

RESOLUTION NO. 2004-11-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE LETTER OF INTENT TO THE CITY OF LANCASTER FROM ARGENT DEVELOPMENT COMPANY, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS EXHIBIT "A"; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL APPROPRIATE AGREEMENTS BETWEEN THE CITY AND ARGENT DEVELOPMENT COMPANY RESULTING FROM SUCH LETTER OF INTENT UPON REVIEW AND APPROVAL OF SUCH AGREEMENTS BY THE CITY ATTORNEY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") has received a Letter of Intent on Public Infrastructure, which is attached hereto as Exhibit "A", from Argent Development Company ("Argent"); and

WHEREAS, Argent plans to purchase 205 gross acres within the City and desires to negotiate in good faith for economic incentives associated with the construction of public infrastructure; and

WHEREAS, Argent desires to seek economic incentives in the form of a Tax Rebate Agreement and a Developer's Infrastructure Agreement by and between Argent and the City; and

WHEREAS, after discussion and consideration, the City Council has determined that the terms and conditions provided in the attached Letter of Intent on Public Infrastructure Program from Argent to the City should be approved and that the City Manager should be authorized to execute all appropriate agreements resulting from such letter of intent upon review and approval of such agreements by the City Attorney;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the City Council of the City of Lancaster, Texas hereby approves and accepts the terms and conditions provided in the Letter of Intent on Public Infrastructure Program, which is attached hereto and incorporated herein, from Argent Development Company to the City of Lancaster;

and Mayor

SECTION 2. That the City Council hereby authorizes the City Manager to enter into and execute all appropriate agreements resulting from the letter of intent by and between the City and Argent Development Company upon review and approval of such agreements by the City Attorney.

SECTION 3. This resolution shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of November 2004.

APPROVED:

Joe Tillotson

JOE TILLOTSON, MAYOR

ATTEST:

Dolle K. Shane

DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:

Robert E. Hager

ROBERT E. HAGER, CITY ATTORNEY

LETTER OF INTENT ON PUBLIC INFRASTRUCTURE PROGRAM
11/4/04

DRAFT

Mr. Jim Landon
City Manager
City of Lancaster
211 North Henry Street
Lancaster, Texas 75146

Dear Jim:

Please accept this letter as a sincere expression of our intent to negotiate in good faith for the economic incentives associated with Argent's construction of Public Infrastructure Improvements on its planned purchase of 205 gross acres in Lancaster, Texas. Argent is committed to creating a first class, high quality business/industrial park and related distribution/manufacturing facilities, resulting in enhanced tax base, job creation and public infrastructure partially benefiting adjoining land. The key terms are as follows:

Binding Nature

This letter is not intended to be and will not create any legal binding obligation until the appropriate City Council action and the negotiation and execution of a Tax Rebate Agreement and a Developer's Infrastructure Incentive Agreement (the "Definitive Agreements"), to be negotiated following execution of this letter of intent and formally executed by all necessary parties no later than November 9, 2004.

Purpose

The purpose of this letter of intent is to summarize those economic incentives being discussed with the City (subject to City Council review, approval and adoption of an Infrastructure Improvement Program pursuant to Chapter 380 of the Texas Local Government Code) solely for the benefit of Argent and its affiliates as well as outlining those costs to be borne by Argent.

Infrastructure Improvements Program (herein called the "Program")

A budget summary of the current estimated construction and related cost data on schematic drawings from Half Associates is as follows:

<u>Area</u>	<u>Estimated Project Cost</u>
City Water/Sewer Drainage	\$ 783,829
Danieldale Drive Extension:	
Paving and Grading	\$ 924,932
City Water/Sewer/Drainage	\$ 1,987,310
Street Lighting, Landscaping, Irrigation, Signalization	<u>\$ 300,000</u>
	\$ 3,212,242
Engineering Fees	\$ 335,670
Design Surveying	<u>\$ 71,929</u>
TOTAL INFRASTRUCTURE PROGRAM*	<u>\$ 4,403,670</u>

Infrastructure Program cont'd
November 4, 2004

*Reinvestment Zone and Program Budget to be revised upward/downward for final actual bid/contract amounts.

Business Terms

City of Lancaster proposed Infrastructure Program participations: The City will assist in funding in an amount not to exceed \$1,500,000 for the construction of the Program. The \$1.5 million from the City would be funded as follows: (1) \$500,000 at the start of the Program construction, and (2) the balance of \$1,000,000 shall be funded within seven (7) calendar days after Argent has substantially completed construction on shell buildings in the Project Area on building(s) improvements totaling a minimum of 650,000sf, which shall occur within thirty (30) months following completion of the Program, including completed connections and access roadway improvements between the I-20 service road and Daniieldale Road, west of Houston School Road.

Argent's proposed Infrastructure Program participations: The City of Lancaster has requested Argent to coordinate the design and construction on the approximate \$4.5 million Infrastructure Program (excluding contingency) servicing approximately 323 acres north of Cedardale Drive and east of Houston School Road (the "Serviced Area"), including Argent's proposed business/industrial park (see detailed Budget). The City of Lancaster will require Argent to finance approximately \$3,000,000 of the Program (\$4.5 million total estimated cost less \$1.5 million City participation above), plus an amount equal to accrued interest at seven percent (7%) on funds actually expended during the Program construction period up to the date of City acceptance. The funding of the infrastructure debt service would come from a proposed property tax rebate (excluding Lancaster, Ltd. 70 acres of retail sites), in amounts described below, for up to 20 years for all real estate within the "Project Area" (defined as Argent's 205 gross acres plus any of the adjoining 67 acres of Eastep family land if purchased by Argent).

Tax Rebate Amounts and Utilization

For ten (10) years following January 1 of the year after the first building(s) is substantially completed:

- 70% of the actual ad valorem taxes on real property for the Project Area would be rebated to Argent for discretionary use in subsidizing the overall development and leasing of Argent's park.
- 20% of the actual ad valorem taxes on real property for the Project Area would be rebated to Argent for existing infrastructure debt service (after which the 20% rebate expires).
- A grant equivalent to 1/4 cent of the actual sales tax generated from sales tax payments by any tenants or corporate users occupying buildings in the Serviced Area shall be made to Argent and paid quarterly coincident with sales tax remittances. The sales tax grant will go first to infrastructure debt interest reduction and then to principal until the debt is retired (after which the 1/4¢ grant expires).
- Tenants in the Project Area will receive a 50% rebate from the City on business and personal property ad valorem tax, subject to City Council approval in accordance with applicable City program guidelines. Argent will be able to market this incentive to prospective tenants.
- Tax rebates for Eastep family land included in the Project Area will run concurrently with rebates for the initial Project Area, regardless of when Argent purchases such land.

For the second ten (10 years):

- 90% of the actual ad valorem taxes on real property for the Project Area would be rebated to Argent for existing infrastructure debt service, first to interest and then to principal until the debt is retired (after which the 90% rebate expires).
- A grant equivalent to 1/4 cent of the actual sales tax generated from sales tax payments by any tenants or corporate users occupying buildings in the Serviced Area shall be made to Argent and paid quarterly coincident with sales tax remittances. The sales tax grant will go first to infrastructure debt interest reduction and then to principal until the debt is retired (after which the ¼¢ grant expires).
- Tax rebates for Eastep family land included in the Project Area will run concurrently with rebates for the initial Project Area, regardless of when Argent purchases such land.

Sales Tax Grant:

In order to continue to receive the annual sales tax grant in future years on acreage in the Serviced Area not acquired by Argent, the City will require Argent to cause construction to commence on subsequent building(s) in the Project Area resulting in the cumulative square footage as outlined below:

<u>Cumulative Square Footage</u>	<u>Construction commenced on or before</u>
1,100,000sf	12/31/2011
1,850,000sf	12/31/2016
2,850,000sf	12/31/2021

Argent's failure to meet the above three compliance tests will result in the elimination of the sales tax grant for the year(s) following Argent's noncompliance; however, such sales tax grant will recommence for the year following a new construction start that meets the missed cumulative benchmark.

Impact/Inspection Fees

Argent will acquire and dedicate approximately 3.75 acres to the City for the cost of thoroughfare rights-of-way outside the initial Project Area (205 acres), including any appraisal costs incurred as a part of condemnation proceedings. Argent's overall costs in acquiring rights-of-way, other required land dedication/access easements, and thoroughfare financing will be credited against impact fees such that building owners in Argent's business/industrial park will not be responsible for any road impact fees during the Tax Rebate period. Argent will pay water and sanitary sewer impact fees. The City agrees to waive public infrastructure inspection fees on the Program during the Tax Rebate period.

Transferability

In the event of a transfer of any portion of the property (land and/or buildings) in the Project Area during any year for which a tax rebate is due, the transferor may give the City notice of such transfer and its assignment of the tax rebate hereunder for all or a portion of the property in

**INFRASTRUCTURE INCENTIVE AGREEMENT WITH THE CITY OF LANCASTER,
TEXAS and
ARGENT DEVELOPMENT, L.P. and
THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION
DECEMBER 3, 2004**

This Incentive Agreement, pursuant to Resolutions passed and approved on November 29, 2004, is entered into by and among the **CITY OF LANCASTER**, a Texas municipal corporation of Dallas County, Texas (hereinafter called "**CITY**"); **ARGENT DEVELOPMENT GP, L.L.C.**, an entity organized in the State of Texas (hereinafter referred to as "**DEVELOPER**"); and **BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION, LANCASTER, TEXAS** (hereinafter called "**LEDC**");

WITNESSETH:

WHEREAS, DEVELOPER is in the process of acquiring the property (the "**Property**") containing approximately 206 acres in the **CITY** located in the southeast quadrant of I 20 and Houston School Road; and

WHEREAS, CITY and **LEDC** recognize the importance of **CITY'S** and **LEDC'S** continued role in economic development in the **CITY** of Lancaster planned for development as shown on the site plan attached as a portion of Exhibit A; and

WHEREAS, the CITY may provide incentives promoting economic development pursuant to Chapter 380 of the Texas Local Government Code. This statute authorizes loans and grants of a **CITY'S** general funds, pursuant to a "program" to stimulate business and commercial activity in the municipality. In addition, the **CITY** is able to issue Revenue Bonds, to form special purpose districts, as well as to issue Certificates of Obligation ("**COs**") secured by the **CITY'S** taxing power and/or secured by and payable from a limited pledge of surplus net revenues of certain designated revenue-producing facilities.

