

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

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

Exhibit "A" to Ordinance No. 02-2021

DEVELOPMENT AGREEMENT

for the project known as Portland Industrial Park (PIP) Industrial Planned Unit Development (IPUD) located at North Normandy Blvd. Deltona, FL (hereinafter referred to as the "Subject Property" or "PIP" or "Portland Industrial Park").

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the "Agreement") is entered into and made as of the ____ day of _____, 2021, 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 DOT Properties, NV, (hereinafter referred to as the "Owner or Owner/Developer"), (hereinafter referred to as the "Developer", if the Developer is a separate entity from the "Owner/Developer" and the Developer has an executed Notarized Owner Authorization from the Owner/Developer).

WITNESSETH

WHEREAS, the Owner warrants that it holds legal title to the lands located in Volusia County, Florida, and within the corporate limits of the City of Deltona, said lands being more particularly described in Exhibit "B", Legal Description for 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 or the Developer is currently under contract to purchase the Subject Property and intends to develop such property as a warehouse/distribution center with potential supporting uses such as office and service retail uses; and

WHEREAS, the Owner/Developer or 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 or 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 and/or Developer have/has sought the City's approval to develop the Subject Property, and the City approved Ordinance No. 02-2021, through rezoning the Subject Property to a form of Industrial Planned Unit Development (IPUD), as defined under the City's Land Development Code on _____. The PUD shall consist of this Agreement as the Written Agreement of the PUD and an Exhibit "C", Master Development Plan (MDP) options, 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 or 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 shall 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 herein contained 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 otherwise indicated.
2. **Ownership.** The legal and equitable owners of the Subject Property are: DOT Properties, NV.
3. **Title Opinion/Certification.** The Developer will provide to the City, prior to 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 shall join in this Agreement. It shall be the responsibility of the Owner/Developer and/or 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 is binding and runs with the land in perpetuity unless amended.
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.

This agreement is consistent with the City Comprehensive Plan.

B. Permitted principal uses allowed on/within the Subject Property:

Master Development Plan, Option One (1):

Buildings 100, 200, and 300: General light industrial, industrial park, manufacturing, warehousing (excluding mini-warehouse storage type uses) and high-cube warehouse (high-cube warehouse is described in detail in section 6M).

Outparcels 1-6: General light industrial, industrial park, manufacturing, warehousing (excluding mini warehouse storage type uses), data center, general office, medical office, flex space, office park, retail/service, high-turnover sit-down restaurant, and fast food restaurants with/with-out drive-through facilities. (Retail/service, high turnover sit-down restaurant and fast food uses limited to a maximum of 15,000 square feet measured in the terms of total building area and will be subject to an equivalency matrix which will be used to manage trip generation rates.)

Master Development Plan, Option Two (2)

Outparcel: limited to one (1) -3: General light industrial, industrial park, manufacturing, warehousing (excluding mini warehouse storage type uses), data center, general office, medical office, flex space, office park,

retail/service, high-turnover sit-down restaurant, and fast food restaurants with/with-out drive-through facilities. (Retail/service, high turnover sit-down restaurant and fast food uses limited to a maximum of 15,000 square feet measured in the terms of total building area and will be subject to an equivalency matrix which will be used to manage trip generation rates.)

Remainder of the Property: General light industrial, industrial park, manufacturing, warehousing (excluding mini-warehouse storage type uses) and high-cube warehouse (high-cube warehouse is described in detail in section 6M).

The intent is the Portland Industrial Park will be developed under one option only – either option One (1) or Two (2). The determination regarding the application of either option will be finalized when a plat (either a preliminary or final) or site plan is formally submitted for development activity within the Portland Industrial Park property. Development standards of this DA, including, but not limited to, dimensional standards, traffic requirements, etc., shall apply to either option.

