

FACADE EASEMENT AGREEMENT

This Facade Easement Agreement is made and given on _____, by and between the **ALLEN PARK DOWNTOWN DEVELOPMENT AUTHORITY**, (the **DDA**, hereinafter referred to as the **GRANTEE**), and _____ By: _____, its owner(s), (hereinafter the **GRANTOR**).

WITNESSETH:

Whereas, GRANTOR is the owner in fee simple of the real property more fully described on the attached exhibit A, and has a commercial structure on it, located at _____, in the City of Allen Park, hereinafter referred to as the "BUILDING";

Whereas, GRANTOR giving this facade easement to the **DDA** will assist in preserving and maintaining the designated character of the Commercial District;

Whereas, this facade easement obligates the GRANTOR to preserve, protect, enhance and perpetuate the facade constructed under this Easement;

Whereas, it is the specific intention of the parties hereto to specifically exclude the interior and other parts of the Building from this Easement;

Whereas, GRANTOR desires to give to the DDA, and the DDA desires to accept, this facade easement.

1. In consideration of _____ dollars and other good and valuable consideration, the receipt and sufficiency of which by **GRANTOR** is hereby acknowledged, **GRANTOR** hereby does give and convey to the **Allen Park Downtown Development Authority (DDA)**, irrevocably for a period of Five (5) years, a facade easement to the BUILDING on the real property described as:

LOTS

Parcel:

2. It is agreed by and between **GRANTOR** and **DDA** that the facade as shown on Exhibit B, the design drawings of the facade, is the facade that shall be constructed or installed on the **BUILDING**.

3. The **GRANTOR** agrees to do (or refrain from doing, as the case may be) each of the following:

- (a) The grantor shall not demolish, remove or raze the facade during the five (5) year period;
- (b) The grantor shall not undertake or allow to be undertaken any changes to the facade including any of the following without the express written consent of the grantee or its successor:
 - (i) any change in the facade including the alteration, partial removal, construction, remodeling or physical or structural change or change in color or surfacing with respect to the appearance or construction of the facade;
 - (ii) add any additional signs, canopies or plaques to the facade;
 - (ii) any significant reconstruction, repair, repainting or refinishing of the designated feature that alters its state from the existing condition.
- (c) This subsection shall not include ordinary or necessary maintenance as covered by section 5 below.

4. Within thirty (30) days after **GRANTOR** requests permission to make a change, written consent or refusal to allow the change, along with reasons, shall be delivered to the **GRANTOR**.

5. Should **GRANTOR** fail to keep the facade as approved for the required five (5) years, the **GRANTOR** shall repay to the **DDA** the entire consideration provided in paragraph 1.

6. **Maintenance.** **GRANTOR** agrees that it shall perform ordinary maintenance on the facade to maintain its appearance and structural soundness and prevent any deterioration of the facade. The **GRANTOR** shall not have to notify the **DDA** that maintenance is going to be performed.

7. **Specification of Work.** In the event the **GRANTOR** is required to seek the consent of the **DDA** pursuant to section 2(b) of this Easement, the **GRANTOR** shall give the **GRANTEE** copies of the plans, designs, elevations, specifications, and documents relating to the change or work, including specification of all materials, colors and construction techniques to be used in any such work and photographs of the subject area as it appears at the time of the request.

8. **Insurance.** **GRANTOR**, at its expense, shall (i) keep the premises insured under a standard form of insurance policy against loss or damage resulting from fire and other perils normally insured under a uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State of Michigan and (ii) carry and maintain comprehensive public liability insurance. The public liability policy shall name the **DDA** as an additional insured as to the facade only and shall provide for not less, than thirty (30) days prior written notice to the **DDA** by the insurer of any proposed cancellation of any such insurance. The **GRANTOR** shall deliver to the **DDA** a certificate of insurance prior to the recording of this facade easement and, on renewal, a new certificate shall be sent to the **DDA**.

9. **Casualty Damage.** In the event that the premises or any part thereof shall be damaged by fire or other casualty, then the proceeds of the insurance required to be carried pursuant to section 8 and **GRANTOR'S** funds shall be applied to reconstructing the facade

constructed under this Easement. If the premises are damaged to such an extent that the **GRANTOR** determines that reconstruction is not feasible and provides the **DDA** with a statement from an independent engineer to the same effect, then this facade easement shall be void and of no further force and effect.

10. **Inspection.** **GRANTOR** covenants that representatives of the **DDA** shall be permitted to inspect the facade from the street for the purpose of determining conformance with facade easement.

11. **DDA's Remedies.** In the event of a violation of any provision of facade easement, (i) the **DDA** may, upon five days prior written notice to **GRANTOR**, start a legal action against the **GRANTOR**. In the event that it is determined that the **GRANTOR** violated any of obligations under this Agreement, the **GRANTOR** shall reimburse **DDA** for any costs or expenses incurred in connection with the legal action.

12. **Assignability.** In the event that **DDA** shall at any time in the future become the fee-simple owner of the premises, or shall cease to exist, the **DDA** covenants and agrees that the rights and obligations herein accepted by the **DDA** shall pass to and be vested in the actual successor of **DDA** or the City of Allen Park. The **DDA** may at any time release this facade easement to the holder of the fee-simple interest in the premises.

