

INSTRUMENT # 2024000676

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 15th day of February, 2024, by the TOWN OF AURORA, a North Carolina municipal corporation, hereinafter referred to as "Declarant."

WITNESSETH:

THAT WHEREAS, Declarant is the owner of all that certain property located in Beaufort County, North Carolina, more particularly described in Exhibit A, attached hereto and made a part thereof, said property hereinafter referred to as "Aurora Industrial Park" or the "Park"; and

WHEREAS, it is the purpose of this Declaration to develop the "Park" as a restricted, structured, and high quality Park environment, providing for a variety of employment opportunities; to ensure a satisfactory integration of the Park into the surrounding area; to protect and enhance the values and amenities of all parcels within the Park; to ensure appropriate use, development, and improvement of the Park; to protect against the construction of inappropriate improvements; to provide for a method for the maintenance and continued improvement of common areas on the Park; to conserve energy and reduce pollution and waste; and in general to encourage construction of high-quality, high-performance permanent improvements that will promote the general welfare of all existing and future owners and occupants.

NOW, THEREFORE, Declarant hereby declares that the Park shall hereafter be held, conveyed, encumbered, leased, rented, used, occupied, and improved subject to the following easements, covenants, conditions, and restrictions herein set forth, all of which shall be binding on all parties having or acquiring any right, title, and interest in the Park or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of such party and create reciprocal rights and obligations between each such party.

Article I
Definitions

The following words and phrases when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

Section 1. Applicable Laws. All enforceable laws, regulations and ordinances validly promulgated and placed into effect by the Town of Aurora, County of Beaufort, the State of North Carolina, or the United States of America, including all zoning regulations of those governmental entities having jurisdiction, as well as sign, street, tree and floodway ordinances, state and federal regulation of land use, environmental resources, and hazardous materials, and such general laws of all appropriate jurisdictions as may affect the Park.

Section 2. Accessory Use. The use of a Structure which is not one of the principal businesses carried on in the Structure.

Section 3. Association. The Aurora Industrial Park Owners Association, a North Carolina non-profit corporation, and its successors and assigns.

Section 4. Buffers. Berming or vegetative screening erected to obscure the line of vision, or the flow of sound or wind.

Section 5. Commencement of Construction. Occurs when the Owner has obtained all building, grading, driveway and other required permits from the appropriate governmental authorities authorizing construction and having entered into a construction contract with a contractor holding the appropriate North Carolina license.

Section 6. Common Property. All property specifically and expressly declared to be such by Declarant as reflected on the plat recorded in Plat Cabinet J at Slides 88-3 and 88-4 in the Beaufort County Registry. The appearance of amenities, streets, plantings, improvements or facilities upon maps, drawings, or other illustrations and descriptions of the Park which hypothetically project their appearance at a future stage of development does not constitute the declaration or dedication of such amenities, streets, plantings, improvements or facilities as Common Property.

Section 7. Declarant. The Town of Aurora, and its successors and assigns.

Section 8. Declaration. This Declaration of Covenants, Conditions and Restrictions, as may be amended from time to time.

Section 9. File. The recording and proper indexing of record in the Office of the Register of Deeds for Beaufort County, North Carolina.

Section 10. Improvements. All buildings, out buildings, underground installations, roads, driveways, parking areas, fences, screens, retaining walls, stairs, decks, windbreaks, plantings, poles, signs, loading areas, cuts and fills, and all other structures or landscaping improvements of every variety and nature, whether below, at or above grade located anywhere in the Park.

Section 11. Lessee. Any person or entity granted a leasehold interest to any portion of a Lot.

Section 12. Lot. A parcel of land within the Park shown upon any recorded subdivision map of the Park that identifies the parcel of land as a "Lot." For purposes of this Declaration, the Property consists of Lots 1 through 20 where neither the Town of Aurora Sewer Lift Station parcel nor the Common Property is a Lot as defined herein.

Section 13. Mortgage. Any deed of trust or security interest granted to an institutional lender or other type lender to secure a loan of money to an Owner or other party in interest, which is attached to any Lot and is perfected or filed.

Section 14. Occupant. Any party, whether or not an Owner, who is regularly present upon a Lot pursuant to either express or implied license or right. This includes, but is not limited to, any tenant, subtenant, concessionaire, franchisee, licensee or other person who occupies, uses or otherwise conducts any business or other activity from, or has the right to occupy, use or otherwise conduct any business or other activity from, any Lot or Improvement.

Section 15. Open Space. Those areas of a Lot which are not improved other than by fills, cuts or the presence of underground utility lines. Open space shall include landscaping, natural areas, lawns, screening or buffer areas but shall not include any parking, loading, outdoor storage, trash handling, utility or service areas.

Section 16. Outdoor Storage. Any areas outside of a Structure, used for the temporary accumulation of inventory, materials, or other personalty. Outdoor storage does not include the stockpiling of materials which are to be incorporated into a Structure or Improvement by an Owners' contractor or subcontractor, as long as such materials are incorporated or removed within one hundred twenty (120) days.

Section 17. Owner. The person or entity, whether one or more persons or entities, holding the fee simple title of any Lot (including contract sellers) or if the Lot is subject to a ground lease, the ground lessee of the Lot, excluding the Declarant. Notwithstanding any legal theory of mortgage or otherwise, no holder of a deed of trust or mortgage on any Lot or of any security interest with respect thereto, shall be deemed an "Owner" hereunder unless and until the holder has acquired title to the fee of the Lot or the leasehold estate of the ground lessee thereof.

