

**PROPOSAL FOR THE PURCHASE
OF AN INCUBATOR BUILDING**

This Proposal is made this 15th day of November, 2004, by the Lawrence Regional Technology Center, a Kansas not-for-profit corporation ("**LRTC**"), to the Chamber of Commerce of Lawrence, Kansas (the "**Chamber**").

1. **Recitals.** This Proposal is made with respect to the following facts and objectives:

(a) The City of Lawrence, Kansas (the "**City**") and Douglas County, Kansas (the "**County**") originally appropriated \$250,000 and \$200,000, respectively (collectively, the "**Original Incubator Facility Funds**"), for the acquisition of a facility for a business incubator operated by LRTC. The city contributed 55% and the County 45% of the Original Incubator Facility Funds.

(b) As used herein, the term "**business incubator**" means an economic development organization that provides valuable resources and business expertise to early-stage entrepreneurial companies in order to improve their chances of success. Incubator clients have access to office space, shared office equipment and a comprehensive communications infrastructure that enables them to establish a physical presence and begin operating immediately. Incubator clients also receive extensive business support services to help the company effectively manage their businesses. Business professionals at the incubator assist entrepreneurs by helping them manage critical areas of their companies such as strategic planning, product development, finance, accounting, legal, human resources, capital formation, sales and marketing. By providing the aforementioned resources and business management expertise, incubators increase the probability that their clients will successfully build strong and growing businesses in the community. These companies, in turn, help stimulate the local economy by creating high-paying jobs, generating new taxable revenues and attracting fresh sources of capital to the community.

(c) LRTC is a business incubator sponsored and supported by the State of Kansas through the Kansas Technology Enterprise Corporation ("**KTEC**"). LRTC is one of six KTEC affiliated business incubators located throughout the state. The other KTEC incubators are located in Manhattan, Wichita, Lenexa, Pittsburg and Hutchinson.

(d) Historically, the primary funding for LRTC has been through the support of KTEC and the University of Kansas. The City and the County collectively allocated the Original Incubator Facility Funds to LRTC with the intent of partnering with KTEC and KU in supporting LRTC's economic development mission.

(e) The City and the County transferred the Original Incubator Facility Funds to the Chamber pending the identification of a suitable facility and resolution of purchase, ownership and operational issues.

(f) The Chamber invested the Original Incubator Facility Funds in interest-bearing certificates of deposit and money market accounts. The deposits are valued at approximately \$605,000 (the "**Incubator Facility Funds**").

(g) LRTC's staff and board of directors have conducted an extensive search of potential incubator sites over the past eighteen months, and have identified a local facility that is consistent with LRTC's business plan and will strengthen LRTC's ability to fulfill its economic development mission. The net Incubator Facility Funds will be transferred to LRTC for the purpose of acquiring the real property and improvements identified in Exhibit "A" attached hereto and, by reference, made a part hereof (the "**Property**").

(h) LRTC's board of directors has approved the terms and conditions set forth in this proposal.

2. LRTC Ownership. LRTC proposes to use the Incubator Facility Funds to acquire fee simple title to the Property; provided, however, that the title to the Property shall be made subject to certain restrictive covenants, as described in Paragraph 3, below.

3. Declaration of Covenants. LRTC will deliver and cause to be recorded, at the time of purchase, a *Declaration of Covenants, Conditions and Restrictions*, attached hereto as Exhibit "B" and incorporated herein (the "**Declaration**"), that will restrict LRTC's use of the Property primarily as a business incubator facility (the "**Intended Purpose**"), except that a reasonable amount of the Property's square footage may be leased to tenants that are not affiliated with LRTC. At present, there are existing leases, which comprise approximately 19% of the rentable square footage, that are held by tenants not affiliated with LRTC. If LRTC or a successor organization fails to use the Property for the Intended Purpose, LRTC's title shall be forfeited and the Chamber shall hold the Property, or the proceeds from the sale of the Property, in trust for a similar use to the Intended Purpose.

4. Expenses, Taxes and Insurance. LRTC will be responsible for the costs of operating, maintaining and repairing the Property. In addition, LRTC will be responsible for paying any taxes related to its ownership of the building. The Property will be insured for an appropriate market value.

