

ECONOMIC DEVELOPMENT AGREEMENT

by and between

THE CITY OF BROKEN ARROW, OKLAHOMA,

and

ALFA LAVAL INC.

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the 1st day of August, 2017, by and between THE CITY OF BROKEN ARROW, OKLAHOMA, an Oklahoma municipal corporation (together with its successors and assigns, the "City", which term, when used in such context, shall also mean and refer to the area within the territorial limits of the City), and ALFA LAVAL INC., a New Jersey corporation ("Alfa Laval").

WITNESSETH:

WHEREAS, Alfa Laval is a corporation organized under the laws of the State of New Jersey and headquartered in Richmond, Virginia, which specializes in the development of heat exchangers and presently employs 114 individuals; and

WHEREAS, Alfa Laval is interested in expanding its industrial manufacturing operations presently located on 17.5 acres of land generally located at 1201 South 9th Street; and

WHEREAS, this expansion will include a total development located on approximately 21 acres of land generally located at 1201 South 9th Street, within the City as shown on *Exhibit A*, which is attached hereto and made a part hereof (the "Site"); and

WHEREAS, Alfa Laval intends to create a United States of America competence center in the City with a greater critical mass of welded heat exchanger expertise; and

WHEREAS, the proposed development (the "Project") will include two phases; and

WHEREAS, the first phase of the Project will include about 68,500 additional square feet of space for manufacturing, warehouse, office and other related uses (the "First Phase"); and

WHEREAS, it is estimated that, upon completion of the First Phase, Alfa Laval will hire 120 new full time employees, for a total of 234 employees; and

WHEREAS, the second phase of the Project includes, subject to Alfa Laval's future business demands, the planning for the potential construction and operation of about 220,000 square feet of additional space for manufacturing, warehouse, office and other related uses (the "Second Phase"); and

WHEREAS, if constructed and operated by Alfa Laval, it is estimated that the Second Phase will result in the hiring of 147 new full time employees for a total of 381 employees; and

WHEREAS, the City reasonably expects that the establishment of the Project in the City will increase overall sales tax and property tax revenues of the City; and

WHEREAS, a declared goal of the City is to encourage and facilitate economic development within and near the City by attracting and expanding new industry and commercial businesses to the Broken Arrow area, and to promote the economic health and expansion of existing industry and commercial businesses within the City; and

WHEREAS, the City seeks to promote development in this area in order to retain and expand employment, enhance the tax base, stimulate economic growth, improve the quality of life in the City, and strengthen the community; and

WHEREAS, the City also recognizes that the Project and its operations will have additional direct and indirect economic benefits within and near the City, in Tulsa County and in the State through, including without limitation, diversifying the local economy, providing economic stimulus for additional employment and other development, and predicated and/or providing training and employment opportunities in manufacturing, sales and management skills; and

WHEREAS, the City also recognizes it would be beneficial to the public and would help facilitate the construction of additional facilities and addition of full time employees at the Site if the City were to construct an industrial access road (“Access Road”) to the Site in the approximate area identified on **Exhibit B** attached hereto; and

WHEREAS, the City has appropriated and is prepared to encumber the sum of \$500,000.00 for engineering and construction of the Access Road and representatives of the State of Oklahoma’s Department of Transportation has committed to contribute the remainder of the costs for engineering and construction of the Access Road; and

WHEREAS, implementation of this Agreement, which is reasonably expected to facilitate the realization of the aforesaid economic benefits to the City and general area, would otherwise be difficult or impractical without certain development incentives, and apportionments and appropriations for such purposes of certain City sales tax revenues, other forms of public assistance and the involvement the City; and

WHEREAS, the City deems it appropriate to approve the execution and delivery of this Agreement in the interest of providing for the implementation of the Project and have determined such actions are in the best interests of the City and the health, safety, and welfare of the City and residents within and near the City;

NOW, THEREFORE, in consideration of the covenants and mutual obligations herein set forth and other consideration, the sufficiency of which the parties hereby acknowledge, the parties hereto hereby covenant and agree as follows:

ARTICLE I DEFINITIONS

“Access Road” means an industrial road from Lynn Lane along the South line of the property and in the area generally shown on the attached **Exhibit B**. The Access Road shall be

constructed in accordance with the State Competitive Contracting Requirements.

"Agreement" and such terms as "herein," "hereof," "hereto," "hereby," "hereunder," and the like shall mean and refer to this Agreement, and any and all permitted supplements, modifications and/or amendments hereto.

"Alfa Laval" shall mean Alfa Laval Inc., a New Jersey corporation.

