

**** Electronically Filed Document ****

Midland County
Cheryl Becker
County Clerk

Document Number: 2013-5825

Recorded As : ERX-RECORDING

Recorded On: March 11, 2013

Recorded At: 10:15:38 am

Number of Pages: 9

Recording Fee: \$44.00

Parties:

Direct-
Indirect-

Receipt Number: 395383

Processed By: Vangie Montemayor

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.



State of Texas
County of Midland

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly
RECORDED in the named RECORDS of Midland County, Texas as stamped hereon.

Cheryl Becker

County Clerk
Midland County, Texas

Dedication and Restrictions

West Terminal Addition

State of Texas}

County of Midland}

THAT, WHEREAS, DJK, INC. ("DJK"), a Texas Corporation and 493, INC. ("493"), a Texas Corporation are the owners of that certain tract of land consisting of approximately 92 acres located in Section 2, Block 41 T-2 S, T & P Railway Company Survey, which is more particularly described on Exhibit "A" attached hereto and made apart hereof for all purposes; and

WHEREAS it is desired to convert said land into an Industrial Subdivision in Midland County, Texas;

NOW, THEREFORE, DJK and 493 do hereby adopt the plat to be filed of record in the Plat Records, a development, in the County of Midland, Texas as its Plan of making such development, same to be known as West Terminal Addition, First Filing, City of Odessa, Midland County, Texas; this dedication is especially made subject to prior reservations of all oil, gas and other minerals together with the right of ingress and egress, into same for the purpose of exploring, prospecting, drilling, mining, producing, and removing such oil or gas and/or other minerals,

COVENANTS AND RESTRICTIONS

These Covenants and any and all amendments thereto are covenants running with the land and shall be binding upon and inure to the benefit of each and every property owner, and his or its heirs, successors or assigns, for a period commencing on the date of the filing hereof and continuing through and including December 31, 2032, and thereafter, for successive periods of ten years each unless property owners owning majority of the net acres in West Terminal Addition, First Filing (acres not subject to or underlying publicly dedicated streets, alleys, rights-of-way; or other publicly dedicated areas) shall, by instrument in writing signed by said property owners and recorded in the Official Public Records of Midland County, Texas, declare these Covenants changed in whole or in part as of December 31, 2032, or as of the end of any subsequent ten year period.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the Covenants herein, it shall be lawful for any other person or persons owning any real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any of these Covenants by judgment or Court Order shall in no wise affect any of the other provisions which shall remain in full force and effect.

KNOW ALL MEN BY THESE PRESENTS: That DJK, and 493, being the, owners of West Terminal Addition, First Filing, as shown by the plat of said subdivision to be filed of record on file in the office of the County Clerk of Midland County, Texas, hereby declare and agree with all future purchasers of building sites in said subdivision and conveyances of any sites therein shall be made subject to said restrictions as follows:

I.

None of said building sites designated on said map or plat may be used for any purpose or use which would constitute a nuisance or which would cause the emission of odors which are injurious or noxious to persons, or which do not meet applicable governmental standards including, but not limited to, State and Federal Regulations and Standards. The West Terminal Addition, First Filing shall be used only for industrial, manufacturing, warehousing, distribution, commercial sales or accessory structures including, without limitation, guard houses and fleet maintenance and dispatch buildings, and, offices related to the primary use, which are permitted under the applicable zoning ordinances of the City of Odessa or Midland County, and which are not specifically excluded below, including without limitation, warehousing and distribution.

In addition to the above referenced uses, the City or county shall have the right to construct and maintain such public utility systems and improvements as are necessary for the West Terminal Addition, including without limitation, streets, water tanks and storm water detention ponds.

II.

