

**THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING RETURN TO:**

Marsha Segal-George
City Attorney
City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

Exhibit "A" to Ordinance No. 04-2023

AMENDMENT TO THE DELTONA VILLAGE BPUD DEVELOPMENT AGREEMENT

THIS AMENDMENT TO DEVELOPMENT AGREEMENT ("Agreement") entered into and made as of the 17 day of July, 2023, by and between the **CITY OF DELTONA, FLORIDA** (hereinafter referred to as the "**City**"), and Deltona Retail Holdings, LLC, a Florida limited liability (hereinafter referred to as the "**Owner/Developer**").

W I T N E S S E T H

WHEREAS, the Owner/Developer warrants that it or an entity on whose behalf it is authorized to act hereunder holds legal title to the property described in Paragraph 2 below and that the holders of any and all liens and encumbrances affecting such property will subordinate their interests to this Agreement; and

WHEREAS, the Owner/Developer desires to facilitate the orderly development of the subject property, in compliance with the laws and regulations of the City and of other governmental authorities, and the Owner/Developer desires to ensure that its development is compatible with other properties in the area; and

WHEREAS, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

WHEREAS, the Owner/Developer sought the City's approval for plans to develop the subject property, and the City Commission of the City of Deltona, Florida, approved a Business Planned Unit Development ("**BPUD**") on February 15, 2010, with an Overall Development Plan/Master Development Plan ("**ODP/MDP**") subject to the covenants, restrictions, and easements contained herein, and in the Business Planned Unit Development rezoning ordinance, Ordinance No. 21-2009, and further subject to all other applicable requirements of law (hereinafter referred to as "Development Agreement").

WHEREAS, the City of Deltona adopted Ordinance No. 05-2003 on July 7, 2003, which approved the Development Order of the Interstate 4/State Road 472 Area wide Development of Regional Impact ("DRI"), and all development shall be consistent with this adopted ordinance;

WHEREAS, the Developer previously sought approval and the City approved on July 2, 2018, an amendment to Ordinance No. 21-2009 as set forth in Ordinance No. 10-2018, and as approved by the City on December 13, 2021, an amendment to this Ordinance as set forth in Ordinance No. 06-2021;

WHEREAS, the Developer now seeks approval of an additional amendment to this Ordinance No. 21-2009 as previously modified, and the City desires to incorporate the current amendment to this Ordinance No. 21-2009 by adopting an amendment to the Development Agreement;

WHEREAS, the adoption of this amendment to the Development Agreement is being prepared for clarity purposes and to recognize all such vested rights of the Developer established therein shall not be affected or negatively impacted by this later amendment of this Development Agreement;

WHEREAS, the Developer and City desire to amend the Development Agreement as more specifically provided for hereinbelow.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. INCORPORATION. The recitals herein contained are true and correct and are incorporated herein by reference.

2. OWNERSHIP. The Owner/Developer represents that it, or an entity on behalf of it which is authorized to act, is the present owner of the following described property (hereinafter referred to as the "**Subject Property**"):

Attached hereto as **Exhibit "B"**

3. TITLE OPINION/CERTIFICATION. The Owner/Developer has provided to the City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed in Florida, or a certification by an abstractor or title company authorized to do business in Florida, showing marketable title to the Subject Property to be in the name of the Owner/Developer or an entity on behalf of which it is authorized to act and showing all liens, mortgages, and other encumbrances not satisfied or released of record.

4. DEVELOPMENT CONDITIONS. Paragraph 4.A. of the Deltona Village Development Agreement, dated February 15, 2010, attached hereto as Exhibit "D" shall be amended with the following language:

A. The Owner/Developer shall develop the Subject Property in conformance with the requirements of the approved BPUD and approved ODP/MDP, as amended herein. In the event of the expiration or sooner termination or amendment of any amendment of the provisions of the Code of Ordinances of the City or the Deltona Land Development Code, all rights and entitlements to which the Owner/Developer was entitled at the time of the DRI or Deltona Village Development Agreement, as amended, or any at the time of the expiration or sooner termination or amendment of the provisions of the Code of Ordinances of the City or the Deltona Land Development Code, shall at the option of the Owner/Developer, vesting the Owner/Developer, and not be subject to the expiration,

termination or amendment, by mutual agreement.

5. **PERMITTED USES.** Paragraph 6(A) of the Deltona Village Development Agreement, dated February 15, 2010, shall be amended with the following language:

6. A. **Permitted Land Uses** (Original DA, Ordinance No. 21-2009).

The permitted land uses and their customary incidental and subordinate accessory uses on the Subject Property shall be as described in the BPUD Ordinance No. 21-2009, as previously amended by Ordinance No. 10-2018, and as amended by Ordinance No. 06-2021, and as amended by BPUD Ordinance No. 04-2023 adopted simultaneously herewith on July 17, 2023, and the Master Development Plan set forth in the Deltona Village ODP/MDP attached hereto as Exhibit "C", or if not specifically stated in said Ordinance, such similar uses as approved by the Development Services Director. Such Permitted Principal Uses shall be updated to include 652 multifamily residential units from the original 414 units previously approved. The language as used in the original Deltona Village ODP/MDP which states "land uses not specifically permitted are prohibited" is hereby deleted in its entirety and such land uses expressly prohibited shall remain excluded as set forth in the attached Deltona Village ODP/MDP.

6. **DELTONA VILLAGE TRANSPORTATION IMPACT ANALYSIS (TIA) OBLIGATIONS.** The approved Deltona Village BPUD Traffic Impact Analysis, dated December 14, 2009, established proportionate fair share obligations for the development, which have been constructed as part of a traffic mitigation plan which detailed improvements required to be made to certain Volusia County roadways in order create the trips necessary for Owner/Developer's development of Deltona Village. The original BPUD ODP/MDP, required improvements to Normandy Boulevard (City Thoroughfare) which the Owner/Developer completed in conjunction with development of Deltona Village Phase I. At this time the following is acknowledged by the City:

A. This agreement recognizes and otherwise reaffirms the vested entitlements outlined within the approved Development Agreement and accompanying Master Development Plan/Overall Development Plan (MDP/OPD) including but not limited to

DRH's satisfaction of all conditions within the time frames established in paragraph 11 entitled "Trip Reservations" of the Deltona Village Development Agreement, dated February 15, 2010, as to all TIA phases and sub-phases. Also, this agreement acknowledges the off-site transportation improvements required of the Deltona Village BPUD have been completed. In addition, the fair share payments discussed within paragraph 10 of the Deltona Village BPUD dated February 15, 2010, are also determined to be completed by the past actions of DRH and the transportation improvements associated with the Project Normandy IPUD, as determined by the City. Impact fees shall be assessed by the City as future projects develop.

B. No additional traffic impact analysis shall be required by the City for any future development by DRH so long as said development is consistent with the uses and trip reservations approved by the ODP/MDP and Development Agreement within Ordinance No. 21-2009, adopted and incorporated into the Deltona Village BPUD as amended. However, with regard to individual developments that may be processed within the Deltona Village BPUD, consistent with the Land Development Code, the City may require an access management/roadway geometry evaluation associated with an entitled access point for an individual development to ensure safe and effective traffic movements.

C. The vested rights referenced herein include access as illustrated as part of the MDP/OPD and all traffic trip reservations as set forth in paragraph 10 and 11 of the original Deltona Village BPUD Development Agreement dated February 15, 2010, for all TIA phases and sub-phases which shall not expire.

D. Any new development occurring within the Deltona Village BPUD will be responsible for paying City and County impact fees as per fee schedules in effect at the time of building permit issuance. No additional City public roadway improvements shall be required so as long as the development program remains consistent with the approved Trip Reservation detailed within the original Deltona Village BPUD Development Agreement dated February 15, 2010.

E. The full movement at Driveway I/Energy Avenue is vested under Ordinance No. 21-2009 for DRH's development, and the City shall not require any additional traffic impact analysis regarding future DRH development unless the traffic counts exceed the Trip Reservations established in the original Development Agreement dated February 15, 2010. However, the City may require an access management/roadway geometry evaluation associated with to ensure safe and effective traffic movements.

F. With regard to the proposed entrance to Deltona Retail Holdings property at Energy Av., the Deltona Village Development Agreement (Ordinance No. 21-2009) contemplates a full intersection movement at this location. It is understood that if adjustments to signal timing are required as a result of development occurring as part of the Deltona Village BPUD, said signal facility/timing improvements intended to promote safe and efficient travel will be the responsibility of the City of Deltona.

G. With regard to the proposed entrance to Deltona Retail Holdings property at Hollywood Boulevard the Deltona Village Development Agreement (Ordinance No. 21-2009) contemplates a full intersection movement at this location. It is understood that if a signal is warranted in the future or if adjustments to signal timing are required, said timing improvements intended to promote safe and efficient travel will be the responsibility of the City of Deltona.

H. Except as provided for in Sections 6.F. and 6.G. above, any signal facility/timing improvements required due to development within the Deltona Village BPUD project shall be the responsibility of the developer constructing any improvements deemed necessary to serve said project. These items will be addressed at time of site plan submitted should additional project specific improvements be required;

7. ADDITIONAL PROPERTY ANNEXED INTO BPUD: The real property described on Exhibit B (hereinafter referred to as "Annexed Property") totaling approximate 0.61-acre is hereby incorporated into and incorporated herein as the Deltona Village BPUD and such rights, entitlements, benefits and obligations in said BPUD shall extend to said Annexed Property.

8. ENFORCEMENT. Both parties may seek specific performance of this Agreement and/or bring an action for damages in a court within Volusia County, Florida if this Agreement is breached by either party. In the event that enforcement of this Agreement by either party becomes necessary, the non-prevailing party shall be responsible for the payment of all of the prevailing party's costs and expenses, including attorney fees, whether or not litigation is necessary and, if necessary, both at trial and on appeal. Should this Agreement require the payment of any monies to the City, the recording of this Agreement shall constitute a lien upon the Subject Property for said monies, until said are paid, in addition to such other obligations as this Agreement may impose upon the Subject Property and the Owner/Developer or Developer. Interest on unpaid overdue sums shall accrue at the rate of the lesser of five percent (5%) compounded annually or at the maximum rate allowed by law.

9. COMPLIANCE. The Owner/Developer agrees that it, will abide by the provisions of this BPUD Development Agreement, as amended, ODP/MDP, the City's Comprehensive Plan, and the City's Land Development Code, including the site plan regulations of the City which are incorporated herein by reference. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, certificates of occupancy or approvals, should the Owner/Developer fail to comply with the terms of this Agreement.

10. NOTICES. Where notice is herein required to be given, it shall be by certified mail return receipt requested, hand delivery or overnight courier. Said notice shall be sent to the following, as applicable, and shall be deemed to be given and received if by hand delivery, and otherwise on the date of delivery or of first attempted delivery if delivery is impossible or refused.

OWNER/DEVELOPER'S OR DEVELOPER'S REPRESENTATIVES:

OWNER/DEVELOPER'S REPRESENTATIVES:

Deltona Retail Holdings, LLC
c/o Frank DeMarsh
939 Hollywood Boulevard
Deltona, FL 32725

Phone: 386-736-6830
Email: fd@epictheatres.com

With a Copy to:

Kim C. Booker, Attorney at Law
Booker & Associates, P.A.
1019 Town Center Drive, Suite 201
Orange City, Florida 32763
Telephone 386-774-6552
Email: kbooker@bookerandassoc.com

CITY'S REPRESENTATIVES:

City Manager

City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

With a copy to:

Director

Planning & Development Services
City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

Should any party identified above change or should any party elect to add an additional person or entity to receive notices hereunder, it shall be said party's obligation to notify the remaining parties of the change or addition in a fashion as is required for notices herein.

11. CAPTIONS. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

12. FORCE MAJURE. Notwithstanding anything contained in this Agreement, each party shall be excused from performing any obligation under this Agreement and any delay in the performance of any obligation under this Agreement shall be excused, if, but only for as long as, the performance of the obligation is prevented, delayed or otherwise hindered by acts of God, fire, earthquake, floods, explosion, actions or the

elements, war, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, business closures required by laws or orders of governmental agencies caused by epidemic, pandemic, disease outbreak, or other public health crisis, government office closures, or military authorities or any other cause, whether similar or dissimilar to the foregoing, not within the control of such party (other than lack of or inability to procure monies to fulfill its commitments and obligations under the Agreement).

13. BINDING EFFECT. This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer and its assigns and successors in interest and the City and its assigns and successors in interest. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property.

14. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Agreement is declared severable.

15. COMPLIANCE WITH THE LAW. The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner/Developer or Developer of the Subject Property from the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

16. CAPTIONS. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

17. SUBSEQUENTLY ENACTED STATE OR FEDERAL LAW. If either state or federal law is enacted after the effective date of this Agreement that is applicable to and precludes the parties' compliance with the terms of this Agreement, this Agreement and correlating zoning amendment shall be modified or revoked, as is necessary, to comply with the relevant state or federal law.

18. COVENANT RUNNING WITH THE LAND. This Agreement shall run with the Subject Property and inure to and be for the benefit of the parties hereto and their respective successors and assigns and any person, firm, corporation, or entity who may become the successor in interest to the Subject Property or any portion thereof.

19. RECORDATION OF AGREEMENT. The parties hereto agree that an executed original of this Agreement shall be recorded by the City, at the Developer's expense, in the Public Records of Volusia County, Florida.

20. APPLICABLE LAW/VENUE. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. The venue of any litigation relating to this Agreement shall be in the courts of Volusia County, Florida.

21. TIME OF THE ESSENCE. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement. The Owner/Developer or Developer shall execute this Agreement within ten (10) business days of the City Commission's adoption of Ordinance No. Ordinance No. 04-2023; and agrees to pay the cost of recording this document in the Public Records of Volusia County, Florida. Failure to execute this Agreement within ten (10) business days of this ordinance adoption may result in the City not issuing development orders or permits until the execution and recordation of this Agreement have occurred.

22. AGREEMENT; AMENDMENT. This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings, and agreements, with respect to the subject matter hereof; provided, however, that it is agreed that this Agreement is supplemental to the City's Comprehensive Plan and does not in any way rescind or modify any provisions of the City's Comprehensive Plan. Amendments to and waivers of the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

23. EFFECTIVE DATE. The Effective Date of this Agreement shall be the day this Agreement is recorded in the Public Records of Volusia County, Florida.

IN WITNESS WHEREOF, the Owner, the Developer, and the City have executed this Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Owner/Developer has executed this agreement.

STATE OF FLORIDA

OWNER/DEVELOPER

By: Deltona Retail Holdings, LLC

a Florida Limited Liability Company

By: I-4 Howland Investments, LLC

Its: Manager


Signature of Witness #1

Kaitlyn Apgar
Print or type name


Signature of Witness #2


MONIQUE ANTHONY
Print or type name


Signature

William F. DeMarsh, Its: Manager

Print or type name

AS: _____

ATTEST: 
Signature

Herb Coenen
Print or type name

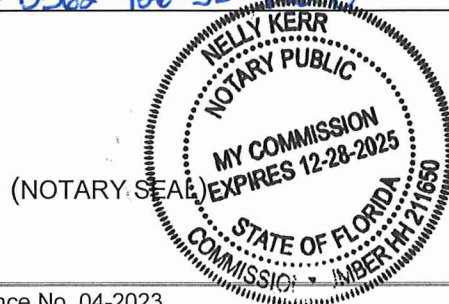
AS: Principal

Mailing Address: 117 E. Monument Av.
Kissimmee FL 34741

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 3 day of August, 2023, by William F. DeMarsh, the Manager of I-4 Howland Investments, LLC, which is the Manager of Deltona Retail Holdings, LLC, who is/are personally known to me or who has/have produced DL: D562-926-55-470-0 as identification and who did not (did) take an oath.



Nelly Kerr
Signature of Notary

Nelly Kerr
Print or type name

IN WITNESS WHEREOF, the City has executed this agreement.

CITY OF DELTONA:

By: James Chisholm

Date: 8-10-23

ATTEST:

Bridgette K Bruno Ludwig

Date: 8-10-23

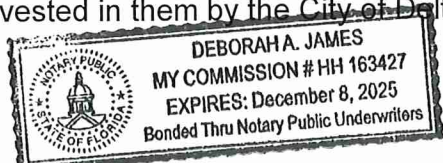
Mailing Address:

City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 10th day of August, 2023, by James Chisholm, and Bridgette Ludwig who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Deltona.



