

Re-record to correct pages 5, 6, 7.

BILL & RETURN TO:
BRAZOS COUNTY ABSTRACT COMPANY
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**DECLARATION OF
EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS**

This Declaration of Easements, Covenants, Conditions and Restrictions (this "Agreement") is made and entered into effective as of the 10 day of February, 2010 (the "Effective Date"), by and between HEB Grocery Company, LP, a Texas limited partnership ("HEB") and College Station MarketPlace, L.P., a Texas limited partnership ("CS MarketPlace").

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**ARTICLE 1
Recitals**

1.1 **HEB Parcel.** HEB is the owner of that certain approximately 16.29 acre parcel of real property (the "HEB Parcel") situated in the City of College Station, Brazos County, Texas, located at Highway 6 and Highway 40, as more particularly described by metes and bounds on Exhibit A attached hereto and made a part hereof for all purposes.

1.2 **CS MarketPlace Parcel.** CS MarketPlace is the owner of that certain approximately 50.55 acre parcel of real property (the "CS MarketPlace Parcel") situated in the City of College Station, Brazos County, Texas, located at Highway 6 and Highway 40, as more particularly described by metes and bounds on Exhibit B attached hereto and made a part hereof for all purposes.

1.3 **Purpose.** HEB and CS MarketPlace desire to (i) subject the HEB Parcel and the CS MarketPlace Parcel to certain easements, covenants, conditions and restrictions, pursuant to which the Parcels (as defined hereinbelow) shall be held, improved and conveyed, and (ii) set forth certain responsibilities and obligations of HEB and CS MarketPlace with respect to the development of the HEB Parcel and the CS MarketPlace Parcel for their joint benefit as adjacent landowners.

NOW, THEREFORE, in consideration of the premises, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration in hand paid, and in consideration of the mutual agreements herein made, the receipt and sufficiency of which are hereby acknowledged and confessed, the undersigned hereby agree as follows:

**ARTICLE 2
Definitions**

2.1. **Access Drives.** Those certain critical access drives situated in the Shopping Center that are labeled "Critical Access Drive" and/or "Permanent Service Drive" on the Site Plan and the access points from such drives onto adjoining public and private rights-of-way.

2.2. **Building Restriction Plan.** That certain building plan attached hereto as Exhibit E setting forth the Maximum Floor Area(s), maximum building height(s), building setback lines, finished floor elevations and other matters concerning the construction of building improvements on the CS MarketPlace Parcel.

2.3. **Common Areas.** Those certain parking areas, drives, curb cuts, roadways, driveways and drive lanes on the HEB Parcel which are available from time to time on the HEB Parcel for the general, common, non-exclusive use, convenience and benefit of the Owners, Occupants and Permittees of the HEB Parcel, as the same may exist from time-to-time; such areas being referred to herein as the "HEB Parcel Common Area;" and those certain drives, curb cuts, roadways, driveways and drive lanes on the CS MarketPlace Parcel which are available from time to time on the CS MarketPlace Parcel for the general, common, non-exclusive use, convenience and benefit of the Owners, Occupants and Permittees of the CS

MarketPlace Parcel, as the same may exist from time-to-time; such areas being referred to herein as the "CS MarketPlace Parcel Common Area." The HEB Parcel Common Area together with the CS MarketPlace Parcel Common Area shall be referred to herein as the "Common Areas." The Common Areas shall not include outdoor sales areas, loading docks or drive-thru(s) or loading areas situated within the Shopping Center. The Common Areas shall specifically include the Access Drives. CS MarketPlace shall not modify the Access Drives situated on the CS MarketPlace Parcel without HEB's prior written consent, in its commercially reasonable discretion, and HEB shall not modify the Critical Access Drive situated on the HEB Parcel in any material respect without the prior written consent of the Owners of seventy-five percent (75%) of the land area of Lots A1, A4 and C5, as shown on the Site Plan (collectively, the "Approving Lot Owners") in such Owner's commercially reasonable discretion, provided however that the Approving Lot Owners shall not have the right to approve such Critical Access Drive if HEB provides comparable alternate access.

2.4. **Development Plans.** Those certain conceptual site plans (each being referred to individually as a "Development Plan") of the Property that have been approved by the Parties and are attached hereto as Exhibits C-1 through C-5 and made a part hereof.

2.5. **Floor Area.** The total number of square feet of floor area located within the perimeter walls of a particular building(s) constructed on the Shopping Center, as the same are constructed from time-to-time, which number of square feet shall be based upon measurements extending from the midpoint of the demising walls of such building(s) and the exterior surface of the perimeter walls of such building(s). Floor Area shall not include outdoor sales or seating areas, which are not heated or air-conditioned, mezzanines used only for stock, storage and related offices and non-sales uses located therein, drive-thrus or loading docks/areas and ramps.

2.6. **Force Majeure.** An Act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, strike, lockout, action of labor unions, requisitions, laws, or orders of government or civil or military authorities, which excuses, prevents, delays retards or hinders the performance of an obligation or undertaking under this Agreement; provided that the party asserting the existence of an event resulting in force majeure must give written notice to the other party notifying it of such fact within ten (10) days following the occurrence of such event.

2.7. **HEB Building.** The building depicted as "HEB Building" on the Site Plan, as the same may be modified, expanded, and altered within the HEB Parcel from time-to-time.

2.8. **Occupant.** Any Person, from time to time, entitled to the use and occupancy of any portion of the Shopping Center under any lease, sublease, license, concession or other similar agreement.

2.9. **Owner.** The record owner of fee simple title to all or any portion of the Shopping Center, but excluding those having such interest merely as security for the performance of any obligation pursuant to third party financing.

2.10. **Pad.** Those portions of the Shopping Center depicted as "Future Pad" or "Pad" on the Site Plan.

2.11. **Parcel.** Each of the HEB Parcel and the CS MarketPlace Parcel, and any subdivisions thereof, including but not limited to all or any portion of a Pad acquired by an Owner. Each such Parcel within the Shopping Center is sometimes hereinafter collectively referred to as the "Parcels".

2.12. **Party.** Each of HEB and CS MarketPlace, and their respective successors or assigns.

2.13. **Permissible Building Areas.** All those areas in the Shopping Center upon which buildings or other commercial structures (including canopies, supports, loading docks, truck ramps, and other outward exteriors) may be constructed that are depicted as "Permissible Building Areas" on the Site Plan, subject to the maximum Floor Area applicable thereto ("Maximum Floor Area"), which Maximum Floor Area for the CS MarketPlace Parcel is designated on the Building Restriction Plan. The entire HEB Parcel shall be deemed a Permissible Building Area for all purposes hereunder.

2.14. **Permittee.** All Owners, Occupants and the partners, officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees and licensees of Owners and Occupants.

2.15. **Person.** Individuals, partnerships, firms, associations, corporations, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

2.16. **Shopping Center.** Collectively, the HEB Parcel and the CS MarketPlace Parcel.

2.17. **Site Development Agreement.** That certain Site Development Agreement dated of even date herewith between HEB and CS MarketPlace pertaining to the construction of the Site Work (as defined in the Site Development Agreement), as more particularly described therein.

2.18. **Site Plan.** That certain multi-page site plan of the Shopping Center attached hereto as **Exhibit C**, pages 1-3, and made a part hereof.

ARTICLE 3

Building and Common Area Development

3.1 **Location of Buildings.** No buildings or other structures shall be constructed, erected or maintained on the Shopping Center except within the Permissible Building Areas, as depicted on the Site Plan, subject to the Maximum Floor Area applicable thereto set forth in the Building Restriction Plan; provided that the foregoing shall not apply to (i) screening walls or fences at the rear of buildings, signage, light fixtures, utility facilities or landscaping features; (ii) temporary construction trailers or facilities maintained on the Shopping Center in accordance with Section 3.8 during periods of continuous construction; or (iii) the HEB Parcel, the entirety of which is deemed a Permissible Building Area for all purposes hereunder. Notwithstanding the foregoing, up to two (2) adjacent lots of Lots B1, B2, and/or B3 and up to two (2) adjacent lots of Lots D4, D5, D6, D7 and/or D8, as shown on the Site Plan may be combined as one (1) and the Maximum Floor Area applicable to such Lots aggregated to allow the construction of a single larger building on such two Lots, provided that the resulting building or other structure is situated not closer than 1000' feet from the entrance of the HEB Building and the Maximum Floor Area of any buildings constructed on such combined Lot shall not exceed seventy-five percent (75%) of the combined Maximum Floor Area of such Lots individually. Notwithstanding the Maximum Floor Area set forth on the Building Restriction Plan applicable to Lots A1, A2 and A3, in no event shall the combined Floor Area of all buildings constructed on such Lots exceed 15,000 square feet in aggregate.

3.2 **Use of Common Area.** The Common Area is reserved for the sole and exclusive use of all Owners, Occupants and their Permittees. The Common Area may be used for vehicular driving, parking, pedestrian traffic, directional signs and any signage permitted hereunder, sidewalks, walkways, landscaping, perimeter walls and fences, parking lot lighting, utilities, and for no other purpose. Except as specifically provided in Article 4, no Owner, Occupant, or Permittee of such Owner or Occupant shall have any rights or interests in the Common Areas situated on another Owner's Parcel. No portion of the Common Areas shall be used for the storage, display or sale of merchandise, except sidewalks immediately adjacent to the Floor Area of a Permissible Building Area; for advertising or solicitation,

except signs expressly authorized under this Agreement; or for festivals or other activities not expressly authorized in this Agreement or approved in advance by HEB and CS MarketPlace. Notwithstanding the foregoing, (a) HEB is specifically permitted to use each of the following on the HEB Parcel for the storage, display or sale of merchandise: (i) any area adjacent to the HEB Building and/or other building improvements constructed on the HEB Parcel, including but not limited to sidewalk areas, and (ii) any portion of the parking lot situated in front of the HEB Building and/or other building improvements constructed on the HEB Parcel; and (b) CS MarketPlace is specifically permitted to use each of the following on the CS MarketPlace Parcel for the storage, display or sale of merchandise: (i) any sidewalk area adjacent to the building improvements constructed on the CS MarketPlace Parcel, and (ii) with respect to Areas B and D only, any portion of the parking lot situated in front of the building improvements constructed on the CS MarketPlace Parcel.

3.3 **Parking.** Each Owner shall maintain on its respective Parcel: (a) with respect to the HEB Parcel and Areas A and C, not less than five (5) parking spaces for each one thousand (1,000) square feet of Floor Area for retail use, eight (8) parking spaces for each one thousand (1,000) square feet of Floor Area for restaurant use, and three (3) parking spaces for each one thousand (1,000) square feet of Floor Area for office use, without variance or reliance on any other parking spaces available in the Shopping Center; and (b) with respect to retail, restaurant and office use on Areas B and D, parking sufficient to satisfy all applicable governmental laws, including but not limited to the Unified Development Ordinance established by the City of College Station, as amended from time to time; provided however that HEB shall have the right to approve the parking plan for any other use on Areas B and D, including but not limited to hotel, campus, hospital, medical park and/or movie theater uses if any of such uses are not consistent with the approved Development Plans. In addition, all Pads in the Shopping Center shall be required to self park, without variance or reliance on any other parking spaces available in the Shopping Center; provided however that the foregoing restriction shall not apply to any retail and/or restaurant use on the Pads situated on Areas B and D. In the event of a condemnation of part of a Parcel or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required herein, the Owner whose Parcel is so affected shall use its reasonable good faith efforts (including using proceeds from the condemnation award or settlement) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth above. If such compliance is not possible, such Owner shall not be deemed in default hereunder, but shall not be permitted to expand the amount of Floor Area of buildings located upon its Parcel. If such Floor Area is thereafter reduced, then it may not subsequently be increased unless the parking requirement is satisfied.

3.4 **Quality of Construction.** Each building in the Shopping Center, now and in the future, shall be of first-quality design and construction, consistent with other similar developments in College Station, Texas.

3.5 **Structural Integrity.** No building shall be built in such a manner as to adversely affect the structural integrity of any other building in the Shopping Center.

3.6 **Building Height.** No building within the Shopping Center may exceed the height restriction applicable thereto, as set forth in the Building Restriction Plan (other than the HEB Building and other improvements to be situated on the HEB Parcel for which there shall be no height restriction under this Agreement), measured from the finished floor elevation of such building as set forth in the Building Restriction Plan.

3.7 **Common Boundary Construction.** No common wall, party wall or abutting wall on or adjacent to the property lines between the HEB Parcel and the CS MarketPlace Parcel shall be permitted. In addition, no buildings or improvements shall hereafter be placed or constructed on the CS MarketPlace Parcel that would cause any building on the HEB Parcel, including the HEB Building, to lose its

"unlimited area" classification (or its equivalent classification). As used herein, an "unlimited area" classification or its equivalent shall refer to the classification of any building, pursuant to fire or building codes and ordinances, as the same are interpreted by the applicable governmental authorities, as not having a fire rating and as not having a maximum limit on floor area. In order for any building on the HEB Parcel to maintain an "unlimited area" classification, any building or structure on the CS MarketPlace Parcel must be located at least sixty feet (60') from the HEB Building. Accordingly, any buildings or structures hereafter placed or constructed on the CS MarketPlace Parcel shall comply with all building code requirements so as to permit any buildings on the HEB Parcel to maintain an "unlimited area" classification or its equivalent (i.e., any building on the CS MarketPlace Parcel shall be located a minimum of sixty feet (60') from the HEB Building). Notwithstanding anything contained in this Section 3.7, so long as any building on the CS MarketPlace Parcel is located a minimum of sixty feet (60') from the HEB Building, CS MarketPlace shall be deemed to have satisfied the terms, provisions and conditions of this Section 3.7.

3.8 Performance of Construction. All work performed and the construction, maintenance, repair, replacement, alteration or expansion of any building, sign or Common Area improvements located in the Shopping Center shall be performed in a good and workmanlike manner and in compliance with all laws, rules, regulations, orders and ordinances of all applicable governmental authorities and shall be affected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to and from the Shopping Center, or any part thereof, to or from any public right-of-way, or (ii) the receiving of merchandise by any business in the Shopping Center. Staging for the construction, replacement, alteration or expansion of any building, sign or Common Area improvements located on the Shopping Center including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to the Parcel owned by the Owner on whose Parcel such construction activity is occurring, unless the Owner of another Parcel has consented in writing to such staging on its Parcel.

3.9 Damage or Destruction. If all or any portion of any building located on an area in which a building is permitted hereunder is (i) damaged or destroyed by fire or other casualty, or (ii) taken or damaged as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, each Owner of a Parcel, respectively, as to all buildings or structures situated on the portion of the Shopping Center owned by it, shall promptly restore or cause to be restored the remaining portion of such building or structures or, in lieu thereof, shall remove or cause to be removed the damaged portion of such building or structures together with all rubble and debris related thereto. All areas on which damaged buildings are situated and are not reconstructed following a casualty or condemnation shall be graded or caused to be graded by the respective Owner to the level of the adjoining property and in such a manner as not to materially and adversely affect the drainage of the Shopping Center or any portion thereof, shall be covered by a one-inch (1") asphalt dust cap or appropriate grass or landscaping and shall be kept weed free and clean at said Owner's sole cost and expense until buildings are reconstructed thereon. If all or any portion of any Access Drives is (i) damaged or destroyed by fire or other casualty, or (ii) taken or damaged as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, each Owner of a Parcel, respectively, as to the Access Drives situated on the portion of the Shopping Center owned by it, shall promptly restore or cause to be restored the Access Drives or in the event of a taking a relocated Access Drive approved by the Owners of a minimum of two thirds of the land area of the Shopping Center, which approval shall not be unreasonably withheld, conditioned or delayed.

3.10 Signage. All signage constructed upon the Shopping Center, including but not limited to monument, pylon, and directional signage, shall be of first quality construction and constructed in accordance with all applicable governmental requirements. The Shopping Center pylon signs shall be in the location(s) depicted on the Site Plan as "Pylon Sign 2", "Pylon Sign 3" and "Pylon Sign 4" (each a "Pylon Sign" and collectively the "Pylon Signs") and shall comply with the approved sign elevations

applicable to each such Pylon Sign attached hereto as Exhibit D (the "Sign Plan"); provided that in no event shall any Owner or Occupant in the Shopping Center be permitted to combine sign panels on any one (1) Pylon Sign to exceed seventy-five percent (75%) of the area of the HEB sign panel on such Pylon Sign; provided that with respect to Pylon Sign 3, the HEB sign panel shall not include HEB's retail tenant sign panels for purposes of this sign area limitation. Notwithstanding the foregoing, in addition to compliance with applicable governmental rules and regulations, (i) no more than one (1) monument sign may be constructed on each platted lot in the CS MarketPlace Parcel within the locations designated on the Site Plan as the "Highway 40 Sign Envelope" and/or the "Highway 6 Sign Envelope", provided that each such monument sign shall not exceed four feet (4') in height or sixty feet (60') in area and (ii) CS MarketPlace shall have the right to construct a pylon sign in the location depicted on the Site Plan as the "CSMP Pylon Sign"; provided that the CSMP Pylon Sign shall comply with the approved sign elevations therefor attached hereto as Exhibit D-1.

CS MarketPlace shall be responsible for maintaining the Pylon Signs on the CS MarketPlace Parcel and the HEB Parcel; provided, however, that HEB shall reimburse CS MarketPlace for (i) the cost of HEB's sign faces including the sign panels on Pylon Sign 3 available for HEB's retail tenants on the HEB Parcel (or pay such amounts directly), and (ii) HEB's pro-rata share of the out-of-pocket costs incurred by CS MarketPlace to maintain the Pylon Signs on which HEB's sign panels shall be located from time-to-time; provided, however, that such costs are reasonably approved in advance by HEB pursuant to a budget submitted by CS MarketPlace annually. For purposes hereof, HEB's pro-rata share of the Pylon Sign costs shall equal the ratio, expressed as a percentage, that the square foot area of the face of HEB's signs and the signs for its retail tenants on the HEB Parcel, in aggregate, bears to the total square foot area of the faces of all signs planned to be located on the Pylon Signs. HEB's pro-rata share of such Pylon Sign costs shall be payable within thirty (30) days following its receipt of a written request therefor from CS MarketPlace (but in no event more than quarterly). Except as provided above, each Owner shall maintain any signage located on its respective Parcel, at its sole cost and expense.