Section 18. Park. All property described in attached Exhibit A, any additional property added to and made subject to this Declaration as provided below in Article VI, Section 3, and such businesses and improvements as shall come to be conducted or erected thereon and the amenities and infrastructure to be erected thereon.

Section 19. Principal Improvements. The primary Structures which, according to the final plans approved by the Declarant, are to be built upon a Lot. Principal Improvements do not include such minor Structures as Outdoor Storage and temporary construction stockpiling areas.

Section 20. Property. All that real estate described in attached Exhibit A plus such other real estate which may be additionally made subject to this Declaration as provided below in Article VI, Section 3.

Section 21. Rear Setback. The Setback Distance from a rear boundary line of a Lot.

Section 22. Setback Distance. The distance between either a Lot boundary line or the edge of a street right-of-way to a line within the Lot and parallel to the boundary line or the right-of-way and within which distance no Structures are permitted, all as more specifically described in Article IV, Section 2.

Section 23. Side Setback. The Setback Distance from a side boundary line or a Lot.

Section 24. Sign. Any structure, component, fabric, device or display which bears lettered, pictorial or sculptured material designed to convey information or images and which is exposed to public view.

Section 25. Site Plan. The site plan for each respective Lot submitted to the Town of Aurora zoning administrator as part of an Owner's application for a zoning compliance permit.

Section 26. Stormwater Control Measure. The permanent structural device located within the Common Property designed, constructed and maintained consistent with the latest version of the North Carolina Department of Environmental Quality Stormwater Design Manual to remove pollutants from stormwater runoff before the water reaches streams and drinking water supply reservoirs.

Section 27. Street Setback. The Setback Distance from the edge of a Street right-of-way.

Section 28. Structure. A building, primarily designed and used for a business use as is permitted by this Declaration and/or the approval of the Declarant.

Section 29. Substantial Completion. The date upon which the exterior walls and roof of the Principal Improvements have been installed.

Section 30. Temporary Structures. Any Structure not shown on the final Site Plan approved by the Declarant, excepting such storage and operating trailers or structures as may be necessary for those contractors and subcontractors in the employ of Owner for the purpose of constructing those Improvements and Structures indicated on final plans approved by the Declarant.

Section 31. Utilities. Those lines and services in the nature of electric, telephone, cable tv, water, sewer and natural gas which may be laid or distributed throughout the Park.

Article II **Property**

Section 1. Description. The real property subject to this Declaration, herein referred to as the Park, is described in Exhibit A attached hereto and incorporated herein by reference.

Section 2. Additions. At any time hereafter, additional real estate may be added to the Park, pursuant to Article VI below. Upon the filing of such amendments, the real estate added to the Park shall be subject to and entitled to the benefit of this Declaration.

Section 3. Form of Amendment. Each amendment referred to immediately above shall contain the following provisions:

- (a) Reference to this Declaration and the date, book and page of its filing in Beaufort County, North Carolina;
- (b) A precise legal description of the additional real estate; and
- (c) Language subjecting the additional real estate to this Declaration and its subsequent amendments or supplementary declarations.

Section 4. Adjacent Property Not Specifically Described. From time to time, Declarant, Owners, or their predecessors or successors, may hold title or other interests in real estate adjacent to the Park. Unless such adjacent property is specifically described or included in the attached Exhibit A or the legal description of an amendment to this Declaration, such adjacent real estate shall not be deemed a part of the Park.

Article III **Acceptance of Provisions**

By acceptance of any deed conveying title to a portion of the Park, execution of a contract of purchase or acceptance of a lease or license concerning any portion of the Park or by taking possession of any portion of the Park, whether from Declarant or a subsequent owner or lessee, any future owner, lessee, licensee or occupant shall accept such deed, contract, lease, license or possession subject to each and all of the covenants, conditions, restrictions, reservations and easements set forth herein. Each person or entity who hereafter owns or acquires any right, title or interest in or to any portion of the Park shall be conclusively deemed to have consented and agreed to the covenants, conditions, restrictions, reservations and easements set forth herein, and in all supplementary or amended Declarations, whether or not any reference thereto is contained in the instrument by which such person or entity acquires an interest in the Park.

Article IV **Improvements and Uses**

Section 1. Prohibited Uses. Any use which is not compatible with a high quality, controlled business park development. All of the following uses are prohibited, unless expressly approved in writing otherwise by the Declarant;

- (a) Any residential use;
- (b) Labor camps;
- (c) Refining of petroleum or any of its products;
- (d) Cemeteries;

- (e) Commercial or private raising of poultry, livestock or swine;
- (f) Feeder lots for any poultry, livestock or swine, rearing of any other birds, fish, insects, mammals, reptiles;
- (g) No animals, livestock or poultry of any kind shall be kept or maintained on any Lot;
- (h) Junk yards;
- (i) Quarries;
- (j) Raceways;
- (k) Landfills;
- (l) Fuel oil storage;
- (m) Storage or transportation of hazardous waste materials for resale, or other than as in compliance with Article V; or
- (n) Any operation or use that causes or produces any of the following effects discernable outside of buildings or affecting any adjacent Lot:
 - (i) Noise or sound that is objectionable because of its volume, duration, intermittent beat, frequency or shrillness;
 - (ii) Smoke;
 - (iii) Noxious, toxic, or corrosive fumes or gases;
 - (iv) Obnoxious odors;
 - (v) Dust, dirt, or fly ash;
 - (vi) Unusual fire or explosive hazards;
 - (vii) Vibration;
 - (viii) Radiation;
 - (ix) Electrical interference;
 - (x) Glare; or
 - (xi) Any other activity which creates a nuisance or is not harmonious with the intent of these Declarations.

