            | 1 gal. | Big Blue’, ‘Green m.’ |

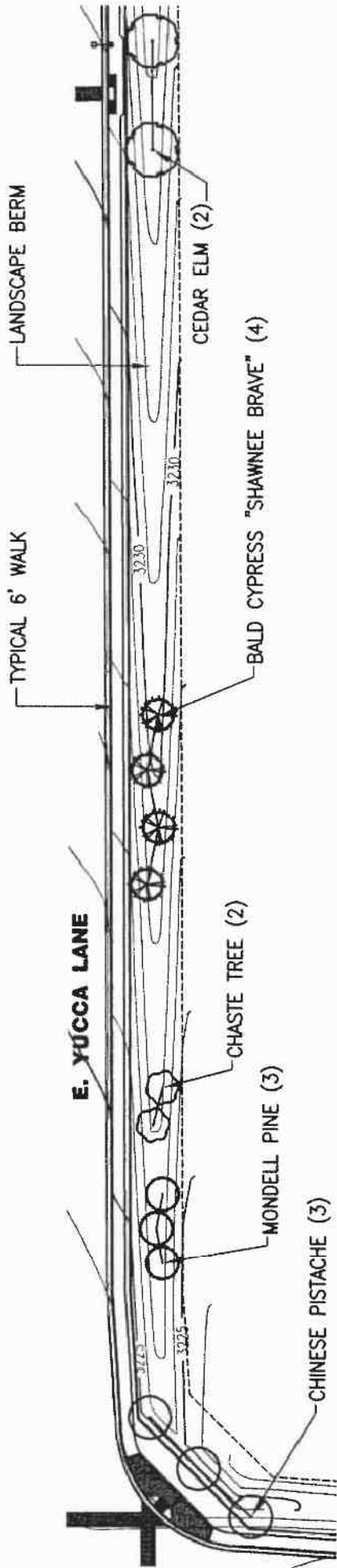
**Ornamental Grasses:**

|  |                       |                            |        |               |
|--|-----------------------|----------------------------|--------|---------------|
|  | Blue Fescue           | Fesuca glauca              | 1 gal. |               |
|  | Inland Sea Oats       | Chasmanthium latifolium    | 1 gal. |               |
|  | Lindheimer’s Muhly    | Muhlenbergia lindheimeri   | 1 gal. |               |
|  | Japanese Silver Grass | Miscanthus sinensis        | 1 gal. | ‘Variegatus’  |
|  | Blue Sedge            | Carex glauca               | 1 gal. |               |
|  | Feather Reed Grass    | Calamagrostis x acutiflora | 1 gal. |               |
|  | Black Fountain Grass  | pennisetum alopecuroides   | 1 gal. | ‘Moundry’     |
|  | Hameln Fountain Grass | Pennisetum alopecuroides   | 1 gal. | ‘Hameln’      |
|  | Maiden Grass          | Miscanthus sinensis        | 1 gal. | ‘Gracillimus’ |

# LUBBOCK BUSINESS PARK

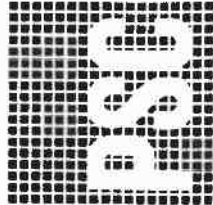
Master Plan and Engineering Assessment

| <i>Plant</i>                        | <i>Common Name</i>         | <i>Botanical Name</i>                  | <i>Min. Size</i>           | <i>Variety</i>    |
|-------------------------------------|----------------------------|----------------------------------------|----------------------------|-------------------|
|                                     | Gulf Coast Muhly           | Muhlenbergia capillaris                | 1 gal.                     | ‘Regal Mist’      |
| <b>Cactus, Yucca or Yucca-Like:</b> |                            |                                        |                            |                   |
|                                     | Red-Hot Poker              | Kniphofia uvaria                       |                            | ‘Flamenco’        |
|                                     | Red Yucca                  | Hesperaloe parviflora                  |                            | Red’ or ‘Yellow’  |
|                                     | Hardy Century Plant        | Agave Neo-mexicano                     |                            |                   |
|                                     | Texas Green Sotol          | Dasylierion Leiophyllum                |                            |                   |
|                                     | Ocotillo                   | Fouquieria splendens                   |                            |                   |
|                                     | Thompson Yucca             | Yucca thompsoniana                     |                            |                   |
|                                     | Chisos Agave               | Agave harvardiana                      |                            |                   |
| <b>Groundcover:</b>                 |                            |                                        |                            |                   |
|                                     | Leadwort, Plumbago         | Plumbago auriculata                    | 1 gal.                     | ‘Imperial Blue’   |
|                                     | Ice Plant                  | Delosperma cooperi                     | 1 gal.                     |                   |
|                                     | English Ivy                | Hedera helix                           | 1 gal.                     |                   |
|                                     | Rosemary                   | Rosmarinus officinalis                 | 1 gal.                     |                   |
|                                     | Creeping Euonymous         | Euonymous fortunei                     | 1 gal.                     | ‘Emerald Gaiety’, |
|                                     |                            |                                        |                            | ‘Coloratus’       |
| <b>Vines:</b>                       |                            |                                        |                            |                   |
|                                     | Silverlace                 | Polygonum auberti                      | 1 gal.                     |                   |
|                                     | Ornamental Grape           | Vitus Californica                      | 1 gal.                     | ‘Rogers Red’      |
|                                     | Trumpet Vine               | Campsis radicans                       | 1 gal.                     | ‘Flava’           |
|                                     | Cross Vine                 | Bignonia capreolata                    | 1 gal.                     |                   |
| <b>Lawn Grasses:</b>                |                            |                                        |                            |                   |
|                                     |                            |                                        | <b>Rate:</b>               |                   |
| Seeded:                             | Buffalo / Blue Grama-50/50 | Buchloe dactyloides/Bouteloua gracilis | 4# live seed (ea)/1,000 sf |                   |
| Plugs:                              | Turffalo                   | Buchloe dactyloides                    | 2” plugs @ 12”-17” sp.     |                   |



