MEMORANDUM

DATE: September 8, 2004

TO: Probate Recording Office

FROM: Donald L. Mims, LPM
County Administrator

SUBJECT: Certified Extract of the Minutes of the Regular Adjourned County Commission Meeting on August 30, 2004

Enclosed is a Certified Extract of the Minutes of the Regular Adjourned County Commission Meeting on August 30, 2004, relative to approval of an Amended Version of the Declaration of Covenants, Restrictions and Easements for the Montgomery East Industrial Park, which was previously approved by the Montgomery County Commission on July 19, 2004.

Please record this documentation today and call Debra Duck at Extension 1204, to pick up the Recorded Copy.

Thank you for your assistance in this matter.

DLM/dd

Enclosures
REGULAR ADJOURNED MEETING
MONTGOMERY COUNTY COMMISSION
AUGUST 30, 2004

PRESENT: Chairman Joseph, Members Dean, Gowan, Williams and Wingard (County Attorney Gallion, County Engineer Speake and Administrator Mims)

ABSENT: None

The meeting was opened with prayer led by Commissioner Williams.

Mr. Williams made a motion to approve the Minutes of the Regular Meeting of August 16, 2004. The motion was seconded by Mr. Wingard and unanimously approved by the Commission.

BUSINESS

COUNTY COMMISSION - APPROVED AMENDED VERSION OF THE DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR THE MONTGOMERY EAST INDUSTRIAL PARK, WHICH WAS PREVIOUSLY APPROVED BY THE MONTGOMERY COUNTY COMMISSION ON JULY 19, 2004

The Administrator presented an Amended Version of the Declaration of Covenants, Restrictions and Easements for the Montgomery East Industrial Park, which was previously approved by the Montgomery County Commission on July 19, 2004.

Mr. Dean made a motion to approve the Amended Version of the Declaration of Covenants, Restrictions and Easements for the Montgomery East Industrial Park and to authorize the Chairman to sign the appropriate document. The motion was seconded by Mr. Williams and unanimously approved by the Commission. (Copy of Amended Version of the Declaration of Covenants, Restrictions and Easements for the Montgomery East Industrial Park, Montgomery, Alabama, Agenda Pages 11-1 through 11-21, is attached to these Minutes.)
ADJOURNMENT

There being no further business to come before the Commission at this time, the meeting stood adjourned until Monday, September 13, 2004, at 9:30 o'clock in the morning.

/s/ Donald L. Mims  
Administrator

/s/ W. F. Joseph, Jr.  
Chairman

STATE OF ALABAMA  
COUNTY OF MONTGOMERY

I, Donald L. Mims, as Administrator of the County Commission of said County and State, hereby certify that the foregoing is a true and correct extract of the Minutes of the Regular Adjourned Meeting of the County Commission of Montgomery County, Alabama, held on August 30, 2004.

This is the 8th day of September, 2004.

Donald L. Mims, Administrator
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR
MONTGOMERY EAST INDUSTRIAL PARK, MONTGOMERY, ALABAMA

This Declaration of Covenants, Restrictions and Easements for MONTGOMERY EAST INDUSTRIAL PARK is made this 19th day of July 2004 by the Montgomery County Commission (hereinafter referred to as “Declarant”).

WHEREAS, Declarant is the owner of real property located in Montgomery County, Alabama and being more particularly described on Exhibit “A” attached hereto and by this reference made part hereof; and

WHEREAS, Declarant intends to complete development on the property described on Exhibit “A” of an industrial park to be known as Montgomery East Industrial Park and to impose upon such property mutually beneficial restrictions for the benefit of all owners and occupants of property within such development, and Declarant further desires to provide for reasonable procedures for the overall development of said property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the property which will be subject to this Declaration; and

WHEREAS, Declarant will cause the Association (as hereinafter defined) to be formed as a non-profit organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined).

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit “A”, and any additional property that may be subsequently added to and subjected to this Declaration, shall be held, sold and conveyed subject to the following covenants, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in the above described properties or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof and to the benefit of the Association (as hereinafter defined).

ARTICLE 1
DEFINITIONS

The following words when used in this declaration shall have the meanings assigned to them below, unless the context requires otherwise:

1. Association. “Association” means the non-profit, non-stock membership corporation to be organized under the Alabama Non-Profit Corporation Code and having
the name Montgomery East Industrial Park Owner's Association, Inc. (or some other similar name), its successors and assigns.

2. **Board.** "Board" means the Board of Directors of the Association. The Board shall manage and control affairs of the Association. The number of Directors and the method of elections of Directors to the Board shall be set forth in the By-Laws of the Association.

3. **Committee.** "Committee" shall mean the Architectural Review Committee established pursuant to Article VI hereof.

4. **Development Guidelines.** "Development Guidelines" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Montgomery East Industrial Park. Such standards will be more specifically determined by the Committee pursuant to the duties and authority set forth in Article VI.

5. **Declarant.** "Declarant" shall mean Montgomery County Commission and its successors in title and assigns, provided any such successor in title or assign shall acquire for the purpose of development or sale all or any portion of the Lots (as hereinafter defined), and provided further, in the instrument of conveyance to any such successor in title or assign, such successor in title or assign is designated as the Declarant hereunder by the Grantor of such conveyance, which Grantor shall be the Declarant hereunder at the time of such conveyance. Further, upon such designation of successor Declarant, all rights and obligations of the former Declarant in and to such status as Declarant hereunder shall cease.