"City" shall mean The City of Broken Arrow, Oklahoma, an Oklahoma municipal corporation, and, as the case may be, shall mean and refer to such agency, department or instrumentality of the City as may have, or shall have been charged with, primary responsibility for any given Agreement-subject activity.

"Construction Plans" shall mean such architectural and engineering drawings, plans, specifications, and other documentation as may be reasonably necessary to describe the nature, scope, materials, quality, quantity, and other information requisite for the construction and fitting of improvements and/or structures included, or to be included, within the Project, which shall be subject to the City's normal and customary review and approval as part of the City's permitting process.

"Continuously Operate" and "Continuous Operation" shall mean the normal and customary operation of one or more commercial facilities during regular business days and hours, subject only to temporary closures for repairs and restoration and closures which are reasonably outside the direct or indirect control of the owner and/or operator of such facilities.

"Completion Date of the First Phase" shall mean June 30, 2019.

"Full-time Employee" shall mean an individual employed by Alfa Laval and who works and is compensated for working not less than thirty-two (32) hours per week.

"Project" shall mean development of the Site and the construction, equipping and furnishing of space for manufacturing, warehouse, office and other related uses.

"Site" shall mean an approximate 21-acre tract of land generally located at 1201 South 9th Street, within the City as shown on ***Exhibit A***, which is attached hereto and made a part hereof.

"State Competitive Contracting Requirements" shall mean the Public Competitive Bidding Act, Title 61, O.S.A., sections 101, *et seq.*, together with all other applicable statutory requirements pertaining to the advertising, selection and award of contracts pursuant thereto and including all contractual, bonding and insurance requirements pertaining to such contracts.

ARTICLE II NATURE OF THIS AGREEMENT

2.1 Scope of the Project. The space for manufacturing, warehouse, office and related uses developed at and on the Site shall be developed, constructed and landscaped in conformity with the City's Zoning Ordinances and Building and Land Subdivision Codes, and the Engineering Design Criteria Manual.

2.2 Relationship of the Parties. The undertakings of the parties under this Agreement require the mutual cooperation of the parties and their timely actions on matters appropriate and/or necessary to fully implement the provisions hereof. The parties agree to exercise diligent, best and good faith efforts in performing and assisting one another, and requisite third parties, in performing their respective obligations under and/or relating to this Agreement, specifically including, without limitation, the performance obligations hereinafter set forth in **Articles III and IV** hereof.

ARTICLE III OBLIGATIONS OF THE CITY

3.1 Access Road. At its sole cost, except as otherwise provided herein, the City shall design and construct or cause to be designed and constructed the Access Road in conformity with the State Competitive Contracting Requirements and all other City codes, manuals and ordinances. To the extent that any Infrastructure Improvements are made on or in public rights of way or any other lands owned by the City, title to the same, upon the completion thereof, shall vest in the City, and Alfa Laval shall furnish to the City all requested instruments of release or conveyance necessary to perfect the City's title thereto, provided such instruments are in a form reasonably acceptable to Alfa Laval.

Notwithstanding any provision of this Agreement to the contrary, in the event the Project is not timely commenced and completed for any reason or if the State of Oklahoma fails to provide its portion of the funding required for the construction of the Access Road, the City may terminate this Agreement and all of the terms and conditions hereof upon written notice to Alfa Laval, and, in such case, this Agreement would no longer be of any force and effect as between the parties.

ARTICLE IV OBLIGATIONS OF ALFA LAVAL

4.1 Development of Project. Alfa Laval agrees to construct and equip or cause to be constructed and equipped, the Project in accordance with the Construction Plans, as follows:

- (a) Phase One: at its sole cost, develop, construct or cause to be constructed, and facilitate the operation of the First Phase of the Project, consisting of about 68,500 additional square feet of space for manufacturing, warehouse, office and related uses on the Site, in accordance with the following schedule:

- a. construction start date: January 1, 2018
 - b. completion date: June 30, 2019; and
- (b) Phase Two: subject to Alfa Laval's future business demands, at its sole cost, develop, construct, or cause to be constructed, and facilitate the operation of about 220,000 additional square feet of additional space for manufacturing, warehouse, office and related uses on the Site, in accordance with the following schedule:
 - a. construction start date: May 30, 2023
 - b. completion date: July 30, 2024
- (c) at its sole cost, design and construct, or cause to be designed or constructed, all necessary on-Site infrastructure for the Project.