WHEREAS, by Resolution 35-95, dated August 28, 1995, pursuant to Section 4A of the Development Corporation Act of 1979 (Texas Civil Statutes Article 5190.6), as amended, (hereinafter called the "Act"), CITY created **LEDC** as a non-profit corporation in accordance with the Act, to promote development and redevelopment within the municipality and its vicinity and create new manufacturing and industrial facilities, distribution centers, warehouse facilities and related facilities, through the use of a sales tax, which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, Section 2 (11) (A) of the Act authorizes the expenditure of 4A funds for costs of specific infrastructure improvements necessary for industry to locate on the **Property**, plus other costs incidental to those expenditures and obligations, consistent with the **Project Plan**, which expenditures and monetary obligations constitute "**Project Costs**", as defined in the Act; and

WHEREAS, on November 29, 2004, by Resolution No. 2004-11-101, the CITY adopted and approved a program (the "**Program**") pursuant to Chapter 380 of the Texas Local Government Code providing for loans and/or grants to stimulate certain economic development in the **CITY** of Lancaster, and a final **Project Plan** and a final **Financing Plan** defined hereunder and referred

to herein as "Project Plan" and "Financing Plan," providing for development of the Property funded, in part, by a grant under the Program; and

WHEREAS, pursuant to the **CITY**'s charter, the Act, and applicable Texas Statutes, **CITY** has the authority to enter into agreements as the **CITY** considers necessary or convenient to implement the Project Plan and Financing Plan and to achieve the purposes of developing the Property; and

WHEREAS, pursuant to the Act and the bylaws of the Lancaster Economic Development Corporation, the **LEDC** has authority to enter into agreements as the **LEDC** considers necessary or convenient to implement the Project Plan and Financing Plan and to achieve the purposes of developing the Property; and

WHEREAS, on November 4, 2004, by Resolution No. 2004-06, **LEDC** adopted and approved participation in the development of the Property through a targeted infrastructure grant to **DEVELOPER**; and

WHEREAS, pursuant to said authority, **CITY** and **DEVELOPER** have entered into a Chapter 380 Agreement of even date herewith (the "Chapter 380 Agreement") providing for the grant to **DEVELOPER** of certain portions of ad valorem taxes paid on real property within the Project Area for various purposes related to economic development in the Project Area; and

WHEREAS, pursuant to said authority above, **CITY** and **LEDC** hereby intend to enter into a binding agreement with **DEVELOPER** for **DEVELOPER** to develop the Property as specified in the Project Plan, Financing Plan, and this Agreement; and

WHEREAS, **CITY**, by Resolution, dated November 29, 2004, authorized the Mayor of Lancaster or his designated representative to execute this Agreement on behalf of **CITY**, to bind **CITY** to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, **CITY**, **LEDC**, and **DEVELOPER** hereby agree as follows:

ARTICLE I. DEFINITIONS

1.1 "CITY," "LEDC," and "DEVELOPER" shall have the meanings specified above.

1.2 "Act" shall mean the Development Corporation Act of 1979, as defined above and as may be amended from time to time.

1.3 "Ad Valorem Tax Grant" shall mean an economic development grant from **CITY** generated from the rebate to **DEVELOPER** of ad valorem taxes on real property located within the Project Area pursuant to the Chapter 380 Agreement.

1.4 "Agreement" shall mean this document by and among **CITY**, **LEDC** and **DEVELOPER**, which may be amended from time to time, pursuant to the provisions contained herein.

1.5 "Completion" shall mean construction of Infrastructural Improvements on the Property (and any adjacent property having utility easements granted to the CITY for public use), substantially in accordance with the Project Plan and this Agreement to the extent that the particular improvements can be used and maintained for its intended purpose, as certified by an engineer or other official of CITY with responsibility for inspecting and certifying such improvements.

1.6 "Financing Plan": shall mean the program for reimbursement of the Project Costs set forth in Exhibit C.

1.7 "First Scheduled Installment" shall mean the payment due under this Agreement in the amount of Five Hundred Thousand and No/100s Dollars (\$500,000), payable to DEVELOPER by LEDC in accordance with the Financing Plan.

1.8 "First Term" shall mean the ten (10) year period commencing on January 1 of the year after Qualified Building Completion, and continuing until December 31 ten (10) years thereafter.

1.9 "Grant Installment Approval" shall mean a written acknowledgement from LEDC or CITY to DEVELOPER that payment of the Second Scheduled Installment requested by the Grant Installment Notice is approved for reimbursement to DEVELOPER.

1.10 "Grant Installment Notice" shall mean a notice to LEDC and the CITY from DEVELOPER notifying CITY that DEVELOPER has successfully completed work on the Infrastructural Improvements and Qualified Building Completion has occurred, accompanied by customary documentation reflecting completion of the Project and building(s), the cost of such work, and lien waivers and/or subcontractor releases reflecting proof of payment for such work, and requesting payment of the Second Scheduled Installment.

1.11 "Infrastructural Improvements" shall mean the public regional storm drainage and detention system (referred to as "online detention pond #1 and #2" on Exhibit A), sanitary sewer system, water system, off-site utility trunk connections, and streets (with related lighting, landscaping, and signalization), described in Exhibits B and B-1 to be constructed by DEVELOPER pursuant to this Agreement.

1.12 "Project" shall have the meaning specified in paragraph 3.1 of this Agreement, and as more specifically detailed in the Project Plan and Financing Plan as (either or both) may be amended from time to time.

1.13 "Project Area" shall mean the Property together with adjoining land of up to [67 acres] which may be purchased in the future by DEVELOPER for development of an industrial park.

1.14 "Project Commencement" shall mean the issuance of a development permit or permits to DEVELOPER for, and commencement of on-site construction of, the Project improvements.

1.15 "Project Costs" shall mean the sum of: (a) the actual costs incurred by DEVELOPER to plan, design, permit, and construct the Infrastructural Improvements

(excluding any Project-related costs expressly excluded from Project Costs by this Agreement), together with interest imputed or accrued at the rate of seven percent (7%) per annum, calculated from the Project Commencement to Completion, plus (b) interest on the amount in item (a) after Completion at the rate of seven percent (7%) per annum, compounded annually, until reimbursement in full of **DEVELOPER** as provided in this Agreement. The Project Costs estimate on Exhibit B is composed of cost estimates, only. Project Costs shall be calculated to include the actual costs incurred by or on behalf of **DEVELOPER** to plan, design, permit, and construct the Infrastructural Improvements as required by **CITY**.

1.16 "Project Plan" shall mean the final Project Plan for development of infrastructure to serve the Property and other land in the vicinity of the Property, as shown in Exhibit B and as may be amended time to time by **OWNER**, **LEDC**, and **CITY**.

1.17 "Property" shall mean the approximately 206 acres of real property more particularly described in Exhibit A.

1.18 "Qualified Building Completion" shall mean the issuance of a certificate of substantial completion (or multiple certificates) by the inspecting architect for the building(s) for a shell building or buildings in the Project Area containing an aggregate minimum enclosed area of 650,000 square feet.

1.19 "Sales Tax Grant" shall mean an economic development grant from **LEDC** and **CITY** generated from sales tax payments by any tenants or corporate users occupying buildings in the Serviced Area. The Sales Tax Grant shall be calculated from official records maintained by **CITY**, based upon **CITY'S** sales tax receipts from sales operations in the Serviced Area. The amount to be rebated shall equal one fourth (1/4) of one percent (1%) of taxable sales during the accounting period in the Serviced Area, subject to collection of such sales taxes by **CITY** from the party responsible for payment thereof, and shall be payable on a quarterly basis on the last day of each January, April, July, and October during the term hereof.

1.20 "Second Scheduled Installment" shall mean the payment due under this **AGREEMENT** in the amount of One Million and No/100s Dollars (\$1,000,000), payable to **DEVELOPER** by **LEDC** in accordance with the Financing Plan.

1.21 "Second Term" shall mean the ten (10) year period commencing on January 1 of the year after expiration of the First Term and continuing until December 31 ten (10) years thereafter.

1.22 "Serviced Area" shall mean the tract of land north of Cedardale Drive and east of Houston School Road containing approximately 323 acres, including the Project Area and the approximately 50 acre area planned for potential retail development north of and adjacent to the Project Area abutting Interstate Highway 20. The Serviced Area boundaries are shown on the site plan attached to this Agreement as Exhibit D.

Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

ARTICLE II. REPRESENTATIONS

2.1 **No General Obligation Bonds.** **GENERAL OBLIGATION BONDS:** CITY, LEDC AND DEVELOPER represent that they understand and agree that CITY shall not issue any general obligation bonds to cover any costs directly or indirectly related to DEVELOPER's improvement of the Property under this Agreement.

2.2 **CITY Authority.** CITY represents to DEVELOPER that as of the date hereof CITY has authority to carry out obligations contemplated by this Agreement.

2.3 **LEDC Authority.** LEDC represents to DEVELOPER that, with the CITY Council's concurrence, LEDC has the authority to carry obligations contemplated by this Agreement.

2.4 **DEVELOPER Standing and Authority.** DEVELOPER represents to CITY and to LEDC that DEVELOPER is an entity organized in the State of Texas; that DEVELOPER has the authority to enter into this Agreement and to perform the requirements of this Agreement; that DEVELOPER's performance under this Agreement shall not violate any applicable judgment, order, law or regulation; that DEVELOPER's performance under this Agreement shall not result in the creation of any claim against CITY for money or performance, any lien, charge, encumbrance or security interest upon any asset of CITY; that DEVELOPER shall have sufficient capital to perform all of its obligations under this Agreement when it needs to have said capital; and that DEVELOPER has contracts to purchase the Property as of the date of execution of this Agreement.

2.5 **No Third Party Consents.** CITY, LEDC, and DEVELOPER represent each to the others that the execution, delivery, and performance of this Agreement on its part does not require consent or approval of any person that has not been obtained.

2.6 **Continuing Cooperation.** CITY, LEDC, and DEVELOPER represent each to the other that each shall make every reasonable effort to expedite the performance of the obligations under this Agreement and acknowledge that the successful performance of this Agreement requires the continued cooperation of each.

ARTICLE III. THE PROJECT

3.1 **The Project.** The Project shall constitute and include the design and construction of Infrastructural Improvements (required for the development of approximately 3,215,000 square feet of industrial distribution space and related offices in the Project Area and approximately 300,000 square feet of general retail and 48,000 square feet of restaurants planned by third parties on the adjoining 50 acres of land), to be constructed by DEVELOPER within the Property and, as needed, on adjacent property within easements or right-of-way acquired by the CITY for use in the Project. CITY acknowledges acquisition of any off-site right-of-way or easements for the planned Danieldale Road extension and related utility facilities required to complete the Project shall be the responsibility of CITY, and that CITY shall acquire such off-site right-of-way and easements promptly, including condemnation proceedings, following execution of this Agreement in accordance with applicable law. Road right-of-way shall be conveyed to CITY in accordance with applicable law, and DEVELOPER shall pay to the court registry in the court in which the condemnation case is pending or reimburse CITY for CITY'S costs of appraisal and acquisition not to exceed the sum of \$100,000.00. The cost of acquiring right-of-way for public roads shall not be included in Project Costs.