3.11 Lighting. The lighting standards within the parking areas on Areas A and C and the Access Drives shall at all times following construction thereof satisfy the following requirements: a minimum of 5-6 foot candle average lighting, as measured at the ground with 24-hour security lamp at locations acceptable to HEB. Each party shall satisfy the lighting standards set forth above on a daily basis, commencing (a) with respect to the Access Drives, at least one (1) hour prior to store opening(s) on the HEB Parcel and continuing for at least one (1) hour after the closing of store operations on the HEB Parcel, and (b) with respect to the parking areas on Areas A and C, at dusk and continuing until dawn.

ARTICLE 4 **Easements**

4.1 Reciprocal Access Easements. HEB hereby GRANTS, SELLS and CONVEYS unto CS MarketPlace, for the benefit of CS MarketPlace and its Permittees, a non-exclusive perpetual easement for ingress and egress by vehicular and pedestrian traffic, but not parking, upon, over and across the Common Areas situated on the HEB Parcel from time to time, such easement to be used in common with HEB and its Permittees. CS MarketPlace hereby GRANTS, SELLS and CONVEYS unto HEB, for the benefit of HEB and its Permittees, a non-exclusive perpetual easement for ingress and egress by vehicular and pedestrian traffic, but not parking, upon, over and across the Common Areas situated on the CS MarketPlace Parcel from time to time, such easement to be used in common with CS MarketPlace and its Permittees. All of the foregoing easements are hereinafter collectively referred to as the "Access Easements." Additionally, CS MarketPlace hereby GRANTS, CREATES and ESTABLISHES for the benefit of the Owners from time to time of the CS MarketPlace Parcel and any portion thereof and their respective Permittees, perpetual, non-exclusive easements for the purposes of ingress, egress and access by vehicular and pedestrian traffic upon, over and across the driveways situated on the CS MarketPlace Parcel.

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Each Owner agrees that, except as depicted on the Site Plan, no barrier, fence, curb, wall, ditch, barricade or other structure or obstacle which would unreasonably interfere with, impede, slow or in any way prevent vehicular and pedestrian traffic from passing thereon, will be created or allowed to exist on the Access Easements and/or the Access Drives. The preceding sentence shall not prohibit the reasonable designation and relocation of traffic and pedestrian lanes (subject to the other limitations set forth herein) and the construction of safety traffic control devices, such as speed bumps and stop signs (subject to the other limitations set forth herein). In addition, each Owner may temporarily close or block traffic on its Parcel for the time necessary for the purpose of protecting ownership rights and preventing creation of easements to the public and unrelated third parties (provided, however, that prior to closing off any portion of the Common Area, as herein provided, such Owner shall give ten (10) business days' prior written notice to each other Owner of its intention to do so and shall attempt to coordinate such closing with each other Owner, so that no unreasonable interference in the passage of pedestrians or vehicles shall occur), and may temporarily fence off portions of its Parcel as reasonably required for the purpose of repair, construction and reconstruction, provided that the same does not inhibit the use of the Access Drives.

4.2 Utility Easements. Each Owner hereby grants and conveys, each to the other, for the benefit of the Parcels, a nonexclusive easement in, to, over, under and across the Common Areas of its respective Parcel for the purposes of installing, operating, maintaining, repairing, replacing, removing and relocating underground storm sewer lines, sanitary sewer pipes, septic systems, water and gas mains, electric power lines, telephone lines, and other underground utility lines (collectively, the "Utility Lines") to serve the facilities located on the Parcels. The location of any Utility Lines as well as any areas upon which construction will be performed shall be subject to the approval of the Owner upon whose Parcel the Utility Lines are to be situated, which approval shall not be unreasonably withheld, conditioned, or delayed, and shall be subject to and limited by the requirements of applicable law. Notwithstanding the foregoing, each Party hereby acknowledges its approval of the location of the Shopping Center Utilities (as defined in the Site Development Agreement).

The Owners or any designee served by such Utility Lines may operate, maintain, and repair and, if it does not materially interfere with the use of the granting Owner's Parcel, relocate to a location reasonably acceptable to the granting Owner, such Utility Lines (except the Shopping Center Utilities), provided such activities are performed expeditiously, during reasonable hours, and only after ten (10) business days' prior written notice (or in the event of an emergency, such lesser period of notice which is reasonable under the circumstances) to the granting Owner to be affected by such work. Such notice shall be accompanied by a certificate of insurance naming the Owners affected by the work as additional insureds and satisfying the requirements of Article 6 below. The party performing the work shall, at its cost and expense, immediately repair any damage to any improvements resulting from such work. The Owner performing the work with respect to a Utility Line shall indemnify and hold the other Owner and any tenant or other occupant of the other Owner's Parcel harmless from any claims, damages, or losses which may result from the activities in making such repairs or relocating its facilities.

In addition, any Owner whose Parcel is burdened by a Utility Line shall have the right to relocate such Utility Line (except the Shopping Center Utilities) upon such Owner's Parcel provided that such relocation is accomplished without materially interrupting the service provided by such line.

ANY OWNER EXERCISING ITS RIGHTS UNDER A UTILITY EASEMENT ON ANOTHER OWNER'S PARCEL SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS THE OTHER OWNER FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, LOSSES, COSTS, FEES (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES), EXPENSES, CAUSES OF ACTION, SUITS, CLAIMS OR JUDGMENTS ARISING FROM INJURY TO PERSON OR PROPERTY AS A RESULT OF THE EXERCISE OF SUCH RIGHTS UNDER THE UTILITY EASEMENT, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER OWNERS.

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4.3 **Grant of Drainage Area Easement.** CS MarketPlace hereby establishes and creates for the benefit of HEB and all future Owners and Occupants of the HEB Parcel and each of their respective Permittees, a perpetual, non-exclusive drainage easement (the "Drainage Easement") under, over, across and upon those portions of the CS MarketPlace Parcel Common Area designated for the collection, conveyance, detention and release of surface water from the HEB Parcel into that certain regional detention area located on the CS MarketPlace Parcel, including but not limited to those areas designated as "Storm Sewer Line" and "Drainage Area" on Exhibit F attached hereto (collectively, the "Detention Facilities"), and for the construction, maintenance, repair, replacement and operation of any detention facilities, as necessary for the full use and benefit of the Drainage Easement and Detention Facilities. The Detention Facilities shall at all times provide sufficient off-site detention for the HEB Parcel, in the capacity necessary for the Owner of the HEB Parcel's use of the HEB Parcel for a grocery store, related shopping center development and related uses on the HEB Parcel.

Prior to the date hereof, the Drainage Area has been constructed by CS MarketPlace in accordance with applicable law. In accordance with the Site Development Agreement, CS MarketPlace shall construct such facilities and/or improvements required in connection with the use of the Detention Facilities by the Shopping Center, including without limitation the Storm Sewer Lines designated on Exhibit F, and thereafter CS MarketPlace shall maintain and repair the Detention Facilities (unless and until the City of College Station accepts responsibility for the maintenance thereof) in a safe, sightly and functional condition, and the performance of such maintenance and repair as may be reasonably necessary from time-to-time. In addition, CS MarketPlace shall maintain commercially reasonable liability and property insurance covering the Detention Facilities (unless and until the City of College Station accepts responsibility for the maintenance thereof) in an amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per person per occurrence, and \$2,000,000.00 in the aggregate, or such greater amount as CS MarketPlace may determine to be reasonable. Upon request, CS MarketPlace shall provide the Owners of the HEB Parcel with a copy of a certificate of insurance. Such insurance shall be maintained with reputable insurance companies licensed to do business in the State of Texas with an A. M. Best Co. rating of A or better. Furthermore, unless and until the City of College Station accepts responsibility for the maintenance thereof, CS MarketPlace shall cause all ad valorem taxes against the Detention Facilities to be paid each year prior to the date that such taxes would become delinquent.

4.4 **Permitted Exceptions.** The easements described herein are conveyed and reserved subject to any and all other restrictions, easements, utility lines, or other matters or easements affecting the Shopping Center, except for liens which are expressly subordinated to this Agreement in accordance with Section 10.14 below.

4.5 **Retention of Fee Ownership.** Each Owner herein retains, reserves and shall continue to enjoy fee ownership, and the dominant right to use the surface and the subsurface of its respective Parcel for any and all purposes, which do not unreasonably interfere with the easements expressly granted by this Agreement. Except as prohibited hereby, each Owner expressly reserves the right to modify the Common Areas situated on its Parcel from time to time.

4.6 **Performance of Work.** In the event an Owner performs work on a Parcel owned by another Owner pursuant to the terms of this Agreement, the following shall apply:

(a) **Minimal Interference.** The work shall be performed in such a manner as not to interfere unreasonably with the use or operation of the Parcel upon which the work is being performed, including, without limitation, any material interruption to any utility service to any improvements constructed on such Parcel.

Any work performed on another Owner's Parcel shall be performed only after ten (10) business days notice to the Owner on whose Parcel such work is to occur (except in an emergency the work may be initiated with reasonable notice) and shall be done (after completion of initial construction of building improvements on the Parcel upon which such work is to be performed) after normal business hours whenever possible and shall otherwise be performed in such a manner as to cause as little disturbance in the use of the affected Owner's Parcel as is practicable under the circumstances. Any Owner performing or causing to be performed maintenance or repair work agrees to promptly pay all costs and expenses associated therewith, to diligently complete such work as quickly as possible and to promptly clean the affected portion of the Common Area.

(b) **Restoration.** Upon the completion of any work, the Parcel upon which the work was performed shall be restored by the Owner performing the work, at such Owner's cost and expense, to a condition equal to or better than, that which existed prior to the work, except to the extent that such Parcel has been maintained or improved as a result of the work.

(c) **Permits.** All necessary licenses and permits required for the work shall be obtained prior to the commencement thereof, and all work shall be done and all improvements constructed in a good and workmanlike manner. All of the work shall be completed free and clear of all liens of contractors, subcontractors, laborers, and materialmen and all other liens. In the event any such lien or claim of lien is levied, the Owner of the Parcel for whom the work was performed shall, within thirty (30) days following receipt of written notice from the Party against whose Parcel such lien or claim of lien was levied, bond or discharge such lien or claim of lien.

(d) **Compliance with Applicable Law.** All work shall be performed and all improvements constructed in accordance with all laws, ordinances, codes, rules, and regulations of all governmental authorities having jurisdiction over such work or the affected Parcel.

(e) **Indemnity.** ANY OWNER PERFORMING CONSTRUCTION ON ANOTHER OWNER'S PARCEL SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS THE OTHER OWNER FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, LOSSES, COSTS, FEES (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES), EXPENSES, CAUSES OF ACTION, SUITS, CLAIMS OR JUDGMENTS ARISING FROM INJURY TO PERSON OR PROPERTY AS A RESULT OF THE PERFORMANCE OF SUCH CONSTRUCTION, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER OWNERS.

ARTICLE 5

Maintenance and Operation of the Shopping Center

5.1 Maintenance and Operation.

(a) **Common Areas.** Each Owner shall maintain or cause to be maintained the Common Areas on its own Parcel in good condition and repair and clean and free from refuse and rubbish. Such maintenance shall include, but not be limited to, the following: regular and timely removal of all litter, garbage, trash and waste; regular lawn mowing; tree, shrub and plant pruning and trimming; watering of landscaped areas; weed control; pest control; maintaining exterior lighting and mechanical facilities in good working order; keeping parking areas, walks, driveways and roads clean and in good repair; striping of all parking and driveway areas; and the repairing and repainting of the exterior improvements visible to neighboring properties and/or public view. Any landscaped areas shall be mowed and otherwise tended to by the Owner thereof so as to be reasonably weed-free. The standard for such maintenance shall be that which would maintain the Parcel in a manner and quality equal to at least

that maintained by the owners of first-class facilities of the same type in the College Station, Texas area (the "market area"). Each Owner shall maintain, repair, and replace all improved portions of the Common Areas located on its respective Parcel so as to keep such areas at all times in a safe, sightly, good, and functional condition to standards of similar community shopping centers in the market area.

Following construction by CS MarketPlace of the Access Drives, in accordance with the Site Development Agreement, CS MarketPlace shall maintain the Access Drives in a safe, sightly and functional condition, including but not limited to the maintenance and repair of the Access Drives in a first class condition, and the performance of such maintenance and repair as may be reasonably necessary from time-to-time (collectively, the "Maintenance Items"). In addition, CS MarketPlace shall maintain commercially reasonable liability and property insurance covering the Access Drives in an amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per person per occurrence, and \$2,000,000.00 in the aggregate, or such greater amount as CS MarketPlace may determine to be reasonable. Upon request, CS MarketPlace shall provide the Owners and Occupants of the HEB Parcel with a copy of a certificate of insurance (which shall name HEB as an additional insured), which certificate shall provide that the policy will not be canceled without at least thirty (30) days prior notice to such Owners and Occupants. Such insurance shall be maintained with reputable insurance companies licensed to do business in the State of Texas with an A. M. Best Co. rating of A or better. The Maintenance Items shall include the cost of the foregoing liability insurance policies. CS MarketPlace shall obtain HEB's prior written approval of the annual budget for the Maintenance Items in advance for each calendar year (the budget, as approved by HEB and CS MarketPlace, being referred to herein as the "Approved Budget") and CS MarketPlace shall have the right to collect an administrative fee to be evidenced on the annual budget, not to exceed five percent (5%) of the cost of the Maintenance Items, excluding insurance premiums. Following construction of the Access Drives, not more than once per calendar quarter, each Owner shall reimburse CS MarketPlace for its pro-rata share (as hereafter defined) of the actual, documented out-of-pocket costs incurred by CS MarketPlace with respect to the Maintenance Items (but only to the extent, and in accordance with, the Approved Budget for such calendar year), within thirty (30) days following written request therefor; provided that reimbursements for the cost to carry liability insurance as required above shall be billed annually. As used in this Section 5.1(a), "pro-rata share" shall mean the ratio, expressed as a percentage, that the land area of an Owner's Parcel bears to the total land area of all Parcels (excluding Area D as shown on the Site Plan) permitted to use the Access Drives.

Furthermore, CS MarketPlace shall cause all ad valorem taxes against the Access Drives owned by CS MarketPlace to be paid each year prior to the date that such taxes would become delinquent and thereafter, CS MarketPlace shall provide HEB paid invoices from the applicable tax authorities. Notwithstanding the foregoing, with respect to the portion of Private Drive C, as shown on page 1 of the Site Plan, which is owned by HEB, HEB shall cause all ad valorem taxes against such portion of Private Drive C to be paid each year prior to the date that such taxes would become delinquent.

(b) **Utility Lines.** Each Owner shall service, maintain, repair, replace, and pay the cost of any fees or charges in connection with the Utility Lines located on its Parcel, including but not limited to the Shopping Center Utilities, to the extent that such Utility Lines service the improvements on that Parcel or service the Shopping Center as a whole if such services are not provided. To the extent that any Utility Line, including but not limited to the Shopping Center Utilities, exclusively servicing any Parcel crosses another Owner's Parcel, such Utility Line shall be maintained by the party served by the Utility Line, subject to the provisions of this Agreement. The maintenance, repairs, and replacement of any portion of any Utility Lines serving more than one Parcel, including but not limited to the Shopping Center Utilities, shall be performed by the Owner of the Parcel crossed by the Utility Line, but the cost thereof shall be shared on an equitable basis based upon the relative square footage of the improvements located on the affected Parcels served by the Utility Line.

(c) **Compliance with Applicable Law.** Each Owner shall cause the Common Areas and all buildings and improvements located on its Parcel to comply with all applicable requirements of law and governmental regulation applicable thereto.

(d) **Unimproved Portions of Parcels.** Until such time as buildings or improvements are constructed on any Parcel, each Owner shall take or cause to be taken such measures as may be necessary to control weeds, blowing dirt and sand, and similar matters, with respect to the undeveloped area located on its Parcel. Each Owner shall have the right to build or otherwise improve any unimproved portion of their Parcel subject to the applicable provisions of this Agreement.

(e) **Building Maintenance.** Each Owner shall maintain (or use commercially reasonable efforts to cause to be maintained by tenants, to the extent required under individual tenant leases), in good order and repair, consistent in manner and appearance with similar properties in the market area, all buildings (including, but not limited to, all loading docks, truck facilities, compactor areas, and permitted building signs) located on its Parcel, as well as its identification panels, if any, on any pylon signs.

ARTICLE 6 **Insurance and Indemnity**

6.1 **Insurance.** Each Owner shall maintain, or cause to be maintained, commercial general liability insurance insuring against claims on account of lost life, bodily injury or property damage that may arise from, or be occasioned by the condition, use or occupancy of the Common Areas situated upon its respective Parcel, or caused by such Owner, or caused by those persons for whose acts and omissions such Owner is legally liable. Each respective Owner shall obtain an insurance policy, according to the provisions hereof, covering the Common Area on its Parcel from a reputable insurance company or companies qualified to do business in the State of Texas and that is rated by Best's Insurance Reports not less than "A"; and each such policy of insurance shall have limits for loss of life or bodily injury in amounts of not less than \$3,000,000.00 for each occurrence. The limits of such policies shall be reviewed by the parties and approved as to sufficiency at least every five (5) years. Such insurance may be carried under a "blanket" policy or "blanket" policies covering other properties of each respective party, and, provided that an Owner maintains a tangible net worth in excess of \$100,000,000, may be subject to such self-insured retentions as such Owner may desire. Each Owner shall, upon written request from the other party, furnish to the requesting Owner one or more certificates of insurance evidencing the existence of the insurance required above.

If a Party performs any construction on any other Party's Parcel, including without limitation the construction of the Site Work or a Utility Line or other related improvements upon another Owner's Parcel as permitted hereby, then the Party performing such construction shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

- (i) Workers' Compensation – statutory limits;
- (ii) Employers Liability - \$1,000,000.00;
- (iii) Commercial General and Comprehensive Auto Liability as follows:
 - (a) Bodily Injury - \$2,000,000.00 per occurrence;

- (b) Property Damage - \$2,000,000.00 per occurrence;
- (c) Independent Contractors Liability or Owner's Protective Liability; same coverage as set forth in (a) and (b) above;
- (d) "XCU" Hazard Endorsement, if applicable;
- (e) "Broad Form" Property Damage Endorsement;
- (f) "Personal Injury" Endorsement;
- (g) "Blanket Contractual Liability" Endorsement;

(iv) Builders Risk Insurance for all risk of physical loss during the term of a construction contract until work is complete, and with appropriate coverage for (a) the cost of clearing all damaged improvements from the Shopping Center and (b) the full insurable value of improvements constructed and materials stored at the Shopping Center.

