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**Document Title: Covenant Running with the Land**

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**Reference Number(s) of related documents:**

**Grantor: Pioneer Industrial, LLC, a Washington limited liability company**

**Grantee: Clark County, Washington**

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**Trustee: NA**

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**Abbreviated Legal Description: ST JOHNS HD LOTS #2 LOT 1**

**Assessor's Property Tax Parcel/Account Numbers: 119480-000**

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AFTER RECORDING RETURN TO:  
Miller Nash Graham & Dunn, LLP  
Attn: LeAnne M. Bremer  
500 Broadway Suite 400  
Vancouver, WA 98660

*Space above for recording information only.*

### COVENANT RUNNING WITH THE LAND

This COVENANT RUNNING WITH THE LAND (Covenant) is entered into by PIONEER INDUSTRIAL, LLC, a Washington limited liability company (Pioneer), for the benefit of CLARK COUNTY, WASHINGTON, on 22<sup>nd</sup> day of January, 2021. Both entities in this paragraph are referred to collectively as the Parties.

#### RECITALS

A. Pioneer Industrial owns real property in unincorporated Clark County Washington (APN 119480-000), approximately 2.69 acres in size, which is more particularly described in Exhibit A and illustrated in Exhibit B, attached to, and incorporated by reference in, this Agreement (Property).

B. The Property is currently zoned Light Industrial with an Industrial comprehensive plan designation.

C. The Property is subject to a County land use decision under County File No. OLR-2020-00059 (Rezone Decision) that is currently under appeal in Clark County Superior Court, Case No. 20-2-01634-06 (Appeal).

D. In the Rezone Decision, the Clark County Hearings Examiner denied the rezone of the Property from Light Industrial to Railroad Industrial.

E. Clark County opposed the rezone because it believed that some of the uses allowed in the IR zone, as set forth in Table 40.230.085-1 UDC, would cause a significant impact to surrounding properties. Pioneer Industrial disagrees with this assessment as it relates to its intended uses for the Property.

F. Pioneer Industrial believes that its intended uses, as allowed in the IR zone, but

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not the IL zone, will benefit by access to the Chelatchie Prairie Railroad, and will provide additional industrial jobs and other economic benefits to the County.

G. The Parties believe that both of their objectives can be achieved by Pioneer Industrial executing this Covenant in settlement of the Appeal.

### COVENANT

NOW, THEREFORE, Pioneer Industrial agrees to encumber its Property with this Covenant for the benefit of Clark County as follows:

1. **Clarification of Permitted and Conditional Uses.** The permitted and conditionally permitted uses allowed on the Property are all of those uses allowed in the current IR zone as modified by Table 40.230.085-1 of Clark County Code set forth in **Exhibit C**, attached and incorporated into this Covenant by reference. For reference and clarity, **Exhibit C** identifies permitted uses with a "P", conditionally permitted uses are labeled with a "C", and prohibited uses with an "X." Except as provided by Section 2, the IR uses identified as conditionally permitted in **Exhibit C** shall be subject to a Type III (Hearing Examiner) Conditional Use Permit Process set forth in 40.510.030 or, if this section has been repealed, an equivalent successor process provided by Clark County Code.

2. **Development Standard Applicable to Certain Uses:** The following IR uses listed as conditionally permitted in **Exhibit C** shall, in addition to any other applicable development standards, required SEPA mitigation, or conditions of approval, comply with and be subject to the development standards set forth in the Surface Mining Overlay District Code, CCC 40.250.022.D.3, 4, 6, 10, 11, and 12, despite the fact that Surface Mining Overlay has not been applied to the property, and that these uses shall not permit any surface mining operations that would otherwise require the imposition of the Surface Mining Overlay:

327320	Ready-mix concrete manufacturing
3279	Other nonmetallic mineral product manufacturing

These conditionally permitted uses shall be subject to a Type II A conditional use permit review process as set forth in CCC 40.510.025 and 40.520.030. It is understood and agreed that, pursuant to CCC 40.510.025(C)(4), the applicant, the responsible official or members of the public may request a Type III hearing. It is further understood and agreed that, pursuant to 40.510.030.E.3.a.(5), the responsible official may send notice to known interest groups and other people the responsible official believes may be affected by the proposed action.

