

**City of Kyle and DDR DB Kyle, LP,
Economic Development Agreement
September, 2008**

State of Texas §
County of Hays §

This Project Agreement (the "Agreement") is made and entered into by and between the City of Kyle (the "City") and DDR DB Kyle, LP, (the "Developer"), to be effective on this the 26th day of September, 2008.

RECITALS

WHEREAS, the Developer is the owner of certain real property located within the corporate limits of the City of Kyle, Texas, as described on Exhibit "A" hereto (hereinafter referred to as the "Property");

WHEREAS, the Property is located within the Tax Reinvestment Zone and Tax Incentive Financing District and the Developer intends to construct on the Property, retail development which will include at least one major retail department store having a minimum of 100,000 square feet (the "Department Store Anchor"), a movie theater having a minimum of 34,000 square feet and additional retail and other non-residential facilities having an aggregate square footage totaling approximately 740,000 square feet, which will occur in multi-phases and comply substantially with the Development Standards attached as Exhibit "B" (which shall be deemed satisfied upon the City approval of a building permit for the applicable building);

WHEREAS, these development(s) will require construction of common public infrastructure which provide enhanced mobility to the citizens of the greater Kyle area;

WHEREAS, the Developer has or may contribute to the overall cost of the infrastructure (both public and private) required to accomplish the development of the Property and further enhance the mobility of the greater area, it is in the best interest of the City of Kyle that a single Project Agreement addressing all the total Eligible Infrastructure Improvements (as hereinafter defined) be negotiated with the Developer who shall be responsible for the performance of the construction of the remaining Eligible Infrastructure Improvements contemplated under this Agreement and shall assume responsibility for any administration of this Agreement;

WHEREAS, the successful retail and non-residential development of the Property will enhance the City's ad valorem and sales tax bases, will create new employment opportunities, will significantly impact the revenue available to achieve the project goals of the Tax Increment Finance District and contribute to the overall economic development of the City;

WHEREAS, the infrastructure improvements, both onsite and offsite, including the construction of Marketplace Avenue by the Developer and as depicted on the attached Exhibit "C" will improve traffic and safety for the other commercial and retail development, will provide additional mobility to the greater Kyle region, will further enhance the City's ad valorem and sales tax bases, will create new business and employment opportunities, will significantly impact the revenue available to achieve the overall project goals of the Tax Increment Financing District and contribute to the overall economic development of the City;

WHEREAS, the Developer and the City estimate that the total cost for the Eligible Road Improvements (as hereinafter defined) and other Eligible Infrastructure Improvements will be \$6,494,515, subject to possible increase as provided below;

WHEREAS, for and in consideration of the incentive payments described herein, the Developer and its successors and assigns, will commence and diligently pursue the completion of the Eligible Road Improvements and other Eligible Infrastructure Improvements, beginning construction within one hundred and eighty (180) days of the final approval of the construction plans by the City;

WHEREAS, for and in consideration of the incentive payments described herein, the Developer or its successors and assigns, will complete or cause to be completed the construction of and obtain a certificate of occupancy for a minimum of 300,000 square feet of new retail development no later than March 31, 2010;

WHEREAS, the City of Kyle wishes to encourage and to assist the above described economic development by providing economic development financial assistance to the Developer so that the retail development and the related off-site infrastructure developments will be complete and in order to further assure the success of the goals of the Tax Increment Financing District;

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth herein, the parties hereby agree as follows:

1. Definitions.

- (a) "City" means the City of Kyle, a municipal corporation of the State of Texas.
- (b) "Property" means the real property described on Exhibit "A" attached hereto.
- (c) "Development" means the multi-phased development of retail and non-residential improvements as generally described in the second recital above to be located on the Property.
- (d) "On-site" means on the Property and at the Development.
- (e) "Certificate of Occupancy" shall mean that final document issued by the City of Kyle, Texas entitled "Certificate of Occupancy" indicating that all building codes, regulations, and ordinances have been officially unconditionally, completely complied with in all respects, and specifically shall not include any

temporary or conditional document authorizing temporary or conditional occupancy.

