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Stearns County Recorder's

DECLARATION OF PROPERTY COVENANTS      Offices.  
FOR  
ST. CLOUD I-94 BUSINESS PARK

PROPERTY SUBJECT TO THIS DECLARATION

The real property hereinafter referred to as St. Cloud I-94 Business Park (SCIBP) which is, and shall be, held and shall be conveyed, transferred and sold subject to the conditions, restrictions, Covenants, reservations, easements, liens and charges with the respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the County of Stearns, State of Minnesota, and is more particularly described as follows, to-wit:

See attached Exhibit A .

No property other than that described above shall be deemed subject to this Declaration, unless and until specifically made subject thereto.

GENERAL PURPOSES OF CONDITIONS

The real property described above hereto is subjected to the Covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of building sites thereof; to protect the Owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve so far as practicable, the natural beauty of such property; to guard against the erection thereon of poor designed or proportioned structures, and structures built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive buildings thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets and adequate free spaces between buildings; and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of building sites therein.

These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them until 6-01-2027 at which time said Covenants shall be automatically extended from year to year, provided, however, that after 6-01-2027 said Covenants can be amended at any time by a vote of a majority of the then Owners of lots or tracts. Each lot or tract in the original plat shall have one vote. A 2/3 (two thirds) majority shall be required to pass an amendment. An adopted amendment shall become effective when an appropriate document signifying and describing such change is filed with the Stearns County Recorder, provided also that these Covenants can be added to

or made more restrictive at any time prior to *(Date ?)*, by following the above procedure. *\*= All the same date.*

No requirement of these Covenants is intended to usurp the minimum requirements of applicable City of St. Cloud ordinances and standards. Invalidity of any one of the Covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

#### ARCHITECTURAL CONTROL COMMITTEE

The determination of conformance to the Covenants shall be by review of the St. Cloud I-94 Business Park Architectural Control Committee (SCIBPACC) who will review all property improvements within the SCIBP. The SCIBPACC shall initially consist of one member appointed by each of the following agencies, (1) St. Cloud HRA (SCHRA), (2) Stearns Electric, (3) City of St. Cloud, and (4) St. Cloud Opportunities. Upon the expiration of one year after the sale of all lots or tracts in the initial business park and any future expansions on adjacent properties to the initial business park, the SCIBPACC shall be composed of a total of 5 (five) members determined as follows: 2 (two) members elected biannually by the original plat parcel owners at the time and 3 (three) non-owner members appointed biannually by each of the following agencies: (1) Stearns Electric, (2) City of St. Cloud, and (3) St. Cloud Opportunities.

#### ARCHITECTURAL CONTROL

No building, addition, site improvement, or exterior property improvement of any kind shall be erected, placed or altered on any lot until Preliminary Plans prepared by a registered Architect have been submitted to the SCIBPACC. In connection with this requirement, Preliminary Plans shall consist of:

1. A site plan indicating the location of the building or improvement on the lot and clearly designating the size and location of Parking, Loading Areas, Access Drives, Utility Services, Yards, Waste Storage, Exterior Lighting, Easements, General Storm Drainage and Grading, Paving Materials, Storage Areas, Waste and Storage Screening, and Landscaping. All signage on the site other than traffic control shall be defined.
2. A schematic floor plan showing the general usage inside the building.
3. Exterior elevations of the building screening indicating exterior materials and configuration of the materials and colors on all sides of the building. Elevations of loading area, screening of large mechanical and electrical components and waste screening shall also be provided. All non-directional signage on the building exterior shall be defined.
4. Building Sections showing the proposed structural system, mechanical and other screening and typical construction heights.

The SCIBRACC shall review the Preliminary Plans for conformance to the requirements of the Covenants and make their findings known in writing to the potential purchaser of unimproved property or the Owner of improved property. The Owner of improved property will be required to address any non-conforming items of the proposed construction in writing with resubmittal of applicable Preliminary Plans until such time the SCIBRACC is satisfied that all Covenants will be complied with and SCIBRACC approval is granted.

The potential purchaser or property Owner shall submit their final Construction Documents to the SCIBRACC prior to construction commencing at which time the SCIBRACC will review same to insure the incorporation of all covenant requirements into the final building plans and specifications. The SCIBRACC must have approved the final documents in writing prior to the issuance of a building permit and start of construction.