6. **Declaration.** "Declaration" shall mean and refer to this Declaration of Covenants, Restrictions and Easements for the Montgomery East Industrial Park.

7. **Improvement.** "Improvement" shall mean any and all building site development(s), betterment(s), modification(s), or construction, including, but not limited to, buildings, structures, walks, towers, tanks, patios, driveways, signs, mailbox/newspaper receptacles, docks, walls, fences, screens, parking areas, drainage conduit, excavation and grading.

8. **Lot.** A "Lot" or "Lots" shall mean any portion of the Property (as hereinafter defined) intended for any type of independent ownership for use and occupancy for office, commercial, industrial or related purposes, as may be permitted by this Declaration.

9. **Member.** "Member" shall mean any member of the Association.

10. **Mortgage.** "Mortgage" shall mean any security instrument encumbering any Lot, including but not limited to a mortgage, deed of trust or deed to secure debt.

11. **Mortgagee.** "Mortgagee" shall mean the holder of any Mortgage.

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12. **Occupant.** "Occupant" shall mean any person occupying all or any portion of a building located on a Lot for any period of time, regardless of whether such person is a tenant or the owner of such Lot.

13. **Owner.** "Owner" shall mean the record owner (including Declarant), whether one or more persons or entities, of a fee simple title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation; provided, however, the term "Owner" shall include a lessee if the lease from Declarant or other record owner expressly so provides and is for a period in excess of one year.

14. **Plans.** "Plans" shall mean a package, including the site plan, grading plan, architectural elevations, sign details and landscape plan for a particular building.

15. **Property.** "Property" shall mean the real property described on Exhibit "A" attached hereto and any additional property subjected to this Declaration pursuant to Article XIII below.

16. **Restrictions.** "Restrictions" shall mean all covenants, restrictions, agreements, charges, liens and other obligations created or imposed by this Declaration.

**ARTICLE II**

**PROPERTY RIGHTS**

Section 1. **Owners’ Easements of Enjoyment.** The Declarant hereby declares, grants and conveys to each Owner, for the benefit of each Lot, certain easements, rights and privileges as herein set forth, and, across and upon the portions of the Property used for roads and drives to serve the Property in general as covenants running with the Lots as benefits thereto, and as burdens to such portions of the Property. Any owner may delegate its rights of use and enjoyment subject to reasonable regulation by the Board and in accordance with procedures the Board may adopt. Every owner shall have a right and easement of enjoyment in and to such portions of the Property that shall be appurtenant to and shall pass with title to every Lot, subject to the provisions of Article IX below.

Section 2. **Acceptance of Declaration.** Every Grantee of any interest in the Property, by acceptance of a deed, lease/purchase agreement, or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or conveyance shall be signed by such person, and whether or not such person shall otherwise consent in writing, shall take subject to this Declaration and to the terms and conditions hereof, and will be deemed to have assented to said terms and conditions.
ARTICLE III
CONTROL BY DECLARANT

The authority to enforce the Restrictions and easements set forth herein and this Declaration and the power to exercise any and all rights of the Association, until such time as the Association is formed, shall be vested in the Declarant. Declarant shall cause the Association to be formed, on or before the earlier of: (i) the expiration of twenty years after the date of the recording of this Declaration; or (ii) the date upon which seventy-five (75%) of all of the Lots have been conveyed by Declarant to Owners other than the entity constituting Declarant. Subject to the time periods described in the immediately preceding sentence, such choice of when to create the Association shall lie solely with Declarant.

ARTICLE IV
ASSOCIATION

Section 1. Purposes. The Association shall exist for the sole purpose of performing certain functions for the common good and general welfare of the Owners and of the Property. The Association shall have no power or duty to do or perform any act or thing other than those acts and things that will promote the common good and welfare of the Owners and of the Property.

Section 2. Membership. Every person or entity who is an owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership.

Section 3. Voting.

(a) Each owner, with the exemption of Declarant for so long as Declarant is a Class B member, shall be a Class A member and shall be entitled to one Class A vote per Lot owned. Provided, however, that if an Owner’s Lot contains more than twenty acres of land (as reflected by a survey prepared by a certified engineer or surveyor), then that Owner shall have two votes with respect to such Lot. Where such owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the Secretary of the Association.

(b) The Declarant shall be the sole Class B member and shall be entitled to three votes for each Lot owned; provided, however, in no event shall the Class B member have less than the total number of Class A votes plus one. The Class B membership shall cease and be converted to Class A membership at such time as
Declarant no longer retains the right to appoint and remove members of the Board pursuant to Section 4(a) of this Article IV below.

(c) The Board may suspend the voting rights of any Member and of any owner or Occupant who shall be delinquent in the payment of any assessment levied by the Association or who shall be in violation of the rules and regulations of the Association.

Section 4. Control.

(a) Notwithstanding anything contained herein to the contrary, or in the Articles of Incorporation or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove any members of the Board and any officer or officers of the Association until the first of the following events shall occur: (i) the expiration of twenty years after the date of the recording of this Declaration; (ii) the date upon which all of the Lots have been conveyed by Declarant to Owners other than an entity constituting Declarant; (iii) a surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant.

