

**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. 09-2024

DEVELOPMENT AGREEMENT

LEHA BUSINESS PARK PLANNED UNIT DEVELOPMENT

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the "Agreement") is entered into and made as of the ___ day of _____, 2024, by and between the CITY OF DELTONA, a Florida municipal corporation, with a mailing address of 2345 Providence Boulevard, Deltona, Florida 32725, (hereinafter referred to as the "City"), and Leha Investment Properties, Inc., whose mailing address is 1904 Urbana Avenue, Deltona, FL 32725 (hereinafter referred to as the "Owner/Developer"),

W I T N E S S E T H

WHEREAS, the Owner/Developer warrants that it holds legal title to the lands located at 3131 and 3141 Howland Boulevard, within the corporate limits of the City of Deltona, said lands being more particularly described in Exhibit "B" (the "Subject Property"), attached hereto and by this reference made a part hereof; 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 has clear title of the Subject Property and intends to develop such property as a business park; 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 other governmental authorities, and the Owner/Developer desires to ensure that its development is compatible with other properties in the area and planned traffic patterns; and

WHEREAS, the development permitted or proposed under this Development Agreement is consistent with the City's Comprehensive Plan, concurrency management system, and all land development regulations, and this Agreement does not replace, supersede, or grant variances to those regulations; 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 to develop the Subject Property, and the City approved Ordinance No 09-2024, through rezoning the Subject Property to a form of Planned Unit Development (PUD), as defined under the City's Land Development Code Section 110-319. The PUD shall consist of this Agreement as the Written Agreement of the PUD and an Exhibit "C", Master Development Plan (MDP), attached hereto and by this reference made a part hereof as the Preliminary Plan, subject to the covenants, restrictions, and easements offered by the Owner/Developer and contained herein, (hereinafter the "Master Development Plan"). Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more detailed criteria apply.

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. **Recitals and Definitions.** The recitals contained herein are true and correct and are incorporated herein by reference. All capitalized terms not otherwise defined herein shall be as defined or described in the City's Land Development Code as it may be amended from time to time unless stated otherwise.
2. **Ownership.** The legal and equitable owner(s) of the Subject Property is:
Leha Investment Properties, Inc.
3. **Title Opinion/Certification.** The Owner/Developer will provide to the City, in advance of the City's execution and recordation of this Agreement, a title opinion from a licensed attorney in the state of Florida, or a certification by an abstractor or title company authorized to do business in the state of Florida, verifying marketable title to the Subject Property to be in the name of the Owner/Developer and any and all liens, mortgages, and other encumbrances that are either satisfied or not satisfied or released of record.
4. **Subordination/Joinder.** Unless otherwise agreed to by the City and if applicable, all liens, mortgages, and other encumbrances that are not satisfied or released of record must be subordinated to the terms of this Agreement or the Lienholder join in this Agreement. It shall be the responsibility of the

Owner/Developer to promptly obtain the said subordination or joinder, in form and substance that is acceptable to the City Attorney, prior to the execution and recordation of this Agreement.

5. **Duration.** The duration of this Agreement, upon execution and recordation, is binding and runs with the land in perpetuity unless amended. In the event this Agreement remains unexecuted and unrecorded within 90 days of Ordinance No. 09-2024 adoption, this Agreement and Master Development Plan shall become null and void immediately, and the zoning amendment for the Subject Property will revert to the original zoning designation prior to Ordinance No. 09-2024 adoption.

6. **Development of the Subject Property.** Development of the Subject Property shall be subject to performance standards listed in this Agreement. Where a land use listed below differs from a defined use in the City of Deltona's Code of Ordinances, the use listed in this Agreement shall prevail.

A. Comprehensive Plan Policies specific to this Subject Property, as may be amended from time to time.

B. Permitted principal uses allowable on the Subject Property:

Office Buildings 1 & 2:

- Automobile rental agencies.
- Barber and beauty shops.
- Boat, mobile home, and recreational vehicle sales
- Dental laboratories.
- Flex space.
- General offices.
- Medical offices and clinics.
- Veterinary clinics.