TYPICAL LANDSCAPE TREATMENT WITHIN LANDSCAPE EASEMENT

A1  
NTS

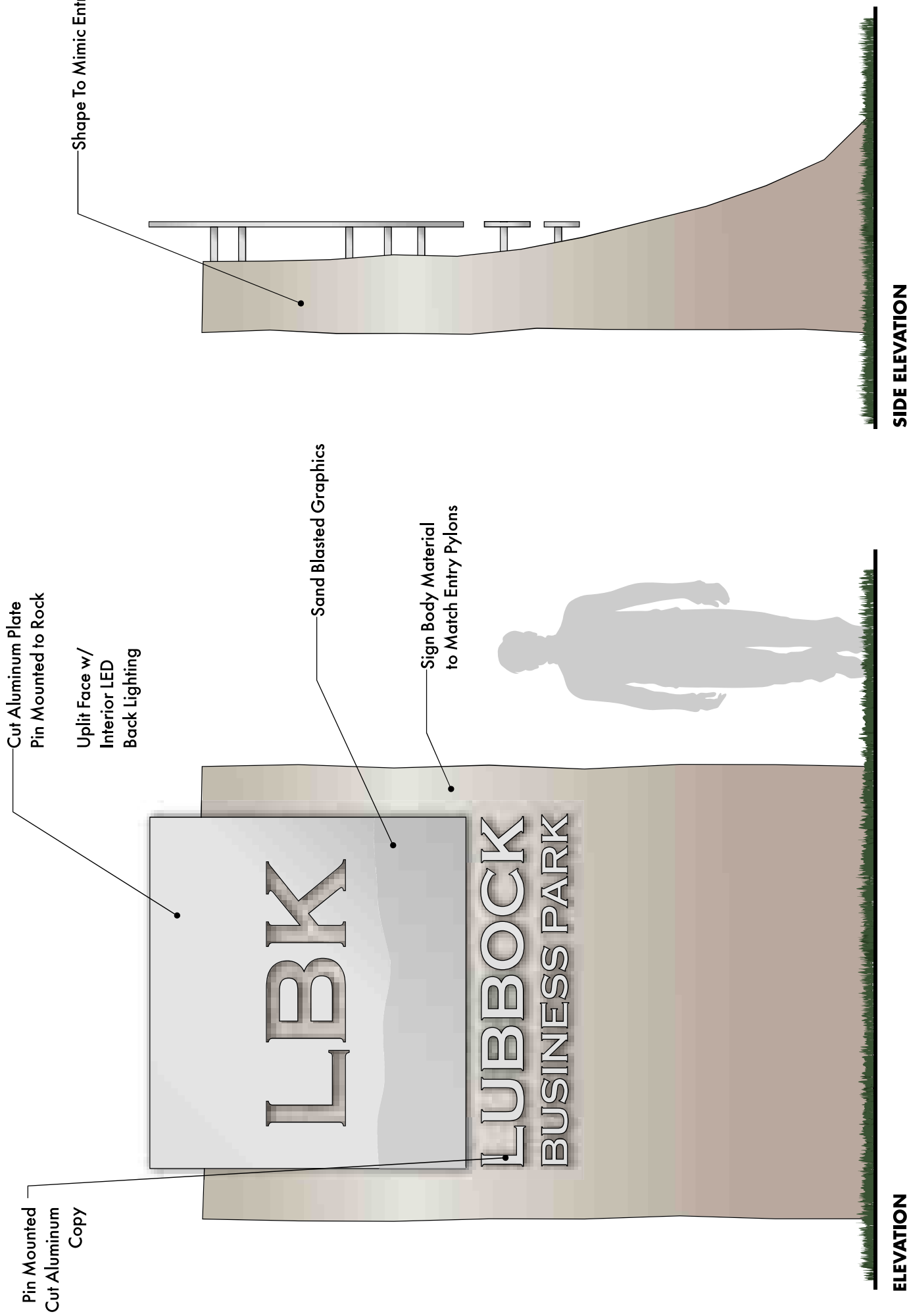


PROJECT NAME: LUBBOCK BUSINESS PARK  
PROJECT ADDRESS: N. I-27 @ YUCCA LANE

SHEET: EXHIBIT  
ISSUE DATE: 7-2-07  
REVISIONS:  
PSC PROJECT #: 03.2295.07

***EXHIBIT C***

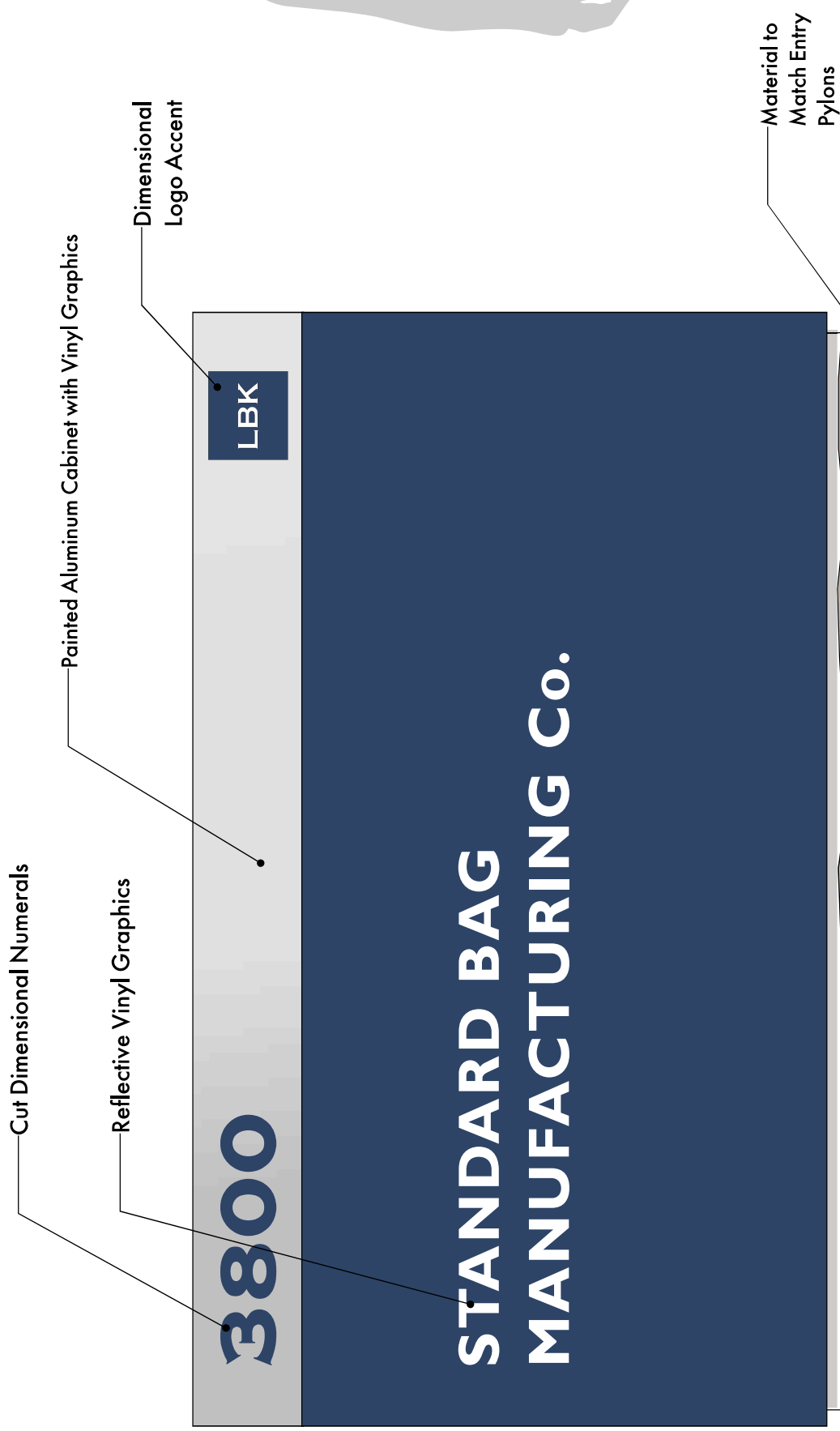
***BUSINESS PARK SIGNS***





**ELEVATION**

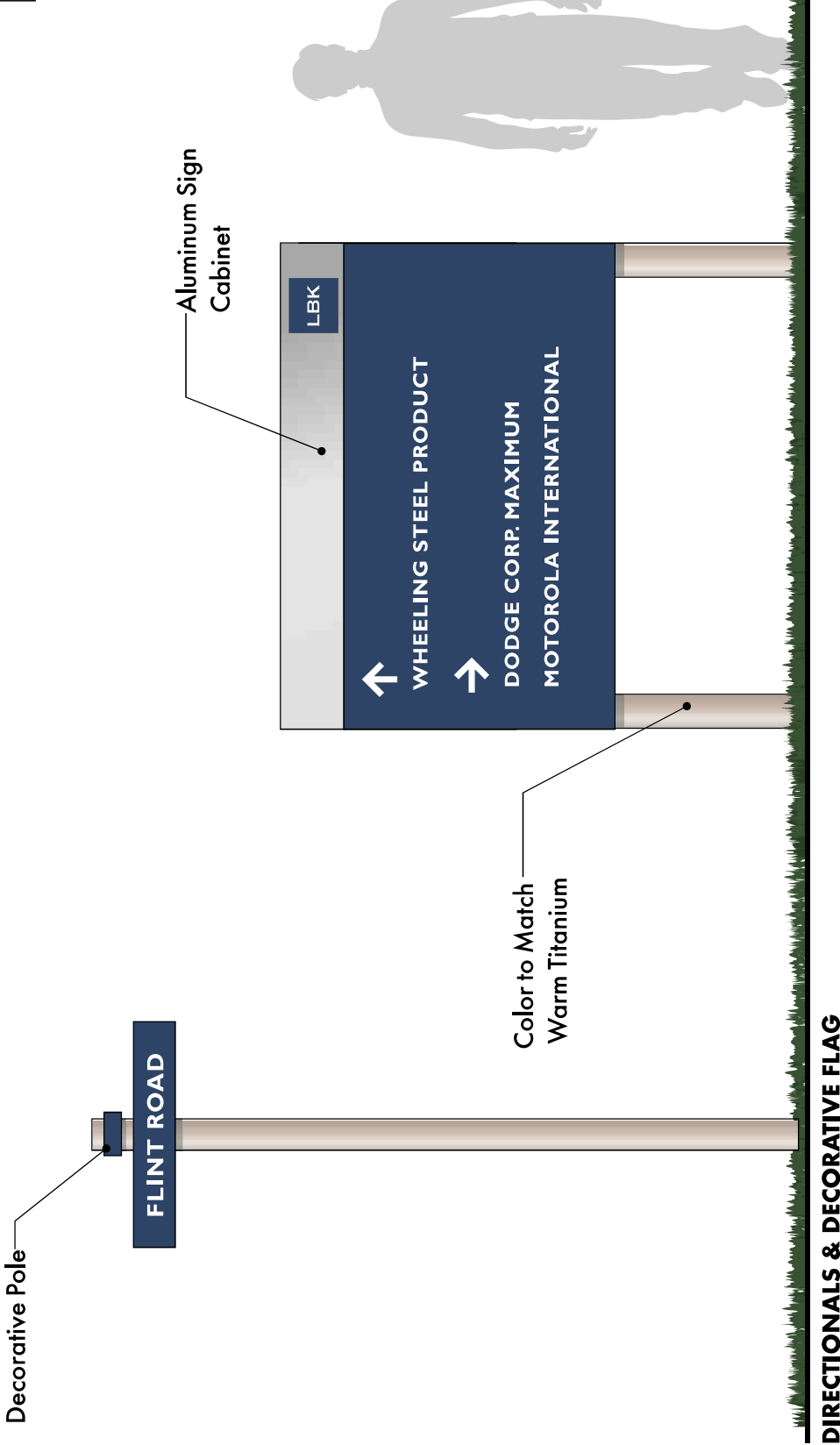
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**ELEVATION**

Scale: 1" = 1'-0"

Typestyle: Copperplate Bold & Gill Sans



***EXHIBIT D***

***LUBBOCK BUSINESS PARK  
LIGHTING***



## FILED AND RECORDED



OFFICIAL PUBLIC RECORDS

*Kelly Pinion*

Kelly Pinion, County Clerk

Lubbock County TEXAS

August 06, 2007 03:03:56 PM

FEE: \$147.00

2007031921

Record and return to  
Tommy J. Swann  
P.O. Box 6170  
Lubbock, TX 79493-6170



CONSENT 2007043156

2 PGS

**VARIANCE**

**Recitals**

1. Ozark Automotive Distributors, Inc. ("Ozark") has acquired or is acquiring from Lubbock Economic Development Alliance, Inc. ("LEDA") property described as Lots 5 and 6, Lubbock Business Park, an addition to Lubbock, Lubbock County, Texas to construct a distribution warehouse for O'Reilly Automotive, Inc.

2. Ozark desires to construct, as part of its distribution warehouse, a retail outlet for O'Reilly Automotive, Inc. ("Retail Outlet") which will comprise approximately 5,000 square feet of the 200,000 square foot warehouse.

3. The Amended Declaration of the Lubbock Business Park, recorded at Document No. 2007031921 of the Official Public Records of Lubbock County, Texas sets forth the permitted uses at the Lubbock Business Park as the following:

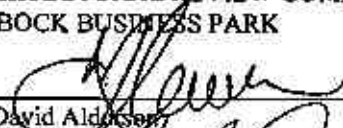
**Section 4.02 Permitted Uses.** Sites within the Lubbock Business Park may be used only for office, office-showroom, warehousing, assembling, processing, bioscience, light manufacturing, wholesaling, research and development and distribution purposes. Further, upon written approval of the Architectural Review Committee, the Sites within the Initial tract may be used for other commercial uses compatible with and ancillary to the aforementioned uses (including, but not limited to, banks, retail shops, gasoline service stations, hotels, restaurants, etc.).