3. **Effective Date; Binding.** This Covenant shall become effective after both entry of an agreed order dismissing the Appeal and after the Clark County Hearings Examiner approves the rezone from IL to IR. This Covenant shall then remain in full force and effect until amended, modified or terminated by the action of Clark County in zoning proceedings appropriate for that purpose. Nothing in this Covenant shall be construed as limiting in any way the authority of Clark County, or its governmental successors, from approving amendments or modifications to this

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**EXHIBIT A**

**Legal Description of  
Property**

The following real property in Clark County, Washington:

BEGINNING AT A POINT THAT IS 40 RODS EAST AND 25 RODS 4 FEET AND 2 INCHES NORTH OF THE SOUTHWEST CORNER OF LOT 1 OF ST. JOHNS HOMESTEAD LOTS, RECORDED IN VOLUME A OF PLATS, PAGE 47, RECORDS OF CLARK COUNTY, WASHINGTON, IN SECTION 32, TOWNSHIP 3 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RUNNING THENCE EAST 30 RODS; THENCE SOUTH TO THE NORTH LINE OF THE RIGHT OF WAY OF THE YACOLT BRANCH OF THE NORTHERN PACIFIC RAILWAY COMPANY; THENCE NORTHEASTERLY ALONG SAID NORTH LINE TO THE EAST LINE OF SAID LOT 1; THENCE NORTH ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST 40 RODS TO A POINT THAT IS 40 RODS EAST OF THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH 14 RODS 12 FEET AND 4 INCHES TO THE PLACE OF BEGINNING.

EXCEPT THE WEST 250 FEET THEREOF.

TOGETHER WITH AN EASEMENT FOR ROAD PURPOSES 12 FEET IN WIDTH, THE NORTH LINE BEING THE NORTH LINE OF LOT 1 OF ST. JOHNS HOMESTEAD LOTS.

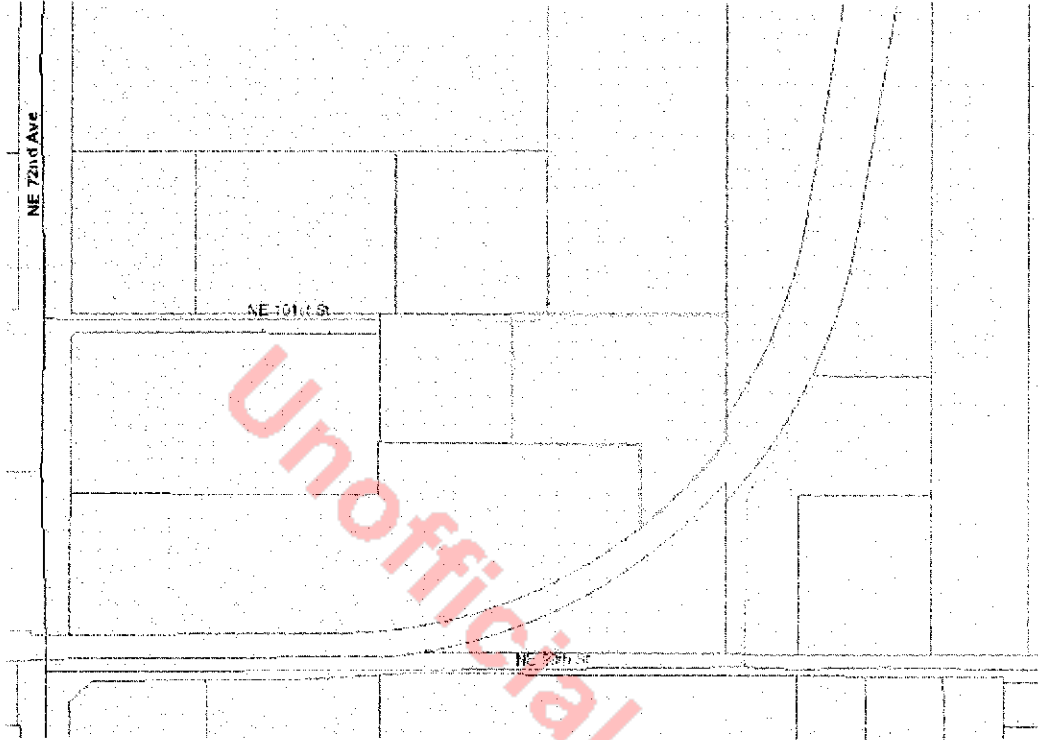
SITUATE IN THE COUNTY OF CLARK, STATE OF WASHINGTON.