3.2 **Construction of Infrastructural Improvements.** All contracts for construction of the Infrastructural Improvements shall be bid, awarded and caused to be constructed by **DEVELOPER** in compliance with all applicable laws.

3.3 **Construction of Qualified Building(s).** In order to qualify for receipt of the Second Scheduled Installment, **DEVELOPER** must cause the Qualified Building Completion to occur on or before thirty (30) months following **CITY'S** final acceptance of the Infrastructural Improvements for maintenance or other purposes as provided by applicable law or by this Agreement.

3.4 **Financing.** **DEVELOPER** shall be responsible for funding the Project Costs, subject to reimbursement in accordance with this Agreement. The funding of the **CITY** participation in the Project Costs shall be in the amounts and as specifically scheduled in the Financing Plan. **DEVELOPER** may use any part or all of the Property as collateral for the construction loan or loans as required for the initial financing of the Project and related buildings. **CITY** and **LEDC** agree to use available funds as provided in the Financing Plan, up to the maximum amount required herein, to reimburse **DEVELOPER** for Project Costs. The payments made to **DEVELOPER** pursuant to this Agreement are not intended to reimburse **DEVELOPER** for all Project Costs incurred in connection with performing its obligations under this Agreement. It is anticipated that the final Project Costs shall exceed such reimbursements, and **DEVELOPER** shall be responsible for payment of all such excess costs.

ARTICLE IV. DUTIES AND OBLIGATIONS OF DEVELOPER

4.1 **Program Compliance.** **DEVELOPER** shall comply with all applicable provisions of the Program. In the event of a conflict between the Program and this Agreement, the terms of this Agreement shall control.

4.2 **Completion of Project.** Subject to Article VI, **DEVELOPER** agrees to complete, or cause to be completed, the Project in accordance with the terms of this Agreement. **DEVELOPER** agrees to provide, or cause to be provided, all materials, labor, and services for completing the Project. **DEVELOPER** also agrees to obtain or cause to be obtained all necessary permits and approvals from **CITY** and/or all other governmental agencies having jurisdiction over the construction of improvements to the Property (and any adjacent property having utility easements granted to the **CITY** for public use). **DEVELOPER** agrees to cause the construction of the Infrastructural Improvements to be performed substantially in accordance with the approved plans and specifications therefor.

4.3 **Project Planning.** **DEVELOPER** shall prepare, or cause to be prepared plans and specifications for the Infrastructural Improvements. **DEVELOPER** shall not commence any construction on the Project until the plans and specifications have been approved in writing by the appropriate department of **CITY**. For purposes of this Section 4.3, letters of certification or acceptance issued by the **CITY** or any affiliated utility entity shall constitute written approval of the **CITY**.

4.4 **Project Work Bonds.** Prior to beginning construction on the Project, **DEVELOPER** shall cause its general contractor or general contractors to provide satisfactory credit information or bank commitment letters to successfully complete the Project; otherwise, a payment and performance bond will be required in amounts required by applicable law.

DEVELOPER shall obtain said bond in the event the general contractor or general contractors fail to provide satisfactory credit support or procure said bond.

4.5 Periodic Reporting. **DEVELOPER** also agrees to provide periodic reports of such construction to **CITY** and to **LEDC** upon reasonable request. **DEVELOPER** shall cooperate with **CITY** and **LEDC** in periodically providing all necessary information to **CITY** and to **LEDC** in order to assist **CITY** and **LEDC** in complying with this Agreement, covering the Infrastructural Improvements as well as the **DEVELOPER**'s progress on building construction, marketing and leaseup status.

4.6 Permits, Impact Fees, and Waiver of Impact Fees. **DEVELOPER** shall be responsible for paying, or causing to be paid, to **CITY** and all other governmental agencies the cost of all applicable permit fees, licenses and utility impact fees (water and sanitary sewer) required for construction of the Project. **DEVELOPER** shall not be obligated to pay, directly or indirectly, for any traffic/roadway improvements in connection with its platting of the Property, construction and development of any improvements on the Property or Project Area, use of the Property or development of the Project Area (collectively, "Initial Improvements"), except as set forth in Exhibits B and B-1 and **CITY** hereby waives any such obligations. Notwithstanding this, **CITY** reserves the right, other than in relation to the Initial Improvements, to provide for resurfacing or reconstruction of road right-of-way improvements in accordance with applicable law. **CITY** hereby grants to **DEVELOPER** a development credit against roadway impact fees equal to the total roadway impact fees assessed for the Project Area. **CITY** waives infrastructure inspection fees, if any, chargeable during **DEVELOPER**'s development of the Property and the Project Area.

4.7 Utility Charges During Project Construction. **DEVELOPER** shall pay monthly rates and use charges for all utilities (such as water, electricity, and sewer services) used by **DEVELOPER** in regard to the development of the Property for so long as **DEVELOPER** owns those areas.

4.8 Project Costs Reporting. **DEVELOPER** shall submit a written report to **CITY** and **LEDC** no later than ninety (90) days following the end of the fiscal year in which the construction of Infrastructural Improvements was completed, reflecting and itemizing all Project Costs.

4.9 Code Compliance. **DEVELOPER** shall comply with the **CITY**'s Development Code regarding the development of the Project, as in effect on the date of the approval of plans and specifications.

4.10 Approvals. **CITY** and **LEDC** shall not unreasonably withhold approval on requests from **DEVELOPER** on matters under this Agreement.

ARTICLE V. REIMBURSEMENTS TO DEVELOPER

5.1 First Scheduled Installment. Upon commencement of construction of Infrastructural Improvements, **DEVELOPER** shall notify **CITY** and **LEDC** in writing, including with such notification **DEVELOPER**'S notice to proceed issued to **DEVELOPER**'S general contractor for the Project. After receiving such notice and verifying commencement of on-site construction, **LEDC** shall issue payment of the First Scheduled Installment to **DEVELOPER** in accordance with the Financing Plan.

5.2 **Second Scheduled Installment.** Upon Completion of the Project and Qualified Building Completion, DEVELOPER shall submit to CITY the Grant Installment Notice and CITY shall promptly review such notice and either notify DEVELOPER of deficiencies in the notice or issue its Grant Installment Approval. Within ten (10) business days after issuance of the Grant Installment Approval by CITY, DEVELOPER shall receive the Second Scheduled Installment in the amount of One Million and No/100 Dollars (\$1,000,000) in accordance with the Financing Plan.

5.3 **Sales Tax Grant.**

(a) From and after the generation of municipal sales tax revenue from sales operations within the Serviced Area, CITY shall issue payment of the Sales Tax Grant to DEVELOPER in accordance with the Financing Plan for application to the reimbursement of the Project Costs. If such sales operations shall commence on any portion of the Serviced Area outside the Project Area, CITY shall notify DEVELOPER of such commencement and the schedule for commencement of the Sales Tax Grant. If such sales operations shall commence on any portion of the Project Area, DEVELOPER shall notify CITY and LEDC of such commencement and the schedule for commencement of the Sales Tax Grant. CITY shall pay Sales Tax Grant payments quarterly, on the last day of January, April, July, and October of each year after commencement of sales tax remittances to CITY, commencing with the first such installment date after initial sales tax remittances to CITY.

(b) Subject to subparagraph (c), below, the Sales Tax Grant shall be payable by CITY to DEVELOPER until the earlier to occur of the following events: (i) reimbursement in full to DEVELOPER of the Project Costs, or (ii) the expiration of the Second Term. CITY may verify DEVELOPER'S accounting of the Project Costs in accordance with Article X of this Agreement. DEVELOPER shall respond to written requests from CITY and/or LEDC for current information concerning DEVELOPER'S accounting of the Project Costs for the purpose of ascertaining the remaining unreimbursed balance of the Project Costs periodically during the term of this Agreement.

(c) From and after January 1, 2012, continuation of the Sales Tax Grant derived from sales tax revenues from acreage in the Serviced Area not acquired by DEVELOPER shall be subject to and conditioned upon commencement of construction on building(s) in the Project Area with aggregate enclosed areas equal to or exceeding the following minimum aggregate areas resulting in the following cumulative square footage (as reflected on DEVELOPER's building permit applications):

<u>Cumulative Building Area (minimum)</u>	<u>Commenced on or before</u>
1,100,000 square feet	December 31, 2011
1,850,000 square feet	December 31, 2016
2,850,000 square feet	December 31, 2021

In the event the Sales Tax Grant is discontinued in any period due to the failure of the condition stated in this subparagraph (c), no Sales Tax Grant shall accrue during such period nor be payable to DEVELOPER, and such Sales Tax Grant shall recommence to

accrue only following DEVELOPER's subsequent satisfaction of the construction commencement minimums. In no event shall DEVELOPER's failure to commence construction on buildings prior to any of the commencement deadlines stated above be construed as a default under this Agreement.

5.4 **Project Costs Reimbursement.** In order to determine when the Project Costs are fully reimbursed for purposes of Section 5.3, funds from the Ad Valorem Tax Grants and Sales Tax Grants received by DEVELOPER under this Agreement and the Chapter 380 Agreement shall be deemed to have been reimbursed to DEVELOPER in accordance with the following schedule:

(a) **Ad Valorem Tax Grant.** During the First Term, 20/90ths of the Ad Valorem Tax Grant paid to DEVELOPER under the Chapter 380 Agreement shall be allocated to reimbursement of the Project Costs, until the Project Costs are paid in full. During the Second Term, all of the Ad Valorem Tax Grant paid to DEVELOPER under the Chapter 380 Agreement shall be applied to reimbursement of the Project Costs.

(b) **Sales Tax Grant.** During the First and Second Terms, all of the Sales Tax Grant shall be allocated to reimbursement of the Project Costs until the Project Costs are paid in full.

All funds received by DEVELOPER for application to the Project Costs shall be applied first to interest payments or accruals, second to principal outstanding.

ARTICLE VI. INSURANCE

6.1 **Construction Period Insurance Requirements.** DEVELOPER, or DEVELOPER's contractor, shall obtain and maintain in full force and effect during the construction of all Infrastructural Improvements, and any extension hereof, at DEVELOPER's or DEVELOPER's general contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company and/or otherwise acceptable to CITY, in the following types and minimum amounts:

	<u>Type</u>	<u>Amount</u>
(1)	Worker's Compensation & Statutory Employer's Liability	\$500,000/\$500,000/\$500,000
(2)	Comprehensive General Liability (Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations)	Combined limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate or its equivalent in umbrella or excess liability coverage
(3)	Business Automobile Liability (any auto, including employer's non-owned and hired auto coverage)	\$1,000,000 combined single limit per occurrence

6.2 **Certificates.** CITY shall be entitled, upon request and without expense, to receive copies of the certificates of insurance on all policies required under this Agreement.