The Owner of the burdened Parcel shall be an additional named insured and such insurance shall provide that the same shall not be canceled or materially reduced without at least thirty (30) days prior written notice to the additionally named insureds. If such insurance is canceled or expires then the constructing Owner shall immediately stop all work on or use of another Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained.

6.2 **Indemnity.** EACH OWNER SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS THE OTHER OWNERS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, LOSSES, COSTS, FEES (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES), EXPENSES, CAUSES OF ACTION, SUITS, CLAIMS OR JUDGMENTS ARISING FROM INJURY TO PERSON OR PROPERTY AND OCCURRING ON SUCH OWNER'S RESPECTIVE COMMON AREA, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER OWNERS.

ARTICLE 7 Restrictive Covenants

7.1 **Grocery Use Restrictions.** No portion of the CS MarketPlace Parcel will be leased, occupied or used, directly or indirectly, for the purpose of or in connection with the conduct of a food store business or food department, or for the storage, display, operation or sale of (i) edible groceries, including but not limited to meats, poultry, seafood, produce, frozen foods, dairy products, bakery products, wine, malt, alcoholic or nonalcoholic beverages, and any other items of food and beverage, (ii) health and beauty products, including but not limited to hair products and supplies, cosmetics, skin and body products, vitamins, herbs, and nutritional supplements, (iii) pet food and supplies, (iv) greeting cards, gift wrapping supplies, and party products, (v) baby apparel and supplies, and furniture, (vi) tobacco products, (vii) lawn and garden products, barbeque grills and related equipment and supplies, (viii) fresh flowers, plants, floral supplies and products, (ix) non-prescription pharmaceuticals, (x) cellular phones(s), cellular phone accessories, and/or cellular phone services, (xi) prescription pharmaceuticals or other products which are required by law to be dispensed by a registered pharmacist, (xii) gasoline or

other fuel for vehicles, (xiii) check cashing, payday loan(s) or paycheck advance(s), or any of them (the items listed in (i) through (x) above being collectively referred to as the "Restricted Items"); provided, however, the following uses shall be permitted as exceptions to the foregoing restriction:

(a) the "Incidental Sale" (as defined below) of Restricted Items (except fresh meat, poultry, seafood and produce) by a store whose principal business is not a food store; the term "Incidental Sale" of Restricted Items being defined to mean that the sale of (i) any one of the Restricted Items shall not exceed ten percent (10%) of gross sales by such store, or (ii) more than one of the Restricted Items shall not exceed thirty percent (30%) of gross sales by such store in the aggregate;

(b) the operation of one (1) liquor store on either Areas B or D, provided that (i) the total Floor Area of any such store shall not exceed 4,500 square feet, and (ii) the total Floor Area devoted to the sale and/or display of wine or wine products (x) if such store is located on Area B, shall not exceed seven hundred (700) combined square feet (inclusive of aisle space), or (y) if such store is located on Area D (comprised of Lots D1, D2, D3, D4, D5, D6, D7, D8 and D9) depicted on the Site Plan, shall not exceed one thousand five hundred (1,500) combined square feet (inclusive of aisle space);

(c) one or more restaurant(s) within the CS MarketPlace Parcel; provided, however, that (i) with respect to Area A (comprised of Lots A1, A2, A3 and A4) depicted on the Site Plan, subject to the No Restaurant Area situated thereon, (x) no individual restaurant may exceed 2,500 square feet of Floor Area, except for fast-food restaurants (such as those currently operated as McDonald's, Taco Bell or Wendy's) located on Lots A2 and A3 which shall not exceed 5,000 square feet of Floor Area in aggregate on either Lot, (y) the aggregate Floor Area of all restaurants situated thereon shall not exceed 10,000 square feet, and (z) no restaurant may be located in the No Restaurant Area except for one (1) sandwich shop (such as that currently operated by "Subway" or "Quizno's") on Lot A4 not exceeding 2,500 square feet of Floor Area, (ii) with respect to Area C (comprised of Lots C1, C2, C3, C4 and C5) depicted on the Site Plan, no individual restaurant may exceed 4,000 square feet of Floor Area except for one (1) casual, family style sit-down restaurant (such as that currently operated by "Chili's") on Lot C1 which shall not exceed 7,000 square feet of Floor Area (except that in lieu of such casual, family style sit-down restaurant, the operation of one (1) Logan's Roadhouse on Lot C1 shall be permitted, provided such restaurant shall not exceed 7,500 square feet of Floor Area) (and, if such casual, family style sit-down restaurant or Logan's Roadhouse exceeding 4,000 square feet of Floor Area is operated on Lot C1, then no restaurant may be located on Lot C2), and the aggregate Floor Area of all restaurants situated on Area C shall not exceed 15,000 square feet, and (iii) with respect to Area B (comprised of Lots B1, B2, B3, B4 and B5) depicted on the Site Plan, the aggregate Floor Area of all restaurants situated thereon shall not exceed 35,000 square feet; provided that no more than four (4) restaurants exceeding 5,000 square feet of Floor Area shall be permitted on Area B;

Moreover, no restaurants permitted above shall exceed the following limitations on the percentage of gross sales from such operations derived from the sale of alcoholic beverages: (i) twenty percent (20%) - Areas A and C, except that if one (1) casual, family style sit-down restaurant shall be operated on Lot C1, such as that currently operated by "Chili's" as permitted above, the percentage of gross sales from such operations on Lot C1 derived from the sale of alcoholic beverages shall not exceed thirty percent (30%); (ii) thirty percent (30%) - Area B; and (iii) forty percent (40%) - Area D;

(d) the operation of one (1) diet or weight control specialty store such as that currently operated by "WeightWatchers" on either Areas A or C, provided that any such diet or weight control store or facility shall not exceed 3,000 square feet of Floor Area, and the operation of one (1) diet or weight control specialty store on each of Areas B and D;

(e) the operation of one (1) gym or fitness center on each of Areas A, B and D (provided that no such store shall be located on Lot A1 and any such store located on Area A shall not exceed 5,000 square feet of Floor Area);

(f) the sale of baby apparel, furniture and/or supplies by (i) stores such as those currently operated as "Beall's", "Marshall's", or "Kohl's" whose primary business is not the sale of baby apparel, furniture or supplies, on each of Areas B and D; (ii) one (1) specialty baby store not exceeding 3,000 square feet of Floor Area on either Areas A or C and either Areas B or D; and (iii) one (1) specialty baby store such as that currently operated by "Babies R Us" on Area D not exceeding 45,000 square feet of Floor Area;

(g) the sale of lawn and garden products, barbeque grills and related equipment and supplies by a hardware store such as that currently operated by "Ace Hardware" or "Tru Value" or by a home improvement discount store such as that currently operated by "Home Depot" or "Lowes", provided that the total Floor Area devoted to the sale or display of barbeque grills and related equipment and supplies shall not exceed five percent (5%) of the Floor Area of such store's premises and further provided that no such store may be located closer than 300 feet from the HEB Parcel;

(h) the operation of one (1) toy store on each of Areas A, B, C, and D, provided that any such toy store shall not exceed 3,000 square feet of Floor Area, and the operation of one (1) toy store on Area D such as that currently operated by "Toy R Us" not exceeding 55,000 square feet of Floor Area;

(i) the operation of one (1) specialty book store such as that currently operated by "Barnes & Noble", "Books A Million" or "Borders" on each of Areas B or D, and the operation of one (1) specialty book store on Area C, provided that any such store shall not exceed 3,000 square feet of Floor Area;

(j) the operation of one (1) specialty tobacco store selling tobacco and related products, such as that currently operated by "Humidor" on either Areas A or C (but not a store whose principal business is the discount sale of tobacco products or any such store with a drive thru facility on either Areas A or C), provided that any such store shall not exceed 3,000 square feet of Floor Area; and the operation of one (1) specialty tobacco store on either Areas B or D, but not a store whose principal business is the discount sale of tobacco products;

(k) the operation of one (1) of each of the following stores on each of Areas A, B, C, and D: a juice bar such as that currently operated by "Jamba Juice", a smoothie store such as that currently operated by "Smoothie King", a kolache store, an ice cream store, a frozen yogurt store, a donut store and/or a candy store, provided that the total Floor Area of each such store on each of Areas A and C shall not exceed 2,000 square feet;

(l) the operation of one (1) specialty coffee store such as that currently operated by "Starbucks" on each of Areas A and C, provided that such specialty coffee store does not have a drive through facility if located on Area A, and further provided that (i) such specialty coffee store, if located on Area C and situated not closer than 700 feet from the entrance of the HEB Building (as indicated on the Site Plan), may include a drive through facility so long as it maintains a minimum of four (4) queuing spaces (and otherwise complies with the Drive-Through Facility Queuing Requirements of the City of College Station's Unified Development Code), and (ii) the total Floor Area of such specialty coffee store shall not exceed 3,000 square feet of Floor Area; and the operation of up to two (2) specialty coffee stores on each of Areas B and D;

(m) the operation of one (1) cosmetic or beauty supply store such as that currently operated by "Bath & Body Works," "The Body Shop," "Sally Beauty" or "Merle Norman" on either Areas A or C, provided that any such store shall not exceed 3,000 square feet of Floor Area, and the operation of one (1) cosmetic or beauty supply store on each of Areas B and D;

(n) the operation of one (1) craft or hobby store on either Areas A or C, provided that any such store shall not exceed 3,000 square feet of Floor Area, and the operation of one (1) craft or hobby store such as that currently operated by "Michaels," "JoAnn" or "Hobby Lobby" on each of Areas B and D;

(o) the operation of one (1) learning center such as that currently operated by "Sylvan," "Huntington" or "Kumon" on either Areas A or C; provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) such learning center on each of Areas B and D;

(p) the operation of one (1) specialty card store such as that currently operated by "Hallmark" on Area C; provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) specialty card store on either Areas B or D;

(q) the operation of one (1) retail flower store on Area C, provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) retail flower store on either Areas B or D;

(r) the operation of one (1) party supply store on either Areas B or C, provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) party supply store such as that currently operated by "Party City" on Area D;

(s) the operation of one (1) retail pet store on either Areas B or C not exceeding 3,000 square feet of Floor Area, and the operation of one (1) retail pet store such as that currently operated by "PetSmart" or "Petco" on Area D;

(t) the operation of one (1) cellular phone store on each of Areas A and C situated at least 300 feet from the front entrance of the HEB Building (provided, however, that a cellular store such as that currently operated by "Sprint/Nextel," "Cricket" or "Pocket" shall only be permitted if such store is situated at least 500 feet from the HEB Parcel), and the operation of up to two (2) cellular phone stores in the aggregate on Areas B and D;

(u) the operation of one (1) check cashing, payday loan or paycheck advance store on each of Area C and either Areas B or D, provided that the Floor Area of any such store does not exceed 2,000 square feet;

(v) the operation of one (1) vitamin and supplement store on either Areas A or C, such as that currently operated by "GNC" or "The Vitamin Shoppe", provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) vitamin and supplement store on each of Areas B and D;

(w) the operation of one (1) consumer electronics and supplies store such as that currently operated by "Radio Shack" on Area C, provided that the Floor Area of any such store does not exceed 5,000 square feet, and the operation of (A) one (1) consumer electronics store such as that currently operated by "Best Buy" on either Areas B or D and (B) one (1) consumer electronics and

supplies store such as that currently operated by "Radio Shack" on each of Areas B or D, subject to the limitations applicable thereto set forth below;

(x) the operation of one (1) farm and ranch supply store such as that currently operated by "Tractor Supply" on Area C, provided that the Floor Area of any such store does not exceed 3,000 square feet, and the operation of one (1) farm and ranch supply store on either Areas B or D; and

(y) the operation of a pharmacy situated within, and operated in connection with, a hospital permitted hereunder; provided that such hospital pharmacy shall not be (i) a freestanding pharmacy, (ii) operated by Walgreen's, Eckerd's, CVS or any other company operating ten (10) or more pharmacies, and/or (iii) situated closer than 350 feet from the HEB Building.

The stores permitted under subsections (b) through (y) above shall not have a common door or be operated as a common enterprise, but the foregoing shall not preclude the sale of items permitted in one of such subsections in a store permitted under a different subsection, provided that the square foot area limitations for such store, if any, as set forth above shall not thereby be increased due to any such sales. Furthermore, any restaurant uses permitted hereby, except for a takeout or delivery pizza store, or a sandwich shop (such as that currently operated by "Subway" or "Quizno's") must have as their principal business the sale of prepared food for on-premises consumption; provided that the Incidental Sale of prepared food for off-premises consumption (as defined in this section) and the operation of a fast-food restaurant such as that currently operated by "McDonald's," "Taco Bell" or "Wendy's" on a Pad shall also be permitted subject to the distance and square footage limitations for restaurants set forth above; but it is expressly understood that the operation of a meals-to-go business such as that currently operated by "Eatzi's," "Luby's Meals-to-Go," and/or "Dean and Deluca's" shall not be permitted (provided however that (i) two (2) take-out or to-go operations located within a restaurant, such as that currently operated by "Chili's to Go" and "Luby's to Go" shall be permitted on Area D, and (ii) a pre-packaged meals-to-go business such as that currently operated by "Fit Foods" shall be permitted on Area D).

For purposes of this Section 7.1, (i) "Incidental Sale" shall mean ten percent (10%) or less of gross sales from such premises attributable to the sale of any one of the items set forth in Section 7.1(a) above, and (ii) "Incidental Sale of prepared food for off-premises consumption" shall mean thirty percent (30%) or less of annual gross revenues from such premises attributable to the sale of such prepared food.

In addition to the foregoing restrictions, no store on the CS MarketPlace Parcel occupying more than 20,000 square feet of Floor Area and primarily engaged in the sale of office products and supplies (such as that currently operated by "Office Depot" or "Office Max"), and no store on the CS MarketPlace Parcel occupying more than 25,000 square feet of Floor Area and primarily engaged in the sale of consumer electronics equipment and supplies (such as that currently operated by "Circuit City" or "Best Buy") may be situated on either Areas A or C. Furthermore, in no event shall the CS MarketPlace Parcel be leased, occupied or used, directly or indirectly, for the operation of a car wash.

In the event of any conflict with Floor Area(s) limitations specified in this Section 7.1 and the Maximum Floor Area(s) set forth in the Building Restriction Plan, this Section 7.1 shall control with respect to the specific uses referenced herein.

7.2 Prohibited Office, Other Uses. No Owner will permit the use of any portion of the Shopping Center for any purpose other than retail, office and service establishments common to first-class shopping centers of comparable size located in the College Station, Texas area. Notwithstanding the foregoing, each party agrees that office use shall not exceed fifteen percent (15%) of the buildings constructed on its respective Parcel (other than on each of Areas B and D, as permitted hereunder).

Service establishments shall include, but not be limited to, the business of financial institutions, investment, real estate, and insurance offices, medical, dental, licensed massage and chiropractic offices, cleaners, barber, beauty, nail and tanning shops, hair cutting salons, shoe repair shops, optical stores and optician offices, and travel agencies.

The following uses will not be made, conducted or permitted on or with respect to all or any part of the Shopping Center (collectively, the "Prohibited Uses"): any nuisance; any use which violates laws or requirements of governmental authorities having jurisdiction over the Shopping Center; the primary use of any building as a warehouse; an assembly hall; hotel (except that one (1) hotel shall be permitted on Area D, provided that such hotel is either (x) situated at least 700 feet from the front entrance of the HEB Building and is operated in connection with a development on Area D consistent with one of the approved Development Plans or (y) located west of the Demarcation Line, as shown on the Site Plan, provided, however, that if such proposed hotel operation on Area D is not consistent with an approved Development Plan or located west of the Demarcation Line, then the conceptual site plan for such operation shall be subject to HEB's prior written approval); distillation operation; a telecommunications tower; mobile home or trailer park; the drilling for and/or removal of subsurface substances; kennel or veterinary clinic where animals are kept overnight (except on each of Areas B and D); school (except that the foregoing will not prohibit instructional classes on the HEB Parcel or one (1) school on Area D so long as such school does not affect HEB's ability to sell or display alcohol, including but not limited to beer and wine, and is either (x) situated at least 700 feet from the front entrance of the HEB Building and is operated in connection with a development on Area D consistent with one of the approved Development Plans or (y) located west of the Demarcation Line, as shown on the Site Plan, provided, however, that if such proposed school operation on Area D is not consistent with an approved Development Plan or located west of the Demarcation Line, then the conceptual site plan for such operation shall be subject to HEB's prior written approval); church; assembly hall; museum; pawn shop; movie theatre (except that one (1) movie theater shall be permitted on Area D, provided that such theater is either (x) situated at least 700 feet from the front entrance of the HEB Building and is operated in connection with a development on Area D consistent with one of the approved Development Plans or (y) located west of the Demarcation Line, as shown on the Site Plan, provided, however, that if such proposed theater operation on Area D is not consistent with an approved Development Plan or located west of the Demarcation Line, then the conceptual site plan for such operation shall be subject to HEB's prior written approval); game room (unless operated in conjunction with a restaurant on either Areas B or D, such as that currently operated by "Chuck E Cheese" or "Dave and Buster's," to the extent permitted hereunder) or amusement park; skating rink; pool hall or billiard parlor (other than one (1) family pool hall such as that currently operated by "Slick Willie's" on either Areas B or D, to the extent permitted hereunder); bowling alley (except for one (1) bowling alley on Area D, provided that such bowling alley is situated at least 700 feet from the front entrance of the HEB Building); dancehall; saloon, cocktail lounge, nightclub or bar (except for one (1) nightclub or bar on Area D, to the extent permitted hereunder, provided that such nightclub or bar is situated at least 700 feet from the front entrance of the HEB Building); mortuary or funeral home; automobile body and repair shop (except for one (1) first class national or regional automobile body and repair shop on each of Areas B and D); flea market; assisted-living facility (except on Area D, provided that such facility is either (x) situated at least 700 feet from the front entrance of the HEB Building and is operated in connection with a development on Area D consistent with one of the approved Development Plans or (y) located west of the Demarcation Line, as shown on the Site Plan, provided, however, that if such proposed assisted-living facility operation on Area D is not consistent with an approved Development Plan or located west of the Demarcation Line, then the conceptual site plan for such operation shall be subject to HEB's prior written approval); or adult book store or store selling sexually explicit material.