The SCIBRACC's approval or disapproval of submitted plans shall be in writing. The SCIBRACC shall approve, recommend, or disapprove the submittal or resubmittal by formal action within 15 (fifteen) calendar days, followed by documentation of their action in writing within 10 (ten) calendar days of formal action. In the event the SCIBRACC fails to perform as described above after preliminary or final plans have been submitted to them, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related Covenants shall be deemed to have been complied with.

Approval or disapproval by the SCIBRACC or failure to approve or disapprove any or all requirements of the Covenants shall not impair, restrict or limit the force, effect and operation of all the other protective Covenants herein contained, which shall apply at all times.

#### PRINCIPAL AND ACCESSORY USES

The principal and accessory uses permitted by the Planned Industrial Development Zoning as regulated by the St. Cloud Zoning Ordinance in effect at the time are permitted by these Covenants with the exception that the following uses specifically will not be permitted:

1. Adult use establishments as defined and regulated by City ordinance.
2. Off Sale or On Sale retail liquor establishments.

#### YARDS, LOT COVERAGE AND HEIGHT

1. Front and Street Side Yards: There shall be a front and street side yard setback of fifty (50) feet.

2. Interior Side and Rear Yards: There shall be side and rear yard setbacks of twenty (20) feet, except as stated in Item 3 below.
3. When the lot or tract is adjacent to a residential district or a street, a fifty (50) foot property setback shall be required on that side of the district adjacent to the residential district.
4. Lot Coverage: Lot coverage shall not exceed fifty (50) percent.
5. Building Height: No building shall exceed fifty (50) feet in height.
6. Lot Area Regulations: Every individual lot, site, or tract shall have an area of not less than three (3) acres.
7. Frontage Regulations: Every lot or tract shall have a width of not less than two hundred (200) feet abutting a public right-of-way.

#### SUBDIVISION

No lot, as platted by the SCHRA, shall be subdivided and a part thereof sold or leased unless the proposed transfer has received the prior approval, in writing, from the SCIBPACC.

#### EASEMENTS

Utility and drainage easements shall be as defined on the property plat. Vacation of abutting easements on adjacent commonly owned parcels will be permitted if approved by the City of St. Cloud.

#### VARIANCES TO THESE COVENANTS

Any variance to these covenants must be approved by both the SCIBPACC and the Owners desiring to vary from the requirements of these covenants who must first submit the desired variance to the SCIBPACC and obtain the SCIBPACC's written approval prior to submittal to the lot Owners in the SCIBP for their consideration. A 2/3 (two-thirds) majority of all the lot Owners at the time is required to approve a variance. It will be the responsibility of those seeking the variance to bear any costs associated with obtaining the SCIBPACC's and the Owner's approval or disapproval.

#### CONSTRUCTION

Any building, addition, modification or improvement must conform to all applicable codes and ordinances.

#### BUILDING STRUCTURE

Building space framing structural systems can be of any materials suitable for the property Owner's business and applicable building codes and ordinances, except, no pole barn or post framed wood buildings will be permitted.

#### ROOF AND WALL EDGES

All roof edges and tops of walls , fascias, copings, and parapets shall terminate in a level horizontal line which aligns with related building elements on adjacent building elevations and at building corners.

#### BUILDING EXTERIOR ENCLOSURE MATERIALS

Building exterior enclosure materials shall be attractive in appearance, durable and of a quality which is compatible with the adjacent structures and consistent with the intent of these covenants.

Exterior surfaces of all walls shall be face brick, stone, glass, stucco or EIFS with integral color or finish painting, architecturally treated concrete, cast in place or precast concrete panels, painted decorative concrete block or integral water repellent treated decorative concrete block, or an approved equivalent as determined by the SCIBPACC. All exterior building materials which require periodic maintenance shall be maintained on a regular basis to retain the intent of these covenants as determined by the SCIBPACC. Wood and metal materials which utilize concealed fasteners can be used as accent materials providing that they are appropriately integrated into the overall building design and not situated in areas which will be subject to damage associated with the facility's use.

Under no circumstances shall steel, aluminum or fiberglass in sheet, corrugated or roll formed configuration, unfinished galvanized steel, unfinished non-integral color concrete, unfinished or painted plain faced concrete block be deemed acceptable as major exterior wall materials in the SCIBP.

