

Filed at the request of and
 To be returned to:
 Theresa Wall
 I-5 Commerce
 7908 Sweet Iron Court SE
 Tumwater, Washington 98501

**DECLARATION OF COVENANTS, CONDITIONS
 AND RESTRICTIONS FOR I-5 COMMERCE**

Grantor	I-5 COMMERCE
Grantees	1. Plat of I-5 Commerce 2. The Public
Legal Description (abbreviated)	Beginning at the South Quarter corner of Section 16, Township 17 North, Range 2 West, W.M. In Thurston County, Washington. Additional legal on Exhibit A (page 17)
Assessor's Tax Lot I.D. No.	1271 64-20-000; 127163-40-100; 127163-40102; 127163-40-101 (these will change once we get final plat)
Reference Nos. of Related Documents	N/A



**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

FOR

I-5 COMMERCE

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
I-5 COMMERCE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (“Declaration”) is made this 27 day of July, 2022, by KAUFMAN REAL ESTATE LLC, a Washington limited liability company (“Declarant”).

Declarant owns that certain real property located in the City of Tumwater, County of Thurston, State of Washington, consisting of the real property more particularly described in **Exhibit “A”** attached hereto and incorporated herein (the “Property”).

Declarant is developing the Property as a light industrial project consisting of twelve (12) lots pursuant to the Plat (as defined herein) to be known as I-5 COMMERCE, which shall be subject to the covenants, conditions, restrictions, and easements set forth in this Declaration and in the deed of Lots from Declarant to Owners in the Property.

Declarant deems it desirable, for the maintenance and preservation of the Property to create a not-for-profit corporation under the non-profit corporation laws of the State of Washington.

Declarant hereby declares that the Property shall be held, sold, used, and conveyed subject to the provisions of this Declaration. This Declaration shall be binding on all parties having any interest in the Property, their heirs, successors, and assigns, and shall inure to the benefit of each Owner.

1. DEFINITIONS

1.1 “Articles of Incorporation” or “Articles” means the Articles of Incorporation of I-5 COMMERCE LOT OWNERS’ ASSOCIATION, as filed with the Secretary of State of the State of Washington.

1.2 “Association” means I-5 COMMERCE a Washington nonprofit corporation, formed or to be formed to serve as a mandatory membership owners’ association, having jurisdiction over the Common Areas within the Plat of I-5 COMMERCE.

1.3 “Base Assessment” means assessments levied on all Lots subject to assessment hereunder to fund Common Expenses.

1.4 “Board of Directors” or “Board” means the body responsible for administering the Association, selected as provided in the Bylaws.

1.5 “Bylaws” means the Bylaws of the Association.

1.6 “Class A Member” means all Owners except the Class B Member.

1.7 “**Class B Member**” means the Declarant.

1.8 “**Class B Control Period**” means the period during which the Class B Member has special voting rights as defined in Section 6.3.

1.9 “**Common Areas**” means all real and personal property which the Association now or hereafter owns, leases, or otherwise holds possessory or use rights in and for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. Real property Common Areas are also designated as “Tracts” on the Plat.

1.10 “**Common Expenses**” means the actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners and for upkeep and maintenance of any Common Areas, including any reasonable reserve. Upkeep and maintenance of the drainage facilities and implementation of pollution source control best management practices, and the Tree Tract (defined below) shall be a Common Expense.

1.11 “**Declarant**” means Kaufman Real Estate LLC, or any of its successors or assigns.

1.12 “**Declaration**” means this declaration of covenants, conditions, restrictions, and easements, applicable to the Property.

1.13 “**Lot**” means the Twelve (12) lots created by the Plat of I-5 COMMERCE, whether improved or unimproved, other than Common Areas and property dedicated to the public, which may be independently owned, conveyed, developed, and used for light industrial purposes. If any Lot is subdivided and some or all of the subdivisions are conveyed separately, each resulting parcel shall be considered a Lot.

1.14 “**Member**” means a Person who qualifies for membership in the Association, including Declarant, as described in Article 4.

1.15 “**Mortgage**” means any mortgage, deed of trust, or similar instrument used for the purpose of encumbering any of the Property as security for payment or satisfaction of an obligation.

1.16 “**Owner**” means one or more Persons who hold the record title to any Lot, except persons holding an interest merely as security for the performance of an obligation, in which case the equitable owner will be considered the Owner, unless the contract specifically provides otherwise.

1.17 “**Person**” means a natural person, corporation, partnership, association, trustee, or any other legal entity.