SUBJECT TO: Covenants, conditions, restrictions, easements and encumbrances of record as of the date hereof.

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**EXHIBIT B**

Map of Property



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**EXHIBIT C**

<b>Table 40.230.085-1. Uses</b>				<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
<b>2012 North American Industrial Classification System (NAICS)</b>							
<b>A. Resource Uses</b>							
<b>11 Agriculture, forestry, fishing and hunting</b>							
111	Crop production			P	P	P	P
112	Animal production			P	P	P	P
113	Forestry and logging			P	P	P	P
114	Fishing, hunting and trapping			P	P	P	P
115	Support activities for agriculture and forestry			P	P	P	P
<b>21 Mining</b>							
211	Oil and gas extraction			X	C <sup>4</sup>	C <sup>4</sup>	X
212	Mining (except oil and gas)			X	C <sup>4</sup>	C <sup>4</sup>	X
	2123	Nonmetallic mineral mining and quarrying		X	P <sup>4</sup>	P <sup>4</sup>	X
213	Support activities for mining			X	C <sup>4</sup>	C <sup>4</sup>	X
<b>22 Utilities</b>							
221	Utilities						
	22111	Electric power generation		P	P	P	C
	22112	Electric power transmission and distribution		P	P	P	P
	22121	Natural gas distribution		P	P	P	P
	22131	Water supply and irrigation systems		P	P	P	P
	22132	Sewage treatment facilities		P	P	P	C
<b>23 Construction</b>							
236	Construction of buildings			P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
237	Heavy and civil engineering construction			P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
238	Specialty trade contractors			P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
	Storage yards for building materials, contractors' equipment and vehicles			P	P	P	X
<b>B. Manufacturing Uses</b>							
311	Food manufacturing			P	P	P	X
	31161	Animal slaughtering and processing		C	P	P <sup>2</sup>	X
	311811	Retail bakeries		P	P	P	P
312	Beverage and tobacco product manufacturing			P	P	P	P
313	Textile mills			P	P	P	X
314	Textile product mills			P	P	P	X
315	Apparel manufacturing			P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	X
316	Leather and allied product manufacturing						

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Table 40.230.085-1. Uses 2012 North American Industrial Classification System (NAICS)				IL	IH	IR	BP
	3161	Leather and hide tanning and finishing		X	P	P	X
	3162	Footwear manufacturing		P	P	P	P
	3169	Other leather and allied product manufacturing		P	P	P	P
321	Wood product manufacturing						
	3211	Sawmills and wood preservation		X	P	PC	X
	3212	Veneer, plywood, and engineered wood product manufacturing		X	P	PC	X
		321214	Truss manufacturing	P	P	P	X
	3219	Other wood product manufacturing		P	P	P	X
322	Paper manufacturing						
	3221	Pulp, paper and paperboard mills		X	P	P	X
	3222	Converted paper product manufacturing		P	P	P	P
323	Printing and related support activities			P	P	P	P
324	Petroleum and coal products manufacturing			X	P	P	X
325	Chemical manufacturing			X	P	P	X
	3254	Pharmaceutical and medicine manufacturing		P	P	P	X
	3256	Soap, cleaning compound, and toilet preparation manufacturing		P	P	P	X
326	Plastics and rubber products manufacturing			P	P	P	X
327	Nonmetallic mineral product manufacturing						
	3271	Clay product and refractory manufacturing		P	P	P	X
	3272	Glass and glass product manufacturing		P	P	P	X
	3273	Cement and concrete product manufacturing		P	P	P	X
		327310	Cement manufacturing	X	P	P	X
		327320	Ready-mix concrete manufacturing	X	P	C	X
	3274	Lime and gypsum product manufacturing		X	P	C	X
	3279	Other nonmetallic mineral product manufacturing		X	P	C	X
331	Primary metal manufacturing			X	P	C	X
332	Fabricated metal product manufacturing						
	3321	Forging and stamping		P	P	P	X
	3322	Cutlery and hand tool manufacturing		P	P	P	P
	3323	Architectural and structural metals manufacturing		P	P	P	X
	3324	Boiler, tank, and shipping container manufacturing		P	P	P	X
	3325	Hardware manufacturing		P	P	P	X
	3326	Spring and wire product manufacturing		P	P	P	X
	3327	Machine shops		P	P	P	C
	3328	Coating, engraving, heat treating, and allied activities		P	P	P	X