- (f) "Finance Department" means the Finance Department of the City of Kyle.
- (g) "Comply" and "compliance" means timely, full, and complete performance of each and every requirement, obligation, duty, condition, or warranty as stated in this Agreement. "Comply" and "compliance" mean complete compliance in all material respects and do not mean substantial compliance, unless otherwise specifically stated.
- (h) "Default" and "Act of Default" mean failure in some material respect to comply timely, fully and completely with one or more requirements, obligations, duties, terms, conditions or warranties set forth in this Agreement.
- (i) "Annual Incentive Payment" and "Annual Incentive Payments" mean annual incentive payments as described hereafter in Paragraph 2(a) of this Agreement.
- (j) "Construct" and "construction" mean construction in a good and workmanlike manner and in compliance with applicable State and local laws, codes, and regulations or valid waivers thereof or variances thereunder.
- (k) "City Sales Tax" means the portion of such taxes as are remitted to the State of Texas by the Retail Occupants based on one percent (1%) of sales of taxable items and reimbursed to the City of Kyle by the State of Texas. For purposes of this Agreement, City Sales Tax shall be determined to be the amount remitted by a company or person to the State of Texas Comptroller of Public Accounts Office (the "Comptroller") for the benefit of the City, as set forth in the records prepared by a company or person and submitted to the Comptroller for sales within the Development.
- (l) "Retail Occupants" means all owners, tenants and occupants of the Development and the additional retail and non-residential space uses conducting business in the Development.
- (m) "Full-Time Equivalent Employees" or "FTEs" shall mean the aggregate number of hours paid to employees in a week divided by forty (40).

2. Economic Development Incentive.

- (a) Annual Incentive Payment. Subject to the full and timely performance of each of the requirements and conditions precedent set forth in paragraph 3 below and compliance, in all material respects, with this Agreement, the City of Kyle agrees to pay to the Developer, an economic development incentive which shall not exceed the lesser of \$6,494,515 (subject to possible increase as provided below) or the actual documented costs of constructing the Eligible Infrastructure Improvements, whichever amount is less (the "Maximum Total Reimbursement") to be paid as follows:

- iii. *Fifty percent (50%)* of the City's portion of the sales and use taxes that result from the one percent general City Sales Tax on the sales of taxable items collected on-site by the Retail Occupants and remitted to the Comptroller of the State of Texas for the sales occurring from January 1, 2010 through December 31, 2010; and
- iv. *Fifty percent (50%)* of the City's portion of the sales and uses taxes that result from the one percent general City Sales Tax on the sales of taxable items collected on-site by the Retail Occupants and remitted to the Comptroller of the State of Texas for the sales occurring from January 1st through December 31st for each year thereafter for a period of nine (9) additional years; and
- v. In the event that fifty percent (50%) of the City Sales Tax generated during the foregoing initial ten (10) year period is not sufficient to pay to the Developer the Maximum Total Reimbursement, the remaining unpaid balance of the unpaid Maximum Total Reimbursement shall be calculated as of January 1, 2020. Simple interest shall accrue and be added to such remaining unpaid balance at an annual rate that does not exceed the rate paid by the City in its last debt issue sold prior to January 1, 2020. Annual Incentive Payments thereafter shall equal *forty percent (40%)* of the City's portion of the sales and use taxes that result from the one percent general City Sales Tax on the sales of taxable items collected on-site by the Retail Occupants and remitted to the Comptroller of the State of Texas for the sales occurring from January 1st through December 31st of 2020 and each year thereafter for a total period of five (5) additional years or until such remaining balance (including interest as described above) is paid, whichever occurs first. No Annual Incentive Payments shall be made with respect to any sales occurring after the expiration of such five (5) year period.

(b) Payment of Annual Incentive Payments. The City of Kyle, by and through its Finance Department, shall pay each Annual Incentive Payment to the Developer by each March 31st which follows the end of each respective Annual Incentive Payment year. As an example, the City of Kyle Annual Incentive Payment related to the sales and use taxes reimbursed to the City for the sales occurring during the period beginning January 1, 2010 and ending December 31st, 2010 is due on March 31st, 2011.

(c) City Sales Tax Reporting. The Developer shall cooperate with the City and assist the City in any manner required by the Comptroller to release any and all information related to City Sales Tax collected within the Development. The City will request quarterly, or monthly if available, from the Comptroller all sales tax reports for City Sales Taxes collected within the Development. The Developer shall use reasonable efforts to ensure that agreements with Retail Occupants provide for the timely submission of City Sales Taxes to the

Comptroller and execution of any document reasonably required for the release of such information to the City, including registering the Development and the address of the various properties therein as the point of sale for all products sold on-site at the Development, and to take such action with the Comptroller, and such other entities as necessary, to assure that the City Sales Tax is legally billed and payable, as provided by law for sales within the City, on all products that are sold on-site at the Development.