1.18 “**Plat**” means the Plat of I-5 COMMERCE recorded at AFN 4952603, on September 27, 2022.

1.19 “Property” means the real property described in Exhibit A.

1.20 “Special Assessments” means assessments levied under Section 7.4.

1.21 “Tree Tract” means the real property designated as Tract “D” in the Plat.

2. OVERVIEW OF ASSOCIATION FUNCTIONS AND ORGANIZATIONS

2.1 Hierarchy of Association Management Documents. The list below sets forth the hierarchy of the Association Management Documents for the purpose of resolving any conflicts. In any conflicts among documents, the provisions of a document shall control over the provisions of all documents below it on the list:

- (i) Declaration of Covenants, Conditions and Restrictions;
- (ii) Articles of Incorporation; and
- (iii) Bylaws.

3. PROPERTY

3.1 General. This Declaration applies only to the Property described in Exhibit A. The Property consists of the Lots, the Common Areas, and property dedicated to the public.

4. ASSOCIATION; MEMBERSHIP

4.1 Description. The Association is a Washington nonprofit corporation, whose members are Owners of Lots within the Property. The Association is charged with the duties and vested with the powers prescribed by law and set forth in the Association Management Documents.

4.2 Association Board. The Association shall have Board of Directors with members as described below. The Board shall have all powers necessary to appropriately carry out the purposes of the Association as established by the Association Management Documents, except to the extent powers are specifically reserved to the Members or to Declarant.

4.3 Initial Board Membership. Initially, the Board shall consist of three (3) members, who shall be selected by and serve at the sole discretion of the Declarant. Until the end of the Class B Control Period, the Declarant shall have the right to appoint and remove all members of the Board.

4.4 Transitional Board Membership: Class B Control Period. After the earlier of twenty (20) years from the date the Declaration is recorded, or the time when the Class A Members own at least five (5) Lots subject to this Declaration, the Board shall consist of at least two (2) and no more than five (5) Directors elected by the Class A Members as set forth more fully in the Bylaws.

4.5 Permanent Board Membership. At the termination of the Class B Control Period, the Board shall be made up of not less than two (2) and no more than five (5) Members. The Board members shall be elected by the membership, as set forth more fully in the Bylaws.

4.6 Membership. Every Owner, including Declarant, as long as Declarant continues to be an Owner, shall be a Member in the Association. Ownership of a Lot shall be the sole qualification for membership, and there shall be no other members. However, a Member's rights or privileges may be regulated or suspended for failure to comply with the Association Management Documents. No Owner, whether one or more Persons, shall have more than one membership per Lot owned.

4.7 Organizational and Shared Membership. If a Lot is owned by more than one Person, all Co-Owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in Article 6 and in the Bylaws, and all such Co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. Where the Owner is a corporation, partnership, or other organization, it shall designate in writing to the Secretary of the Association, a single individual who shall be authorized to accept and give notices, vote, and otherwise act as the Member.

4.8 Transfer. The membership held by any Owner shall automatically be transferred with any change in the ownership interest required for membership, but may not otherwise be transferred, pledged, or alienated in any way.

5. ASSOCIATION; RIGHTS AND OBLIGATIONS

5.1 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws, or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege.

5.2 Rules. The Association, through its Board, may make, modify, and enforce reasonable rules governing the maintenance and use of the Common Areas, consistent with the rights and duties established by this Declaration. Such rules shall be binding upon all Owners, occupants, invitees, and licensees until and unless repealed or modified in a regular or special meeting of the Association by Owners holding a majority of the total Class A votes and by the Class B Member.

5.3 Indemnification. The Association, to the fullest extent allowed by law, shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred by, or imposed upon such officer, director, or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, except for their own individual misfeasance, malfeasance, misconduct, or bad faith, and shall have no personal liability to third parties with respect to any contract or other commitment made or action taken by them in good faith on behalf of the Association. The Association shall indemnify and hold each such officer, director, and committee member harmless against all liability to others on account of any such contract, commitment, or

action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

5.4 Enforcement. The Association may impose sanctions for violations of this Declaration, the Bylaws, or rules, including, without limitation, reasonable monetary fines, and suspension of voting rights. In addition, the Association may exercise self-help remedies to cure violations of the Bylaws and may suspend any services it provides to the Lot of any Owner thirty (30) days or more delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court. Board actions to impose or seek sanctions shall be governed by the Bylaws.

