AN ORDINANCE AMENDING ORDINANCE NO. 030731-Z-5700 TEZONE AND CHANGE THE ZONING MAP FROM MAJOR INDUSTRIAL PLANNED DEVELOPMENT AREA (MI-PDA) COMBINING DISTRICT TO MAJOR INDUSTRIAL PLANNED DEVELOPMENT AREA (MI-PDA) COMBINING DISTRICT FOR LAND KNOWN AS THE MULTER OF ANNED DEVELOPMENT AREA LOCATED AT 3300 WEST BRAKER LANE.

# BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Multek Planned Development Acc (the "Original Multek PDA") is comprised of approximately 70 acres of land located at 300 West Braker Lane in Travis County and more particularly described by more and pounds in Ordinance No. 030731-Z-5. The Original Multek PDA was approved July 31, 2003, ander Ordinance No. 030731-Z-5 (the "Original PDA Ordinance").

PART 2. The zoning map established by Section 25-2-19) of the City Code is amended to change the base district from major industrial planned development area (MI-PDA) combining district to major industrial planned development area (MI-PDA) combining district on the property described in Zonog Case No. C14-04-0151, on file at the Neighborhood Plandon and Color Department, locally known as 3300 West Braker Lane, in the City of Advisin, Travis County, Texas, and generally identified as Tract B in the map attached as 15.415 "A".

PART 2. This ordinance are ruled the Command PDA Ordinance. The Original Multek PDA shall conform to the amitations and conditions set forth in the Original PDA Ordinance as amended by this ordinance.

PART 3. The Original PDA Original end is modified as shown in this part.

1. Part 4, Section 9 is amended as follows:

A 100 wide buffer zone measured from building to building shall be established and management between property developed with the uses in Section 6 and the following uses:

Agricultural sales and services Equipment repair services Construction sales and services Equipment sales

Draft: 12/15/2004

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COA Law Department

Research services
General warehousing and distribution
Limited warehousing and distribution
Postal facilities

Research testing services
Light manufacturing
Maintenance and services facilities
Railroad facilities

Improvements permitted within the buffer zone are limited to driveways; parking facilities, solid fences, pedestrian trails, hike and like trails, recreational facilities, detention and water quality re-irrigation facilities drainage, underground utility improvements, overhead electric or communication lines of those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance.

# 2. Part 4, Section 10 is amended as follows:

Except as provided in Section 11, a 25-foot wide vegetative buffer to provide screening shall be provided and maintained between property developed with a use in Section 6 and property developed with a commercial or industrial use, except when the use in Section 6 abuts a parking structure where the building shares a common wall or unless there is a driveway, private or public roadway of 60 feet or more separating the residential and commercial/industrial uses. If a 100-foot wide buffer zone is required under Section 9, the 25-foot wide vegetative buffer may be located within the 100-foot wide buffer zone.

Improvements permitted within the 25-foot buffer zone are limited to drainage, underground utility improvements, overhead electric or communication lines, or those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance.

- 3. Part 4 is amended to add the following sections:
  - 12. Section 25-8-301 (Construction of a Roadway or Driveway) is modified to allow construction on a slope.
  - 13. Section 25-8-341 (Cut Requirements) and Section 25-8-342 (Fill Requirements) are modified to allow cut and fill to exceed four feet of depth. All cut and fill areas shall be structurally contained.
- **PART 4.** Except as otherwise provided in this ordinance, the terms and conditions of Ordinance No. 030731-Z-5 remain in effect.

