



Resolution

RESOLUTION NO. 560

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

A RESOLUTION OF THE CITY OF SAN LUIS, ARIZONA, DECLARING THAT CERTAIN DOCUMENT ENTITLED "SAN LUIS INDUSTRIAL COMPLEX PROTECTIVE COVENANTS 2004" A PUBLIC RECORD; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS:

Section 1: That the certain document entitled "SAN LUIS INDUSTRIAL COMPLEX PROTECTIVE COVENANTS 2004," three (3) copies of which are on file with the City Clerk of the City of San Luis, is hereby made and declared a public record of the City of San Luis, Arizona, and made a part hereof as though fully set forth again in full.

Section 2: That "San Luis Industrial Complex Protective Covenants" as adopted by Ordinance No. 81 are hereby repealed, superseded, and replaced.

Section 3: In the event of a conflict between the provisions of this resolution and any other ordinance, resolution, regulation, or policy regarding purchasing policies of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this resolution and the "SAN LUIS INDUSTRIAL COMPLEX PROTECTIVE COVENANTS 2004" shall govern.

Section 4: If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution.

Section 5: Whereas, it is necessary for the preservation of the peace, health, safety and welfare of the City of San Luis, Arizona, and for further reason that pending proceedings, financial considerations, and the best interests of the City require the amendments to go into immediate effect, an emergency is declared to exist, and this resolution shall become immediately operative and in force from and after its passage and adoption.

PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona,
this 9th day of June, 2004.



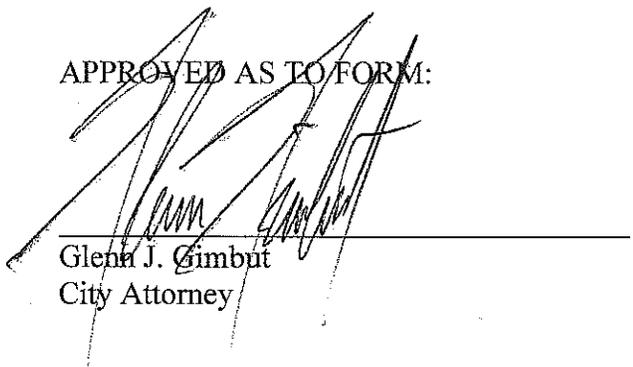
Guillermina Fuentes, Mayor

ATTEST:



Rosie Cordova, Interim City Administrator/Clerk

APPROVED AS TO FORM:



Glenda J. Gimbut
City Attorney



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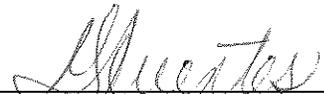
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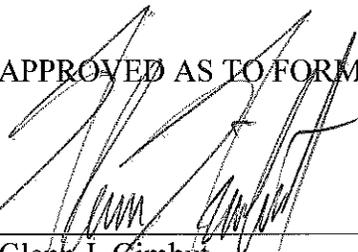
Guillermina Fuentes, Mayor

ATTEST:



Rosie Cordova, Interim City Administrator/Clerk

APPROVED AS TO FORM:



Glenn J. Gimbut
City Attorney

SAN LUIS INDUSTRIAL COMPLEX

PROTECTIVE COVENANTS 2004

DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS: This declaration, made this ____ day of _____, 2004 by the San Luis Economic Development Corporation, a corporation of the State of Arizona, declares the San Luis Industrial Complex (hereinafter referred to as Complex) as designated by **Exhibit "A"**.

The Complex shall henceforth be administered, leased, improved, and utilized by the San Luis Economic Development Corporation subject to the following uniform protective covenants, conditions and stipulations in order to insure proper use and foster quality development, thus protecting and enhancing the investments of all those entities locating or investing in the Complex.

This Declaration of Protective Covenants shall run with the San Luis Industrial Complex and all parts thereof, shall be binding upon all persons or parties having or acquiring any interest in the Complex or any part thereof; shall inure the benefit of, and the binding upon every part of the Complex and every interest therein; and shall inure to the benefit of, be binding upon, and be enforceable, at law or in equity, as set forth hereinafter, by Declarant, its successors in interest, each Sublessees, and/or its successors in interest, and the Construction and Design Review Committee.

It is the purpose of this Declaration: to insure the proper development of such real property; to protect and enhance the values and amenities of all properties within the park; to ensure the proper use, appropriate development and improvement of such property; to protect against the construction of improvements and structures built of improper or unsuitable materials; to provide for a method for the maintenance and continued improvement of common areas thereof; and, in general, to encourage construction of high-quality, permanent improvements that will promote the general welfare of all existing and future Sublessees and occupants.

All restrictions, covenants, and agreements contained herein are made for the direct, mutual, and reciprocal benefit of each and every part and parcel of said property; shall create mutual, equitable servitudes upon each parcel in favor of every other parcel; and shall create reciprocal rights and obligations between the respective Sublessees and subtenants of all parcels of the property and privity of contract and estate between all Sublessees of said parcels, their heirs, successors, and assigns.

I. DEFINITIONS

- A. **Arizona State Land Department:** The State Land Department of the State of Arizona, which holds the master leases for the land upon which the Industrial Complex is being developed and administered by the San Luis Economic Development Corporation, to whom the master lease is issued.