6.3 **Notices of Cancellation or Modification.** DEVELOPER shall notify CITY in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to CITY in accordance with Section 22.1.

6.4 **Indemnification.** DEVELOPER shall also indemnify CITY, LEDC, and all other PARTICIPATING ENTITIES and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of DEVELOPER's and DEVELOPER's general contractor's actions related to the construction of the Infrastructural Improvements.

6.5 **Contractor's Indemnity.** DEVELOPER shall also require its general contractor or general contractors working on this Project to indemnify CITY, LEDC, and all other Participating Entities and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety.

ARTICLE VII. DEFAULT AND TERMINATION

7.1 **Default by DEVELOPER.** In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY and/or LEDC may terminate this Agreement if DEVELOPER does not take adequate steps to cure its monetary default within thirty (30) calendar days after receiving written notice from CITY and/or LEDC, or cure its non-monetary default within ninety (90) days after receiving written notice from CITY and/or LEDC requesting the failure be cured. However, no default shall occur if DEVELOPER commences such performance to cure the default within the ninety (90) days and thereafter diligently pursues its completion. But, in the event that DEVELOPER is unable to ultimately cure such default (or otherwise satisfactorily resolve) and as the exclusive remedy of CITY and/or LEDC, DEVELOPER shall not receive any further reimbursement payments under this Agreement for the construction of Infrastructural Improvements for any Phase under development at the time of the incurable default; EXCEPT that no refund is due if DEVELOPER, with CITY's and LEDC's written consent, assigns its remaining obligations under this Agreement to a qualified party who is willing and capable of completing DEVELOPER's obligations under this Agreement, pursuant to Article XII herein.

7.2 **Failure to Furnish Project Documentation.** Notwithstanding Section 7.1 above, in the event DEVELOPER fails to furnish CITY and LEDC any documentation required in Article IV herein within thirty (30) business days following the written request for same, then DEVELOPER shall be in default of this Agreement.

ARTICLE VIII. SITE INSPECTION

DEVELOPER shall allow CITY and/or LEDC reasonable access to the Property owned or controlled by DEVELOPER for inspections during and upon completion of construction of the

Project and to documents and records necessary for CITY and/or LEDC to assess DEVELOPER's compliance with this Agreement.

ARTICLE IX. LIABILITY

9.1 Employee Compensation. As between CITY, LEDC or any Participating Entity and DEVELOPER, DEVELOPER shall be solely responsible for compensation payable to any employee or contractor of DEVELOPER, and none of DEVELOPER's employees or contractors will be deemed to be employees or contractors of CITY, LEDC or any Participating Entity as a result of the Agreement.

9.2 Exculpation of CITY and LEDC Employees. To the extent permitted by Texas law, no director, officer, employee or agent of CITY, LEDC or of any other Participating Entity shall be personally responsible for any liability arising under or growing out of this Agreement.

ARTICLE X. EXAMINATION OF RECORDS

10.1 Right to Inspect Books and Records. CITY and LEDC reserves the right to conduct examinations, during regular business hours and following notice to DEVELOPER by CITY or LEDC, of the books and records related to this Agreement (including such items as contracts, correspondence, copy, books, accounts, billings and other information related to the performance of DEVELOPER's services hereunder) no matter where books and records are located. CITY and LEDC also reserves the right to perform any and all additional audit tests relating to DEVELOPER's services, provided that such audit tests, conducted at times mutually agreeable to both CITY/LEDC and DEVELOPER, are related to those services performed by DEVELOPER for CITY and LEDC under this Agreement. These examinations shall be conducted at the offices maintained by DEVELOPER.

10.2 Preservation of Books and Records. All applicable records and accounts of DEVELOPER, together with all supporting documentation, shall be preserved in Dallas County, Texas, by DEVELOPER throughout the term of this Agreement and for twelve (12) months after the termination of this Agreement, then transferred, if requested by CITY or LEDC, to LEDC or CITY for retention.

10.3 Discrepancies. Should LEDC discover errors in internal controls or in record keeping associated with the Project, DEVELOPER shall correct such discrepancies either upon discovery or within a reasonable period of time, not to exceed sixty (60) days after discovery, and notification by CITY or LEDC to DEVELOPER of such discrepancies.

ARTICLE XI. NON-WAIVER

11.1 Amendments. Any provision of this Agreement may be amended or waived if done in writing and is signed by CITY, through a resolution passed and approved by its CITY Council, LEDC, and DEVELOPER.

11.2 Course of Dealing. No course of dealing on the part of CITY, LEDC, or DEVELOPER nor any failure or delay by CITY, LEDC, or DEVELOPER in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or privilege owing under this Agreement.

ARTICLE XII. ASSIGNMENT

12.1 **Binding Effect.** All covenants and agreements contained herein by **CITY** and/or **LEDC** shall bind their successors and assigns and shall inure to the benefit of **DEVELOPER** and their successors and assigns.

12.2 **Assignments by CITY and/or LEDC.** **CITY** and/or **LEDC** may not assign their rights and obligations under this Agreement to any governmental Entity without prior consent of **DEVELOPER**.

12.3 **Assignments by DEVELOPER.**

(a) Prior to completion of the Project, **DEVELOPER** may sell or transfer its rights and obligations under this Agreement only with written consent of **CITY** or **LEDC**, with such consent not being unreasonably withheld, conditioned, or delayed for any proposed assignment to a successor in title to any portion of the Project Area. This restriction on **DEVELOPER**'s rights to sell or transfer is subject to the right to assign as provided in Subsections (b) and (c) below.

(b) Any restrictions herein on the transfer or assignment of **DEVELOPER**'s interest in this Agreement shall not apply to and shall not prevent the assignment of this Agreement to an affiliate as well as any corporation or other entity with which **DEVELOPER** may merge or consolidate or that may succeed to a controlling interest in the business of **DEVELOPER** or in which **DEVELOPER** owns more than a twenty percent (20%) equity interest; nor shall the foregoing apply to or prevent **DEVELOPER** from assigning the proceeds of this Agreement to a lending institution or other provider of capital in order to obtain financing for the Project. In no event, however, shall **CITY** or **LEDC** be obligated in any way to the aforementioned financial institution or other provider of capital except as provided herein. This Article does not require **DEVELOPER** to obtain consent of **CITY** or **LEDC** for the sale of land to developers or sites to corporate users for the construction of retail or industrial facilities.

(c) After completion of the Project, it is intended by the parties hereto that the Ad Valorem Tax Grants provided in Article V hereof may be assigned by **DEVELOPER** in whole or in part to successor owners of property in the Project Area. **DEVELOPER** shall give **CITY** notice of such assignments pursuant to Article XXII below. This Agreement is, to the extent provided by law, intended to bind the **CITY** to make such grants to each successor or assignee of the **DEVELOPER** without the consent or approval, or any other action, of the **CITY**.

(d) Each transfer or assignment to which there has been consent, pursuant to Subsection (a), shall be by instrument in writing, in form reasonably satisfactory to **CITY** and **LEDC**, and shall be executed by the transferee or assignee who shall agree in writing for the benefit of **CITY** and **LEDC** and **CITY/LEDC** to be bound by and to perform the terms, covenants and conditions of this Agreement. Four (4) executed copies of such written instrument shall be delivered to **CITY** and **LEDC**. Failure to first obtain in writing **CITY** and **LEDC**'s consent, or failure to comply with the provisions herein contained, shall operate to prevent any such transfer or assignment from becoming effective.

12.4 **Writing Required.** Any work or services contracted herein shall be contracted only by written contract or agreement and, unless CITY or LEDC grants specific waiver in writing, shall be subject by its terms, insofar as any obligation of CITY or LEDC is concerned, to each and every provision of this Agreement. Compliance by DEVELOPER's subcontractors with this Agreement shall be the responsibility of DEVELOPER's general contractor.

12.5 **Exculpation of CITY and LEDC.** CITY and LEDC shall in no event be obligated to any third party, including any contractor or consultant of DEVELOPER, for performance of work or services under this Agreement.

12.6 **Effect of Consent to Assignment.** Should CITY and LEDC approve the assignment or transfer of this Agreement, DEVELOPER shall be released from such duties and obligations.

12.7 **No Waivers Implied.** No provision of this Agreement shall be deemed to have been waived by CITY or LEDC unless such waiver is in writing and is approved by CITY Council in the form of a duly passed resolution.

ARTICLE XIII. CONFLICT OF INTEREST

LEDC and DEVELOPER each warrant and certify, and this Agreement is made in reliance thereon, that they, their officers, employees and agents are neither officers nor employees of CITY.

ARTICLE XIV. ENTIRE AGREEMENT

14.1 **Final Agreement.** This written Agreement, together with the Chapter 380 Agreement executed contemporaneously herewith, embodies the final and entire agreement between the parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

14.2 **Exhibits.** The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that if there is a conflict between an exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the exhibit.

ARTICLE XV. CHANGES AND AMENDMENTS

15.1 **Writing Required.** Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by CITY, LEDC and DEVELOPER and evidenced by passage, if required, of a subsequent resolution of the CITY Council of CITY, as to CITY's approval.

15.2 **Changes in Applicable Laws.** It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable to CITY/LEDC and DEVELOPER's services hereunder ("Applicable Laws") may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective date of the rule, regulation or law. No retroactive measures will be required for completed work or services performed in accordance with known Applicable Laws.

ARTICLE XVI. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the charter, code, or ordinances of **LEDC** or **CITY**, then and in that event it is the intent of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intent of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a similar clause or provision as may be possible, legal, valid and enforceable.

ARTICLE XVII. INDEPENDENT CONTRACTORS

17.1 **No Agency.** It is expressly understood and agreed by all parties hereto that in performing their services hereunder, **DEVELOPER** at no time will be acting as agent of the **CITY** and that all consultants or contractors engaged by **DEVELOPER** shall be independent contractors of **DEVELOPER**. The parties hereto understand and agree that **CITY** shall not be liable for any claims that may be asserted by any third party occurring in connection with services performed by **DEVELOPER** under this Agreement unless any such claims are due to the fault of the **CITY**.

17.2 **Limit on Authority.** The parties hereto further understand and agree that no party has authority to bind the others or to hold out to third parties that it has the authority to bind the others.

ARTICLE XVIII. LEGAL AUTHORITY

Each persons executing this Agreement on behalf of the **CITY**, **LEDC** and **DEVELOPER**, represents, warrants, assures and guarantees that he has full legal authority to (i) execute this Agreement on behalf of **CITY**, **LEDC** and/or **DEVELOPER**, respectfully, and (ii) to bind **CITY**, **LEDC** and/or **DEVELOPER** to all of the terms, conditions, provisions and obligations herein contained.