Draft: 12/15/2004

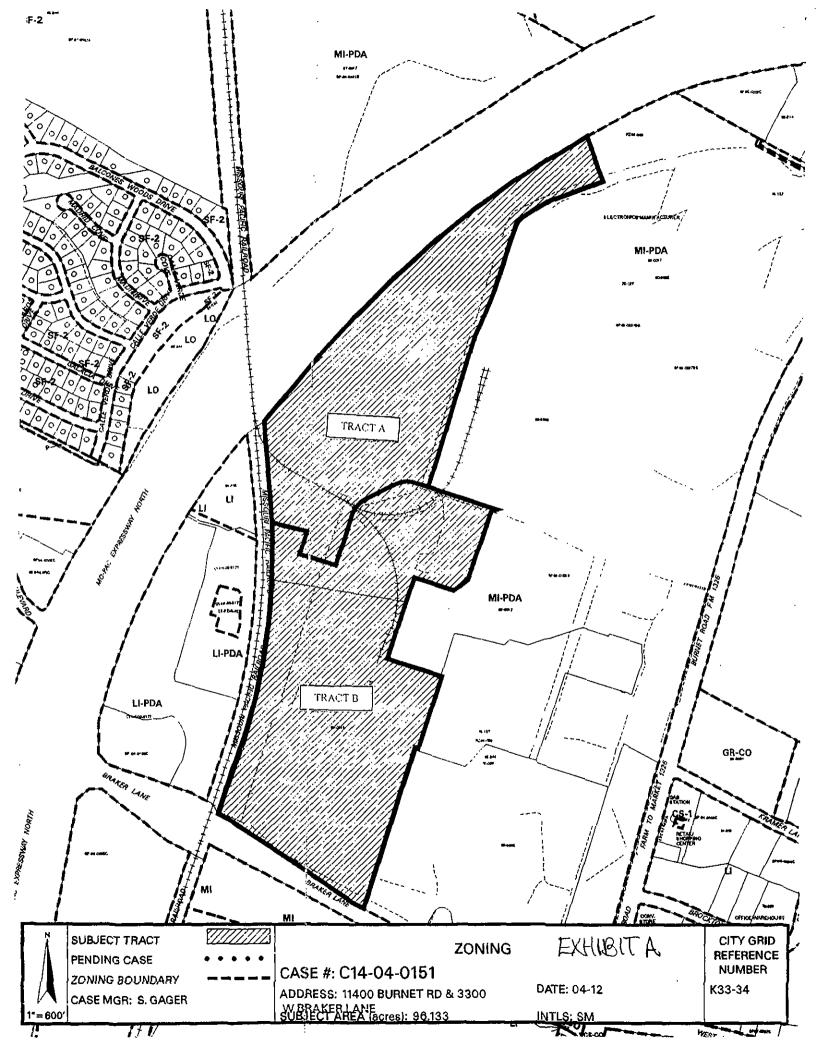
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ORD	INA	NCE	NO.
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AN ORDINANCE AMENDING ORDINANCE NO. 930731-Z-3460 REZONE AND CHANGE THE ZONING MAP FROM MAJOR INDUSTRIAL PLANNED DEVELOPMENT AREA (MI-PDA) COMBINING DISTRICT COMBINING INDUSTRIAL PLANNED DEVELOPMENT AREA (MI-PDA) COMBINING DISTRICT FOR LAND KNOWN AS THE DOMAIN PLANNED DEVELOPMENT AREA LOCATED AT 11400 BURNET ROAD.

# BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

- PART 1. The Domain Planned Development Area (the "Original Domain PDA") is comprised of approximately 200 acres of land located at 11400 Burnet Road in Travis County and more particularly described by metes and bounds in Ordinance No. 030731-Z-3. The Original Domain PDA was approved July 31, 2003 under Ordinance No. 030731-Z-3 (the "Original PDA Ordinance").
- PART 2. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from major industrial planned development area (MI-PDA) combining district to major industrial planned development area (MI-PDA) combining district on the property described in Zoning Case No. C14-04-0151, on file at the Neighborhood Plantage and Zoning Department locally known as 11400 Burnet Road, in the City of Austin Law & County Lee as, and generally identified as Tract A in the map attached as Exhibit
- PART 2. This ordinance and the Chapmal PDA Ordinance. The Original Domain PDA shall conform to the initiations and conditions set forth in the Original PDA Ordinance as amended by this ordinance.
- PART 3. The Original PDA Gramance is modified as shown in this part.
- 1. Part 4, Section 11 is amended as follows:
  - A 100 wide buffer zone measured from building to building shall be established and manufactured by ween property developed with the uses in Section 8 and the following uses.