- B. **Building Site:** Shall mean any parcel of land that is part of the San Luis Industrial Complex, the size, dimensions, and boundaries of which must be recommended by the CDRC and authorized by the San Luis Economic Development Corporation.
- C. **Construction and Design Review Committee:** A standing committee, (hereinafter referred to as "CDRC") with membership composed by Article VI included herein.
- D. **Declarant:** Shall mean the San Luis Economic Development Corporation, and any entity or entities (a) that succeed to ownership of all or substantially all of that portion of the San Luis Industrial Complex, and (b) that at the time of such succession is designated in writing by all of the entities that previously constituted the Declarant to be the Declarant or a part thereof.
- E. **Improvement** means anything placed on or any disturbance of the Parcel which is permanent in character, which is the result of labor or capital expended by Sublessee, or by his sublessees, successors or predecessors in interest, on the Parcel in its reclamation or development, and which has enhanced the value of the land. Anything placed on or any disturbance of the Parcel during the Term of this Lease which does not constitute an "Improvement" as defined herein will not be subject to reimbursement.
- F. **Industrial Complex Master Plan:** (hereinafter referred to as "Master Plan"), shall mean the document or documents as approved by the San Luis Economic Development Corporation, as described in **Exhibit "B"**, that may include drawings showing existing and future land uses, buildings, streets, open spaces, utilities, drainage, lighting; design standards for landscaping and entrance areas; policies describing desired uses, density, quality, location, mix, and type, including but not limited to documents, standards, and policies which have been or may be adopted from time to time amending the Master Plan. Said Master Plan shall conform to area master plan as developed and adopted by the Arizona State Land Department.
- G. **Industrial Park Tract Development Plan:** (hereinafter referred to as "Tract Plan"), shall mean the document or documents as approved by the San Luis Economic Development Corporation, the CDRC, and the Arizona State Land Department, that may include drawings showing existing and future land uses, buildings, streets, open spaces, utilities, drainage, lighting; design standards for landscaping and entrance areas. Said Tract Plan shall conform to area Master Plan as developed and adopted by the Arizona State Land Department and the San Luis Economic Development Corporation.
- H. **Industrial Park Association:** The association created by the industrial park tenants (Sublessees) for the purposes of representing all park tenants concerning park-related matters. Each Sublessee by virtue of land tenancy is automatically a

member of the Industrial Park Association. The Industrial Park Association shall function independently from any board formed by the San Luis City Council, the San Luis Economic Development Corporation, or the City Administrator.

- I. **Maintenance and Operation Activity:** Shall mean any activity or function that takes place on an on-going basis or intermittently for the purpose of maintaining or operating any improvement during or after the construction or installation of the improvement completed, or for the purpose of enabling or facilitating any Property Use to take place.
- J. **Property Use:** Shall mean the intended functions or activities that take place on a temporary or ongoing basis, on, in, or with respect to any parcel or element of real property that is part of the Complex. Property Use shall include, but is not limited to, the general category of use as allowed by Industrial Park zoning, the Master Plan, San Luis Economic Development Corporation and Sublessee Liability Insurances, and this Declaration, and that is taking place on an ongoing basis as of the date of this Declaration, and that which shall be authorized in the future by Declarant or an authorized entity of Declarant, such as the CDRC. There shall be a property compliance inspection every six months by agent(s) designated by the Chair of the CDRC.
- K. **San Luis Economic Development Commission:** shall mean the City Council-appointed, 7-member commission.
- L. **San Luis Industrial Complex:** (hereinafter referred to as "Complex"), shall mean all that real property described in **Exhibit "A"**, to the Declaration of Restrictions and Protective Covenants, and any real property hereafter made subject to this Declaration of Restrictions and Protective Covenants pursuant to the provisions of Article V herein.
- M. **Sublease:** Shall mean the contract issued by the San Luis Economic Development Corporation entered into by the Sublessee, as approved by the State Land Department, for the purpose of authorizing the operation of an industrial or related commercial operation in the complex.
- N. **Sublessee:** Shall refer to lessees or operators in the Complex who are the principal parties or individual with whom a Sublease has been entered.

II. STATEMENT OF PURPOSE

These protective covenants are in addition to the requirements of the City of San Luis zoning ordinances, subdivision regulations, resolutions, and all applicable building codes, as well as, all applicable rules and regulations of the City, County, State, Federal or other government authority having jurisdiction over the San Luis Industrial Complex. In the event of any conflict, the more restrictive shall apply. Should any of the restrictions or provisions herein contained be held invalid or void, the rest of the restrictions shall in no way be affected.

These protective covenants as adopted by the San Luis Economic Development Corporation filed with the Yuma Council Recorders Office, and administered by the San Luis Economic Development Corporation, and as amended from time to time, shall remain in effect for a period of 75 years, and shall automatically terminate upon discontinuing the Master Leases with the Arizona State Land Department. Upon a renewal of any Master Lease on terms acceptable to the San Luis Economic Development Corporation or to any entity to which said lease is assigned or any assignment of any master lease shall in no way be considered as automatically canceling these covenants and shall continue in perpetuity upon any acquisition by the San Luis Economic Development Corporation. These covenants can be amended by amendments, supplements, or revisions, which may be accomplished by the following procedures for amendment: amendments to these covenants must be recommended by the CDRC and approved by a majority of the San Luis Economic Development Corporation. The San Luis Economic Development Corporation shall hold a public hearing after written notice has been given all Sublessees of record of the proposed amendments, and said public hearing must be held at least ten days after written notice is given to all Sublessees at his/her address of record stating the date, time, and place of said meeting as well as where a copy of the proposed amendment(s) can be obtained.