4.2 Job Creation. Alfa Laval currently employs 114 Full-time Employees and plans to hire an additional 120 Full-time Employees by July 30, 2021 and subject to Alfa Laval's future business demands and the construction of the Second Phase, to hire an additional 147 Full-time Employees by July 30, 2025.

4.3 Right-of-way and Easements. At its sole cost, Alfa Laval shall dedicate right-of-way, including the Access Road, utility easements and other necessary easements within the Site shown on and in accordance with the Master Site Plan and the City's Zoning, Building, Land Subdivision Code and Engineering Design Criteria Manual. These dedications shall be accomplished by deeds drafted by the Director of Engineering and Construction for the Access Road. All other dedications may be accomplished through the platting process. Such dedications shall be completed by end of February 2018.

4.4 Performance of Operations. Alfa Laval shall construct, or shall cause, at least the First Phase of the Project to be constructed and equipped and placed in Continuous Operation for a period of not less than ten (10) years.

4.5 Site Acquisition. Alfa Laval has acquired or will acquire fee simple title to the Site.

4.6 Contingent Payment Obligations of Alfa Laval. In the event Alfa Laval fails to undertake the First Phase of the Project on or before January 1, 2018, or at any time from and after the completion date of the First Phase of the Project, fails to Continuously Operate the facilities constructed as part of the First Phase of the Project for a ten (10) year period of time, Alfa Laval shall repay to the City the sum of \$50,000 for every year it did not operate during such ten (10) year period, which said amount shall be due and payable within one-hundred twenty (120) days next following the first day of the month next following the month in which such cessation shall have occurred.

ARTICLE V CONSTRUCTION AND INDEMNIFICATION PROVISIONS

5.1 Construction Plans and Contracts. Prior to commencement of any construction on the Site, Alfa Laval (or other party undertaking construction of building improvements) shall furnish the Construction Plans to the City, for the City's normal and customary review and approval as part of the City's permitting process. The parties agree to cooperate and to use their respective best efforts to secure whatever assistance and approvals may be required from third parties in order to facilitate the preparation for and the course of such construction.

5.2 Indemnification. It is understood and agreed between the parties that Alfa Laval is performing its obligations hereunder independently, and the City assumes no responsibility or liability in connection therewith to third parties, and Alfa Laval agrees to indemnify and hold harmless the City, and its respective officers, agents and employees, from and against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage, or other harm for which recovery of damages is sought, suffered by any person or persons that may arise out of or be occasioned by any of the terms or provisions of this Agreement, or by any negligent act or omissions of Alfa Laval or its officers, agents, associates, employees, or contractors, in the performance of Alfa Laval's obligations under this Agreement. The provisions of this **Section 5.2** are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE VI GENERAL PROVISIONS

6.1 Nondiscrimination. Alfa Laval agrees not to discriminate on the basis of race, color, religion, gender, or national origin in the sale, lease, or rental or in the use or occupancy of the Site, the Project or any related facilities in violation of applicable law or regulation.

6.2 Conflict of Interest; Representatives not individually Liable. No official or employee of the City shall have any personal interest in or under this Agreement, nor shall any person voluntarily acquire any ownership interest, direct or indirect, in any legal entity which is a party to this Agreement. No official or employee of the City shall be personally liable to Alfa Laval in the event of any default or breach by or the City.

6.3 Applicable Law, Severability and Entire Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State governing agreements made and fully performed in Oklahoma. If any provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement or surviving portion(s) of such provision, and each other provision of this Agreement, shall be valid and enforceable to the fullest extent permitted by law. This Agreement sets forth the entire understanding between the City and Alfa Laval with respect to the subject matters of this Agreement, there being no terms, conditions, warranties or representations with respect to the subject matter other than as contained herein.

6.4 Third Parties. Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the parties hereto and not for the benefit of any other persons, as third-party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights express or implied, upon any other person.

6.5 No Partnership Created. This Agreement specifically does not create any partnership or joint venture between the parties hereto, or render any party liable for any of the debts or obligations of any other party.