- (d) **Maximum Total Reimbursement.** Notwithstanding any provision of this Agreement to the contrary, the Maximum Total Reimbursement shall be increased by the following amounts subject to the following stated conditions:
- i. \$153,875 for the installation of Phase II water and sanitary sewer improvements, subject to approval by the City of the plans and specifications and final budget for such improvements, or such lower amount as the City may approve in such final budget;
 - ii. \$350,000 for improvements constructed by Developer within the FM 1626 right-of-way, subject to approval by the City of the plans and specifications and final budget for such improvements, or such lower amount as the City may approve in such final budget;
 - iii. \$15,000 for the installation of a water pressure reducing valve and vault behind the proposed Kohl's building, subject to approval by the City of the plans and specifications and final budget for such improvements, or such lower amount as the City may approve in such final budget.

3. Performance Criteria. The Developer agrees and covenants that it shall:

- (a) Construct or cause to be constructed the "Eligible Road Improvements" as depicted on Exhibit "C," with construction to commence by the one hundred and eightieth (180th) day from the date the City of Kyle provides final approval of construction plans therefor;
- (b) Construct or cause to be constructed the "Eligible Utility Improvements" as described in Exhibit "C," with construction to commence by the one hundred and eightieth (180th) day from the date the City of Kyle provides final approval of construction plans therefor;
- (c) Construct or cause to be constructed the "Eligible Drainage Improvements" including any required detention facilities as depicted on Exhibit "C," with construction to commence by the one hundred and eightieth (180th) day from the date the City of Kyle provides final approval of construction plans therefor;
- (d) Construct or cause to be constructed non-residential improvements within the Property having a taxable value of not less than \$25,000,000 by July 31, 2010;

(e) Sell or lease or cause the sale or lease to Retail Occupants on the Property that will, in aggregate, employ not less than 200 Full-time Equivalent Employees within the Development no later than July 31, 2010; and

(f) Cause the Department Store Anchor to open for business by July 31, 2010.

4. Plans and Specifications. The plans, specifications and construction of the Eligible Road Improvements, the Eligible Utility Improvements and the Eligible Drainage Improvements (collectively, the "Eligible Infrastructure Improvements") have been approved by the City and are described on Exhibit "D" attached hereto. The Developer or the Developer's authorized representative will document to the City the actual costs and expenses of such improvements. The itemized cost and expenses of such improvements attached hereto as Exhibit "E" have been approved by the City, provided that costs incurred for costs of the Traffic Signal at Kyle Parkway and Marketplace Avenue and the Future Public Utilities shall be authorized for reimbursement only after the improvement costs and plans and specifications therefor have been approved by the City and each such item has been constructed by Developer. The Development shall be designed, approved and constructed in compliance with the standard City ordinance requirements which are in effect as of the date of the approval of this Agreement.

5. Forfeiture. The Developer shall forfeit any and all rights to the Annual Incentive Payments set forth in Section 2 of this Agreement if the Developer fails to meet the Performance Criteria set forth in Section 3 (a), (b), (c), (d), (e), and (f) above, subject to the provisions of Paragraphs 6 and 7 hereof. The Developer will further partially forfeit the Annual Incentive Payments if the Retail Occupants located on the Property do not, in the aggregate, employ at least 200 FTEs to work and be employed in the retail and other non-residential establishments during the Annual Incentive Payment year in question, subject to the provisions of Paragraphs 6 and 7 hereof (this requirement shall begin as of January 1 of the year following the issuance of the final Certificate of Occupancy by the City for 300,000 square feet or more Retail Occupants within the Development). The partial forfeiture of any Annual Incentive Payment resulting from the failure of the Development to sustain the required 200 FTEs shall be calculated by decreasing such Annual Incentive Payment proportionately by the same percentage, if any, that the average number of FTEs of the Retail Occupants is less than 200 FTEs monthly for the twelve (12) month Annual Incentive Payment period.

6. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in Default hereunder until the passage of sixty (60) days after receipt by such party of notice of Default from the other party. Upon the passage of sixty (60) days without cure of the Default, such party shall be deemed to have committed an Act of Default for purposes of this Agreement.

7. Force Majeure.

(a) The term "force majeure" as employed herein shall mean and refer, without limitation, to acts of God; strikes and/or lockouts; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority (other than the City); insurrections; riots; lightning,

earthquakes, fires, hurricanes, storms, floods and other natural disasters; washouts and other weather-related delays; restraint of government and people; civil disturbances; explosions; or other causes not reasonably within the control of the party claiming such inability.

- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

8. Cooperation and Mutual Assistance. The parties shall reasonably cooperate so as to do all things necessary and appropriate to carry out the terms and provisions of this Agreement and to aid and assist one another in carrying out such terms and provisions.

9. Representation and Warranties by the City of Kyle. The City of Kyle represents and warrants that this Agreement is within the scope of its authority, and that it is duly authorized and empowered to enter into this Agreement.

10. Representations and Warranties by the Developer. The Developer makes the following representation and warranties as applicable. Any false or substantially misleading statement contained herein shall be a Default under Section 6 above:

- (a) This Agreement is within the scope of its authority, and it has been duly authorized and empowered to enter into this Agreement.
- (b) The Developer is authorized to do business, is in good standing in the State of Texas, and shall remain in good standing in the State of Texas during the term of this Agreement.
- (c) No litigation or governmental proceeding is pending against or affecting the Developer and to the Developer's actual knowledge no such litigation or governmental proceeding is expected or anticipated.
- (d) To the Developer's actual knowledge, there are no bankruptcy proceedings, whether voluntary or involuntary, currently pending or contemplated involving the Developer.

(e) The Developer is not currently in arrears in any payment of ad valorem taxes (or any other obligation) to the City of Kyle, the Hays County Independent School District or Hays County.

11. Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

12. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

13. Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.

14. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns; provided however (i) the benefits of this Agreement in favor of the Developer may not be assigned to any party without the written consent of the City of Kyle (which consent shall not be unduly withheld, provided that the City is satisfied that any remaining obligations under this Agreement will be met); and (ii) notwithstanding the foregoing and any other provision of this Agreement to the contrary, (a) no one or more provisions of this Agreement shall be enforceable against Target Corporation ("Target"), any successor or assign of Target, any portion of the Property acquired by Target (including without limitation any easements or other rights and interests appurtenant thereto), or any successor owner, occupant, tenant, licensee or invitee of any such portion of the Property (including, without limitation, any business that may operate from time to time thereon), and (b) Target shall not be deemed a successor or assign of Developer, Target shall not be deemed a party to this Agreement, and Target shall not assume, nor be deemed to have assumed, any obligations or liabilities under or in connection with this Agreement, by virtue of Target acquiring, developing, or operating a business on any portion of the Property (or not acquiring, not developing, or not operating a business on any portion of the Property)..

15. Applicable Law and Venue. This Agreement is made and all obligations arising hereunder shall be construed and interpreted under the laws of the State of Texas and the venue for any action arising from this Agreement shall be Hays County, Texas.

16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

17. Notice. Notices required to be given to any party to this Agreement shall be given personally or by certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For the City of Kyle:
City of Kyle
Attn: Office of the City Manager

P.O. Box 40
Kyle, Texas 78640

With a copy to: [City Attorney]

For the Developer:

DDR DB Kyle LP
5606 N. MacArthur Blvd., Suite 210
Irving, TX 75038
Attention: David P. Berndt

With copies to:

DDR DB Kyle LP
3300 Enterprise Parkway
Beachwood, OH 44122
Attention: General Counsel

Drenner & Golden Stuart Wolff
301 Congress Avenue, Suite 1200
Austin, Texas 78701
Attention: David Wolff

Any party may change the address which notices are to be sent by giving the other parties written notice in the manner provided in this Paragraph.

EXECUTED to be effective this the 26th day of September, 2008.

DDR DB Kyle LP, a Texas limited partnership

By: DDR Kyle Holdings LLC, a Delaware limited liability company, its general partner

By: _____
Name: _____
Title: _____

Attest:

Amelia Sanchez
Amelia Sanchez, City Secretary

CITY OF KYLE, TEXAS
By: Thomas L. Mattis
Thomas L. Mattis, City Manager
City of Kyle

Approved as to form:

Paige H. Saenz
Paige H. Saenz, City Attorney

P.O. Box 40
Kyle, Texas 78640

With a copy to: [City Attorney]

For the Developer:
DDR DB Kyle LP
5606 N. MacArthur Blvd., Suite 210
Irving, TX 75038
Attention: David P. Berndt

With copies to:
DDR DB Kyle LP
3300 Enterprise Parkway
Beachwood, OH 44122
Attention: General Counsel