7.3 **Run with the Land.** These covenants shall run with the land hereby restricted throughout the Term. The covenants set forth in Section 7.1 shall inure to the benefit of HEB, and HEB shall have the

sole right to enforce, release or waive such covenants. In no event shall the restrictive covenants affecting the CS Marketplace Parcel set forth in Section 7.1 be binding upon HEB in connection with HEB's use of the CS Marketplace Parcel as permitted hereunder, or in the event that HEB ever becomes the Owner or Occupant of all or any part of the CS Marketplace Parcel. The covenants set forth in Section 7.2 shall inure to the benefit of HEB and CS Marketplace, and shall not be waived or released without the consent of each of HEB and CS Marketplace.

ARTICLE 8 Remedies

8.1 **Self Help and Other Remedies.** If any Party defaults in the performance of its obligations hereunder and the default is not cured within ten (10) days following delivery of written notice to such defaulting party or such additional time not as may be reasonably necessary under the circumstances, not to exceed sixty (60) days then the non-defaulting Party shall have the right to (i) to perform such obligation on behalf of the defaulting Party, in which event such defaulting Party shall reimburse such non-defaulting party on demand for all amounts expended by the non-defaulting party on behalf of the defaulting Party, together with interest thereon at the lesser of twelve percent (12%) per annum ("Default Rate"), or the maximum amount permitted by law from the date the amounts are expended until the date repaid; and/or (ii) exercise any other rights or remedies available to the non-defaulting Party either at law or in equity. Each defaulting Party agrees to execute any applications for permits or other documents required by the non-defaulting Party in order to perform the obligations of the defaulting Party. The Parties hereby acknowledge and agree that in the event a Party fails to perform any of its construction and/or maintenance obligations hereunder, the non-defaulting Party is hereby granted a temporary construction, access, and/or maintenance easement, as applicable, upon the Common Areas of the defaulting Party's Parcel to perform such maintenance work on behalf of the defaulting Party.

8.2 **Injunctive Relief.** In the event of a breach by any party hereto of any obligation of such party under this Agreement, the non-defaulting Party shall be entitled to injunctive relief mandating compliance herewith, and shall be entitled to obtain a decree specifically enforcing the performance of the obligations created hereunder. The undersigned hereby acknowledge and stipulate the inadequacy of legal remedies and irreparable harm which would be caused by the breach of this Agreement, and such non-defaulting party shall be entitled to relief by any and all other available legal and equitable remedies from the consequences of such breach. Any costs and expenses of any such proceeding, including reasonable attorney's fees, shall be paid by the defaulting party.

8.3 **Non-Waiver.** No delay or omission of any party hereto in the exercise of any rights created hereunder shall impair such right, or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of an event of default hereunder. A waiver by any party hereto of a breach of, or default in, any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach thereof or of any other provision of this Agreement. Except as otherwise specifically provided in this Agreement, no remedy provided in this Agreement shall be exclusive, but shall be cumulative with all other remedies provided for in this Agreement, and all other remedies at law or in equity which are available to the parties hereto.

ARTICLE 9 Notices

All notices, demands, statements, and requests (collectively the "Notice") required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Party to whom the

notice is addressed or if such Party is not available the date such notice is left at the address of the Party to who it is directed, (ii) on the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt request, (iii) on the date the notice is delivered by a courier services (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the Party to whom it is directed, provided it is sent prepaid, return receipt requested, and (iv) on the date the notice is received if sent by facsimile or electronic delivery. The address of the signatories to this Agreement is set forth below:

If to HEB: HEB Grocery Company, LP
646 South Main Avenue
San Antonio, Texas 78204
Attn: Todd A. Piland
Facsimile: (210) 938-7788

HEB Grocery Company, LP
4301 Windfern
Houston, Texas 77041-8915
Attn: Richard Golden
Facsimile: (713) 329-3948

With a copy to: Drenner & Golden Stuart Wolff, LLP
300 Convent Street, Suite 2600
San Antonio, Texas 78205
Attn: Stephen L. Golden
Fax: (210) 745-3737

If to CS MarketPlace: College Station MarketPlace, L.P.
520 Post Oak Blvd., Suite 850
Houston, TX 77027
Attn: Andy Weiner
Fax: (713) 623-0178

Crowley Development Corporation
204 North Highland
Marfa, Texas 79843
Attention: Timothy J. Crowley
Fax: (713) 651-1775

With copy to: Bradley F. Schlosser
Schlosser Development Corporation
601 North Lamar, Suite 301
Austin, Texas 78703
Fax: (512) 472-5774

ARTICLE 10
General Provisions

10.1 **Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective Permittees, as well as the successors and assigns of such Persons. The easements and restrictive covenants shall be appurtenant to and for the benefit of all the

Owners and shall run with the land for the periods set forth herein. This Agreement shall be construed in accordance with the laws of the State of Texas and all obligations hereunder are performable in City of College Station, Brazos County, Texas.

10.2 **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application of it to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to Persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

10.3 **Captions.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

10.4 **Gender.** In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

10.5 **Relationship of the Parties.** Nothing contained herein shall be construed to make the parties hereto partners or joint venturers, or render any of such parties liable for the debts or obligations of the other party hereto.

10.6 **Amendment.** This Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the Owners of seventy-five percent (75%) of the land area of the HEB Parcel and seventy-five percent (75%) of the land area of the CS MarketPlace Parcel (excluding, however, any portion of Area D west of the Demarcation Line as shown on the Site Plan); provided that (a) only HEB, as the original signatory hereto, shall have the right to waive, modify or amend the restrictions set forth in Section 7.1, regardless of whether or not HEB has an ownership or leasehold interest in the Shopping Center, and it may do so without the consent of any other Owner, Occupant or otherwise; provided however that the foregoing shall not permit HEB to impose additional use restrictions on the CS MarketPlace Parcel, expand the scope of the use restrictions on the CS MarketPlace Parcel, or increase or impose additional obligations on the CS MarketPlace Parcel, in any of such events without the written and recorded agreement of the Owners of seventy-five percent (75%) of the land area of the CS MarketPlace Parcel, excluding Area D unless such Owners shall be required in accordance with this Section 10.6, and (b) if such instrument imposes additional obligations or restrictions on an Owner of a Parcel within the portion of Area D west of the Demarcation Line, as shown on the Site Plan, the Owner(s) of the Parcel within Area D so affected [but no other Owners of Parcels within Area D west of the Demarcation Line] must join in such instrument. Except as expressly provided in this section, in no event shall any amendment of this Agreement ever require the consent or joinder of any one or more of the agents, patrons, customers, employees, tenants, licensees or invitees of the Shopping Center.

10.7 **No Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for the general public or for any public purpose whatsoever, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not specifically benefited by the terms and provisions hereof. Nothing contained in this Agreement shall prohibit either Party hereto from dedicating all or any part of the easement areas owned by that Party to an appropriate governmental entity, the effect of which would create a public street on the easement area so dedicated, with maintenance and repair responsibilities transferring to the County of Brazos, or other governmental entity; provided, however, that any such dedication shall not be permitted if the effect of a dedication would be to materially alter, modify or restrict the intended access easements contemplated under this Agreement.

10.8 **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.

10.9 **Attorneys Fees.** In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

10.10 **Term.** This Agreement and the easements, rights, obligations and liabilities created hereby shall encumber the Shopping Center for a period of fifty (50) years, or such lesser period if and to the extent a lesser period is required by applicable law, and thereafter the terms hereof shall be renewed automatically for successive ten (10) year periods unless all Owners and any parties owning at that time any security interest in any of the Parcels execute and record in the Brazos County, Texas, real estate records a statement terminating such restrictive covenants within sixty (60) days of the expiration of such statutory period or any ten (10) year renewal thereof.

10.11 **Consent and Approvals.** Whenever any proposed action by any Owner(s) of a Parcel requires the consent or approval of the Owner(s) pursuant to this Agreement, then the Owner requesting such consent or approval shall submit to the Owner(s) a written notice delivered in accordance with Article 9 above describing the action for which such Owner seeks consent or approval, together with full, complete, and legible copies of all such documents or instruments reasonably necessary for the Owner(s) to review in connection with such request. Unless otherwise provided in this Agreement, the other Owner(s) shall have ten (10) business days from the date such notice is delivered or deemed delivered hereunder in which to respond to the request of such Owner for consent or approval. Unless otherwise provided in this Agreement, if the other Owner(s) do not respond to such request within the ten (10) business day period, such Owner(s), save and except only HEB, whose consent and approval shall be required in writing, shall be deemed to have consented to and approved the action for which consent or approval was requested if the notice requesting such consent or approval expressly states in bold face type, in all capital letters, in a conspicuous place, that failure to respond within such ten (10) business day period will be deemed to constitute consent or approval. Unless otherwise expressly provided in this Agreement, whenever a consent or approval is required, such consent or approval shall not unreasonably be withheld, hindered, conditioned, or delayed. Each party shall bear its own costs and expense (including attorneys' fees) in connection with any requests for approval or consent. If and to the extent any other provision of this Agreement provides for a different method, standard, or time frames with respect to obtaining the consent of an Owner, such other provision shall control, it being the intent of the Owners that this provision govern all situations for which no express procedure has otherwise been provided.

10.12 **Subdivision of a Parcel, Effect of Subdivision of Parcel on Owner's Consent Requirements.** If an Owner subdivides its Parcel, until such time as the resulting Owners of a subdivided Parcel have, by a written notice delivered to all of the other Owners, designated a single Owner to grant or deny any approval or consent on their behalf, whenever the consent of the Owner(s) of such Parcel is required pursuant to this Agreement, and except with respect to the consent of HEB, the Owner of the largest of such resulting lots or parcels, as the case may be, shall have the sole right to grant or deny the requested approval or consent on behalf of all Owners within such subdivided Parcel. If a subdivision results in equal size Parcels, then the Owner of the original Parcel so divided shall have the sole right to grant or deny the requested approval or consent on behalf of all Owners within such subdivided Parcel.

10.13 **Estoppel Certificate.** At any time, and from time to time (but not more often than once every calendar quarter), within twenty-one (21) calendar days after notice or request by an Owner, the other Owner(s), at no cost to the requesting Owner and, if applicable, such requesting Owner's lender and/or a prospective lender or purchaser (and such purchaser's lender) with respect to the requesting Owner's Parcel, shall execute and deliver to such requesting Owner a statement certifying: (a) that this Agreement is unmodified and is in full force and effect (or if there have been modifications, certifying that this Agreement is in full force and effect as modified in the manner specified in such statement); (b) that there exists no default under this Agreement except as otherwise specified in such statement; and (c) to such other matters relating to this Agreement as may reasonably be requested by the requesting Owner.

10.14 **Subordination.** The liens of any mortgage loans or deeds of trust now or hereafter obtained by an Owner secured in whole or in part by any part of a Parcel shall be subordinate to this Agreement, and the Owner whose Parcel is burdened by such liens shall cause the liens to be so subordinated promptly upon the execution of this Agreement.

10.15 **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

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~~Bk Vol Ps
01052637 OR 9497 223~~

EXECUTED effective the date first written above.

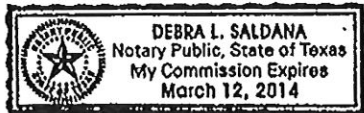
HEB:

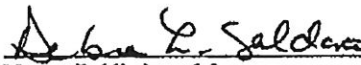
HEB GROCERY COMPANY, LP,
a Texas limited partnership

By: 
Name: Todd A. Piland
Title: Executive Vice President of Real Estate

THE STATE OF TEXAS §
§
COUNTY OF BEXAR §

The foregoing instrument was acknowledged before me this 8th day of February, 2010, by Todd A. Piland, Executive Vice President of Real Estate of HEB GROCERY COMPANY, LP, a Texas limited partnership, on behalf of said partnership.




Notary Public in and for
The State of Texas

Doc Bk Vol Pg
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~~Doc Bk Vol Pg
01052637 DR 9497 224~~

CS MARKETPLACE:

COLLEGE STATION MARKETPLACE, L.P.,
a Texas limited partnership

BY: COLLEGE STATION MARKETPLACE, GP, LLC and
BY: CROWLEY DEVELOPMENT, LLC

By: *Timothy J. Crowley*
its general partner

By: _____
Name: Timothy J. Crowley
Title: Manager

THE STATE OF TEXAS §
§
COUNTY OF Brazos §

The foregoing instrument was acknowledged before me this 9th day of February, 2010, by Timothy J. Crowley the Manager of College Station Marketplace, GP, LLC as general partners of College Station Marketplace, L.P., a Texas limited partnership, on behalf of said limited partnership.

** and CROWLEY DEVELOPMENT, LLC.

Linda Morgan
Notary Public in and for
The State of Texas



After recording return to:
Ami E. Gordon
Drenner & Golden Stuart Wolff, LLP
300 Convent Street, Suite 2600
San Antonio, Texas 78205

**Consent and Subordination of Lender
To**

Declaration of Easements, Covenants, Conditions and Restrictions

First Victoria National Bank ("Lender"), owner and holder of certain liens for the benefit of Lender, executed by Timothy C. Jones, SVP recorded in the Real Property Records of Brazos County, Texas (collectively, the "Security Instruments") (i) hereby consents to the foregoing Declaration of Easements, Covenants, Conditions and Restrictions ("Declaration") to which this Consent and Subordination of Lender is attached and the imposition of the Declaration on the real property encumbered by the Security Instruments and (ii) confirms that from and after this date, the provisions of the Declaration will be superior to all liens in favor of Lender and Lender's rights under the Security Instruments.

Lender:

FIRST VICTORIA NATIONAL BANK

By: *Timothy C. Jones*
Name: Timothy C. Jones
Title: SVP.

STATE OF TEXAS §
 §
COUNTY OF Brazos §

This instrument was acknowledged before me on February 10, 2010 by Timothy C. Jones, Senior Vice President First Victoria National Bank, a National Banking** on behalf of said association.
** Association

Linda Morgan
Notary Public, State of Texas



EXHIBIT A

Doc 01052637 BK DR Uo1 9497 Ps 226

Tower Point Subdivision - Phase 3
Lot 12, 13A and 13C - 16.29 Acre Tract
Robert Stevenson Survey, A-54
College Station, Brazos County, Texas

Field notes of an 16.29 acre tract or parcel of land, lying and being situated in the Robert Stevenson Survey, Abstract No. 54, College Station, Brazos County, Texas, and being part of the 89.42 acre - Tract One, described in the deed from Timothy J. Crowley to College Station Market Place, L.P., recorded in Volume 8274, Page 111, of the Official Records of Brazos County, Texas, and said 16.29 acre tract being more particularly described as follows:

BEGINNING at the common corner between the beforementioned 89.42 acre tract and Lot 2, South Park Estates, Phase One, according to the plat recorded in Volume 795, Page 259, of the Official Records of Brazos County, Texas, from which an 8" creosote post bears N 22° 40' E - 1.0 feet;

THENCE S 60° 58' 37" E along the common line between the beforementioned 89.42 acre tract and South Park Estates, for a distance of 138.71 feet to a 1/2" iron rod set in the northwest right-of-way line of State Highway No. 40 (W. D. Fitch Parkway);

THENCE S 48° 59' 02" W along the northwest right-of-way line of the beforementioned State Highway No. 40, for a distance of 285.73 feet to a 1/2" iron rod set;

THENCE along the centerline of a proposed 40' wide private access easement and public utility easement, as follows:

N 41° 00' 58" W for a distance of 45.94 feet to a 1/2" iron rod set at the beginning of a curve, concave to the south, having a radius of 150.00 feet,
Westerly along said curve, for an arc distance of 117.14 feet to a 1/2" iron rod set at the end of this curve, the chord bears N 63° 23' 16" W - 114.18 feet,
N 85° 45' 33" W for a distance of 551.82 feet to a 1/2" iron rod set in the east line of a proposed 28' wide private access and public utility easement;

THENCE along the east and southeast lines of a proposed variable width private access easement and public utility easement, as follows:

N 04° 14' 27" E for a distance of 53.00 feet to a 1/2" iron rod set at the beginning of a curve, concave to the west, having a radius of 414.00 feet,
Northerly along said curve, for an arc distance of 165.25 feet to a 1/2" iron rod set at the beginning of a reverse curve, concave to the east, having a radius of 443.00 feet, the chord bears N 07° 11' 39" W - 164.16 feet,
Northerly along said curve, for an arc distance of 683.18 feet to a 1/2" iron rod set at the beginning of a reverse curve, concave to the northwest, having a radius of 514.00 feet, the chord bears N 25° 33' 02" E - 617.46 feet,
Northeasterly along said curve, for an arc distance of 164.06 feet to a 1/2" iron rod set at the end of this curve, the chord bears N 60° 35' 11" E - 163.36 feet,
N 51° 26' 34" E for a distance of 182.22 feet to a 1/2" iron rod set in the southwest right-of-way line of State Highway No. 6;

Doc 01054761 BK DR 9530 Ps 123

Tower Point Subdivision - Phase 3
Lot 12, 13A and 13C - 16.29 Acre Tract
Robert Stevenson Survey, A-54
College Station, Brazos County, Texas
Continued - Page 2

THENCE along the southwest right-of-way line of the beforementioned State Highway No. 6, as follows:

S 38° 33' 26" E for a distance of 562.50 feet, a concrete right-of-way marker found bears N 19° 15' E - 0.27 feet,
S 43° 30' 26" E for a distance of 103.26 feet to a 1/2" iron rod found marking the common corner between Lot 1, South Park Estates, and the beforementioned 89.42 acre tract;

THENCE S 28° 59' 25" W along the common line between the beforementioned 89.42 acre tract and South Park Estates, for a distance of 370.00 feet to the PLACE OF BEGINNING, containing 16.29 acres of land, more or less.