Agricultural sales and services Equipment repair services

Construction sales and services Equipment sales

Draft: 12/15/2004

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COA Law Department

Research services
General warehousing and distribution
Limited warehousing and distribution
Postal facilities

Research testing services
Light manufacturing
Maintenance and services facilities
Railroad facilities

Improvements permitted within the buffer zone are limited to driveways, parking facilities, solid fences, pedestrian trails, hike and bike trails, recreational facilities, detention and water quality re-irrigation facilities drainage, underground utility improvements, overhead electric or communication lines, on those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance.

# 2. Part 4, Section 12 is amended as follows:

13.14.2

Except as provided in Section 13, a 25-foot wide vegetative buffer to provide screening shall be provided and maintained between property developed with a use in Section 8 and property developed with a commercial or industrial use, except when the use in Section 8 abuts a parking structure where the building shares a common wall or unless there is a driveway, private or public roadway of 60 feet or more separating the residential and commercial/industrial uses. If a 100-foot wide buffer zone is required under Section 11, the 25-foot wide vegetative buffer may be located within the 100-foot wide buffer zone.

Improvements permitted within the 25-foot buffer zone are limited to drainage, underground utility improvements, overhead electric or communication lines, or those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance.

- 3. Part 4 is amended to add the following sections:
  - 14. Section 25-8-301 (Construction of a Roadway or Driveway) is modified to allow construction on a slope.
  - 15. Section 25-8-341 (Cut Requirements) and Section 25-8-342 (Fill Requirements) are modified to allow cut and fill to exceed four feet of depth. All cut and fill areas shall be structurally contained.
- **PART 4.** Except as otherwise provided in this ordinance, the terms and conditions of Ordinance No. 030731-Z-3 remain in effect.

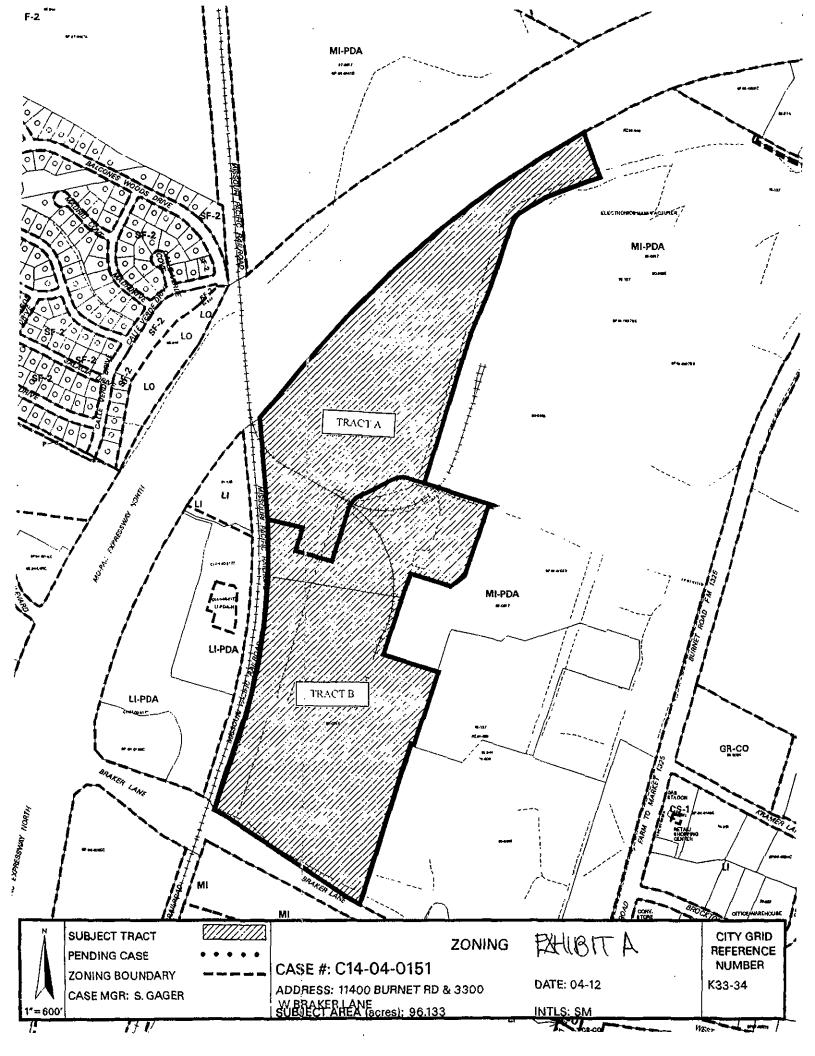
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COA Law Department