5. Sale of the Property. Following consultation with the City and County, and provided that a sale of the Property is in furtherance of LRTC's economic development mission, LRTC may sell the Property and reinvest the proceeds of such sale in a replacement property which shall be encumbered by substantially the same restrictive covenants as set forth in the Declaration. Upon the sale of the Property, if LRTC expresses the intention to reinvest the proceeds, LRTC shall escrow the sale proceeds with the Chamber, pending identification and acquisition of a suitable replacement property.

6. Modification of the Property. Following consultation with the City and County, and in furtherance of the Intended Purpose, LRTC may repair, modify, expand or remodel the Property; provided that any repairs, modifications, expansions or remodeling that substantially alter the structure of the improvements on the Property will require prior written approval of the Chamber.

7. Mortgage. Following consultation with the City and County, and in furtherance of the Intended Purpose, LRTC may encumber the Property to finance the acquisition, repair or modification of the Property. Prior to encumbering the Property, LRTC shall submit to the Chamber a description of the use of borrowed proceeds and the method of repayment.

8. Conditions. In connection with the proposed purchase of the Property, LRTC shall exercise the due diligence typical of a prudent buyer of real estate, including the procuring

of an appraisal, survey, title commitment and policy and the inspection of the Property by competent roof, mechanical, electrical, plumbing, pest and structural contractors. LRTC's purchase of the Property shall be conditioned upon: (a) LRTC's satisfaction with the results of its due diligence; (b) the Chamber's approval of this Proposal; (c) the City's acknowledgment of this Proposal; and (d) the County's acknowledgement of this Proposal.

9. **Timing.** Upon satisfaction of the conditions to LRTC's acquisition of the Property and upon indication by the title company insuring LRTC's title that the conditions necessary for closing have been met, the Chamber shall deliver the Incubator Facility Funds to the title company's escrow account. Time is of the essence regarding the approval of this Proposal.

10. **Liability.** LRTC shall be liable for diminution in the Property's value attributable to LRTC's gross negligence and waste.

11. **Binding Effect.** The obligations contained in this Proposal and the Declaration shall bind LRTC its legal representatives, successors, grantees and assigns.

Respectfully,

Lawrence Regional Technology Center

By:

Title:

David J. McElroy
PRESIDENT & CEO

Approved this 1st day of November, 2004

Chamber of Commerce of Lawrence, Kansas

By:

Title:

[Signature]
President / CEO

EXHIBIT "A"

PROPERTY DESCRIPTION

The Property is the real estate and improvements located at 1617 St. Andrews Drive, Lawrence, Kansas 66047. The following is a summary of the Property's pertinent information:

Legal Description:	Lot 111, Alvamar Estates, an addition to the City of Lawrence, as shown by the recorded plat thereof, in Douglas County, Kansas
Purchase Price:	\$750,000
Seller:	Donald D. Stephens
Improvements:	Office Building
Title:	Fee Simple
Site Area:	65,340 sq. ft. or 1.5 acres adjacent to Alvamar Golf Course
Zoning:	R0-2, Residence-Office
Year Built:	1974
Gross Sq. Ft.:	11,213 sq. ft.
Net Rentable Sq. Ft.:	7,723 sq. ft.

EXHIBIT "B"

DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS

This Declaration of Covenants, Restrictions and Conditions (the "**Declaration**") is made effective this 15th day of November, 2004 (the "**Effective Date**"), by Lawrence Regional Technology Center, a Kansas not-for-profit corporation (referred to as "**Declarant**").

RECITALS

1. Declarant is the record owner of certain real estate and improvements located in the City of Lawrence, Douglas County, Kansas, and described as follows (collectively referred to as the "**Real Estate**"):

Lot 111, Alvamar Estates, an addition to the City of Lawrence, as shown by the recorded plat thereof, in Douglas County, Kansas.

2. The City of Lawrence, Kansas (the "**City**") and the County of Douglas County, Kansas (the "**County**") contributed certain funds to be used by Declarant for the acquisition of a business incubator office building (the "**Intended Purpose**") in furtherance of local economic development objectives. As used herein, the term "**business incubator**" means an economic development organization that provides valuable resources and business expertise to early-stage entrepreneurial companies in order to improve their chances of success. Incubator clients have access to office space, shared office equipment and a comprehensive communications infrastructure that enables them to establish a physical presence and begin operating immediately. Incubator clients also receive extensive business support services to help the company effectively manage their businesses. Business professionals at the incubator assist entrepreneurs by helping them manage critical areas of their companies such as strategic planning, product development, finance, accounting, legal, human resources, capital formation, sales and marketing. By providing the aforementioned resources and business management expertise, incubators increase the probability that their clients will successfully build strong and growing businesses in the community. These companies, in turn, help stimulate the local economy by creating high-paying jobs, generating new taxable revenues and attracting fresh sources of capital to the community.