(NOTARY SEAL)

Deborah A. James
Signature of Notary

Deborah James
Print or type name

Approved as to form and legality for use and reliance by the City of Deltona, Florida

Marsha Segal-George
Marsha Segal-George
City Attorney

Exhibit A - Ordinance No. 04-2023
Staff/Applicant Agreed Revisions
7-21-2023

Exhibit B

LEGAL DESCRIPTION OF DELTONA VILLAGE EAST SEGMENT (Revised 8/23/21):

That portion of Davis Park First Addition to Orange City, as recorded in Map Book 6, Page 167 and vacated by Resolution No. 2008-19, as recorded in Official Records Book 6296, Page 659, Public Records of Volusia County, Florida; and that portion of Davis Park Second Addition to Orange City, as recorded in Map Book 6, Page 175 and vacated by Resolution No. 2008-20, as recorded in Official Records Book 6296, Page 668, Public Records of Volusia County, Florida; and that portion of Davis Park Fourth Addition to Orange City, as recorded in Map Book 6, Page 222 and vacated by Resolution No. 2008-21, as recorded in Official Records Book 6296, Page 677, Public Records of Volusia County, Florida; and that portion of Davis Park Sixteenth Addition to Orange City, as recorded in Map Book 7, Page 68 and vacated by Resolution No. 2008-22, as recorded in Official Records Book 6296, Page 682, Public Records of Volusia County, Florida, described as follows:

Commencing at the Northeast corner of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S00°37'22"E along the east line thereof a distance of 100.01 feet to a point on the southerly right of way line of Howland Boulevard, said point being the Point of Beginning; thence continue S00°37'22"E along the east line of said Section 7 a distance of 2540.19 feet to the southeast corner of the Northeast 1/4 of said Section 7; thence N89°54'38"W along the south line thereof a distance of 1657.26 feet; thence N00°22'57"W a distance of 160.53 feet to the northeast corner of Lot 15, Block 11, said Davis Park Sixteenth Addition to Orange City; thence N89°53'35"W along the north line thereof a distance of 165.66 feet to a point on the centerline of Clara Street, as shown on said plat of Davis Park Sixteenth Addition to Orange City; thence S00°21'40"E along said centerline a distance of 160.58 feet to a point on the south line of the Northeast 1/4 of said Section 7; thence N89°54'38"W along the south line thereof a distance of 301.44 feet to a point on the easterly right of way line of North Normandy Boulevard; thence N00°18'41"W along said right of way line a distance of 168.09 feet to a point on a curve concave to the west, having a central angle of 11°35'11", a radius of 1959.86 feet, a chord bearing of N05°28'56"E and a chord distance of 395.65 feet; thence northerly along the arc of said curve a distance of 396.32 feet to the point of tangency thereof; thence N00°18'41"W along said right of way line a distance of 131.96 feet to a point on the centerline of Alabama Avenue, as shown on said plat of Davis Park Sixteenth Addition to Orange City; thence S89°48'08"E along said centerline a distance of 260.90 feet to a point on the centerline of vacated Clara Street, as shown on said plat of Davis Park Sixteenth Addition to Orange City; thence N00°21'40"W along said centerline a distance of 633.48 feet to the South line of the Northwest 1/4 of the Northeast 1/4 of said Section 7, thence N89°41'34"W, along said South line, 260.36 feet to the aforesaid easterly right of way line of North Normandy Boulevard; thence N00°19'01"W along said right of way line a distance of 659.07 feet to a point on the centerline of Tennessee Avenue, as shown on said plat of Davis Park First Addition to Orange City; thence S89°34'52"E along said centerline a distance of 259.85 feet to a point on the centerline of Clara Street, as shown on said plat of Davis Park First Addition to Orange City; thence N00°21'49"W along said centerline a distance of 206.11 feet; thence N89°32'34"W a distance of 30.18 feet to the northeast corner of Lot 34, Block 3, said Davis Park First Addition to Orange City; thence N00°21'49"W a distance of 50.35 feet to the northeast corner of Lot 36, Block 3, said Davis Park First Addition to Orange City; thence N89°32'23"W a distance of 209.46 feet to the aforesaid easterly right of way line of North Normandy Boulevard; thence N00°19'01"W, along said right of way line 208.98 feet to the centerline of the un-named driveway lying south of lots 8, 7, and 6 in Block 3, said plat of Davis Park First Addition to Orange City; thence S89°30'30"E along said centerline a distance of 74.74 feet; thence N00°20'29"W a distance of 103.17 feet to the southerly right of way line of East Graves Avenue; thence S89°28'24"E along said right of way line a distance of 1976.26 feet, to the Point of Beginning.

Except Lots 10 through 19, inclusive, Block 8, and that part of the West 1/2 of Persimmon Street lying east of and contiguous thereto, Davis Park Second Addition to Orange City, as recorded in Map Book 6, Page 175, Public Records of Volusia County, Florida, described as follows: Commencing at the Northeast corner of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence

S00°37'22"E along the east line thereof a distance of 1170.09 feet; thence N89°40'31"W a distance of 495.35 feet to a point on the centerline of aforesaid Persimmon Street and the Point of Beginning; thence continue N89°40'31"W a distance 165.13 feet to the southwest corner of aforesaid Lot 19; thence N00°31'38"W a distance of 250.59 feet to the northwest corner of aforesaid Lot 10; thence S89°37'41"E a distance of 165.03 feet to a point on the centerline of aforesaid Persimmon Street; thence S00°33'04"E along said centerline a distance of 250.46 feet to the Point of Beginning.

Also except Lots 18 and 19, Block 1, and that part of the East 1/2 of Crystal Street lying West of and contiguous thereto, Davis Park, Sixteenth Addition to Orange City, as recorded in Map Book 7, Page 68 of the Public Records of Volusia County, Florida, described as follows: Commencing at the Southeast corner of the Northeast 1/4 of said Section 7, Township 18 South, Range 31 East, Run thence N89°54'38"W along the South line of the Northeast 1/4 of said Section 7, 1325.81 feet to the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 7, thence; N00°25'56"W along the said West line, 848.07 feet to the Southeast corner of Lot 19, Block 1, aforesaid plat of Davis Park, Sixteenth Addition and the Point Of Beginning, thence; N89°46'36"W along the south line of said lot 19, 165.37 feet to the centerline of vacated Crystal Avenue, thence; N00°24'31"W along said vacated centerline to the Westerly extension of the North line of said Lot 18, Block 1, 50.24 feet, thence, S89°45'58"E along the North line of said Lot 18, Block 1, 165.35 feet, to the West line of the Southeast 1/4 of the Northeast 1/4, said Section 7, thence; S00°25'56"E along the said West line, 50.21 feet, to the Point of Beginning.

LEGAL DESCRIPTION OF DELTONA VILLAGE WEST SEGMENT (Revised 8/23/21)

That portion of Davis Park First Addition to Orange City, as recorded in Map Book 6, Page 167 and vacated by Resolution No. 2008-19, as recorded in Official Records Book 6296, Page 659, Public Records of Volusia County, Florida; and that portion of Davis Park Sixteenth Addition to Orange City, as recorded in Map Book 7, Page 68 and vacated by Resolution No. 2008-22, as recorded in Official Records Book 6296, Page 682, Public Records of Volusia County, Florida; and that portion of the Replat of Block 5, Davis Park First Addition to Orange City, as recorded in Map Book 26, Page 51 and vacated by Resolution No. 2008-23, as recorded in Official Records Book 6296, Page 700, Public Records of Volusia County, Florida, described as follows:

Commencing at the northeast corner of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S00°37'22"E along the east line thereof a distance of 2640.20 feet to the southeast corner of the Northeast 1/4 of said Section 7; thence N89°54'38"W along the south line thereof a distance of 2286.71 feet to a point on the westerly right of way line of Normandy Boulevard, said point being the Point of Beginning; thence continue N89°54'38"W along said south line a distance of 364.89 feet to the southwest corner of the Northeast 1/4 of said Section 7; thence N00°14'36"W along the west line of said Northeast 1/4 a distance of 2560.14 feet to a point on the southerly right of way line of East Graves Avenue; thence S89°28'24"E along said right of way line a distance of 464.02 feet to a point on the westerly right of way line of aforesaid Normandy Boulevard; thence S00°19'01"E along said right of way line a distance of 1371.85 to the centerline of the alley in Block 4, said plat of Davis Park Sixteenth Addition to Orange City; thence N89°43'06"W along said centerline a distance of 135.25 feet; thence S00°17'24"E a distance of 259.34 feet to the southwest corner of Lot 20, Block 4, said Davis Park Sixteenth Addition to Orange City; thence S89°45'55"E along the south line thereof a distance of 135.35 feet to a point on the westerly right of way line of aforesaid Normandy Boulevard; thence S00°18'41"E along said Right of Way a distance of 202.23 feet; thence N89°40'16"W along said right of way line a

distance of 15.00 feet; thence S00°18'41"E along said right of way line a distance of 387.24 feet; thence S89°43'50"E along said right of way line a distance of 1.32 feet to a point on a curve concave to the west, having a central angle of 08°40' 13", a radius of 1859.86 feet, a chord bearing of S10°58'30"W and a chord distance of 281.17 feet; thence southerly along the arc of said curve a distance of 281.44 feet to the end of said curve; thence S28°58'54"W along said right of way line a distance of 68.53 feet to the Point of Beginning.

EXCEPT Lots 16 through 19, inclusive, Block 7, and that part of the East 1/2 of Araminta Street lying west of and contiguous thereto, Davis Park Sixteenth Addition to Orange City, as recorded in Map Book 7, Page 68, Public Records of Volusia County, Florida, described as follows: Commencing at the Northeast corner of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N89°28'24"W along the north line thereof a distance of 2634.32 feet to the northwest corner of the Northeast 1/4 of said Section 7; thence S00°14'36"E along the west line of the Northeast 1/4 of said Section 7, a distance of 2122.55 feet; thence S89°49'37"E a distance of 165.50 feet to a point on the centerline of aforesaid Araminta Street and the Point of Beginning; thence continue S89°49'37"E a distance of 165.51 feet to the northeast corner of aforesaid Lot 19; thence S00°17'24"E a distance of 100.74 feet to the southeast corner of aforesaid Lot 16; thence N89°50'40"W a distance of 165.55 feet to the centerline of said Araminta Street; thence N00°15'59"W along said centerline a distance of 100.79 feet to the Point of Beginning.

Exhibit B continued

Luck Parcel #8107-04-11-0120

PROPERTY DESCRIPTION

Lots 12-15, Block 11, Davis Park Sixteenth Addition of Orange City, according to the plat thereof recorded in Map Book 27, Page 68, Volusia County Public Records, Florida.

Exhibit C

For

CITY OF DELTONA, VOLUSIA COUNTY, FLORIDA

DELTONA RETAIL HOLDINGS, LLC

939 HOLLYWOOD BOULEVARD

PH: (386) 313-8825 FAX: (386) 738-2596

PREPARED BY:



LOCATION MAP

1" = 200'

SECTION 7

TOWNSHIP 18S

RANGE 31E

Aerial map of the study area in St. Louis, Missouri. The map shows the Mississippi River, downtown skyline, and a rectangular study area outlined in black. A north arrow and scale bar (1 inch = 200 feet) are included.

DeLano Village Plat Map Book 25 Pages 180-186 along with amendments and revisions as recorded in Volusia County, Florida

FEMA MAPS

SITE

HOLLYWOOD BL
N. WILSON ST
W. 1ST ST

CITY DATA
LAT N 36° 08' 00"
LONG W 121° 08' 00"

Scale: 1" = 200'

SOILS MAP

SOIL TYPES:

- 1 - ADGEC FINE SAND
- 4 - ARVILLA FINE SAND
- 13 - CASITA FINE SAND
- 17 - DAYTONA SAND
- 21 - DAYTONA SAND AND
- 37 - ORSINO FINE SAND
- 4243 - PUOLA FINE SAND
- 65 - TAYLORS FINE SAND

| <u>NO.</u> | <u>TITLE</u> |
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| 1. | COVER SHEET |
| 2. | DEVELOPMENT STANDARDS |
| 3. | EXISTING SITE/AERIAL PHOTO |
| 4. | OVERALL SITE PLAN |
| 5. | NORMANDY BOULEVARD PLAN (FULL BUILD-OUT) |
| 6. | NORMANDY BOULEVARD (BUILD-OUT CONDITIONS) |
| 7. | SITE PLAN (BUILD OUT) |
| 8. | SITE GRADING/UTILITY PLAN (PHASE 1) |
| 9. | DELTONA VILLAGE OUTPARCEL BUILD OUT PLAN |
| 10. | MASTER SIGNAGE PLAN |

APPLICANT

DELTONA RETAIL HOLDINGS, LLC
939 HOLLYWOOD BOULEVARD
DELTONA, FLORIDA 32725

CIVIL ENGINEERS

117 E. MONUMENT AVENUE
KISSIMMEE, FLORIDA 34741

OWNER OF RECORD

DELTONA RETAIL HOLDINGS, LLC
939 HOLLYWOOD BOULEVARD
DELTONA, FLORIDA 32725

LAND SURVEYOR:

LAND SURVEYORS, INC.
995 W. VOLUSIA AVE.
JACKSONVILLE, FL 32218
(904) 766-1111

TEL: (386) 734-8050 FAX: (386) 734-7844
MEGAN BLACKWELL

Deltona Village Overall Development Plan Cover Sheet

Deltona Retail Holdings, LLC

City of Deltona, Volusia County Florida

Date: July 5, 2023


Sheet 1 of 10

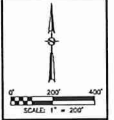
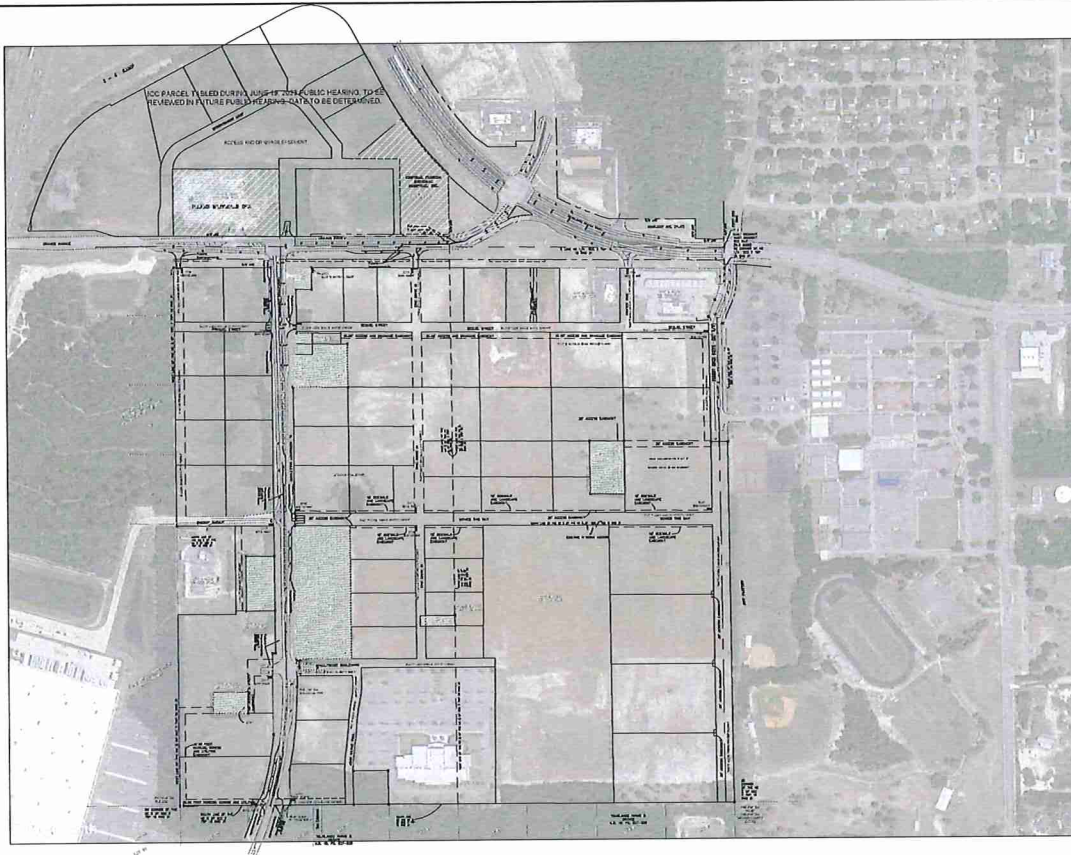
Disclaimer