ARTICLE XIX. VENUE AND GOVERNING LAW

19.1 **Choice of Law.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

19.2 **Venue.** Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Dallas County, Texas.

ARTICLE XX. TAXES AND PERMITS

DEVELOPER shall pay, on or before their respective due dates, to the appropriate collecting authority all Federal, State, and local taxes that are now or may hereafter be levied upon the Property or upon **DEVELOPER** or the business conducted on the Property, or upon any of **DEVELOPER**'s property used in connection therewith, including employment taxes; and **DEVELOPER** shall maintain in current status all Federal, State, and local licenses and permits normally required for the operation of the business conducted by **DEVELOPER**.

ARTICLE XXI. PARTIES' REPRESENTATION

This Agreement has been jointly negotiated by the CITY, LEDC and DEVELOPER and shall not be construed against a party because that party may have primarily assumed responsibility for the drafting of this Agreement.

ARTICLE XXII. NOTICE

22.1 **Addresses.** Any notice sent under this Agreement shall be written and mailed with sufficient postage, sent by certified mail, return receipt requested, documented facsimile or delivered personally to an officer of the receiving party at the following addresses:

CITY

City of Lancaster
211 North Henry Street
Lancaster, Texas 75146
FAX: (972) 227-4032
Attn: City Manager

LEDC

P. O. Box 399
103 Historic Town Square
Lancaster, Texas 75146
FAX: (972-218-7057)
Attn: Director

With copy to:

City of Lancaster
211 North Henry Street
Lancaster, Texas 75146
FAX: (972) 227-4032
Attn: City Attorney

DEVELOPER

c/o Argent Development, L.P.
5949 Sherry Lane, Suite 1000
Dallas, Texas 75225
FAX: (214) 361-5032
Attn: Chairman

22.2 **Delivery.** Each party may change its address by written notice in accordance with this Article. Any communication delivered by facsimile transmission shall be deemed delivered when receipt of such transmission is received if such receipt is during normal business hours or the next business day if such receipt is after normal business hours. Any communication so delivered in person shall be deemed received when receipted for by or actually received by an officer of the party to whom the communication is properly addressed. All notices, requests or consents under this Contract shall be (a) in writing, (b) delivered to a principal officer or managing entity of the recipient in person, by courier or mail or by facsimile, telegram, telex, cablegram or similar transmission, and (c) effective two days following deposit in the U.S. Mail, postage paid, registered or certified, return receipt requested, properly addressed to the addressee, of effective upon confirmed facsimile transmission to the addressee at the facsimile number provided herein. Whenever any notice is required to be given by applicable law or this Contract, a written waiver thereof, signed by the person entitled to notice, whether before or after

the time stated therein, shall be deemed equivalent to the giving of such notice. Each party shall have the right from time to time and at any time to change its address by giving at least 15 days' written notice to the other party.

ARTICLE XXIII. CAPTIONS

All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the parties hereto.

ARTICLE XXIV. TERM

The term of this Agreement shall commence on November 30, 2004 and end on the date which is the earlier to occur of the following: (i) the date **DEVELOPER** receives the final reimbursement payment by **CITY** or **LEDC** for Project Costs; or (ii) the date this Agreement is terminated as provided in Article VII; provided that any existing warranties on the Project shall survive, if applicable, termination of this Agreement.

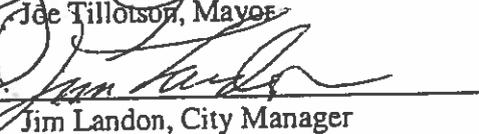
IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed this 2nd day of December, 2004.

CITY:

CITY OF LANCASTER, TEXAS

By: 

Joe Tillotson, Mayor

By: 

Jim Landon, City Manager

DEVELOPER:

ARGENT DEVELOPMENT GP, L.L.C.,
a Texas limited liability company

By: 

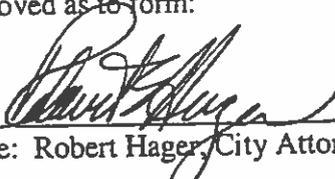
Name: C.E. Cornutt

Title: President

ATTEST:


City Secretary

Approved as to form:


Name: Robert Hager, City Attorney

LEDC:

Lancaster Economic Development Corporation,
A chartered development corporation

By: 
Name: E. Parkins Jefferson
Title: BOARD PRES.

EXHIBIT Schedule

EXHIBIT A: Property and Site Plan

EXHIBIT B: Project Plan - Infrastructural Improvements and Construction Schedule

EXHIBIT B-1: Project Plan Preliminary Specifications

EXHIBIT C: Financing Plan – Schedule of Reimbursements

EXHIBIT D: Serviced Area Boundaries

EXHIBIT A

To Infrastructure Incentive Agreement

PROPERTY

144-acre Tract

The legal description for the above acreage is further described in the survey dated May 25, 2004 by Brockett Davis Drake.

44-acre Tract

The legal description for the above acreage is further described in the survey dated May 25, 2004 by Brockett Davis Drake.

17-acre Tract

The legal description for the acreage is further described in the survey dated August 16, 2004 by Half Associates.

TRACT 1

Being a tract of land situated in the N.P. Pierce Survey Abstract Number 1132, City of Lancaster, Dallas County, Texas and being a portion of that certain 144.651 acres of land conveyed to Lancaster 260 Partnership by Instrument of record In Volume 84074, Page 3388, Dallas County Deed Records, and being more particularly described as follows:

Beginning at a 5/8" iron rod set in the easterly right-of-way line of Houston School Road (100' R.O.W.), same being the most westerly southwest corner of said Lancaster 260 Partnership tract, same also being in the northerly line of that certain 17.50 acre tract of land conveyed to James Belton Hall, et al, by Instrument of record in Volume 88010, Page 1250, Dallas County Deed Records;

THENCE, North 00° 03' 57" East, leaving the northerly line of said 17.50 acre tract and along said easterly right-of-way line, a distance of 1197.97 feet to a 5/8" iron rod set for corner;

THENCE, North 00° 06' 01" West, continuing along said easterly right-of-way line, a distance of 41.15 feet to a 5/8" iron rod set for corner, same being in the southerly line of a tract of land conveyed to Lancaster, Ltd., by instrument of record in Volume 2001247, Page 4872, Dallas County Deed Records;

THENCE, North 75° 06' 56" East, leaving the easterly right-of-way line of said Houston School Road and along the common line of said Lancaster, Ltd. tract and said 144.651 acre tract, a distance of 310.57 feet to a 5/8" iron rod set for corner, same being the northwesterly corner of a tract of land leased to Nextel of Texas, Inc., by Memorandum of Agreement recorded in Volume 2001011, Page 3476, Dallas County Deed Records;

THENCE, South 14° 53' 04" East, leaving the common line of said 39.7920 acre tract and 144.651 acre tract and along the westerly line of said Lease tract, a distance of 100.00 feet to a 5/8" iron rod set for corner, same being the southwesterly corner of said Lease tract;

THENCE, North 75° 06' 56" East, leaving the westerly line and along the southerly line of said Lease tract, a distance of 100.00 feet to a 5/8" iron rod set for corner, same being the southeast corner of said Lease tract;

THENCE, North 14° 53' 04" West, leaving the southerly line and along the easterly line of said Lease tract, a distance of 100.00 feet to a 5/8" iron rod set for corner, same being the northeasterly corner of said Lease tract, same being in the common line of aforementioned 144.651 acre tract and said Lancaster, Ltd. tract;

THENCE, North 75° 06' 56" East, leaving the easterly line of said Lease tract and along said common line of said Lancaster, Ltd. tract and said 144.651 acre tract, a distance of 2735.65 feet to a 3/4" iron rod found for corner, same being the northeasterly corner of

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said 144.651 acre tract and also being in the westerly line of Cedardale Highlands Addition, an addition to the City of Lancaster according to the plat thereof recorded in Volume 12, Page 327, Dallas County Map Records;

THENCE, South 29° 52' 32" East, leaving the common line of said Lancaster, Ltd. tract and said 144.651 acre tract and along the westerly line of said Cedardale Highlands Addition and the easterly line of said 144.651 acre tract, a distance of 1402.87 feet to a 5/8" iron rod set for corner, same being the northeasterly corner of that certain 44.36 acre tract of land conveyed to Robert David DeRosier, Trustee, by instrument of record in volume 83193, Page 4312, Dallas County Deed Records;

THENCE, South 74° 53' 38" West, leaving the westerly line of said Cedardale Highlands Addition and along the common line of said 44.36 acre tract and said 144.651 acre tract, a distance of 1448.98 feet to a 3/4" iron rod found for an interior ell corner of said 144.651 acre tract, same being the northwesterly corner of said 44.36 acre tract;

THENCE, South 29° 49' 20" East, continuing along said common line, a distance of 1559.93 feet to a 1/2" capped iron rod found for corner in the northerly line of Cedardale Drive (40' R.O.W.);

THENCE, South 60° 09' 38" West, leaving the common line of said 144.651 acre tract and 44.36 acre tract and along said northerly right-of-way line, a distance of 1061.32 feet to a 1" iron pipe found for corner in the easterly line of a called 49.741 acre tract of land conveyed to Oscar Victor Eastep, trustee by deed recorded in Volume 88023, Page 4372, Dallas County Deed Records;

THENCE, North 14° 41' 22" West, departing said northerly line and along the common line of said 49.741 acre tract and said 144.651 acre tract, a distance of 1021.37 feet to a 5/8" iron rod set for corner in the easterly line of a called 17.50 acre tract of land conveyed to Leila Edith Penn by deed recorded in Volume 88010, Page 1250, Dallas County Deed Records;

THENCE, North 24° 36' 25" West, along said Leila Edith Penn tract, a distance of 499.42 feet to 1/2" iron pipe found for an interior ell corner of said 144.651 acre tract, same being the northeasterly corner of aforementioned 17.50 acre, James Belton Hall, et al tract;

THENCE, South 89° 32' 29" West, leaving the easterly line and along the northerly line of said James Belton Hall tract, a distance of 1730.10 feet to the POINT OF BEGINNING and containing 6,267,318 square feet or 143.879 acres of land.