Storage Area:

- Moving and storage companies.
- RV/Boat Storage and service.
- Mini-warehouses. *The mini-warehouse use on the Subject Property shall comply with the applicable sections of Chapter 110-814(h) of the City's Land Development Code, as it may be amended from time to time.*

C. Conditional Uses: None

D. Prohibited land uses include: All other uses not listed as permitted are prohibited.

- E.** Maximum impervious surface ratio (ISR): Not to exceed 70% of the gross square footage for the Subject Property:
 - a. Parcel area: 439,945 sf.
 - b. Proposed Impervious area: 287,157 sf.
- F.** Proposed maximum intensity (measured in floor area ratio): 0.55 FAR.
- G.** Minimum perimeter landscape buffer yard consistent with the City of Deltona Land Development Code Section 110-808 (Stormwater management facilities shall not be placed within buffer yards):
 - a. Front yard (Howland Blvd.): 25 feet
 - b. Side yard: 10 feet
 - c. Rear yard: 40 feet
 - d. A six (6) foot decorative fence shall be provided along the boundary of the Subject Property as depicted on the Master Development Plan (MDP).
- H.** Minimum lot width (in feet): 100 feet
- I.** Minimum lot size area (in acreage or square footage):
 - Office Parcel: 1 acre
 - Storage Parcels: 5 acres
- J.** Maximum building height (in feet):
 - Office Buildings: 45 feet or three (3) stories
 - Storage Buildings: 35 feet or one (1) story
- K.** Minimum building separation: 10 feet
- L.** Minimum perimeter yard building setbacks:
 - a. Front yard: 35 feet
 - b. Side yard: 5 feet
 - c. Rear yard: 40 feet
- M.** Signage Plan:
 - a. Signage on the property will be limited to monument and wall designs. The proposed location for the sign is depicted on Exhibit "C," the Master Development Plan. The sign shall contain no more than 80 square feet of copy area.

- b. All other signs, including, but not limited to wall/fascia signs, and directional signs, shall comply with the applicable signage standards for area, height, place, and manner per the City's Land Development Code.
 - c. Signage shall be of similar finish and design to buildings fronting Howland Boulevard.
- N.** Minimum parking standards are per Sections 110-828 and 110-829 of the City's Land Development Code, as may be amended from time to time. Internal site circulation shall be provided as depicted on the MDP.
- O.** Minimum lighting standards per the City's Land Development Code shall be included on a separate Illumination Plan to be provided at the time of Plat or Site Plan submittal. The plan shall include light poles and fixture details within the submittal.
- P.** Architectural controls and development on the Subject Property shall follow a common architectural theme as listed in this Agreement by harmoniously coordinating the general appearance of all buildings and accessory structures. The building's design will incorporate stone and a secondary finish/material to avoid monotony. The elevations within Exhibit "D" shall be adhered to. A Property Owners Association shall define all controls and variations, as defined within this Agreement.
- Q.** Utility provision and dedication: The Owner/Developer shall connect to Volusia County's central utility systems, at their sole cost and expense. Utility fees shall be paid to Volusia County Utilities, respectively, before any building permit is issued. Central utility systems are to be designed, permitted, and constructed to the respective service provider specifications and dedicated to the respective service provider upon final inspection, clearance, and acceptance by the service provider.
- R.** Stormwater and Environmental: The parcel stormwater systems or master stormwater systems, depicted on the MDP, shall be owned, and maintained by an established Property Owners Association in private ownership and shall not be dedicated to or become the responsibility of the City of Deltona. All environmental permitting, mitigation, and/or soil and erosion control for the property shall conform to all federal, state, and local permits/requirements shall be the sole responsibility of the Property Owners Association and shall be maintained in good condition/standing with the applicable permitting authorities. Best Management Practices and conformance to National Pollutant Discharge Elimination System (NPDES) criteria are required.
- S.** Transportation, site access, and traffic devices: The Owner/Developer is responsible for all transportation improvements within the Subject Property