Surveyed November 2009

By: 
S. M. Kling
R.P.L.S. No. 2003

Prepared 11/20/09
kes09-dvd\tower point ph. 3 - 16.29ac.wpd

EXHIBIT B

College Station Marketplace, LP
50.55 Acre Tract
Robert Stevenson Survey, A-54
College Station, Brazos County, Texas

Field notes of a 50.55 acre tract or parcel of land, lying and being situated in the Robert Stevenson Survey, Abstract No. 54, College Station, Brazos County, Texas, and being part of the 89.42 acre - Tract One, and all of the 4.65 acre - Tract Three described in the deed from Timothy J. Crowley to College Station Market Place, L.P., recorded in Volume 8274, Page 111, of the Official Records of Brazos County, Texas, and said 50.55 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod set in the south right-of-way line of State Highway No. 6, said iron rod is located S 47° 19' 17" E along State Highway No. 6 for a distance of 197.75 feet from a ½" iron rod found marking the north corner of the beforementioned 89.42 acre - Tract One;

THENCE along the southwest right-of-way line of State Highway No. 6, as follows:

S 47° 19' 17" E for a distance of 587.62 feet to a ½" iron rod found,
S 38° 33' 26" E for a distance of 651.67 feet, to a ½" iron rod found marking the north corner of the proposed HEB - 14.48 acre primary tract;

THENCE along the northwest line of the beforementioned proposed HEB - 14.48 acre primary tract, as follows:

S 51° 26' 34" W for a distance of 182.22 feet to a ½" iron rod found marking the beginning of a curve, concave to the northwest, having a radius of 514.00 feet,
Southwesterly along said curve for an arc distance of 164.05 feet to a ½" iron rod found marking the beginning of a reverse curve, concave to the east, having a radius of 443.00 feet, the chord bears S 60° 35' 11" W - 163.36 feet,
Southerly along said curve for an arc distance of 683.18 feet to a ½" iron rod found marking the beginning of a reverse curve, concave to the west having a radius of 414.00 feet, the chord bears S 25° 33' 02" W - 617.46 feet,
Southerly along said curve, for an arc distance of 165.25 feet to a ½" iron rod found marking the end of this curve, the chord bears S 07° 11' 39" E - 164.16 feet,
S 04° 14' 27" W for a distance of 53.00 feet to a ½" iron rod found marking the west corner of the said 14.48 acre tract;

THENCE along the south line of the beforementioned 14.48 acre tract and the southwest line of the proposed HEB - 1.81 acre rear tract, as follows:

S 85° 45' 33" E for a distance of 551.82 feet to a ½" iron rod found marking the beginning of a curve, concave to the southwest, having a radius of 150.00 feet,
Southeast along said curve, for an arc distance of 117.14 feet to a ½" iron rod found marking the end of this curve; the chord bears S 63° 23' 16" E - 114.18 feet,
S 41° 00' 58" E for a distance of 45.94 feet to a ½" iron rod found marking the south corner of the said 1.81 acre tract, said ½" iron rod also being in the northwest right-of-way line of State Highway No. 40;

College Station Marketplace, LP
50.55 Acre Tract
Robert Stevenson Survey, A-54
College Station, Brazos County, Texas
Continued - Page 2

THENCE along the northwest right-of-way line of the beforementioned State Highway No. 40, as follows:

- S 48° 59' 02" W for a distance of 572.83 feet, a concrete right-of-way marker bears S 48° 43' W - 0.25 feet,
S 50° 47' 22" W for a distance of 974.50 feet to a concrete right-of-way marker found a 6" creosote post fence corner bears N 20° 02' E - 1.5 feet,
S 53° 41' 54" W for a distance of 177.54 feet to a ½" iron rod found marking the most southerly east corner of Arrington Road - 80' right-of-way as shown on the Right-of-way Dedication Arrington Road and 80' Decatur Drive according to the plat recorded in Volume 7800, Page 12, of the Official Records of Brazos County, Texas, said ½" iron rod being the beginning of a transition curve, concave to the north, having a radius of 30.00 feet, said corner also being the south corner of the beforementioned 4.65 acre - Tract Three;

THENCE along the east and northeast right-of-way line of Arrington Road, as follows:

- Westerly along said curve, for an arc distance of 51.56 feet to a ½" iron rod found marking the end of this transition curve, the chord bears N 77° 04' 10" W - 45.44 feet,
N 27° 50' 14" W for a distance of 449.67 feet to a ½" iron rod found marking the beginning of a curve, concave to the east, having a radius of 733.54 feet,
Northerly along said curve, for an arc distance of 925.36 feet to a ½" iron rod found marking the end of this curve, the chord bears N 08° 17' 59" E - 865.21 feet,
N 44° 26' 29" E for a distance of 324.06 feet to a ½" iron rod found marking the beginning of a transition curve, (transitioning around a turnabout), having a radius of 50.00 feet,
Northeasterly along said curve, for an arc distance of 55.69 feet to a ½" iron rod found marking the beginning of a compound curve, concave to the south, having a radius of 300.00 feet, the chord bears N 76° 20' 51" E - 52.85 feet,
Easterly along said curve, for an arc distance of 146.44 feet to a ½" iron rod found marking the end of this curve, the chord bears S 57° 43' 26" E - 144.99 feet,
S 43° 44' 24" E for a distance of 20.00 feet to a ½" iron rod found,
N 46° 15' 36" E for a distance of 65.00 feet to a ½" iron rod found marking the most easterly corner of Arrington Road right-of-way,
N 43° 44' 24" W for a distance of 20.90 feet to a ½" iron rod found marking the beginning of a curve, concave to the southwest, having a radius of 437.00 feet,
Northwesterly along said curve, for an arc distance of 61.71 feet to a ½" iron rod found marking the beginning of a reverse curve, concave to the northeast, having a radius of 84.00 feet, the chord bears N 47° 47' 48" W - 61.66 feet,

College Station Marketplace, LP
50.55 Acre Tract
Robert Stevenson Survey, A-54
College Station, Brazos County, Texas
Continued - Page 3

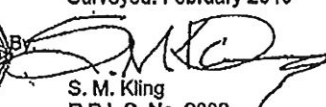
Northwesterly along said curve, for an arc distance of 85.90 feet to a ½" iron rod found marking the beginning of a reverse curve, concave to the southwest, having a radius of 91.00 feet, the chord bears N 22° 32' 52" W - 82.20 feet,
Northwesterly along said curve, for an arc distance of 122.76 feet to a ½" iron rod found marking the beginning of a reverse curve, concave to the northeast, having a radius of 384.00 feet, the chord bears N 31° 53' 58" W - 113.66 feet,
Northwesterly along said curve, for an arc distance of 179.58 feet to a ½" iron rod found marking the end of this curve, the chord bears N 57° 08' 55" W - 177.94 feet,
N 43° 45' 05" W for a distance of 115.32 feet to a ½" iron rod found marking the south corner of the proposed 22.59 acre detention area;

THENCE along the southeast line of the proposed 22.59 acre detention area, as follows:

N 60° 34' 18" E for a distance of 312.05 feet to a ½" iron rod found marking the beginning of a curve, concave to the northwest, having a radius of 380.00 feet,
Northerly along said curve, for an arc distance of 506.36 feet to a ½" iron rod found marking the end of this curve, the chord bears N 22° 23' 52" E - 469.72 feet,
N 15° 46' 35" W for a distance of 448.00 feet to a ½" iron rod found marking the beginning of a curve, concave to the east, having a radius of 200.00 feet,
Northerly along said curve, for an arc distance of 204.05 feet to a ½" iron rod found marking the end of this curve, the chord bears N 13° 27' 04" E - 195.31 feet,
N 42° 40' 43" E for a distance of 27.13 feet to the PLACE OF BEGINNING, containing 50.55 acres of land, more or less.

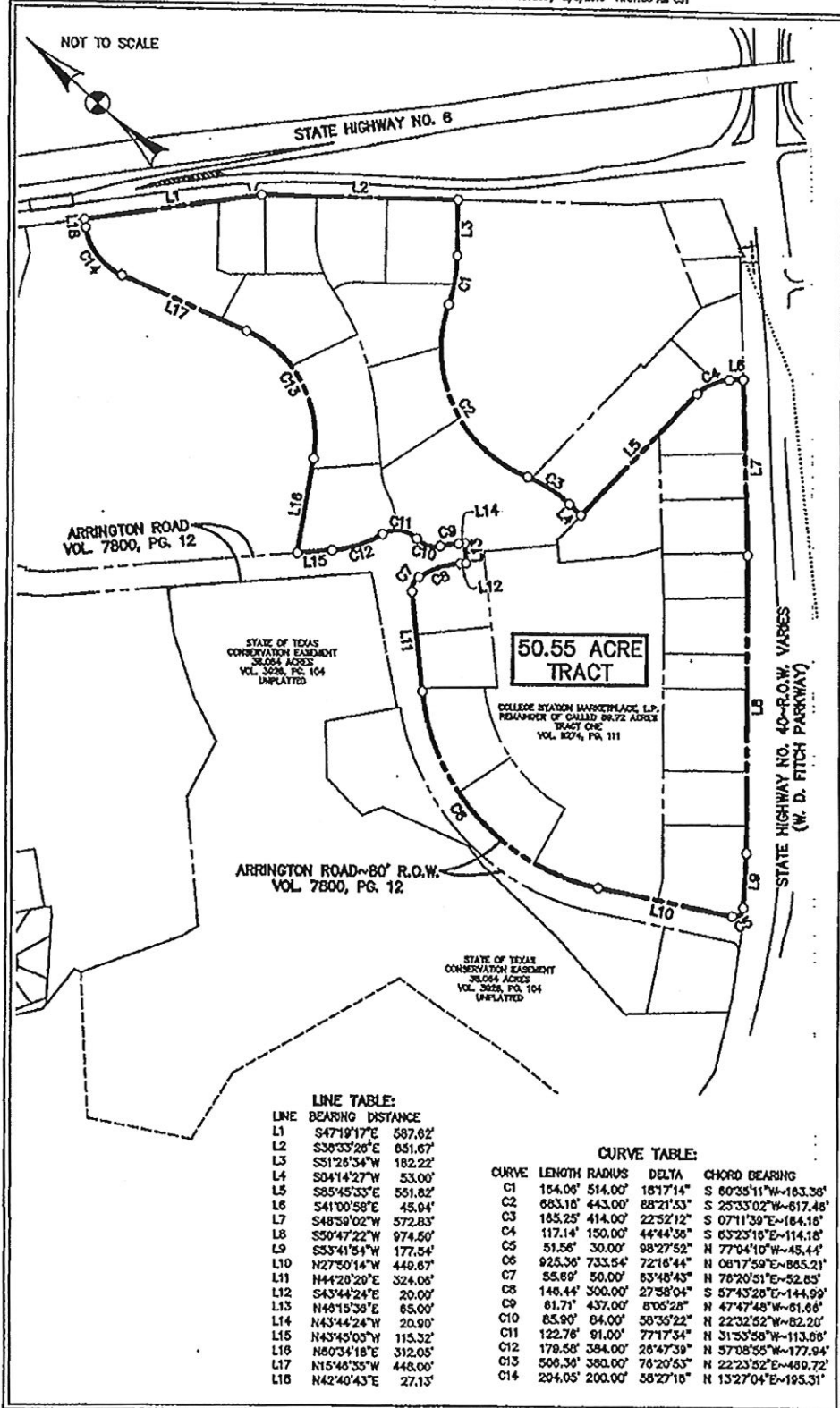


Surveyed: February 2010


S. M. Kling
R.P.L.S. No. 2003

Prepared 02/05/10
ksa10-drd\lower point - college station marketplace - 50.55ac.wpd

H:\Land Projects K2\011\Division Robert A-01\Market Place\day\04b\04\field notes\Tracts\GMP 50.55 Acre Tract.dwg 2/9/2010 11:07:35 AM CST



NOT TO SCALE

STATE HIGHWAY NO. 8

ARRINGTON ROAD
VOL. 7800, PG. 12

STATE OF TEXAS
CONSERVATION EASEMENT
38.066 ACRES
VOL. 3028, PG. 104
UNPLATTED

50.55 ACRE
TRACT

COLLEGE STATION MARKETPLACE, L.P.
REMAINDER OF CALLED 89.72 ACRES
TRACT ONE
VOL. 8274, PG. 111

ARRINGTON ROAD ~80' R.O.W.
VOL. 7800, PG. 12

STATE OF TEXAS
CONSERVATION EASEMENT
38.066 ACRES
VOL. 3028, PG. 104
UNPLATTED

STATE HIGHWAY NO. 40-FOOT W. VARIES
(W. D. FITCH PARKWAY)

LINE TABLE:

LINE	BEARING	DISTANCE
L1	S47°19'17"E	587.62'
L2	S36°33'26"E	631.67'
L3	S51°28'34"W	182.22'
L4	S04°14'27"W	53.00'
L5	S85°45'33"E	551.82'
L6	S41°00'58"E	45.94'
L7	S48°59'02"W	572.83'
L8	S50°47'22"W	974.50'
L9	S53°41'54"W	177.54'
L10	N27°50'14"W	449.67'
L11	N44°20'29"E	324.06'
L12	S43°44'24"E	20.00'
L13	N46°15'39"E	65.00'
L14	N43°44'24"W	20.90'
L15	N43°45'03"W	115.32'
L16	N60°34'18"E	312.05'
L17	N15°46'35"W	448.00'
L18	N42°40'43"E	27.13'

CURVE TABLE:

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING
C1	164.00'	514.00'	181°17'14"	S 60°33'11"W ~163.36'
C2	683.18'	443.00'	88°21'53"	S 25°33'02"W ~617.48'
C3	165.25'	414.00'	22°52'12"	S 07°11'39"E ~184.16'
C4	117.14'	150.00'	44°44'56"	S 63°23'16"E ~114.18'
C5	51.56'	30.00'	98°27'52"	N 77°04'10"W ~45.44'
C6	925.36'	733.54'	72°16'44"	N 06°17'59"E ~865.21'
C7	55.89'	50.00'	83°48'43"	N 76°20'51"E ~52.85'
C8	148.44'	300.00'	27°58'04"	S 57°43'28"E ~144.99'
C9	61.71'	437.00'	8°05'28"	N 47°47'48"W ~61.66'
C10	85.90'	84.00'	58°35'22"	N 22°32'52"W ~82.20'
C11	122.78'	81.00'	77°17'54"	N 31°53'58"W ~113.68'
C12	179.58'	384.00'	26°47'39"	N 37°08'55"W ~177.94'
C13	506.36'	380.00'	76°20'53"	N 22°23'52"E ~489.72'
C14	204.05'	200.00'	58°27'16"	N 13°27'04"E ~195.31'

1807

KLING ENGINEERING & SURVEYING
IRVING, TEXAS

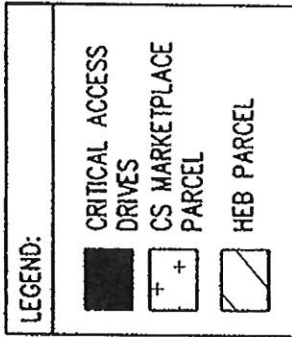
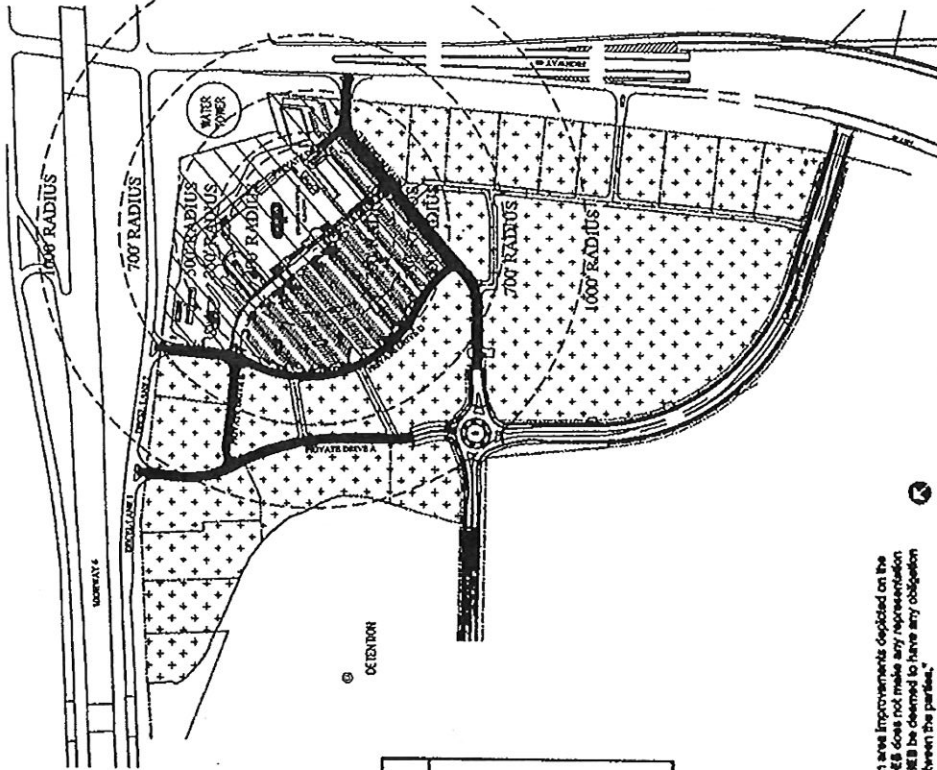
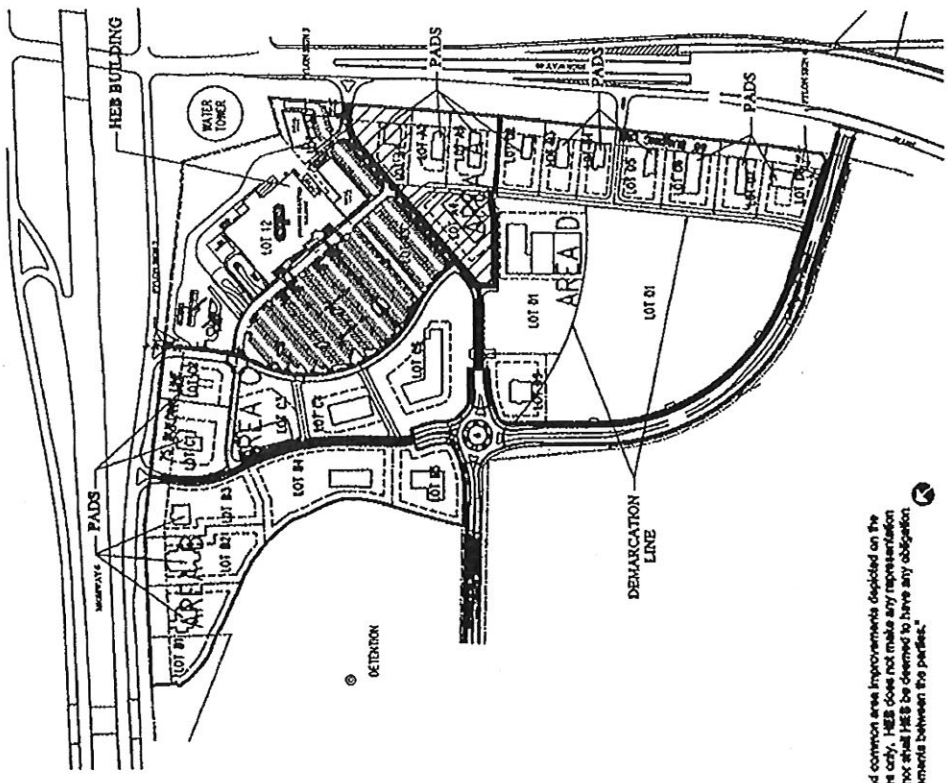