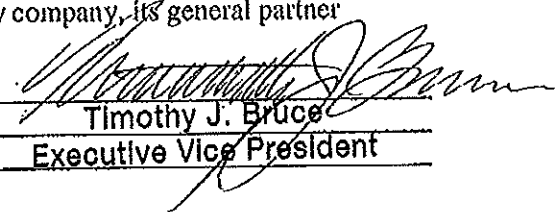
Drenner & Golden Stuart Wolff
301 Congress Avenue, Suite 1200
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Attention: David Wolff

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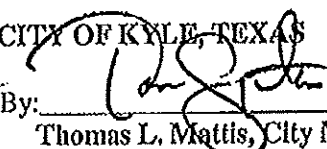
DDR DB Kyle LP, a Texas limited partnership

By: DDR Kyle Holdings LLC, a Delaware limited liability company, its general partner

By: 
Name: Timothy J. Bruce
Title: Executive Vice President

Attest:

Amelia Sanchez, City Secretary

CITY OF KYLE, TEXAS
By: 
Thomas L. Mattis, City Manager
City of Kyle

Approved as to form:

Paige H. Saenz, City Attorney

EXHIBIT "A"

Legal Description

All of Kyle Marketplace Section 2 as shown on the subdivision plat recorded in Plat Cabinet 14, Pages 330-333.

EXHIBIT "B"

DEVELOPMENT STANDARDS KYLE MARKETPLACE SECTION 2 KYLE, TEXAS

GENERAL DESIGN STANDARDS

The buildings and other improvements constructed for the project shall be consistent with the design concepts used in the construction of the Kyle City Hall. Buildings shall be designed with an overall Architectural materials consistent with the Kyle City Hall. The project shall include several building front facade designs that will carry the theme throughout the site. The buildings constructed within the Kyle Marketplace Section 2 Development shall have a minimum of ninety (90%) percent masonry walls as defined below, exclusive of storefronts and other openings. Red brick shall be used throughout the Kyle Marketplace Section 2 Development as a design element on building facades facing a public street and shall be similar in color. Landscaping, hardscape features, site furnishings and signage will employ similar materials and compatible designs to further the perception of the Kyle City Hall.

Any design standard not specially addressed in this Exhibit, shall comply with the City's Ordinances.

MATERIAL SELECTIONS

A. Masonry.

1. For this project "Masonry" shall be defined to include the following:
 - Brick
 - Natural Stone
 - Concrete Masonry Units
 - Stucco/Plaster/Synthetic Stucco to be used in detail applications only
 - Concrete either exposed, sandblasted or texture and painted
2. All brick used throughout the site shall be red in color and be compatible with any indigenous stone used.
3. Natural stone will come from sources within the regional proximity and may be used in varying sizes and shapes throughout the Project.
4. Stucco/Plaster/Synthetic Stucco in general will be integrally colored in hues and tones pulled from and compatible with the red brick and natural colors of the stone. However, other colors may be introduced in specific small areas when necessary to accomplish the design.
5. Concrete and/or Concrete Masonry Units may be used in any of several finishes ranging from exposed to textured and painted to resemble stucco. Colors for the textured/painted surfaces shall be integrally colored in hues and tones pulled from and compatible with the red brick and natural colors of the stone.

B. Other Wall Materials

The ten (10%) percent of exterior walls not included in the masonry requirements may be covered with a variety of materials that could include but not limited to non-reflective corrugated steel panels, wood, prefinished metal panels, glass block, or other materials that are compatible with the overall design and use for the specific area in which they are placed.

C. Elevations

I. The following shall apply:

- All facades, including back and side elevations of any building generally visible from public view or adjacent to residential areas, shall be architecturally treated and relate. All elevations generally visible from public view shall reflect the overall design, colors and textures used on the front facade.
- Building elevations shall incorporate architectural features and patterns that include pedestrian scale.
- Utilize architectural features, screen walls, landscaping into the overall building design.
- All anchor tenant buildings shall have a clearly defined customer entrance(s) incorporating elements such as:
 - (1) Canopies or Porticos
 - (2) Overhangs
 - (3) Recesses/Projections
 - (4) Raised corniced parapets over the door.
 - (5) Peaked roof forms
 - (6) Arches
 - (7) Entrance framed by outdoor pedestrian features or enhanced landscaping
 - (8) Integral planters or wing walls that incorporate landscaped areas and/or sitting areas
 - (9) Enhanced pedestrian surfaces
- Other canopies, trellis, pergolas, and awnings will also be incorporated into the front facade and sidewalk areas. In some cases these may be no more than minor shading devices, but in other situations they may be large enough to provide shade for outdoor seating. Permitted materials for these include steel, wood and canvas.