and any off-site transportation requirements, as a result of the proposed development, for site function, that maintains or improves the level of service for area roadways, and ensures the public health, safety, and welfare for the community. All permits shall be obtained from appropriate permitting agencies prior to development and the County and City shall determine the appropriate level of service per the County and City's Comprehensive Plan and current traffic counts. The developer shall perform a field review and a signal warrant analysis at the intersection of Howland Boulevard and Roseapple Avenue/Project Driveway after the development is fully occupied. Additional Requirements may be required, as the Traffic Impact Analysis is still being reviewed by Volusia County and the City. These requirements will be completed during the Plat or Final Site Plan process.

- T. Tri-party Agreement/Proportionate Fair-Share Agreement: If a tri-party agreement and/or a proportionate fair-share agreement are required, the expiration date of these agreements will be five (5) years from the effective date of Development Agreement for Ordinance No. 09-2024 or two (2) years from the effective date of the approved Tri-Party Agreement, unless all parties agree to an extension.
7. **Development Permits/Fees/Impact Fees.** The Owner/Developer is responsible for obtaining, permitting, and the payment of all fees for facilities and services to ensure the Subject Property. Any site permits shall be kept current with the respective permitting agency and shall ensure the protection of the public health, safety, and welfare of the community and the development. All impact fees are applicable, and no impact fee credits shall be awarded through this Agreement; unless via another agreement or a cessation exists through a City moratorium that is Citywide.
8. **Public Health, Safety, and Welfare.** The Owner/Developer or Developer shall ensure that any development on the Subject Property is designed, permitted, and constructed to ensure the public health, safety, or welfare of the City's citizens as provided for in the City's Land Development Code.
9. **Obligations.** Should the Owner/Developer fail to undertake and complete its obligations as described in this Agreement to the City's specifications, then the City shall give the Owner/Developer 30 days written notice to commence and 90 days to complete said required obligation. If the Owner/Developer fails to complete the obligations within the 90-day period, then the City, without further notice to the Owner/Developer, or its successors in interest, may, without prejudice to any other rights or remedies it may have, place liens, and take enforcement action on the Subject Property. A lien of such assessments shall be superior to all others, and all existing lienholders and mortgagees, by their

execution of the subordination or joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer and its successors in interest shall be deemed to have been given upon the mailing of a notice to the address or addresses set forth in Paragraph (20) hereof.

10. **Site Plan/Plat Approval.** Exhibit "C," the Master Development Plan, is the Preliminary Plan of the PUD and this Agreement. The Master Development Plan shall not replace, supersede, or absolve the Owner/Developer from approvals for any Site Plan, Preliminary Plat, and/or Final Plat and their respective regulations. Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more detailed criteria apply. Subdivision Application and/or Final Site Plan approval is required for Development Order issuance. Building permit shall not be issued until the Development Order is recorded with the Volusia County Clerk of the Circuit Court.
11. **Indemnification.** The Owner/Developer shall indemnify and hold the City harmless from any and against all claims, demands, disputes, damages, costs, and expenses, (to include attorneys' fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the Subject Property, except those claims or liabilities caused by or arising from the negligence or intentional acts of the City, or its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, quality, or legality of the use or development of the Subject Property, including, but not limited to, drainage or water/sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City.
12. **Compliance.** The Owner/Developer agrees that it, and its successors and assigns, will abide by the provisions of this Agreement, the City's Comprehensive Plan, and the City's Code of Ordinances, including but not limited to, the site plan regulations of the City as amended from time to time, which are incorporated herein by reference and such subsequent amendments hereto as may be applicable. Further, all required improvements, including landscaping, shall be continuously maintained by the Owner/Developer, or their successors and assigns, in accordance with the City's Code of Ordinances. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, Certificates of Occupancy, or plan/plat approvals to the Subject Property, should the Owner/Developer fail to comply with the terms of this Agreement. In the event of a conflict between this Development Agreement and the City's Land Development Code, the more restrictive regulations shall govern the development of the Subject Property.