4. The Architectural Review Committee of the Lubbock Business Park, composed of David Alderson, Mike McDougal and Curtis Griffith, finds that it is in the best interest of the Lubbock Business Park to allow Ozark to maintain the Retail Outlet within its distribution warehouse and has voted unanimously to allow the Retail Outlet.

NOW, THEREFORE, PREMISES CONSIDERED, the Architectural Review Committee of the Lubbock Business Park does hereby grant to Ozark a variance from the Amended Declaration of the Lubbock Business Park to allow Ozark to operate the Retail Outlet in its warehouse in the Lubbock Business Park.

Dated: November 30, 2007

ARCHITECTURAL REVIEW COMMITTEE of the  
LUBBOCK BUSINESS PARK

By:   
David Alderson

By:   
Mike McDougal

By:   
Curtis Griffith

STATE OF TEXAS §

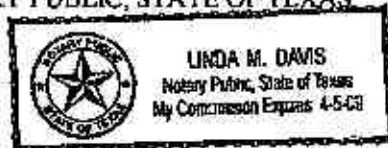
COUNTY OF LUBBOCK §

This instrument was acknowledged before me this 30 day of November 2007, by David Alderson, member of the Architectural Review Committee of the Lubbock Business Park, on behalf of said committee.

Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS §

COUNTY OF LUBBOCK §

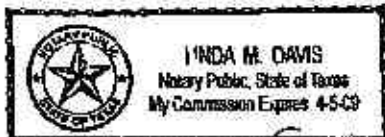


This instrument was acknowledged before me this 30th day of November 2007, by Mike McDougal, member of the Architectural Review Committee of the Lubbock Business Park, on behalf of said committee.

Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS

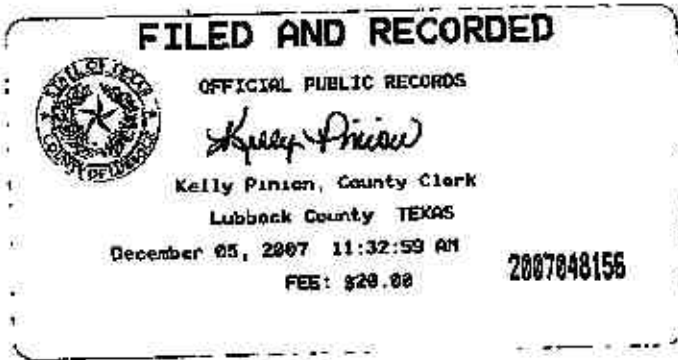
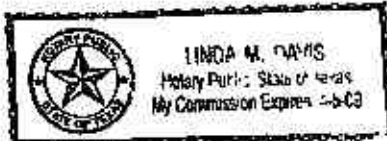
STATE OF TEXAS §

COUNTY OF LUBBOCK §



This instrument was acknowledged before me this 30th day of November 2007, by Curtis Griffith, member of the Architectural Review Committee of the Lubbock Business Park, on behalf of said committee.

Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS



Record and return to:  
McCleskey, Harriger, Brazill & Graf, L.L.P.  
Attn: Tammy J. Swann  
P.O. Box 6170  
Lubbock, TX 79493-6170



AMEND 2011022487  
10 PGS

## SECOND AMENDED DECLARATION

### **LUBBOCK BUSINESS PARK**

This Second Amended Declaration is made by Lubbock Economic Development Alliance, Inc. (LEDA) (hereinafter called "Developer"), a Texas nonprofit corporation created by the City of Lubbock, Texas, as an Industrial Development Corporation under the Development Corporation Act of 1979, as amended. (Sec 501.001 et seq, Texas Local Government Code, formerly Sec 5190.6, VACS.). This Second Amended Declaration amends that certain Amended Declaration, Lubbock Business Park recorded at Document Number 2007-031921 in the Official Public Records of Lubbock County, Texas ("Amended Declaration").

NOW THEREFORE, the Amended Declaration is amended as follows:

1. Section 3.04 Submission of Plans and Specifications. Reads as follows: "Plans and specifications submitted shall be in triplicate and shall include the following:" and is hereby amended to read as follows: *"Plans and specifications shall be submitted to the Committee when 95% complete. Specific issues and questions may be submitted in writing to the Committee at any time if clarification is required. Plans and specifications submitted shall be in triplicate and shall include the following:"*
2. Section 3.04(c) reads as follows: "(c) A site plan showing the location of all improvements, structures, walks, curbs, patios, driveways, fences, walls, all parking areas with number and size of parking spaces, trash receptacle location, required fire lanes, site ingress and egress, and the location of all truck doors, rail doors, personnel doors, entry doors, exterior glass or windows, and any other opening in the building." and is hereby amended to read as follows: *Section 3.04(c) "A site plan showing the location of all improvements, structures, walks, curbs, patios, driveways, fences, walls, all parking areas with number and size of parking spaces, trash receptacle location, required fire lanes, site ingress and egress, and the location of all truck doors, personnel doors, entry doors, exterior glass or windows, and any other opening in the building."*
3. Section 3.04(n) reads as follows: "(n) Exterior illumination, including location and fixture type" and is hereby amended to read as follows: *"Section 3.04 (n) Exterior illumination, including location, fixture type, and lighting study."*
4. Section 3.04(o) reads as follows: "(o) A rail spur plan if applicable." *Section 3.04(o) shall be deleted in its entirety.*

5. Section 4.04(c) reads as follows "(c) Seventeen feet (17') from the right-of-way line of any railroad spur or lead track." *Section 4.04(c) shall be deleted in its entirety.*

6. Section 4.12 Signs. Reads as follows: "It is the desire and intention of the Developer to maintain a comprehensive signage standard for the LBK. All entrance and tenant identity signs shall comply with the requirements, design, and installation as established in Exhibit "C" "Business Park Signs". Signs shall be governed as follows:", and is hereby amended to read as follows: "*Section 4.12 Signs. It is the desire and intention of the Developer to maintain a comprehensive signage standard for the LBK. All entrance and tenant identity signs shall comply with the requirements, design, and installation as established in Exhibit "C" "Business Park Signs" and in the Comprehensive Signage Program. Signs shall be governed as follows:*"

7. Section 4.12(b) reads as follows: "(b) Any permitted sign shall conform to all governmental ordinances and regulations applicable to same." and is hereby amended to read as follows: "*Section 4.12(b) Any permitted sign shall conform to all governmental ordinances and regulations applicable to same.*

(1) *Signs shall be a minimum of 25 feet from drive approach curb cut.*

(2) *Required setback relative to property line is 1.43 x height of sign in feet."*