Section 2. Setbacks. Street Setbacks shall be fifty (50) feet from the street right-of-way bordering the front of the Lot, and twenty (20) feet from side and rear Lot lines bordering a street right-of-way. Side Setbacks shall be twenty (20) feet from the side Lot lines. Rear Setbacks shall be twenty (20) feet from the rear Lot lines. For purposes of determining Street Setbacks, Lot 2 and Lot 17 in the Park front on Paul Circle so that the front Street Setback is determined from Paul Circle.

Section 3. Outdoor Storage. Outdoor Storage is permitted as an Accessory Use. Outdoor Storage which is not an Accessory Use is not permitted. Outside Storage must be completely screened from view, both from outside the Park and from other Lots within the Park, and must be harmonious with the Principal Improvements in the Park. Screening must be effective at the time of installation, and the Declarant shall have discretion to disapprove such screening as it may reasonably consider ineffective or inharmonious with the Principal Improvements in the Park. All outdoor storage areas are deemed to be Structures for purpose of conforming to the setback requirements described herein.

Section 4. Landscaping. All open areas on each Lot not occupied by buildings, structures,

outside storage areas, parking areas, streets within the Park, paved areas, driveways, walkways and off-street loading areas shall be suitably graded and drained and shall be landscaped with lawns, trees and shrubs. All landscaping shall be the responsibility of each Lot owner in conformance with those requirements set forth below, unless otherwise consented to by Declarant in writing.

- (a) Each Lot shall provide ten (10) feet wide landscape buffer areas within the Lot and adjacent and parallel to the side property lines; the surface of the side buffer areas shall be reserved for the planting of lawns, trees or shrubs (and the Owner of each Lot shall plant such items and shall continually maintain them in good condition) and no structures or equipment of any nature (except underground utility equipment and guard/security buildings) shall be located within the side buffer areas.
- (b) Each Lot shall provide a ten (10) feet wide landscape buffer area within the Lot and adjacent and parallel to the rear property line; and the surface of the rear buffer area shall be reserved for the planting of lawns, trees or shrubs (and the Owner of each Lot shall install such items and shall continuously maintain them in good condition) and no structures or equipment of any nature (except underground utility equipment) shall be located within the rear buffer area.
- (c) Each Lot shall provide a ten (10) feet wide landscape buffer area outside of but adjacent and parallel to any abutting street or right-of-way property line within the Park; and except for access driveways perpendicular to the buffer, the surface of the front buffer area shall be reserved for the planting of lawns, trees or shrubs (and the Owner of each Lot shall install such items and shall continuously maintain them in good condition) and no structures or equipment of any nature (except underground utility equipment) shall be located within the front buffer. The Declarant shall have the right to enter the front buffer area for the purpose of planting trees and otherwise accessing such area.
- (d) All fencing shall be approved prior to construction by the Declarant or its designated agent within sixty (60) days from the time application was made.
- (e) Landscaping must be completely installed prior to the issuance of a certificate of occupancy for the primary structure on the Lot. If any Owner fails to undertake and complete the landscaping as set forth in the Site Plan within this time limit, the Declarant may, at its option, after giving the Owner ten (10) days written notice, begin and thereafter pursue with diligence the completion of landscaping in accordance with the Site Plan. If the Declarant undertakes such landscaping, the costs shall be assessed against the Owner and if not paid within thirty (30) days, said assessment shall constitute a lien upon the Lot and may be enforced as set forth herein. All Owners are required to maintain the terrain and landscaping of their Lot. Landscaping shall be guaranteed for two (2) years, with non-growing, stunted or damaged landscaping replaced.

Section 5. Parking and Off-Street Loading Areas.

- (a) All streets and parking areas visible from NC HWY 33 or streets within the Park must be paved. Each Lot shall contain all required parking facilities which shall be

in accordance with any and all parking-related ordinances of the Town of Aurora and built entirely within each Lot; there shall be no parking on any street within the Park (and the Owners and Lessees of each Lot shall be responsible for enforcement of this provision regarding their respective employees and visitors); and no parking areas or driveways, except access driveways, shall be constructed within the front-yard of any Lot or within the buffer areas without screening and/or landscaping approved by Declarant.

- (b) Access driveways shall be extended to the existing or proposed streets within the Park.
- (c) No storage or overnight parking of trucks or truck trailers shall be permitted except in off-street loading areas.
- (d) Provision for handling all truck service shall be totally within each Lot; no off-street loading areas or loading docks shall be located on or along the front wall of any building, within the front yard of any Lot or nearer than fifteen (15) feet from any side or rear property line; and off-street loading areas or loading docks located on or along the side wall of any building shall in no event be nearer than fifty (50) feet from the front wall of the building and such facilities and all activities therein shall be reasonably screened from view and to an extent reasonably acceptable to the Declarant.

Section 6. Temporary Structures. Temporary Structures are prohibited within the Park, with the exception of such trailers or storage facilities as may be employed by a contractor, subcontractor or agent of an Owner engaged in construction upon a Lot pursuant to plans approved by the Declarant.

Section 7. Grading Rights. Until such time as the Owner's plans have been approved, Declarant may make cuts and fills upon any Lot or other portion of the Park and do such grading, panning and earth moving within twenty (20) foot strips of land adjacent to streets within the Park as in its reasonable discretion may be necessary to improve or maintain the streets within the Park or to drain surface waters therefrom. Declarant may assign such rights to any appropriate county or other governmental authority. After the Owner's plans for the Principal Improvements to be constructed upon a Lot have been submitted to and approved, the rights of Declarant with respect to this Section 7 shall terminate with respect to all parts of that Lot. Declarant and its successors or assigns, as developer, shall at all times have the right to maintain existing streets and drainage facilities.