13. **Obligations for Improvements.** Any surface improvement as described and required hereunder included, but not limited to such as signalization, walls, stormwater management facilities, medians, and utilities, or any other surface improvement shall be performed, prior to the issuance of the first Certificate of Occupancy on that portion of the Subject Property that the surface improvement(s) relates or is otherwise scheduled in this Agreement. Should the Owner/Developer fail to undertake and complete its obligations as described in this Agreement and to the City's specifications, then the City shall give the Owner/Developer 30 days written notice to commence and 90 days to complete said required obligation at the sole expense of the Owner/Developer. If the Owner/Developer fails to complete the obligations within the 90 day period, then the City, without further notice to the Owner/Developer and their successors and assigns in interest, may but shall not be required to, perform such obligations at the expense of the Owner/Developer or their successors and assigns in interest, without prejudice to any other rights or remedies the City may have under this Agreement. Further, the City is hereby authorized to immediately recover the actual and verified cost of completing the obligations required under this Agreement and any legal fees from the Owner/Developer in an action at law for damages, as well as record a lien against the Subject Property in that amount. The lien of such assessments shall be superior to all others, and all existing lienholders and mortgagees, by their execution of the subordination or joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer and their successors and assigns in interest shall be deemed to have been given upon the mailing of notice as provided in paragraph (20) of this Agreement.
14. **Concurrency and Vested Rights.** The Owner/Developer acknowledges and agrees that prior to the issuance of any development orders for the Property, the Owner/Developer must have received and be in possession of a valid unexpired certificate of capacity/concurrency management system approval consistent with the City's Land Development Code. The capacity certificate/approval verifies the availability of infrastructure and service capacity sufficient to permit the proposed development of the Subject Property without causing a reduction in the levels of service adopted in the City's Comprehensive Plan. The certificate of capacity/approval shall be effective for a term, as defined in the City's Code of Ordinances. Neither this Agreement nor the approved Master Development Plan shall create or result in a vested right or rights to develop the Subject Property, as cited in Section 86-34 of the City's Land Development Code.
15. **Environmental and Tree Preservation.** The Owner/Developer is responsible for obtaining all site-related permits and approval prior to any development

activity on or for the Subject Property. This may involve mitigation for the habitat of threatened or endangered flora and fauna, or species identified for proportion (i.e., tree preservation). A 100 percent gopher tortoise survey of the property shall be provided at the time of subdivision and/or Site Plan application submittal to be conducted by an Authorized Gopher Tortoise Agent. Associated permitting with FWC may be required if burrow(s) cannot be avoided and all potentially occupied burrows will be permitted for relocation and relocated to a permitted gopher tortoise recipient site. The Owner/Developer shall provide concurrence with USFWS as it relates to Scrub Jay impacts prior to the commencement of any active work on the site, including localized lot clearing or under brushing. Additionally, 0.74 acres of the Subject Property is within the 100-year flood plain, however, no development will occur within that area.

This Agreement does not vest or exempt the Owner/Developer from any permitting and mitigation obligations needed to develop a Subject Property.

16. **Homeowners Association or Property Owners Association (if/when applicable).** The charter and by-laws of any Property Owners Association (“POA”) for the Subject Property and any deed restrictions related thereto shall be furnished to the City for approval by the City Attorney prior to the recording thereof in the Public Records of Volusia County, Florida. Such recording shall take place before a Certificate of Occupancy is issued for the first development project on land covered by this Agreement. The POA shall at a minimum be responsible for maintaining the common open space, any common utility systems, such as irrigation and site lighting, and project signage. The Owner/Developer shall be responsible for establishing the POA and recording said information in the Public Records of Volusia County, Florida. The City is not responsible for the enforcement of any agreements or deed restrictions entered into between property owners or occupiers of the Subject Property. If maintenance for the Subject Property is not maintained following the issuance of a Certificate of Occupancy, the City has the option to undertake Code Compliance action as deemed appropriate.
17. **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 the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for the payment of all of the City’s costs and expenses, including attorney fees, whether or not litigation is necessary and, if necessary, both at trial and on appeal. Such costs, expenses, and fees shall also be a lien upon the Subject Property superior to all others. 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. Interest on unpaid overdue sums shall accrue at the rate of the lesser of eighteen percent (18%) compounded annually or at the maximum rate allowed by law.