8. Section 4.18(a) reads as follows: "(a) Driveways onto and off of East Yucca Lane shall not be located within one hundred sixty feet (160') of an intersecting street, unless the traffic on the side of East Yucca Lane where the driveway is located is moving away from the intersection, in which case, the driveway shall not be located within sixty feet (60') of the intersection. Driveways onto and off of other streets shall be located no closer than sixty feet (60') to the corner of an intersecting Street. Distances shall be measured from the tangency line of the curb radius to the tangency line of the closest driveway curb radius." and is hereby amended to read as follows: "*Section 4.18(a) Driveways onto and off of Lubbock Business Park Blvd. shall not be located within one hundred sixty feet (160') of an intersecting street, unless the traffic on the side of Lubbock Business Park Blvd. where the driveway is located is moving away from the intersection, in which case, the driveway shall not be located within sixty feet (60') of the intersection. Driveways onto and off of other streets shall be located no closer than sixty feet (60') to the corner of an intersecting Street. Distances shall be measured from the tangency line of the curb radius to the tangency line of the closest driveway curb radius."*

9. Section 4.19(a) reads as follows: "(a) All exterior walls facing East Yucca Lane shall be illuminated." and is hereby amended to read as follows: "*Section 4.19(a) All exterior walls facing Lubbock Business Park Blvd. shall be illuminated."*

10. Section 4.19(b) reads as follows: "(b) All exterior lighting shall be compatible and harmonious throughout the Property and shall be designed, installed, directed, altered and

maintained in accordance with plans and specifications submitted to and approved by the Architectural Review Committee. Sample of approved lighting types are included on Exhibit D." and is hereby amended to read as follows: *"Section 4.19(b) All exterior lighting shall be compatible and harmonious throughout the Property and shall be designed, installed, directed, altered and maintained in accordance with plans and specifications submitted to and approved by the Architectural Review Committee. Sample of approved lighting types are included on Exhibit D. Exterior lighting shall be sufficient to fully illuminate all parking, storage, and working areas. Tenant shall submit lighting study documenting lighting coverage across lot."*

11. Exhibit B - Recommended Landscape Plant Materials reads as follows:

Exhibit B – Recommended Landscape Plant Materials

LAWN GRASSES

| Lawn Grasses: |                            |                                       | Rate:                      |
|---------------|----------------------------|---------------------------------------|----------------------------|
| Seeded        | Buffalo / Blue Grama-50/50 | Buchloedactyloides/Bouteloua gracilis | 4# live seed (ea)/1,000 sf |
| Plugs:        | Turffalo                   | Buchloedactyloides                    | 2" plugs @ 12"-17" sp.     |

and is hereby amended to read as follows:

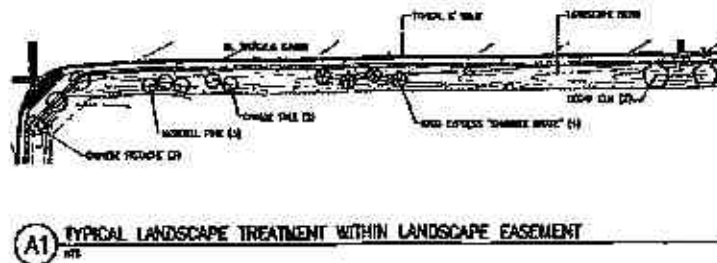
"Exhibit B - Recommended Landscape Plant Materials

LAWN GRASSES

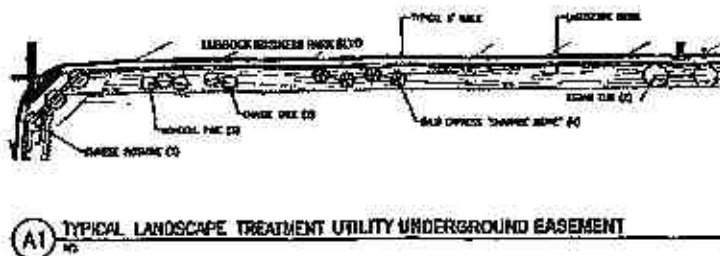
| Lawn Grasses: |                            |                                       | Rate:                      |
|---------------|----------------------------|---------------------------------------|----------------------------|
| Seeded        | Buffalo / Blue Grama-50/50 | Buchloedactyloides/Bouteloua gracilis | 4# live seed (ea)/1,000 sf |
| Seeded        | Sahara Bermuda *           | Cynodondactylon 'Sahara'              | 3 lbs. per 1,000 SF        |
| Plugs:        | Turffalo                   | Buchloedactyloides                    | 2" plugs @ 12"-17" sp.     |

\*Warm season grasses should be planted between April 15 and August 31. If seeding cannot be established by September 15, turf areas are to be over-seeded with annual rye grass (*Lolium multiflorum*) at the rate of 4-lbs/1,000 sf. The following spring season, after sufficient annual grass kill has been verified, the warm season grass should be planted at the recommended rate. During the winter season the annual grass should be maintained with irrigation and mowed at a maximum height of 3".

12. The Graphic that is currently shown as follows:



is amended to be shown as follows:



E

13. There is added to the Amended Declarations the attached Recommended List of Landscape Plant Material and the attached Typical Landscape Treatment Within Landscape Easement.

14. Except for the changes set forth herein, the Amended Declaration shall remain unchanged.

Dated: July 5, 2011.

LUBBOCK ECONOMIC DEVELOPMENT  
ALLIANCE, INC.

By: [Signature]  
John Osborne, its Chief Executive  
Officer and President

THE STATE OF TEXAS   §

COUNTY OF LUBBOCK   §

This instrument was acknowledged before me on July 5, 2011, by John Osborne, Chief Executive Officer and President of Lubbock Economic Alliance, Inc., a Texas nonprofit corporation, on behalf of the corporation.