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• **Engineering Consultants**
117 East Monticelli Avenue • Kissimmee, FL 347
Phone: (407) 738-1979 Fax: (407) 348-7552

| | | |
|--|---|--|
| <p>Permitted Land Uses</p> <p>The following land uses and their similar, customary, incidental and subordinate accessory uses shall be permitted on the Subject Property ("Permitted Uses"):</p> <p>Hotels and hotels.</p> <p>Restaurants, Types A and B.</p> <p>Retail sales and services typically associated with Big Box, Lifestyle, and/or National Community Shopping Center Development.</p> <p>Retail shops, professional offices, and personal service enterprises similar to the following:</p> <p>Animal hospital.</p> <p>Antique shops.</p> <p>Aquariums.</p> <p>Art goods and bric-a-brac shops.</p> <p>Art studios.</p> <p>Art, dance, modeling and music schools.</p> <p>Auction parlors.</p> <p>Automobile care parts, equipment and accessories; sales only.</p> <p>Automobile service stations, Types A, B and C.</p> <p>Automobile sales, new and used.</p> <p>Automobile rental agencies.</p> <p>Bakeries, retail (including preparation of products for sale on the premises).</p> <p>Banks and other financial businesses.</p> <p>Barber shops.</p> <p>Bars and liquor stores.</p> <p>Beauty parlors.</p> <p>Bicycle stores.</p> <p>Billiard rooms, pool rooms or bowling alleys.</p> <p>Bowling alleys.</p> <p>Cat washes.</p> <p>Cigar stores (retail only).</p> <p>Catering services.</p> <p>Communications towers up to 70 feet high, in accordance with Chapter 82, Code of Ordinances, as it may be amended from time to time.</p> <p>Confectionery and ice cream stores.</p> <p>Convenience stores.</p> <p>Convenience stores, with and without fuel pumps or car wash.</p> <p>Cultural, historical, and art centers and museums.</p> <p>Curtain stores.</p> <p>Day care centers.</p> <p>Dental offices and clinics.</p> <p>Dental laboratories.</p> <p>Drug and sundry stores.</p> <p>Electric sales and service.</p> <p>Electronic sales and service.</p> <p>Emergency rooms and medical clinics.</p> <p>Employment agencies.</p> <p>Essential utility services.</p> <p>Fire stations.</p> <p>Florist shops.</p> <p>Food manufacturing, processing, and distribution.</p> <p>Fruit stores (retail only).</p> <p>Furniture stores.</p> <p>Funeral Homes.</p> <p>Game rooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin-operated amusements.</p> <p>Garden supplies and retail fertilizer store.</p> <p>General offices.</p> <p>Grocery stores with or without meat sales.</p> <p>Hardware stores (retail only).</p> <p>Home improvement and design centers.</p> <p>Houses of worship.</p> <p>Interior decorating, curtaining, draperies.</p> <p>Jewelry stores, watch repairs.</p> <p>Laundromats.</p> <p>Laundry and cleaning agencies (provided no gasoline or explosives of any kind are stored or used thereat).</p> <p>Lawn equipment sales and service.</p> <p>Leather goods stores (retail only).</p> <p>Libraries.</p> <p>Light industrial land uses.</p> <p>Medical offices and clinics.</p> <p>Milinery, wearing apparel, furrier stores.</p> <p>Modeling, art, dance and music schools.</p> <p>Motion Picture Exhibitions, including any form of public or private motion and/or electronic picture exhibition facilities or methods.</p> <p>Music and radio stores.</p> <p>Night clubs.</p> | <p>Non-profit membership and charitable organizations.</p> <p>Newsstands.</p> <p>Outdoor entertainment and recreational uses and structures.</p> <p>Paint stores.</p> <p>Pest extermination.</p> <p>Pet stores.</p> <p>Photograph galleries.</p> <p>Physical fitness centers.</p> <p>Printing shops.</p> <p>Private clubs, lodges, fraternities, societies.</p> <p>Flaming furniture shops (retail only).</p> <p>Flaming, sales and service.</p> <p>Police and sheriff stations.</p> <p>Public art galleries, libraries, museums, and other public meeting places not operated for profit.</p> <p>Retail specialty shops.</p> <p>Retail sales and services, excluding sales or rental of automobile, motorcycle, truck, motor home, or travel trailers, automobile driving schools, boat or mobile home sales and services.</p> <p>Schools.</p> <p>Tobacco shops.</p> <p>Utility offices.</p> <p>Veterinarians.</p> | <p>Minimum Permitted Floor Area Ratio</p> <p>The overall Floor Area Ratio for the Subject Property shall not exceed 0.35 and no individual site shall exceed 0.50.</p> <p>Minimum Lot and Outparcel Area</p> <p>The minimum permitted Lot and Outparcel area shall be ten thousand square feet with use of master stormwater facilities, and at least 100 feet in width.</p> <p>Minimum Impervious Surface Area</p> <p>The overall Subject Property may be developed with a maximum impervious surface area of 75%. Each individual Lot and Outparcel within the Subject Property may be developed with a maximum impervious surface area of 85% if connected to the master stormwater system ("MSW"). If an individual Lot and Outparcel does not utilize the MSW, then the maximum impervious surface area for that Lot or Outparcel shall not exceed 75%.</p> <p>Site Lighting</p> <p>A Site Lighting plan shall be submitted for review and approval to the Planning and Development Services Director.</p> <p>Building Setbacks</p> <p>Minimum building setbacks from the property lines of the Lots and Outparcels, except the Theatre Lot, shall be as follows:</p> <p>a). Front Yard: 25 feet</p> <p>Along Graves Avenue and Highland Blvd. 25 feet</p> <p>Along Rhodie Island and Normandy 10 feet</p> <p>b). Side Yard: 5 feet, except may be reduced to zero where</p> <p>(i) adjacent to existing building with zero foot setback,</p> <p>(ii) coordinated with proposed building with zero foot setback or</p> <p>(iii) adjacent to property not part of the Subject Property or completely surrounded by the Subject Property.</p> <p>c). Rear Yard: 15 feet</p> <p>d). Theatre and Internal building setbacks shall be 0 feet.</p> <p>Perimeter Landscaped Buffers</p> <p>Perimeter landscaped buffers shall comply with the City of Deltona Land Development Code of Section 11B-0408 except as follows:</p> <p>a). Where parking slots a public right of way, the requirement for a four-foot high wall made of masonry or a material having the appearance of masonry may be substituted with a vegetative hedge to be 5 feet in height within two years of planting.</p> <p>b). A minimum 10 foot landscape buffer shall be required along Normandy Boulevard, Highland Boulevard, Graves Avenue and Rhodie Island extension.</p> <p>c). A minimum 5 foot landscape buffer shall be provided along at least one side of the interior vehicular circulation roads.</p> <p>d). A minimum 5 foot landscape buffer shall be provided along the perimeter of any Lot or Outparcel not abutting a public right of way.</p> <p>Landscaping in Front of Buildings</p> <p>Landscaping in front of the buildings shall be placed in a manner that highlights building entrances and breaks up the largely typical of any large building on the Lots and Outparcels and may be placed within any landscape buffer area. All maintenance equipment, dumpster and loading areas shall be screened from view by a combination of landscaping and walls.</p> <p>Sidewalks</p> <p>A minimum 5 foot sidewalk will be provided along the southerly right-of-way of Highland Blvd. The 5 foot sidewalk can occur within the landscape buffer areas if they occupy no more than 50% of the buffer. Internal pedestrian sidewalks will be required to facilitate pedestrian access. The location and alignment of the sidewalks will be determined during the Final Site Plan review process.</p> <p>Site Advertising Signs</p> <p>The Owner/Developer shall be entitled to entrance signs consistent with the Master Signage Plan submitted with this MDP/ODP. All signage shall comply with the following:</p> <p>a). Free standing signs shall have landscaping at the base.</p> <p>b). Each Lot defined as such on the final site plan ("Lots") shall have the right to have the maximum number of free-standing signs, as locations as shown on future site plans, the final site plan, and the MDP/ODP.</p> <p>c). Each future outparcel and outparcel defined as such on the final site plan shall be permitted one free standing sign or pole sign.</p> <p>d). Such other signs as are approved by the Planning and Development Services Director and which are consistent with the overall site plan to be approved by the City.</p> <p>Modification of MDP/ODP</p> <p>Any non-substantial or minor amendments or modifications to the MDP/ODP may be submitted and approved by the Planning and Development Services Director.</p> |
| <p align="center">Deltona Village Development Standards Deltona Retail Holdings, LLC City of Deltona, Volusia County Florida</p> | | |
| Date: July 5, 2023 | Sheet 2 of 10 | <p>Disclaimer: This information is confidential and provided only for the intended user. All items submitted are confidential and are to be utilized for planning purposes only and can be changed without notice.</p> <p> Engineering Consultants 111 East Main Street, Suite 100 • Deltona, FL 32725 Phone: (407) 724-1179 Fax: (407) 724-7172</p> |



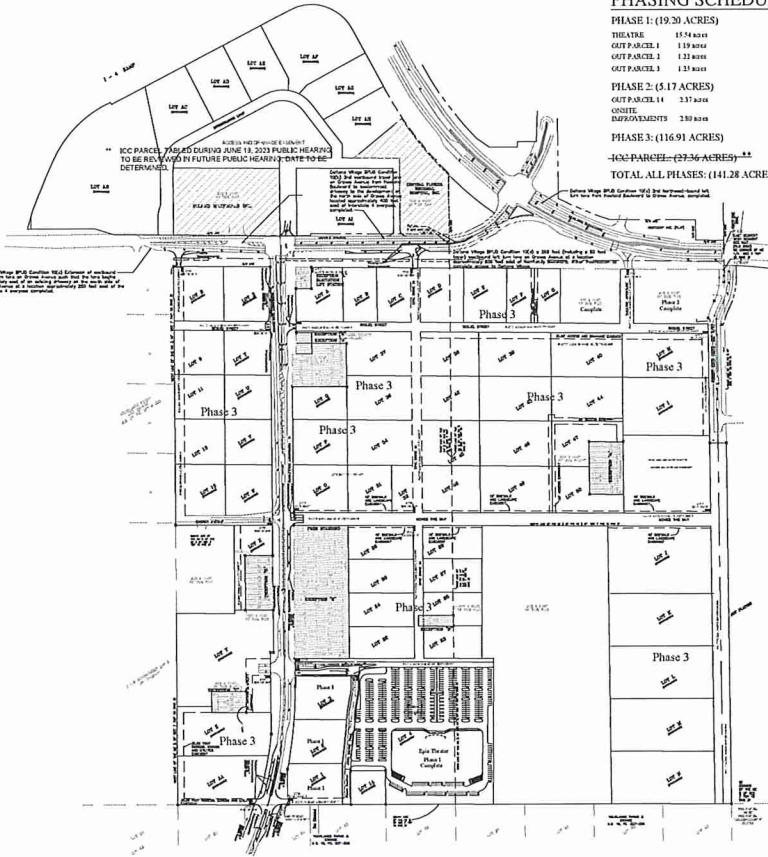
Deltona Village Existing Site/Aerial Photo
 Deltona Retail Holdings, LLC
 City of Deltona, Volusia County Florida

Date: July 5, 2023

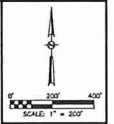
Sheet 3 of 10

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Note: All excluded areas are not included in the Differs Village BIFUD Receiving Application



MAXIMUM BUILDING HEIGHT: 75 FEET

MAXIMUM FLOOR AREA RATIO: 0.35 FAR (overall site), 0.5 FAR (individual site)

MAXIMUM IMPERVIOUS AREA: Overall Site = 75%
Individual Lot = 85% (if connected to a M55)
= 75% (if not connected to a M55)

MINIMUM BUILDING SETBACKS:

Front = 25' (Overse Area and Holland Blvd.)
10' (Naturally Roded and Rhode Island Exd.)
0' (Therite and inferior property line)

Rear = 15'
0' (Therite and inferior property line)

0' (Therite and inferior property line)

0' (Therite and inferior property line)

* Site setback may be reduced to zero feet where (a) lot is set to an existing building with zero foot setback, (b) coincident with proposed building with a zero foot setback, or (c) adjacent to property not part of the subject property or completely surrounded by the subject property.

LANDSCAPE BUFFER:

5' (Holland Blvd., Naturally Roded, Overse Area, and Rhode Island Exd.)

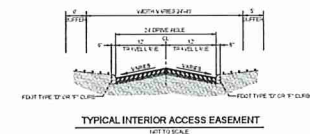
5' (Perimeter of each parcel not within a public right of way)

5' (distance at least on one side of vehicular intrusion road)

Where parking abuts a public right of way, the requirement for a five foot high masonry wall as indicated herein for the purpose of privacy may be substituted with a vegetative hedge to be five feet in height within 2 years of planting.

NOTES:

1. The proposed Rhode Island Extension improvements to be addressed with future developments within Phase 3 as required or as required by others due to offsite repairs not within Deltara Village's control or obligation.



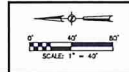
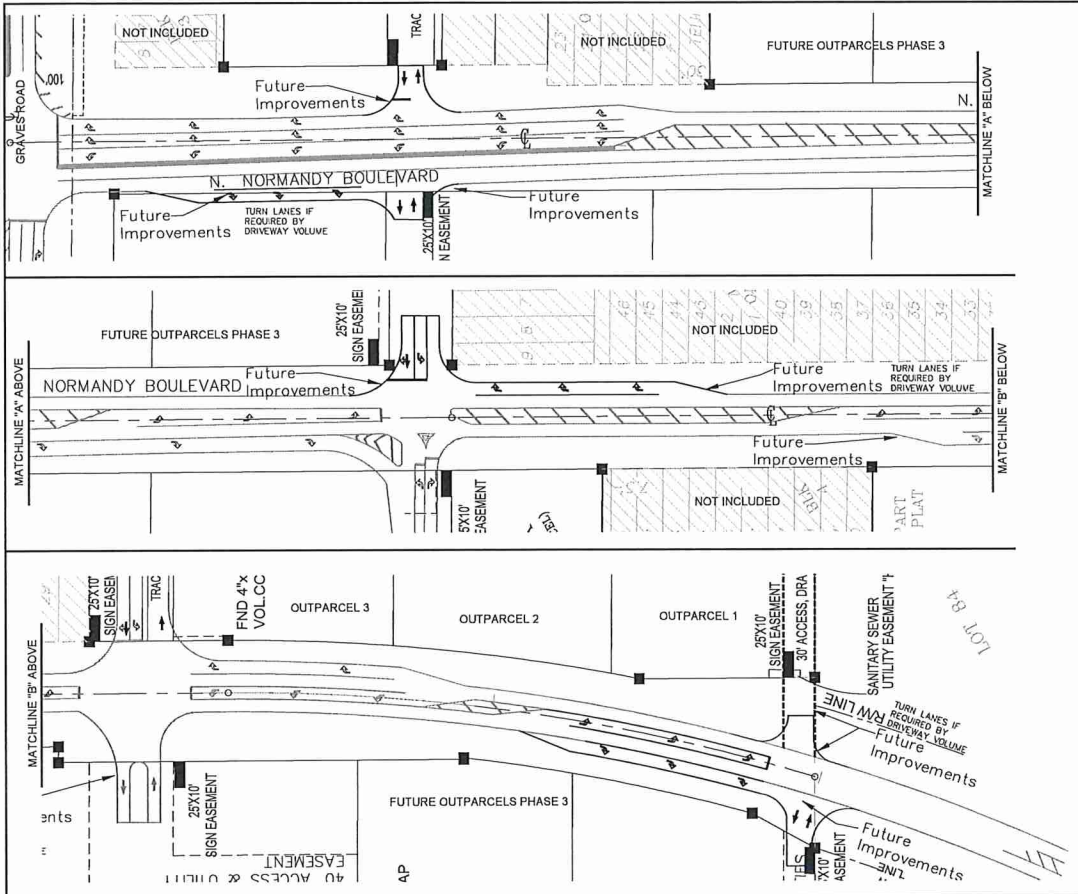
Deltona Retail Holdings, LLC
City of Deltona, Volusia County Florida

Date: July 5, 2023

Sheet 4 of 10

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Deltona Village Normandy Boulevard (Full Build-Out)

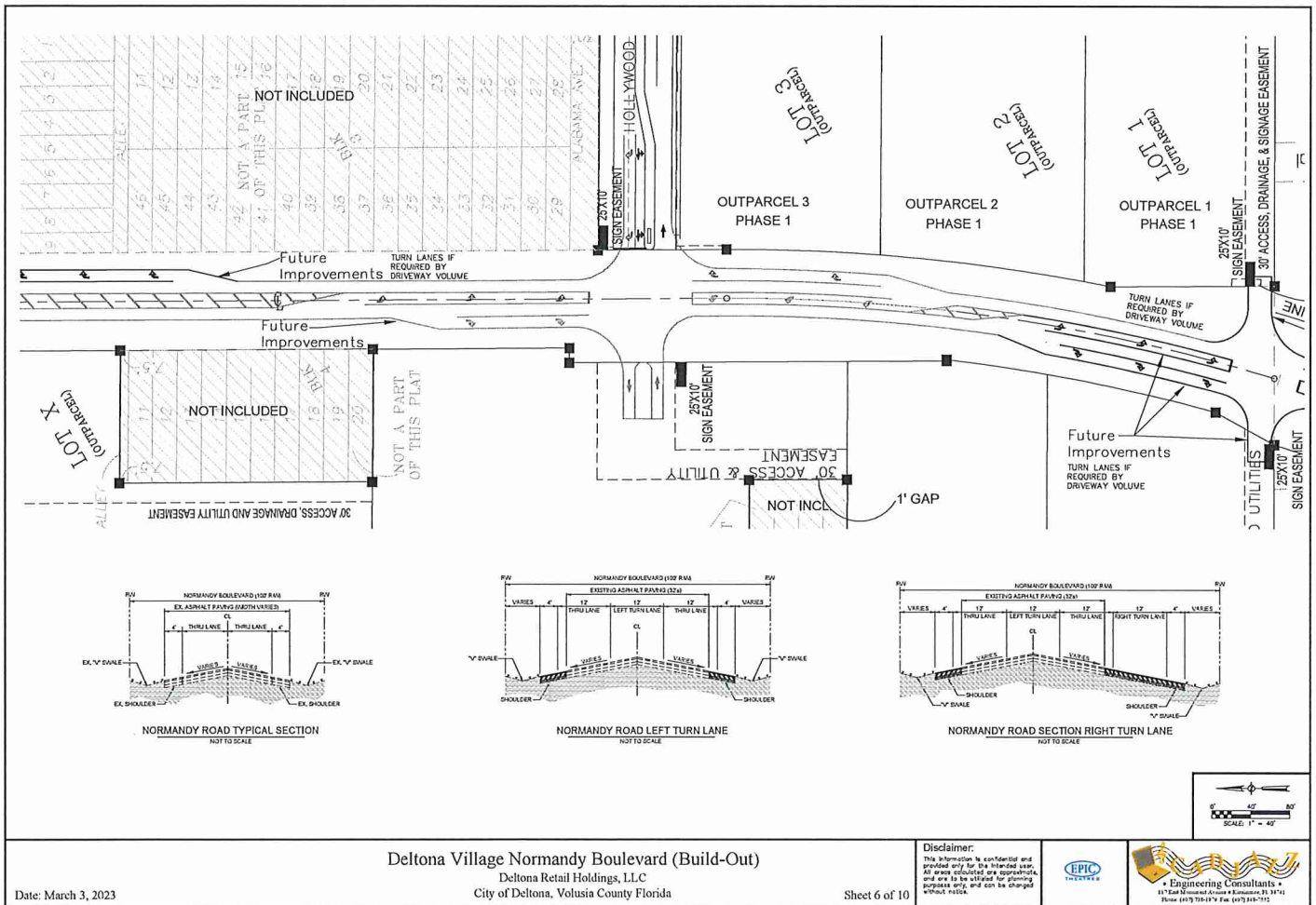
Deltona Retail Holdings, LLC
City of Deltona, Volusia County Florida

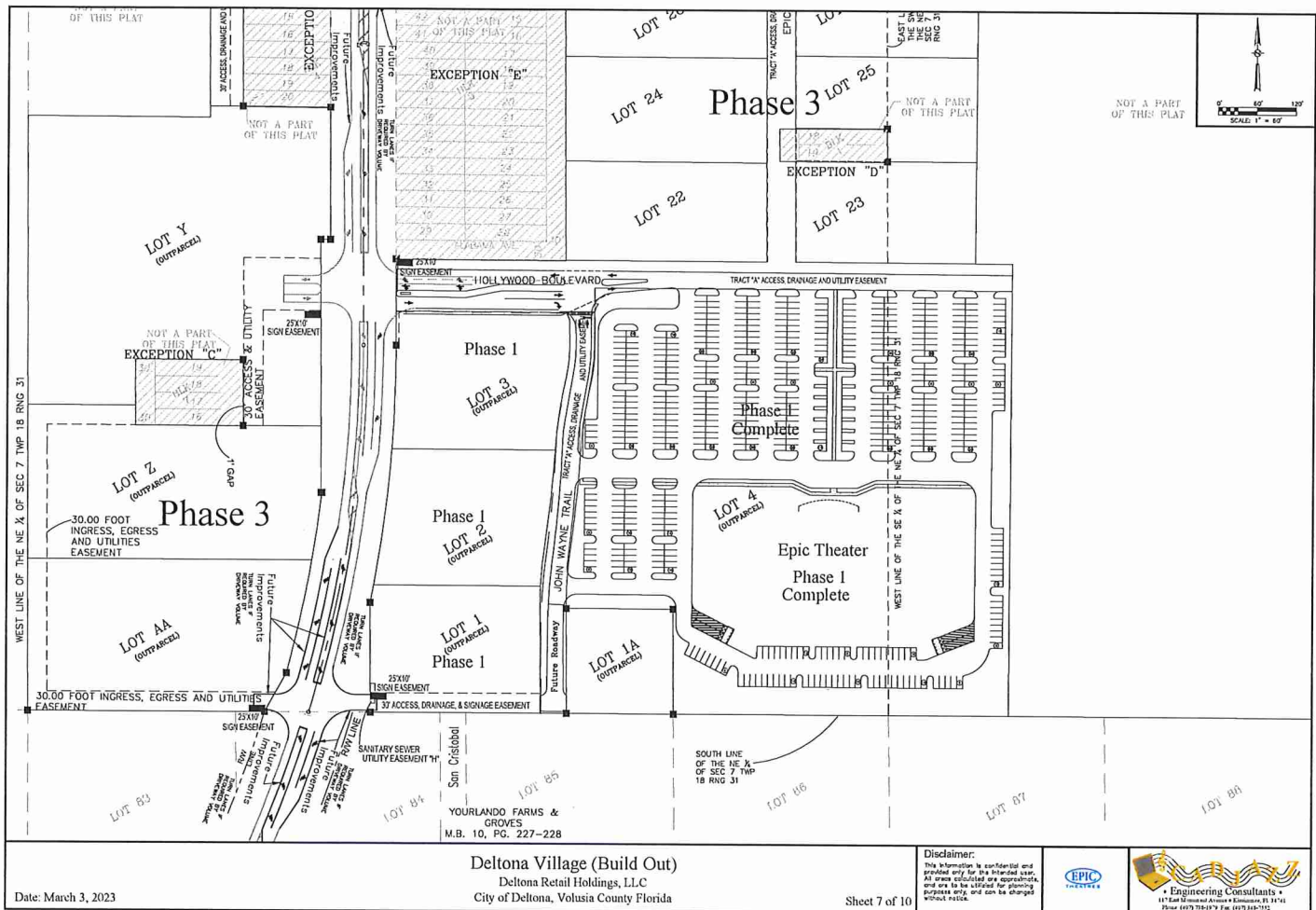
Sheet 5 of 10

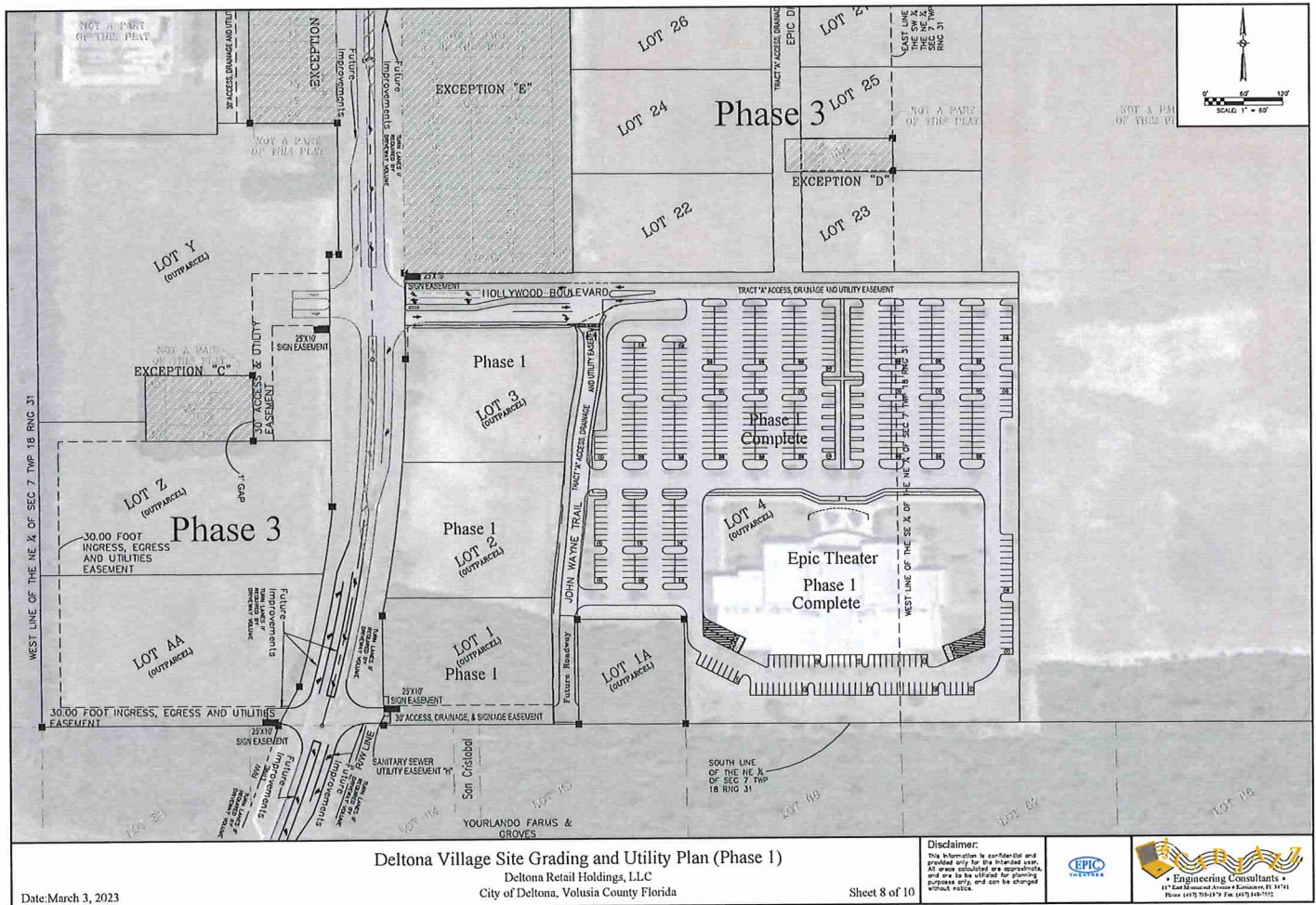
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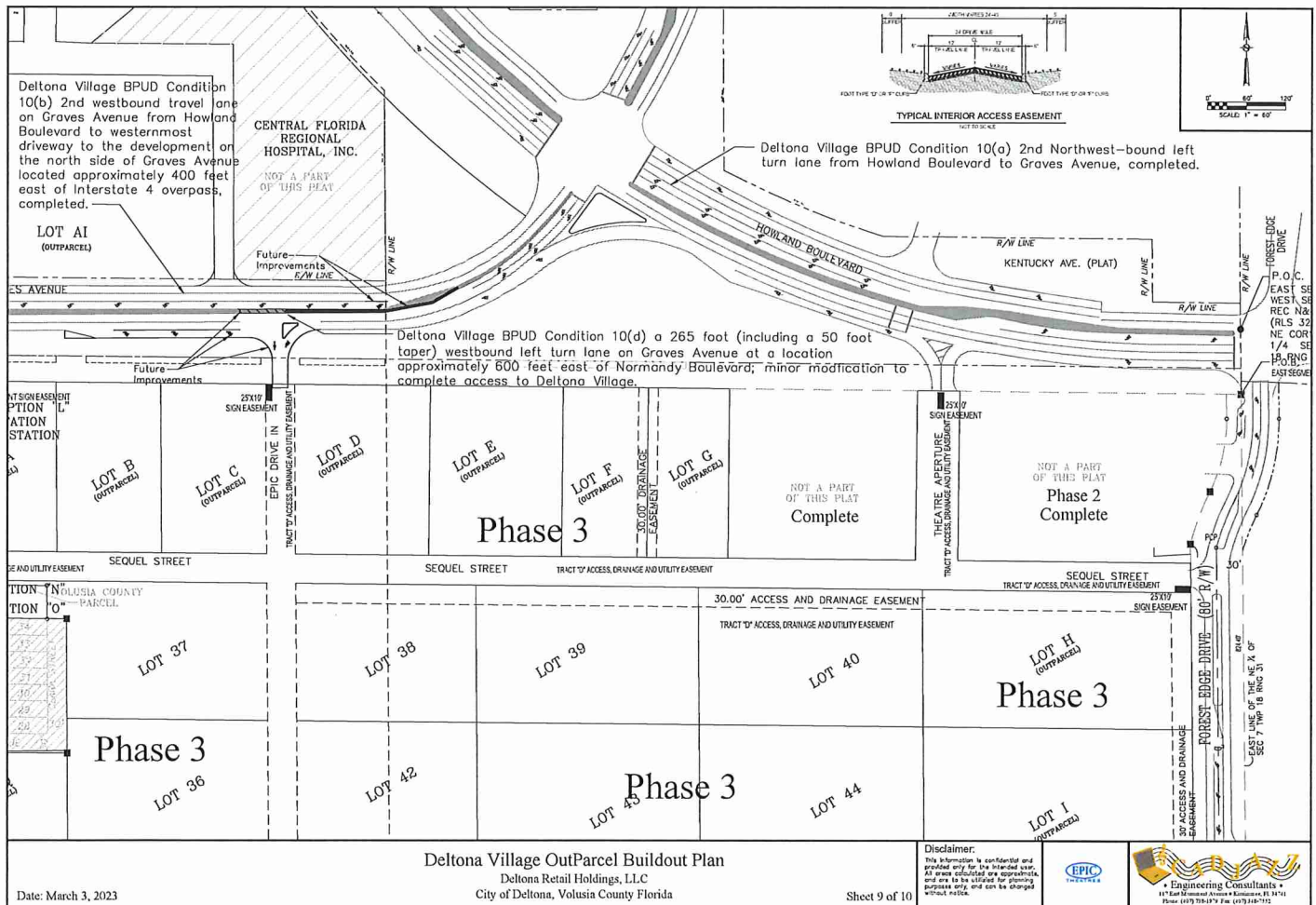


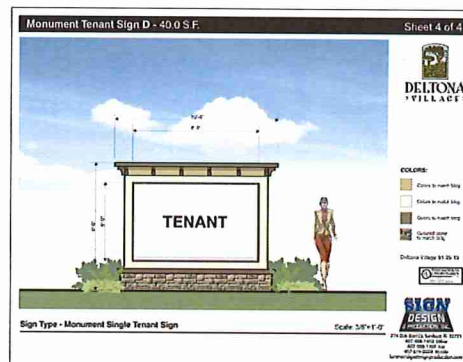
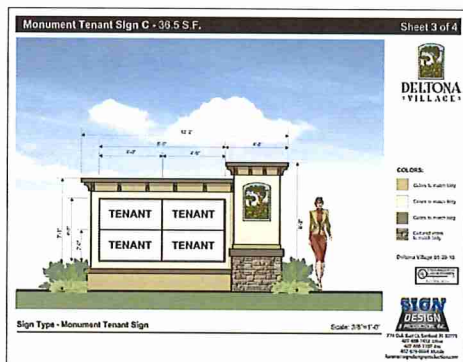
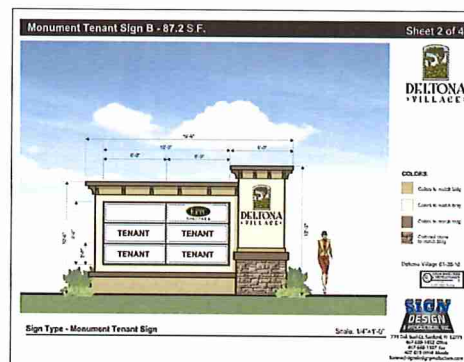
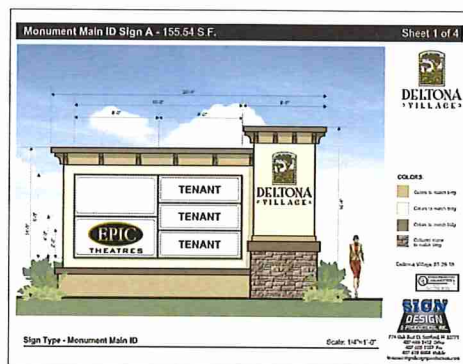
Date: March 3, 2023











Deltona Village Master Signage Plan
Deltona Retail Holdings, LLC
City of Deltona, Volusia County Florida

Date: January 21, 2010

Sheet 10 of 10

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Prepared by and returned to
City of Deltona, City Clerk
2245 Providence Blvd.
Deltona, FL 32725

Exhibit D

06/07/2010 01:39 PM
Instrument# 2010-101853 # 1
Book: 6482
Page: 4234

City of Deltona
Staff Drafted
DEVELOPMENT AGREEMENT

Deltona Village BPUD

For property located in the Areawide DRI at 2160 Normandy Boulevard

THIS DEVELOPMENT AGREEMENT ("Agreement") entered into and made as of the 15th day of February, 2010, by and between the CITY OF DELTONA, FLORIDA (hereinafter referred to as the "City"), and Deltona Retail Holdings, LLC, a Florida limited liability company and Eleanor J. DeMarsh, as Trustee of the Eleanor J. DeMarsh Revocable Trust dated May 20, 1992 as Restated on March 21, 1994 (hereinafter referred to as the "Owner/Developer").

WITNESSETH

WHEREAS, the Owner/Developer warrants that it or an entity on whose behalf it is authorized to act hereunder holds legal title to the property described in Paragraph 2 below and that the holders of any and all liens and encumbrances affecting such property will subordinate their interests to this Agreement; and

WHEREAS, the Owner/Developer desires to facilitate the orderly development of the subject property, in compliance with the laws and regulations of the City and of other governmental authorities, and the Owner/Developer desires to ensure that its development is compatible with other properties in the area; and

WHEREAS, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

WHEREAS, the Owner/Developer has sought the City's approval for plans to develop the subject property, and the City Commission of the City of Deltona, Florida, has approved a Business Planned Unit Development ("BPUD") on February 15, 2010, with an Overall Development Plan/Master Development Plan ("ODP/MDP") subject to the covenants, restrictions, and easements contained herein, and in the Business Planned Unit Development rezoning ordinance, Ordinance No. 21-2009, and further subject to all other applicable requirements of law.

1 **WHEREAS**, the City of Deltona adopted Ordinance No. 05-2003 on July 7, 2003 which
2 approved the Development Order of the Interstate 4/State Road 472 Area wide Development of
3 Regional Impact ("DRI"), and all development shall be consistent with this adopted ordinance;

4 **NOW THEREFORE**, in consideration of the mutual covenants and agreements
5 contained herein, and other good and valuable consideration, the receipt and sufficiency of which
6 is hereby acknowledged, the parties hereto agree as follows:

7 **1. INCORPORATION.** The recitals herein contained are true and correct and are
8 incorporated herein by reference.

9 **2. OWNERSHIP.** The Owner/Developer represents that it or an entity on behalf of
10 which it is authorized to act is the present owner of the following described property (hereinafter
11 referred to as the "Subject Property"):

12 Attached hereto as **Exhibit "A"**

13 **3. TITLE OPINION/CERTIFICATION.** The Owner/Developer has provided to the
14 City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed
15 in Florida, or a certification by an abstractor or title company authorized to do business in
16 Florida, showing marketable title to the Subject Property to be in the name of the
17 Owner/Developer or an entity on behalf of which it is authorized to act and showing all liens,
18 mortgages, and other encumbrances not satisfied or released of record.

19 **4. DEVELOPMENT CONDITIONS**

20 **A.** The Owner/Developer shall develop the subject property in conformance with the
21 requirements of the approved BPUD and approved ODP/MDP. In the event of the expiration or
22 sooner termination, or amendment to the DRI, or any of the provisions of the Code of Ordinances
23 of the City or the Deltona Land Development Code, all rights and entitlements to which the
24 Owner/Developer was entitled at the time of the expiration or sooner termination, or amendment to
25 the DRI, or any of the provisions of the Code of Ordinances of the City or the Deltona Land
26 Development Code, shall, at the option of the Owner/Developer, vest in the Owner/Developer and
27 not be subject to the expiration, termination or amendment.

28 **B. Site Plan(s).** The Owner/Developer shall submit a Final Site Plan application for
29 each proposed Lot and shall secure a Final Site Plan Development Order pursuant to the BPUD,
30 ODP/MDP, and City Land Development Code. Each site proposed for development shall be platted

1 into one or more lots prior to commencement of development and as a condition for Final Site Plan
2 approval.

3 **C. Platting.** Subdivision of any Lot or Outparcel shown on the approved Plat that
4 creates a maximum of four (4) new conforming Lots or Parcels shall be considered a minor
5 amendment, and shall be approved by City staff as an administrative subdivision and does not
6 require an amendment to the BPUD, ODP/MDP, the Plat or approval of the City Commission.
7 Any further subdivisions of any Lot or Outparcel shall be a major amendment, and shall be
8 approved only after City Commission's approval as may be required by law in effect at the time
9 the amendment application is submitted to the City. Combination of any whole platted Lots
10 and/or Outparcels with one or more other whole platted Lots and/or Outparcels shall be
11 considered a minor amendment.

12 The submission of a sketch plan and ODP/MDP plan prior to the application for approval
13 of a Subdivision Preliminary Plat Development Order as required by the Code of Ordinances of
14 the City is satisfied by the approval of the ODP/MDP, and the City shall not require the
15 submission of any additional sketch plan nor overall development plan as a part of the Plat
16 approval process.

17 A final site plan application may be accepted and reviewed concurrently with the
18 preliminary plat application if such final site plan application shall provide all information and
19 analyses that is determined by the City staff to be necessary to show consistency and
20 coordination with the proposed preliminary plat, and any public and common improvements that
21 are planned, or approved, or funded, or under construction, or required in connection with the
22 preliminary plat, including the future phases of development.

23
24 **5. PHASING.** The Owner/Developer may choose to develop the Subject Property in
25 multiple phases or sub-phases in any order the Owner/Developer desires. Stormwater
26 calculations for the build out of each phase or sub-phase of the development shall be provided
27 with the Preliminary Plat application, along with the design and construction details of all
28 commonly or publicly owned or maintained stormwater facilities.

1
2 **6. PERMITTED USES.**

3 **A. Permitted Land Uses.**

4 The permitted land uses and their customary incidental and subordinate accessory uses on
5 the Subject Property shall be as described in the BPUD Ordinance No. 21-2009 or if not
6 specifically stated in said Ordinance, such similar uses as approved by the Development Services
7 Director.

8 **7. SITE DEVELOPMENT STANDARDS.**

9 **A. Site Development Standards shall be as set forth in the ODP/MDP and this**
10 **Agreement.** Any non-substantial or minor amendments or modifications to the
11 ODP/MDP, as such is determined by the Planning and Development Services Director, who
12 may request a review by the DRC, may be approved by the Planning and Development
13 Services Director.

14 **B. Building Architecture.**

15 Building architecture shall conform to design guidelines as approved by the Director of
16 Planning and Development Services.

17 **C. Impact Fees.**

18 The City acknowledges that the parties hereto reasonably expect any and all applications
19 for Final Site Plan review for any phase or sub-phases of this Project to be submitted within the
20 period in which the City has adopted a legal moratorium on the imposition of or obligation to
21 pay any impact fees or mobility fees or similar or like fees. It is anticipated by all parties to
22 this Agreement that no impact fees or mobility fees or any other similar or like fees or
23 obligations shall be required by the City for the development of the Subject Property. The
24 Owner/Developer shall be entitled to the benefit of the City moratorium so long as an
25 application for a building permit has been submitted by the expiration date of the moratorium
26 and the application is diligently pursued.

27
28 **D. Miscellaneous.**

- 29 a. The parties recognize that additional Police and Sheriff Department
30 services shall be required for the theatre and the Subject Property. The

1 City hereby acknowledges the availability of such services and agrees to
2 provide such services to the Subject Property that are consistent with or
3 similar to services provided throughout the City.

- 4 b. The City acknowledges that the proposed alignment of Graves Avenue
5 is no longer the preferred roadway network. The City acknowledges
6 that the ODP/MDP contains the preferred alignment for the roadway
7 network within and bordering the Subject Property.

8 **8. NATURAL RESOURCE PROTECTION**

9 A. **Wetlands** - There are no known wetlands on the Subject Property. The
10 City Commission acknowledges no payment shall be due of any funds, whether a fee, charge, or
11 otherwise, to the City and/or the City's Environmental Improvements Trust Fund, pursuant to
12 City Resolution No. 2006-13, or any other applicable ordinance, resolution or rule.

13 B. **Endangered Wildlife**: - The Owner/Developer has submitted a report
14 indicating that no scrub jays inhabit the site. The Owner/Developer shall submit a gopher tortoise
15 study for each Lot as part of the final site plan approval process and if applicable, secure the
16 appropriate permits from the applicable agencies.

17 C. **Archeological Assessment**. The Owner/Developer has complied with the
18 standard permitting condition of the Division of Historical Resources regarding fortuitous finds or
19 unexpected discoveries during ground disturbing activities on the property. The Division of Historical
20 Resources letter dated September 15, 2005, DHR No. 2005-8847, indicates no significant
21 archeological or historical sites or structures are within the Subject Property, and further examination
22 of the surrounding region suggests that a low potential for the identification of archaeological
23 resources in that area exists.

24 D. **Open Space Requirements**. The City acknowledges that due to
25 hurricanes and other damage, and in accordance with the proper permits, the Subject Property
26 was cleared of debris and dead trees and there were no trees on the site that could be preserved.
27 Accordingly, the City shall not require tree preservation, except for the impervious area,
28 landscaping and buffer specifically provided herein.

1 **9. SITE ACCESS.**

2 **A. Rhode Island Extension Right of Way:** The Owner/Developer shall
3 dedicate 80' of right of way along a portion of the eastern boundary of the Property upon the City's
4 issuance of a Preliminary Plat Development Order and a Certificate of Capacity. This 80' right of
5 way shall be utilized for the future construction of a segment of Rhode Island Extension. In the
6 event the City/County does not construct the Rhode Island Extension within ten years from the date
7 hereof, that portion of the 80' right of way that has not been constructed shall revert back to the
8 Owner/Developer without further notice or hearing. At the option of the Owner/Developer, the
9 City/County may retain the 80' right of way upon either i) the conveyance or transfer to the
10 Owner/Developer or its assigns, of any and all development rights as to that portion of the property;
11 or ii) the City/County shall pay Owner/Developer a fair market value for the fee simple rights to the
12 subject property which may be paid by the granting of impact fee credits or mobility credits or such
13 similar or like credits which may be transferred to third parties for development within five miles of
14 the Subject Property and the City/County shall facilitate the sale, transfer or assignment of said
15 credits to third parties for such valuable consideration as determined by Owner/Developer. In the
16 event the Owner/Developer elects to make any improvements beyond those required for the
17 development of the Subject Property by Owner/Developer, the City/County shall grant to
18 Owner/Developer such impact fee credits or mobility credits or such similar or like credits as is
19 available pursuant to Florida Statutes and City Code of Ordinances for such additional
20 improvements.

21 **B. Cross Access:** The Owner/Developer shall provide cross access and easements
22 as may be necessary for real property surrounded by the Subject Property that is owned by third
23 parties that are not parties to this Agreement ("surrounded parcel"), and include cross access
24 implementation measures in the Preliminary Plat, Final Plat, and Final Site Plans submitted to the
25 City for its review and approval. If and when the Owner/Developer acquires from said third party a
26 surrounded parcel, then that easement to the surrounded parcel will no longer be required, and if the
27 easement was created it may be eliminated by the Owner/Developer. Said submittals shall not be
28 deemed to be complete until reasonable cross access provisions meeting sound engineering
29 standards have been included on the submitted plans. If such surrounded parcels are provided
30 access within the internal access system, the City shall require the third party owners of the

1 surrounded parcel(s) to pay their pro rata share of expenses related to the common area
2 improvements and maintenance expenses within the BPUD.

3 C. **Mass Transit:** Owner/Developer shall provide land for a bus shelter or
4 bus-stop adjacent to the Subject Property in a location reasonably acceptable to
5 Owner/Developer and which does not negatively impact the value of the Subject Property or
6 unreasonably interfere with the use of the Subject Property and Owner/Developer's plan for
7 development of the Subject Property. Any voluntary contributions of land by Owner/Developer
8 for mass transit facilities or parking area shall be in exchange for i) an equivalent development
9 entitlement; or ii) the reduction or elimination of an equivalent fee imposed by the City or
10 County.

11 D. **Traffic Mitigation:** The applicant has completed a Traffic Impact Analysis
12 ("TIA") which identified traffic impacts and necessary mitigation measures for the approval of this
13 BPUD. The traffic mitigation and fair share payments pursuant to Sections 163.3180(11) and
14 163.3180(16), *Florida Statutes* are set forth in paragraphs 10 and 11 hereinbelow. The
15 methodology utilized for the TIA is consistent with the methodology adopted by the Deltona
16 Activity Center DRI. The City acknowledges that due to the poor economic conditions which exist
17 in retail development industry, the TIA phase completion dates shall be extended to coincide with
18 the recovery of the national economy.

19 **10. FAIR SHARE OF COSTS OF ROADWAY IMPROVEMENTS.**

20 The overall project is a commercial project planned to consist of up to 900,000 square
21 feet of commercial retail uses on the Subject Property and on adjacent property controlled by the
22 Owner/Developer, subject to final site plan approvals by the City.

23 The Owner/Developer submitted a Traffic Impact Analysis (dated December 2009)
24 ("TIA") prepared for the City of Deltona for the first 96,000 square feet of development within
25 the Subject Project. The Owner/Developer submitted a TIA (dated December 2009) prepared for
26 the County of Volusia for an additional 804,000 square feet of development within the Subject
27 Project and on adjacent property controlled by the Owner/Developer. The TIA phases, which
28 refer to thresholds of developable square footage, do not equate to the lot arrangement phases
29 reflected in this Agreement and the ODP/MDP. The two (2) TIA reports submitted to the
30 County and City take into account all phases or sub-phases of development on the Subject

Property and adjacent property controlled by Owner/Developer. The TIA includes all phases of the Subject Property and an exhibit depicting such phases is attached hereto as **Exhibit B**, which is incorporated herein by this reference.

Based upon the TIA reports, the Owner/Developer shall pay to the County or to the City as the collecting agent for the County, a fair share assessment amount prior to the issuance of building permits by the City. Payment may be in the forms authorized pursuant to Sections 163.3180(11) and 163.3180(16), *Florida Statutes*. The total fair share assessment amount due by phase is stipulated below and shall not exceed the amounts below:

| | <u>Square Feet</u> | <u>Mitigation</u> |
|----------------------------------|--------------------|--------------------|
| City TIA Phase | 96,000 | 0 |
| County TIA Phase I | 301,000 | \$125,000 |
| County TIA Phase II | 269,000 | \$803,605 |
| County TIA Phase III (Build Out) | <u>234,000</u> | <u>\$984,122</u> |
| Cumulative Total | <u>900,000</u> | <u>\$1,912,727</u> |

Prior to the construction of any improvements within the County TIA Phase III, the City shall put all fair-share contributions and impact fee payments into an escrow account. The phases outlined above are defined based upon the Trip Reservations enumerated in Paragraph 11 of this Agreement. In the event that the Owner/Developer chooses to further subdivide the phases outlined above into additional sub-phases, the fair share assessment due will be calculated based on the pro-rata share of net new p.m. peak hour external trips being allocated to that specific sub-phase versus the net new p.m. peak hour external trips allocated to the entire phase of development.

Prior to the issuance of a building permit for any development within County TIA Phase III and subject to the execution of an impact fee credit agreement with the County, the Owner/Developer shall design and construct the following improvements:

1 a. 2nd northwest-bound left-turn lane at the Howland Boulevard/Graves Avenue
2 intersection;

3 b. 2nd westbound travel lane on Graves Avenue from Howland Boulevard to the
4 westernmost driveway of the development on the north side of Graves Avenue located
5 approximately 400 feet east of the I-95 overpass;

6 c. extension of the eastbound right-turn lane on Graves Avenue such that the lane begins
7 immediately east of an existing driveway on the south side of Graves Avenue at a location
8 approximately 250 feet east of the I-95 overpass;

9 d. a 265-foot (including a 50-foot taper) westbound left-turn lane on Graves Avenue into
10 the site at a location approximately 600 feet east of Normandy Boulevard.
11

12 The Owner/Developer and County shall enter into an impact fee credit agreement which
13 shall provide that all eligible costs associated with improvements set forth in paragraphs a, b, and
14 c above shall be entitled to impact fee credit against Volusia County Road Impact Fees at the
15 time the contributions are made to the County. The costs of improvements set forth in
16 paragraphs a, b, and c above for which the Owner/Developer shall be responsible shall be limited
17 to \$1,912,727 or such lesser mitigation costs as are required by the County. The impact fee
18 credit agreement shall establish the process the Owner/Developer and County must follow
19 relative to the County/City transferring of monies from the escrow account back to the
20 Owner/Developer to allow the Owner/Developer to proceed with the design and construction of
21 such improvements set forth in a, b, and c above. The County and the Owner/Developer shall
22 also enter into an agreement to relocate the County owned retention pond and to convey or
23 transfer certain surplus properties.
24

25 If the City or County modifies its Code of Ordinances with respect to the Concurrency
26 Management System (CMS) subsequent to the execution of this Agreement, or if a change in
27 circumstances such that the method or manner of payment of the total fair share assessment
28 outlined above, does not represent the method most beneficial to the Owner/Developer for
29 mitigation of transportation impacts, at the request of the Owner/Developer the City or County
30 may pursue such other method or methods so long as the rights and obligations granted herein to

1 the Owner/Developer are not adversely impacted and remain unchanged and the costs to the
2 Owner/Developer do not increase. Furthermore, should the City's CMS be eliminated or
3 otherwise negated subsequent to the execution of this Agreement, such as, but not limited to,
4 action of the Florida Legislature, the Owner/Developer (at Owner/Developer's option) may
5 waive or be released from the requirement to pay the total fair share assessments by phase,
6 subphase or otherwise, as outlined above. No such waiver or release shall eliminate the
7 Owner/Developer's Impact Fee Credits for fair share assessments already paid. Should the City
8 or County change to a mobility fee or similar form of transportation concurrency system, the
9 Owner/Developer, at Owner/Developer's option, may opt to apply its fair share assessment
10 contributions and related impact fee credits towards such fees. It is the intent of this paragraph to
11 allow the Owner/Developer to benefit from any legislative changes that reduce the financial
12 obligations for mitigation or fees of any nature or kind for transportation concurrency and to
13 limit the financial exposure of the Owner/Developer to that which is stated in this Agreement.

14
15 **11. TRIP RESERVATIONS.**

16 The Subject Property is planned as a part of the Phase I of the Interstate 4/SR 472
17 Areawide DRI, therefore, the trip generation rate utilized for the project, as approved by the
18 City and County, was based on the approved total trip generation for Phase I of the DRI. The
19 Subject Property gross trip generation rate was based on the gross trip generation rate for the
20 retail component of Phase I of the DRI. The gross P.M. peak hour trip generation rate for Phase
21 I of the DRI was calculated as the approved gross P.M. peak hour trips for the Phase I retail uses
22 of the DRI (4,830 P.M. peak hour trips) divided by the retail square footage approved in Phase I
23 of the DRI (2,200 ksf) (4,830 P.M. peak hour trips divided by 2,200 ksf equals 2.1955 gross p.m.
24 peak hour trips per ksf). The gross daily trip generation rate for Phase I of the DRI was
25 calculated as the total daily trip generation for the retail uses for Phase I of the DRI (49,745 daily
26 trips) divided by the retail square footage approved in Phase I of the DRI (2,200 ksf) (49,745
27 daily trips divided by 2,200 ksf equals 22.6114 gross daily trips per ksf). Once the gross trip
28 generation rates for Phase I of the DRI were calculated, the gross trip generation for the project
29 was calculated by multiplying the gross trip generation rates for Phase I of the DRI by the
30 project's square footage by phase.

By its approval and execution of this Agreement, the City hereby agrees to issue and vest to the Owner/Developer the following net new external daily trip reservations by phase, and the net new p.m. peak hour external trip reservations by phase within the Interstate 4/SR 472 Areawide DRI:

CUMULATIVE PHASING

| | <u>Square Feet</u> | <u>Net New External Trip Ends</u> | |
|----------------------------------|--------------------|-----------------------------------|--------------|
| | | <u>P.M. Peak Hour</u> | <u>Daily</u> |
| City TIA Phase | 96,000 | 122 | 1,900 |
| County TIA Phase I | 301,000 | 381 | 5,956 |
| County TIA Phase II | 570,000 | 723 | 11,278 |
| County TIA Phase III (Build Out) | 804,000 | 1,019 | 15,908 |
| Combined City and County | | | |
| City TIA Phase | 96,000 | 122 | 1,900 |
| County TIA Phase I | 397,000 | 503 | 7,856 |
| County TIA Phase II | 666,000 | 845 | 13,178 |
| County TIA Phase III (Build Out) | 900,000 | 1,141 | 17,808 |

BY PHASE

| | <u>Square Feet</u> | <u>Net New External Trip Ends</u> | |
|----------------------------------|--------------------|-----------------------------------|--------------|
| | | <u>P.M. Peak Hour</u> | <u>Daily</u> |
| City TIA Phase | 96,000 | 122 | 1,900 |
| County TIA Phase I | 301,000 | 381 | 5,956 |
| County TIA Phase II | 269,000 | 342 | 5,322 |
| County TIA Phase III (Build Out) | 234,000 | 296 | 4,630 |
| Total County | 804,000 | 1,019 | 15,908 |
| Combined City and County | | | |
| City TIA Phase | 96,000 | 122 | 1,900 |

| | | | |
|----------------------------------|----------------|--------------|---------------|
| County TIA Phase I | 301,000 | 381 | 5,956 |
| County TIA Phase II | 269,000 | 342 | 5,322 |
| County TIA Phase III (Build Out) | <u>234,000</u> | <u>296</u> | <u>4,630</u> |
| Total Combined City and County | <u>900,000</u> | <u>1,141</u> | <u>17,808</u> |

1
2 The Subject Property is planned as a part of the Interstate 4/SR 472 Areawide DRI,
3 therefore the land uses are subject to the DRI Development Equivalency Matrix. The Interstate
4 4/State Road 472 Activity Center DRI Development Equivalency Matrix, as obtained from the
5 City of DeLand DRI Development Order (Resolution 2003-28), which is included in **Exhibit C**,
6 attached hereto and incorporated by this reference. The Development Equivalency Matrix is
7 based on the trip generation rates for the DRI, therefore utilization of the Matrix by the Applicant
8 will not require additional traffic studies by City or County. No trip reservations hereunder shall
9 expire if Owner/Developer submits a final site plan application for any portion of the
10 development within the City TIA Phase I (as described above) on or before January 30, 2015
11 and a final site plan application for any portion of the development of County TIA Phase I on or
12 before December 30, 2020, and Owner/Developer has paid the fair share assessment or
13 impact/mobility fees required by the City and County for the development of such phases or
14 sub-phases. In such an event, the Owner/Developer shall be entitled to retain all trips reserved as
15 stated herein for all other phases or sub-phases. Upon the submittal by the Owner/Developer of
16 any final site plans for development within the Subject Property that causes the cumulative total
17 floor area to exceed 600,000 square feet of floor area , the Owner/Developer shall be required to
18 seek approval for any portion of development that exceeds 600,000 square feet of floor area prior
19 to obtaining final approval of such final site plan from the City of up to a total of 900,000 square
20 feet in accordance with the Owner/Developer 's approved TIA, if otherwise required.

21 **12. UTILITIES.**

22 A. **Sanitary Sewer.** Owner/Developer shall install underground sanitary sewer
23 utilities as are required to provide service to the Subject Property at Owner/Developer's
24 cost and expense. Provided however, the City/County shall provide a sanitary sewer
25 connection at or near the Subject Property at the City's/County's cost.

1 **B. Water.** Owner/Developer shall install underground water utilities as are
2 required to provide service to Subject Property at Owner/Developer's cost and expense.
3 Provided however, the City/County shall provide a connection for water at or near the
4 Subject Property at the City's/County's cost.

5 **C. Irrigation:** If available at the boundary of the Subject Property or any
6 Lot or phase within the Subject Property, the Subject Property shall use the following
7 sources for non-potable water, in order of priority, for surface irrigation of common and
8 private areas of the Subject Property.

9 a. Treated wastewater made available to the Subject Property by the City/County;

10 b. Surface water stored on-the Subject Property in surface water storage ponds;
11 and

12 c. If no other source is available, private irrigation wells, or potable water shall
13 be permitted.

14 d. In the event the Owner/Developer is required to construct and install any
15 water or sewer lines for the benefit of other third parties in connection with the
16 development of the Subject Property, Owner/Developer shall receive
17 reimbursement from the City/County for any other users of such facilities as such
18 users are required to connect into said system.

19 **13. STORMWATER MANAGEMENT**

20 Stormwater management and design for the Subject Property shall comply with City,
21 State and Federal requirements. The Subject Property shall have a master stormwater
22 management system in compliance with closed basin standards.

23 **14. OBLIGATIONS.** Should the Owner/Developer fail to undertake and complete its
24 obligations as described in this Agreement to the City's specifications, the City shall give the
25 Owner/Developer thirty (30) days' written notice to commence and ninety (90) days thereafter
26 to complete said required obligation (provided, however, that if any such obligation takes longer
27 than ninety (90) days to complete, in the exercise of reasonable due diligence, such time
28 permitted shall be extended by such additional time may be required if Owner/Developer
29 commences the obligation within the ninety (90) day period and thereafter prosecutes it to
30 completion with due diligence). If the Owner/Developer fails to complete the obligations within

1 such period, the City, without further notice to the Owner/Developer or its successors in interest,
2 may, without prejudice to any other rights or remedies it may have, perform such obligations.
3 Further, the City is hereby authorized to assess the actual and verified cost of completing such
4 obligations against the Subject Property. The lien of such assessments shall be superior to all
5 others, and all existing lienholders and mortgagees, by their execution of the subordination or
6 joinder documents, agree to subordinate their liens or mortgages to the City's said liens or
7 assessments.

8 **15. ENFORCEMENT.** In the event that enforcement of this Agreement by the City
9 becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall
10 be responsible for all costs and expenses, including attorneys' fees whether or not litigation is
11 necessary and if necessary, both at trial and on appeal, incurred in enforcing or ensuring
12 compliance with the terms and conditions of this Agreement which costs, expenses and fees shall
13 also be a lien upon the Subject Property superior to all others. In the event that enforcement of
14 this Agreement by the Owner/Developer becomes necessary, and the Owner/Developer is
15 successful in such enforcement, the City shall be responsible for all costs and expenses,
16 including attorneys' fees whether or not litigation is necessary and if necessary, both at trial and
17 on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this
18 Agreement.

19 **16. COMPLIANCE.** The Owner/Developer agrees that it, will abide by the provisions
20 of this BPUD Agreement, ODP/MDP, the City's Comprehensive Plan, and the City's Land
21 Development Code, including the site plan regulations of the City which are incorporated herein
22 by reference. The City may, without prejudice to any other legal or equitable right or remedy it
23 may have, withhold permits, certificates of occupancy or approvals, should the Owner/Developer
24 fail to comply with the terms of this Agreement.

25 **17. UTILITY EASEMENTS.** The Owner/Developer shall provide to the City, prior to
26 the City's approval of the Final Plat and Final Site Plans, such easements and other legal
27 documentation, in form mutually acceptable to the City Attorney and the Owner/Developer, as
28 the City may deem reasonably necessary or appropriate for the installation and maintenance of
29 the utility and other services necessary to service the Subject Property , including but not limited
30 to, sewer, potable water, and reclaimed water services, electric, cable, fire protection and

telecommunications. The Owner/Developer shall also provide access and utility easements to all parcels of property owned by a third party and located within the boundaries of the Subject Property. Such easements shall not unreasonably impede or impair the use of the Subject Property by the Owner/Developer or interfere with the Owner/Developer's plan of development.

18. NOTICES. Where notice is herein required to be given, it shall be by certified mail return receipt requested, hand delivery or overnight courier. Said notice shall be sent to the following, as applicable, and shall be deemed to be given and received if by hand delivery, and otherwise on the date of delivery or of first attempted delivery if delivery is impossible or refused.

OWNER/DEVELOPER'S REPRESENTATIVES:

**Deltona Retail Holdings, LLC
c/o Frank DeMarsh
EPIC Theatres, Inc.
P.O. Box 2076
DeLand, Florida 32721-2076
Phone: 386-736-6830
Fax: 386-738-2596
email: fd@epictheatres.com**

**With a Copy to:
Kim C. Booker, Attorney at Law
Booker & Associates, P.A.
1019 Town Center Drive, Suite 201
Orange City, Florida 32763
Telephone 386-774-6552**

**With a Copy to:
LENDERS:
Comerica Bank
Attn.: David Sass
101 North Main Street
Suite 200 MC 9403
Ann Arbor, Michigan 48104
Telephone 734-930-2442**

CITY'S REPRESENTATIVE:

**City Clerk and Planning & Development Services Director
2345 Providence Boulevard
Deltona, Florida, 32725
Telephone 386-878-8600, Fax 386-878-8601**

1 Should any party identified above change or should any party elect to add an additional person or
2 entity to receive notices hereunder, it shall be said party's obligation to notify the remaining
3 parties of the change or addition in a fashion as is required for notices herein.

4 **19. CAPTIONS.** The captions used herein are for convenience only and shall not be
5 relied upon in construing this Agreement.

6 **20. FORCE MAJURE.** Notwithstanding anything contained in this Agreement, each
7 party shall be excused from performing any obligation under this Agreement and any delay in
8 the performance of any obligation under this Agreement shall be excused, if, but only for as long
9 as, the performance of the obligation is prevented, delayed or otherwise hindered by acts of God,
10 fire, earthquake, floods, explosion, actions or the elements, war, riots, mob violence, Inability to
11 procure or a general shortage of labor, equipment, facilities, materials or supplies in the open
12 market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court
13 orders, laws or orders of governmental or military authorities or any other cause, whether similar
14 or dissimilar to the foregoing, not within the control of such party (other than lack of or inability
15 to procure monies to fulfill its commitments and obligations under the Agreement).


16 Notwithstanding any specific references in certain provisions of this Agreement to this
17 Section 20, the absence of such specific reference in any other provision shall not be deemed to
18 diminish the general applicability of this Section 20.

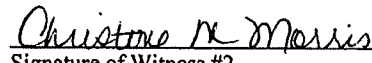
19 **21. BINDING EFFECT.** This Agreement shall run with the land, shall be binding upon
20 and inure to the benefit of the Owner/Developer and its assigns and successors in interest and the
21 City and its assigns and successors in interest. The Owner/Developer agrees to pay the cost of
22 recording this document in the Public Records of Volusia County, Florida. This Agreement does
23 not, and is not intended to, prevent or impede the City from exercising its legislative authority as
24 the same may affect the Subject Property.

25 **22. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable
26 in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement,
27 if the rights and obligations of the parties contained herein are not materially prejudiced and if
28 the intentions of the parties can be affected. To that end, this Agreement is declared severable.


1 IN WITNESS WHEREOF, the Owner/Developer and the City have executed this
2 Agreement as of the day and year first above written.

3 SIGNED, SEALED AND DELIVERED
4 IN THE PRESENCE OF:

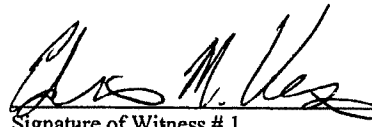
5 
6
7
8
9 Signature of Witness #1
10 Eduardo M. Vega
11 Print or type name

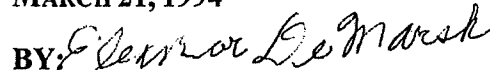
12
13 
14 Signature of Witness #2
15 Christine M. Morris
16 Print or type name
17

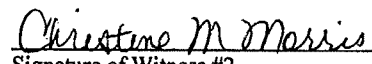
DELTONA RETAIL HOLDINGS, LLC
a Florida limited liability company

BY: 
Print or type name: William F. Demarsh

18 ELEANOR J. DEMARSH, AS TRUSTEE OF
19 THE ELEANOR J. DEMARSH REVOCABLE
20 TRUST DATED MAY 20, 1992, AS RESTATED
21 MARCH 21, 1994

22 
23 Signature of Witness #1
24 Eduardo M. Vega
25 Print or type name
26

BY: 
Print or type name: Eleanor Demarsh

27
28 
29 Signature of Witness #2
30 Christine M. Morris
31 Print or type name
32

33
34 ATTEST: 
35
36 Signature

37 Edith D. Lawrence
38 Print or type name
39 AS: Member
40

41 Mailing Address: P.O. Box 2076
42 Deland, FL 32721-2076
43
44

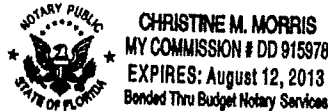
1 STATE OF FLORIDA

2 COUNTY OF Volusia

3 The foregoing instrument was acknowledged before me this 23rd day of March
4 2010, by William Frank DeMarsh and _____,
5 respectively, of Deltina Retail Holdings LLC, who is/are personally known to me or who
6 has/have produced _____ as identification and who did
7 not (did) take an oath.

10 (Notary Stamp)

8 Christine M Morris
9 Signature
11 Christine M. Morris
12 Print or type name



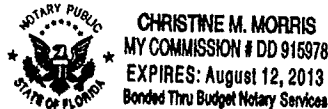
17 STATE OF FLORIDA

18 COUNTY OF Volusia

19 The foregoing instrument was acknowledged before me this 23rd day of March
20 2010, by Eleanor J. DeMarsh, as Trustee of the Eleanor J. DeMarsh Revocable Trust dated May
21 20, 1992, as Restated March 21, 1994, who is personally known to me or who has produced _____
22 _____ as identification and who did not (did) take an oath.

25 (Notary Stamp)
26 Print or type name

23 Christine M Morris
24 Signature
25 Christine M. Morris
26 Print or type name



ACCEPTED FOR THE CITY OF DELTONA

By:

Dennis Mulder, Mayor

Date: 5-14-10

Mailing Address:

City of Deltona

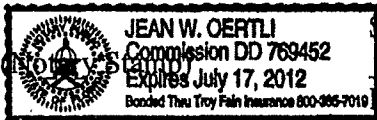
2345 Providence Boulevard

Deltona, Florida, 32725

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 14th day of May 2010, by Dennis Mulder as Mayor of the City of Deltona, Florida, who is personally known to me and acknowledges executing the same freely and voluntarily under authority vested in him.



Signature of Notary Jean W. Oertli
Print or type name

This instrument approved by:

James Fowler, Acting City Attorney

**as to form and legality for use and reliance by the
City of Deltona.**

This instrument prepared by:

City of Deltona

Department of Development Services

2345 Providence Boulevard

Deltona, Florida 32725

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT made this _____ day of _____
20__, by _____ whose address is _____,
referred to as "Mortgagee."

WITNESSETH:

The Mortgagee of the property described in the foregoing Developer's Agreement which
property is owned by _____, does hereby agree to subordinate all its interests
and rights contained in the property to the foregoing Developer's Agreement which property is
owned by _____ entered into by _____ as
Owner/Developer and the CITY OF DELTONA. This Subordination Agreement shall bind all
successors, assigns, and representatives of the Mortgagee.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

MORTGAGEE:

BY: _____

Signature _____
Print or type name

Signature of Witness # 1

Print or type name

Signature of Witness #2

Print or type name

ATTEST:

Signature

Print or type name

AS: _____

Mailing Address: _____

1 **STATE OF FLORIDA**

2 **COUNTY OF** _____

3 The foregoing instrument was acknowledged before me this ____ day of _____
4 20____, by _____ and _____,
5 and _____, respectively, of _____, who
6 are personally known to me or who have produced _____ as
7 identification and who did (did not) take an oath.

8 _____
9 Signature _____
10 Print or type name
11 _____

12 (Notary Stamp)

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT made this 12th day of March
2010, by Comerica Bank whose address is _____,
referred to as "Mortgagee."

WITNESSETH:

The Mortgagee of the property described in the foregoing Developer's Agreement
which property is owned by Deltona Retail Holdings, LLC, does hereby agree to
subordinate all its interests and rights contained in the property to the foregoing
Developer's Agreement which property is owned by Deltona Retail Holdings, LLC
entered into by Deltona Retail Holdings, LLC as Owner/Developer and the CITY OF
DELTONA. This Subordination Agreement shall bind all successors, assigns, and
representatives of the Mortgagee.

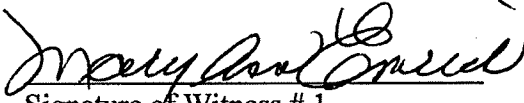
SIGNED, SEALED AND DELIVERED

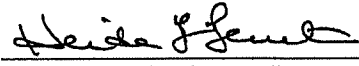
IN THE PRESENCE OF:

MORTGAGEE:

BY: 

Signature DAVID J. SADS
Print or type name


Signature of Witness # 1
MARY ANN EMRICK
Print or type name


Signature of Witness #2
Heidi L. Lewiston
Print or type name

ATTEST:

Signature

Print or type name

AS: _____

Mailing Address: _____

STATE OF MICHIGAN

COUNTY OF Washtenaw

The foregoing instrument was acknowledged before me this 12th day of March
2010, by David J. Sass, Se Vice President respectively, of Comerica
Bank, who is personally known tome or who has produced

_____ as identification and who did (did not) take an oath.

Signature *Diana K. Stamper*
Print or type name

(Notary Stamp)

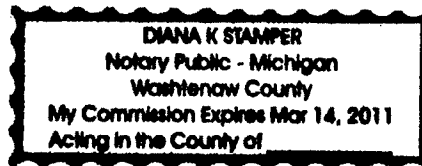


EXHIBIT "A"
LEGAL DESCRIPTION:

LEGAL DESCRIPTION: OVERALL (WRITTEN)

A parcel of land lying in and being a part of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, lying East of the Easterly Right of Way of Normandy Boulevard, as now established, and South of the Southerly Right of Way of Howland Boulevard, as now established, being more particularly described as follows: Commencing at the Southwest corner of said NE 1/4, run thence S 89°47'13" E along the South line of said NE ¼ a distance of 526.96 feet to a point lying on said Easterly Right of Way and the Point of Beginning. Run thence N 00°10'55" W along said Right of Way a distance of 169.22 feet to a point of curve, concave to the Northwest, having a radius of 1959.86 feet and a delta of 11°35'31" with a chord bearing and distance of N 05°29'05" E, 395.84 feet, run thence Northeasterly along said curve and Right of Way an arc distance of 396.51 feet; run thence N 00°18'41" W continuing along said Right of Way a distance of 765.22 feet to a point on the North line of the SW ¼ of the NE ¼ of said Section 7; run thence N 00°19'01" W continuing along said Right of Way and entering into the NW ¼ of the NE ¼ of said Section 7 a distance of 815.24 feet; run thence S 89°32'05" E along said Right of Way a distance of 20.00 feet; run thence N 00°19'01" W along said Right of Way a distance of 413.27 feet to aforesaid Southerly Right of Way of Howland Boulevard; run thence S 89°28'24" E along said Southerly Right of Way a distance of 74.70 feet; run thence N 00°20'22" W along said Right of Way a distance of 22.62 feet; run thence S 85°04'51" E along said Southerly Right of Way a distance of 135.25 feet; run thence S 00°21'46" E along said Right of Way a distance of 12.25 feet; run thence S 89°28'24" E along said Right of Way a distance of 1841.57 feet to the East line of said NE ¼; run thence S 00°37'22" E along said East line a distance of 2545.72 feet to the Southeast corner of said NE ¼; run thence N 89°47'13" W along the South line of said NE ¼ a distance of 2124.49 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

AND

A parcel of land lying in and being a part of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, lying West of the Westerly Right of Way of Normandy Boulevard, as now established, and South of the Southerly Right of Way of Howland Boulevard, as now established, being more particularly described as follows: Beginning at the Southwest corner of said NE 1/4, run thence N 00°14'38" W along the West line of said NE ¼ a distance of 2560.14 feet to a point on said Southerly Right of Way of Howland Boulevard; run thence S 89°28'24" E along said Right of Way a distance of 464.02 feet to a point on said Westerly Right of Way of Normandy Boulevard; run thence S 00°19'01" E along said Westerly Right of Way a distance of 1228.82 feet to a point on the South line of the NW ¼ of the NE ¼ of said Section 7; run thence S 00°18'41" E continuing along said Right of Way and entering into the SW ¼ of the NE ¼ of said Section 7 a distance of 604.50 feet; run thence N 89°40'16" W along said Right of Way a distance of 15.00 feet; run thence S 00°18'41" E continuing along said Right of Way a distance of 387.24 feet; run thence S 89°43'50" E along said Right of Way a distance of 1.32 feet to a point on a curve, concave to the Northwest, having a radius of 1859.86 feet and a delta of 08°41'21", with a chord bearing and distance of S 10°59'15" W, 281.79 feet; run thence Southwesterly along said curve and Right of Way an arc distance of 282.06 feet; run thence S 28°57'24" W continuing along said Right of Way a distance of 68.76 feet to the South line of said NE

¼; run thence N 89°47'13" W a distance along said South line a distance of 364.80 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "A" (WRITTEN)

Lots 10 through 19, inclusive, Block 8, Davis Park, Second Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 175, Public Records of Volusia County, Florida and that part of the W ½ of Persimmon Street lying East of and contiguous thereto, all being more particularly described as follows: Commencing at the Northeast corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S 00°37'22" E along the East line of said NE ¼ a distance of 1172.73 feet; run thence N 89°37'03" W a distance of 495.38 feet to the Point of Beginning. Continue thence N 89°37'03" W a distance of 165.12 feet; run thence N 00°31'40" W a distance of 251.05 feet; run thence S 89°35'12" E a distance of 165.02 feet; run thence S 00°33'05" E a distance of 250.96 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "B" (WRITTEN)

Lots 12 through 15, inclusive, Block 11, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida and that part of Florida Avenue lying South of and contiguous thereto, and that part of the E ½ of Clara Street Lying West of and contiguous thereto, all being more particularly described as follows: Commencing at the Southwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S 89°47'13" E along the South line of said NE ¼ a distance of 828.50 feet to the Point of Beginning. Run thence N 00°21'19" W a distance of 160.68 feet; run thence S 89°45'07" E a distance of 165.64 feet; run thence S 00°22'41" E a distance of 160.64 feet to said South line of the NE ¼; run thence N 89°47'13" W along said South line a distance of 165.70 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "C" (WRITTEN)

Lots 16 through 19, inclusive, Block 7, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida and that part of the E ½ of Araminta Street lying West of and contiguous thereto, all being more particularly described as follows: Commencing at the Southwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N 00°14'38" W along the West line of said NE ¼ a distance of 437.94 feet; run thence S 89°43'25" E a distance of 165.53 feet to the Point of Beginning. Run thence N 00°16'01" W a distance of 100.80 feet; run thence S 89°42'47" E a distance of 165.49 feet; run thence S 00°17'23" E a distance of 100.77 feet; run thence N 89°43'25" W a distance of 165.53 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "D" (WRITTEN)

Lots 18 and 19, Block 1, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida and that part of the E ½ of Crystal Street lying West of and contiguous thereto, all being more particularly described as follows: Commencing at the Southeast corner of the SW ¼ of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N 00°25'56" W along the East line of said SW ¼ of the NE ¼ a distance of 848.99 feet to the Point of Beginning. Run thence N 89°41'13" W a distance of 165.45 feet; run thence N 00°24'02" W a distance of 50.29 feet; run thence S 89°40'47" E a distance of 165.42 feet to the East line of said SW ¼ of the NW ¼; run thence S 00°25'56" E along said East line a distance of 50.27 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "E" (WRITTEN)

Lots 1 through 46, inclusive, Block 3, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida and that part of the N ½ of Alabama Avenue lying South of and contiguous thereto and that part of the W ½ of Clara Street lying East of and contiguous thereto and that part of an un-named alley lying South of Lots 1 through 9, and contiguous thereto, all lying East of the Easterly Right of Way of Normandy Boulevard, as now established, and all being more particularly described as follows: Commencing at the Southwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N 00°14'38" W along the West line of said NE ¼ a distance of 664.83 feet; run thence S 89°41'52" E a distance of 566.54 feet to the aforesaid Easterly Right of Way of Normandy Boulevard; run thence N 00°18'41" W along said Right of Way a distance of 30.00 feet to the Point of Beginning. Continue thence N 00°18'41" W a distance of 634.16 feet; run thence S 89°37'50" E a distance of 260.16 feet; run thence S 00°21'23" E a distance of 633.86 feet; run thence N 89°41'52" W a distance of 260.66 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "F" (WRITTEN)

Lot 24, Block 4, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida, lying West of the Westerly Right of Way of Normandy Boulevard, as now established, and being more particularly described as follows: Commencing at the Southwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N 00°14'38" W along the West line of said NE ¼ a distance of 825.63 feet; run thence S 89°41'27" E a distance of 330.91 feet to the Point of Beginning. Run thence N 00°17'23" W a distance of 25.19 feet; run thence S 89°41'11" E a distance of 135.44 feet to the aforesaid Westerly Right of Way of Normandy Boulevard; run thence S 00°18'41" E along said Right of Way a distance of 25.18 feet; run thence N 89°41'27" W a distance of 135.45 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "G" (WRITTEN)

Lots 11 through 20, inclusive, Block 4, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida, and that part of the S ½ of an un-named alley lying North of and contiguous thereto, all lying West of the Westerly Right of Way of Normandy Boulevard, as now established, and all being more particularly described as follows: Commencing at the Southwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N 00°14'38" W along the West line of said NE ¼ a distance of 926.48 feet; run thence S 89°40'25" E a distance of 330.83 feet to the Point of Beginning. Run thence N 00°17'23" W a distance of 259.40 feet; run thence S 89°38'37" E a distance of 135.31 feet to the aforesaid Westerly Right of Way of Normandy Boulevard; run thence S 00°18'41" E along said Right of Way a distance of 259.33 feet; run thence N 89°40'25" W a distance of 135.41 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "H" (WRITTEN)

Lots 16 and 17, Block 6, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, lying West of the Westerly Right of Way of Normandy Boulevard as now established, and being more particularly described as follows: Commencing at the Northwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, run thence S 00°14'38" E along the West line of said NE ¼ a distance of 1081.75 feet; run thence S 89°36'17" E a distance of 330.19 feet to the Point of Beginning. Continue thence S 89°36'17" E a distance of 135.08 feet to the aforesaid Westerly Right of Way of Normandy Boulevard; run thence S 00°19'01" E along said Right of Way a distance of 50.84 feet; run thence N 89°36'40" W a distance of 135.10 feet; run thence N 00°17'39" W a distance of 50.86 feet to the Point of Beginning. Being subject to any Easement or Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "I" (WRITTEN)

Lots 20, 21 and 22, Block 4, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, and that part of Araminta Street lying West of and contiguous thereto, all being more particularly described as follows: Commencing at the Northwest corner of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $00^{\circ}14'38''$ E along the West line of said NE $\frac{1}{4}$ a distance of 513.90 feet; run thence S $89^{\circ}32'05''$ E a distance of 164.83 feet to the Point of Beginning. Run thence N $00^{\circ}16'16''$ W a distance of 75.64 feet; run thence S $89^{\circ}31'26''$ E a distance of 164.83 feet; run thence S $00^{\circ}17'39''$ E a distance of 75.62 feet; run thence N $89^{\circ}32'05''$ W a distance of 164.86 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "J" (WRITTEN)

Lot 6, Block 3, Davis Park, Second Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 175, Public Records of Volusia County, Florida, and that part of the N $\frac{1}{2}$ of an unnamed driveway lying South of and contiguous thereto, all lying South of the Southerly Right of Way of Howland Boulevard, as now established, and being more particularly described as follows: Commencing at the Northeast corner of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $00^{\circ}37'22''$ E along the East line of said NE $\frac{1}{4}$ a distance of 100.00 feet to a point on said Southerly Right of Way of Howland Boulevard; run thence N $89^{\circ}28'24''$ W along said Southerly Right of Way a distance of 658.75 feet to the Point of Beginning. Run thence S $00^{\circ}34'31''$ E a distance of 102.85 feet; run thence N $89^{\circ}28'43''$ W a distance of 24.95 feet; run thence N $00^{\circ}34'14''$ W a distance of 102.85 feet to the aforesaid Southerly Right of Way; run thence S $89^{\circ}28'24''$ E along said Right of Way a distance of 24.95 feet to the Point of Beginning. Being subject to any Easements of Record.

LEGAL DESCRIPTION: EXCEPTION "K" (WRITTEN)

Block 4, Davis Park, Second Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 175, Public Records of Volusia County, Florida, and that part of the E $\frac{1}{2}$ of Grape Street lying West of and contiguous thereto, and the W $\frac{1}{2}$ of Orange Street lying East of and contiguous thereof and the N $\frac{1}{2}$ of Tennessee Avenue lying South of and contiguous thereto and that certain unnamed alley lying South of Lots 1 through 10, and contiguous thereto, all lying South of the Southerly Right of Way of Howland Boulevard, as now established, and being more particularly described as follows: Commencing at the Northeast corner of the NE $\frac{1}{4}$ of section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $00^{\circ}37'22''$ E along the East line of said NE $\frac{1}{4}$ a distance of 100.00 feet to a point on said Southerly Right of Way of Howland Boulevard; run thence N $89^{\circ}28'24''$ W along said Southerly Right of Way a distance of 823.43 feet to the Point of Beginning; run thence S $00^{\circ}30'15''$ E a distance of 567.57 feet; run thence N $89^{\circ}33'07''$ W a distance of 329.83 feet; run thence N $00^{\circ}27'24''$ W a distance of 568.02 feet to the aforesaid Southerly Right of Way; run thence S $89^{\circ}28'24''$ E along said Right of Way a distance of 329.37 feet to the Point of Beginning. Being subject to any Easement of Record.

LEGAL DESCRIPTION: EXCEPTION "L" (WRITTEN)

Lots 6 through 10, inclusive, Block 3, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, and that part of the N ½ of an un-named driveway lying South of and contiguous thereto, all lying South of the Southerly Right of Way of Howland Boulevard, as now established and East of the Easterly Right of Way of Normandy Boulevard, as now established and being more particularly described as follows: Commencing at the Northwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S 89°28'24" E along the North line of said NE ¼ a distance of 583.89 feet; run thence S 00°19'01" E a distance of 100.00 feet to the Point of Beginning lying on said Southerly Right of Way of Howland Boulevard; run thence S 89°28'24" E along said Right of Way a distance of 74.70 feet; run thence S 00°20'22" E a distance of 103.49 feet; run thence N 89°29'34" W a distance of 74.74 feet to said Easterly Right of Way of Normandy Boulevard; run thence N 00°19'01" W along said Easterly Right of Way a distance of 103.51 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "M" (WRITTEN)

Lots 15, and 16, inclusive, Block 3, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, lying East of the Easterly Right of Way of Normandy Boulevard as now established and being more particularly described as follows: Commencing at the Northwest corner of the NE ¼ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S 89°28'24" E along the North line of said NE ¼ a distance of 583.89 feet; run thence S 00°19'01" E a distance of 100.00 feet to a point lying on the Southerly Right of Way of Howland Boulevard, as now established, said point also lying on said Easterly Right of Way of Normandy Boulevard; run thence S 00°19'01" E along said Easterly Right of Way a distance of 211.75 feet to the Point of Beginning. Run thence S 89°30'10" E a distance of 74.78 feet; run thence S 00°20'24" E a distance of 50.37 feet; run thence N 89°30'38" W a distance of 74.80 feet to aforesaid Easterly Right of Way; run thence N 00°19'01" W along said Right of Way a distance of 50.38 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "N" (WRITTEN)

Lots 19, and 20, inclusive, Block 3, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, lying East of the Easterly Right of Way of Normandy Boulevard as now established and being more particularly described as follows: Commencing at the Northwest corner of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $89^{\circ}28'24''$ E along the North line of said NE $\frac{1}{4}$ a distance of 583.89 feet; run thence S $00^{\circ}19'01''$ E a distance of 100.00 feet to a point lying on the Southerly Right of Way of Howland Boulevard, as now established, said point also lying on said Easterly Right of Way of Normandy Boulevard; run thence S $00^{\circ}19'01''$ E along said Easterly Right of Way a distance of 312.51 feet to the Point of Beginning. Run thence S $89^{\circ}31'06''$ E a distance of 74.82 feet; run thence S $00^{\circ}20'24''$ E a distance of 50.37 feet; run thence N $89^{\circ}31'35''$ W a distance of 74.84 feet to aforesaid Easterly Right of Way; run thence N $00^{\circ}19'01''$ W along said Right of Way a distance of 50.38 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "O" (WRITTEN)

Lots 23 through 34, inclusive, Block 3, Davis Park, First Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 167, Public Records of Volusia County, Florida, and that part of the W $\frac{1}{2}$ of Clara Street lying East of and contiguous thereto and the N $\frac{1}{2}$ of Tennessee Avenue lying South of and contiguous thereto, all lying East of the Easterly Right of Way of Normandy Boulevard as now established and being more particularly described as follows: Commencing at the Northwest corner of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $89^{\circ}28'24''$ E along the North line of said NE $\frac{1}{4}$ a distance of 583.89 feet; run thence S $00^{\circ}19'01''$ E a distance of 100.00 feet to a point lying on the Southerly Right of Way of Howland Boulevard, as now established, said point also lying on said Easterly Right of Way of Normandy Boulevard; run thence S $00^{\circ}19'01''$ E along said Easterly Right of Way a distance of 413.27 feet to the Point of Beginning. Run thence S $89^{\circ}32'05''$ E a distance of 74.86 feet; run thence N $00^{\circ}20'24''$ E a distance of 50.37 feet; run thence S $89^{\circ}31'35''$ E a distance of 164.84 feet; run thence S $00^{\circ}21'46''$ E a distance of 202.15 feet; run thence S $89^{\circ}33'07''$ W a distance of 259.82 feet to the aforesaid Easterly Right of Way of Normandy Boulevard; run thence N $00^{\circ}19'01''$ W along said Right of Way a distance of 155.95 feet; run thence S $89^{\circ}32'05''$ E continuing along said Right of Way a distance of 20.00 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "P" (WRITTEN)

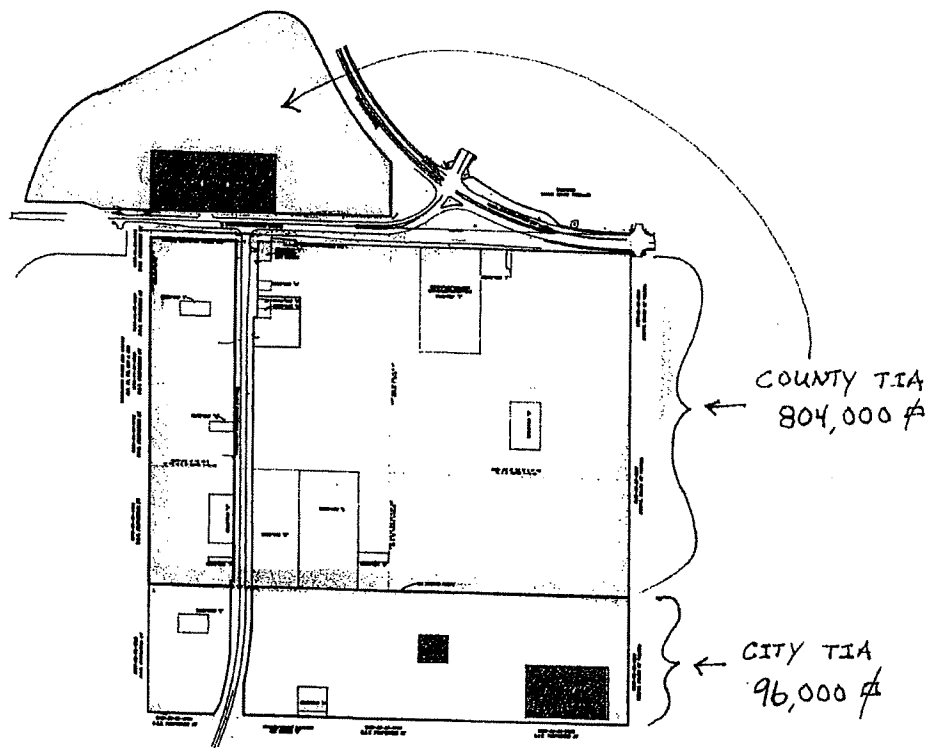
A parcel of land lying in and being a part of Blocks 8, 9 and 10 and Mangoe Street, Persimmon Street and Florida Avenue, Davis Park, Fourth Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 222, Public Records of Volusia County, Florida, being more particularly described as follows: Commencing at the Southeast corner of said Davis Park, Fourth Addition said point also being the Southeast corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N $89^{\circ}47'13''$ W along the Southerly boundary of said Fourth Addition also being the South line of said SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ a distance of 110.00 feet; run thence N $00^{\circ}36'47''$ W a distance of 30.00 feet to a point on the centerline of said Florida Avenue and the Point of Beginning. Run thence N $89^{\circ}47'13''$ W along said centerline a distance of 460.00 feet; run thence N $00^{\circ}36'47''$ W a distance of 280.00 feet; run thence S $89^{\circ}47'00''$ E a distance of 460.00 feet; run thence S $00^{\circ}36'47''$ E a distance of 280.00 feet to the Point of Beginning. Being subject to any Easement and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "Q" (WRITTEN)

Lots 35 through 40, inclusive, Block 7, Davis Park, Fourth Addition to Orange City, Florida, a subdivision according to map in Map Book 6, Page 222, Public Records of Volusia County, Florida, and the East $\frac{1}{2}$ of Grape Street lying West of and contiguous thereto and being more particularly described as follows: Commencing at the Southeast corner of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence N $89^{\circ}47'13''$ W along the South line of said NE $\frac{1}{4}$ a distance of 994.38 feet; run thence N $00^{\circ}28'48''$ W a distance of 311.16 feet to the Point of Beginning; run thence N $89^{\circ}45'11''$ W a distance of 165.60 feet; run thence N $00^{\circ}27'23''$ W a distance of 150.75 feet; run thence S $89^{\circ}44'09''$ E a distance of 165.54 feet; run thence S $00^{\circ}28'48''$ E a distance of 150.70 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

LEGAL DESCRIPTION: EXCEPTION "R" (WRITTEN)

Lots 1 through 46, inclusive, Block 2, Davis Park, Sixteenth Addition to Orange City, Florida, a subdivision according to map in Map Book 7, Page 68, Public Records of Volusia County, Florida, and the East $\frac{1}{2}$ of Clara Street lying West of and contiguous thereto and the North $\frac{1}{2}$ of Alabama Avenue lying South of and contiguous thereto and the West $\frac{1}{2}$ of Crystal Street lying East of and contiguous thereto and that certain alley lying South of Lots 1 through 10, and contiguous thereto and being more particularly described as follows: Commencing at the Northeast corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 7, Township 18 South, Range 31 East, Volusia County, Florida, run thence S $89^{\circ}37'50''$ W along the North line of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ a distance of 165.19 feet to the Point of Beginning; run thence S $00^{\circ}24'02''$ E a distance of 633.48 feet; run thence N $89^{\circ}41'52''$ W a distance of 330.86 feet; run thence N $00^{\circ}21'23''$ W a distance of 633.86 feet to said North line; run thence S $89^{\circ}37'50''$ E along said North line a distance of 330.38 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.



to mean land uses which generate five percent (5%) of the external daily trips allocated to the respective local government during this time frame. Infrastructure shall include, but not limited to, the construction of roads, water and sewer utilities, and stormwater management systems.

9. This development order shall comply with the requirements of the Volusia Growth Management Commission as articulated in their resolution No. 95-06 dated May 24, 1995, as such requirements may be amended and in effect from time to time.

Development Equivalency Matrix

10. The City may approve an increase or decrease of a particular land use within the approved development program identified on Exhibit B by using a conversion table, attached as Exhibit C, which is based on equivalent peak hour directional trip ends. Use of the matrix may increase or decrease the total amount of each land use by no more than the amount allowed for in the substantial deviation criteria identified in Chapter 380.06(19)(b) 1-14, Florida Statutes, unless the Development Order is amended to accommodate such a change. Greater changes than those discussed above, considered cumulatively, shall be subject to normal Development Order amendment processes. Any time the matrix is used, DCA, ECFRPC, and the FDOT must be provided notice of the proposal at least 30 days in advance of the change. Use of the matrix will be reported on an individual and cumulative basis and Project Impacts documented in the biennial report. The change notice shall show that there are not additional impacts to schools, affordable housing or other public facilities. Any future Notice of Proposed Change (NOPC) shall incorporate any changes due to the use of the matrix.

Archaeological Resources

11. Prior to initiating project related land clearing or ground disturbing activities within the project area, a systematic professional archaeological and historical survey shall be conducted for that area to locate and assess the significance of archaeological and historic properties present. The resultant survey report shall be consistent with Rule 9J2-043, F.A.C. and shall conform to the specifications set forth in Chapter 1A-46, FAC and shall be forwarded to the Florida Department of State, Division of Historical Resources (DHR). All correspondence with DHR regarding the survey and findings will be copied to the DCA, and the local government of jurisdiction, City of DeLand.
12. Project construction personnel shall be notified, through posted advisories or other methods, of the potential for artifact discoveries on the site and to report suspected findings to the project manager. In the event of discovery of artifacts of historic or archaeological significance during project construction, the developer shall stop construction at the site of discovery and notify the local government of jurisdiction and the Division of Historic Resources (DHR) of the Florida Department of State. From the date of notification, construction shall be suspended within a 100-foot radius of the site of discovery for a period of up to 120 days to allow evaluation of the site. The developer shall provide proper protection of the discovery, to the satisfaction of the DHR consistent with Rule 9J-2.043, F.A.C.

" C "

Interstate 4/State Road 472 Activity Center DRI
 Development Equivalency Matrix

| Change To | Change From > | Light Industrial (KSF) | Office (KSF) | Retail (KSF) | Multi Family (Unit) | Single Family (Unit) | Hotel (Room) | PM Peak Hour External Outbound Trip Rate per Unit of Land Use* |
|------------------------|---------------|------------------------|--------------|--------------|---------------------|----------------------|--------------|--|
| Light Industrial (KSF) | | | 1.170 | 1.394 | 8.341 | 3.264 | 4.010 | 1.005 per 1 KSF Light Industrial |
| Office (KSF) | | 0.856 | | 1.191 | 5.420 | 2.790 | 3.428 | 0.389 per 1 KSF Office |
| Retail (KSF) | | 0.717 | 0.839 | | 4.549 | 2.342 | 2.877 | 0.721 per 1 KSF Retail |
| Multi Family (Unit) | | 0.158 | 0.184 | 0.220 | | 0.515 | 0.632 | 0.159 per 1 Unit Multi Family |
| Single Family (Unit) | | 0.306 | 0.358 | 0.427 | 1.943 | | 1.229 | 0.308 per 1 Unit Single Family |
| Hotel (Room) | | 0.249 | 0.292 | 0.348 | 1.581 | 0.814 | | 0.251 per 1 Room Hotel |

* Land use exchanges based on net external PM peak hour outbound project traffic
 Trip rates derived from Table 21-8 per DRI Second Sufficiency Response - December 2002
 Industrial, Office & Retail trip rates are averaged from multiple phase external trip totals (refer to Tab 21-6)

Example Exchanges:

To Add 10 KSF Retail by Reducing Office Space:
 $10 \text{ KSF Retail} \times 0.389 \text{ KSF Office} = 3.8915$; Reduce Office by 3.89 KSF

To Add 25 KSF Office by Reducing Hotel Rooms:
 $25 \text{ KSF} \times 3.428 \text{ Rooms/KSF} = 85.694 \text{ Rooms}$; Reduce Hotel Rooms by 86 Rooms