Building sites in the West Terminal Addition, First filing shall not be used for any of the following businesses: the manufacture of paper storage in bulk or junk or second hand material, public blacksmith, public horse shoeing, public wagon shop, public veterinary hospital, public stable; dairy, iron foundry, automobile wrecking, operation of mine or a quarry, or for the manufacture, storage or distribution of explosives including, but not limited to: Acetylides, Azides, Chlorates, Dynamite, Blasting Gelatine, Fulminates, Anhydrous, Hydrazine, Ammonium Nitrate, Dinitrorescorcinol, Dinitrodulene, Quaidine, Nitrate, Guncotton (cellulose, nitrate or Pyroxylin), Hexamine, Nitroglycerine, Bentaerythropol or its Tetranitrate Pecric Acid, Tetryl, Clyonite or Hexogen, Dinol Petryl, TNT, Percholorates (when mixed with carbanicious materials). Black Powder, Greek Fire, Fireworks, Permanganates, Peroxides, and the rendering or refining of fats or oil and manufacture of fish products, sauerkraut, vinegar or yeast.

In the West Terminal Addition, First Filing; no Building site or Improvement thereon shall be used or occupied for any of the following uses, which are specifically prohibited:

1. Residential
2. Commercial Incineration
3. Junk Yards
4. Rubbish, Garbage, Trash Dumps or Refuse Convenience Centers
5. Membership Clubs
6. Manufacturing of Chemicals
7. Manufacturing or Processing of Meat Products
8. Agricultural Uses, except field crops
9. Community Facilities, except fire stations, police substations or other similar municipal uses.
10. Public Utilities, except as otherwise provided in Article 1 above
11. Storage, handling, Treatment or Disposition of Hazardous, Toxic or Radioactive Wastes.
12. Any use which produces excessive smoke, dust, noise, odor or vibrations in violation of City or County ordinances
13. All other uses not specifically allowed under Article 1 above.

III.

No building shall ever be erected on said building sites which shall be nearer than fifty feet to the property line of any fronting street or nearer than twenty-five feet to any cross streets or nearer than fifteen feet to the sideline of any property. And, in no case shall any building be closer than fifty feet to County Road 100 or Yukon Road. Each individual owner shall maintain the property from property line through the County Road 100 or Yukon Road right of way to the pavement for that total property owned.

IV.

(a) All buildings shall have a face of brick, stone, stucco, reinforced concrete, equivalent masonry construction, glass or a combination of these materials, along the front of the building on the full height of the building to the roof line, or facing material of equal or better quality, and further, the same facing material shall extend ten feet back on each sidewall of the building and shall extend to the roof line so as to give the appearance that the entire building is so constructed or as approved by the Architectural Control Committee (ACC). Roofing may be of prefabricated steel or aluminum paneling or built up or other standard construction roofing materials. Standard 2.50", 2.67", and 3.00" corrugated or similar appearing galvanized iron or aluminum sheeting will not be acceptable on a roof. This requirement shall not extend to any building that is an accessory building to the main building.

(b) All portions of all buildings not faced as provided for in (a) above, shall be fenced by fencing at least six feet in height with the exception of openings for driveways. All fencing shall be continuously and adequately well maintained.

(c) All refuse areas must be screened from view from any public street or roadway.

V.

No billboards or advertising signs other than those identifying the name, business and products of the person or firm occupying the premises shall be permitted. No billboards or identifying sign shall be erected above any building to a height greater than seventy-five percent of the height of the main building on the same site. A sign not to exceed ten feet by twenty feet in size offering the premises for sale or lease may be erected. No billboards or advertising signs shall be erected that do not comply with any City of Odessa or Midland County sign ordinance.

VI.

No loading docks will be permitted to front on any street nearer than at least 100 feet from the front property line of the site.

VII.

Off street parking facilities on the premises shall be provided on each building site with adequate space for customers, employees, and tenants of the business on said sites. There will be no on street parking.

VIII.

That portion of the front setback area not used for parking area or surfaced with permanent concrete or asphaltic paving shall be landscaped and maintained, and at least 10% of the fifty foot front set back area must be landscaped. Landscaping plans should be submitted with the building construction plans to the ACC.

IX.