III. LAND USE

The land leased in the Complex shall be used for general light industrial uses, and for those commercial activities that are reasonably supportive thereof. The Declarants reserve the right to further limit or restrict the use of the land and lots within the conditions as stated above in "The Statement of Purpose." No use of any lot or any portion thereof or any building or structure shall be used for processes, manufacturing, storage, or transfer which are determined to be the cause of fire hazard to themselves or adjoining properties, or which constitute a nuisance or cause a health hazard or noises or other conditions which may injure the reputation of the site or Complex, or which shall increase the insurance rates of the adjoining site(s), or which shall constitute a violation of any law of the United States, the State of Arizona, City of San Luis, or Yuma County, or any regulation or ordinance included thereunder.

All purposes of the intended leased site shall be described and explained in full in the application for the leased site(s), and to the satisfaction of the Construction and Design Review Committee acting within the authority of the San Luis Economic Development Corporation.

Any Sublessee in the Complex shall notify the CDRC in writing, upon their discretion, of any breach or negligence on the part of any other Sublessee, and the CDRC may proceed to remedy the complaint in the most expedient manner possible, within law.

IV. MASTER PLAN

A Master Plan of the Complex has been adopted and implemented to govern the existing development, future development, location, mix, quality, and density of uses in and on the Complex. The Master Plan is incorporated in its entirety by virtue of its inclusion as Exhibit "B" herein. The nature and location of existing and desired infrastructure improvements, such as utilities, pedestrian ways, streets, lighting, retention basins, and other planned development, shall

be outlined and adhered to and in the attainment of future and further development of the Complex. The Master Plan has been completed in order to be consistent with the statement of purpose set forth in Article II of these covenants. A copy of the Master Plan shall be made available for review by any interested party(s) at all reasonable times through the City Hall. From time to time and in its sole discretion, the CDRC may amend the Master Plan, in any manner consistent with the statement of purpose set forth in Article II, provided that these alterations or additions do not require abatement or a change to any existing property uses or existing improvements or any design development submitted. Any amendment to the Master Plan shall require the recommendation of the CDRC, and a majority vote by the San Luis Economic Development Corporation.

V. COVENANTS RUN WITH THE LAND

The foregoing covenants and restrictions shall run with, bind, and inure to the benefit of all real property that is part of the San Luis Industrial Complex, both present and future expansion adding to the total acreage of the Complex. The land in the Complex leased by the Sublessee and administered by the San Luis Economic Development Corporation shall be retained subject to all the terms, provisions and conditions set forth in these covenants. These conditions, covenants, restrictions, and reservations may be enforced, as provided hereinafter, by each Sublessee, as well as by the CDRC to serve as trustee for such purposes. Violation of any condition, covenant, restriction, or reservation contained herein shall give to the CDRC or Sublessee, or any of them, the right to bring proceedings at law or in equity against the party or parties violating or intending to violate any of the said covenants, conditions, or restrictions, and to enjoin them from doing so, to cause any such violation to be remedied, or to recover damages resulting from such violations. In addition, violation of any such covenants, conditions, or restrictions, shall give the San Luis Economic Development Corporation or acting trustee the right to enter, but not the obligation, upon the premises on which the violation is occurring and abate, remove, modify, or replace at the expense of the Sublessee thereof the intend and meaning of the provisions hereof. Every act, omission or act, or condition that violated the covenants, conditions, restrictions, herein contained shall constitute a nuisance and every remedy available at law or inequity for the abatement of public or private nuisances shall be available to the Sublessee and to the San Luis Economic Development Corporation or its trustee. Similarly, any violation of federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any property that is part of the Complex is hereby declared to be a violation of these covenants and is subject to all of the enforcement procedures set forth herein. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereto, the losing party or parties shall pay all attorney fees and court costs of the prevailing part or parties, in such an amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive. The failure of the Sublessee or the San Luis Economic Development Corporation or its trustee to enforce any of the conditions, covenants, or restrictions herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, or restrictions and the San Luis Economic Development Corporation or Sublessee, or the San Luis Economic Development Corporation's trustee, shall not be liable therefore.

The Declarant may from time to time, and at any reasonable hour or hours enter and inspect the property subject to these restrictions to ascertain compliance therewith.

The Sublessee or Sublessees responsible for violations shall be given a minimum of fifteen (15) days notice, and a maximum of thirty- (30) days notice in writing to remedy and correct the violation(s). An extension of up ninety- (90) days may be authorized by CDRC contingent upon a written request by the Sublessee(s) providing a complete and thorough description of the situation and explaining the need for the additional time to remedy the violation(s). Within the specified time of notification, the San Luis Economic Development Corporation or its trustee shall then have the right to enter the premises in order to determine compliance with the notification of violation, and of the conditions, covenants, and restrictions contained herein.