Section 8. Violations. In the event that any Lot is developed or improved other than in strict conformity with this Declaration, any such Improvement or development must be removed or altered so as to be in compliance, and any unauthorized use of the Lot must be ended so as to extinguish any violations of this Declaration. At any time a violation of this Declaration may be found to exist, regardless of the length of time of such violation, written notice of such violation will be issued to the Owner of the Lot in violation and any other responsible parties. If reasonable measures have not been taken by the Owner or other responsible parties to terminate the violation within ten (10) business days, the Declarant may, through agents or employees, enter onto the Lot and take such measures as may reasonably be necessary to abate the violation. The Declarant shall

have no liability to the Owner or other parties having an interest in the Lot for any entry taken in connection with the abatement of a violation. All costs and expenses, including legal fees, permits, mobilization costs and insurance, plus ten percent (10%) of the costs and expenses (exclusive of attorneys' fees) as an allowance for general overhead and intangible costs, shall be a binding obligation of the Owner of the Lot in violation. In addition, all costs shall be a lien upon the Lot, enforceable in accordance with the applicable mechanic's lien laws of the State of North Carolina.

Section 9. Construction.

- (a) Unless otherwise agreed in writing, construction of all Improvements and other development on the Lot shall be the responsibility of the Owner. The Declarant shall not have any responsibility whatsoever for monitoring or control of construction. The lack of duty to oversee construction however, does not prevent Declarant from exercising its powers in the event of any violation. Notwithstanding anything herein to the contrary, the following guidelines shall apply to construction on any Lot:
 - (i) All materials shall be durable, high-quality, permanent and easily maintained.
 - (ii) All improvements must be approved by the Declarant.
 - (iii) The elevation facing the street or streets shall be at least 75% brick.
 - (iv) Except for air-conditioning equipment, air handling equipment and transformers, all exterior mechanical and electrical equipment (including, without in any manner limiting the generality of the foregoing, pump houses, antennas, communication towers, vents, fans, ducts, switchgear and cooling towers), whether mounted on the roof or walls of any building or on the ground, shall be screened so that the predominant design lines of the building or structure continue without visual distraction or interruption.
 - (v) All air-conditioning equipment, air handling equipment and transformers installed in any Lot shall be painted a color to blend with the predominant colors of the building or near which they are installed, and such color is subject to approval by the Declarant; otherwise, air-conditioning equipment, air handling equipment and transformers shall be screened. The height of the required screening shall be at least equal to the height of the equipment to be screened. Air-conditioning equipment, air handling equipment and transformers shall be screened from view from any street adjacent to the building.
 - (vi) No Lot shall be used for any purpose unless prior approval is received in writing from the Declarant and meets current zoning code.
- (b) No Improvements, including but not limited to any building, fence, wall or other structure, shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of

external design and location in relation to surrounding structures and topography by the Declarant. In the event the Declarant, or its designated agent, fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted, approval will not be required and this Section will be deemed to have been fully complied with.

- (c) Upon written notice of the completion of a Structure, the Declarant shall have ten (10) days to make such reasonable inspections as it deems necessary. In the event that the Declarant discovers that Improvements or other work upon the Lot have been done other than in accordance with the plans approved, the Declarant shall give Owner written notice of such violations. In the event that the Declarant discovers that Improvements and work upon the Lot have been accomplished in accordance with plans approved, then the Declarant shall issue a certificate of compliance to the Owner. No occupancy of any Structure is permitted without the certificate of compliance even though a certificate of occupancy has been issued by the appropriate municipal authorities. In the event that the Declarant fails to issue either a certificate of compliance or a notice of violations within ten (10) days of receiving notice of completion of a Structure, a certificate of compliance shall not be required prior to occupancy.

Section 10. General Repair and Maintenance. It shall be the duty of each Owner to keep and maintain all of its Lot, except as expressly stated otherwise herein, including those areas within Setback Distances, easements and Open Space. The Owner shall keep the entire Lot safe, neat, free of hazards and shall comply with all fire, zoning, health, environmental and other requirements as may legally apply to the Lot. Owner shall keep the Lot clear, clean and free of all unsightly scrap, rubbish or other materials at all times, including the construction period. After development of each Lot, the Owner of that Lot shall maintain or cause to be maintained its Lot and any Improvements located thereon in good order and condition, which obligation shall include, but shall not be limited to, the following specific items of maintenance and upkeep:

- (a) Keeping and maintaining the exterior of all structures, buildings, appurtenances, screening, fences, sidewalks, walkways, roadways, drainage channels, signs, landscaping, off-street loading and parking areas in a safe, neat, clean and sightly manner and in good condition and repair;
- (b) Removing promptly, to the extent reasonably practicable, snow, ice, surface water, trash, rubbish, debris, weeds and other matter not expressly approved in writing by the Declarant;
- (c) Keeping all signs distinct and legible;
- (d) Caring for and replanting all landscaped and planted areas so as to not allow dead or unsightly plants to remain within its Lot;
- (e) Repairing any damage or breakage to improvements located beneath the pavement on its Lot and serving solely that Lot; and
- (f) Maintaining the neat, clean and slightly visual appearance of the portion of the rights-of-way fronting the Lot to Declarant's reasonable approval.