C. Prohibited principal uses, if any:

Mini-warehouse storage, on-site firework sales, and residential development

D. Proposed minimum density (in the number of dwelling units per acre) or minimum intensity (measured in floor area ratio): N/A

E. Proposed maximum density (in the number of dwelling units per acre) or maximum intensity (measured in floor area ratio), if any: 1.0 FAR and Retail/Service Uses = 0.35 FAR

F. The impervious surface ratio: not to exceed 70% of the gross square footage for the Subject Property.

G. Maximum lot coverage (in %) (dry retention systems can be used towards open space): 40%. Maximum lot coverage will be defined as follows: the area of a lot from the ground up which is occupied by principal and accessory buildings.

H. Minimum landscaping and buffer yard requirements: per the City's Land Development Code. Stormwater management facilities shall not be placed within buffer yards.

I. Minimum lot size area (in acreage or square footage):

Exhibit C-Option 1: Outparcels 1, 2, and 3: 2.0 acres; Outparcels 4, 5, and 6: 5 acres and high-cube warehouse/warehouse sites: 20 acres.

Exhibit C-Option 2: Outparcel 1: 2.0 acres and high-cube warehouse/warehouse sites: 20 acres.

J. Minimum lot width (in feet): 200-ft

K. Minimum yard setbacks:

- 1) Front yard: N. Normandy Blvd, warehouse/high-cube warehouse setback = 50-ft
- 2) Front yard: N. Normandy Blvd. outparcels 1-3 = 30-ft
- 3) Front yard: Interior street setbacks = 25-ft
- 4) Side yard: North property line setback = 15-ft
- 5) Side yard: Abutting the Rhode Island Av. extension = 30-ft
- 6) Side Yard: Interior setbacks = 5-ft
- 7) Rear yard: East property line setback = 20-ft

L. Maximum building height (in feet): 70-ft. However, spires, belfries, cupolas, clerestory windows, antennas, water tanks, ventilators, solar panels, modular data equipment, rooftop equipment including satellite dishes, cellular antenna and related equipment, windmills, chimneys, penthouses or other similar accessory structures customarily required to extend above the roof level, may extend for an additional 20 feet above the 70 foot maximum building height set forth above.

M. Minimum parking standards: All development must comply with Sections 110-828 and 110-829 of the City's Land Development Code, as it may be amended from time to time, with the exception of the property reserved on the MDP as a high-cube warehouse. A high-cube warehouse is a relatively new distribution format and can be defined as a highly automated, high turnover use that features extensive paved circulation and staging areas for vehicles serving the distribution use. Furthermore, high-cube warehouses are large facilities consisting of at least 200,000 square feet of gross floor area as described in the 10th Edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual. For the purposes of implementing this Development Agreement a high-cube warehouse will be defined and otherwise distinguished from other warehouse, distribution and/or manufacturing use as a facility which is no less than 200,000 square feet of gross floor area and

the traffic generation rate shall include no more than 1.8 vehicles per 1,000 gross square feet per weekday as provided as the average daily trip rate in the 10th Edition Supplement of the ITE Trip Generation Manual. The traffic characteristics of which to help determine if a use is a high-cube warehouse or other format will be the responsibility of the developer to submit to the City for review.

A high-cube warehouse land use and related parking ratios are not listed as part of the Section 110-828 minimum off-street parking requirements. As per Section 110-828(f), the City has the ability to determine parking requirements for land uses not specifically listed. However, standards for non-listed land uses must be based on appropriate written data and analysis including utilizing information published by the Institute of Transportation Engineers (ITE), the American Planning Association (APA), and the Urban Land Institute (ULI) and supplemented with peak parking demand analysis of similar high-cube warehouse facilities. Based on the written analysis performed by the applicant and reviewed by staff, the parking ratio applied to the high-cube warehouse will be 0.35 spaces per 1,000 square feet of gross floor area. If the high-cube warehouse property is repurposed into a traditional warehouse, manufacturing or other use consistent with this DA, the parking ratios will need to be recalculated as per the requirements of Section 110-828 as it may be amended from time to time. The recalculation of required parking spaces and the related design of the parking, including landscaping, etc. will be required to be reviewed and approved through the City's final site plan process. Since there will be ample paved areas to accommodate distribution traffic flow and staging, there is anticipation that any need for future parking can be afforded by an appropriate redesign of these paved internal circulation areas associated with the high-cube warehouse facility. However, if these circulation areas cannot be redesigned to accommodate required parking ratios, land uses and related square-footage will need to be scaled accordingly and/or the site will need to be redeveloped to afford the required parking.