EXHIBIT C
SITE PLAN (Page 1 of 3)
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS

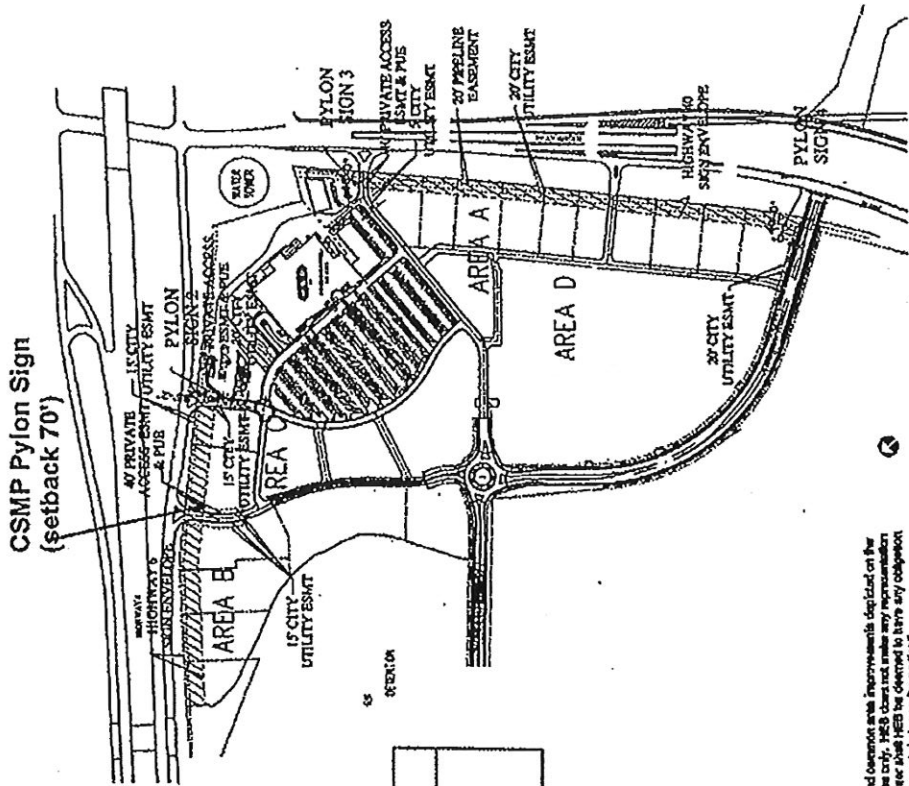
Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on this Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, existence or availability of the same, nor shall HEB be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.



LEGEND:	
■	AREA 'A' CONSISTS OF LOTS A1, A2, A3, A4
□	AREA 'A' NO RESTAURANT AREAS PERMISSIBLE
■	AREA 'B' CONSISTS OF LOTS B1, B2, B3, B4, B5
□	AREA 'C' CONSISTS OF LOTS C1, C2, C3, C4, C5
■	AREA 'D' CONSISTS OF LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9
□	AREA 'A' NO RESTAURANT AREAS PERMISSIBLE
□	BUILDING AREA
---	BUILDING LINE

**EXHIBIT C
SITE PLAN (Page 2 of 3)
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS**

"Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HES Parcel as shown on the Site Plan are for illustrative purposes only. HES does not make any representation regarding the construction, existence or availability of the same, nor shall HES be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties."




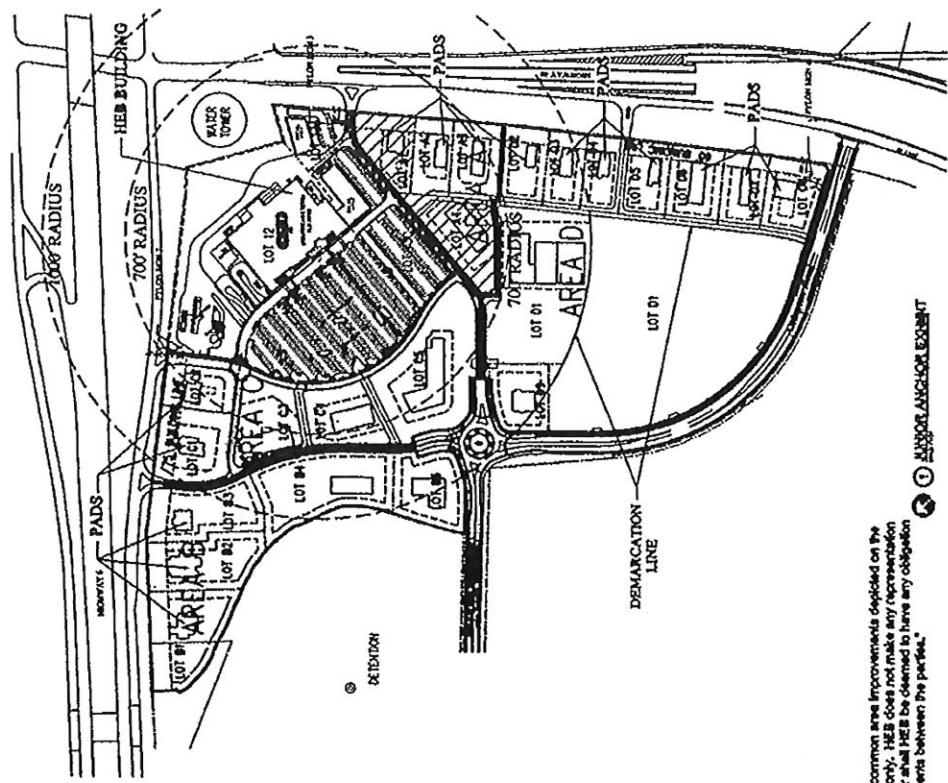
LEGEND:
 SIGN ENVELOPE

EXHIBIT C
 SITE PLAN (Page 3 of 3)
 TOWER POINT S.C.
 STATE HWY 6 AT HWY 40
 COLLEGE STATION, TEXAS

Note: The location, size and configuration of the buildings and contents as the improvements depicted on the P&I Parcel as shown on the Site Plan are for illustrative purposes only. The actual improvements to be constructed shall be subject to the terms and conditions of the contract for construction. The City of Tower Point, Texas reserves the right to require any changes to the contract terms, which it otherwise provided by written agreement between the parties.

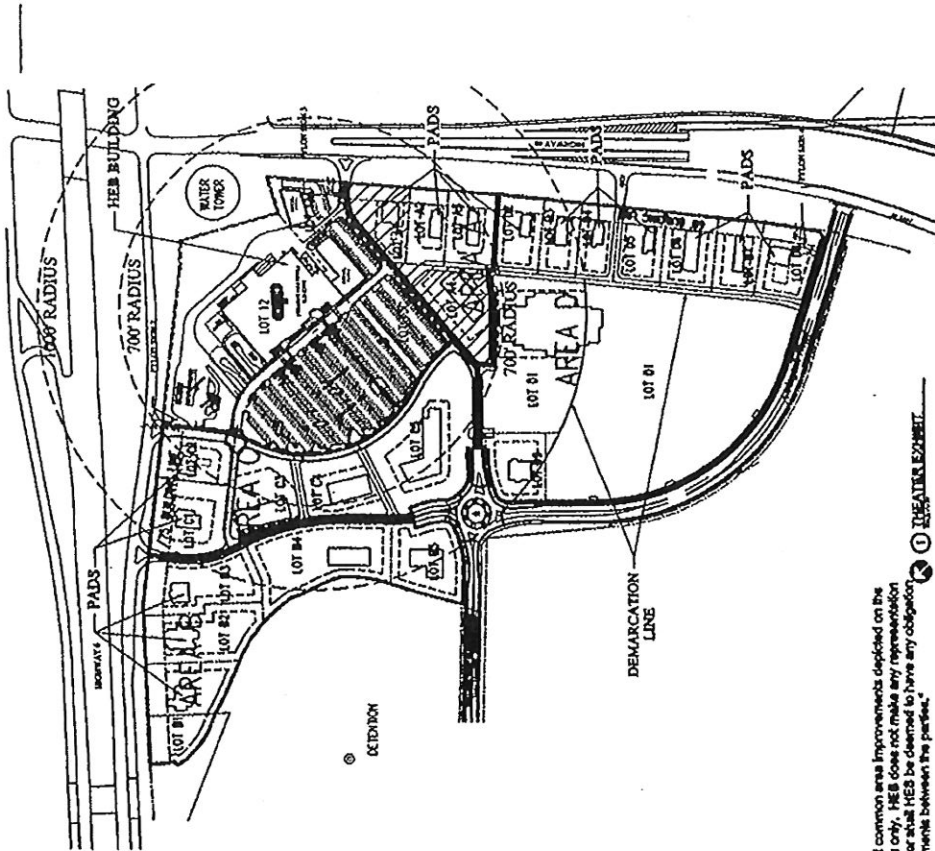


LEGEND:	
■	AREA 'A' NO RESTAURANT AREAS
□	AREA 'A' NO RESTAURANT AREAS PERMISSIBLE BUILDING AREA
■	AREA 'B' CONSISTS OF LOTS B1, B2, B3, B4, B5
■	AREA 'C' CONSISTS OF LOTS C1, C2, C3, C4, C5
■	AREA 'D' CONSISTS OF LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9
---	BUILDING LINE

**EXHIBIT C-1
DEVELOPMENT PLAN
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS**

"Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, existence or availability of the same. HEB shall not be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties."

① SURVEY AND CHECK EXHIBIT



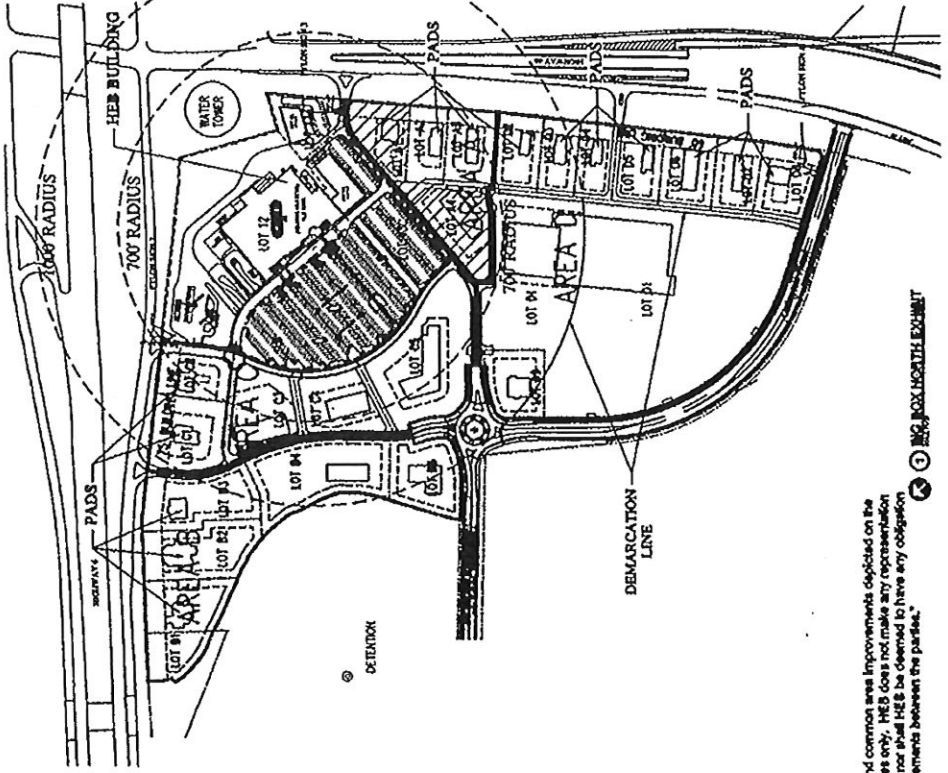
LEGEND:

■	AREA "A" CONSISTS OF: LOTS A1, A2, A3, A4	□	AREA "A" NO RESTAURANT AREAS PERMISSIBLE
■	AREA "B" CONSISTS OF: LOTS B1, B2, B3, B4, B5	□	BUILDING AREA
■	AREA "C" CONSISTS OF: LOTS C1, C2, C3, C4, C5	---	BUILDING LINE
■	AREA "D" CONSISTS OF: LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9		

**EXHIBIT C-2
DEVELOPMENT PLAN
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS**

Note: The location, size and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, substance or availability of the same, nor shall HEB be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.

① CREATING EXHIBIT

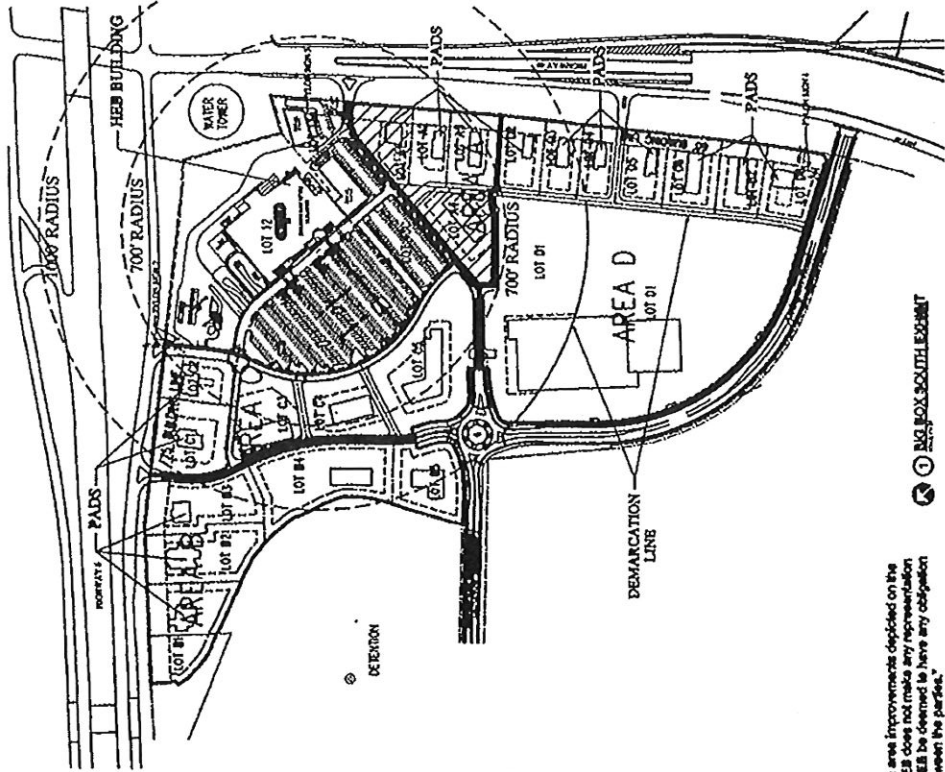


LEGEND:	
■	AREA "A" CONSISTS OF: LOTS A1, A2, A3, A4
□	AREA "A" NO RESTAURANT AREAS
▨	AREA "B" CONSISTS OF: LOTS B1, B2, B3, B4, B5
□	PERMISSIBLE BUILDING AREA
□	AREA "C" CONSISTS OF: LOTS C1, C2, C3, C4, C5
□	AREA "D" CONSISTS OF: LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9
---	BUILDING LINE

**EXHIBIT C-3
DEVELOPMENT PLAN
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS**

Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, substance or availability of the same, nor shall HEB be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.