Outside lights shall be so located and shielded that no light source will be directly aimed towards the right of way of County Road 100 or Yukon Road. Direct or reflected light in a horizontal plane at a height of six feet at the right of way of County Road 100 or Yukon Road shall not exceed an intensity of 20 foot candles.

X.

No plant shall emit any toxic or corrosive gas or any other hazardous emissions under any conditions in violation of State or Federal Environmental and Emission Control Standards.

XI.

The primary building of any lot shall not have less than 2,500 square feet of floor space.

XII.

An architectural Control Committee (ACC) consisting of three persons who are: Brad Bushman, Roy Allen and Tom Glasman are hereby appointed and a majority of such members shall approve each set of plans and specifications covering construction within said subdivision, including plans for landscaping. The architectural control committee shall assume no responsibility as to engineering and structural quality. All plans are to be submitted to the architectural control committee for approval prior to the beginning of any construction, which approval must be given in writing to the persons or entities submitting such plans and will not be unreasonably withheld, delayed, or conditioned. In the event any Member of such committee is unable to carry out his duties by reason of death, illness, resignation or inability or refusal to act when so requested in writing, then in such event, the remaining member or members of the committee may appoint a replacement member or members. Each set of plans and specifications for construction in said subdivision shall be signed by at least three members of the architectural control committee before construction is commenced; to insure harmony of location and external design with existing structures and to carry out the overall development plans for said subdivision. The architectural control committee shall have full power and authority to release, amend or change all of the requirements of these restrictions by a unanimous vote of its committee members. The architectural control committee shall have the power to enforce these amended restrictions.

X I I I .

All utility services to each lot Covered by this Dedication and Restrictions shall be buried underground. Service Laterals will be the responsibility of the lot owner. There shall be no overhead service laterals allowed. For the purpose of this Agreement the term "Service Lateral" is defined to be utility service lines from the point of delivery from the utility source to the customer.

XIV.

No signs, fence, wall, hedge or shrub planting which obstructs site line at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street and property lines extended. The same site line limitations shall apply on any lot within ten feet of the intersection of a street property line with the edge of a driveway or alley pavement.

XV.

Objectionable noises, due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to properties in or outside the industrial park.

XVI.

No plant shall permit emission of smoke from any source whatever during normal operation of a density greater than that density described as No. 1 on the Ringlemann Chart.

For the purpose of grading, the density of smoke, the Ringlemann. Chart, as published and used by the United States Bureau of Mines which is hereby made a part of these restrictions shall be the standards.

XVII.

No plant shall employ any process that will emit any dirt, sprays or mists into the air that will be transmitted beyond their property lines during normal operations.

XVIII.

No plant shall emit any toxic or corrosive gas under any conditions.

All welding and heating operations normal to any plant shall be screened from view or adjacent properties or roadways. No operation shall be carried on that would produce heat which travels beyond the property line from the site on which the operation is located as measured in a horizontal plane to a distance of twenty-four feet above the ground level of the site.

IX.

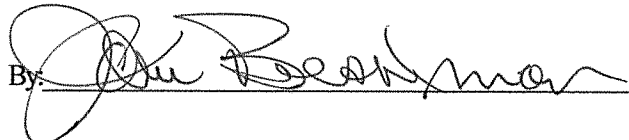
Development of all parcels shall conform to the requirements of the comprehensive zoning ordinance of the City of Odessa or Midland County, Texas.

X .

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein either or restrain violation or to recover damages and at the cost and expense (including reasonable attorney's fees) of the party violating or attempting to violate the same.

WITNESS OUR HANDS on this the 6TH day of MARCH, 2013

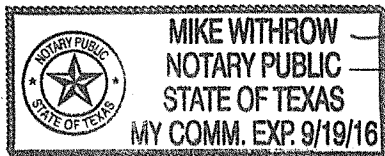
DJK, INC.


By: 
V.P.