(b) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this section, such rights shall automatically pass to the Members, including Declarant if Declarant then is a Member. At such time, a special meeting of the Association shall be called. At such special meeting the Members shall elect a new Board which shall undertake the responsibilities of the Board and Declarant shall deliver the books, accounts and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession.

ARTICLE V

MAINTENANCE

Section 1. Entrance Area. The Association shall maintain and keep in good repair the entrance area to the Park, if any, with such maintenance to be provided by the Association hereinafter defined. Such maintenance shall include but not be limited to maintenance, repair and replacement of all landscaping and other flora, signage, other structures and improvements situated upon such areas.

Section 2. Lots. All maintenance on any developed Lot and all structures, parking areas and other improvements thereon shall be the sole responsibility of the Owner or lessee thereof who shall maintain each developed Lot in a manner consistent with the Development Guidelines and with the general appearance of other portions of the Property. The Owner of any Lot shall at all times keep the landscaping in good order.
and condition. The Owner and Occupant of any Lot shall observe all government building codes, health regulations, zoning restrictions and similar laws and regulations. Should the Owner of any Lot fail to remedy any deficiency in the maintenance of the landscaping and general maintenance of such Lot after seven (7) days' notice from the Association, the Association hereby expressly reserves the right, privilege and license to make any and all corrections or improvements and landscape maintenance at the expense of the Owner. Such Owner shall be personally liable to the Association for all direct or indirect costs as may be incurred by it in the performance of such maintenance, and the liability for such costs shall be a permanent charge and lien upon such Lot enforceable by the Association in the same manner as assessments are enforced in this Declaration.

Section 3. Creation of a Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, hereby agrees to pay to the Association:

(a) Annual assessments or charges;

(b) Lot assessments as defined below.

The annual, special and Lot assessments, together with interest, costs and reasonable attorneys' fees, shall be charged on the Lots and shall be a continuing lien upon the Lots against which each such assessment is made. Such lien shall be superior to all other liens except (a) all taxes, bonds, assessments and other levies, which, by law, would be superior thereto, and (b) the lien or charge of any first Mortgage of record made in good faith and for value. Such assessments, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner at the time when the assessment fell due. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof, and all dues and assessments due shall be paid in full before any sale or transfer may take place.

Section 4. Lot Assessments. The Association may levy Lot assessments against any one or more Lots to be used for (i) the purposes of promoting the common benefit and enjoyment of the Owners encompassing constructing, reconstructing, repairing or replacing improvements or personal property of the Association which have previously been placed in service and become available for use and which are located on any such Lot or Lots or used for the benefit of such Lot(s) or Owner(s), provided, however, that no Lot assessment pursuant to this subsection (ii) shall be levied against a Lot for such reconstruction, repair or replacement of improvements or personal property if said improvement or personal property is solely dedicated to and solely benefiting Owner(s) or Lot(s) other than the Lot or Owner against which the assessment is sought to be levied.

Section 5. Uniform Rate of Assessment. Annual and Lot assessments must be fixed at a uniform rate for all Lots and may be collected on a quarterly basis. Said uniform rate of assessment shall be based upon the acreage of a particular Lot being affected as compared to the total number of acres affected by such improvement, repair or other event giving rise to such assessment (for example: If 3 Lots are affected and

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served by a common drainage facility and one of the Lots contains 10 acres, one contains 6 acres and the other contains 4 acres, then any such assessment related to said drainage facility would be split 50% to the ten acre lot, 30% to the 6 acre Lot and 20% to the 4 acre Lot).

Section 6. Due Dates of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on the last day of the first month after the Association is formed. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board shall establish the due date. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of the assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Non-Payment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from said due date at a rate equal to 2.0% above the Prime Rate. The “Prime Rate” shall mean the rate of interest announced from time to time in the Federal Reserve Statistical Release H.15 as the current weekly average of the “Bank Prime Loan” interest rate. In the event that such publication ceases to be issued by the Federal Reserve System, then the “Prime Rate” shall mean the rate of interest by any national commercial bank, with offices located in the City of Montgomery, Alabama, selected by the Association. The Association may bring an action at law against the Owner personally obligated to pay the same or may foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of its Lot or any building on its Lot. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale to enforce its lien, and to acquire and hold, lease, mortgage and convey the same. During the period owned by the Association following foreclosure, no assessment shall be assessed or levied on such Lot foreclosed upon. The Association shall also have the right to pursue a money judgment to recover unpaid assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Creation. There is hereby created an Architectural Review Committee that shall consist of three persons. The right to appoint and remove all members to the committee shall be and is hereby vested solely in Declarant, its successors and assigns, until such time as Declarant has relinquished such right to appoint said members or until the earlier of the two events occur listed in Article IV, Section 4(a)

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above. Upon surrender of the right to appoint said Committee members by the Declarant, the right to appoint said members shall be vested in the Board.

Section 2. Duties. The Committee shall adopt and promulgate the Development Guidelines, as modified and amended from time to time. No improvement shall be commenced, erected or maintained upon the Property or any Lot thereon, nor shall any exterior addition to or change or alteration thereon be made until the Plans showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Committee as to harmony of external design and location in relations to the community wide standard and as to conformity with the Development Guidelines.