© 2005 HEB NORTH EXHIBIT

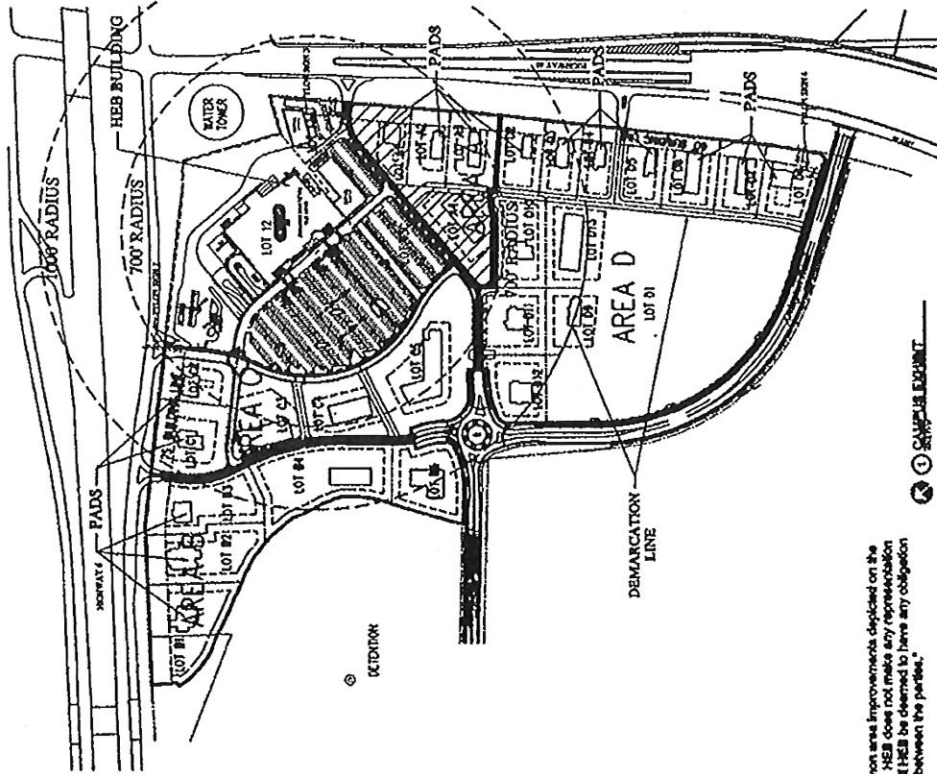


LEGEND:	
AREA 'A' CONSISTS OF: LOTS A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20, A21, A22, A23, A24, A25, A26, A27, A28, A29, A30, A31, A32, A33, A34, A35, A36, A37, A38, A39, A40, A41, A42, A43, A44, A45, A46, A47, A48, A49, A50, A51, A52, A53, A54, A55, A56, A57, A58, A59, A60, A61, A62, A63, A64, A65, A66, A67, A68, A69, A70, A71, A72, A73, A74, A75, A76, A77, A78, A79, A80, A81, A82, A83, A84, A85, A86, A87, A88, A89, A90, A91, A92, A93, A94, A95, A96, A97, A98, A99, A100	AREA 'A', NO RESTAURANT AREAS PERMISSIBLE BUILDING AREA BUILDING LINE
AREA 'B' CONSISTS OF LOTS B1, B2, B3, B4, B5, B6, B7, B8, B9, B10, B11, B12, B13, B14, B15, B16, B17, B18, B19, B20, B21, B22, B23, B24, B25, B26, B27, B28, B29, B30, B31, B32, B33, B34, B35, B36, B37, B38, B39, B40, B41, B42, B43, B44, B45, B46, B47, B48, B49, B50, B51, B52, B53, B54, B55, B56, B57, B58, B59, B60, B61, B62, B63, B64, B65, B66, B67, B68, B69, B70, B71, B72, B73, B74, B75, B76, B77, B78, B79, B80, B81, B82, B83, B84, B85, B86, B87, B88, B89, B90, B91, B92, B93, B94, B95, B96, B97, B98, B99, B100	AREA 'B', NO RESTAURANT AREAS PERMISSIBLE BUILDING AREA BUILDING LINE
AREA 'C' CONSISTS OF LOTS C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12, C13, C14, C15, C16, C17, C18, C19, C20, C21, C22, C23, C24, C25, C26, C27, C28, C29, C30, C31, C32, C33, C34, C35, C36, C37, C38, C39, C40, C41, C42, C43, C44, C45, C46, C47, C48, C49, C50, C51, C52, C53, C54, C55, C56, C57, C58, C59, C60, C61, C62, C63, C64, C65, C66, C67, C68, C69, C70, C71, C72, C73, C74, C75, C76, C77, C78, C79, C80, C81, C82, C83, C84, C85, C86, C87, C88, C89, C90, C91, C92, C93, C94, C95, C96, C97, C98, C99, C100	AREA 'C', NO RESTAURANT AREAS PERMISSIBLE BUILDING AREA BUILDING LINE
AREA 'D' CONSISTS OF LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, D12, D13, D14, D15, D16, D17, D18, D19, D20, D21, D22, D23, D24, D25, D26, D27, D28, D29, D30, D31, D32, D33, D34, D35, D36, D37, D38, D39, D40, D41, D42, D43, D44, D45, D46, D47, D48, D49, D50, D51, D52, D53, D54, D55, D56, D57, D58, D59, D60, D61, D62, D63, D64, D65, D66, D67, D68, D69, D70, D71, D72, D73, D74, D75, D76, D77, D78, D79, D80, D81, D82, D83, D84, D85, D86, D87, D88, D89, D90, D91, D92, D93, D94, D95, D96, D97, D98, D99, D100	AREA 'D', NO RESTAURANT AREAS PERMISSIBLE BUILDING AREA BUILDING LINE

EXHIBIT C-4
DEVELOPMENT PLAN
TOWER POINT S.C.
STATE HWY 6 AT HWY 40
COLLEGE STATION, TEXAS

Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, existence or availability of the same, nor shall HEB be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.

NO BOX SOUTH EXHIBIT



LEGEND:	
AREA "A" CONSISTS OF: LOTS A1, A2, A3, A4	AREA "A" IN RESTAURANT AREAS
AREA "B" CONSISTS OF LOTS B1, B2, B3, B4, B5	PERMISSIBLE BUILDING AREA
AREA "C" CONSISTS OF LOTS C1, C2, C3, C4, C5	BUILDING LINE
AREA "D" CONSISTS OF LOTS D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, D12, D13	

**EXHIBIT C-5
 DEVELOPMENT PLAN
 TOWER POINT S.C.
 STATE HWY 6 AT HWY 40
 COLLEGE STATION, TEXAS**

Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, existence or availability of the same, nor shall HEB be deemed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.

① COMPLETE ELEMENT

Nobl
 Qty: One (1)
 35' OAH - 200' max
 Sign #2

35'-0"

15'-0"
15'-0"

1'-11 3/8" x 12'-2"
22.75 SF

Paint to match HEB

5' x 15'-0"
76.25 SF

27' x 68' W. V.O.

H-E-B

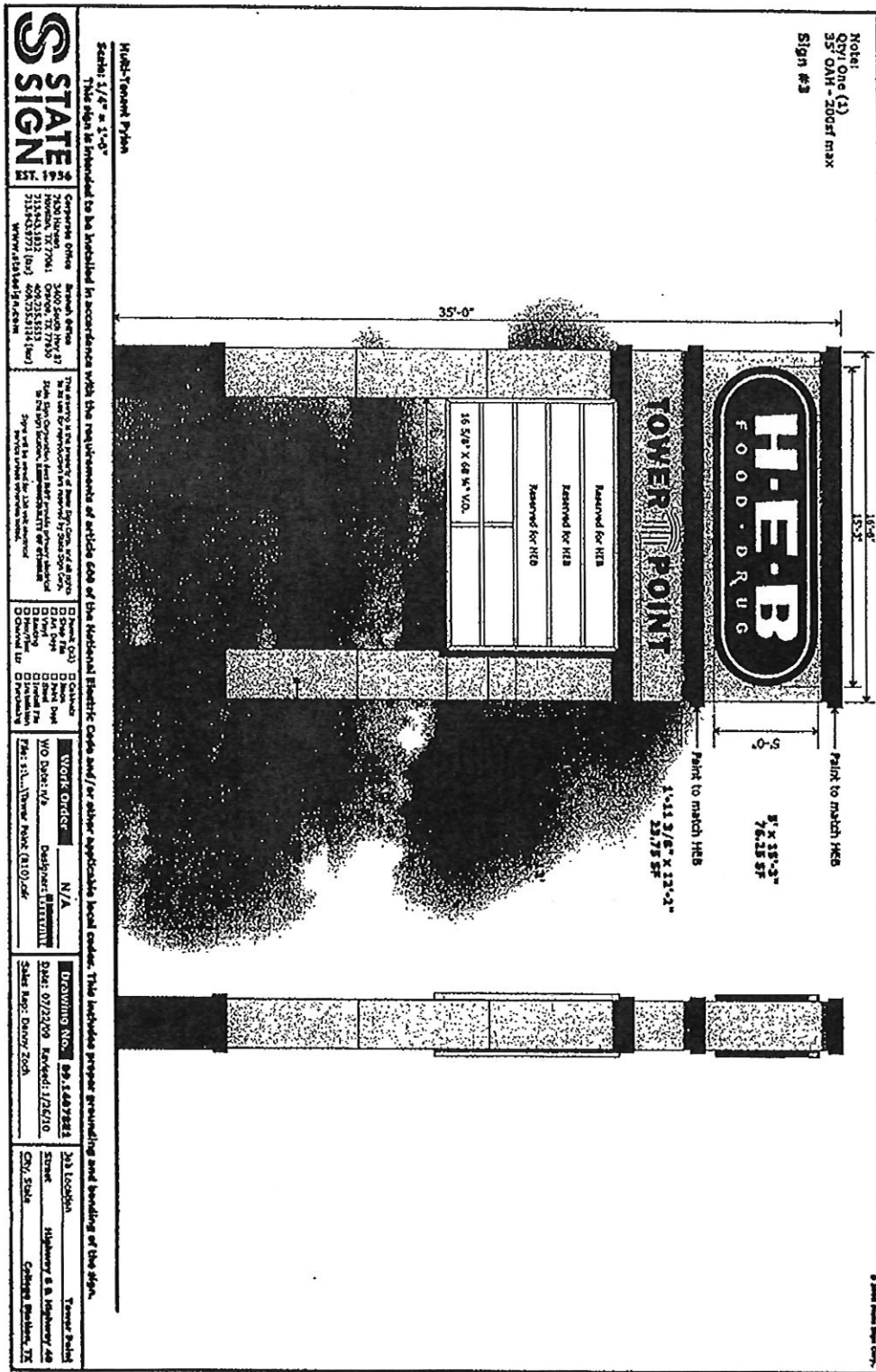
TOWER POINT

H-E-B
FOOD-DRUG

Multi-Tenant Pylon
 Sign: 1/4" = 1'-0"
 This sign is intended to be installed in accordance with the requirements of Article 609 of the Municipal Economic Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

S STATE <small>Sign Systems, Inc.</small> <small>2125 S. 17th St., Suite 100</small> <small>Irving, TX 75038</small> <small>714.251.5111 (Tx)</small> <small>www.sstatesign.com</small>	Corporate Office <small>3400 South Loop West</small> <small>Houston, TX 77021</small> <small>409.235.5111 (Tx)</small>	Branch Office <small>3400 South Loop West</small> <small>Houston, TX 77021</small> <small>409.235.5111 (Tx)</small>
	<small>The owner is the property of State Sign, Inc. and all rights are reserved. No reproduction or use of any part of this drawing is permitted without the written consent of State Sign, Inc. All rights reserved. This drawing is not to be used for any other project without the written consent of State Sign, Inc. All rights reserved. This drawing is not to be used for any other project without the written consent of State Sign, Inc. All rights reserved.</small>	
<input type="checkbox"/> Permit (A) <input type="checkbox"/> Electrical <input type="checkbox"/> Sign One <input type="checkbox"/> Sign Two <input type="checkbox"/> Sign Three <input type="checkbox"/> Sign Four <input type="checkbox"/> Sign Five <input type="checkbox"/> Sign Six <input type="checkbox"/> Sign Seven <input type="checkbox"/> Sign Eight <input type="checkbox"/> Sign Nine <input type="checkbox"/> Sign Ten <input type="checkbox"/> Sign Eleven <input type="checkbox"/> Sign Twelve <input type="checkbox"/> Sign Thirteen <input type="checkbox"/> Sign Fourteen <input type="checkbox"/> Sign Fifteen <input type="checkbox"/> Sign Sixteen <input type="checkbox"/> Sign Seventeen <input type="checkbox"/> Sign Eighteen <input type="checkbox"/> Sign Nineteen <input type="checkbox"/> Sign Twenty <input type="checkbox"/> Sign Twenty One <input type="checkbox"/> Sign Twenty Two <input type="checkbox"/> Sign Twenty Three <input type="checkbox"/> Sign Twenty Four <input type="checkbox"/> Sign Twenty Five <input type="checkbox"/> Sign Twenty Six <input type="checkbox"/> Sign Twenty Seven <input type="checkbox"/> Sign Twenty Eight <input type="checkbox"/> Sign Twenty Nine <input type="checkbox"/> Sign Thirty		
WORK ORDER NO DATE: N/A Designer: [Redacted] File: s1\Draw\Sign (110).dwt	DRAWING NO. 09-14407882 Date: 07/22/09 Rev: 04/17/10 Sales Rep: Danny Zach	Job Location Highway 6 & N. Highway 48 City/State: Colton, Georgia, TX

EXHIBIT D
(Page 1 of 3)



STATE SIGN

Corporate Office
3150 Highway
Houston, TX 77061
281-433-3771 (fax)
www.state-sign.com

Branch Office
3400 South Loop
Houston, TX 77058
281-433-3771 (fax)

Paint (C) Outdoor
 Sign (S) Illuminated
 Backlit Directional
 Illuminated Permitted

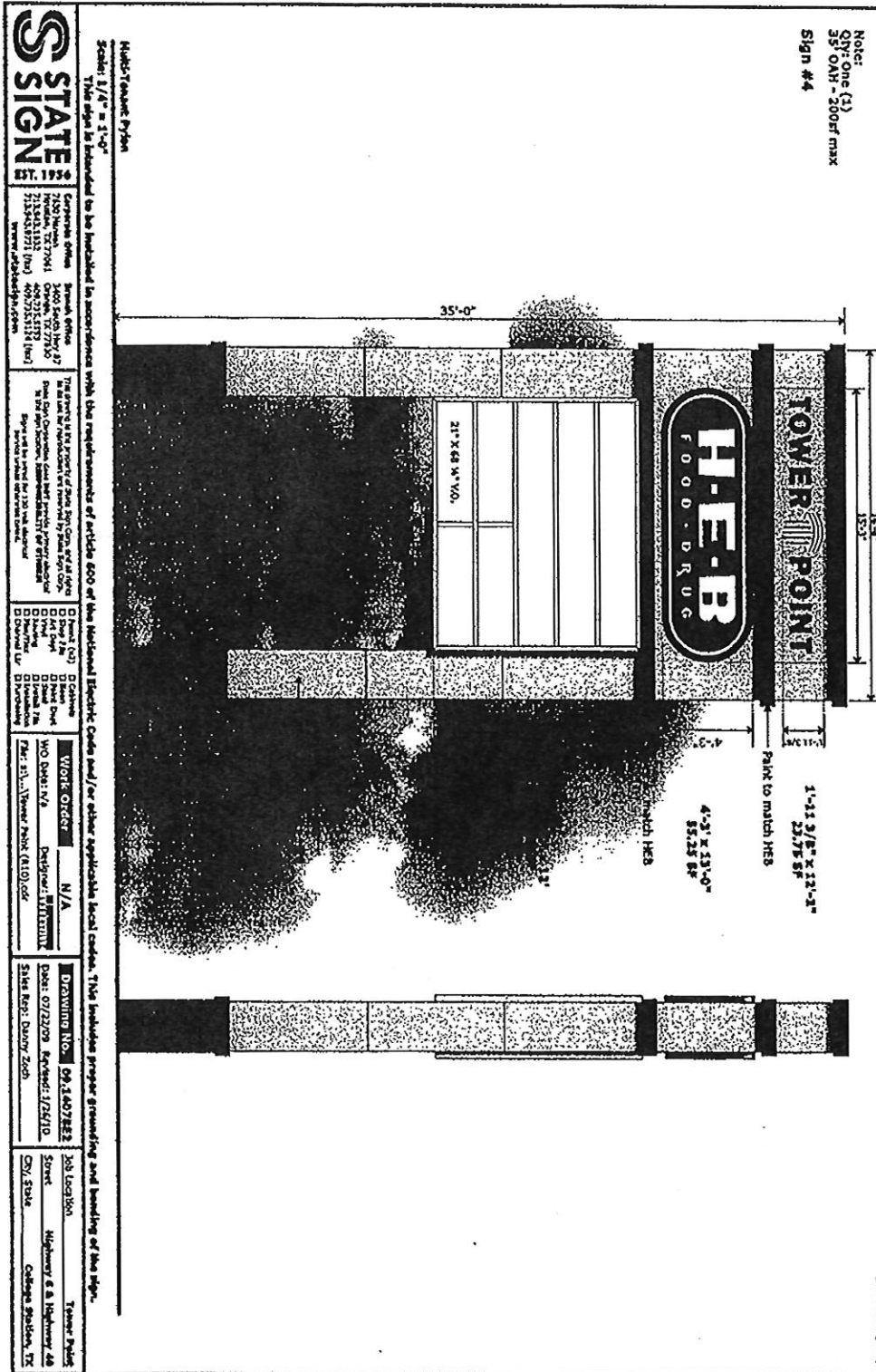
VENDOR: N/A
VO DATE: N/A
DATE: 07/22/09
SHEET NO: 010/06

DRAWING NO: 99-1447881
DATE: 07/22/09
SHEET NO: 010/06

JOB LOCATION
Street: Highway 8 & Highway 48
City, State: College Station, TX

Scale: 1/4" = 1'-0"
This sign is intended to be installed in accordance with the requirements of article 606 of the National Electric Code and/or other applicable local codes. The applicant prepares grounding and bonding of the sign.

EXHIBIT D
(Page 2 of 3)



S STATE SIGN

Corporate Office: 7150 Newsum, Houston, TX 77041
 Phone: (713) 515-8371 (fax)
 Website: www.state-sign.com

Branch Office: 3400 South Loop West, Houston, TX 77048
 Phone: (713) 515-8371 (fax)

The sign is the property of State Sign Co. and all rights are reserved. No reproduction or use without the written consent of State Sign Co. is permitted. Signs will be used for 120 months unless otherwise stated.