18. **Utility Easements.** For any easement not established on a plat for the Subject Property, the Owner/Developer shall provide to the City and/or County such easements and other legal documentation, in a form mutually acceptable to the City Attorney and the Owner/Developer, as the City and/or County may deem reasonably necessary or appropriate for the installation and maintenance of the utility and other services, including but not limited to, sanitary sewer, potable water, and reclaimed water services, electric, cable, gas, fire protection, and telecommunications.
19. **Periodic Review.** The City reserves the right to review the Subject Property subject in relation to this Agreement periodically to determine if there has been demonstrated good faith compliance with the terms of this Agreement. If the City finds that on the basis of substantial competent evidence that there has been a failure to comply with the terms of this Agreement, the City may not issue development orders or permits until compliance with this Agreement has been established.
20. **Notices.** Where notice is herein required to be given, it shall be by certified mail return receipt requested, hand delivery, or nationally recognized courier, such as Federal Express or UPS. E-mail delivery of documents shall not replace or be in lieu of the aforementioned process. Said notice shall be sent to the following, as applicable:

Owner/Developer:

Leha Investment Properties, Inc.
1904 Urbana Ave.
Deltona, FL 32725

Owner/Developer's Agent:

Mark A. Watts, Esq.
Cobb Cole
231 N. Woodland Blvd.
DeLand, FL 32720

CITY'S REPRESENTATIVES:

City Manager

City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

With a copy to:

Director

Planning Dept.
City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

Should any party identify the above change, it shall be said the party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein. It shall be the Owner/Developer's obligation to identify its lender(s) to all parties in a fashion as is required for notices herein.

21. **Compliance with the Law.** The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner/Developer of the Subject Property from the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.
22. **Captions.** The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.
23. **Binding Effect.** This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer and their successors and assigns in interest, and the City and their successor and assigns in interest. This Agreement shall become effective upon its execution and recordation with the Public Records of Volusia County, Florida. 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.
24. **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.
25. **Severability.** If any part of this Development Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Development 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 Development Agreement is declared severable.
26. **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.
27. **Recordation of Agreement.** The parties hereto agree that an executed original of this Agreement shall be recorded by the City, at the Owner/Developer's expense, in the Public Records of Volusia County, Florida.

28. **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.
29. **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 shall execute this Agreement within 10 business days of the City Commission's adoption of Ordinance No. 09-2024; and agrees to pay the cost of recording this document in the Public Records of Volusia County, Florida. Failure to execute this Agreement within 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.
30. **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.
31. **Effective Date.** The Effective Date of this Agreement shall be the day this Agreement is recorded in the Public Records of Volusia County, Florida.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

OWNER/DEVELOPER:

Leha Investment Properties, Inc.

By:

Signature of Witness # 1

Signature

Print or type name

Print or type name

ATTEST:

Signature

Print or type name

As:

Mailing Address:

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, and _____, of **Leha Investment Properties, Inc.**, who is personally known to me or who has produced _____ as identification and who did not (did) take an oath.

Signature of Notary

(NOTARY SEAL)

Print or type name

IN WITNESS WHEREOF, the City has executed this agreement.

CITY OF DELTONA:

By: _____

Date: _____

ATTEST:

Date: _____

Mailing Address:

City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, and _____, who is personally known to me and acknowledge executing the same freely and voluntarily under the authority vested in them by the City of Deltona.

Signature of Notary

(NOTARY SEAL)

Print or type name

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

Marsha Segal-George
City Attorney