VI. ASSIGNMENT OF AUTHORITY; DESIGN REVIEW COMMITTEE

Declarant may from time to time delegate any or all of its rights, powers, discretion, and duties hereunder to such agent or agents as it may nominate. It may also permanently assign any or all of its power and duties (including discretionary powers and duties), obligations, rights, title easements and estates reserved to it by this deed to any one or more corporations, associations or persons that will accept the same. Any such assignment shall be in writing and recorded in the Yuma County Recorder's office and the assignee shall join therein for the purpose of evidencing it and acceptance of the same, and such assignee shall thereupon have the same rights, title, powers, obligations, discretion, and duties as are herein reserved to said Declarant, and the Declarant shall thereupon be released therefrom. The Declarant reserves the right to terminate any such agreement at any time for any reason. However, the San Luis Industrial Park Association shall have right of first refusal in the event the San Luis Economic Development Corporation decides to transfer or relinquish its rights to the Master Lease.

The Construction and Design Review Committee (CDRC) shall be established hereunder for the purposes of reviewing the construction and development plans and specifications submitted by potential Sublessees making application to the Complex. The CDRC shall consist of an active membership of seven (7) members. The membership of the CDRC shall consist of representatives or their appointees made up of City of San Luis staff and/or officials as follows:

- City Administrator or designee
- Economic Development Director
- City Public Works Director
- Planning and Zoning Director
- Parks and Recreation Director
- Administrative Services Director
- 1 Member of the SLEDC

The Chairperson of the Industrial Park Association shall participate in the committee as an ex officio member with no voting rights.

A majority of the members will be required to issue a final recommendation pertaining to the submitted plans and specifications, and the final recommendation shall be submitted at a regular

meeting or special meeting of the CDRC for approval and/or modification prior to final approval. Approved plans shall be submitted to the Declarant at the same time as the recommendation for signing of the sublease agreement, and shall be a part of the sublease agreement. The Committee shall be insofar as possible, uniform in maintaining and enforcing these covenants among the various Sublessees and successor Sublessees.

The membership of the standing committee shall be set forth according to the length of their employment, contractual agreement, personal commitment, appointment, or some other reasonable consideration. The chair shall have the authority to remove and or appoint a new member to the CDRC, and the City Administrator is hereby established as the committee chair.

- A. The CDRC shall appoint staff and consultants to the Committee to include, but not limited to: architects, planners, engineers, attorneys, or other individuals whose knowledge or skill will assist the CDRC to carry out its functions. The staff member or consultants may be authorized to attend the meeting and to participate in all discussion that takes place; to advise the CDRC in their areas of expertise and to perform any and all other tasks requested by the CDRC to assist the CDRC carry out its functions.
- B. The CDRC shall meet from time to time as necessary to perform its duties hereunder. The chairman of the CDRC or the City staff shall provide reasonable notice to each member of the CDRC prior to any meeting. Applicants upon request shall have the right to appear before the CDRC at its meeting to explain and to answer questions about their submittals and plans. The CDRC may require an applicant to appear before the CDRC at its meeting if the CDRC deems it necessary. The CDRC, by a majority vote of the members present, provided there is a quorum, may from time to time designate one or more of its regular members to take any action or perform any duties for or on the behalf of the CDRC. The members of the CDRC not employed by the City of San Luis shall offer their services with the understanding that no compensation will be provided for their participation. Reasonable expenses may be provided from time to time should the situation so warrant, with the explicit understanding prior to the expense being incurred, that authorization was received from the City Administrator to perform such tasks as may be required to warrant any expense.
- C. No improvement shall be made at the Complex prior to completion of all required steps and procedures as outlined herein, reviewed and recommended by the CDRC, and determined to be in compliance with all the provisions of the Master Plan. No building site shall be subdivided or the boundaries thereof otherwise changed or altered without the prior written approval of the San Luis Economic Development Corporation.

VII. CONSTRUCTION AND DESIGN CRITERIA AND IMPROVEMENTS

A. Submittal Requirements:

Fully engineered, professionally licensed plans and specifications are to be submitted to the CDRC upon acceptance of the application for a site in the Complex per the established procedures of the CDRC and according to all applicable subdivision regulations, building codes,

laws, and restrictions. Plans and specifications submitted for review and approval are to include but not be limited to site work, easements, electrical requirements, plumbing, utilities, existing building relationships, materials for construction, telephone service, landscaping and underground irrigation, office design, and fully engineered dimensions, as well as all other requirements per all applicable building codes and construction regulations and laws. A construction schedule providing a timeline for all phases of construction is to be submitted, clearly delineating the construction completion date. All applicable city fees shall apply to the submission and processing of these plans and specifications. All plans, specifications, and construction are to comply with the Master Plan and the Tract Development Plan per Article IV.

Sublessees who contemplate making improvements or engaging in property uses and their architects, planners, or other design and land use personnel shall meet with the CDRC and/or staff and consultants or committees early in the design and planning processes while plans are tentative and preliminary in order to assure full understanding of the requirements of this Declaration, to assure that all plans comply with city codes and ordinances, and to coordinate with and inform the CDRC of the preliminary leasing and property use plans. Plans and specifications that the CDRC rejects and subsequently are not authorized by the CDRC may be resubmitted to the CDRC with necessary modifications or revisions designed to bring the plans and specifications into compliance. The CDRC shall specify each reason for denial, and the CDRC shall act in good faith in facilitating the amendment of the plans to assure compliance as stated in this paragraph. Approval of plans and specifications shall be for a period of not to exceed six (6) months from written authorization, during which time applicant must commence with construction.