3. The City and the County transferred their initial contributions of funding to the Chamber of Commerce of Lawrence, Kansas (the "**Chamber**"), pending identification and acquisition of an appropriate facility to be used for the Intended Purpose.

4. Declarant has identified and acquired the Real Estate to be used for the Intended Purpose, and desires to place certain covenants, conditions and restrictions upon the Real Estate for the benefit of Declarant, the City, the County, the Chamber, and their successors, grantees and assigns, and to ensure and promote the Intended Purpose.

5. Declarant hereby agrees that the Real Estate shall be subject to the covenants, conditions and restrictions set forth in this Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares that the Real Estate is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions described in this Declaration, for the purposes of (i) enhancing and protecting the value of the Real Estate, (ii) encouraging and assisting the orderly economic benefit of the Real Estate, (iii) increasing the public benefit to be derived from the Real Estate, (iv) preserving the amenities and for the maintenance of the same located on the Real Estate, (v) protecting the owners, lessees and sublessees of property against incompatible uses of surrounding property, and (vi) for preserving the Intended Purpose.

ARTICLE ONE SCOPE OF DECLARATION

1. **Property Subject to Declaration.** The Real Estate shall be held, leased, transferred, sold, conveyed and occupied by Declarant subject to this Declaration.
2. **Purpose.** The Real Estate is made subject to this Declaration to ensure proper use and appropriate development and improvement of the Real Estate; protect all parties having or acquiring any right, title or interest in the Real Estate against such improper development and use as might depreciate the value and use of the Real Estate; and generally promote the welfare and safety of all parties having or acquiring any right, title or interest in the Real Estate. This Declaration shall be liberally construed in order to accomplish the aforesaid purposes.
3. **Sale and Mortgage of Property.** Notwithstanding anything herein to the contrary, and following consultation with the City and County, Declarant may sell, transfer, convey or mortgage the Real Estate; provided, however, that: (i) Declarant must obtain the written approval of the Chamber, which shall not be unreasonably withheld, prior to any such proposed sale, transfer, conveyance or mortgage; (ii) the proceeds from any such sale, transfer, conveyance or mortgage of the Real Estate shall be deposited with the Chamber, to be held in trust, until such time as Declarant shall utilize such proceeds to either (A) repair, alter, modify, expand or remodel the Real Estate, or (B) acquire fee ownership to either the Real Estate or substitute real estate (the "Substitute Property"); and (iii) (A) the Substitute Property, if any, shall be made subject to a recorded Declaration of Covenants, Conditions and Restrictions, which shall be substantially similar in form and substance to this Declaration, and the use of the Substitute Property shall be limited to the Intended Purpose, or (B) the use of the proceeds from any such mortgage shall be limited to finance the acquisition, repair or modification of the Real Estate in furtherance of the Intended Purpose. Prior to encumbering the Real Estate, Declarant shall submit to the Chamber a description of the proposed use of the proceeds to be borrowed, together with the Declarant's plan and method of repayment. Any such mortgage on the Real Estate shall be and is hereby made subordinate to the terms and conditions of this Declaration.

ARTICLE TWO USE, MAINTENANCE AND REPAIRS

1. **Restricted Use.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the use of the Real Estate by Declarant, and Declarant's successors and assigns, is hereby restricted to the Intended Purpose. During the term of this Declaration, any use other than the Intended Purpose shall require the express, written consent of the Chamber, or the Chamber's successors and assigns. Notwithstanding anything herein to the contrary, the respective governing boards of both Declarant and the Chamber shall negotiate in good faith to establish, on or before January 1 of each year during the term of this Declaration, a de minimis percentage of the Real Estate that may be used by Declarant (or otherwise leased to

tenants) for a lawful purpose other than the Intended Purpose. The Declarant and the Chamber agree that, until further notice, the initial de minimis percentage of the Real Estate that may be used by Declarant (or otherwise leased to tenants) for a lawful purpose other than the Intended Purpose shall be twenty-five percent (25%).