Draft: 12/15/2004

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## RESTRICTIVE COVENANT

OWNER: The Domain Shopping Center, L.P., a Delaware limited partnership

OWNER: Multeck Community Center, L.P., a Delaware limited partnership

ADDRESS: 115 West Washington Street, Indianapolis, Indiana 46204

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable

consideration paid by the City of Austin to the Owner, the receipt and

sufficiency of which is acknowledged.

PROPERTY: Lot and Lot 2, Block A, Multek Subdivision, a subdivision in the City of

Austin, according to the plat of record in Document No. 200400090, of the Official Public Records of Travis County, Texas; and Lot 3, Block A, Domain Section 2 Subdivision, a subdivision in the City of Austin, according to the plat of record in Document No. 200300333, of the

Official Public Records of Travis County, Texas.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns.

1. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval.

The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.

At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, a landscape plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. Ninety percent of the total plant material used, exclusive of turf, shall be native to Central Texas or on the Grow Green Native and Adapted Landscape Plants list, attached as Exhibit "A". Plants on the Invasive Species/Problem Plants list, attached as Exhibit "B", may not be included.

2. A minimum of 276 caliper inches of Class I trees shall be relocated within the Property. Sixty percent of the replacement trees shall be container grown from native seed. The remainder of the required trees shall have a two year survival warranty.

- 3. The use of coal-tar based sealants for the construction or repair of asphaltic concrete paving on the Property is prohibited.
- 4. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
- 5. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
- 6. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
- 7. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the	day of	, 2004

## OWNER:

The Domain Shopping Center, L.P., a Delaware limited partnership

By: Simon Property Group (Texas) L.P., a Texas limited partnership, General Partner

By: Golden Ring Mall Company Limited Partnership, an Indiana limited partnership, General Partner

By: Simon Property Group (Delaware), Inc.,
a Delaware corporation,
General Partner

By:	 
Name:	
Title:	 

#### OWNER:

Multeck Community Center, L.P., a Delaware limited partnership

SPG Multeck, L.P., By: a Delaware limited partnership, General Partner By: Simon Multeck Center, Inc., a Delaware corporation, General Partner By:\_\_\_\_\_\_ Title:\_\_\_\_ APPROVED AS TO FORM: Assistant City Attorney City of Austin THE STATE OF TEXAS **COUNTY OF TRAVIS** This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_\_,

2004, by \_\_\_\_\_\_ of Simon Property Group
(Delaware), Inc, a Delaware corporation, and the corporation acknowledged this instrument as
General Partner of Golden Ring Mall Company limited partnership, an Indiana limited
partnership, as General Partner on behalf of Simon Property Group (Texas), L.P., a Texas limited partnership, as General Partner on behalf of The Domain Shopping Center, L.P., a Delaware limited partnership. Notary Public, State of Texas

# THE STATE OF TEXAS § COUNTY OF TRAVIS §

2004,	This instrument was acknowledged before me on this the day of of	
	Center, Inc, a Delaware corporation, and the corporation acknowledged this inst	
	ral Partner of SPG Multeck, L.P., a Delaware limited partnership, a General Par f Multeck Community Center, L.P., a Delaware limited partnership	tner on
	Notary Public, State of Texas	