- N. 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 final site plan submittal. However, the following light pole exception shall be applied: For manufacturing and warehouse uses, light poles within contained areas devoted to the staging, parking, and/or loading of heavy trucks may have a maximum height of 45-ft. Heavy trucks are defined as typical tractor trailer type of vehicles having a wheel base of at least 40 feet. The allowance and application of elevated light fixtures for areas devoted to heavy truck

activity will be determined through the review of individual site plans. The balance of the light poles within the project will have a maximum height of 35-ft per City's Land Development Code.

Before a preliminary or final plat development order is issued, the developer shall be responsible for illuminating the N. Normandy Blvd. corridor from the south property boundary to the current southerly extent of the N. Normandy Blvd. streetlight network installed as part of the Project Normandy (Ord 13-2019)/Amazon development. All interior access roads shall be illuminated before the first building permit is issued within the Portland Industrial Park project. The streetlight design for City roadways and internal access ways shall provide for a maximum lighting level of eight (8) foot-candles and a minimum of 0.8 foot-candle throughout the N. Normandy Blvd. corridor.

- O. Architectural controls/aesthetics:** Metal buildings shall comply with the design/aesthetic standards of Sec.110-814(i) as applicable. In addition, the parking of heavy vehicles and equipment shall be screened from view from all public thoroughfares, existing and planned (N. Normandy Blvd. and the Rhode Island Av. extension). Other architectural controls and variations shall be defined and implemented by a Property Owners Association, as defined within this Agreement.
- P. Utility provision and dedication:** The Owner/Developer shall connect to Volusia County central utility systems at their sole cost and expense. Utility fees shall be paid to Volusia County, 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. In addition, to enhance fire suppression, on-site water tanks of appropriate volume shall be required as applicable.
- Q. Stormwater and environmental:** Per parcel stormwater systems or a master stormwater system shall be owned and maintained by an established Property Owners Association or overall owner in private ownership and shall not be dedicated to or become the responsibility of the City of Deltona. The City does reserve the option to enter into a joint use agreement to incorporate Portland Industrial Park stormwater facilities into a more regional stormwater treatment system. 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/overall owner, (unless determined otherwise through an above mentioned joint use agreement) 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. The Portland Industrial

Park property abuts a City stormwater pond located along the N. Normandy Blvd. right of way. The pond manages stormwater from N. Normandy Blvd. This pond may be upgraded or volume enhanced to manage stormwater from the PIP site. However, the City Development Review Committee will need to approve use and any alteration to the facility

R. Transportation, site access, and traffic devices: The Developer(s) is/are responsible for all transportation improvements within the Subject Property and for contributing to the costs of off-site transportation requirements, as may be required by this Agreement. The developer has submitted a traffic impact analysis (TIA) and a related proportionate fair share obligation in conjunction with the IPUD rezoning request. Per the TIA, the project will generate 5,407 daily trips which will impact Federal, State, County, and City roads. Of these 5,407 trips, 848 trips will consist of heavy trucks – 18 wheelers. Heavy trucks for the purpose of this DA include vehicles with a wheelbase of 40 feet or greater. (Note: both normal duty and truck trips shall be capped/limited as per Section R7 of this D.A.) Traffic impacts will be addressed in various ways including appropriate on-site traffic network design, traffic demand management (employee shift changes), access management, and off-site mitigation. Methods of which to manage traffic impacts will be described as follows:

1) On-Site Transportation Network

Portland Industrial Park (PIP) is designed to support a range of uses on up to eight (8) lots. Internal access to the lots and leading to City roadways/thoroughfares needs to be designed to accommodate heavy truck traffic and provide adequate connections to adjacent developments and proposed future roadways.