Section 3. Approval. In order to attempt to obtain such approval of the Committee, the Owner shall submit a site plan, a grading plan, architectural elevations, site details, sign details and a landscape plan, or whichever of such plans are applicable, to the Committee. Upon receipt of all such plans that are required to be reviewed, the Committee shall have seven (7) days within which to review same. In the event the Committee fails to approve or disapprove such design and location within seven (7) days after said submission of plans, approval will not be required and the requirements of this Article shall be deemed to have been satisfied. The Committee shall have the right to disapprove plans, specifications or details submitted to it if they are not in accordance with the Declaration, if they are incomplete, if the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the best interests of the Property and of the Owners or if they are not in conformity with the Development Guidelines. In the event the Committee disapproves any Owner's plans, the Owner may resubmit any corrected, amended or new plans to the Committee no sooner than ten (10) days after such disapproval. No temporary structure shall be installed or maintained on the Property or on any Lot without the specific written approval of the committee. All applications for approval of any temporary structures will include provisions for its being dismantled and removed from the Lot in question.

Section 4. Violation. In the event any Owner or Occupant, or its agents or representatives, commences construction of any improvement, alteration or construction without the prior written approval of the Committee as required by this Article, then the Committee, through the Association or through the Declarant, shall have the right to enforce this Section of the Declaration by obtaining a restraining order from the court having proper jurisdiction over this matter. The costs of any such successful enforcement by the Committee shall be levied as an assessment against the Owner of the Lot upon which such construction was commenced. The Committee shall have the right to waive the requirements of this Article, in its sole discretion, as to construction by any Owner.

Section 5. Variances. The Committee shall have the power and authority, in its sole discretion, to grant variances in compliance with the Development Guidelines, provided, however, that such variances shall be reasonably consistent with the purposes of these Restrictions and this Declaration shall not materially and adversely affect existing Improvement(s), and provided that the requested deviation, in the opinion on the
Committee, is in the best interest of the Property and the variance requested is compatible with the character of the Property. Whenever, in the exercise of its discretion, the Committee grants a variance to the Development Guidelines each Owner and/or Occupant of a Lot hereby acknowledges that such variance shall constitute a waiver of any conflicting provisions of these Restrictions, this Declaration and the Development Guidelines. All other restrictions contained herein not specifically covered by the variance will still be in full force and effect. Each Owner and/or Occupant of a Lot appoints the Committee as its true and lawful attorney-in-fact for the limited purpose of consenting to and granting variances in accordance with the terms of this section.

ARTICLE VII
USES

Section 1. Permitted Uses. The property shall be used solely for the uses allowed by the M1 Light Industrial Classification of the City of Montgomery, Alabama except for the following uses:

(a) Uses considered dangerous or unsafe, such as explosives

(b) Uses considered objectionable or a nuisance by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter, or water-carried waste

(c) Uses considered objectionable by reason or adverse affect on adjoining units such as junk or salvage yards

All proposed uses will be subject to review and approval by the Committee. No owner may use the Lot or any portion of the Property in such a manner as to increase the fire insurance rating applicable to present or future improvements of others in the immediate vicinity of the Lot.

Section 2. Nuisances. No Lot or any portion of the Property shall be used so as to cause a nuisance. A nuisance shall be defined to include any objectionable noise or sound, smoke, the emission of noxious, toxic or corrosive fumes, the emission of dust, dirt or fly ash or the use, production, storage or handling of fire or explosive hazards. Such usage may be objectionable if it so annoys, disturbs or affects the Owners and/or Occupants of Property contiguous to the Property so as to obstruct or interfere with the reasonable or compatible use of such other Lot damaging to persons or property thereon or in the event such usage violates federal, state, county or municipal law. Normal odors from a baking or cooking operation shall not constitute a nuisance. Smoke from occasional burning of manufactured products shall not constitute a nuisance as long as same is beyond reasonable control, temporary, and provided that all regulatory pollution control requirements have been met.

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ARTICLE VIII

PROPERTY DEVELOPMENT

The following restrictions are imposed upon the buildings:

Section 1. Setbacks. Setback requirements are to provide sufficient space from the street and the property lines for easy access to the property, protective landscape treatment, and building expansion:

- All buildings shall be set back a minimum of sixty (60) feet from any street or public right-of-way at the front of the building.
- Side yard setbacks should be sufficiently large to provide room for expansion, parking, landscaping, or space adequate for fire and police protection. Minimum side yard setback shall be a minimum of sixty (60) feet from any side-yard property line and a minimum of sixty (60) feet from any rear-yard property line, except where buildings are backed to rail facilities. The open space may be limited to the right-of-way for these tracks.
- Any parking must be located at least ten (10) feet from any property lines for a grass area, or five (5) feet if continual hedge row and ground cover is provided, and no building or portion of the building shall be located any closer than ten (10) feet from the parking area in the front of the building.
- Building canopies may not extend beyond the front or side building setback lines.

Section 2. Site Coverage. The building to land ratio (the footprint of the building coverage on the land) shall not exceed 50% on any lot.

Section 3. Subdivision. The owner shall first obtain approval from the Committee before a subdivision is submitted for approval to the Montgomery Planning Commission.