5.5 Common Areas. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Areas, the Tree Tract, the monument signs, and the mailboxes, and shall keep them in good order and repair, under the terms and conditions of this Declaration, all in compliance with all applicable laws, rules, regulations, and agreements.

5.6 Dedication of Common Areas. The Association, by Board resolution, may dedicate portions of the Common Areas to any local, state, or federal government entity.

5.7 No Partition. The Common Areas shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all of the Property and all holders of Mortgages encumbering any portion of the Properties.

5.8 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property reasonably necessary for the management, control, maintenance, and repair of the Common Areas. Declarant shall convey to the Association the monument signs and mailboxes and the Common Areas, and such property shall be accepted and thereafter maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the conveyance.

6. MEMBERS' VOTING RIGHTS

6.1 Voting Rights General. After the end of the Class B Control Period, all Members shall have voting rights based on the class of membership. The Association shall have two (2) classes of membership, Class A and Class B.

6.2 Class A Members. Class A Members shall be all Owners except the Class B Member, if any. After the end of the Class B Control Period, each Class A Member shall have the number of votes assigned to the Lot(s) it owns under the formula set out in Exhibit B. The Owner may assign some or all of its voting rights to the lessee of a Lot, by written proxy filed with the Secretary of the Association in accordance with the Bylaws.

6.3 Class B Member. The sole Class B Member shall be the Declarant. During the Class B Control Period, the Declarant shall have the right to appoint and remove all members of the Board. The Class B membership shall terminate and convert to Class A membership upon the expiration of the Class B Control Period. The Class B Control Period shall terminate upon the first to occur of the following:

- (a) When five (5) Lots have been conveyed to Persons other than Declarant or affiliates of Declarant;
- (b) Twenty (20) years after the recording of the Declaration; or,
- (c) When, in its discretion, the Class B Member so determines.

6.4 Shared Ownerships. When more than one Person owns a Lot, the votes for such Lot shall be exercised as such Co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Lot's votes shall be suspended if more than one Person seeks to exercise them.

6.5 Voting Procedures. Votes may be cast in a meeting in person, by mail, or by proxy, by written consents, or by a combination of votes and consents. All procedures for voting, granting of proxies, assigning voting rights, and use of written consents shall be established in the Bylaws.

6.6 Suspension of Voting Rights. The voting rights for any Lot shall automatically be suspended during any period in which assessments against the Lot are delinquent. The Board shall have the right to suspend the voting rights of any Lot during any period in which there is a material violation of the Declaration with respect to that Lot.

7. ASSESSMENTS

7.1 Agreement to Pay. There are hereby created two (2) types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; and (b) Special Assessments as described in Section 7.4. Each Owner, by acceptance of a deed or recording of a contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments as levied from time to time by the Association. No Owner may exempt itself from liability for assessments by nonuse of Common Areas, abandonment of its Lots or any other means. The obligation to pay assessments is a separate and independent covenant of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed for any alleged failure of the Association to take any action required of it or for inconvenience or discomfort arising from repairs or improvements or other actions taken by it.

7.2 Base Assessment. The Base Assessment shall be levied against each Lot and its Owner in accordance with Exhibit B, in aggregate amounts reasonably expected to produce income equaling the total budgeted Common Expenses of the Association for the forthcoming year. In determining assessments, the Board may consider other sources of funds.

7.3 Capital Improvement Assessments. The Board shall annually prepare reserve budgets for general purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in Base Assessments capital contributions in amounts sufficient to meet these projected needs.

7.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover expenses greater or different than those budgeted. Special Assessments may be levied against the entire membership for Common Expenses, or, in the event of loss caused by an Owner's negligent or willful misconduct, against the responsible Owner(s) and Lot(s) under Section 11.1. The Association may levy Special Assessments against any Lot from which a discharge of hazardous waste has occurred to cover costs incurred by the Association. The Special Assessment for hazardous waste discharge may include the costs of clean up, monitoring, experts and attorneys' fees incurred by the Association. Except as otherwise specifically provided in this Declaration, Special Assessments must be approved by the affirmative vote or written consent of Owners holding at least a majority of the total votes, and consent of the Class B Member, if any. Special Assessments shall be paid in a manner and by dates fixed by the Board. The Board may allow payment in installments extending beyond the fiscal year in which the Special Assessment is approved.