TRACT 2

BEING a tract of land situated in the Nathan P. Pierce Survey, Abstract No. 1132, City of Lancaster, Texas and County of Dallas and being all of that certain tract of land conveyed to David DeRosier, Trustee, by deed recorded in Volume 83193 Page 4321 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod set for corner at the intersection of the north line of Cedardale Road (40 ft. R.O.W. at this point) with the east line of said Nathan P. Pierce Survey;

THENCE South 60° 22' 50" West, along the north right-of-way line of said Cedardale Road, a distance of 1402.57 feet to a 1/2" capped iron rod found for corner;

THENCE North 29° 49' 20" West, leaving the north right-of-way line of said Cedardale Road, a distance of 1559.93 feet to a 3/4" iron rod found for corner;

THENCE North 74° 53' 38" East, a distance of 1448.98 feet to a 5/8" iron rod set for corner in the west line of Cedardale Highland Addition, an addition to the City of Lancaster according to the plat thereof recorded in Volume 12, Page 327, Dallas County Map Records;

THENCE South 29° 52' 32" East, along the west line of said Cedardale Highlands Addition, a distance of 1196.81 feet to the POINT OF BEGINNING and containing 1,932,374 square feet or 44.361 acres of land.

TRACT 3

SITUATED in the State of Texas and County of Dallas and being part of that certain 86.80 acre tract of land in the NATHAN P. PIERCE SURVEY, ABSTRACT NO. 1132, as conveyed to C.L. Eastep in a Deed of record in Volume 231, page 313 of the Deed Records of said Dallas County, Texas and being more particularly described as follows:

BEGINNING at an iron rod in the east line of Houston School Road (60 feet wide) that is North, 1467.13 feet and N. 89 deg. 30 min., E., 30 feet from the southwest corner of said Pierce Survey; THENCE North, along the east line of said Houston School Road, 413.20 feet to an iron rod found in the north line of said 86.80 acre tract of land; THENCE N. 89 deg. 30 min., E., along the north line of said 86.80 acre tract, 1750.00 feet to an iron rod found at the northeast corner of said 86.80 acre tract; THENCE S. 24 deg. 45 min. E., along the east line of said 86.80 acre tract, 453.19 feet to an iron rod for corner; THENCE S. 89 deg. 30 min. W., a distance of 1939.75 feet to the PLACE OF BEGINNING and containing 17.50 acres of land.

SAVE AND EXCEPT:

BEING a 0.190 acre tract or parcel of land in the Nathan P. Pierce Survey, Abstract No. 1132, Dallas County, Texas, and being a portion of that called 17.5 acre tract which was conveyed to James Belton Hall, et al as Tract 1 by the Partition Deed recorded in volume 88010, Page 1250, of the Deed Records of Dallas County, Texas, and being more particularly described as follows;

BEGINNING at a set 5/8 inch iron rod, a point for corner on the east line of Houston School Road (a 60' R.O.W. at this point), said point being NORTH 00 degrees 34 minutes 47 seconds WEST, 1447.13 feet from the intersection of said east line of Houston School Road with the north line of Cedardale Road (40' R.O.W.), said point also being on the north line of a called 17.5 acre tract conveyed to Leila Edith Penn as Tract 2 by said deed;

THENCE, along said existing east line of Houston School Road, NORTH 00 degrees 34 minutes 47 seconds WEST, a distance of 413.21 feet to a set 5/8 inch iron rod, a point for corner on the south line of a called 144.651 acre tract conveyed to Lancaster 260 Partnership by deed recorded in Volume 94074, Page 3388, of the Deed Records of Dallas County, Texas, said corner lying NORTH 88 degrees 53 minutes 47 seconds EAST 0.72 feet from a found 5/8 inch iron rod;

THENCE, departing said east line of Houston School Road and along said south line of 144.651 acre tract, NORTH 88 degrees 53 minutes 47 seconds EAST, for a distance of 20.00 feet to a set 5/8 inch iron rod, a point for corner, said point being perpendicular to and 50.00 feet from the proposed centerline of said Houston School Road;

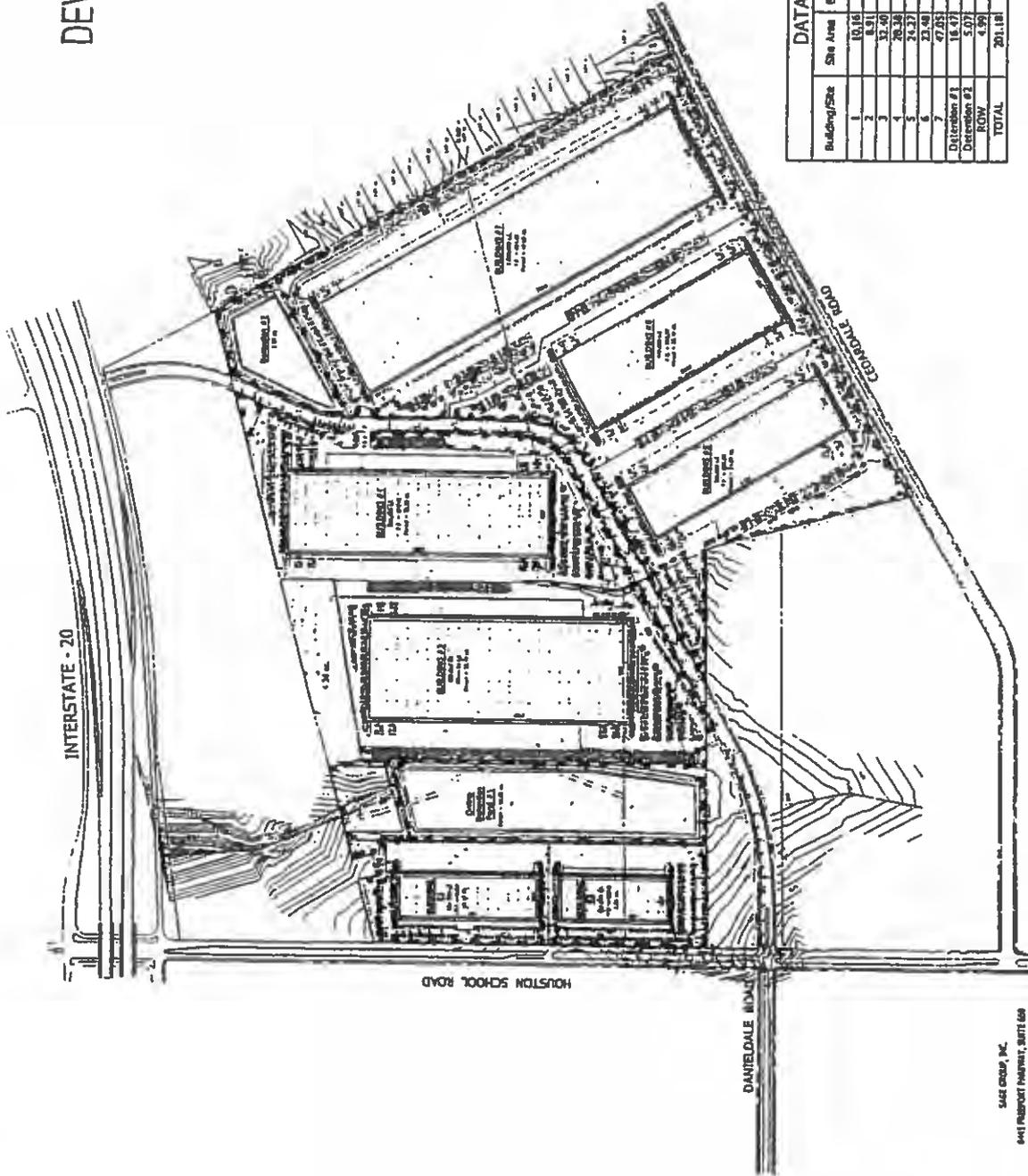
THENCE, departing said south line of 144.651 acre tract, at all times being parallel to and 50.00 feet from said proposed centerline of Houston School Road, SOUTH 00 degrees 34 minutes 47 seconds EAST, for a distance of 413.21 feet to a set 5/8 inch iron rod, a point for corner on the north line of said Tract 2;

THENCE, along said north line of Tract 2, SOUTH 88 degrees 55 minutes 13 seconds WEST, for a distance of 20.00 feet to the POINT OF BEGINNING, and

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CONCEPTUAL DEVELOPMENT PLAN



Building/Size	Site Area	Building Area	Parking Spaces	Ratio (Per 1000 s.f.)
1	10,181	154,000 s.f.	187	1.2
2	13,311	172,000 s.f.	313	2.6
3	18,238	238,000 s.f.	320	0.9
4	28,238	350,000 s.f.	525	1.0
5	34,237	420,000 s.f.	477	1.4
6	33,448	420,000 s.f.	531	0.9
7	47,053	1,000,000 s.f.	256	0.3
Distraction #1	16,471		14	1.8
Distraction #2	5,071		14	1.8
ROW	4,301		14	1.8
TOTAL	201,181	3,315,000 s.f.	2,650	1.0

Lancaster Business Park

Lancaster, Texas

SAGE GROUP, INC.
6441 FERGUSON PARKWAY, SUITE 600
DALLAS, TEXAS 75243
TEL. 972-259-4443



11 OCT 14

EXHIBIT B

To Infrastructure Incentive Agreement

PROJECT PLAN

INFRASTRUCTURE IMPROVEMENTS SUMMARY

SERVING APPROXIMATELY 343 ACRES

(ENGINEERING BUDGET PREPARED BY HALFF ASSOCIATES)

October 10, 2004

<u>Area</u>	<u>Estimated Project Costs</u>
CITY Water/Sewer/Drainage	\$ 783,829
Danieldale Drive Extension (including water/sewer, street lighting, landscaping, irrigation, signalization)	\$3,212,242
Engineering Fees/Design Surveys	<u>\$ 407,599</u>
Total Project Costs (excl. contingency)	\$4,403,670*
Maximum amount to be reimbursed by LEDC	<u>\$1,500,000</u>

* See attached itemization prepared by Halff Associates, Inc.