Section 11. Utility Lines. No pipe, conduit, cable, line or appurtenant facility or equipment

for the transmission of electricity (other than utility-owned electric distribution line and the overhead lines and towers presently located within the Park and any replacements or extensions thereof) and no pipe, conduit, cable line or appurtenant facility or equipment for telephone, water, gas, sewage, drainage, steam or any other utility or energy service shall be installed or maintained within any Lot and outside of any building above the surface of the ground. Notwithstanding the foregoing, distribution lines supplying service to the entire site of the Park may be located above ground.

Section 12. Site Plan. The Declarant shall approve a Site Plan for any Lot to be improved by an Owner before construction of any Improvement shall commence (which approval shall not be unreasonably withheld or delayed). The Site Plan shall show all Improvements to be made. In the event that an Owner desires to make additional Improvements after initial construction, the Owner shall submit to Declarant a supplemental Site Plan reflecting such additional Improvements. All additional Improvements shall be designed and landscaped so as to be harmonious with the initial Principal Improvement on the Lot. For purposes of this Section, the Declarant shall mean the Board of Commissioners of the Town of Aurora by majority vote.

Section 13. Exterior Lighting. - Prior to the construction of any building on a Lot, the Owner of such Lot shall submit to the Town of Aurora for approval an exterior lighting plan (which plan shall include poles and fixtures). All outside wiring done by a non-utility service provider for exterior lighting shall be installed underground.

Section 14. Signs and Graphics. A plan showing all entrance/identification signs for each Lot shall be submitted by the Owner of the Lot to the Declarant for approval prior to installation. Specific sign location shall be the responsibility of the Owner of the Lot and shall be subject to review and approval by the Declarant. Signage will comply with any and all applicable zoning ordinances of the Town of Aurora. Temporary and/or building identification signage shall be installed or displayed in accordance with the following:

- (a) During the period of development and prior to the completion of the Principal Improvement on each Lot, the Lot shall have only one (1) temporary construction sign, not to exceed eight (8) feet wide x four (4) feet high. The sign shall be mounted no more than twelve (12) inches off the ground.
- (b) After completion of the Principal Improvement on each Lot, the availability for sale or lease of all or any part of the such Structure shall be advertised by only one (1) temporary marketing sign which shall not exceed four (4) feet high and eight (8) feet wide.
- (c) No neon, traveling, flashing or intermittent illumination of any kind shall be permitted.
- (d) An elevation showing location of the sign on the building shall be submitted by the Owner of the Lot to the Declarant for approval prior to installation. Included on the elevation shall be the entire surface area of the building elevation, including all openings with dimension, showing sizes and location of the sign.
- (e) Signage shall be constructed of permanent material and shall be consistent with the general architectural design of the building.

Section 15. Mailboxes. No mailboxes shall be permitted within the Park except as specifically approved by the Declarant and the United States Postal Service.

Section 16. Stormwater Management. The development of lots within the Park are to be consistent with the North Carolina Stormwater Management Permit No. SW7220606 issued to the Town of Aurora. This permit allows for the uplands within the Park to be developed such that all runoff from impervious surface is directed to drain to the Stormwater Control Measure for the Park. Each Lot will be allowed to create a maximum of 60% impervious surface per lot. Each proposed development will provide to the Town of Aurora at the time of site plan submittal, a statement from the design engineer that verifies that the impervious surface created will not exceed 60%. Impervious surface includes roofs, pavements (asphalt and concrete), and gravel.

Article V

Waste Management and Environmental Hygiene

Section 1. General Waste Management. Because releases of hazardous or toxic materials upon any Lot within the Park could have enormous adverse impact upon any or all of the other Lots and other Property within the Park, each and every Owner hereby covenants and warrants that it will observe all requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), Clean Air Act, Clean Water Act, the Refuse Act, Toxic Substances Control Act, Safe Drinking Water Act, the North Carolina Oil Pollution and Hazardous Substances Control Act (OPHSCHA) and all other federal, state, and local statutes, laws, regulations and ordinances concerning the creation, storage, transportation or release of substances injurious to life forms or the environment, including but not limited to, "hazardous substances" as defined under CERCLA and "oil and other hazardous substances" as described in OPHSCHA.

Section 2. Underground Storage Tanks. Before installation of any underground storage tank (UST), the Owner shall deliver to the Declarant a site plan or survey showing the exact proposed location of the UST. Copies of all permits issued in connection with all UST's shall be delivered to the Declarant upon their receipt.

Article VI

Duration, Modification and Termination

Section 1. Binding Effect, Duration, and Termination. The restrictions contained in this Declaration shall be appurtenant to and run with the land and shall be binding upon and shall inure to the benefit of Declarant, the Owners, Lessees, licensees, Occupants, their heirs, successors and assigns, and all other parties hereinafter having an interest in any of the property for a period ending on December 31, 2054, after which time they automatically shall be extended for successive periods of ten (10) years.

Section 2. Amendments. Except as provided in Section 3 of this Article VI and for so long as the Town of Aurora shall own any Lot in the Park (excluding the Sewer Lift Station parcel),

this Declaration may be amended only by a written agreement executed by Declarant (or its successor) and the Owners of all Lots in the Park, properly recorded in the office of the Register of Deeds for Beaufort County, North Carolina. After the Town of Aurora no longer owns any Lot in the Park, this Declaration may be amended only by a written agreement executed by the Owners of all Lots in the Park.