7.5 Assessment Allocation. All assessments shall be levied in accordance with the formula set forth in Exhibit B.

7.6 Declarant's Obligation for Assessments. During the Class B Control Period, Declarant may elect annually to pay the Association either: (a) regular assessments on all of its unsold Lots; or (b) the difference between the amount of assessments against all other Lots and the necessary expenditures of the Association during the fiscal year. Unless Declarant otherwise notifies the Board at least sixty (60) days before the beginning of a fiscal year, Declarant shall continue paying on the same basis as the preceding fiscal year. Declarant's obligations hereunder may be satisfied in cash, by "in kind" contributions of services or materials, or by a combination of these. In addition, Declarant may, but is not obligated to, reduce the Base Assessments by paying a subsidy, which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the Common Expense budget. Payment of any subsidy shall not obligate Declarant to continue subsidies in the future.

7.7 Approval of Assessments. The Board shall send to each Owner a copy of the budget and notice of the amount of the Base Assessment against such Owner's Lot before the annual meeting on or around the last Wednesday of April. The budget and assessment shall be effective unless disapproved at a meeting by a vote of the Owners holding at least sixty-seven percent (67%) of the total Class A votes in the Association and by the Class B Member, if any. There shall be no obligation to call a meeting to consider the budget unless a petition of the Owners, as provided for special meetings in the Bylaws, is presented to the Board within ten (10) working days after delivery of the notice of assessments. If a proposed budget is disapproved or the Board fails to determine the

budget for any year, until a budget is determined, the budget for the preceding fiscal year shall continue.

7.8 Commencement Date for Assessments. Assessments shall be paid in the manner and by dates fixed by the Board. The Board will require that assessments be paid annually. Unless the Board otherwise provides, the base assessments shall be due on the first of the month following approval of the assessments. If an Owner is delinquent in paying any assessment or charges levied on its lot, the Board may require that all assessments and charges be paid immediately.

7.9 Collection of Assessments. Assessments shall be paid in a manner and by dates fixed by the Board. The Board may allow payment of assessments in installments. Unless the Board otherwise provides, the Base Assessment shall be due in advance on the first day of each fiscal year. If an Owner is delinquent in paying any assessments or charges levied on its Lot, the Board may require all unpaid installments to be paid immediately.

7.10 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver assessment notices shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the prior year until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively.

7.11 Exempt Property. All Common Areas are exempt from payment of Base Assessments and Special Assessments.

8. ENFORCEMENT OF ASSESSMENT LIENS

8.1 Delinquency/Lien for Assessments. The Association shall have a lien against each Lot to secure payment of delinquent assessments, interest, late charges, and costs of collection (including attorneys' fees) with respect to such Lot. Each such assessment, with interest, late charges, costs of collection, including reasonable attorneys' fees, also shall be the personal obligation of the Person who was Owner of such Lot at the time the assessment arose. If title to a Lot is transferred, the grantee shall be jointly and severally liable for assessments and charges due at the time of conveyance, except that a first mortgagee who obtains title to a Lot by exercising rights under the Mortgage shall not be liable for previously accrued assessments and related charges. Such lien shall be prior and superior to all other liens except: (a) the liens for taxes and governmental assessments which by law are superior, and (b) the lien of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as a Mortgage. The Association may sue to recover a money judgment for unpaid assessments and related charges, including attorneys' fees, without foreclosing or waiving the lien securing the same.

8.2 Foreclosure Sale. The Association may bid for a Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. When a Lot is owned by the Association

following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any assessments thereafter becoming due. Where the mortgagee holding a first Mortgage of record or other purchaser of a Lot obtain title pursuant to foreclosure of the Mortgage, it shall not be liable for the share of the assessments which became due prior to such acquisition of title. Such unpaid share of assessments shall be deemed to be Common Expenses collectible from Owners of all Lots, including such acquirer, its successors, and assigns.

8.3 Curing Defaults. On request of the Owner, after payment of all amounts due or other satisfaction of assessment liens, the Association shall record an appropriate release of the lien. The Association shall, on request, furnish to any Owner a written certificate setting forth whether assessments have been paid for any particular Lot, on advance payment of a reasonable processing fee as set by the Board.

8.4 Reallocation of Delinquent Assessments. To the extent the aggregate amount of uncollected delinquent assessments and collection costs exceeds the amounts budgeted for those purposes in any fiscal year, the Board shall make appropriate reductions in budgeted expenditures or levy supplemental assessments to maintain a balanced budget.