6.6 Formalities and Authority. The parties hereto represent and warrant that they are validly existing and lawful entities with the power and authorization to execute and perform this Agreement. The headings set forth in this Agreement are for convenience and reference only, and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

6.7 Notices and Demands. Any notice, demand, or other communication under this Agreement shall be sufficiently given or delivered when it is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, or delivered personally, as follows:

To Alfa Laval Inc.:

Alfa Laval Inc.
5400 International Trade Drive
Richmond, Virginia 23231
Attn: Joe Lawrence, Vice President & Controller

With copies to:

Alfa Laval Inc.
5400 International Trade Drive
Richmond, Virginia 23231
Attention: William J. Connolly, General Counsel & Secretary

To the City:

City Manager
The City of Broken Arrow
P. O. Box 610
220 South First
Broken Arrow, Oklahoma 74012

With copies to:

City Attorney

City of Broken Arrow, Oklahoma
P. O. Box 610
Broken Arrow, Oklahoma 74012

or to such other address, within the United States, with respect to a party as that party may from time to time designate in writing and forward to the others as provided in this Section. A copy of any notice, demand or other communication under this Agreement given by a party under this Agreement to any other party under this Section shall be given to each other party to this Agreement.

6.8 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

6.9 Modifications. This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

6.10 Unavoidable Delays. The time for performance of any term, covenant, condition, or provision of this Agreement shall be extended by any period of unavoidable delays. In this Agreement, "unavoidable delays" shall mean any delay beyond the reasonable direct or indirect control of the party obligated to perform the applicable term, covenant, condition, or provision under this Agreement and shall include, without limiting the generality of the foregoing, delays attributable to acts of God, strikes, labor disputes, governmental restrictions, court injunctions, riot, civil commotion, acts of public enemy, and casualty, and shall not include any delays attributable to financial difficulties; *provided*, the assertion of any unavoidable delay shall be subject to the asserting party first giving written notice to the other parties of its claim thereof and thereupon and forthwith diligently and in good faith undertaking all reasonable efforts to overcome the conditions leading to or causing such delay.

6.11 Further Assurances. Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to the consummation of the matters or completion of the undertakings set forth herein, as may be reasonably requested by any other party to consummate more effectively the purposes or subject matter of this Agreement.

6.12 Attorneys' Fees. In the event of any controversy, claim or dispute between the parties affecting or relating to the subject matter or performance of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its reasonable expenses, including reasonable attorneys' fees.

6.13 Counterparts. This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

6.14 City's Limited Liability. The obligations of the City arising under or by virtue of this Agreement shall be limited to \$500,000.00.

6.15 Construction of this Agreement. Each party hereby acknowledges that it and its legal counsel have reviewed and, as the case may be, revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

IN WITNESS WHEREOF, the each of the parties has caused this Agreement to be executed by its duly authorized official(s), as of the date first above written

THE CITY OF BROKEN ARROW,
a municipal corporation

ATTEST: (S E A L)

By: _____
Mayor

By: _____
City Clerk

Reviewed as to form and legality this ____th day of _____, 2017.

Assistant City Attorney

ALFA LAVAL INC.,
a New Jersey corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[illegible]

Before me, the undersigned, a Notary Public in and for said County and State, on the _____ day of _____, 2017, personally appeared Craig Thurmond, Mayor of THE CITY OF BROKEN ARROW, OKLAHOMA, a municipal corporation, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.

(S E A L)

Notary Public
My commission expires:
My number is:

STATE OF _____)
)
COUNTY OF _____) SS:

Before me, the undersigned, a Notary Public in and for said County and State on the ____ day of _____, 2017, personally appeared _____ and _____, _____ and _____ of ALFA LAVAL INC., a New Jersey corporation, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.

(S E A L)

Notary Public
My commission expires:
My number is:

6.14 City's Limited Liability. The obligations of the City arising under or by virtue of this Agreement shall be limited to \$500,000.00.

6.15 Construction of this Agreement. Each party hereby acknowledges that it and its legal counsel have reviewed and, as the case may be, revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

IN WITNESS WHEREOF, the each of the parties has caused this Agreement to be executed by its duly authorized official(s), as of the date first above written

THE CITY OF BROKEN ARROW,
a municipal corporation

ATTEST:

(S E A L)

By: _____
Mayor

By: _____
City Clerk

Reviewed as to form and legality this ____th day of _____, 2017.

Assistant City Attorney

ALFA LAVAL INC.,
a New Jersey corporation

By: _____
Name: BOB LAWRENCE
Title: VICE PRESIDENT

By: RT Madison
Name: ROBERT MADISON
Title: ASST. TREASURER

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

Before me, the undersigned, a Notary Public in and for said County and State, on the _____ day of _____, 2017, personally appeared Craig Thurmond, Mayor of THE CITY OF BROKEN ARROW, OKLAHOMA, a municipal corporation, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.

(S E A L)

Notary Public
My commission expires:
My number is:

STATE OF Virginia)
) ss:
COUNTY OF Henrico)

Before me, the undersigned, a Notary Public in and for said County and State on the 26 day of July, 2017, personally appeared JOE LAWRENCE and ROBERT MADISON of ALFA LAVAL INC., a New Jersey corporation, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.