For purposes of this Declaration, the term "commencement of construction" shall mean if the improvement is a building, the pouring of foundations, and if the improvement is not a building, the substantial completion of construction or installations of the improvement. Failure to comply with the completion schedule and/or to make CDRC-approved improvements on unimproved tracts may result in the Sublessee being considered in default, and Sublessee may be required to surrender the subleased tract as per the procedures established in Article III (A)(1) of the Sublease. Failure to comply with the completion schedule on improved tracts shall require the Sublessee to present an amended completion schedule to the CDRC for review and possible approval. No penalty shall result as long as the Sublessee is meeting all other Sublease obligations and is in good faith attempting to meet the original or CDRC amended construction completion schedule.

The CDRC reserves the right to require additional information, including sketches, engineering or documentation, but not limited to the foregoing, which are consistent with the requirement set forth in these Declarations. All modifications of submittals required by the CDRC will be submitted in writing to the applicant within thirty (30) days of receipt of the submittal.

These general planning standards and regulations are subject to amendment, modification, and/or termination by a majority vote of the CDRC.

B. Design Criteria for Improvements

1. General Cleanliness and Appearance/Tenants Requirements: Each building, site, and auxiliary improvement(s) shall be kept in a safe, clean, healthful, and presentable condition at all times and shall comply with all laws, ordinances, and regulations pertaining to beautification, health, and safety. Each Sublessee shall be required to receive City garbage service and shall provide for the removal of excess quantities of trash and rubbish from the site, or for such items as will not completely fit in a trash collection container. During construction, it shall be the responsibility of each Sublessee to ensure the construction site is kept free, on a daily basis, of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, and the like are kept in a neat and orderly fashion. All open, unused land areas planned for future building expansion or other purposes shall be kept free of unsightly plant growth, stored material, rubbish, and debris. The exterior of all structures, storage facilities, and screening, as well as walks, driveways, landscaping, fences, and other improvements not specifically covered, shall be maintained in good order, repair, and condition.

2. Set Backs: The major visual character for the Complex shall be centered on the entrances and access roads. The set back area of each site that abuts the access road will be landscaped per the Master Plan Landscaping Guide as detailed in Exhibit "C". Native and/or low maintenance and low-water using plant material will be used exclusively, as per the Master Plan, or with other authorized material. Whenever parking lots may be open to off-site views, especially pertaining to A Street views, sufficient landscaping and/or berming for screening will be provided by the Sublessee, except for driveway entrances.

Street frontage setbacks shall comply with the subdivision and zoning regulations.

3. Outside Storage and Required Screening Material, equipment, supplies, or products of any kind that are stored or remain on the premises outside the permanent structures shall be stored in a manner consistent with the Uniform Fire Code and city property maintenance ordinances. All fencing for screening, security, or other purposes shall be attractive in appearance and shall be of brick, masonry, or other material of a non-deteriorating nature and 6' in height. No wood fence shall be permitted. All stored material is to be kept on the rear one-third of the site and shall not be visible from the Tract frontage. Any fencing that exceeds 6' in height as required by the Uniform Fire Code must be designed and stamped by a certified engineer. All fences to be used in landscaping the site or along the access road shall conform to this section.

All outdoor refuse collection areas shall be visually screened from access streets, thoroughfares, and adjacent property by a complete opaque screen. No refuse collection areas shall be permitted between a frontage street and the building line.

4. Parking: Adequate parking shall be provided on site for maneuverability, loading, and unloading of vehicles. Handicapped parking spaces shall be provided for both employees and visitors in compliance with Americans with Disabilities Act regulations, with at least one space for visitors. All present and future vehicle parking, including, trucks, trailers, employee and visitor shall be provided on the premises and shall conform to provisions of all applicable City of San Luis Subdivision Ordinances. All parking areas are to be covered to provide dust free weather surfaces with asphalt, concrete, gravel, or other ample covering. Paved parking space

is required for parking uses adjacent office buildings and on office building frontages. Parking for the transfer of trailers or for parking vehicles involved in shipping or receiving shall be covered and constructed as to prevent soil erosion on the Tract. No parking will be permitted upon any access road, right-of-ways, or thoroughfares within or adjacent to the Complex.

5. Loading Docks: No loading docks shall be constructed on the front side of any building within the Complex unless approved by the CDRC. The front of any building for the purposes of this provision is defined to mean any side of a building, which faces a thoroughfare street.

6. Signs: Any signs must conform to Ordinance No. 97 and amending Ordinance No. 114.

One free-standing sign and one wall fascia sign per street frontage will be permitted per lot or parcel, and per the design established by the Master Plan, or otherwise amended.

A drawing to scale, in color, of any sign, trademark or advertising devise to be used on any lot or exterior of the building or structure will be submitted to the CDRC in triplicate for written approval.

7. Lighting: Any flood lighting of buildings and parking areas shall be arranged in such a way that no direct glare shall be cast toward any residentially-zoned or residentially developed property, and luminary devices shall be hooded or arranged so that the source of the illumination is not visible from such residential property or highway. Any flood lighting shall be limited to the illumination of the building for security purposes and to the lighting of parking areas and access ways as necessary for the safe movement of pedestrian and vehicular traffic. Lighting intensity shall be limited to that which is necessary to afford minimum adequate illumination for the purposes set forth in the paragraph. No freestanding luminary devices shall in any case exceed thirty (30) feet in height and shall be a dark or neutral color. The height, location, and intensity of luminary devices shall be indicated on the Tract Master Plan and approved by the Declarant.