Master Development Plan, Option One (1)

The northernmost east/west interior roadway shall act as a spine road for the project. This roadway shall occupy at least an 80-foot wide envelope and extend from the most northern driveway entrance (Driveway 1) at N. Normandy Blvd. and extend the entire length of the property stubbing out at the eastern terminus of the IPUD site. The 80-foot envelope shall consist of a 60-foot right-of-way dedicated to the City and a 10-foot easement flanking the north and south side of the 60-foot wide right-of-way. The easement areas will be reserved for utilities, drainage and pedestrian facilities as appropriate. The dedicated 60-foot right-of-way will accommodate roadway travel lanes including turn lanes as appropriate. However, if the existing County sewer line is intended to extend along this roadway the right of way and/or easement width may be expanded to accommodate the sewer line. This east/west facility alignment may be slightly altered from the roadway depicted on the MDP during the plat or development process.

The intent of the roadway is to serve as a connection between N. Normandy Blvd. and the future Rhode Island Av. extension. Initially this facility will be a paved two lane corridor but may be expanded to four lanes in the future with space for left-turn lanes in the center median.

The other east/west corridor extends from the most southern driveway cut (Driveway 3) servicing industrial/distribution nodes planned for the project. This facility shall occupy a minimum of a 60-foot wide envelope and shall be developed with a two-lane facility. The subject east/west corridor shall transition to the south on both the west and the east of the high-cube warehouse site unless final building orientation precludes such an alignment. Regardless, the high-cube warehouse site shall be designed to provide internal connectivity and provide at least two (2) interconnecting stub outs to a new road proposed to run along the southern margin of the Portland Industrial Park property.

The north/south interior roadway parallel to N. Normandy Blvd. shall stub out to a platted roadway known as John Wayne Dr. on the north side of the project site. The stub out shall be designed and constructed to facilitate a connection to John Wayne Dr. when the pavement of John Wayne Dr. is extended to the southern boundary of the adjacent Deltona Village BPUD. The subject north/south interior roadway shall serve as the primary access to the proposed outparcels situated on N. Normandy Blvd. This north/south interior roadway shall be designed as an urban roadway consistent with the City Land Development Code and related processes.

The high-cube warehouse site shall be designed to have at least two (2) interconnecting stub outs to a new road proposed to run along the southern margin of the Portland Industrial Park property. The new road referred to as the Rhode Island Av. extension is planned to extend from Veterans Memorial Parkway west of Interstate 4 (I-4) to the east across I-4 (ideally with a full interchange movement), run along the southern terminus of the Portland Industrial Park land and then transition to the north eventually intersecting Howland Blvd. The facilitation of the Rhode Island Av. extension will be addressed elsewhere in this Development Agreement.

Finally, the design and dimensions of all internal access, including parking facilities and pedestrian access shall be consistent with the City Land Development Code.

Master Development Plan, Option Two (2)

The east/west interior roadway shall act as a spine road for the project. This roadway shall occupy at least an 80-foot wide envelope and extend the entire length of the property stubbing out at the eastern

terminus of the IPUD site. The 80-foot envelope shall consist of a 60-foot right-of-way dedicated to the City and a 10-foot easement flanking the north and south side of the 60-foot wide right-of-way. The easement areas will be reserved for utilities, drainage and pedestrian facilities as appropriate. The dedicated 60-foot right-of-way will accommodate roadway travel lanes including turn lanes as appropriate. However, if the existing County sewer line is intended to extend along this roadway, the right of way and/or easement width may be expanded to accommodate the sewer line. This east/west facility alignment may be slightly altered from the roadway depicted on the MDP during the plat or development process. The intent of the roadway is to serve as a connection between N. Normandy Blvd. and the future Rhode Island Av. extension. Initially this facility will be a paved two lane corridor but may be expanded to four lanes in the future with space for left-turn lanes in the center median.

The high-cube warehouse site shall be designed to provide internal connectivity and provide at least one (1) interconnecting stub outs to a new road proposed to run along the southern margin of the Portland Industrial Park property.