(S E A L)

Kimberly McLaughlin
Notary Public
My commission expires: 7/31/2019
My number is: 7109092

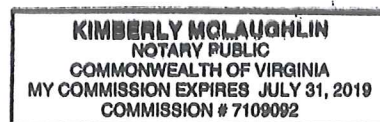


Exhibit A

Proposed development draft – subject to architectural, engineering and city review

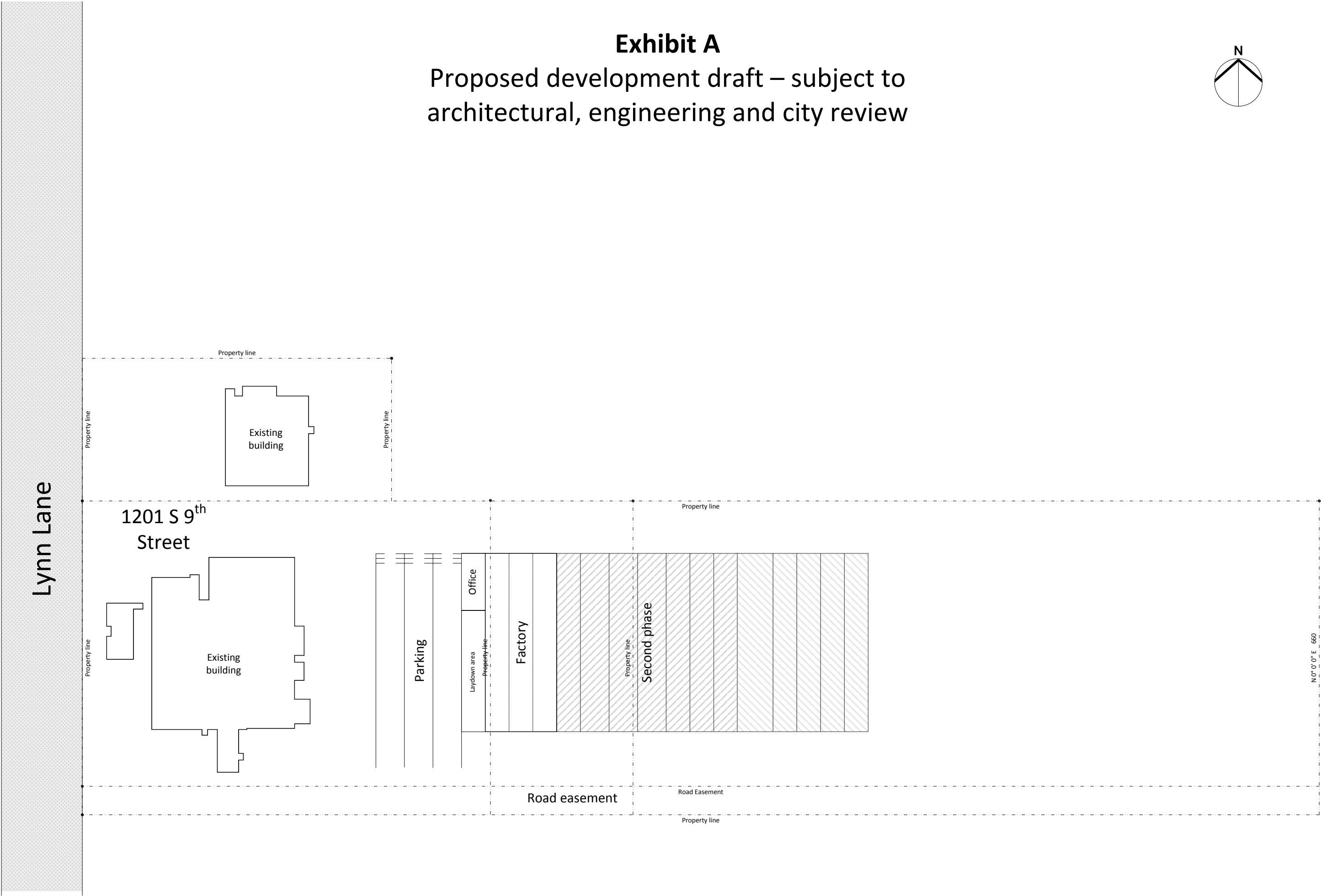
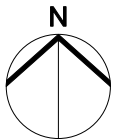


Exhibit B
Access road – general location