2. **Alterations and Improvements.** In furtherance of the Intended Purpose, LRTC may repair, modify, expand or remodel the Real Estate; provided that any repairs, modifications, expansions or remodeling that substantially alter the structure of the improvements on the Real Estate will require the prior written approval of the Chamber, which approval shall not be unreasonably withheld. All repairs, modifications, expansions or remodeling in or to the Real Estate shall be made in accordance with all applicable construction and building codes, and all other valid laws, ordinances, rules, and regulations applicable thereto. Declarant shall not permit any liens to stand against the Real Estate for any labor or materials in connection with any work performed thereon, or pursuant to any repair, alteration, addition or modification in or to the Real Estate. Any improvements to be made by Declarant are for the sole convenience and benefit of the Declarant, and not for or because of any benefit to the Chamber, City or County, and Declarant is not an agent or nominee of the Chamber, City or County with respect to any such improvements.

3. **Maintenance; Taxes; Insurance; Managing Agent.** During the term of this Declaration, Declarant shall be responsible for (i) the costs of operating, maintaining and repairing the Real Estate, (ii) paying all ad valorem Real Estate taxes and special assessments, if any, assessed or levied against the Real Estate, or any portion thereof, and (iii) obtaining and maintaining a policy or policies of casualty insurance with all-risk coverage on the Real Estate in an amount not less than the full replacement value thereof, with deductibles not to exceed \$5,000.00. If the Real Estate is damaged and the insurance proceeds are less than or equal to \$75,000.00, Declarant shall use the proceeds to restore the original condition of the Real Estate, to the extent possible, reasonable wear and tear excepted. If the Real Estate is damaged and the insurance proceeds are greater than \$75,000.00, the insurance proceeds due to Declarant shall be deposited with the Chamber, to be held in trust, until such time as LRTC receives approval from the Chamber, which shall not be unreasonably withheld, of the expenses necessary for restoring the Real Estate to its original condition, to the extent possible, reasonable wear and tear excepted. If the Real Estate is destroyed, the insurance proceeds shall be deposited with the Chamber, to be held in trust, until such time as a new facility that will fulfill the Intended Purpose has been identified. During the term of this Declaration, Declarant may employ a management company or a manager, at a reasonable compensation established by Declarant, to perform such duties and services as Declarant shall authorize. No management contract or agreement shall, however, be for a period longer than three (3) years from the date of execution, and all such management contracts or agreements shall contain a provision allowing termination thereof at any time, with or without cause, on prior written notice, not to exceed ninety (90) days, to the manager or management company.

4. **Annual Report.** Declarant shall prepare, at its expense, and provide to the City, the County and the Chamber an annual report (the "**Annual Report**") on or before January 1 of each year during the term of this Declaration. Each such Annual Report shall contain a summary of Declarant's use, maintenance, modifications, expansions and/or remodeling of the Real Estate including, among other things, a description of Declarant's incubator and economic development activities, number of clients served, number of jobs created, a roster of client leases (i.e., names of client tenants, square footage of space occupied by each, etc.), a roster of non-client leases (i.e., names of non-client tenants, square footage of space occupied by each, etc.), budget and cash flow projections with respect to the Real Estate, and such additional information as the City, the County and/or the Chamber may reasonably request.

5. **Annual Review.** Following receipt of the Annual Report, the Chamber shall conduct an annual review to ensure that there has been no material breach of this Declaration. The annual review shall include a comprehensive review of Declarant's (i) continuing use, maintenance, modifications, expansions and/or remodeling of the Real Estate in furtherance of the Intended Purpose, and (ii) budget and cash flow projections with respect to the Real Estate. The annual review shall provide an opportunity for Declarant to describe its accomplishments and the achievement of milestones during the preceding fiscal year, especially in the areas of job creation, the success of incubator clients, and furtherance of local economic development objectives (e.g., the number of new jobs created, nature of the jobs created, earnings and benefits that will be provided, beneficial impacts that incubator clients may have by creating other new jobs and businesses, and potential for future expansion, capital expenditures and additional job creation).

6. **Forfeiture.** In the event of a breach of this Declaration, such breach or failure shall work a forfeiture of the Real Estate, in which event legal title to the Real Estate shall immediately vest in the name of the Chamber, or its successors and assigns, to be held in trust, for a use similar to the Intended Purpose. In the event of a forfeiture of the Real Estate as described herein, Declarant hereby irrevocably appoints the Chamber, or its successors and assigns, as Declarant's attorney-in-fact for the purpose of executing and recording a warranty deed of conveyance of the Real Estate from Declarant to the Chamber, as Trustee. The Chamber, or its successors and assigns, may terminate and forever release this forfeiture provision at any time by recording a signed written statement to such effect with the office of the Register of Deeds of Douglas County, Kansas.