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<b>Table 40.230.085-1. Uses</b>				<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
<b>2012 North American Industrial Classification System (NAICS)</b>							
		332813	Electroplating, plating, polishing, anodizing, and coloring	C	P	P	X
	3329	Other fabricated metal product manufacturing		P	P	P	X
333	Machinery manufacturing			P	P	P	C
334	Computer and electronic product manufacturing			P	P	P	P
335	Electrical equipment, appliance, and component manufacturing			P	P	P	P
336	Transportation equipment manufacturing			P	P	P	X
		336991	Motorcycle, bicycle, and parts manufacturing	P	P	P	P
337	Furniture and related product manufacturing			P	P	P	X
339	Miscellaneous manufacturing			P	P	P	P
<b>C. Wholesale Trade</b>							
423	Wholesale trade, durable goods (retail sales prohibited)			P	P	P	P
424	Wholesale trade, nondurable goods (retail sales prohibited)			P	P	P	P
425	Wholesale electronic markets and agents and brokers			P	P	P	P
<b>D. Retail Trade</b>							
	Retail sales of products fabricated on site			P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
	Construction and industrial equipment sales			P	P	P	X
	4411	Automotive dealers		X	X	X	X
	4412	Other motor vehicle dealers		X	X	X	X
	4413	Automotive parts, accessories, and tire stores		P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
	4441	Building material and supplies dealers		P	X	X	X
		44412	Paint and wallpaper stores	P <sup>1</sup>	X	X	X
		44413	Hardware stores	P <sup>1</sup>	X	X	X
445	Food and beverage stores			P <sup>1</sup>	X	X	P <sup>1</sup>
		44512	Convenience stores	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
446	Health and personal care stores			P <sup>1</sup>	X	X	P <sup>1</sup>
447	Gasoline stations			C	C	C	C
448	Clothing and clothing accessories stores			P <sup>1</sup>	X	X	P <sup>1</sup>
451	Sporting goods, hobby, book and music stores			P <sup>1</sup>	X	X	P <sup>1</sup>
452	General merchandise stores			X	X	X	X
453	Miscellaneous store retailers			P <sup>1</sup>	X	X	P <sup>1</sup>
454	Nonstore retailers			P	X	X	P
		45431	Fuel dealers	P	P	P	X
<b>E. Transportation and Warehousing</b>							
482	Rail transportation			P	P	P	X
483	Water transportation			X	P	X	X

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<b>Table 40.230.085-1. Uses</b>		<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
<b>2012 North American Industrial Classification System (NAICS)</b>					
484	Truck transportation	P	P	P	P
485	Transit and ground passenger transportation	P	P	P	P
486	Pipeline transportation	P	P	P	P
487	Scenic and sightseeing transportation	P	P	X	X
488	Support activities for transportation	P	P	X	X
	4882 Support activities for rail transportation	P	P	P	X
	4883 Support activities for water transportation	X	P	P	X
	4884 Support activities for road transportation	P	X	X	X
	4885 Freight transportation arrangement	P	P	P	P
	4889 Other support activities for transportation	P	P	P	P
491	Postal service	P	P	P	P
492	Couriers and messengers	P	P	P	P
493	Warehousing and storage	P	P	P	P
<b>F. Information</b>					
511	Publishing industries	P	P	P	P
512	Motion picture and sound recording industries	P	P	P	P
515	Broadcasting (except Internet)	P	P	P	P
516	Internet publishing and broadcasting	P	P	P	P
517	Telecommunications	P	P	P	P
	5172 Wireless communications carriers	P/C <sup>7</sup>	P/C <sup>7</sup>	P/C <sup>7</sup>	P/C <sup>7</sup>
518	Internet service providers, web search portals, and data processing services	P	P	P	P
519	Other information services	P	P	P	P
<b>52 Finance and insurance</b>		X	X	X	P
	5221 Branch banks (including drive-up service)	P <sup>1</sup>	P <sup>1</sup>	X	P
524	Insurance carriers and related activities	P	X	X	P
<b>53 Real estate and rental and leasing</b>					
531	Offices of real estate agents and brokers	P	X	X	P
532	Rental and leasing services	P	X	X	P
	5324 Commercial and industrial machinery and equipment rental and leasing	P	P	P	X
533	Lessors of nonfinancial intangible assets (except copyrighted works)	X	X	X	P
<b>54 Professional, scientific, and technical services</b>					
541	Professional, scientific, and technical services	P	X	X	P
	54135 Building inspection services	P	X	X	P
	54136 Geophysical surveying and mapping services	P	X	X	P