8. Landscaping: The landscaping guidelines are of primary importance in enhancing and establishing a visual character for the San Luis Industrial Complex. This provision is intended to promote compatible and continuous landscape development in order to provide a neat, well maintained, and esthetically pleasing environment. It is also the intent of the landscaping and screening materials to provide a well-maintained appearance in areas not covered by buildings or parking and to minimize the adverse visual and environmental impacts of large paved areas and to promote the conservation of soil and water. All landscaping material shall conform to the Master Plan and shall also comply with other applicable City codes and ordinance.

Use of a licensed, professional landscaping firm or individual is encouraged. Landscaping shall be used as much as possible in parking areas and in conjunction with buildings. Landscaping along the setbacks off the access roads are required of each Sublessee to be completed within sixty (60) days of receipt of certificate of occupancy for the primary structure and designed according to the Master Plan.

All undeveloped areas held in reserve for future building or other improvements need not be irrigated or fully landscaped. However, these areas shall be maintained or covered to prevent

wind and water erosion. All public right-of-way areas must be landscaped within two years of the occupation of the property, regardless of whether or not all phases of development are complete.

Underground irrigation systems are required and shall be in compliance with all applicable building codes and shall be maintained in proper working condition. Use of water conservation systems such as drip irrigation for shrub and tree plantings is required. Dead or dying plants shall be removed and replaced within thirty (30) days upon written notice by the CDRC. All plants shall be maintained in a healthy growing condition and shall be kept neat and orderly at all times. Fertilization, cultivation and pruning are to be carried out on a regular basis.

C. Special Provisions: Permanent Sublessee improvements constructed prior to March 31, 2004 for the developed portion of the Complex shall be granted a dispensation from the rules and obligations set forth in this section. Any and all subsequent improvements are subject to the requirements of the Protective Covenants. Additionally, Tenant is still required to make such improvements and/or repairs to the existing property fencing, landscaped areas, and frontage areas necessary to bring the property into compliance with those standards listed above.

VIII. SEWAGE DISPOSAL

Wherever necessary, all environmental quality regulations as per local, state, or federal agencies shall be followed, and, as a minimum, an environmental assessment will be provided by the Sublessee as per the application process or upon the request of the CDRC, or other applicable agency. Sewage effluents produced by industrial firms that cannot be treated by the City sewage disposal plant will have to be pretreated by the Sublessee producing such wastes prior to transmittal to the disposal plant. Hook-up to the City sewer system shall be required of all Sublessees in the Complex and at the Sublessees' sole expense.

IX. WATER RIGHTS

No Sublessee of any site shall be permitted to drill, operate, or maintain a private well upon any lands within the Complex. Sublessee shall be required to hook up to the city water system.

X. ADVERTISING SAMPLES

All advertising materials used in connection with Tenant operations in the Complex to promote the business enterprise either directly or indirectly in conjunction with the Complex location shall be done so as to be factually accurate and not misrepresent the operations of the Complex or the Sublessee in any way. Any violations of this section shall result in Sublessor seeking relief under Section XVII of the Sublease.

XI. VARIANCES AND WAIVERS OF RESTRICTIONS

This Declaration, or any provisions thereof, or any covenant or restriction contained herein, may be terminated, extended, modified, or amended, as to the whole of said property or any portion thereof, as previously described in Article II. No such termination, extension, modification or

amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded by the San Luis Economic Development Corporation in the office of the City of San Luis.

XII. ASSESSMENTS

By virtue of inclusion in the Industrial Complex, each Sublessee jointly and severally, is obligated to pay such amounts called "Assessments"; such Assessments shall be used exclusively to promote the safe and proper operation of the Complex as set forth in Articles III and IV. Subject to the provisions hereof, the San Luis Economic Development Corporation shall have the power and authority to determine all matters in connection with the Assessments; however, Declarant shall provide for review to the San Luis Industrial Park Association Chairperson the rationale or study recommending any Assessments. The Association shall have thirty (30) days to review the document and present any comments to the Declarant for discussion. Failure of the Association to respond to the Assessment notification shall be deemed as acceptance of said Assessment. The Declarant shall not present an Assessment for review without an accompanying study or equivalent document.

Each Sublessee agrees to become a member of the Industrial Park Association and abide by such rules and regulations, and to pay such costs as are incident to the operation of said Association, including but not limited to membership fees.

XIII. EFFECT OF PARITAL INVALIDITY

The invalidity of any portion of these Covenants will not and shall not be deemed to affect the validity of any other provision. In the event any provision of these Covenants is held to be invalid, the remaining Covenants are deemed to remain in full force and effect.

XIV. BINDING AGREEMENT

This agreement and the covenants, terms, and conditions thereof shall be binding upon and inure to the heirs, executors, administrators, successor in interest, and the assigns of the parties hereto.