After Recording, Please Return to: City of Austin Department of Law P. O. Box 1088 Austin, Texas 78767-1088 Attention: Diana Minter, Legal Assistant

## **EXHIBIT B**

# **Invasive Species/Problem Plants**

## **PLANTS TO AVOID**

## **INVASIVES**

(Plants that are non-native to the Central Texas ecosystem and tend to out-compete native species)

### Do Not Plant

(Travel by seeds, berries, and spores so can be transported long distances. They have already invaded preserves and greenbelts):

- Arizona Ash
- Chinaberry
- Chinese Pistache
- Chinese Tallow
- Chinese Privet
- Elephant Ear
- Holly Fern
- Japanese Honeysuckle
- · Ligustrum, Wax Leaf
- Mimosa
- Mulberry, Paper
- Nandina (large, berrying varieties)
- Photinia, Chinese
- Pyracantha
- Tamarisk
- Tree of Heaven

# Do Not Plant Near Parks/Preserves/Greenbelts

(travel by runners, rhizomes, and stems so only invade neighboring areas):

- Bamboo
- English Ivy
- Vinca (Periwinkle)

## **PROBLEM TREES AND SHRUBS**

(Typically fast-growing, highly adaptable, but often have weak wood and are short-lived. Most are susceptible to insect and disease problems.)

- Arizona Ash
- Azaiea (not adapted to Austin soils)
- Boxelder
- Camellia
- Chinaberry
- Chinese Privet
- Chinese Tallow
- Cottonwood
- Ligustrum
- · Lombardy Poplar
- Mimosa
- Mulberry, Paper
- Photinia, Chinese
- Siberian Elm
- Silver Maple
- Sweetgum
- Sycamore
- Tree of Heaven

# **EXHIBIT A Grow Green Native and Adapted Landscape Plants**

### **Trees**

Ash, Texas Fraxinus texensis
Arizona Cypress Cupressus arizonica
Big Tooth Maple Acer grandidentatum
Cypress, Bald Taxodium distichum
Cypress, Montezuma Taxodium
mucronatum
Elm, Cedar Ulmus crassifolia
Elm, Lacebark Ulmus parvifolia
Honey Mesquite Prosopis glandulosa
Oak, Bur Quercus macrocarpa
Oak, Chinquapin Quercus muhlenbergii
Oak, Southern Live Quercus virginiana

Oak, Escarpment Live Quercus fusilformis
Oak, Lacey Quercus glaucoides
Oak, Monterey (Mexican White)
Quercus polymorpha
Oak, Shumard Quercus shumardii
Oak, Texas Red Quercus texana
(Quercus buckleyi)
Pecan Carya illinoinensis
Soapberry Sapindus drummondii

## Small Trees/Large Shrubs

Anacacho Orchit Tree Bauhinia congesta Buckeye, Mexican Ungnadia speciosa Buckeye, Rec Aesculus pavia Caolina Buckthorn Rhamnus caroliniana Cherry Laurel Prunus caroliniana Crape Myrtle Lagerstroemia indica Desert Willow Chilopsis linearis Dogwood, Roughleaf Cornus drummondii Escarpment Black Cherry Prunus serotina var. eximia Eve's Necklace Sophora affinis Goldenball Leadtree Leucaena retusa Holly, Possumhaw Ilex decidua Holly, Yaupon Ilex vomitoria Mountain Laurel, Texas Sophora secundiflora

Persimmon, Texas Diospyros texana Pistachio, Texas Pistacia texana Plum, Mexican Prunus mexicana Pomegranate Punica granatum Redbud, Mexican Cercis canadensis 'mexicana' Redbud, Texas Cercis canadensis var. 'texensis' Retama Jerusalem Thorn Parkinsonia aculeata Senna, Flowering Cassia corymbosa Smoke Tree, American Cotinus obovatus Sumac, Flameleaf Rhus lanceolata Viburnum, Rusty Blackhaw Viburnum rufidulum Viburnum, Sandankwa Viburnum suspensum