Section 3. Expansion of the Entire Premises. In order to permit an orderly and uniform expansion of the Park and/or the availability of additional tracts of land for development as "Lots" and for so long as the Declarant shall own any property in the Park, Declarant (or its successor) reserves the right to subject additional property owned or hereafter acquired by Declarant to the restrictions and easements set forth in this Declaration, provided such property is contiguous to any part of the then-existing Park or across a street or road from any part of the then-existing Park. Declarant may subject such additional property to this Declaration by a written amendment signed only by Declarant, and may develop, or cause to be developed, that additional property in a manner reasonably compatible and harmonious with existing Improvements in the Park. Any such amendment shall be effective from the date it is properly recorded in the office of the Register of Deeds for Beaufort County, North Carolina. Any other expansion of the Park to include tracts of land not owned or hereafter acquired by Declarant shall be subjected to this Declaration upon an amendment as set forth in Article VI, Section 2.

Article VII **Enforcement**

Any violation of this Declaration, whether in whole or in part, is hereby declared to be a nuisance and, without limitation, any party empowered to enforce this Declaration may avail itself of all remedies available under Applicable Law for the abatement of a nuisance in addition to all other rights and remedies set forth hereunder or otherwise available at law. This Declaration may be enforced by Declarant, its successors and assigns either to restrain the violation thereof, abate or remediate damage caused by the violation, or to recover damages, all together with reasonable attorneys' fees and court costs. Further, any Owner of any Lot may enforce these covenants and restrictions as aforesaid against any other Owner and by actions for specific performance or injunction in addition to any other remedies available at law, except, however the Declarant's option to purchase described below in Article VIII, Section I, shall be enforceable only by Declarant and not by an Owner unless specifically assigned thereunto by Declarant in writing. In addition to the remedy of enforcement as provided above, Declarant shall have the right, through its agents and employees, to enter upon the Lot and summarily abate, remove and extinguish any thing or condition that may exist thereon contrary to the provision hereof, and Declarant shall not thereby be deemed to have trespassed upon such Lot and shall be subject to no liability to the Owner or Occupant of such Lot for such entry, abatement or removal. The cost of any abatement or removal of violations authorized under this Declaration shall be a binding, personal obligation of the Owner of the Lot upon which such violation has occurred, as well as a lien enforceable in accordance with the applicable mechanic's lien laws of the State of North Carolina. No failure to exercise its enforcement powers shall be deemed a waiver thereof by the Declarant.

In addition to all other rights and remedies available for the enforcement of this Declaration, the Declarant may, beginning thirty (30) days after delivery of written notice of the Owner of a Lot on which a violation is occurring, impose a fine against such Owner for each day the violation continues following delivery of the Notice. The fine imposed hereunder shall not exceed \$100 per day. The fine shall constitute a lien against the Lot on which the violation occurs. Any such notice to an Owner shall describe the Lot, the specific violation, a reference to the provisions of the Declaration, and a notice that a fine will be levied if the violation is not cured within a 30-day period. The notice shall be deemed delivered if sent by certified mail, return receipt requested, or sent to the Owner via national overnight courier service.

Article VIII

Easements and Retained Rights

Section 1. Right of Repurchase. In the event that Commencement of Construction has not occurred upon a Lot within sixty (60) months following the conveyance from Declarant to any Owner (the "Building Period"), Declarant shall have the right to repurchase the Lot at any time within twelve (12) months after expiration of the Building Period (the "Notice Period") unless Declarant's acts or omissions are the cause of any delay. In the event Declarant's acts or omissions cause a delay, the Building Period and subsequent Notice Period shall be extended for the period of such delay. In order to exercise this Right of Repurchase, Declarant must give written Notice to Owner within the Notice Period and tender the purchase price within sixty (60) days following the delivery of notice. The repurchase price shall be the price paid upon the conveyance from Declarant ("Repurchase Price"). Owner covenants to remove any and all title and survey exceptions, other than title and survey exceptions existing prior to the conveyance from Declarant to Owner and any first mortgage or deed of trust ("Trust Deed") providing financing to the Owner (which Trust Deed shall be satisfied from the Repurchase Price proceeds at closing). Upon tender of the Repurchase price, Owner shall convey the Lot to Declarant by Special Warranty Deed. Owners expressly agree that Declarant is entitled to specific performance of all duties imposed upon Owners by this Section. In the event an Owner owns contiguous Lots, all such contiguous Lots shall be considered one combined Lot for purposes of this section.

Section 2. Utility and Drainage Easements. Declarant hereby reserves a permanent nonexclusive easement and right-of-way over, under, along and within those strips of land identified as drainage and utility easements on the plat recorded in Plat Cabinet J at Slides 88-3 and 88-4 in the Beaufort County Registry for drainage and for the installation and maintenance of such utility lines, conduits, pipes and other equipment necessary for furnishing electric, natural gas, telephone service, water, sanitary sewage service, and such drainage facilities as may be, in Declarant's reasonable judgment, necessary. Declarant also reserves a temporary general right of access as is necessary from time to time to do installation or maintenance work within such identified easement areas. This reservation of easement does not prohibit construction of driveways at locations approved by the Declarant.

Section 3. Declarant's Rights. If at any time Declarant ceases to exist or assigns its rights, powers, and reservations to another, a successor Declarant may be appointed or replaced by the written vote of eighty percent (80%) of the Owners, with each Owner having one vote for each

acre of land, measured to the nearest one hundredth of an acre, within the Owner's Lot. Common Areas shall not be included in a determination of the number of votes allocated to an Owner. Any appointments made pursuant to the terms of this section shall be filed in Beaufort County, North Carolina.