9. MAINTENANCE

9.1 Association's Responsibilities. Except as otherwise provided herein, the Association shall maintain and keep in good repair the Common Areas, which shall include, but need not be limited to the Tree Tract, all ponds, stormwater systems, and wetlands within the Property which serve as part of the drainage and stormwater retention system for the Property, including any retaining walls, bulkheads, and dams retaining water in them, and any pipes, pumps, conduits and similar equipment installed in or used in connection with them. The Association shall be relieved of its responsibilities under this Section to the extent they are assumed by any local, state, or federal governmental agency or any private utility, except that the Association may provide any additional maintenance for the Common Areas if the Board determines that such additional maintenance is necessary or desirable.

9.2 Owner's Responsibilities. Each Owner, at its own expense, shall have the following responsibilities:

(a) All Lots subject to these protective covenants shall be used only for light industrial purposes. All Lots are restricted exclusively to this nonresidential use.

(b) No activity shall be engaged in on any Lot which is or may become an annoyance or nuisance to the surrounding Owners.

(c) No Lot shall be used as a dump for trash or rubbish of any kind. All garbage and other waste, including cardboard, shall be kept in appropriate sanitary containers for

proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets or any Lots or Common Areas.

(d) Each Lot and the landscaping of each Lot shall be maintained. Landscaping shall be maintained to the minimum City of Tumwater standard applicable to the Lot at the time of construction of any building on that Lot. Plant materials will be watered and replaced if dead. The street-side of the main entrance for each Lot must be landscaped.

(e) No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Lot or on any street for a period in excess of forty-eight (48) hours. A vehicle shall be deemed to be in an "extreme state of disrepair" as reasonably determined by the Board.

(f) No noxious or offensive activity shall be carried on within any Lot, nor shall anything be done or placed upon any Lot which interferes with or jeopardizes any Owner's use and enjoyment of their Lot.

(g) No vehicles may be parked on the streets for a period exceeding twenty-four (24) hours in any one-month period. All Lots must provide parking for its activities for employees and visitors.

(h) Each Lot shall be responsible for the management of stormwater on its respective Lot.

(i) Common areas as identified as Tracts A and B on the recorded I-5 Commerce plat containing stormwater management facilities shall be maintained by the I-5 Commerce Lot Owner's Association. Additionally, Tract C which is open space, shall be maintained by the I-5 Commerce Lot Owner's Association.

9.3 Public Utilities and Public Facilities. The Association has no obligation to maintain, replace or restore any public utilities or public facilities located within the Property but not owned by the Association.

10. EASEMENTS

10.1 Common Areas. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Areas, subject to:

(a) this Declaration, any other applicable covenants, and the terms of any deed conveying such property to the Association;

(b) the right of the Board to adopt rules regulating use of the Common Areas;

(c) the right of the Association to transfer all or part of the Common Areas to governmental entities under Section 5.6; and,

(d) the right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or obligations incurred.

(e) Any Owner may extend such Owner's right of use and enjoyment to its tenants, employees, guests, and business invitees, subject to rules of the Board. An Owner who leases a Lot shall be deemed to have assigned all such rights to the lessee.

10.2 Declarant Easements. Declarant reserves for itself, the Association and their respective successors and designees the nonexclusive right and easement, but not the obligation, to enter the Common Areas to fulfill their maintenance responsibilities under this Declaration, including but not limited to those maintenance responsibilities related to the Tree Tract, ponds, stormwater systems, wetlands, mailboxes and monument signs). Declarant, the Association, and their designees shall have an access easement over and across any of the Property and the Common Areas to the extent reasonably necessary to exercise their rights and fulfill their responsibilities under this Section. All Persons exercising these easements shall use reasonable care in, and repair any damage resulting from, such activities.

10.3 Monument Signs. There is reserved to the Association an easement for the installation, maintenance, repair and replacement of the monument sign(s) denoting the business park name, if any, installed by Declarant.

11. INSURANCE AND CASUALTY LOSSES

11.1 Association Insurance. The Association shall obtain blanket "Special Form" property insurance, if reasonably available, for all insurable improvements on the Common Areas. The face amount of the policy shall be sufficient to cover the full replacement cost of insured structures.

The Board also shall obtain a commercial general liability policy covering the Common Areas, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, and any of its Members, its employees, agents, or contractors acting on its behalf, which liability policy shall have at least a Two Million Dollars (\$2,000,000) combined single limit per occurrence and a \$3,000,000 aggregate.

Premiums for all insurance shall be Common Expenses included in the Base Assessment.