Linda M. Davis  
NOTARY PUBLIC, STATE OF TEXAS

Journal of Management Education 33(10)

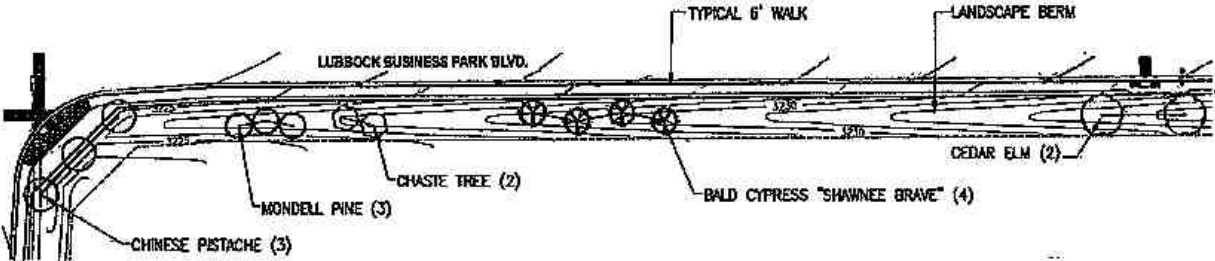
[illegible]



\*\*\*\*\*

| SUBBICK BUSINESS PARK            |                    |                   |          |              |
|----------------------------------|--------------------|-------------------|----------|--------------|
| Plant                            | Common Name        | Botanical Name    | Qty. per | Notes        |
|                                  | Height/Qual. Story | Width/Qual. Story | Tree     | Flower Color |
| Decorative Trees or Shrubs (100) |                    |                   |          |              |
|                                  | Red-leafed         | Japanese          | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
| Groundcover                      |                    |                   |          |              |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
| Other                            |                    |                   |          |              |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
|                                  | Red-leafed         | Red-leafed        | 100      | Flower Color |
| Lawn Grasses                     |                    |                   |          |              |
| Grass:                           | Red-leafed         | Red-leafed        | 100      | Flower Color |
| Grass:                           | Red-leafed         | Red-leafed        | 100      | Flower Color |
| Grass:                           | Red-leafed         | Red-leafed        | 100      | Flower Color |

\*When grass is planted, it should be planted between April 15 and August 15. If seeding cannot be established by September 15, the area should be covered with straw or grass seed. The following spring, when the grass has been established, the area should be planted at the recommended rate. During the winter season the annual grass should be maintained with irrigation and mowed at a maximum height of 1/2".



**A1** TYPICAL LANDSCAPE TREATMENT WITHIN LANDSCAPE EASEMENT  
NTS



|                  |                                       |                |            |
|------------------|---------------------------------------|----------------|------------|
| PROJECT NAME:    | LUBBOCK BUSINESS PARK                 | SHEET:         | EXHIBIT    |
| PROJECT ADDRESS: | N. 1-27 @ LUBBOCK BUSINESS PARK BLVD. | ISSUE DATE:    | 06-01-11   |
|                  |                                       | REVISIONS:     |            |
|                  |                                       | PSC PROJECT #: | 01.2282.10 |

**FILED AND RECORDED**



OFFICIAL PUBLIC RECORDS

*Kelly Finlon*

Kelly Finlon, County Clerk

Lubbock County TEXAS

July 05, 2011 04:16:17 PM

FEE: \$48.00

2011022487

SERVICE TITLE COMPANY  
*Contractors*  
GE#08064



COVENANT 2010033886

8 PGS

File and Return to  
Dave Booher, R.O.W.  
City of Lubbock

**MODIFIED PROTECTIVE COVENANTS**

**LUBBOCK BUSINESS PARK**

**AS TO LOT 10, Lubbock Business Park Only**

WHEREAS, the Lubbock Economic Development Alliance, Inc. ("LEDA") has established the Lubbock Business Park ("LBP") and provided for protective covenants recorded at Clerk's File Number 2007-031921 in the Official Public Records of Lubbock County, Texas ("Protective Covenants") in order to provide for orderly development of the LBP; and

WHEREAS, Lot # 10 in the LBP is being or has been conveyed to The City of Lubbock for the benefit of the citizens of Lubbock to be utilized for public safety; and

WHEREAS, The City of Lubbock has agreed to convey Lot # 10 in the LBP to the State of Texas ("State") for the use and benefit of the Texas Department of Public Safety ("DPS"); and

WHEREAS, the State cannot comply with the Protective Covenants as they are currently written; and

WHEREAS, the owners of a majority of the acreage within the LBP find that it is in the best interest of the LBP to have an office of the DPS located in the LBP; and

WHEREAS, the benefits shall include, but not be limited to, DPS vehicles being constantly visible on the roadways of the LBP as well as at the DPS facility; and

WHEREAS, pursuant to Section 8.02(a) of the Protective Covenants, the Protective Covenants may be terminated, modified or amended by a vote of the owners owning a majority of the acreage (exclusive of Common Areas) within the LBP.

NOW, THEREFORE, PREMISES CONSIDERED, the Protective Covenants, as they now exist and as subsequently amended, are hereby waived and replaced with the following language regarding Lot #10 of the LBP only to the extent Lot #10 is actually transferred to the State of Texas ("State")<sup>1</sup>:

- The State, at its sole cost and expense, will comply with applicable laws and regulations regarding any construction on Lot #10, as well as the maintenance and use of Lot #10 and any appurtenances on Lot #10.

<sup>1</sup> To the extent the State becomes the owner of Lot #10 for the use and benefit of the Texas Department of Public Safety ("DPS"), the State will be acting by and through DPS to comply with these Modified Protective Covenants, and DPS will be financially responsible for such compliance.

- The State, at its sole cost and expense, will maintain Lot #10 and any appurtenances, in good condition, using Section 2.01 of the Protective Covenants as a guide. However, the State retains discretion regarding expenditure of state funds. In addition, the State will comply with applicable statutory requirements, such as the xeriscape requirements for new construction.
- The State will submit the following in triplicate to the LBP's Architectural Review Committee ("Committee") for courtesy review and comment only the State's plans and specifications for any Improvements on Lot #10 at the 50% Construction Document Stage. Once the State submits its plans and specifications to the Committee, the Committee has thirty (30) calendar days to provide any comments to the State. The State will consider any Committee comments when implementing any Improvements; however, the State retains full discretion regarding such Improvements. Regardless of any comments the Committee provides to the State, the Committee is not responsible for the safe and proper design and construction of any Improvements on Lot #10. The word "Improvement" for the purposes of these Modified Protective Covenants is defined as follows:
  - All land preparation or excavation, landscaping, buildings, structures, parking areas, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, glazing or reglazing of exterior windows, and any other construction which affects the exterior color or appearance of any building or structure.
  - The term "Improvement" specifically includes both original Improvements and all later changes or alterations. However, the word "Improvement" does not include garden shrubs or tree replacements or any other replacement or repair of any magnitude which would be expensed in accounting practice and which does not change exterior colors or appearances.
- The State will only use Lot #10 for statutorily authorized purposes. To the extent the State owns Lot #10 for the use and benefit of DPS, DPS will use the property for purposes authorized by Chapters 411 and 418 of the Texas Government Code, as well as any purposes authorized by other applicable law.
- Any and all of the rights, powers, and reservations of the Lubbock Economic Development Alliance and its successors (including any person or entity to

which the Lubbock Economic Development Alliance may assign its rights and duties under these Modified Protective Covenants) ("Developer") contained in these Modified Protective Covenants may be assigned by Developer to any person, corporation, association or other entity which will assume any or all of the duties of Developer under these Modified Protective Covenants. To be effective, such assignment must be in writing and specifically refer to the rights, powers, and reservations of the Developer hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Developer herein. Upon such assignment, and to the extent thereof, Developer shall be relieved from all duties hereunder from and after the date of such assignment. The term "Developer," as used herein, includes all such assignees and their heirs, successors, and assigns.