Section 4. Declarant Exculpation. Neither Declarant nor any of its officers, directors, employees, public officials, agents, representatives, or members, (individually and collectively, an "exculpated person"), shall be personally liable to any Person for any act or omission of any nature whatsoever occurring in the course of acting under or in connection with this Declaration. Without in any way limiting the generality of the foregoing, no exculpated person shall have any liability of any nature whatsoever by virtue of any action taken or not taken with respect to any site plans presented to it for review and approval, and under no circumstances shall any such person be deemed to have passed upon the structural integrity or safety of any Improvement described on or in any such materials.

Section 5. Easements for Benefit of Other Lands. The Declarant may hereafter grant and accept, and Declarant hereby reserves unto itself, its successors and assigns, easements and other rights in, along and over any portion of the Common Property for the benefit of the Property and also for the benefit of other, adjacent land now or hereafter to be developed by Declarant that is adjacent, contiguous or in the vicinity of the Park, for the purposes of providing such benefits as shared facilities and amenities, reasonable access for pedestrian and vehicular traffic, open areas, green spaces, park lands and other suitable shared uses. Each Owner hereby grants to the Declarant an irrevocable durable power of attorney (which, in the case of individuals, shall survive incompetency and in all cases is coupled with an interest) to execute, acknowledge and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing.

Section 6. Owner's Easements. No Owner shall grant any easement or right of way under, across or over any portion of its Lot (except for Utility easements) without the approval of the Declarant.

Section 7. Private Agreement. This Declaration does not and shall not be construed to grant any rights to the public in general.

Section 8. Common Property. Common Property shall remain private property of the Association and shall not be construed as dedicated to the use or enjoyment of the general public. Each Owner shall have the right to use and access the Common Property, subject to all federal, state, and local rules regulating stormwater and delineated wetlands.

Article IX

Partial Taking

In the event that any portion of the Park is taken or purchased in any manner in the nature of a condemnation or other governmental taking, such taking will not render invalid any provision contained in this Declaration.

Article X
Covenants for Maintenance Dues

Section 1. Responsibility for Maintenance Services. The Association shall be responsible for the maintenance and repair of the sign located at the entrance of the Park, as well as all structures, features, landscaping, and Stormwater Control Measure located within the Common Property, and shall collect the dues and assessments set forth in this Article.

Section 2. Purpose of Annual Dues. Annual dues shall be used as follows:

(a) To maintain and repair all structures, features, landscaping, and Stormwater Control Measure located in the signage area at the entrance of the Park and within the Common Property in a manner consistent with the overall appearance of the Park and as required by law; and

(b) To pay all legal, accounting and other professional fees incurred in carrying out the duties as set forth herein or in the Bylaws of the Association.

Section 3. Assessment Rate.

(a) The amount of the aggregate annual dues for each year shall be the amount necessary to fund, on a current, annual basis, all expenses described in Section 2 of this Article. The Board of Directors of the Association shall fix the amount of the annual dues to be assessed against each Owner of a Lot (Lots 1 – 20) on a per acre basis at least thirty (30) days in advance of each annual dues period, subject to the limitations set forth in this Section.

(b) Both annual dues and special assessments must be fixed at a uniform per acre rate for all Lots (Lots 1 – 20); annual dues shall initially be \$105.00 per acre of each Lot, beginning on July 1, 2024.

Section 4. Special Assessments for Capital Improvements and Emergencies. In addition to the annual dues authorized above, the Association may levy, in any year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, improvement or replacement of a capital improvement within the Common Property, including but not limited to all structures, features, landscaping, and Stormwater Control Measure. Such special assessments may be levied only after obtaining the written consent of the Owners of at least seventy-five percent (75%) of the votes of all Owners, unless such capital improvement is required for federal or state regulatory compliance, in which case the Board of Directors shall have sole authority to authorize a special assessment for the capital improvement to bring the Common Area into compliance with federal or state laws or regulations.

Section 5. Assessments of Lots. All annual dues and special assessments on the Lots shall be billed to and collected from each Owner by remitting the same to the Association.

Section 6. Creation of Lien and Personal Obligation for Dues and Assessments. Declarant

covenants, for each Lot and each Owner of each Lot, and each Lot Owner, by acceptance of a deed whether or not it shall be so expressed in such deed, is deemed to also covenant and agree that each Lot Owner shall promptly pay the annual dues assessed for and against each Lot owned from time to time by Owner, in such amounts as are necessary to pay for the services set forth in this Article and for the charges and special assessments for capital improvements established and collected as herein provided. Any such assessment or charge, together with interest, costs and reasonable attorney's fees, shall be a charge and continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner(s) of such Lot at the time the assessment(s) or charge(s) fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, but shall remain a lien upon the Lot or Lots involved, and shall remain a personal obligation of the Owner(s) of such Lot at the time the assessment(s) or charge(s) fell due.

Section 7. Date of Commencement of Annual Dues; Due Dates. The annual dues provided for herein shall commence for each Lot as of July 1, 2024. Written notice of the annual dues shall be sent to every Owner each year no less than thirty (30) days before such annual payment is due. The due dates for payment of annual dues shall be established in such written notice.

Section 8. Effect of Nonpayment of Dues or Assessments; Remedies of the Association. Any assessment for dues not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate allowable under North Carolina Law at the time of default, or eighteen percent (18%) per annum if the maximum legal rate is greater under then-applicable law. In addition to such interest charge, the delinquent Owner shall also pay such late charge(s) as may have been theretofore established by the Association to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner, or foreclose the lien against the Lot, or both. All interest, late payment charges, costs and reasonable attorney's fees of such actions or foreclosures shall be added to the amount of such charge or assessment. No Lot Owner may waive or otherwise escape liability for the charge and assessment provided for herein by attempting to claim lack of use, or by not using the Common Property or by purporting to abandon his/her Lot(s).