The north/south interior roadway parallel to N. Normandy Blvd. shall stub out to a platted roadway known as John Wayne Dr. on the north side of the project site. The stub out shall be designed and constructed to facilitate a connection to John Wayne Dr. when the pavement of John Wayne Dr. is extended to the southern boundary of the adjacent Deltona Village BPUD. The subject north/south interior roadway shall serve as the primary access to the proposed outparcels situated on N. Normandy Blvd. This north/south interior roadway shall be designed as an urban roadway consistent with the City Land Development Code and related processes.

The high-cube warehouse site shall be designed to have at least one (1) interconnecting stub outs to a new road proposed to run along the southern margin of the Portland Industrial Park property. The new road referred to as the Rhode Island Av. extension is planned to extend from Veterans Memorial Parkway west of Interstate 4 (I-4) to the east across I-4 (ideally with a full interchange movement), run along the southern terminus of the Portland Industrial Park land and then transition to the north eventually intersecting Howland Blvd. The facilitation of the Rhode Island Av. extension will be addressed elsewhere in this Development Agreement.

Finally, the design and dimensions of all internal access, including parking facilities and pedestrian access shall be consistent with the City Land Development Code.

2) **On-Site Dedications to the City of Deltona**

Currently the Portland Industrial Park property is associated with an antiquated plat named Yourlando Farms and Groves. There are publicly dedicated right of ways on the PIP property which will need to be vacated. The City is prepared to process an application to facilitate vacation of those public right-of-ways. However, the vacation event and approval of the PIP IPUD will be predicated on a 70-foot strip of land which can be generally described as the south 70 feet of lots 109 and 110 of Yourlando Farms and Groves Map Book 10 Pages 227-228 and the south 70 feet of Government Lot 7 Section 7 Township 18S Range 31E being reserved and otherwise dedicated to the City. This dedication will be processed through the land development review phase (either plat/subdivision or site plan as applicable). As has been mentioned, the City is requiring the northern most east/west roadway be dedicated as a 60-foot wide right-of-way. Finally, any land granted to the Developer, as per any approved vacation request will be considered to be subsumed into the Portland Industrial Park IPUD without the need for a major amendment to the IPUD.

3) **Shift Changes**

Once the uses within the Portland Industrial Park have exceeded a total of 350 external PM peak hour trips, traffic demand management shall be implemented by requiring all subsequent (after the 350 external peak hour trip threshold has been achieved) 24-hour warehousing, manufacturing, industrial, office, flex space, or distribution uses with a gross floor area greater than 250,000 square feet to utilize shift changes outside of the AM and PM peak hours. A developer of a qualifying project will be responsible for completing a traffic study as part of a site plan application to forecast the overall PM peak hour project trips and for monitoring PM peak hour project trips after construction. A goal of implementing shift change times is to minimize impacts on local roadway AM and PM peak hours. The AM and PM peak hours are generally between the times of 7:00 am and 9:00 am ("AM Peak") and 4:00 pm and 6:00 pm ("PM Peak"), respectively. Therefore, the initial allowable range of shift changes associated with the industrial park are illustrated in the table below:

| Evening Shift Outgoing | Day Shift Incoming | Day Shift Outgoing | Evening Shift Incoming |
|---------------------------|-----------------------|-----------------------|---------------------------|
| 3:00 - 4:00 am | 5:00 - 6:00 am | 4:00 - 5:00 pm | 4:00 - 5:00 pm |

The restricted shift change hours are not applicable to commercial outparcels, developments with gross floor area less than 250,000 square feet, or developments without 24-hour operations.

Developer or end user businesses may modify this initial shift schedule or add additional shifts (“New Shift Changes”) without City approval so long as any such new shift changes do not occur during either the AM Peak and PM Peak hour times.

If the Developer or end user business desires to make new shift changes during the AM Peak and PM Peak hours, other than as approved in the table, above, and the City believes that these new shift changes have negatively affected the existing level of service of public roadways and intersections studied as part of the TIA, then the City will notify Developer or end user business, and Developer or end user business shall be required: (1) to meet with City staff to agree upon a methodology to study the impact of the new shift changes during the AM Peak and/or the PM Peak on the level of service of impacted public roads and intersections studied in the TIA; (2) submit monitoring reports to the City on an agreed-upon schedule after instituting the new shift changes, which monitoring will not exceed 1-year without the mutual agreement of the parties; and (3) implement such additional modifications to the new shift changes as may be mutually agreed upon by the City and the Developer or end user business in connection with the AM Peak and/or PM Peak hours if the monitoring reports demonstrate that the new shift change(s) in fact result in greater impacts to the level of service on impacted public roadways and intersections during those times than impacts identified in the TIA.