The policies may contain reasonable deductibles, which shall be disregarded in determining whether the insurance meets the coverage requirements. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as premiums for the applicable insurance. However, if the Board reasonably determines, after notice and an opportunity to be heard, that the loss resulted from negligence or willful misconduct of one or more Owners, the Board may assess the full amount of such deductible against such Owners and their Lots under Section 7.4.

All insurance coverage obtained by the Board on behalf of the Association shall:

(a) Be written with a company authorized to do business in Washington;

(b) Be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(c) Vest in the Board exclusive authority to negotiate with insurance carriers regarding loss settlement negotiations;

(d) Provide that it will not be brought into contribution with insurance purchased by individual Owners, occupants or their Mortgagees;

(e) If for property insurance, have inflation guard endorsements, if reasonably available, and if containing a co-insurance clause, in an agreed amount endorsement, if reasonably available; and,

(f) Provide for a certificate of insurance to be furnished to the Association. A copy of such certificate shall be provided by the Association to any Member upon request.

The Association shall arrange for an annual review of the insurance coverage by one or more qualified persons.

The Board shall use reasonable efforts to secure insurance policies that provide endorsements:

(a) waiving subrogation as to any claims against the Association's Board, officers, employees, and manager, the Owners and occupants of Lots and their respective employees, servants, agents and guests;

(b) excluding individual Owners' policies from consideration under any "other insurance" clause; and,

(c) providing that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or nonrenewal and at least ten (10) days' notice of any nonpayment.

The Board also shall obtain, as a Common Expense, worker's compensation, and employer's liability insurance, if and to the extent required by law, and such other insurance as it deems necessary or advisable.

11.2 Owners Insurance. By taking title to a Lot subject to this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any Lot and covenants and agrees with all other Owners and with the Association that it will be solely responsible for any property insurance for its Lot and structures constructed thereon and for any liability policy covering damage or injury occurring on a Lot.

11.3 Damage and Destruction.

(a) Immediately after damage to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board or its agent shall file all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the condition existing prior to the damage, with any changes needed to comply with applicable codes.

(b) Any damage to the Common Areas shall be repaired or reconstructed unless the Owners holding at least seventy-five percent (75%) of the total Class A votes in the Association, and the Class B Member, if any, decide within sixty (60) days after the loss to construct alternative improvements, acceptable to the City of Tumwater.

If either the insurance proceeds or reliable, detailed estimates of the cost of repair or reconstruction are not available to the Association within the sixty (60) day period, then the period may be extended for not more than sixty (60) additional days.

11.4 Disbursement of Proceeds. Any insurance proceeds remaining after paying for repair or reconstruction or, if no repair or reconstruction is made, after settlement as is necessary and appropriate, shall be retained by the Association and placed in a capital improvements account.

11.5 Repair and Reconstruction. If insurance proceeds are insufficient to pay for repairing or reconstructing the damage to the Common Areas, the Board may, during and following the completion of any repair or reconstruction and without membership approval, levy Special Assessments to pay for such repair or reconstruction against the Owners in accordance with the assessment formula provided in Exhibit B.

12. CONDEMNATION OF COMMON AREAS

12.1 Owner's Rights. Whenever any part of the Common Areas shall be taken or conveyed under threat of condemnation by any authority having the power of eminent domain, each Owner shall be entitled to notice thereof. The Board may convey Common Areas under threat of condemnation only if approved in writing by Owners holding at least sixty-seven percent (67%) of the total Class A votes in the Association and Declarant, as long as Declarant owns any property described on Exhibit A.

12.2 Award Distribution. The award made for such taking or conveyance shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Areas on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Areas to the extent practicable, unless within sixty (60) days after such taking Declarant, so long as Declarant owns any property described in Exhibit A, and Owners holding at least sixty-seven percent (67%) of the total Class A votes of the Association otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The

provisions in Article 11 regarding the disbursement of funds for the repair of casualty damage shall apply.

13. GENERAL PROVISIONS

13.1 Term. This Declaration shall run with and bind the Properties and shall inure to the benefit of and shall be enforceable by the Declarant, the Association and the Owners, their respective representatives, heirs, successors, and assigns, perpetually, to the extent allowed by law.

13.2 Amendment. Unless otherwise indicated, all references to documents also include such amendments made thereto from time to time.

(a) By Declarant. Until termination of the Class B membership, Declarant may unilaterally amend this Declaration if such amendment is necessary to: (i) bring any provision into compliance with any applicable government statute or regulation or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) enable any institution or government agency to make or purchase mortgage loans on the Lots; (iv) enable any government agency or reputable private insurance company to insure or guarantee mortgage loans on the Lots; or, (v) otherwise satisfy the requirements of any governmental agency or governmental regulations. However, any such amendment shall not adversely affect the title to any Lot without written consent of its Owner. So long as Declarant owns property described in Exhibit A as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect on any substantive right of any Owner and does not adversely affect the title to any Lot without written consent of its Owner.