ARTICLE THREE **GENERAL PROVISIONS**

1. **Duration.** In no event shall the term of this Declaration, and the term(s) of any similar Declaration(s) made in connection with any Substitute Property, as described in Article 1, Paragraph 3 herein, collectively exceed twenty-five (25) years.

2. **Enforcement.** The City, the County and the Chamber shall have the right, acting jointly or severally, to sue for and obtain a prohibitive or mandatory injunction to prevent the breach, or to enforce the observance of the restrictions in this Declaration. The failure of the City, the County, and/or the Chamber to enforce any restriction set forth in this Declaration at the time of its violation shall in no event be deemed a waiver of the right to do so thereafter. Enforcement either to recover damages or restrain violations shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant.

3. **Amendments.** This Declaration may be amended, revised and/or modified by a resolution adopting a proposed amendment. Except as elsewhere provided, any amendment of this Declaration shall require the mutual approval of the Declarant and the Chamber, or their respective successors and assigns.

4. **State Law.** This Declaration shall be construed in accordance with the laws of the State of Kansas.

5. **Severability.** The invalidity in whole or in part of covenants or restrictions, or any paragraph, subparagraph, sentence, clause, phrase or word, or other provision of this Declaration shall not affect the validity of the remaining portions thereof.

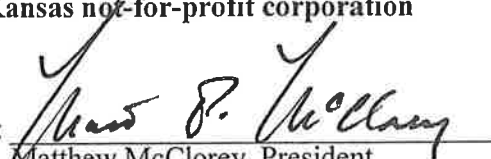
6. **Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit, modify, or supplement this Declaration or the intent of any provision thereof.

7. **Construction.** Whenever the context so permits, the use of plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders. This Declaration shall not be construed strictly for or against any person or party hereto, but shall be interpreted based upon the reasonable meaning of its language.

IN WITNESS WHEREOF, this Declaration has been duly authorized and executed as of the Effective Date.

**LAWRENCE REGIONAL TECHNOLOGY
CENTER, INC.,
a Kansas not-for-profit corporation**

By:


Matthew McClorey, President

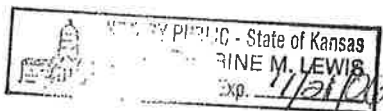
STATE OF KANSAS, COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this 6th day of October, 2004, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Matthew McClorey, President of Lawrence Regional Technology Center, a Kansas not-for-profit corporation, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.


Notary Public

My Appointment Expires: 11/21/06



**CONSENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND CONDITIONS**

This Consent to Declaration of Covenants, Restrictions and Conditions (the "**Consent**") is made by The County of Douglas County, Kansas, and does hereby, by the signatures of its duly authorized representatives below, consent to the foregoing *Declaration of Covenants, Restrictions and Conditions* to which this Consent is attached, as recorded in the Office of the Register of Deeds of Douglas County, Kansas.

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS**

By: Charles Jones
Charles Jones, Chairman

By: Jere McElhaney
Jere McElhaney

By: Bob Johnson
Bob Johnson

ATTEST:

Patty Jaimes
Patty Jaimes, County Clerk

STATE OF KANSAS, COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this 20th day of September, 2004, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Charles Jones, Jere McElhaney, and Bob Johnson of The Board of County Commissioners of Douglas County, Kansas, who are personally known to me to be the same persons who executed the foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said Board of County Commissioners.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.



Julie L. Clouse
Notary Public
My Appointment Expires: 12/23/07

**CONSENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND CONDITIONS**

This Consent to Declaration of Covenants, Restrictions and Conditions (the "**Consent**") is made by The City of Lawrence, Kansas, and does hereby, by the signature of its duly authorized representative below, consent to the foregoing *Declaration of Covenants, Restrictions and Conditions* to which this Consent is attached, as recorded in the Office of the Register of Deeds of Douglas County, Kansas.

CITY OF LAWRENCE, KANSAS

By: Mike Rundle
Mike Rundle, Mayor

ATTEST:

Frank S. Reeb
Frank S. Reeb, City Clerk

STATE OF KANSAS, COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this 29 day of September, 2004, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Mike Rundle, Mayor of The City of Lawrence, Kansas, a municipal corporation, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.



Bobbie Walthall
Notary Public
My Appointment Expires: 03/21/08