No amendment or change to this Development Agreement will be required in connection with implementing this Sub-Section 6.R.3.

4) Access Management/Site Related

Access management associated with the project involves the appropriate location and design of Project ingress and egress. Access management is needed to protect the capacity on City roadways and to promote transportation safety. Access management and related costs, including, but not limited to, signalization, signage, etc., are the sole responsibility of the owner/developer to construct and finance. Three (3) driveways planned as part of the project and depicted on the MDP will be the subject of access management. Heavy truck access will also be a component of the access management requirements. Truck access management will be addressed in detail below. However, the City may need to work with the County, including the Volusia Sheriff’s Office, and other applicable local governments to designate and enforce a truck route which will direct truck trips to the SR 472/Interstate-4 interchange. In addition, all work within City right-of-

way areas will need to be appropriately permitted with the City. Access management improvements shall be completed before the first Certificate of Occupancy (C/O) (permanent or temporary) for the PIP project is granted. The improvements described from north to south are as follows:

- a. **Driveway One (1) (North):** Driveway One (1) will align with the existing Project Normandy/Amazon Driveway Two (2). The intersection will remain signalized and provide full access to N. Normandy Blvd. The signal shall be a mast arm design and will need to be appropriately synchronized with adjacent traffic signals on N. Normandy Blvd. Constructed with Driveway One (1) will be a northbound right turn lane of at least 315 feet and a southbound left turn lane of 315 feet. The right turn lane shall be curbed and guttered.

A City goal, in light of existing traffic infrastructure, is all heavy truck traffic accessing the Portland Industrial Park project originate from and be directed to the Interstate 4/SR 472 interchange. Therefore, heavy truck traffic associated with the operation of industrial and distribution oriented uses within the PIP project is to be prohibited from utilizing the N. Normandy Blvd. corridor south of Driveway Three (3) (southern entrance). Heavy truck circulation will need to be reassessed if and when future transportation improvements, including the Rhode Island Av. extension and a potential new interchange at Rhode Island Av. and Interstate 4, are constructed. To enforce expected heavy truck movements, the intersection approach to N. Normandy Blvd. shall be adequately posted with signage directing all heavy trucks to the north and raised island truck deterrents constructed to discourage heavy truck egress movement from turning south. These deterrents shall be constructed at the same time the driveway cut is built. To aid in the enforcement and reporting of heavy truck movement, the Owner/Developer will be responsible for the installation of an Opticon monitoring and license plate reader device at the intersection of Driveway One (1) and N. Normandy Blvd. The Opticon and license plate reader shall be installed before the first Certificate of Occupancy (C/O) is issued. In addition, the City will require the installation of off-site signs along the N. Normandy Blvd. corridor north of the Portland Industrial Park to direct traffic. Part of the sign package will be directional signage at the N. Normandy Blvd./Graves Av. intersection. The directional signs shall guide

south/west bound Interstate-4 traffic attempting to access the greater Orlando area to make a left turn onto Graves Av., drive over the interstate and eventually linking to SR 472 via Kentucky Av. North/eastbound Interstate-4 traffic will be directed to take a right turn on Graves Av. to access SR 472.