D. Roofing

1. Materials for the roof areas include the following:

- Standing Seam Metal Panels in either Preweathered Galvalume or Prefinished Painted Finishes. No reflective finishes are allowed.

- Clay tile may be used on some of the slope roof elements. Color blends will be chosen to be compatible with the other materials present.

E. Storefronts

The majority of the storefronts will be framed with typical prefinished aluminum components. The color of the finishes may vary as the façade materials vary from the stone to red brick, etc. in an attempt to add variety and interest at the pedestrian level. Glass will be clear and or lightly tinted with no reflective type glazing allowed.

F. Sidewalks

Sidewalks may be of typical concrete construction, provided however that ten (10%) percent of the sidewalk area around the buildings will be constructed with red brick or red stained and scored concrete to have the appearance of red brick. These accent areas are to emphasize important interceptions, building entrances and desirable pedestrian routes. All interior sidewalks shall be a minimum of five (5) feet in width.

G. Railings

Guardrails, handrails, and any other miscellaneous site related railing that may be required per code or for aesthetic reasons may be constructed of wood, masonry, or metal.

H. Lighting

Site lighting is broken into two components, General and Pedestrian. The General site lighting refers to illumination of large portions of the parking areas, while the Pedestrian site lighting references those areas along building fronts, plaza, outdoor dining areas, boulevards and areas where similar scale lighting is appropriate. Wall pack lighting shall only be used when the rear of the building does not face an area visible by the general public.

Fixture types used for General site lighting shall be cut-off so that the source of the illumination is shielded from view to the maximum extent possible. Fixtures shall be mounted no higher than thirty five (35) feet with two (2) foot six (6) inch concrete bases.

I. Equipment

Mechanical equipment mounted on the ground shall be screened by ornamental fences and incorporated landscaping. Mechanical equipment mounted on roofs shall be screened by appropriate building elements such as parapet wall, ornamental tower, or pitched roof to the extent that the mechanical equipment is not readily visible from any street level location inside or immediately adjacent to the Project.

Parapet walls used to screen mechanical equipment mounted on roofs shall be a minimum of three (3) feet six (6) inches above the height of the roof.

J. Vehicle Circulation and Parking

1. Crosswalks shall be required for traffic calming interior to the site to enhance pedestrian safety. Speed humps shall not be permitted.
2. Only ninety (90) degree head in parking shall be allowed along two way drive aisles.

K. Loading Areas

Loading and service areas shall be screened with walls that match the building materials and colors. Screen walls shall be a minimum of eight (8) feet in height.

Berms, used in conjunction with intensive landscaping may be considered to reduce the height of the screen wall

L. Drive-through Facilities

1. Circulation shall allow adequate length of stacking for drive-through facilities and not interfere with the movement of traffic.
2. A minimum of four (4) queue spaces shall be required per drive-through lane.
3. A twelve (12) foot by-pass lane or a convenient means to by-pass the drive-through activity shall be required to allow vehicles an opportunity to circumvent the drive-through activity and exit the site.
4. Drive-through lanes should be to the side or rear of the property.
5. A minimum five (5) foot landscape island shall be located between the drive-through lane and the adjacent parking areas or drive aisles.

GENERAL SIGNAGE STANDARDS

The sign improvements constructed for the Project will follow the design concepts illustrated on the attached Signage Exhibit approved by City Council on February 19, 2008. The sign designs will incorporate shapes, forms, scale and materials associated with the building architecture. The signs for the Kyle Marketplace Section 2 will be constructed with the following materials: red brick, stone, core tin, galvanized steel and painted metal.

Monument signs shall be illuminated either by (i) ground-mounted fixtures or (ii) with internally illuminated channel letters with reverse channel, halo, plex face or routed pane with push through letters. Only the business symbol/logo may be flex face, white area shall not exceed forty (40%) percent of the area of the plex face sign.

Except to the extent that this Agreement provides for signage regulation that is in conflict

with the City's Sign Ordinance, the signage regulations of the City's Sign Ordinance shall apply to the property.