XV. ARBITRATION

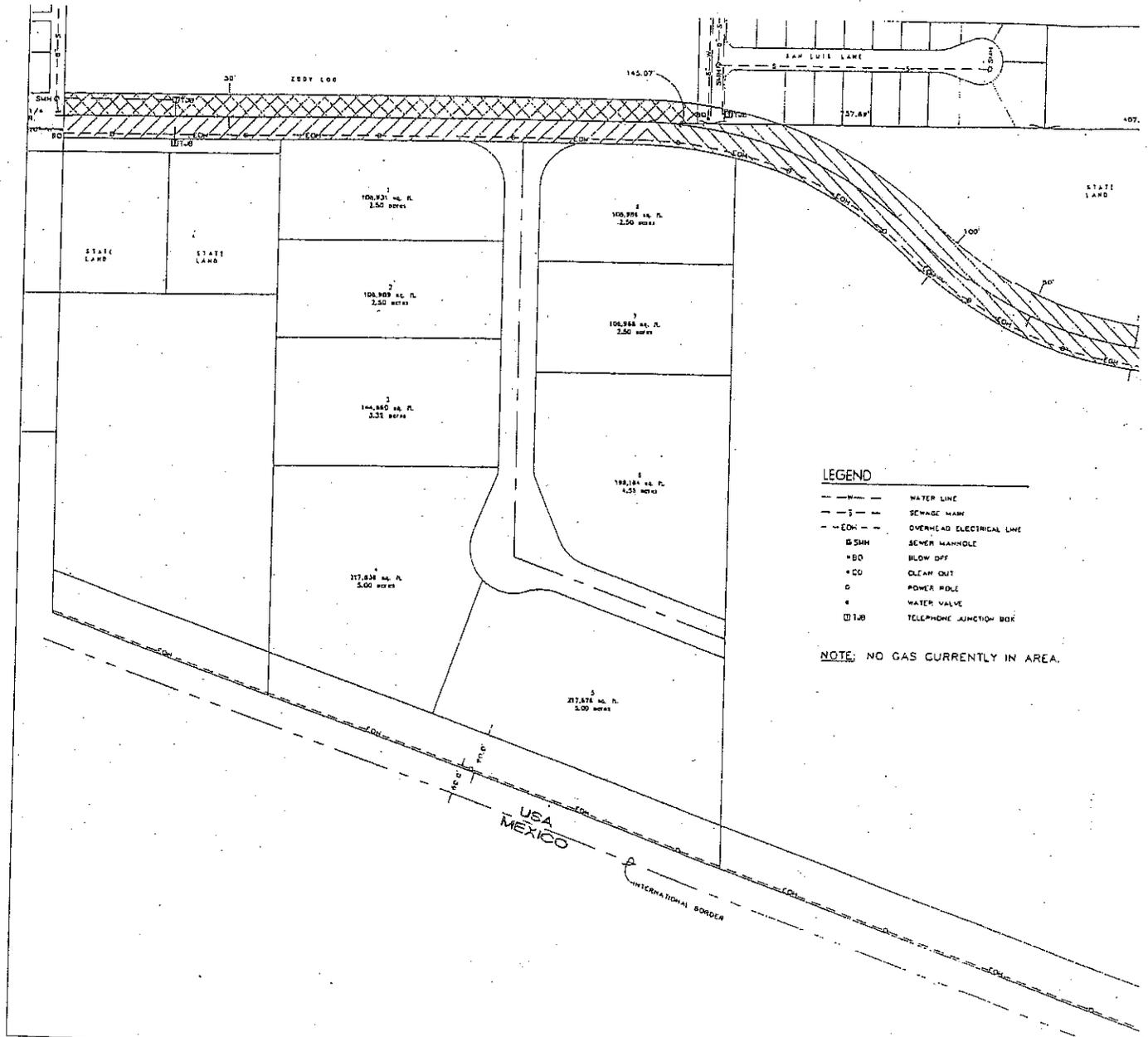
In the event of any dispute arising between the parties, the parties agree to dispute resolution as established in the Sublease under **ARTICLE XVII: DEFAULT REMEDIES**.

Exhibit "A": Industrial Park Legal Description

Township 11 S., R. 25 West, G&SRM, Yuma County, Arizona
Lots 2 and 10; West 225 Feet of Tract 18 in State Plat 17, Section 12. Containing 64.2 Acres
more or less.

Exhibit "B": Industrial Park Master Plan

Please refer to attached map.



LEGEND

—	WATER LINE
- - -	SEWER MAIN
- E - -	OVERHEAD ELECTRICAL LINE
⊕	SEWER MANHOLE
⊙	BLOW OFF
⊙	CLEAN OUT
⊙	POWER POLE
⊙	WATER VALVE
⊕	TELEPHONE JUNCTION BOX

NOTE: NO GAS CURRENTLY IN AREA.

10/10/2010 10:00 AM 10/10/2010 10:00 AM
 10/10/2010 10:00 AM 10/10/2010 10:00 AM
 10/10/2010 10:00 AM 10/10/2010 10:00 AM

SAN LUIS INDUSTRIAL PA

LOT 10 & LOT 2 SEC. 12, T.11S, R.25W,
G&SRM, YUMA COUNTY, ARIZONA.
(ASSESSOR'S PARCEL No. 102-60-005B)