(b) By Owners. This Declaration may also be amended by the affirmative vote or written consent, or any combination thereof, of Owners holding at least sixty-seven (67%) percent of the total Class A votes in the Association and, so long as Declarant owns any property described in Exhibit A, with written consent of Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Amendments must be recorded in the public records of Thurston County, Washington.

No amendment may remove, revoke, or modify any right or privilege of Declarant without written consent of Declarant.

No amendment may remove, revoke, modify, or create inconsistency with the Association's obligation to manage Habitat Setaside Areas.

13.3 Severability. Invalidation of any provision or application of a provision of this Declaration by any court shall not affect any other provisions or applications.

13.4 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against

perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

13.5 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Owners holding at least sixty-seven percent (67%) of the total Class “A” votes in the Association, except for actions brought by the Association to: (a) enforce this Declaration; (b) impose and collect assessments under Article 7; (c) challenge tax assessments and other matters relating to taxes for which the Association may be liable; and, (d) counterclaims by the Association in proceedings instituted against it.

13.6 Use of Words “I-5 COMMERCE”. No Person shall use the words “I-5 COMMERCE” or any derivative thereof in any printed or promotional material without prior written consent of Declarant. However, Owners may use the words “I-5 COMMERCE” in printed or promotional matter where such words are used solely to specify that particular property is located within “I-5 COMMERCE.”

13.7 Notice of Sale or Transfer of Title. Any Owner selling or otherwise transferring title to a Lot shall give the Board at least seven (7) days’ prior written notice of the name and address of the transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Each transferee of a Lot shall, within seven (7) days of taking title to a Lot, confirm that the information previously provided by the transferor is complete and accurate.

13.8 Washington Uniform Common Interest Ownership Act. I-5 COMMERCE is a plat community in which all Lots are restricted to nonresidential use. In accordance with RCW 64.90.100, I-5 COMMERCE shall not be subject to the Washington Uniform Common Interest Ownership Act.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 27 day of July, 2022.

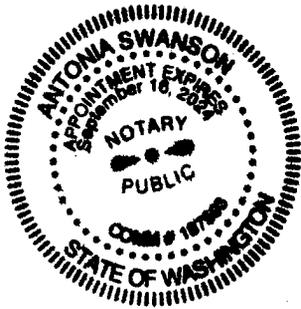
KAUFMAN REAL ESTATE LLC


By: Theresa L. Wall
Its: President

STATE OF WASHINGTON)
) ss.
County of Thurston)

On this 27th day of July, 2022, before me personally appeared Theresa L. Wall, to me known to be the President of Kaufman Real Estate LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Antonia Swanson

Print Name: Antonia Swanson
NOTARY PUBLIC in and for the State of
Washington, residing at Olympia, WA
Commission expires: 9/16/24

for clarity Notary Expires September 16,
2024. Commission 187693

EXHIBIT A

Legal Description

PARCEL A:

THAT PORTION OF THE SOUTH 375 FEET OF THE EAST 100 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., LYING NORTHERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT OPPOSITE HIGHWAY ENGINEER STATION AD 10+53.77 P.C. AS SHOWN ON SHEET 2 OF 3 SHEETS OF HIGHWAY ENGINEERS MAP, DATED DECEMBER 21, 1965 AND 60 FEET DISTANT NORTHWESTERLY, WHEN MEASURED AT RIGHT ANGLES FROM THE AD CENTERLINE OF PRIMARY STATE NO. 1 (SR-5) MAYTOWN TO TUMWATER, LATHROP ROAD INTERCHANGE, THENCE IN A STRAIGHT LINE SOUTH 38° 41' 30" WEST TO THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE SOUTHERLY ALONG SAID EAST LINE TO A POINT OPPOSITE HIGHWAY ENGINEERS STATION DB 4+85, AS SHOWN ON SAID MAP, AND 40 FEET DISTANT NORTHERLY THEREFROM; THENCE CONTINUING WESTERLY PARALLEL WITH SAID DB CENTERLINE TO A POINT OPPOSITE HIGHWAY ENGINEER STATION DB 2+50 AND THE END OF THIS LINE DESCRIPTION. EXCEPT COUNTY ROAD KNOWN AS LATHROP ROAD; ALSO EXCEPT THAT PORTION CONVEYED TO THURSTON COUNTY BY DEED RECORDED JULY 16, 2010 UNDER AUDITOR'S FILE NO. 4160513; ALSO EXCEPT THAT PORTION CONVEYED TO CITY OF TUMWATER BY DEED RECORDED JANUARY 28, 2021 UNDER AUDITOR'S FILE NO. 4821155.