Section 9. Subordination of the Lien to Mortgages. Sale or transfer of any Lot shall not affect the assessed lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof of such first mortgage or deed of trust shall extinguish the lien of such dues and assessments as to payments which became due prior to such sale or transfer; provided, however, that the Association may in its sole discretion determine such unpaid dues and assessments to be an annual or a special assessment, as applicable, collectable pro-rata from all Lot Owners. Such prorated portions are payable by all Owners notwithstanding the fact that such pro-ration may cause the annual assessment to be in excess of the maximum otherwise specified in this Article. No sale or transfer shall relieve any buyer of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust as above provided.

Article XI **Association**

Section 1. **Membership.** Once formed, every Lot Owner automatically shall be a member of the Association. Membership of a Lot Owner shall be appurtenant to and may not be separated from ownership of each Lot. Upon termination of ownership (due to transfer of title to the Lot), an Owner's membership shall automatically terminate and transfer to the new owner(s) of the Lot. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall collectively be considered one Owner and one Member.

Section 2. **Voting.** All Owners shall be entitled to one (1) vote for each Lot acre, including any portion of an acre, for each Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall collectively be considered one Owner and one Member, and voting rights appurtenant to said Lot may be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot acre, including any portion of an acre, owned by more than one person. Should an Owner own more than one Lot, each Lot, whether combined or not shall be considered cumulatively for purposes of determining the total number of Lot acres, and therefore votes the Owner is entitled to.

Section 3. **Board of Directors.** The Association shall be governed by a Board of Directors in accordance with its Bylaws.

Section 4. **Formation of the Association.** The Association was incorporated on January 25, 2024, and is known as Aurora Industrial Park Owners Association.

Section 5. **Books and Records of the Association.** The Association shall keep full and correct books of account. The Association shall make available to all Owners and the holders of all mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Article XII **General**

Section 1. **Mortgagees' Protection.** Violation of this Declaration shall not defeat the lien of any Mortgage made in good faith and for value upon any portion of the Property. Any lien created hereunder shall be subordinate to any such Mortgage unless a lis pendens or notice of the lien shall have been filed prior to the recordation of such Mortgage; provided, however that any Mortgagee in actual possession or any purchaser at any trustee's, mortgagee's or foreclosure sale shall be bound by and be subject to this Declaration as fully as any other Owner.

Section 2. Chain of Title. Each grantee, Lessee, or other person in interest or occupancy accepting a conveyance of a fee or lesser interest, the devise of a leasehold interest, or a license, in any Lot, whether or not the instrument of conveyance refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe and perform and be bound by this Declaration and to incorporate this Declaration by reference in any conveyance, devise of a leasehold estate, or the grant of a license, of all or any portion of the interest in any real property subject hereto.

Section 3. Ambiguities. If any disagreement shall arise between Owners as to the interpretation or application of this Declaration, or if any discrepancy, conflict or ambiguity is found to exist with respect to any matters set forth in this Declaration, the disagreement, discrepancy, conflict or ambiguity shall be resolved by the Declarant. In the absence of an adjudication by a court of competent jurisdiction to the contrary, the determination of the Declarant shall be final and binding upon all Owners unless the determination was fraudulently induced or arbitrarily or capriciously rendered.

Section 4. No Reversionary Interest. This Declaration shall not be construed as creating conditions subsequent, or as creating a possibility of reverter. Nothing herein contained, however, shall be deemed a waiver of the right to repurchase set forth in Article VIII, Section 1 above. Except as provided above, all reversionary rights are hereby expressly waived by Declarant.

Section 5. Zoning Requirements. This Declaration shall not be interpreted as permitting any action or thing prohibited by applicable zoning laws, or any other Applicable Laws, or by specific restrictions imposed by any deed or other conveyance. In the event of any conflicts, the most restrictive provision among the conflicting terms shall be taken to govern and control. No Owner shall petition for re-zoning of any Lot.

Section 6. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court or other body of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration and all remaining restrictions, covenants, reservations, easements and agreements contained herein shall continue in full force and effect.

Section 7. General. All pronouns used herein shall be deemed to be singular, plural, masculine, feminine or neuter as application to specific circumstance may require.

{Continued to Next Page}

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as its act and deed by its Mayor, attested by its Town Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Commissioners, as of the day and year first above written.

TOWN OF AURORA

(Seal)

By: *Clif Williams*
Clif Williams, Mayor

ATTEST:

Judith S. Lannon
Judith S. Lannon, Town Clerk

NORTH CAROLINA

BEAUFORT COUNTY

I, David W. Hollister, a Notary Public in and for said County and State, do hereby certify that on the 15th day of February, 2024 before me personally appeared CLIF WILLIAMS, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that JUDITH S. LANNON is the Town Clerk for the Town of Aurora, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Commissioners of said municipal corporation and that the said instrument is the act and deed of said municipal corporation.

Date: 15-February-2024

David W. Hollister
David W. Hollister, Notary Public
Notary's Printed or Typed Name



My commission expires: 7-3-2027

EXHIBIT A

Being all that real property located in the Town of Aurora, Beaufort County, North Carolina, and more specifically identified as the Town of Aurora Industrial Park as appears on the plat recorded in Plat Cabinet J, Slides 88-3 and 88-4, in the Beaufort County Registry, containing Lots 1 through 20, Town of Aurora Lift Station, and Common Area, consisting of approximately 48.483 acres ("Property").