- The requirements contained in these Modified Protective Covenants terminate on December 31, 2037. However, these Modified Protective Covenants terminate earlier upon the occurrence of either of the following: 1) if the Developer ceases to exist and has not made an assignment of the rights, powers, and reservations of Developer contained herein; or 2) the Developer, or the assignee of the Developer's rights, powers, and reservations hereunder, files a written notice in the recording office where the Protective Covenants or Modified Protective Covenants are filed, stating that it has relinquished its rights, powers, and reservations under the Protective Covenants or the Modified Protective Covenants.
- All notices, approvals, or other communications required or permitted to be given under these Modified Protective Covenants shall be in writing and shall be considered as properly given or made: 1) on the second day after being mailed from within the United States by first class United States mail, certified mail, return receipt requested, postage prepaid and addressed to the person to whom it is intended at the address of said person as set forth below, whether actually received or not; or 2) when actually received by the person to whom it is intended if given in any other manner. The mailing address for the State of Texas shall be as follows: Director of Facilities, Facilities Bureau, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0255. The mailing address for the Developer shall be in care of Lubbock Economic Development Alliance, Wells Fargo Center, 1500 Broadway, 6<sup>th</sup> Floor Lubbock, Texas 79401; Lubbock Business Park Manager. The Developer or

the State of Texas may change its respective address by filing a written instruction in the recording office where these Modified Protective Covenants are filed stating its new address.

- No modifications to this language will be binding on the State of Texas, unless the State of Texas agrees to such modifications.
- In the event of the following, Lot #10 will be bound by the Protective Covenants recorded at Clerk's File Number 2007-031921 in the Official Public Records of Lubbock County, Texas on a prospective basis only: 1) The State of Texas transfers Lot #10 to a third party; 2) the Protective Covenants are still in existence at the time of such transfer; and 3) the Protective Covenants are not waived for such third party. So, such third party would not be bound by the Protective Covenants for the original Improvements that the State implements; however, such third party would be bound by the Protective Covenants for any changes, alterations or new Improvements such third party intends to implement on Lot #10, to the extent the Protective Covenants are still in existence and to the extent such third party does not receive a waiver for the Protective Covenants. This paragraph survives the termination of these Modified Protective Covenants.

Executed on the date of each acknowledgment below.

LUBBOCK ECONOMIC  
DEVELOPMENT ALLIANCE, INC.

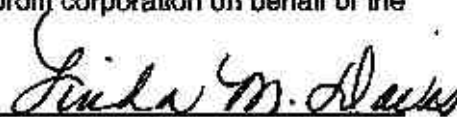
  
By: John Osborne, President and Chief  
Executive Officer

STATE OF TEXAS

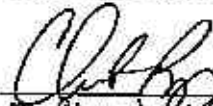
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 17th day of September 2010, by John Osborne, Chief Executive Officer and President of Lubbock Economic Development Alliance, Inc., d/b/a LEDA, a Texas non-profit corporation on behalf of the corporation.



  
NOTARY PUBLIC, STATE OF TEXAS

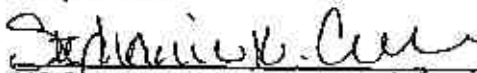
OZARK AUTOMOTIVE  
DISTRIBUTORS, INC.

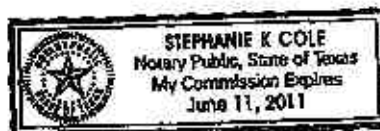
  
By: Christopher Rayen

STATE OF Texas

COUNTY OF Lubbock

This instrument was acknowledged before me on the 1 day of September, 2010, by Christopher Rayen, DC Manager of DCI of Ozark Automotive Distributors, Inc., a corporation, on behalf of the corporation.

  
NOTARY PUBLIC, STATE OF Texas





Susan Hunt Gantlebur  
NOTARY PUBLIC, STATE OF WI  
Commission Expires on June 10, 2012

This instrument was acknowledged before me on the 2<sup>nd</sup> day of September, 2010, by Carl Ruedenauer, manager of RAH Lubbock, LLC, a limited liability company, on behalf of said limited liability company.

STATE OF Wisconsin  
COUNTY OF Dane

By: Carl Ruedenauer Mgr  
RAH Lubbock, LLC

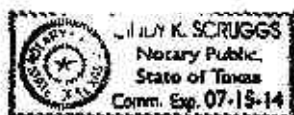
STANDARD SALES COMPANY, L.P., a  
Texas limited partnership

By: Joe Nemeth

STATE OF TEXAS

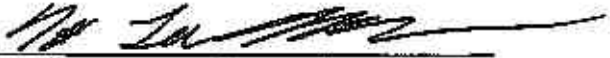
COUNTY OF Lubbock

This instrument was acknowledged before me on the 1<sup>st</sup> day of September,  
2010, by JOE Nemeth, Lubbock of  
STANDARD SALES COMPANY, L.P., a Texas limited partnership, on behalf of said  
limited partnership.



Cindy K. Scruggs  
NOTARY PUBLIC, STATE OF Tx

CELLCO PARTNERSHIP  
D/B/A VERIZON WIRELESS

  
By: H. Lee Maschmann

STATE OF Texas  
COUNTY OF Tarrant

This instrument was acknowledged before me on the 25 day of August, 2010, by H. Lee Maschmann, Executive Order of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, on behalf of said partnership.

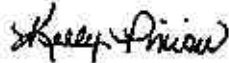


  
NOTARY PUBLIC, STATE OF TX

**FILED AND RECORDED**



OFFICIAL PUBLIC RECORDS



Kelly Pinson, County Clerk

Lubbock County TEXAS

October 12, 2010 04:22 47 PM

FEE: \$44.00

2010033886

Jana Johnston  
counter filing ✓

2015040768 4 PGS COVENANT



## MODIFIED PROTECTIVE COVENANTS

### LUBBOCK BUSINESS PARK

#### AS TO LOT 14, Lubbock Business Park Only

WHEREAS, the Lubbock Economic Development Alliance, Inc. ("LEDA") has established the Lubbock Business Park ("LBP") and provided for protective covenants recorded at Clerk's File Number 2007-031921 in the Official Public Records of Lubbock County, Texas ("Protective Covenants") in order to provide for orderly development of the LBP; and

WHEREAS, Lot # 14 in the LBP is being or has been conveyed to Market Lubbock Economic Development Corporation ("MLI") for the benefit of the citizens of Lubbock to be utilized for public safety; and

WHEREAS, MLI has agreed to convey Lot # 14 in the LBP to the State of Texas ("State") for the use and benefit of the Department of Public Safety of the State of Texas ("DPS"); and

WHEREAS, the State cannot comply with the Protective Covenants as they are currently written; and

WHEREAS, the owners of a majority of the acreage within the LBP find that it is in the best interest of the LBP to have a Commercial Driver's License testing facility of the DPS located in the LBP; and

WHEREAS, pursuant to Section 8.02(a) of the Protective Covenants, the Protective Covenants may be terminated, modified or amended by a vote of the owners owning a majority of the acreage (exclusive of Common Areas) within the LBP.