A. Main Entrance Sign

For the purpose of directing traffic to the entrance of the shopping center, six (6) double sided freestanding signs may be installed and maintained by Owner. Four (4) freestanding signs shall be located along the IH-35 frontage road and two (2) freestanding signs shall be located along FM 1626. Each such freestanding sign shall have a red brick base and be consistent with the masonry and design standards applicable to the Property pursuant to the architectural guidelines. Entrance signs shall incorporate materials and colors that are complementary to the overall design of the shopping center.

The freestanding signs shall be in accordance to the Signage Exhibit Attached.

B. Monument Signs

Monument signs shall comply with the City's Sign Ordinance.

LANDSCAPE DESIGN STANDARDS

A. General Requirements

In addition to the basic landscape requirements established in the Zoning Ordinance the Property shall offer the following landscape amenities:

1. Enhanced landscape features at all major road intersections, including but not limited to boulders, water features, towers or a combination thereof.
2. Enhanced landscaping along the perimeter of the property, particularly along IH-35 frontage road and FM 1626.
3. Landscape end islands and medians in and along drives and in the parking areas shall meet or exceed the ordinance requirements and shall provide for pedestrian traffic so that the landscaping is not compacted or destroyed by pedestrian traffic.
4. Grouping of plant materials.
5. Additional screening of loading dock area, as noted in *Screening Wall Landscaping* below.
6. Trees shall be planted to avoid interference with streetlights, signage and other fixtures.
7. Trees shall be kept out of street intersection sight triangles at a minimum of thirty five (35) feet as measured from face or curb.
8. When possible trees shall be planted no less than five (5) linear feet (whether horizontal or an angle) from underground utilities and fifteen (15) feet from overhead lines.
9. Trees shall be planted no less than five (5) linear feet (whether horizontal or an angle) from fire hydrants.

B. Perimeter Landscaping

Parking areas and the rear of all buildings shall be screened visually from all roadways by a combination of earthen berms, trees and a continuous shrub or ornamental grass row between thirty (30) and forty (40) inches high measured from final grade or parking nearest the road. These shrubs and grasses shall be spaced on average four (4) to six (6) feet on center (depending on mature growth habit of plant) utilizing clustering and grouping to provide periodic open views to architectural elements, signs and additional landscape elements. Berms, not to exceed a four to one (4:1) slope, shall also be strategically located to provide maximum screening of parking while providing open views to architectural elements, signs and additional landscape elements.

C. Parking Area Landscaping

1. Landscaped end islands in the parking areas shall be a minimum of ten (10) feet wide. Minor deviations may be allowed due to topographic and other site constraints.
2. Each median island shall have a large or medium tree space on average a minimum of fifty (50) feet on center. Also, each end island shall have a minimum of one (1) large tree.

D. Screening Walls

1. Service areas shall be visually screened from all public right-of-way. Acceptable methods of screening include walled entrances, evergreen landscaping and depressed service areas.
2. Landscape buffer and screening requirements shall apply for ground mounted equipment, dumpsters, trash receptacles, refuse storage containers, loading docks, large utility cabinets and similar structures.

E. Streetscape

1. A license agreement from the City and/or TxDOT is required prior to any improvements in the public right-of-way.
2. Streetscapes shall be landscaped in accordance with the Zoning Ordinance.
3. Street trees shall be irrigated by a permanent automatic irrigation system.
4. Any landscaping and irrigation located within the public right-of-way shall be installed, irrigated and maintained by the property owner's association.

F. Plant Material Palette

The list of plant material considered to be appropriate for the development shall be from the City's Approved Plant Guide. Other plant material may be used, but shall be plants that are chosen for hardiness to climate and utility in the landscape that will foster the Central Texas plant style.