13. **Duration.** Except as provided herein this facade easement shall be effective for a period of five (5) years.

14. **Runs With the Designated Feature.** The obligations required by this facade easement shall be deemed to run as a binding servitude with the property and the facade. This facade easement shall be binding upon **GRANTOR** and the **DDA** and all persons hereafter claiming any rights through the **GRANTOR** and the **DDA**, and the word "grantor" and "**DDA**"

when used, herein shall include all such persons. Anything contained herein to the contrary notwithstanding, a person shall have no obligation under this Easement when the person has ceased to have any interest in the building or facade by reasons of a bona fide transfer.

15. **Statutory Authority.** This grant is made pursuant to Public Act, but the invalidity of such act or any part of it shall not affect the validity and enforceability of this facade easement, it being the intent of the parties that this grant also constitutes a common-law easement and a restrictive covenant.

16. **Compliance with Applicable Ordinances.** Except as provided in this section, nothing contained in this Easement shall be interpreted to authorize or permit grantor to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any ordinance and the terms of this Easement, the ordinance shall prevail and the **GRANTOR** shall promptly notify the **DDA** of the conflict. The **DDA** shall cooperate with **GRANTOR** to accommodate the purposes of both this facade easement and such ordinance. In the event that the premises or any part thereof is subjected to designation under any preservation or development related ordinance or any other such restriction currently in effect or passed from time to time hereafter, the terms of this facade easement shall control if a conflict arises between this instrument and such other ordinance or restriction.

17. **Notices.** Any notice required under this Easement shall be in writing and shall be mailed, postage prepaid, by registered or certified mail with return receipt requested, or hand delivered and receipted.

A. If to the **GRANTOR**, by delivering to:

Name: _____
Address: _____
 Allen Park, MI 48101

B. If to the **GRANTEE, ALLEN PARK DOWNTOWN DEVELOPMENT**

AUTHORITY, by delivering to:

Executive Director
Allen Park Downtown Development Authority
6543 Allen Road
Allen Park, Michigan 48101

Each party may change its address set forth herein by a written notice to the other party.

18. **Recording.** A memorandum of this facade easement may be recorded in the office of the Wayne County Register of Deeds.

19. **Transfer of Development Rights.** Nothing contained in this facade easement shall be interpreted to limit **GRANTOR'S** right or ability to transfer any development or other rights which may exist now or at any time in the future.

20. **Condemnation.** In the event that any governmental authority institutes a suit by virtue of eminent domain, or other similar proceedings for any public or quasi-public or other use against all or a portion of the facade, this facade easement shall immediately terminate on that portion of the property only.

21. **Taxes.** **GRANTOR** shall pay when due and owing, all real estate taxes, water charges, sewer service charges and other charges which may become a lien on the premises, provided, the **GRANTOR** may make payment under protest where permitted by law.

22. **Indemnify.** The **GRANTOR** agrees that it shall defend, indemnify and hold the **DDA** harmless from and against any liability, claims, suits, demands, judgments (including costs, expenses and attorney's fees), resulting from actions or claims by third parties or defaults under this Easement by the **GRANTOR** arising out of the conveyance of or possession of this facade easement.

23. **Headings.** Section headings used in this facade easement are convenience or reference only and do not affect the meaning of provisions which they precede.

24. **Public Access.** The **GRANTOR** and **DDA** agree that public shall have the regular and substantial opportunity to the designated feature from the sidewalk in front of the build. The **GRANTOR** shall have no obligation to allow the general public to view the interior of the building.

25. **Right to Use of the Premises.** The **GRANTOR** reserves for itself, its successors, assigns, mortgagees and lessees the right to continue to use and occupy the premises for all lawful purposes not inconsistent with this facade easement and the **DDA** agrees to sign any and all documents (including not by way of limitation, any and all future leases or mortgages) **GRANTOR** shall at anytime and from time to time request to further such end or purpose and not inconsistent with this facade easement.

26. **Amendment.** For purposes of furthering the preservation of the facade and of furthering the other purposes of this facade easement and to meet the changing conditions, **GRANTOR** and the **DDA** are free to amend this instrument from time to time by mutual consent in writing and such amendment shall become effective upon its signing.

27. **Incorporation by Reference.** **GRANTOR** agrees that the restrictions contained in this facade easement will be inserted by express reference in any subsequent legal instrument affecting the premises.

IN WITNESS WHEREOF, on the date first shown above, **GRANTOR** and the **ALLEN PARK DOWNTOWN DEVELOPMENT AUTHORITY** have signed this facade easement agreement.

IN THE PRESENCE OF:

(Witness)

GRANTOR

by: _____
Printed Name of Owner of Property

(Signature)

by: _____
Printed Name of Owner of Property

(Signature)

**GRANTEE
ALLEN PARK DOWNTOWN
DEVELOPMENT AUTHORITY**

(Witness)

by: _____
Printed Name of person signing

Executive Director
Title

(Signature)