NOW, THEREFORE, PREMISES CONSIDERED, the Protective Covenants, as they now exist and as subsequently amended, are hereby waived and replaced with the following language regarding Lot # 14 of the LBP only to the extent Lot # 14 is actually transferred to the State of Texas ("State")<sup>1</sup>.

- The State, at its sole cost and expense, will comply with applicable laws and regulations regarding any construction on Lot # 14, as well as the maintenance and use of Lot # 14 and any appurtenances on Lot # 14.
- The State, at its sole cost and expense, will maintain Lot # 14 and any appurtenances, in good condition, using Section 2.01 of the Protective Covenants as a guide. However, the State retains discretion regarding expenditure of state funds. In addition, the State will comply with applicable statutory requirements, such as the xeriscape requirements for new construction.
- The State will submit the following in triplicate to the LBP's Architectural Review Committee ("Committee") for courtesy review and comment only the State's plans and specifications for any improvements on Lot # 14 at the 50% Construction Document Stage. Once the State submits its plans and specifications to the Committee, the Committee has thirty (30) calendar days to provide any comments to the State. The State will consider any Committee comments when

implementing any Improvements; however, the State retains full discretion regarding such Improvements. Regardless of any comments the Committee provides to the State, the Committee is not responsible for the safe and proper design and construction of any Improvements on Lot # 14. The word "Improvement" for the purposes of these Modified Protective Covenants is defined as follows:

- All land preparation or excavation, landscaping, buildings, structures, parking areas, fences, walls, hedges, mass planting, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, glazing or reglazing of exterior windows, and any other construction which affects the exterior color or appearance of any building or structure.
- The term "Improvement" specifically includes both original Improvements and all later changes or alterations. However, the word "Improvement" does not include garden shrubs or tree replacements or any other replacement or repair or any magnitude which would be expensed in accounting practice and which does not change exterior colors or appearances.
- The State will only use Lot # 14 for statutorily authorized purposes. To the extent the State owns Lot # 14 for the use and benefit of DPS, DPS will use the property for purposes authorized by Chapters 411 and 418 of the Texas Government Code, as well as any purposes authorized by other applicable law.
- Any and all of the rights, powers, and reservations of the Lubbock Economic Development Alliance and its successors (including any person or entity to which the Lubbock Economic Development Alliance may assign its rights and duties under these Modified Protective Covenants) ("Developer") contained in the Modified Protective Covenants may be assigned by Developer to any person, corporation, association or other entity which will assume any or all of the duties of Developer under these Modified Protective Covenants. To be effective, such assignment must be in writing and specifically refer to the rights, powers, and reservations of the Developer hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Developer herein. Upon such assignment, and to the extent thereof, Developer shall be relieved from all duties hereunder from and after the date of such assignment. The term "Developer," as used herein, includes all such assignees and their heirs, successors, and assigns.
- The requirements contained in these Modified Protective Covenants terminate on December 31, 2037. However, these Modified Protective Covenants terminate earlier upon the occurrence of either of the following: 1) if the Developer ceases to exist and has not made an assignment of the rights, powers, and reservations of Developer contained herein; or 2) the Developer, or the assignee of the Developer's rights, powers, and reservations hereunder, files a written notice in the recording office where the Protective Covenants or Modified Protective Covenants are filed, stating that it has relinquished its rights, powers, and reservations under the Protective Covenants or the Modified Protective Covenants.
- All notices, approvals, or other communications required or permitted to be given under these Modified Protective Covenants shall be in writing and shall be considered as properly given or made: 1) on the second day after being mailed from within the United States by first class United States mail, certified mail, return receipt requested, postage prepaid and addressed to the person

to whom it is intended at the address of said person as set forth below, whether actually received or not; or 2) when actually received by the person to whom it is intended if given in any other manner. The mailing address for the State of Texas shall be as follows: Director of Facilities, Facilities Bureau, Department of Public Safety of the State of Texas, P.O. Box 4087, Austin, TX 78773-0255. The mailing address for the Developer shall be in care of Lubbock Economic Development Alliance, Wells Fargo Center, 1500 Broadway, 6<sup>th</sup> Floor, Lubbock, Texas 79401: Lubbock Business Park Manager. The Developer or the State of Texas may change its respective address by filing a written instruction in the recording office where these Modified Protective Covenants are filed stating its new address.

- No modifications to this language will be binding on the State of Texas, unless the State of Texas agrees to such modifications.
- In the event of the following, Lot # 14 will be bound by the Protective Covenants recorded at the Clerk's File Number 2007-031921 in the Official Public Records of Lubbock County, Texas on a prospective basis only: 1) The State of Texas transfers Lot # 14 to a third party; 2) the Protective Covenants are still in existence at the time of such transfer; and 3) the Protective Covenants are not waived for such third party. So, such third party would not be bound by the Protective Covenants for the original Improvements that the State implements; however, such third party would be bound by the Protective Covenants for any changes, alterations or new Improvements such third party intends to implement on Lot # 14, to the extent the Protective Covenants are still in existence and to the extent such third party does not receive a waiver for the Protective Covenants. This paragraph survives the termination of these Modified Protective Covenants.

Executed on the date of each acknowledgment below.

LUBBOCK ECONOMIC DEVELOPMENT  
ALLIANCE, INC.

  
By: John Osborne, President and Chief  
Executive Officer

STATE OF TEXAS

COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 5th day of October, 2018,  
by John Osborne, Chief Executive Officer and President of Lubbock Economic Development Alliance,  
Inc., d/b/a LEDA, a Texas non-profit corporation on behalf of the corporation.

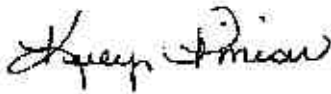


  
NOTARY PUBLIC, STATE OF TEXAS

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS





Kelly Pinion, County Clerk  
Lubbock County, TEXAS  
12/14/2018 02:04 PM  
FEE: \$38.00  
2018045768