Material: Paint (C) Cast Stone Wood Deck Aluminum Fabric Other

WORK ORDER: N/A
 DRAWING NO: 99-1407822
 DATE: 07/27/09 REVISED: 1/26/10
 STATE REP: DANN ZACH

Job Location: Street: Highway & Highway #48
 City/State: College Station, TX

EXHIBIT D
 (Page 3 of 3)

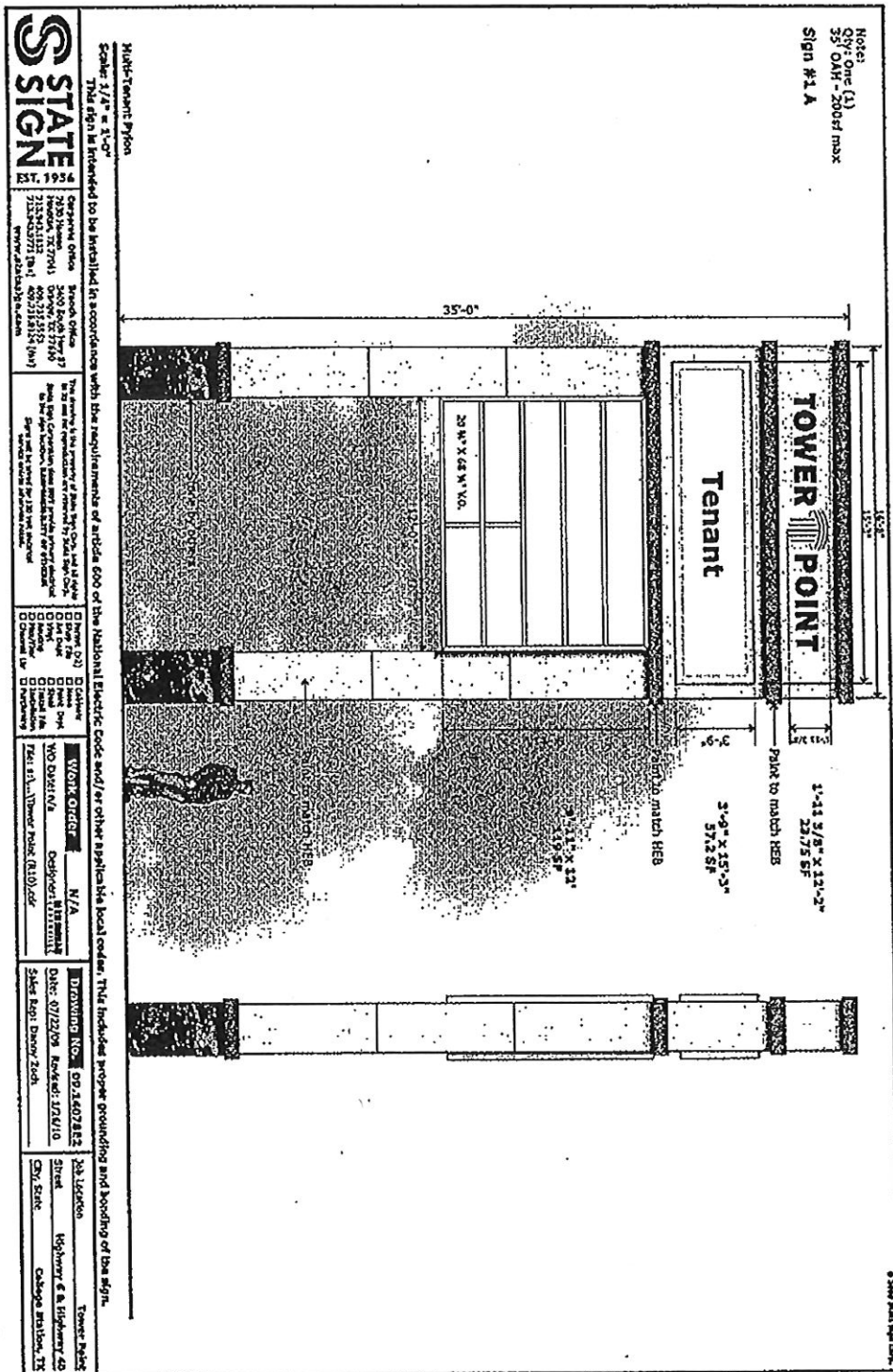


EXHIBIT D-1
 (Page 1 of 2)

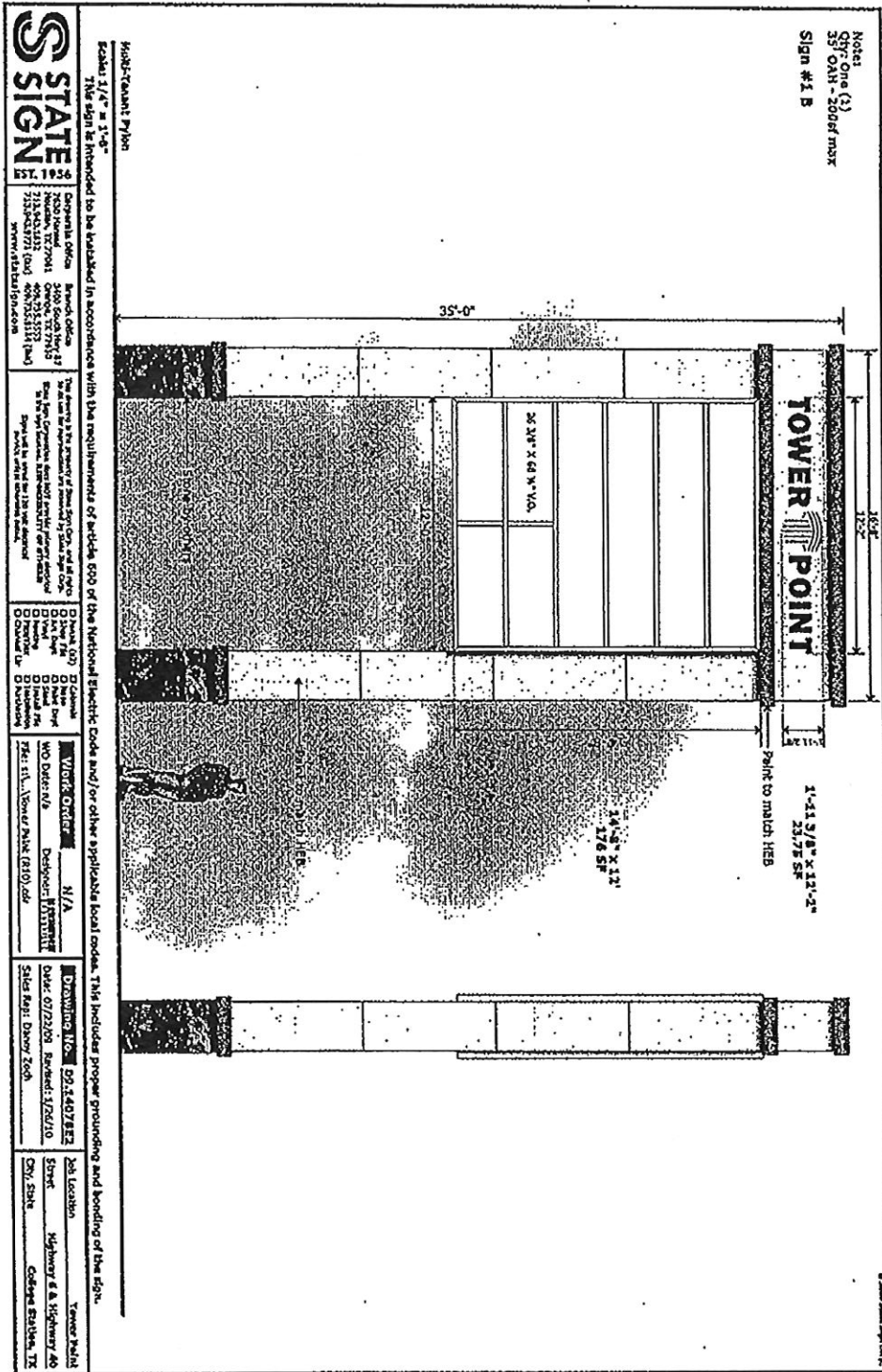
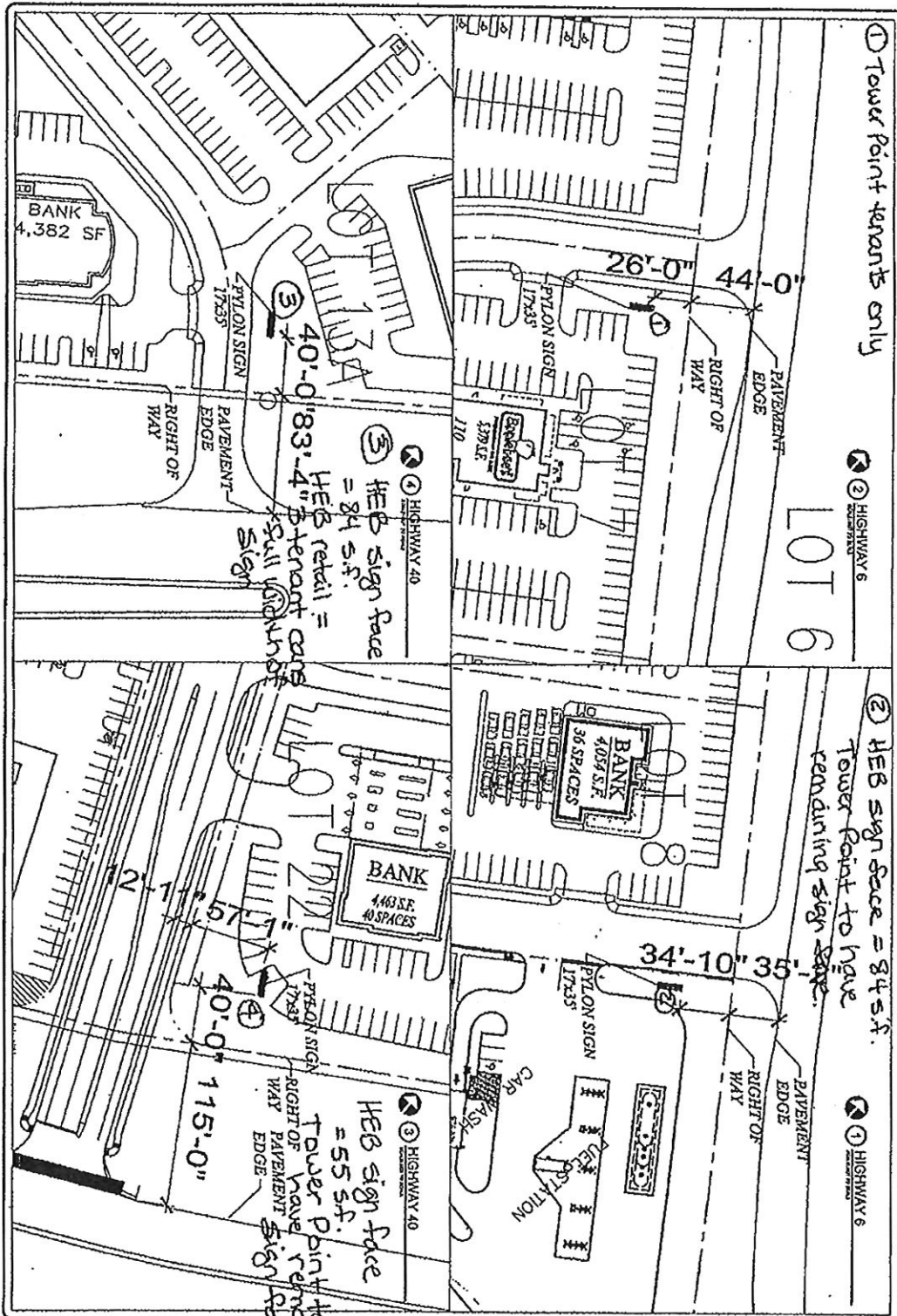


EXHIBIT D-1
(Page 2 of 2)



MONUMENT SIGN LOCATIONS
 TOWER POINT S.C.
 STATE HIGHWAY 6 AT HWY. 40
 COLLEGE STATION, TEXAS
 SP-17

HEB sign face = 84 S.F.
 HEB retail = 84 S.F.
 Tower Point to have remaining sign face

CDA Architects
 2222 North Loop West, Suite 200
 Houston, Texas 77002
 Phone: 713.865.1111
 Fax: 713.865.1112
 Website: www.cda-architects.com

NOT FOR CONSTRUCTION
 APPROVAL FOR THE
 PURPOSES OF CONSTRUCTION
 IS A SERVICE
 PROVIDED BY THE ARCHITECT
 AFTER THE CONTRACT HAS BEEN
 SIGNED AND THE CONTRACTOR HAS
 BEEN SELECTED.

HEB sign face = 55 S.F.
 Tower Point to have remaining sign face

HEB sign face = 84 S.F.
 Tower Point to have remaining sign face

EXHIBIT E

BUILDING RESTRICTION PLAN

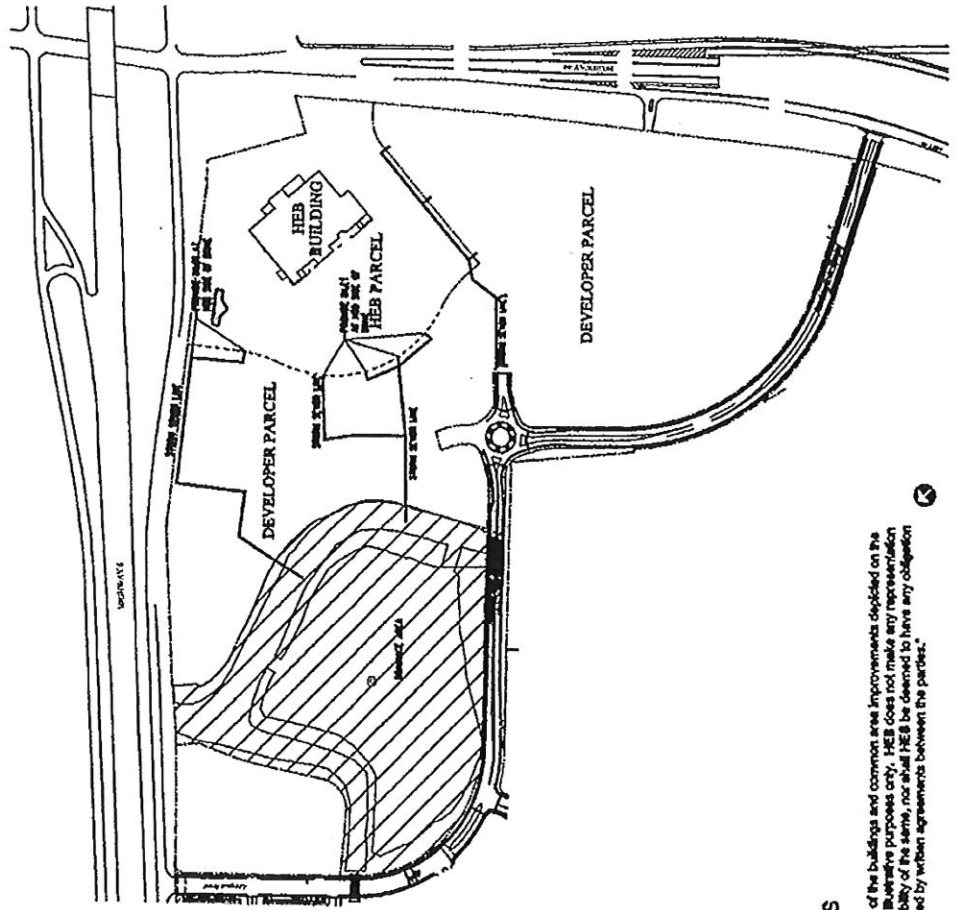
Lot Designation	Maximum Floor Area	Finished Floor Elevation	Maximum Building Height	With Architectural Features	Stories	Building Setback
Area A						
A1	5500	321	21	25	1 story	60 FT Bldg set back from Hwy; 40 ROW*
A2	5500	324	21	25	1 story	60 FT Bldg set back from Hwy; 40 ROW*
A3	5500	324	21	25	1 story	60 FT Bldg set back from Hwy; 40 ROW*
A4	13000	est 305	21	25	1 story	N/A
*If the Pylon Signs situated along Hwy; 40 (as shown on the Site Plan) are located 60' from the right-of-way instead of 40' as currently shown on the Site Plan, the Building Setback for Lots A1, A2 and A3 shall be 75' from the right-of-way instead of 60' as set forth in this Exhibit E.						
Area B						
B1	11460	227	25	30	1 story	75 FT Bldg set back from Hwy; 6 ROW
B2	10000	228	25	30	1 story	75 FT Bldg set back from Hwy; 6 ROW
B3	7100	280	25	30	1 story	75 FT Bldg set back from Hwy; 6 ROW
B4	18000	280	45	50	2 stories	N/A
B5	18000	est 280	45	50	2 stories	N/A
Area C						
C1	5000	285	21	25	1 story	75 FT Bldg set back from Hwy; 6 ROW
C2	5000	287	21	25	1 story	75 FT Bldg set back from Hwy; 6 ROW
C3	13300	291	21	25	1 story	N/A
C4	13000	291	21	25	1 story	N/A
C5	20000	287	21	25	1 story	N/A
Area D						
D1 (Within 1000')	Not to exceed 100,000 sq. ft. of Floor Area in aggregate. No building can be taller than the top of the HEB Building.					
D1 (Outside 1000')	Not to exceed 400,000 sq. ft. of Floor Area in aggregate. Height no greater than 90 feet or six (6) stories.					
D2	5000	324	21	25	1 story	60 FT Bldg set back from Hwy; 40 ROW
D3	5500	322	21	25	1 story	60 FT Bldg set back from Hwy; 40 ROW
D4	5000	321	25	28	1 story	60 FT Bldg set back from Hwy; 40 ROW
D5	5000	318	25	28	1 story	60 FT Bldg set back from Hwy; 40 ROW
D6	8000	312	25	28	1 story	60 FT Bldg set back from Hwy; 40 ROW
D7	8000	305	25	28	1 story	60 FT Bldg set back from Hwy; 40 ROW
D8	10000	299	25	28	1 story	60 FT Bldg set back from Hwy; 40 ROW
D9 (if applicable)	10000	296	No building can be taller than the top of the HEB Building.			


REF: HEB Building is 40' above the finished floor (312)

NOTE: In the event the actual finished floor elevation of any Parcel on the CS Marketplace Parcel is determined to be greater than the finished floor elevation indicated for such Parcel (or Lot) on this Building Restriction Plan, the maximum Building Height applicable thereto shall be reduced by one foot (1') for each foot that the actual finished floor elevation exceeds the finished floor elevation stated herein.

* All Lot Designations herein refer to Lots within the CS Marketplace Parcel as shown on the Site Plan.

2/5/2010



LEGEND:	
	
	DRAINAGE AREA

**EXHIBIT F
 DRAINAGE PLAN EXHIBIT
 TOWER POINT S.C.
 STATE HWY 6 AT HWY 40
 COLLEGE STATION, TEXAS**

Note: The locations, sizes and configurations of the buildings and common area improvements depicted on the HEB Parcel as shown on the Site Plan are for illustrative purposes only. HEB does not make any representation regarding the construction, existence or availability of the same. HEB has agreed to have any obligation to construct same, except as otherwise provided by written agreements between the parties.

Doc Ek Vol Ps
01054761 OR 9530 144 A

Doc Ek Vol Ps
01052637 OR 9497 248

Filed for Record in:
BRAZOS COUNTY

On: Mar 11, 2010 at 11:02A

As a
Recording

Document Number: 01054761

Amount 200.00

Receipt Number - 285528

By:
Kim Green

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Mar 11, 2010

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

Filed for Record in:
BRAZOS COUNTY

On: Feb 10, 2010 at 03:31P

As a
Recording

Document Number: 01052637

Amount 216.00

Receipt Number - 383725

By:
Susie Cohen

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Feb 10, 2010

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY