

# Attachment I

Prepared by and return to:

Name: Thomas W. Johnston, Esquire  
Johnston & Metevia, P.A.  
Address: 633 E. Atlantic Blvd.  
Pompano Beach, FL 33060  
Telephone: 954-942-6633

## DECLARATION OF VOLUNTARY RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is agreed to by DIXIE PROPERTIES & INVESTMENTS, LLC, a Florida limited liability company, and UPPER POMPANO PROPERTIES & INVESTMENTS, LLC, whose address is 1700 NW 66<sup>th</sup> Avenue, Suite 102, Plantation, FL 33313 ("Owner"), in favor of THE CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose address is 100 W. Atlantic Blvd., Pompano Beach, FL 33060 ("City").

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### WITNESSETH:

WHEREAS, Owner holds fee simple title to certain property in the City consisting of approximately 2.98 acres, which property has a mailing address of 1661 N. Dixie Highway and is legally described on the attached Exhibit "A", whose terms are incorporated herein by reference (hereinafter referred to as ("the Property")); and

WHEREAS, the Property is designated Commercial on the City's Land Use Plan and the Owner has filed an application to re-zone the Property from B-3, *Commercial Business* to B-4, *Heavy Business Zoning District* in order for the zoning to be consistent with the City's Land Use Plan; and

WHEREAS, in conjunction with the re-zoning request the Owner wishes to clarify that certain uses are not appropriate for the Property and are not to be allowed on the Property even though such uses are allowed in the B-4 Zoning District; and

WHEREAS, Owner desires to make a binding commitment in order to assure the City that the Property shall be developed in accordance with this Declaration; and

WHEREAS, Owner is making this Declaration freely and voluntarily.

NOW, THEREFORE, in consideration of the foregoing, the Owner hereby agrees and declares as follows:

1. **Recitals:** That the above recitals are true and are incorporated herein by reference.

2. **Prohibited Uses:** The Owner hereby declares and voluntarily covenants and agrees that notwithstanding the B-4 zoning designation, the Property may NOT be used for the following uses proscribed in Exhibit B.

3. **Term of Covenant.** This voluntary covenant on the part of Owner shall remain in full force and effect and shall be binding upon Owner, its successors and assigns, in perpetuity unless modified or released by the City Commission of the City of Pompano Beach.

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4. **Inspection and Enforcement.** It is understood and agreed that any official inspector of the City may have the right at any time during normal business hours to determine whether the conditions of this Declaration are being complied with. This enforcement provision shall be in addition to any remedies available under law.

5. **Amendment.** This Declaration shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the Property and approved, in writing, by the City Commission of the City of Pompano Beach. The City Commission of the City of Pompano Beach shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this Declaration shall be recorded in the Public Records of Broward County, Florida.

6. **Severability.** Invalidation of any one of these covenants by judgment of a court of competent jurisdiction shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

7. **Recording.** This Declaration shall be filed of record among the Public Records of Broward County, Florida at the cost of the Owner and a recorded copy given to the City within thirty (30) days of its recording.

8. **Effective Date.** This Declaration shall become effective upon its recordation in the Public Records of Broward County and shall constitute a covenant running with the title to the Property and shall be binding upon the Owner, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on this \_\_\_\_\_ day of August, 2021.

Signed, sealed and delivered in the presence of:

**DIXIE PROPERTIES & INVESTMENTS, LLC, a Florida limited liability company**

By: \_\_\_\_\_  
William M. Murphy, Managing Member

STATE OF FLORIDA :  
COUNTY OF BROWARD :

**DRAFT**

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, William M. Murphy as Managing Member of DIXIE PROPERTIES & INVESTMENTS, LLC, a Florida limited liability company,  physical presence or  by online notarization produced \_\_\_\_\_ as identification or is known to me, and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Signature of Notary or Officer

Notarial Seal (stamped in black ink)

OR

\_\_\_\_\_  
Printed Name of Notary Public

State of Florida Commission Number:

**UPPER POMPANO PROPERTIES & INVESTMENTS, LLC, a Florida limited liability company**

By: \_\_\_\_\_  
William M. Murphy, Managing Member

STATE OF FLORIDA :  
COUNTY OF BROWARD :

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, William M. Murphy as Managing Member of UPPER POMPANO PROPERTIES & INVESTMENTS, LLC, a Florida limited liability company,  physical presence or  by online notarization produced \_\_\_\_\_ as identification or is known to me, and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

**DRAFT**

\_\_\_\_\_  
Signature of Notary or Officer

Notarial Seal (stamped in black ink)

OR

\_\_\_\_\_  
Printed Name of Notary Public

State of Florida Commission Number: \_\_\_\_\_



**EXHIBIT A**

Legal Description For  
Upper Pompano Properties & Investments, LLC  
Dixie Properties & Investments, LLC

**Parcel "A" (2.192 Acres)**

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A parcel of land lying West of the F.E.C. Railroad Right-of-Way in the South Half (S ¼) of the Northeast ¼ (NE ¼) of the Southeast ¼ (SE ¼) of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows: Commence at a point on the West line of the F.E.C. Railroad Right-of-Way, said point being 2050.72 feet from the South line of Section 26, as measured along the West line of the F.E.C. Railroad Right-of-Way; Thence North 76 Degrees 02 Minutes 40 Seconds West, a Distance of 40.00 Feet to the Point-of-Beginning; Thence South 13 Degrees 57 Minutes 20 Seconds West, a Distance of 209.19 Feet; Thence South 88 Degrees 29 Minutes 55 Seconds West, a distance of 351.64 Feet; Thence North 00 Degrees 54 Minutes 35 Seconds West, a distance of 300.00 Feet; Thence North 88 Degrees 29 Minutes 55 Seconds East, a Distance of 270.68 Feet; Thence South 13 Degrees 57 Minutes 20 Seconds West, a Distance of 59.19 Feet; Thence South 76 Degrees 02 Minutes 40 Seconds East, a Distance of 155.00 Feet to the Point of Beginning, Less therefrom that certain Right-of-Way for North Dixie Highway (State Road 811) Taken by Order of Taking in O.R. Book 21796, Page 903, of the Public Records of Broward County, Florida.

Less and Except Therefrom:

A Parcel of Land lying West of the F.E.C. R.R. in the South half of the Northeast ¼ of the Southeast ¼ of Section 26, Township 48 South, Range 42 East, a described in the certain Quit Claim Deed, recorded in Instrument Number 114014535 of the Public Records of Broward County, Florida, as described as follows:

Commencing at a point on the West line of the F.E.C. R.R. Right-of-Way, said point being 2,163.84 Feet from the South line of Section 26, as measured along the West line of the F.E.C. R.R. Right-of-Way; Thence Southerly with a bearing of South 14°20'51" West along the West line of the F.E.C.R.R. Right-of-Way, 113.12 Feet; Thence Westerly at right angles with a bearing of North 75°39'09" West, for 195.00 Feet to The Point of Beginning; Thence continue North 75°39'09" West, for 13.05 Feet; Thence North 10°17'58" East, for 54.66 Feet; Thence North 88°53'26" East, for 17.54 Feet; Thence South 14°20'51" West, for 59.20 Feet to The Point of Beginning.

Said lands situate in the City of Pompano Beach, Broward County, Florida, containing 95,465 square feet or 2.192 acres more or less.

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**Parcel "B"**

A Portion of the South  $\frac{1}{2}$  (S  $\frac{1}{2}$ ) of the Northeast one-quarter (NE  $\frac{1}{4}$ ) of the Southeast one-quarter (SE  $\frac{1}{4}$ ) of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more fully described as follows: Commencing at the intersection of the South line of said Section 26, and the West Right-of-Way line of the F.E.C. Railway; Thence Northerly along the said West Right-of-Way line, a Distance of 1730.80 Feet to the Point of Beginning; Thence West making an angle of 74 Degrees 32 Minutes 35 Seconds in the Southwest Quadrant, a Distance of 361.80 Feet; Thence North making an included angle of 89 Degrees 24 Minutes 30 Seconds, a Distance of 117.80 Feet; Thence East making an included angle of 90 Degrees 35 Minutes 30 Seconds, a Distance of 393.14 Feet to a point of the said West Right-of-Way line of the F.E.C. Railway; Thence Southerly along the said West Right-of-Way line, a Distance of 122.22 Feet to the Point of Beginning. Less the Right-of-Way of Old Dixie Highway.

Said lands situate in the City of Pompano Beach, Broward County, Florida, containing 34,565 square feet or 0.794 acres more or less.

## EXHIBIT B

Table A

| <b>Uses Voluntarily Prohibited By Applicant</b>         |
|---|
| Sports Shooting   |
| Auto Paint & Body Shop                                  |
| Auto Wrecker Service                                    |
| Laundry, Dry Cleaning, Carpet Cleaning & Dying Facility |
| Tool Repair Shop  |
| Manufacturing, Assembly or Fabrication, Light           |
| Self-Storage & Mini-Warehouse Facility                  |
| Warehouse Distribution & Storage                        |
| Pawnshop  |

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