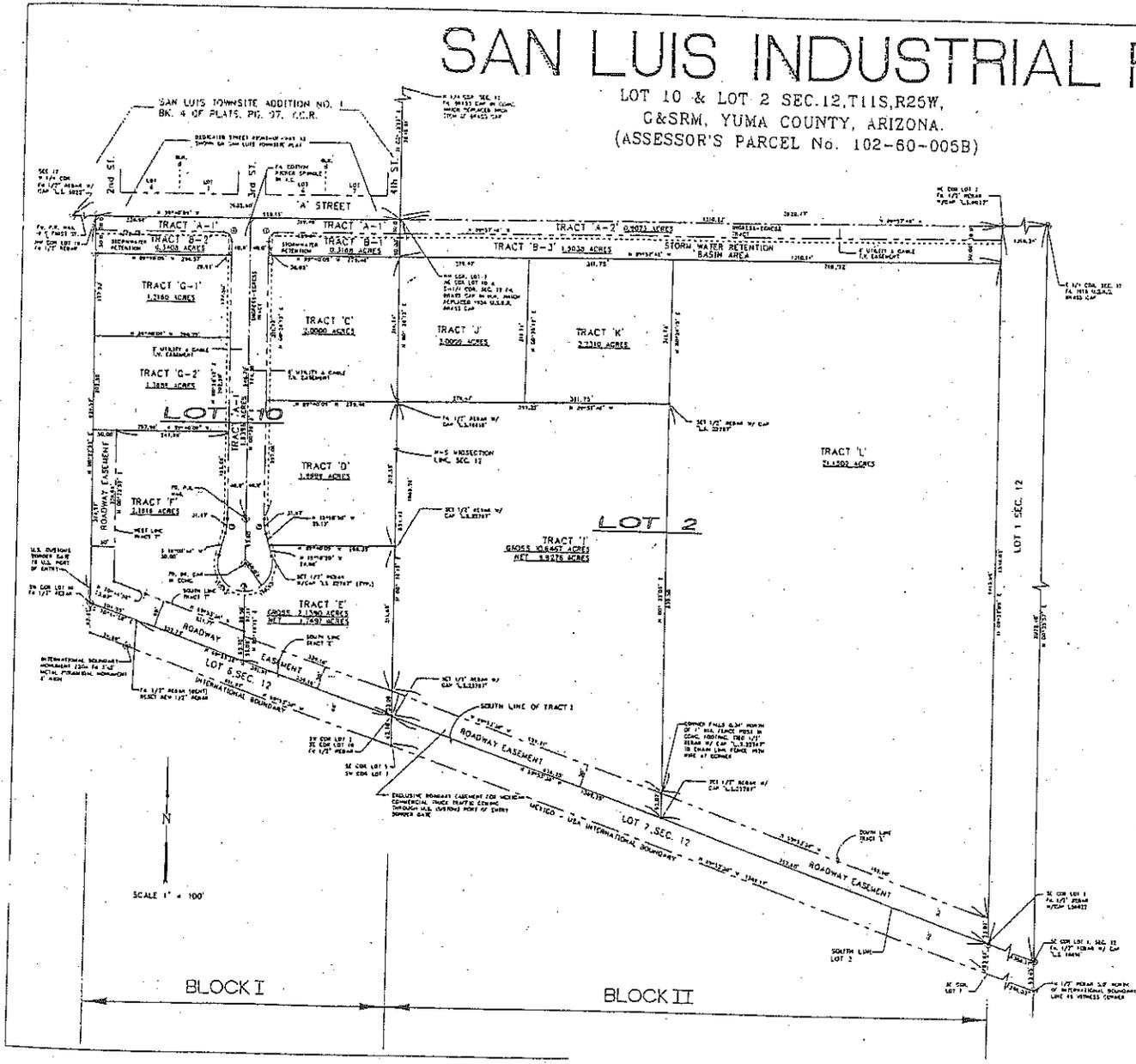


Exhibit "C": Landscaping Master Plan

All irrigation systems shall utilize bubbler and drip nozzles for the purposes of watering vegetation.

A. Shrubs

Silver sagebrush
Bird of paradise
Desert Willow
Desert broom

B. Desert plants

Compass Barrel
Ocotillos
Desert lantana
oleanders
senita
prickly pear
century plant

C. Flowers

Straw Flower
Mari gold
Gazania
Day lily
Geraniums
Petunias

D. Trees

Desert willows
Queen Palms
Mexican Fan Palms
Sweet Acacia
Bottle Tree
Palo Verde
Chilean mesquite
Brazilian peppertree



City of San Luis

Post Office Box 1170
767 N. First Avenue
San Luis, Arizona 85349-1170
(928) 627-2027 Fax: (928) 627-3879

Agenda Item Review Form

Item: Ordinance No. 210, an Ordinance of the Mayor and Council of the City of San Luis, Arizona Amending the "San Luis Industrial Park Protective Covenants" of the City of San Luis; Repealing Any Conflicting Provisions; Providing for Severability; and Declaring an Emergency.

Action Requested: That Council approve Ordinance No. 210, First Reading by Title Only, and declare an emergency.

Summary: As staff has worked in support of the San Luis Economic Development Corporation, it has become apparent that the Protective Covenants adopted April 11, 1990 no serve adequately to allow for the type of Light Industrial development that should occur in the San Luis Industrial Park with the acceptance by the San Luis Economic Development Corporation of the 75-year lease with the Arizona State Land Department. Both the Corporation and the current and prospective tenants have reviewed the amended Protective Covenants, a copy of which is attached hereto.

The reason why Council must act on this Ordinance is that the original Protective Covenants were approved via an Ordinance, and all ordinances must be amended by an ordinance.

Recommendation: See Action Requested.

Signature: Paul Melcher *P Melcher*
Title: Asst. City Administrator
Date: June 9, 2004