### Shrubs

Abelia, Glossy Abelia grandiflora Agarita Berberis trifoliata Agave (Century Plant) Agave sp. American Beautyberry Callicarpa americana Artemisia Artemisia 'Powis Castle' Barbados Cherry Malpighia glabra Barberry, Japanese Berberis thunbergii 'Atropurpurea' Basket Grass (Sacahuista) Nolina texana Black Dalea Dalea frutescens Bush Germander Teucrium fruticans Butterfly Bush Buddleja davidii Butterfly Bush, Wooly Buddleja marrubiifolia Coralberry Symphoricarpos orbiculatus Cotoneaster Cotoneaster sp. Eleagnus Eleagnus pungens Esperanza/Yellow Bells Tecoma stans Flame Acanthus Anisacanthus quadrifidus var. wrightii Fragrant Mimosa Mimosa borealis Holly, Burford *Ilex cornuta 'Burfordii'* Holly, Dwarf Chinese Ilex cornuta 'Rotunda nana' Holly, Dwarf Yaupon Ilex vomitoria Jasmine, Primrose Jasminum mesnyi Kidneywood Eysenhardtia texana Lantana, Native Lantana horrida Mistflower, Blue (Blue Boneset) Eupatorium coelestinum Mistflower, White (Shrubby White Boneset) Ageratina havanense Mock Orange Philadelphus coronarius

Nandina Nandina domestica 'Compacta nana' 'Gulf' Stream' Oleander Nerium oleander Palmetto Sahal minor Prickly Pear Opuntia engelmannii var. lindheimeri Rose, Belinda's Dream Rosa 'Belinda's Dream' Rose, Lamarne Rosa 'Lamarne' Rose, Livin' Easy Rosa 'Livin' Easy' Rose, Marie Pavic Rosa 'Marie Pavie' Rose, Martha Gonzales Rosa 'Martha Gonzales' Rose, Mutabilis Rosa 'Mutabilis' Rose, Nearly Wild Rosa 'Nearly Wild' Rose, Old Blush Rosa 'Old Blush' Rose, Perle d'or Rosa 'Perle d'or' Rock Rose Pavonia lasiopetala Rosemary Rosmarinus officinalis Sage, Mountain Salvia regla Sage, Texas (Cenizo) Leucophyllum frutescens Senna, Lindheimer Cassia lindheimeriana Southern Wax Myrtle Myrica cerifera Sumac, Evergreen Rhus virens Sumac, Fragrant (Aromatic) Rhus aromatica Texas Sotol Dasylirion texanum Turk's Cap Malvaviscus arboreus Yucca, Paleleaf Yucca pallida Yucca, Red Hesperaloe purviflora Yucca, softleaf Yucca recurvifolia Yucca, Twistleaf Yucca rupicola

### Perennials

Black-eyed Susan Rudbeckia hirta Bulbine B. frutescens or caulescens Bush Morning Glory Ipomoea fistulosa Butterfly Weed Asclepias tuberosa Buterfly Weed 'Mexican' Asclepias curassivica Cast Iron Plant Aspidistra elation Chile Pequin Capsicum annuum Cigar Plant Cuphea micropetala Columbine, Red Aquilegia canadensis Columbine, Yellow Aquilegia chrysantha 'Texas Gold' Coreopsis Coreopsis lanceolata Daisy, Blackfoot Melampodium leucanthum Daisy, Copper Canyon Tagetes lemmonii Damiantia Crysactina mexicana Fall Aster Aster oblongifolius Fern, River Thelypteris kunthii Firebush Hamelia patens Gaura Gaura lindeheimeri Gayfeather Liatris mucronata Gregg Dalea Dalea greggii Hibiscus, Perennial Hibiscus moscheutos. Hibiscus coccineus Honeysuckle, Mexican Justicia spicigera Hymenoxys (Four Nerve Daisy) Tetraneuris scaposa Indigo Spires Salvia 'Indigo Spires' Iris, Bearded Iris albicans Iris, Butterfly/Bicolor (African) Dietes sp.