Section 4. Parking and Loading. Owner, with on-street parking and loading not permitted, shall provide all parking and loading on the site. Parking and loading areas are to be paved to provide dust-free, all-weather surfaces. As a general rule, employee parking and visitor parking are to be located in the front of the building. Truck loading areas are to be located at the side or rear of the buildings. Necessary loading on the front may be permitted only when visually screened by landscaping and other appropriate screening arrangements. All parking areas and private drives shall be paved with asphalt or concrete in accordance with the governmental and Association requirements and shall have concrete curbs and gutters around their perimeter except where expansion is anticipated.

To insure adequate personnel parking facilities, space for parking should be related to the number of expected employees, with one parking space for each employee on the largest work shift plus one space per company vehicle normally left on the premises. In addition, adequate space must be allocated to permit expansion of parking area upon

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conversion of use. Minimum size of each off street parking space shall be 9' by 18' for passenger vehicles and 13' by 18' for handicapped parking. Handicapped parking should be in accordance with ADA regulations.

Parking in relation to personnel:
- 1 space for each plant employee on the largest work shift
- 1 space for each managerial personnel
- 1 visitor parking space for each 10 managerial personnel

Section 5. Off Street Loading. All loading or staging areas shall be paved. Truck and trailer maneuvering areas shall be entirely off-street and no backing allowed onto the public street. Truck maneuvering areas shall be 100 feet depth and truck berth 12 feet width. Off-street loading space at least 12 feet wide by 45 feet long shall be provided and maintained in accordance with the following:

<table>
<thead>
<tr>
<th>Aggregate Floor Area of Industrial Development (square feet)</th>
<th>Number of Required Spaces</th>
</tr>
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<tbody>
<tr>
<td>Under 10,000</td>
<td>0</td>
</tr>
<tr>
<td>10,000 to 24,999</td>
<td>1</td>
</tr>
<tr>
<td>25,000 to 59,999</td>
<td>2</td>
</tr>
<tr>
<td>60,000 to 119,999</td>
<td>3</td>
</tr>
<tr>
<td>120,000 to 199,999</td>
<td>4</td>
</tr>
<tr>
<td>200,000 to 290,000</td>
<td>5</td>
</tr>
<tr>
<td>For each additional 90,000 sq. ft. over 290,000 sq. ft. or fraction thereof</td>
<td>1</td>
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Section 6. Exterior Facades. In addition to meeting all approved building codes, the quality of the architectural design should enhance the appearance of the industrial park. All designs, alterations, additions or remodeling are subject to prior review and approval of the Committee.

(a) The exterior construction of all buildings shall be of masonry, precast concrete, or tilt-up concrete construction, its equivalent or better. The use of other materials may be permitted where such use will not be adverse to adjoining properties. A building may not be constructed entirely of metal siding; high rib metal siding is not allowed.

(b) There shall be no expansion walls in front yards of any Lot. Office area expansions may occur in the front of the lot; all manufacturing/distribution area expansions must occur in the side or rear of the lot.

(c) If any wall exceeds 100 feet in length or 20 feet in height, the pattern of the brick construction must be altered so as to provide variation and visual relief.

(d) All exposed metals (i.e. downspouts, gutters and gravel stops) shall be prefinished metal and of a color fitting with the architectural facade of the building.
(e) No building shall have any appendages (i.e. exhaust fans, vents, etc.) attached to the front façade of the building and visible to the front yard other than canopies approved by the Committee.

(f) No roof mounted antennas or satellite or receiving dishes shall be placed on any building.

(g) Accessory buildings, markings and enclosures will be consistent as to design and quality of materials used with the building to which they are accessories.

(h) Building height shall not exceed 75 feet.

Section 7. Screening.

(a) No outside storage of any form shall be visible from any public street or right-of-way.

(b) Scrap containment areas, trash dumpsters, tanks, compressors and other equipment shall be located in such a manner as to minimize visibility from the street or shall be visually screened by masonry wall or architecturally consistent material or landscaping and shall be placed on a concrete pad. No such masonry screening wall shall be required to be greater than fourteen (14) feet in height.

Section 8. Fences. Fences in the front and side yards of any Lot must be of masonry construction similar in design and material to that of the building and must conform to all setback requirements set forth above. Vinyl-clad, chain-link or other fences of like kind are permitted in rear yards and side yards only and must be placed along the property lines in rear yards.

Section 9. Utilities.

(a) Ground mounted transformers and switching gear shall be visually screened from view by landscaping.

(b) All streetlights and parking lot lights shall comply with the rules and regulations of the Association throughout the Property.

(c) Where at all feasible, all utilities must be underground. When above ground utilities are a necessity for a potential tenant, sites bordering the park’s perimeter should be used to allow above ground utility access to the site without disturbing the aesthetics of the remaining sites or the interior of the park.

Section 10. Landscaping. Landscape treatment is required. “Green” treatment of the site may be in the form of grass lawns and ground covers, shade trees in parking

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areas, street trees, planting in areas used as dividers, and in areas otherwise unusable. Landscaping can be used to mark entrance points and parking areas; it can be used to shield or define service areas and property divisions, and to enhance building scale and forms. All landscape regulations of the City of Montgomery shall be enforced.

(a) The entire area of any Lot containing a building site, including the area between the Lot line and street curb line, shall be landscaped except for those areas covered by the building, paved areas and railroads. Expansion areas may be grassed until such time as construction on the expansion areas commence.

(b) All landscaping must be irrigated. Automatic sprinkler systems are required for front yards only. Hoses and movable sprinklers may be used in other areas. All lawn areas shall be planted with ground cover that complies with rules and regulations of the Association, and said lawn shall not exceed 90% of the total landscaped area.

(c) Planting beds shall be mulched and maintained weed-free and in an orderly appearance.

(d) Ditches and swales shall have a minimum side slope of one foot vertical to three feet horizontal.

(e) All landscaping shall be installed within 60 days of the occupancy or substantial completion, as determined by the Committee, or a building, whichever occurs first.

Section 11. Signage. The location, size and construction of all signs will be in keeping with the character of the industrial park and subject to prior review and approval of the Committee.

(a) All signs must be flush mounted on the building façade. Any other signage will have to be approved by the Association.

1. The maximum accumulated total area of signs attached to walls shall be calculated at 1.6 square feet of sign area for each linear foot of building width (storefront) not to exceed 160 square feet.

2. For a single tenant nonresidential use with more than 30,000 square feet of floor area, the maximum total display for all wall signs shall be calculated at 1.6 square feet of sign area for each linear foot of building width (storefront) not to exceed 320 square feet.

(b) Façade mounted signs shall be made of metal and shall be ground lit and uniform in size and color throughout the Property.
(c) No portable or temporary signs of any form shall be permitted except for “Building for Sale” or “Building for Lease” signs placed upon any Lot.

(d) Any exterior lighting installed on any building shall either be indirect or of such controlled focus and intensity as not to disturb the Owners or Occupants of any adjacent buildings.

(e) No mailboxes or other permanent structures shall be constructed on the road right-of-way.

ARTICLE IX

EASEMENTS

Section 1. Easement for Encroachments. To the extent that any building unwillfully and unintentionally encroaches on any other Lot, whether by reason of any deviation from the plans in the construction, repair, renovation, restoration or repair of any improvement, or by means of the setting or shifting of any land or Improvement, and if (i) such encroachment does not impair the use, occupancy or enjoyment of the burdened Lot in any manner, and (ii) such encroachment does not extend more than five (5) feet over the violated boundary line, a valid easement for such encroachment shall exist. The purpose of this Section is to protect the Association and Owners, except in cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the owner, contractors, subcontractors or materialmen of any liability that any of them may have by reason of any failure to adhere to the plat.

Section 2. Easement for Utilities. There is hereby reserved to Declarant, its successors and assigns, a ten (10) foot strip being ten (10) feet wide on each side of the front, side and rear property lines of every Lot as a blanket easement for the purposes of ingress, egress, installing, replacing, repairing and maintaining any and all utilities and drainage facilities. By virtue of these easements, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the ten (10) foot easement strip and to affix and maintain utility wires, circuits and conduits on, across and under the surface of the various buildings. Notwithstanding anything contained herein to the contrary, no sewers, electrical lines, water lines, or other utilities may be installed or located or relocated on any portion of the Property except as may be approved by the Committee or as provided during the original development by Declarant. Should any utility furnishing a service covered by the general easements herein provided request a specific easement by a separate recordable document, Declarant hereby reserves unto itself the right to grant such easements on the ten (10) foot easement strip without conflicting with the terms hereof. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on any Lot except as may be approved by the Committee or by Declarant.
Section 3. Other Easements. A blanket easement is hereby granted to the Association, its directors, officers, agents and employees and to the Declarant and all policemen, firemen, ambulance personnel and all similar persons to enter upon the ten (10) foot easement strip being ten (10) feet wide on each side of the front, side and rear property lines of all Lots or any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights accompanying the easement provided for in this Section 3 shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance notice to and with permission of the Owner/lessee directly affected thereby.

Section 4. Perpetuity. All easements reserved or granted in this Declaration shall be perpetual, non-exclusive easements except where the terms of this Declaration expressly provide otherwise or where the context and grant or reservation of such easement reasonably requires a different interpretation. Nothing contained in the preceding sentence is intended to alter, waive or terminate the right of Declarant, or others to whom such right is given herein, to relocate or modify any easement in accordance with any rights as provided in this Declaration.

ARTICLE X

INSURANCE

Section 1. Common Area Insurance. The Declarant or the Association shall also obtain a public liability policy covering any common areas and facilities for the hazards of premises, operations or actions arising out of bodily injury, property damage, false arrest, invasion of privacy and slander caused by the negligence of the Association or Declarant or any of its agents, which public liability policy shall be at least $1,000,000.00 single limit with respect to the hazards enumerated therein. All policies must provide that they may not be cancelled or substantially modified by any party without at least 10 days prior written notice to the Declarant. Premiums for all such insurance obtained by the Association shall be common expenses paid for by the Association from funds raised by assessments.

Section 2. Damage and Destruction. Immediately after any damage or destruction by fire or other casualty to any such common area covered by insurance written in the name of the Association or the Declarant, the Board or the Declarant, as the case may be, shall proceed with the filing and settlement of all claims arising under such insurance. In the event the insurance proceeds paid to the Association or to the Declarant are not sufficient to defray the cost of such repair or reconstruction, the Board shall have the authority to and shall raise the annual assessment against all Owners in sufficient amounts to provide funds to pay such excess costs of repair or reconstruction. In the event of such damage or destruction and requirement for reconstruction, such reconstruction or repair shall be commenced within 60 days of said loss.

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Section 3. **Owner's Insurance.** Each Owner shall obtain additional insurance, at its own expense, affording public liability coverage and/or property damage coverage upon its Lot and its building; provided, however, no Owner shall be entitled to exercise its right to maintain insurance coverage in such a way as to decrease the amount which the Association or the Declarant, on behalf of all the Owners and their Mortgagees, may realize under any insurance policy which the Association or Declarant may have in force as described above.

**ARTICLE XI**

**ENFORCEMENT**

Section 1. **General.** Declarant, the Committee or any Owner or Occupant may proceed at law or in equity to prevent the violation of any term of this Declaration.

Section 2. **Declarant's and/or Association's Rights.** Declarant and the Committee or the duly authorized representative of the Association shall have the right, upon reasonable notice, at any time and from time to time following violation or breach of this Declaration, without any liability to the Owner or Occupant for trespass or otherwise, to enter upon the Lot as to which said violation or breach exists. Once upon said Lot, they shall have the right to abate and remove, at the expense of the Owner, any structure, thing or condition that may be or exist therein contrary to the intent and meaning of this Declaration or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of the Restrictions or terms of this Declaration. Should the Association or Declarant employ legal counsel to enforce any terms of this Declaration, all costs incurred in such enforcement, the violating Owner shall pay including reasonable attorneys' fees. Each Owner shall be responsible for the conduct of the Occupants of its Lot, but the responsibility of an Owner shall not relieve any such Occupant for any liability to Declarant, the Association or any other Owner.

Section 3. **Other Parties' Rights.** In addition, any other party to whose benefit this Declaration inures shall have the right in the event of violation or breach of the Declaration to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate the Declaration and to enjoin and prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

Section 4. **No Waiver.** No delay or failure on the part of an aggrieved party to invoke any available remedy in respect to a violation of any of the terms of this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to it upon recurrence or continuance of said violation or the occurrence of a different violation, nor shall there be construed upon Declarant a duty to take any action to enforce the Declaration.
ARTICLE XII

AMENDMENTS

Section 1. Amendments by Declarant. During any period in which Declarant exercises the right to appoint and remove any members of the Board or during such time as the Association has not yet been formed, Declarant may amend this Declaration by an instrument in writing filed and recorded in the records of the Probate Court of Montgomery County, Alabama, without the approval of any Member or Owner. Provided, however, that (i) in the event that such amendment materially alters or changes any Owner’s right to the use and enjoyment of such Owner’s Lot or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon approval thereof by a majority of the Owners affected thereby, and (ii) in the event that such amendment adversely affects the security title and interest of any Mortgagor, such amendment shall be valid only upon the approval thereof by all Mortgagees affected thereby. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property: (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or ordinance or any judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lot subject to this Declaration; or (iii) if such amendment is necessary to correct a scrivener’s error in the drafting of this Declaration.

Section 2. Amendments by Association. Once the Association has been formed, amendments to this Declaration, other than those authorized by Section 1 of this Article above, shall be proposed and adopted by giving notice of the proposed amendment in the notice of the meeting of the Association at which such proposal may be considered to each Member. At such meeting, such amendment may be adopted by a vote of at least two-thirds of the total votes in the Association. Provided, however, that (i) any amendment which alters or changes any Owner’s right to use and enjoyment of such Owner’s Lot or which adversely affects the title to any Lot must be approved by all Owners affected thereby, (ii) any amendment which adversely affects the security title and interest of a Mortgagor must be approved by such Mortgagor and (iii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must also be approved by Declarant. A signed instrument recorded in the records of Montgomery County, Alabama shall affect any such amendment.
ARTICLE XIII

RECAPTURE OF UNUSED LAND

Section 1. General. The Declarant reserves the right to reacquire the site from any purchaser, Lessee or its successor or assigns, at the original purchase price, if construction of a proposed facility has not begun within twenty-four (24) months of the sale date.

Section 2. Replatting Lots. Any Owner, Lessee, or Assignee, having the right to acquire ownership of the property who desires to replat any of the lots for the purpose of selling unimproved land, shall first secure the written permission of the Association for such replatting. Upon such replatting, the Declarant reserves the right to purchase or reacquire such replatted property at a per acre price equal to the price paid by the party replatting the property or paid by the original party or its assigns acquiring title from the Declarant under an option to purchase.

Section 3. Option to Reacquire. The Declarant shall have thirty (30) days to exercise its option to reacquire the property and to pay all amounts due to the Owner or option holder, after notice is received from the Owner or the party holding the option of its intent to dispose of the surplus land, otherwise, such option shall be forfeited and become null and void.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Coverage. The Restrictions, easements and this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, Declarant, the Committee or by the Owner of any Lot, their respective legal representatives, heirs, successors and assigns.

Section 2. Compliance. Each Owner shall comply strictly with the easements and restrictions set forth in this Declaration, and the By-Laws and rules and regulations of the Association now or hereafter adopted, as the same may be lawfully amended from time to time.

Section 3. Duration. The Restrictions of this Declaration shall remain in effect, and shall inure to the benefit of and be enforceable by the Declarant, or any Owner of a Lot or of such other property as is hereinafter made subject to this Declaration, for a period of twenty years from the date hereof. Said Declaration may be renewed and extended, in whole or in part, beyond said period for successive periods not to exceed ten years each if an agreement for renewal and extension is signed by Declarant, if it is the owner of any real property then subject to this Declaration, and by the Owners of at least
two-thirds of the square feet of land area in the Property, exclusive of streets and other
public ways. No such agreement or renewal and extension shall be effective unless filed
on record in the office of the Judge of Probate of Montgomery County, Alabama or other
appropriate office, at least 30 days prior to the expiration date of this Declaration, as
same may be renewed and extended in accordance with the terms hereof.

Section 4. Rezoning. Every Owner, by acquiring its interest in any Lot, agrees
that it will not bring any action or suit, except with the written approval of the Declarant,
its successors or assigns, to change the zoning of any portion of the Property.

Section 5. Severability. Whenever possible, each provision of this Declaration
shall be interpreted in such a manner as to be effective and valid, but if any provision of
this Declaration or the application thereof to any person or to any portion of the Property
shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other
provision or the application of any provision which can be given effect without the
invalid provision or application, and to this and the provisions of this Declaration are
declared to be severable.

Section 6. Governing Law. The interpretation of this Declaration shall be
governed by and construed in accordance with the laws of the State of Alabama.

Section 7. Time. Time is of the essence of this Declaration.

Section 8. Interpretation. In all cases, the provisions set forth or provided for in
this Declaration shall be construed together and given an interpretation or construction
which, in the opinion of Declarant or the Board, will best affect the intent of this
Declaration. The provisions herein shall be liberally interpreted, and if necessary, shall
be so extended or enlarged by implication as to make them fully effective. In the event of
any conflicts or inconsistencies between the Alabama Non-Profit Corporation Code, this
Declaration, the Articles of Incorporation or the By-Laws, in that order shall prevail. The
singular wherever used herein shall be construed to mean the plural when applicable, and
the necessary grammatical changes required to make the provisions hereof apply either to
corporation or other entities or to individuals, men or women, shall in all cases be
assumed as though in each case fully expressed.

Section 9. Additional Property. Declarant may, at any time prior to the time at
which Declarant may no longer appoint the officers and directors of the Association,
subject additional property which is contiguous to the property described on Exhibit "A,"
to this Declaration by an amendment filed in the records of Montgomery County,
Alabama.

11-19.
THE MONTGOMERY COUNTY
COMMISSION

By William F. Joseph, Jr.
Its Chairman

11-20.
Exhibit “A”

The following is a legal description of the real property located in Montgomery County, Alabama:

BEGIN AT THE SOUTHWEST CORNER OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 11, T-16-N, R-19-E, MONTGOMERY COUNTY, ALABAMA; THENE RUN S 89°49'49" W, 706.38 FEET TO A POINT; THENE RUN N 01°17'33" W, 211.07 FEET TO A POINT; THENE RUN S 88°42'27" W, 928.14 FEET TO A POINT; THENE RUN S 17°22'23" W, 238.48 FEET TO A POINT; THENE RUN S 08°29'55" W, 214.89 FEET TO A POINT; THENE RUN S 00°30'25" E, 12.50 FEET TO A POINT; THENE RUN N 01°00'00" W, 127.28 FEET TO A POINT Lying on the North Right of Way of Interstate 59 (Routing); THENE RUN ALONG SAID NORTH RIGHT OF WAY N 89°14'13" W, 718.32 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENE RUN ALONG SAID CURVE TO THE LEFT WITH A RADIUS OF 11630.16 FEET, A CHORD OF N 82°03'54" W, 381.51 FEET TO A POINT Lying in Said Curve; THENE LEAVING SAID NORTH RIGHT OF WAY RUN N 01°27'42" E, 4550.00 FEET TO A POINT; THENE RUN N 59°30'14" E, 2872.26 FEET TO A POINT; THENE RUN S 88°19'42" E 1069.69 FEET TO A POINT; THENE RUN S 00°10'06" E, 264.99 FEET TO A POINT; THENE RUN S 01°27'42" E, 3159.99 FEET TO A POINT, SAID POINT BEING THE SOUTHEAST CORNER OF SECTION 12, T-16-N, R-19-E, MONTGOMERY COUNTY, ALABAMA; THENE RUN S 89°54'41" W, 1253.32 FEET TO A POINT; THENE RUN S 00°34'11" E, 421.32 FEET TO A POINT; THENE RUN N 00°14'27" N, 104.33 FEET TO A POINT; THENE RUN S 00°08'10" W, 104.23 FEET TO A POINT; THENE RUN S 49°16'26" E, 461.66 FEET TO A POINT; THENE RUN S 01°17'43" E, 1611.77 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PROPERTY LYING AND BEING SITUATED IN SECTIONS 12, 13 AND THE EAST HALF OF SECTION 14, T-16-N, R-19-E, MONTGOMERY COUNTY, ALABAMA AND CONTAINS 364.94 ACRES MORE OR LESS.