

Prepared By and Return To: Angela S. Beeker, City Attorney, City Box

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

**FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
(GARRISON INDUSTRIAL PARK)**

This **First Amendment to the Declaration of Covenants, Conditions and Restrictions** (“Amendment”) is made this ____ day of _____, 2026 by **The Economic Investment Fund of Henderson County, Inc.**, a North Carolina non-profit corporation (hereinafter referred to _____ as _____ the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the developer of certain real property located in Henderson County, North Carolina, originally consisting of 41.35 acres, more or less, which is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (the “Premises”); and

WHEREAS, in order to ensure that the Premises be developed as an industrial park for industrial and manufacturing uses to be known as Garrison Industrial Park (the “Park”), Declarant recorded covenants and restrictions to govern development within the Park, said covenants and restrictions being titled Declaration of Covenants, Conditions and Restrictions (Garrison Industrial Park) and recorded in Book of Record 3721 at Page 204 of the Henderson County Registry (the “Covenants”); and

WHEREAS, Section 6.1 of the Covenants grants to Declarant the authority to amend the Covenants for so long as Declarant owns acreage within the Park, Declarant currently owns Lots 1 and 4 of the Park, said lots shown on that plat recorded in Plat Book 2021 at Page 13013 of the Henderson County Registry, as well as open space within the Park, and Declarant wishes to amend the Covenants to allow the addition of land to the Park acreage, and subject the additional land to these Covenants;

NOW, THEREFORE, Declarant, for the use and benefit of itself, its successors and

assigns, does hereby amend the Covenants as follows:

There shall be added a new Article XI to the Covenants, Article XI to read as follows:

ARTICLE XI
ADDITION OF PROPERTY TO THE PARK BY EXISTING OWNERS

Section 11.1. Purpose; amendment to addition rights. This Article amends and supplements the Covenants to expressly allow an existing owner of property already subject to the Covenants (an “Existing Owner”) to add additional real property to the Park so that such added property becomes part of the premises and is subject to the Covenants, consistent with the Covenants's intent that additional properties may be added to the Park and, when added, are subject to the Covenants.

Section 11.2. Definitions.

(a) Added Property means any parcel, tract, or other interest in real property located in Henderson County, North Carolina, that is not then part of the Premises and that an Existing Owner proposes to submit to the Covenants pursuant to this Article.

(b) Adding Owner means the Existing Owner that owns the Added Property and elects to add the Added Property to the Park pursuant to this Article.

(c) Addition Instrument means a written instrument executed and acknowledged by the Adding Owner and recorded in the Office of the Register of Deeds of Henderson County, North Carolina, that adds the Added Property to the Park and subjects it to the Covenants as provided in this Article.

(d) Approving Authority means (i) the Declarant for so long as the Declarant owns any property in the Premises and retains amendment authority under the Covenants, and (ii) thereafter, the Association acting through its Board of Directors (and, if required by the Covenants, the members) in accordance with the Covenants' amendment procedures.

Section 11.3. Grant of right to add property; conditions precedent. Subject to strict compliance with this Article, any Existing Owner may add Added Property to the Park by causing an Addition Instrument to be recorded; provided that, as conditions precedent to effectiveness:

(a) The Adding Owner must be the fee simple owner of the Added Property (or, if less than fee simple, must hold an interest sufficient to impose covenants running with the land under North Carolina law);

(b) The Added Property must be described by metes and bounds or other legally sufficient description suitable for recording;

(c) The Approving Authority must have approved the addition in writing prior to recordation, which approval may be conditioned reasonably to ensure orderly, harmonious, and beneficial development and use consistent with the Covenants; and

(d) The addition must not be structured or used to evade or impair any restriction in the Covenants, including the restriction on splitting or subdividing ownership or beneficial use without required consent.