Other quality exterior building enclosure materials which meet the intent of these covenants must be approved by the SCIBPACC.

All subsequent additions, outbuildings and screens constructed after the erection of an original building(s) shall be designed in a manner conforming and harmonizing with the original architectural design and general appearance.

#### STORM WATER CONTROL

All storm water from a lot or tract shall be controlled in a manner acceptable to the City of St. Cloud, County, State and Federal regulations.

A minimum of eighty percent (80%) of the total roof area of each separate building on a site shall be drained by internal roof drains.

## LANDSCAPING AND IRRIGATION

Except for property access drives and city approved ground mounted signs, the area between the aforesaid fifty (50) foot setback lines and the street property lines shall be landscaped and properly maintained with lawns, trees, and shrubs and shall be limited to this use.

All open areas of any site, tract, or parcel be graded to provide proper drainage, and except for areas used for walks, parking, drives, or storage, shall be landscaped with trees, shrubs, or planted ground cover shall be the Owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots, tracts, or parcels shall be mowed and also be properly cleaned and maintained.

All landscaped areas of the lot or tract must be provided with a properly designed and constructed underground automatic site irrigation system which maintains appropriate amounts of water to keep landscaping maintained in an attractive and well-kept condition.

## MATERIAL AND VEHICLE STORAGE

All storage, including trucks or other vehicles in excess of three-quarter (3/4) ton capacity or equipment, shall be screened with an eight (8) foot high fence of one hundred (100) percent opacity. Storage shall not be allowed in trucks, trailers, or similar containers.

## WASTE

All solid waste materials, debris, refuse, or garbage shall be kept within a completely enclosed building or properly contained in closed containers and stored in racks designed for such purpose. All liquid wastes containing any organic or toxic matter shall be discharged in a manner prescribed by the Governing Authority.

All waste shall be placed in containers or enclosures in a manner not constituting a nuisance by reason of wind-litter, disorderly appearance, or abnormal fire hazard.

All waste containers or racking not in an enclosed building shall be completely screened for its full height or a minimum of eight (8) feet. Screening shall be permanent non-vegetation with one hundred (100) percent opacity constructed of the same matching materials as the buildings on the site. All screening shall have gates or other means of blocking vision through access

points. Gates shall match screening, be properly maintained, and kept closed except at immediate times of waste handling.

No outside incinerators, trash burners shall be installed, erected or utilized on any lot or plot.

#### PARKING AND LOADING

There shall be no parking, parking access aisles, loading or truck service in the front yard setback or the side yard on a street setback. Any parking, loading or service areas which are adjacent to a front setback or street side yard setback shall be screened by structures matching the building materials or by landscape plantings and/or berms.

Off-street parking shall be provided for the total employee plus visitor need. Parking needs shall not include any space on a public street or in any yard setback.

All off-street parking, drives, loading or maneuvering areas, storage and waste container storage areas shall be surfaced with bituminous or concrete surfacing with concrete curbs.

All parking and loading areas in consideration of proper site development shall take into consideration winter snow accumulation and resulting potential damage to Covenant required landscaping and landscape screening.

#### NUISANCES

No noxious or offensive trade or activity shall be carried on upon any building site within the SCIBP nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. This includes, but is not limited to, excessive smoke, odor, or noise.

1. Noise: Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, volume, shrillness, or intensity.
2. Glare: Glare, whether direct or reflected, such as from parking lot lighting, floodlights, spotlights, or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.
3. Exterior Lighting: Any lights used for exterior illumination shall have their primary light illuminating source directed away from adjacent properties and public streets.

4. Vibration: Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
5. Hazard: Every operation shall be carried on with reasonable precautions against fire, explosion, and safety.

#### DWELLINGS

No trailer, basement, tent, shack, garage, barn or other out-building shall at any time be used for human habitation, temporarily or permanently; nor shall any structure of temporary character be maintained upon a building site, except as temporarily incidental to building construction.

Watch stations, quarters or similar structures shall be enclosed within a building or otherwise attached thereto in a harmonious manner as permanent enclosures.

#### ANIMALS

No animals or poultry of any kind shall be kept or maintained on any part of the property, except, laboratory or trained security type animals may be allowed under conditions set forth by the codes and ordinances of the City of St. Cloud, MN.