THE STATE OF TEXAS §

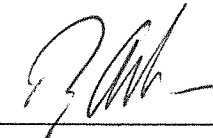
COUNTY OF ECTOR §

This instrument was acknowledged before me on the 6TH day of MARCH, 2013, by JOHN BUSHMAN, Vice President of DJK, INC., a Texas corporation, on behalf of said corporation.




NOTARY PUBLIC, STATE OF TEXAS

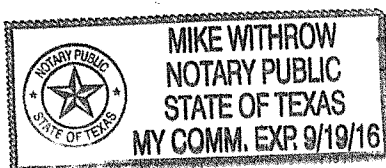
493, INC.

By: 
Vice Pres.

THE STATE OF TEXAS §

COUNTY OF ECTOR §

This instrument was acknowledged before me on the 6TH day of MARCH, 2013, by ROY ALLEN, Vice President of 493, INC., a Texas corporation, on behalf of said corporation.



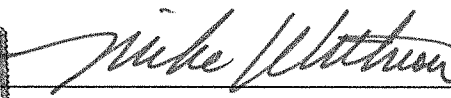

NOTARY PUBLIC, STATE OF TEXAS

Exhibit A

FIELD NOTES OF A 92.2 ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK 41, T-2-S, T & P RY CO SURVEY, AND OUT OF SECTION 47, BLOCK 41, T-1-S, T & P RY CO SURVEY, BOTH IN MIDLAND COUNTY, TEXAS.

BEGINNING at the northeast corner of Section 2, Block 41, T-2-S, T & P Ry Co Survey, and the southeast corner of Section 47, Block 41, T-1-S, T & P Ry Co Survey, both in Midland County, Texas, for the northeast corner of this tract;

THENCE S14°07'24"E, with the east boundary line of said Section 2 and the west boundary line of Section 1, said Block 41, T-2-S, T & P Ry Co Survey, Midland County, Texas, 505 feet to a point for the southeast corner of this tract;

THENCE S74°57'14"W, 2326.32 feet to a point of curvature;

THENCE westerly along a curve to the left, radius 878.50 feet, delta angle 24°43'22", arc length 379.07 feet, chord bearing S62°35'33"W, chord length 376.13 feet to a point;

THENCE westerly along a curve to the right radius 794.75 feet, delta angle 27°22'34", arc length 379.33 feet, chord bearing S62°35'33"W, chord length 376.13 feet to a point of tangency;

THENCE S76°16'50"W, 1055.94 feet to a point for an interior corner of this tract;

THENCE S11°09'46"E, 700.71 feet to a point for an exterior corner of this tract;

THENCE S76°16'50"W, 1172.82 feet to a point in the west boundary line of Section 2, and the east boundary line of Section 3, Block 41, T-2-S, T & P Ry Co Survey for the southwest corner of this tract;

THENCE N13°44'02"W, with the west boundary line of said Section 2 and the east boundary line of said Section 3, 1175.23 feet to a point in the southeast boundary line of State Highway 191 for the most westerly northwest corner of this tract;

THENCE N34°44'51"E, with the southeast boundary line of said State Highway 191, 471.52 feet to a point in the southwest boundary line of a Drainage Easement recorded in Volume 753, Page 527, Midland County Deed Records, for the most northerly northwest corner of this tract;

THENCE S67°54'33"E, with the southwest boundary line of said Drainage Easement, 273.40 feet to a point for an interior corner of this tract;

THENCE N74°57'57"E, 2379.30 feet to a point for an interior corner of this tract;

THENCE N55°17'04"W, 1803.93 feet to a point in the southeast boundary line of said State Highway 191 for an exterior corner of this tract;

THENCE N34°36'20"E, with the southeast boundary line of said State Highway 191, 60 feet to a point for an exterior corner of this tract;

THENCE S55°17'04"E, 1854.84 feet to a point for an interior corner of this tract;

THENCE N74°57'57"E, 2282 feet to the place of beginning and containing 92.2 acres of land.

12-32125

February 23, 2012

Revised June 18, 2012

Revised September 28, 2012