Section 11.4. Approval standard; no unreasonable withholding; consistency with Park controls. The Approving Authority shall review a proposed addition under this Article in a commercially reasonable manner and shall not unreasonably withhold approval; however, the Approving Authority may deny approval if the proposed addition would reasonably be expected to (i) conflict with the Covenants or Applicable Laws, (ii) impair the efficient, harmonious, and beneficial development, use, and maintenance of the Park, or (iii) create nonconforming or incompatible development patterns relative to the Park's architectural and planning controls. ,

Section 11.5. Required contents of Addition Instrument. Each Addition Instrument must, at a minimum:

(a) Identify the Covenants by title and recording information and state that the Added Property is hereby added to and made part of the Premises and the Park;

(b) Attach as an exhibit the legal description of the Added Property and, if available, a survey or plat reference;

(c) State that, from and after the effective date of the Addition Instrument, the Added Property is held, improved, developed, transferred, dedicated, leased, subleased, occupied, sold, and conveyed subject to all covenants, conditions, restrictions, reservations, easements, enforcement rights, and remedies set forth in the Covenants, as amended from time to time, which shall run with the land and bind the Added Property and inure to the benefit of all parties entitled to enforce the Covenants;

(d) State that the Adding Owner, by adding the Added Property, becomes (as to the Added Property) an "owner of a tract or parcel within the Premises" for all purposes of the Covenants, including membership and voting in the Association and assessment obligations, allocated based on acreage as provided in the Covenants; and

(e) Include such additional provisions as the Approving Authority reasonably requires to confirm administrative matters (including allocation of votes and assessments attributable to the Added Property) consistent with the Covenants; and

(f) Be signed by the Adding Owner and the Approving Authority.

Section 11.6. Effectiveness; scope; no waiver.

(a) Effective date. The addition of Added Property shall be effective upon recordation of the Addition Instrument.

(b) Full application of Covenants. Upon effectiveness, the Added Property shall be subject to the Covenants to the same extent as all other property within the Premises, including (without limitation) permitted use limitations, restrictions, architectural and planning control, enforcement and remedies, and amendment provisions. ,

(c) No waiver. Approval of an addition (or any plans associated with development of the Added Property) shall not be deemed a waiver of the Approving Authority's right to enforce the Covenants as to any other tract or parcel, and approval shall be final only as to the specific Added Property and the specific approval granted.

Section 11.7. Development submissions for Added Property. Prior to commencing any construction or improvement on the Added Property after it is added to the Park, the Adding Owner shall comply with the Covenants' plan submission, review, and approval process applicable to construction and improvements within the Premises, including pre-planning meeting, conceptual plan, and final plans and construction documents, and shall reimburse applicable review costs as required.

Section 11.8. Enforcement. From and after the effective date of the Addition Instrument, the Added Property shall be subject to enforcement and remedies to the same extent as other property within the Premises, and the parties with standing under the Covenants shall have standing to enforce the Covenants as to the Added Property.

Section 11.9. Interpretation; conflict. This Article shall be interpreted to expand the class of parties permitted to add property to the Park to include Existing Owners, while preserving the requirement that any property added to the Park must be subject to the Covenants; in the event of a conflict between this Article and the Covenants, this Article shall control solely with respect to the process and authorization for additions by Existing Owners, and all other provisions of the Covenants shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officer or representative of Declarant has executed this Declaration of Covenants, Conditions and Restrictions effective on the ____ day of February, 2021.

[Signatures appear on the following page]

**The Economic Investment Fund of
Henderson County, Inc., a North
Carolina non-profit corporation**

By: _____(SEAL)
Name: _____
Title: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the State and County aforesaid do hereby certify that _____, the _____ of The Economic Investment Fund of Henderson County, Inc., a North Carolina non-profit corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for and on behalf of said corporation.

WITNESS my hand and official stamp or seal this ____ day of _____, 2026.

Notary Public

My Commission Expires: _____

EXHIBIT A

Being all of that certain property described as Tract 1 containing 13.47 acres, Tract 3 containing 18.65 acres, Tract 4 containing 5.30 acres, the open space area designated as “OS” containing 1.91 acres, and the Revised Private 60’ Drive Easement and cul de sacs associated therewith extending from Commercial Boulevard (SR 1970) to Crest Road (SR 1803), all as shown on a survey captioned “*Plat of Survey for Proposed Garrison Industrial Park of Economic Investment Fund of Henderson County*” recorded in Plat Book 2021, Slide 13013, in the Office of the Register of Deeds of Henderson County, North Carolina, reference to which is made and incorporated herein for a more particular description of said property.