INFRASTRUCTURE CONSTRUCTION SCHEDULE ESTIMATED TIME LINE

Task Name	Duration	Oct-04	Nov-04	Dec-04	Jan-05	Feb-05	Mar-05	Apr-05	May 05 - Dec 06
Surveying/R.O.W. Documentation	6 wks								
Design, Review, and Approval									
Initial CITY Submittal	10 wks								
Final Submittal/Approval	6 wks								
Bidding and Award of Contract	8 wks								
Construction	28 wks								

EXHIBIT B-1

To Infrastructure Incentive Agreement

PROJECT PLAN PRELIMINARY SPECIFICATIONS

LANCASTER BUSINESS PARK COST ESTIMATE - PUBLIC INFRASTRUCTURE IMPROVEMENTS

LANCASTER, TEXAS
 PREPARED BY HALFF ASSOCIATES
 5-Nov-04
 AVO NO. 22345

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE PER UNIT	TOTAL ITEM COST	TOTAL SECTION COST
I. ONSITE IMPROVEMENTS						
A. WATER						
	12" Water line, hydrants, valves, fittings	4,875	LF	\$ 56	\$ 273,825	
	TOTAL COST OF WATER					\$ 273,825
B. SANITARY SEWER						
	8" Sanitary sewer line and manholes	3,831	LF	\$ 32	\$ 122,592	
	TOTAL COST OF SANITARY SEWER					\$ 122,592
C. DRAINAGE FOR EXISTING 42" RCP AT HOUSTON SCHOOL ROAD & DETENTION PONDS						
	42" RCP	638	LF	\$ 142	\$ 76,112	
	42" Headwall	1	EA	\$ 6,500	\$ 6,500	
	West Detention Pond Outlet	1	LB	\$ 68,000	\$ 68,000	
	East Detention Pond Outlet	1	LB	\$ 21,000	\$ 21,000	
	Detention Ponds	108,000	CY	\$ 2	\$ 216,000	
	TOTAL COST OF DRAINAGE ITEMS					\$ 387,612
D. DANIELDALE ROAD INFRASTRUCTURE IMPROVEMENTS FROM HOUSTON SCHOOL ROAD TO I-20						
I. PAVING						
	Concrete Pavement	28,000	SY	\$ 25.00	\$ 700,000	
	Curb and Gutter	10,132	LF	\$ 1.00	\$ 10,132	
	Levee Treated Subgrade	35,000	SY	\$ 2.00	\$ 70,000	
		28,000	CY	\$ 2.00	\$ 56,000	
II. GRADING						
	Finalization	1	LS	\$ 75,000.00	\$ 75,000	
	Clearing & Grubbing of right-of-way	11.5	AC	\$ 1,200.00	\$ 13,800	
	TOTAL COST OF DANIELDALE ROAD PAVING & GRADING					\$ 824,832
III. DRAINAGE						
	18" RCP	1,230	LF	\$ 80.00	\$ 98,400	
	21" RCP	280	LF	\$ 65.00	\$ 18,200	
	24" RCP	108	LF	\$ 62.50	\$ 6,750	
	33" RCP	50	LF	\$ 88.00	\$ 4,400	
	36" RCP	290	LF	\$ 100.00	\$ 29,000	
	54" RCP	90	LF	\$ 177.00	\$ 15,930	
	60" RCP	830	LF	\$ 205.00	\$ 169,850	
	8" RCP	1,210	LF	\$ 500.00	\$ 605,000	
	8" RCP	225	LF	\$ 625.00	\$ 140,625	
	Triple 18" RCP	80	LF	\$ 2,111.00	\$ 168,880	
	Curb Inlets	25	EA	\$ 2,588	\$ 64,725	
	54" Headwalls	1	EA	\$ 8,000	\$ 8,000	
	8" Headwalls	2	EA	\$ 12,000	\$ 24,000	
	Triple 18" Headwalls	2	EA	\$ 18,000	\$ 36,000	
IV. WATER						
	12" Water line, hydrants, valves, fittings	4,332	LF	\$ 56.00	\$ 242,992	
V. SANITARY SEWER						
	8" Sanitary sewer line and manholes	1,800	LF	\$ 32.00	\$ 57,600	
VI. FRONT-OF-WAY & EASEMENT DOCUMENT PREPARATION						
		21	EA	\$ 3,000.00	\$ 63,000	
	TOTAL COST OF DANIELDALE ROAD UTILITIES					\$ 1,987,219
	TOTAL COST OF DANIELDALE ROAD PAVING & UTILITIES					\$ 2,912,242
DANIELDALE ROAD MISCELLANEOUS IMPROVEMENTS						
	STREET LIGHTING	1	LS	\$ 120,000	\$ 120,000	
	LANDSCAPING	1	LS	\$ 20,000	\$ 20,000	
	IRRIGATION (FOR DANIELDALE MEDIANS)	1	LS	\$ 1,000	\$ 1,000	
	TRAFFIC SIGNAL AT HOUSTON SCHOOL ROAD	1	LS	\$ 125,000	\$ 125,000	
	TOTAL COST OF DANIELDALE ROAD MISCELLANEOUS IMPROVEMENTS					\$ 300,000
	TOTAL COST OF DANIELDALE ROAD					\$ 3,212,242
II. TOTAL COST SUMMARY						
A. ONSITE IMPROVEMENTS						
	WATER				\$ 273,825	
	SANITARY SEWER				\$ 122,592	
	DRAINAGE				\$ 387,612	
	TOTAL COST ONSITE IMPROVEMENTS					\$ 783,829
	TOTAL COST OF ROADWAY IMPROVEMENTS					\$ 3,212,242
	TOTAL COST OF PROJECT					\$ 3,996,071
III. PROJECT ENGINEERING / DESIGN SURVEYING						
	TOTAL COST OF PROJECT				\$ 3,996,071	
	ENGINEERING FEES					\$ 333,670
	DESIGN SURVEYING					\$ 71,829
	TOTAL COST TO ARGENT					\$ 4,403,570

DISCLAIMER
 THIS STATEMENT WAS PREPARED UTILIZING STANDARD COST AND QUANTITY ESTIMATE PRACTICES. IT IS UNDERSTOOD AND AGREED THAT THIS IS AN ESTIMATE ONLY, AND THAT THE ENGINEER SHALL NOT BE LIABLE TO OWNER OR TO A THIRD PARTY FOR ANY FAILURE TO ACCURATELY ESTIMATE THE COST AND/OR QUANTITIES FOR THE PROJECT, OR ANY PART THEREOF.

ASSUMPTIONS
 1. THIS ESTIMATE DOES NOT INCLUDE ANY FUNDS TO UPGRADE OR RENOVATE THE EXISTING LIFT STATION THAT SERVES THE SITE.
 2. UNIT COST FOR UTILITIES WERE PROVIDED BY DOWAGER CONSTRUCTION.

EXHIBIT C

To Infrastructure Incentive Agreement

FINANCING PLAN

SCHEDULE OF REIMBURSEMENTS

Amounts Payable by LEDC	Payment Terms
\$500,000.00	Ten (10) days after Project Commencement
\$1,000,000.00	Ten (10) days after Qualified Building Completion
Sales Tax Grant (First Term)	One fourth (1/4) of one percent of taxable sales generated from sales tax payments by any tenants, corporate users, or other vendors occupying buildings in the Serviced Area, payable on a quarterly basis in each month following a quarter in which such sales tax proceeds are remitted to City, during the First Term
Sales Tax Grant (Second Term)	One fourth (1/4) of one percent of taxable sales generated from sales tax payments by any tenants, corporate users, or other vendors occupying buildings in the Serviced Area, payable on a quarterly basis in each month following a quarter in which such sales tax proceeds are remitted to City, during the Second Term

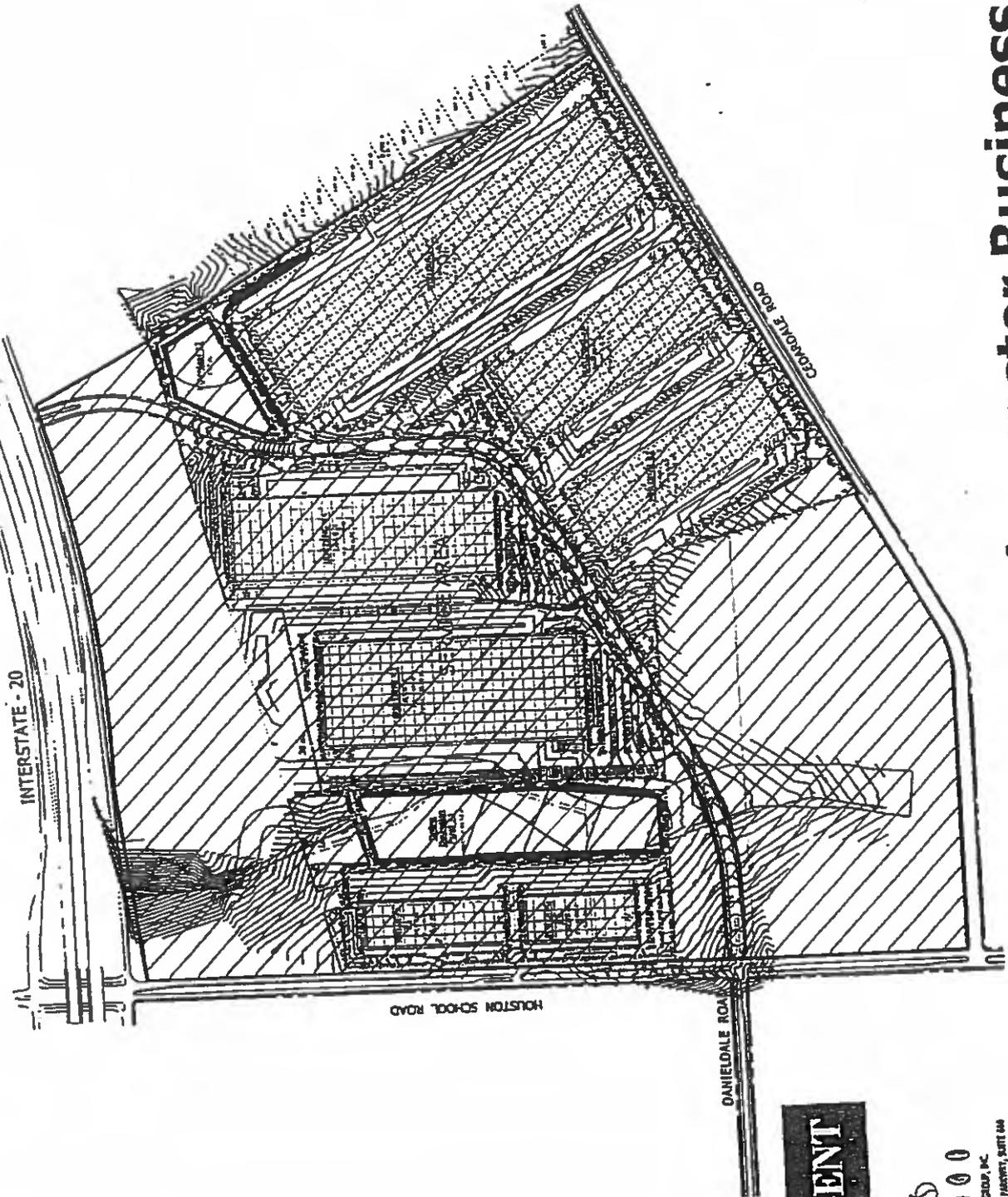
EXHIBIT D

To Infrastructure Incentive Agreement

SERVICED AREA BOUNDARIES

609588.8

SERVICE AREA



Lancaster Business Park

Lancaster, Texas



0000

ARGENT GROUP, INC.
6445 FARMWOOD PARKWAY, SUITE 400
DALLAS, TEXAS 75243
TEL: 972-719-4441



1 NOV 84

RESOLUTION NO. 2012-11-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING AN AMENDMENT TO THE ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT AND AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO THE INFRASTRUCTURE INCENTIVE AGREEMENT BETWEEN THE CITY OF LANCASTER, LEDC AND ARGENT-PROLOGIS, LLC; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster recognizes how important business and community development is to the vitality and growth of Lancaster; and

WHEREAS, in December of 2004, the City of Lancaster, the Lancaster Economic Development Corporation and Argent Development entered into an Infrastructure Incentive Agreement to allow for the development of an industrial park; and

WHEREAS, later, Argent Development assigned the agreement to its ProLogis-Argent, LLC (hereinafter "PROLOGIS"); and

WHEREAS, during the placement of an economic development client as Quaker Sales & Distribution, Inc., the original Economic Development Agreement with ProLogis require an amendment; and

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council has determined that it is in the best interest of the City to amend such Agreement, which is attached hereto and incorporated herein by reference as Exhibit "A," under the terms and conditions provided therein.