Lamb's Ear Stachys byzantina Lantana Lantana x hybrida (many

varieties)

Lantana, Trailing Lantana montevidensis Marigold, Mexican Mint Tagetes lucida Obedient Plant, Fall Physostegia virginiana Oregano, Mexican Poliomintha longiflora Penstemon Penstemon sp. Phlox, Fragrant Phlox pilosa Pink Skullcap Scutellaria suffrutescens Plumbago Plumbago auriculata Poinciana, Red Bird of Paradise, Pride of Barbados Caesalpinia pulcherrima Primrose, Missouri Oenothera macrocarpa Purple Coneflower Echinacea purpurea Ruellia Ruellia brittoniana Sage, Cedar Salvia roemeriana Sage, Jerusalem Phlomis fruticosa Sage, Majestic Salvia guaranitica Sage, Mealy Blue Salvia farinacea Sage, Mexican Bush Salvia leucantha Sage, Penstemon, Big Red Sage Salvia penstemonoides Sage, Russian Perovaskia atriciplifolia Sage, Scarlet or 'Tropical' Salvia coccinea Salvia, Gregg (Cherry Sage) Salvia greggii Shrimp Plant Justicia brandegeana Texas Betony Stachys coccinea Verbena, Prairie Verbena bipinnatifida Yarrow Achillea millefolium

Zexmenia Wedelia texana

## **Ornamental Grasses**

Bluestem, Big Andropogon gerardii
Bluestem, Bushy Andropogon
glomeratus
Bluestem, Little Schizachyrium
scoparium
Fountain Grass, Dwarf Pennisetum
alopecuroides
Indian Grass Sorghasturm nutans
Inland Sea Oats Chasmanthium
latifolium

Mexican Feathergrass (Wiregrass) Stipa tenuissima
Muhly, Bamboo Muhlenbergia dumosa
Muhly, Big Muhlenbergia lindheimeri
Muhly, Deer Muhlenbergia rigens
Muhly, Gulf Muhlenbergia capillaris
Muhly, Scep Muhlenbergia reverchonii
Sideoats Grama Bouteloua curtipendula
Wild Rye Elymus canadensis

## Vines

Asian Jasmine Trachelospermum asiaticum
Carolina Jessamine Gelsemium sempervirens
Coral Vine Antigonon leptopus
Crossvine Bignonia capreolata
Fig Vine Ficus pumila

Honeysuckle, Coral Lonicera sempervirens
Lady Banksia Rose Rosa hanksiae
Passion Vine Passiflora incarnata
Trumpet Vine Campsis radicans
Virginia Creeper Parthenocissus
quinquefolia

#### Groundcover

Aztec Grass Ophiopogon japonicus
Frogfruit Phyla incisa
Horseherb Calyptocarpus vialis
Leadwort Plumbago Ceratostigma
plumbaginoides
Liriope Liriope muscari
Monkey Grass (Mondo Grass)
Ophiopogon japonicus
Oregano Origanum vulgare
Periwinkle, Littleleaf Vinca minor
Pigeonberry Rivina humilis

Purple Heart Secreasea pallida
Santolina (Lavender Cotton) Santolina
chamaecyparissus
Sedge, Berkeley Carex tumulicola
Sedge, Meadow Carex perdentata
Sedge, Texas Carex texensis
Sedum (Stonedrop) Sedum nuttallianum
Silver Ponyfoot Dichondra argentea
Wooly Stemodia Stemodia lanata
(Stemodia tomentosa)

### **Turf Grasses**

Bermuda 'Tif 419', 'Sahara', 'Baby', 'Common'
Buffalo '609', 'Stampede', 'Prairie'
St. Augustine 'Baby', 'Common', 'Raleigh', 'Delmar'

Zoysia, Fine Leaf 'Matrella', 'Emerald', 'Zorro'
Zoysia, Coarse Leaf 'Japonica', 'Jamur', 'El Toro', 'Palis