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<b>Table 40.230.085-1. Uses</b>				<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
<b>2012 North American Industrial Classification System (NAICS)</b>							
	54137	Surveying and mapping (except geophysical services)		P	X	X	P
	54138	Testing laboratories		P	X	X	P
	54194	Veterinary services		P	P	X	P
<b>55 Management of companies and enterprises</b>							
551	Management of companies and enterprises			P	X	X	P
<b>56 Administrative and support and waste management and remediation services</b>							
561	Administrative and support services			P	X	X	P
	5616	Investigation and security services		P	X	X	P
	5617	Services to buildings and dwellings		P	X	X	P
	5619	Other support services		P	X	X	P
562	Waste management and remediation services			C <sup>6</sup>	C <sup>6</sup>	C <sup>6</sup>	X
<b>61 Educational services<sup>10</sup></b>							
611	Educational services			C	C	X	C
	6111	Elementary and secondary schools		C	C	X	C
	6112	Junior colleges		C	C	X	C
	6113	Colleges and universities		C	C	X	C
	6114	Business schools and computer and management training		C	C	X	P
	6115	Technical and trade schools		P	P	P	P
		611519	Truck driving schools	P	P	X	P
	6116	Other schools and instruction		C	C	X	P
		611692	Automobile driving schools	P	C	X	P
	6117	Educational support services		C	C	X	P
<b>62 Health care and social assistance</b>							
621	Ambulatory health care services			P	X	X	P
	6215	Medical and diagnostic laboratories		P	X	X	P
	6216	Home health care services		P	X	X	P
	6219	Other ambulatory health care services		P	X	X	P
		62191	Ambulance services	P	P	P	P
622	Hospitals			C	X	X	P
623	Nursing and residential care facilities			X	X	X	P
	6232	Residential mental retardation, mental health, and substance abuse facilities		X	X	X	C
624	Social assistance			X	X	X	P
	6244	Child day care services		P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P
<b>71 Arts, entertainment, and recreation</b>				P <sup>1</sup>	X	X	P
	7112	Spectator sports		C	X	X	C