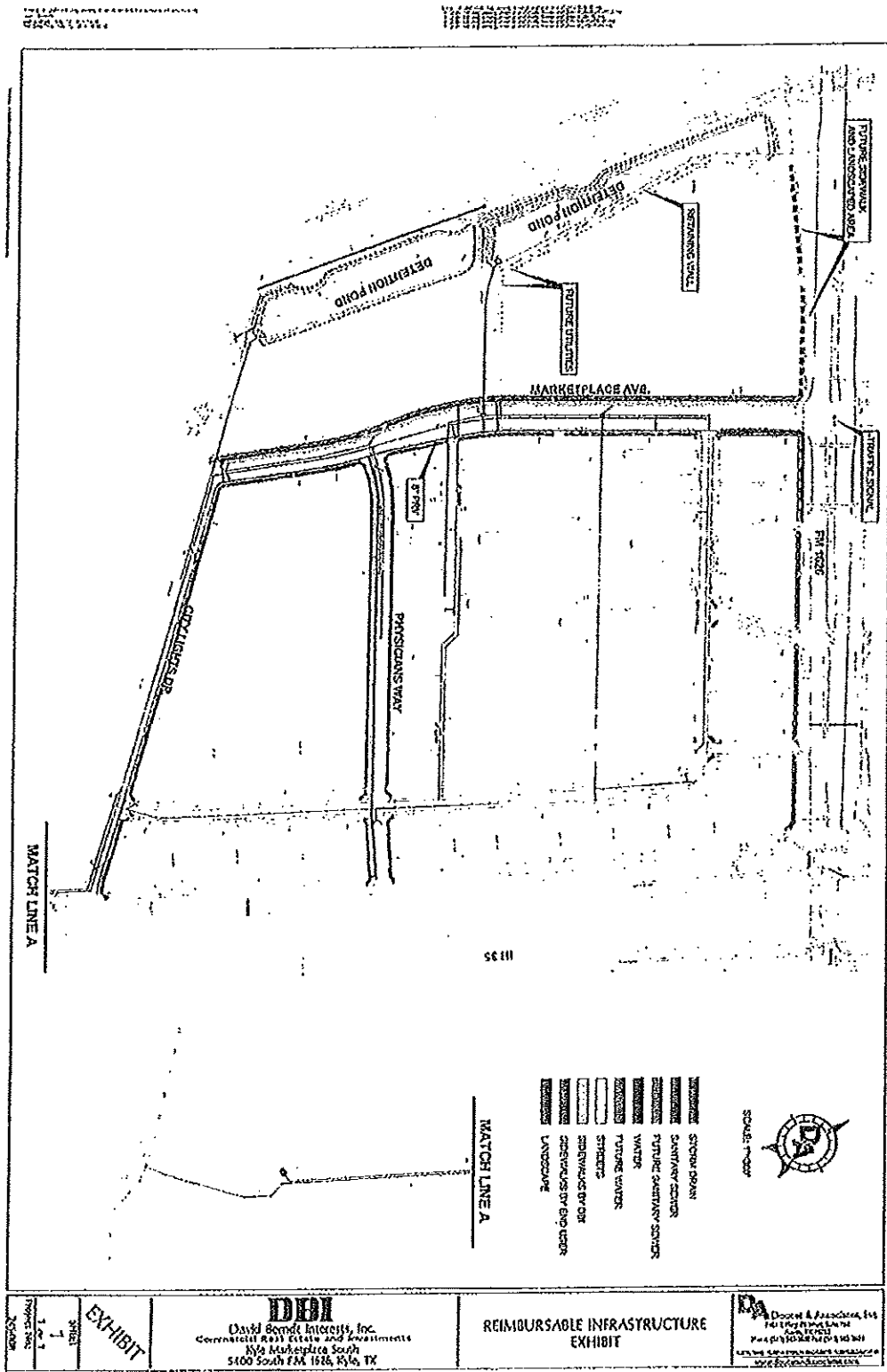


EXHIBIT "E"

Approved Cost of Infrastructure Improvements

1626 sidewalks *	903 lf	\$ 24.00	\$ 21,672.00
1626 sidewalks	1500 lf	\$ 24.00	\$ 36,000.00
traffic signal**	1 ea	\$ 195,000.00	\$ 195,000.00
Retaining Walls	1 ea	\$ 45,417.00	\$ 245,417.00
Physicians	1 ea	\$ 868,975.00	\$ 877,216.00
City Lights	1 ea	\$ 993,183.00	\$ 984,996.00
Marketplace	1 ea	\$1,975,949.00	\$ 1,992,826.00
Off site I-35 utilities	1 ea	\$ 330,002.00	\$ 330,002.00
Public Utilities	1 ea	\$1,275,141.00	\$ 1,275,141.00
Engineering	1 ea	9%	\$ 536,244.00
Total			\$ 6,494,515.00

* Reimbursable only upon the City of Kyle approval of plans and costs associated with these improvements.

** Reimbursable only if installed by developer and not paid for by the State of Texas

Phase 2 utilities*		\$ 153,875.00	\$ 153,875.00
1626 Improvements *	1 ea	\$ 350,000.00	\$ 350,000.00
Pressure reducing valve*			\$ 15,000.00
Engineering	1 ea	9%	\$ 46,699.00
Total			\$ 565,574.00

* Reimbursable only upon the City of Kyle approval of plans and costs associated with these improvements.