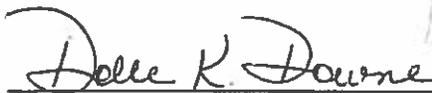
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS THAT.

SECTION 1. That the City of Lancaster approves the 1st Amendment to the Infrastructure Incentive Agreement which is attached hereto and incorporated herein as Exhibit A and the City Manager is hereby authorized to execute such amendment.

SECTION 2. That this resolution shall take effect immediately from and after its passage and it is so duly resolved.

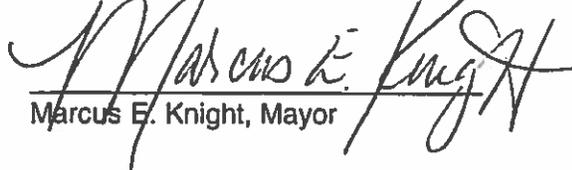
DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 12th day of November 2012.

ATTEST:



Dolle K. Downe, City Secretary

APPROVED:



Marcus E. Knight, Mayor

APPROVED AS TO FORM:



Robert E. Hager, City Attorney

RESOLUTION NO. 2012-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION OF LANCASTER, TEXAS, IN SUPPORT OF AN AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LANCASTER, LEDC AND ARGENT-PROLOGIS, LLC FOR THE PROMOTION AND DEVELOPMENT OF NEW AND EXPANDED BUSINESS ENTERPRISES, AS AUTHORIZED BY STATE LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Lancaster Economic Development Corporation recognizes how important business and community development is to the vitality and growth of Lancaster; and

WHEREAS, in December of 2004, the City of Lancaster, the Lancaster Economic Development Corporation and Argent Development entered into an Infrastructure Incentive Agreement (hereinafter "PROLOGIS") to allow for the development of an industrial park; and

WHEREAS, later, Argent Development assigned the agreement to its ProLogis-Argent, LLC; and

WHEREAS, during the placement of an economic development client as Quaker Sales & Distribution, Inc., the original Economic Development Agreement with ProLogis require an amendment; and

WHEREAS, LEDC was a signature to the original.

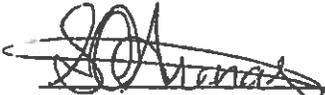
NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION, THAT:

SECTION 1. That the Board of Directors of the Lancaster Economic Development Corporation approves the resolution and amendment which is attached hereto as Exhibit A.

SECTION 2. That this resolution shall take effect immediately from and after its passage and it is so duly resolved.

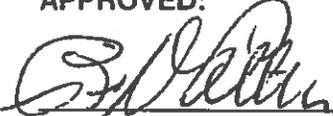
DULY PASSED AND ADOPTED ON THIS 8TH DAY OF NOVEMBER, 2012.

ATTEST:



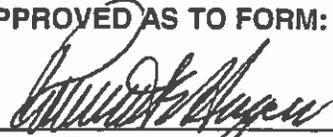
Angie Arenas, Executive Secretary

APPROVED:



Ric Peterson, President

APPROVED AS TO FORM:



Robert E. Hager, City Attorney

STATE OF TEXAS §
 §
 § **AMENDMENT NO. 1 TO THE ECONOMIC**
 § **DEVELOPMENT INCENTIVE AGREEMENT**
 COUNTY OF DALLAS §

This Amendment No. 1 (“Amendment”) to the Infrastructure Incentive Agreement (“Agreement”), by and between the City of Lancaster (the “City”) and Argent Development GP, L.L.C, as assigned to Prologis & Argent LLC, successor by merger and name change to Prologis & Argent LP (“Developer”), and the Board of Directors of the Lancaster Economic Development Corporation, Lancaster, Texas (“LEDC”), is entered into this 12th day of November, 2012 (the “Effective Date”). The City, Developer and LEDC shall hereinafter be collectively referred to herein as, the “Parties”).

RECITALS

WHEREAS, on or about December 3rd, 2004, the Parties hereto entered into the Agreement, wherein the City made economic development grants to Developer for the purposes of building, constructing and operating an industrial and retail business park within the City; and

WHEREAS, the Parties desire to amend the Agreement to remove a sixty seven (67) acre ± tract (the “Removed Property”) from such Agreement, to allow for its future development and occupancy as a distribution center on such property, pursuant to separate economic development incentives set forth in that certain Economic Development Agreement dated of even date herewith, between the City and Quaker Sales & Distribution, Inc., a Delaware corporation (the “Replacement Agreement”);

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, the Parties agree as follows:

Section 1. Article I, “Definitions,” of the Agreement is hereby amended by deleting the following definitions set forth therein, and replacing them in their entirety as follows:

(a) **1.2** “Act” shall mean the Development Corporation Act, Chapter 501, Texas Local Government Code, as amended.

(b) **1.13** “Project Area” shall mean the property legally described on Exhibit B to this Agreement.

(c) **1.15** “Project Costs” shall mean the sum of: (a) the actual costs incurred by DEVELOPER to plan, design, permit, and construct the Infrastructure Improvements (excluding any Project-related costs expressly excluded from Project Costs by this Agreement), together with interest imputed or accrued at the rate of seven percent (7%) per annum, calculated from the Project Commencement to Completion, plus (b) interest on the amount in item (a) after Completion at the rate of seven percent (7%) per annum, compounded annually, until the cost estimates on Exhibit B are composed of cost estimates only, the parties acknowledging that interest shall not be compound on estimated costs that have not been actually

expended. Project Costs shall be calculated to include the actual costs incurred by or on behalf of **DEVELOPER** to plan, design, permit, and construct the Infrastructural Improvements as required by **CITY**.

(d) **1.22** “**Serviced Area**” shall mean the tract of land north of Cedardale Drive and east of Houston School Road containing property defined herein, including the Project Area and the approximately 50 acre area planned for potential retail development north of and adjacent to the Project Area abutting Interstate Highway 20. The Serviced Area boundaries are shown on the site plan attached to this Agreement as Exhibit D.

Section 2. Section 22.1 of the Agreement is hereby amended by deleting the addresses set forth therein in their entirety, and replacing them with the following addresses:

CITY

City of Lancaster
211 North Henry Street
Lancaster, Texas 75146
Fax: (972) 227-4032
Attn: City Manager

With copy to:

Robert E. Hager
Nichols, Jackson, Dillard
Hager & Smith, L.L.P
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

LEDC

P.O. Box 940
211 N. Henry Street
Lancaster, Texas 75146
Fax: (972) 218-3684
Attn: Director

DEVELOPER

Prologis & Argent LLC
Attn: Ross Matthews
2501 N. Harwood Street
Ste 2450
Dallas, Texas 75201

With copy to:

Prologis, Inc.
Attn: Legal Department
4545 Airport Way
Denver, CO 80239

Section 4. The Agreement is hereby amended by deleting Exhibits B and D in their entirety, and replacing them with Exhibits 1 and 2, as designated below:

Exhibit 1: “EXHIBIT B - PROJECT PLAN”

Exhibit 2: “EXHIBIT D - SERVICED AREA BOUNDARIES”

Section 5. The outstanding balances of repayment or costs subject to the Agreement, as amended, on the effective date shall be reduced by \$1,209,526.00 [balance of payment is in Section 6]. In the event that Developer requests future economic development incentives with regard to an expansion of the building to be developed on the Removed Property, the parties will

Section 6. That the rest and remainder of the Agreement, except as amended herein, is hereby republished and ratified. This Amendment may be executed in facsimile or original counterparts, which taken together shall constitute one agreement. The Parties acknowledge and agree that as of the Effective Date, the outstanding balances of repayment or costs subject to the Agreement is \$5,118,196.00.

Section 7. The City acknowledges and agrees that the Replacement Agreement shall be freely assignable to Developer, its affiliates, successors and/or assigns, and shall be effective after five (5) business days written notice to the City. Furthermore, the City acknowledges and agrees that in the event the City terminates the Replacement Agreement prior to the expiration of its 10-year term, for any reason whatsoever, it shall deliver written notice of such termination to Developer, and, upon Developer's request, shall enter into an Economic Development Agreement for the Removed Property with Developer, or its successor or assign, on the same terms and conditions currently set forth therein, for the remaining term of the Replacement Agreement.

EXECUTED in single or multiple originals this the 12th day of November, 2012.

CITY OF LANCASTER

By: 
Name: Opal Mauldin Robertson
Title: City Manager

PROLOGIS & ARGENT LLC

By: 
Name: Reid Dyner
Title: First Vice President

**BOARD OF DIRECTORS OF THE LANCASTER
ECONOMIC DEVELOPMENT CORPORATION,
LANCASTER, TEXAS**

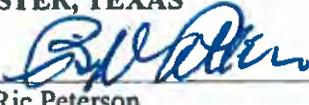
By: 
Name: Ric Peterson
Title: President

EXHIBIT 1

**EXHIBIT B
To Infrastructure Incentive Agreement**

PROJECT PLAN

**INFRASTRUCTURE IMPROVEMENTS SUMMARY SERVING APPROXIMATELY
206
ACRES OF OFFICE WAREHOUSE DISTRIBUTION AND 50 ACRES OF RETAIL
COMMERCIAL**

Area **Estimated Project Costs**

CITY Water/Sewer/Drainage

Danieldale Drive Extension
(including water/sewer, street
Lighting, landscaping, irrigation,
Signalization)

Engineering Fees/Design Surveys

Total Project Costs (excl. contingency)

Maximum amount to be reimbursed by **LEDC**

* See attached itemization prepared by Half Associates, Inc.

* See Attached Legal Description of the Project Area

EXHIBIT 2

**EXHIBIT D
To Infrastructure Incentive Agreement**

SERVICE AREA BOUNDARIES

[See Attached]

EXHIBIT 2

**EXHIBIT D
To Infrastructure Incentive Agreement**

SERVICE AREA BOUNDARIES