#### OUTDOOR AIR QUALITY

Any activity or operation on the lot or tract shall conform with the City and State regulations relating to ambient air quality standards and air pollution control regulations.

#### TEMPORARY BUILDINGS NOT PERMITTED

No temporary buildings and structures for any purpose shall be erected on the site without approval of City Officials and the SCIBPACC whose authority will be limited to approval for a maximum of one (1) year after which all temporary buildings and their supporting system shall be removed from the site and the original site improvements returned to their original condition. Temporary structures will only be approved for extenuating circumstances. Temporary construction trailers used in conjunction with a building project are not considered temporary buildings.

#### SIGNS

All signage shall be governed by the current City of St. Cloud sign ordinances except where the following is more stringent:



1. Signs erected on the property shall be limited to identifying the name of the companies or corporations together with the type of business, or its products. No sign or sign space shall at any time be used to advertise products or services other than those produced or sold on the property.
2. Directory signs serving the entire SCIBP are permitted.
3. All entrance driveway business identification signage shall be a minimum of twenty (20) feet from the property lines. The total area of all freestanding and building wall business signs which will be permitted on a platted lot, or on multiple platted lots or tracts owned by the same business entity, shall not exceed twenty-five ten thousandths (.0025) of the lot area or 1000 sq ft per platted lot, whichever is smaller. One (1) freestanding pylon business sign structure will be allowed except as noted below. The maximum freestanding pylon business sign surface area shall not exceed two hundred (200) square feet. For platted lots, or multiple platted lots owned by the same business entity, with more than one (1) separate freestanding principal building, each building parcel shall also be allowed the above one (1) freestanding pylon business sign structure and sign surface area of two hundred (200) square feet. In addition to the above allowances, a platted lot will be allowed one (1) additional freestanding pylon business sign structure if both of the conditions A and B below are met or Condition C below is met. If two (2) freestanding pylon business sign structures are allowed on a platted lot under Conditions A and B or C, the sign area of the second freestanding pylon business sign structure shall not count against the platted lot's total sign area allowed. The second freestanding pylon business sign must not exceed the above mentioned sign area allowed of two hundred (200) square feet. For multiple platted lots under:
  - A. Platted lot fronts on three (3) or more public streets.
  - B. Platted lots is in excess of one hundred thousand (100,000) square feet in area.
  - C. Platted lot exceeds two hundred fifty thousand (250,000) square feet in area.
5. Wall signs shall not project above the top horizontal line of the wall or roof adjacent to the sign.
6. No sign shall be allowed on the roof of any building.
7. Freestanding pylon signs shall not exceed twenty (20) feet in height.
8. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

9. No sign other than official traffic signs shall be erected within the right-of-way of any street unless specifically authorized by other ordinances or regulations.
10. No temporary signs will be permitted without the written approval of the SCIBPACC except construction signs.

#### MAINTENANCE OF VACANT LOTS OR TRACTS

All Owners of vacant lots or tracts shall keep them clean, mowed, and maintained in a manner that will not depreciate others property value within the SCIBP.

#### STORAGE OF FUEL

No tank for the storage of fuel, for the use in heating individual buildings, or for processes except those prohibited for underground locations by Ordinance, shall be placed or maintained above the surface of the ground out-structures for storage of fuels or dispensing equipment thereof required by Ordinance and Utility governing the same shall be screened in a manner similar to waste screening acceptable to the SCIBRACC.

#### LIMITATION ON SALES CONTRACT

If after the expiration of two (2) years from the date of the sale of any tract within the SCIBP, any purchaser shall not have begun in good faith the construction of an acceptable building upon said tract, SCHRA retains the option to refund the purchase price and enter into possession of said land. At any time SCHRA, its successors or assigns, may extend, in writing, the time in which such building may be begun.

#### TELECOMMUNICATIONS, WIND GENERATORS, ETC.

Electronic, electric, energy transmission, generation or reception devices including, but not limited to wind generators, solar collectors, telecommunication towers or dishes, will not be permitted in the SCIBP unless approved by the SCIBPACC. Primary electrical substations, electrical transmission lines and utility provided voice/data lines and related devices will be permitted.

**EXHIBIT A**

St. Cloud I-94 Business Park, according to the plat and survey thereof on file and of record in the Office of the County Recorder in and for Stearns County, Minnesota.