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<b>Table 40.230.085-1. Uses</b>				<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
<b>2012 North American Industrial Classification System (NAICS)</b>							
	71391	Golf courses and country clubs		X	X	X	X
	71392	Skiing facilities		X	X	X	X
	71393	Marinas		P	X	X	X
	71394	Fitness and recreational sports centers		P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
	71399	All other amusement and recreation industries		P <sup>1</sup>	X	X	P <sup>1</sup>
<b>72 Accommodations and food services</b>							
721	Accommodation			X	X	X	P
722	Food services and drinking places			P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
	7223	Special food services		P	P	P	P
<b>81 Other services (except public administration)</b>							
811	Repair and maintenance			P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
	8111	Automotive repair and maintenance		P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	C
	8113	Commercial and industrial machinery and equipment (except automotive and electronic repair and maintenance)		P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	C
812	Personal and laundry services			P <sup>1</sup>	X	X	P <sup>1</sup>
	81221	Funeral homes and funeral services		X	X	X	P
	81222	Cemeteries and crematories		C	C	C	C
	8123	Dry cleaning and laundry services		P <sup>1</sup>	X	X	P <sup>1</sup>
	81233	Linen and uniform supply		P	P	X	P
	81291	Pet care (except veterinary) services		P <sup>1</sup>	X	X	P <sup>1</sup>
813	Religious, grant making, civic, professional, and similar organizations			X	X	X	C
<b>92 Public administration<sup>10</sup></b>							
	92214	Correctional institutions <sup>10</sup>		C	C	X	X
<b>G. Other Uses Not Listed as NAICS Codes</b>							
1. Service stations for vehicle fleets, including cardlock facilities				P	P	P	P
2. Personal property storage including outdoor RV and boat storage				P	X	X	X
<b>3. Accessory uses</b>							
a. Administrative, educational, and other related activities and facilities				P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
b. Caretaker, security or manager residence when incorporated as an integral part of a permitted use				P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
c. Off-site hazardous waste treatment and storage facilities (subject to RCW 70.105.210)				P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
<b>4. Other Uses</b>							
a. Parks, trails and related uses <sup>10</sup>				P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
b. Existing residential uses without any increase in density, including accessory uses and structures normal to a residential environment.				P	P	P	P

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<b>Table 40.230.085-1. Uses 2012 North American Industrial Classification System (NAICS)</b>	<b>IL</b>	<b>IH</b>	<b>IR</b>	<b>BP</b>
Replacement of such structures requires county approval prior to the removal of the existing structure(s) and is subject to the limits regarding the replacement.				
c. Legally existing commercial and industrial use structures	P	P	P	P
d. Public facilities for the support of construction projects and agency operations, including offices for employees of the facility	P	P	P	P
e. Electric vehicle infrastructure	P	P	P	P
f. Coffee and food stands two hundred (200) square feet or less	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>
g. Agricultural stands and markets	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
h. Medical marijuana cooperative	X	X	X	X
i. Marijuana production facilities	P <sup>11</sup>	P <sup>11</sup>	X	X
j. Marijuana processor I facilities	P <sup>11</sup>	P <sup>11</sup>	X	P <sup>11</sup>
k. Marijuana processor II facilities	P <sup>11</sup>	P <sup>11</sup>	X	P <sup>11</sup>
l. Marijuana retailer facilities	X	X	X	X

<sup>1</sup> These uses shall be limited to a maximum of ten percent (10%) of the gross floor area of all buildings within the development site. These uses are intended to serve and support the needs of employees, clients, customers, vendors, and others having business at the industrial site, to allow limited retail sales of products manufactured on site, to attract and retain a quality workforce, and to further other public objectives such as trip reduction.

<sup>2</sup> Permitted only in association with a permitted use.

<sup>3</sup> The repair and maintenance subsector does not include all establishments that do repair and maintenance. For example, a substantial amount of repair is done by establishments that also manufacture machinery, equipment and other goods. These establishments are included in Sector 31-33, Manufacturing Uses. Repair of transportation equipment is often provided by or based at transportation facilities, such as airports and seaports, and these activities are included in Sector 48-49, Transportation and Warehousing. Excluded from this subsector are establishments primarily engaged in rebuilding or remanufacturing machinery and equipment. These are classified in Sector 31-33, Manufacturing Uses. Also excluded are retail establishments that provide after-sale services and repair. These are classified in Sector 44-45, Retail trade.

<sup>4</sup> Subject to the provisions of Section 40.250.022, Surface Mining Overlay District.

<sup>5</sup> Businesses that are actively working on construction projects and not just coordinating with other contractors. Uses include the storage of materials for use on construction projects, trucks, and other equipment, and shall not be a purely office use. These uses shall not include professional offices such as engineers, planners or architects that support land development and subdivision projects.

<sup>6</sup> Subject to the provisions of Section 40.260.200.

<sup>7</sup> See Table 40.260.250-1.

<sup>8</sup> Subject to the provisions of Section 40.260.055.

<sup>9</sup> Subject to the provisions of Section 40.260.025.

<sup>10</sup> Once a property has been developed as a public facility, a docket is required to change the comprehensive plan designation from the current zone to the Public Facilities zone.

<sup>11</sup> Subject to the provisions of Section 40.260.115.

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