PARCEL B:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SOUTHWEST QUARTER 100 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING WEST 140 FEET, MORE OR LESS, TO THE EAST LINE OF THE WEST 2,387.73 FEET OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE NORTH 375 FEET; THENCE EAST 140 FEET, MORE OR LESS, TO A POINT 100 FEET WEST OF THE EAST LINE OF SAID SOUTHEAST QUARTER OF SOUTHWEST QUARTER; THENCE SOUTH 375 FEET TO THE TRUE POINT OF BEGINNING. EXCEPT PORTION THEREOF LYING WITHIN LATHROP ROAD; ALSO EXCEPT THAT PORTION CONVEYED TO THURSTON COUNTY BY DEED RECORDED JULY 16, 2010 UNDER AUDITOR'S FILE NO. 4160513; ALSO EXCEPTING THAT PORTION CONVEYED TO CITY OF TUMWATER BY DEED RECORDED JANUARY 28, 2021 UNDER AUDITOR'S FILE NO. 4821153.

PARCEL C:

THAT PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., LYING WESTERLY OF TRACTS CONVEYED TO THE STATE OF WASHINGTON, BY DEEDS RECORDED MARCH 2, 1953, AUGUST 15, 1957 AND JULY 19, 1966 UNDER AUDITOR'S FILE NOS. 516498, 587782, AND 743347, RESPECTIVELY.

PARCEL D:

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF THE SOUTH LINE OF SAID SECTION 16, 2,299.3 FEET EAST OF ITS SOUTHWEST CORNER; RUNNING THENCE EAST ALONG SAID SOUTH LINE 88.43 FEET; THENCE NORTH 375 FEET; THENCE EAST 240 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTHERLY ALONG SAID EAST LINE 945 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE WESTERLY ALONG SAID NORTH LINE 328 FEET, MORE OR LESS TO A POINT NORTH OF THE POINT OF BEGINNING; THENCE SOUTH 1,320 FEET, MORE OR LESS; TO THE POINT OF BEGINNING. EXCEPTING THEREFROM THE SOUTH 30 FEET FOR COUNTY ROAD KNOWN AS LATHROP ROAD; ALSO EXCEPT THAT PORTION CONVEYED TO THURSTON COUNTY BY DEED RECORDED JULY 16, 2010 UNDER AUDITOR'S FILE NO. 4160513; ALSO EXCEPTING THAT PORTION CONVEYED TO CITY OF TUMWATER BY DEED RECORDED JANUARY 28, 2021 UNDER AUDITOR'S FILE NO. 4821154 IN THURSTON COUNTY, WASHINGTON.

EXHIBIT B

Formula for Assessments

1. **General.** Each Lot shall have the obligation to pay assessments based on the pro rata percentage assigned to that Lot.

2. **Assessments.** The Board of Directors shall establish an annual budget and assessment. The annual notice of assessment for each Lot (including a summary of the computations) shall be sent to each Owner for payment.

Lot	Area (SF)	Pro Rata Percentage	Vote
Lot 1	45,554	3.36%	1
Lot 2	44,271	3.26%	1
Lot 3	61,347	4.52%	1
Lot 4	96,577	7.11%	1
Lot 5	104,355	7.69%	1
Lot 6	112,420	8.28%	1
Lot 7	117,626	8.66%	1
Lot 8	138,540	10.21%	1
Lot 9	200,895	14.80%	1
Lot 10	128,559	9.47%	1
Lot 11	116,237	8.56%	1
Lot 12	191,156	14.08%	1
Total Lots	1,357,537	100.00%	
Tract A	31,043		
Tract B	50,603		
Tract C	104,273		
Tract D	98,760		

Total Tracts **284,446.8**

3. Change of Area of Lot. In the event of a boundary line adjustment, the pro rata percentages set forth above will be adjusted to reflect the areas and percentages of the affected Lots upon completion of the boundary line adjustment. In the event of a Lot consolidation, the area and pro rata percentage may be combined but consolidated Lots shall be entitled to the number of votes set forth above.