- b. **Driveway Two (2) (Center):** Driveway Two (2) will align with the existing Project Normandy/Amazon Driveway Three (3). The intersection will be stop-controlled on the minor approaches and provide right-in, right-out, and left-in entrance/exit movements. Constructed with Driveway Two (2) will be a northbound right turn lane of at least 315 feet and a southbound left turn lane of at least 315 feet. The right turn lane will be curbed and guttered. To maintain traffic control, a raised curb with a 'pork chop' design shall be constructed to limit egress traffic to a right turn movement only.
- c. **Driveway Three (3) (South):** Driveway Three (3) will align with the existing the Project Normandy/Amazon Driveway Four (4). Driveway Three (3) will be signalized and will provide full access to N. Normandy Blvd. According to the Project Normandy Development Agreement (Nov. 4, 2019), there was to be a signal warrant study completed to determine the need for signalization. With the Portland Industrial Park project, this access point will need to be fully signalized featuring the use of mast arms. The signal shall be fully synchronized with adjacent traffic signals on N. Normandy Blvd. Constructed with Driveway Three (3) will be a northbound right turn lane of at least 315 feet and a southbound left turn lane of at least 315 feet. The right turn lane will be curbed and guttered.

The intent is all heavy truck traffic accessing the PIP project originate from and be directed to the Interstate 4/472 interchange. Therefore, non-local heavy truck traffic associated with the PIP project is to be prohibited from utilizing the the N. Normandy Blvd. corridor south of Driveway Three (3) (southern entrance). Heavy truck circulation will need to be reassessed if and when future transportation improvements, including the Rhode Island Av. extension, and potential new interchange at Rhode Island Av. and Interstate 4 are constructed. To enforce expected heavy truck movements, the Driveway Three (3) intersection approach to N. Normandy Blvd. shall be adequately posted with signage directing all heavy trucks to the north and raised island truck deterrents

constructed to discourage heavy truck egress from turning left (south). These deterrents shall be constructed at the same time the driveway cut is built. To aid in the enforcement and reporting of heavy truck movement, the Developer will be responsible for the installation of an Opticon monitoring and license plate reader device at the intersection of Driveway Three (3) and N. Normandy Blvd. The Opticon and license plate reader shall be installed before the first Certificate of Occupancy (C/O) is issued. In addition, the City will require the installation of off-site signs along the N. Normandy Blvd. corridor north of the Portland Industrial Park to direct traffic. Part of the sign package will be directional signage at the N. Normandy Blvd./Graves Av. intersection. The directional signs shall guide south/west bound Interstate-4 traffic attempting to access the greater Orlando area to make a left turn onto Graves Av., drive over the interstate and eventually linking to SR 472 via Kentucky Av. North/eastbound Interstate-4 traffic will be directed to take a right turn on Graves Av. to access SR 472.

5) Off-Site Mitigation

Pursuant to Section 163.3180(h)1, Florida Statutes, the City and the Developer have agreed that the Developer(s) will provide financial contributions for certain improvements to City and County roads affected by the project as described below as proportionate or “fair” share of the needed off-site transportation improvements required to satisfy the transportation concurrency requirements for the project. All such improvements shall be subject to applicable governmental permitting and review. The Developer shall not be required to make additional financial contributions towards the proportionate share unless there is an increase in intensity of the development program as a result of a major amendment to this IPUD. If by mutual agreement between the City and the Developer prior to its occurrence, payment of the proportionate fair share by the Developer is not made within one year of the date of an execution of a proportionate fair share agreement between the Developer and the City, then the proportionate fair share shall be recalculated based on the applicable Florida Department of Transportation published inflationary rate.

As part of a mitigation plan, notwithstanding future monitoring and modeling events, the Portland Industrial Park project is estimated to contribute a baseline proportionate fair share mitigation amount of \$5.84 million predicated on the results of the year 2021 Traffic Impact Analysis prepared to support this IPUD rezoning. The mitigation plan has been coordinated with the Developer, City of Deltona, and Volusia County. The majority of the mitigation activity will occur on County

roads. Therefore, there will be a triparty proportionate fair share agreement executed between the County, City, and Developer to address payment thresholds, including escalation parameters, and the timing of improvements. Also, based on there being an incremental lot by lot buildout scenario which may protract over many years, every lot may be subject to an individual prop fair share agreement.

There will also be a separate proportionate fair share arrangement between the Developer and the City. Also, based on there being an incremental lot by lot buildout scenario which may protract over many years, every lot may be subject to an individual proportionate fair share agreement. The baseline dollar amount determined by the 2021 Kimley Horn TIA determined the base line fair share contribution to be \$889,344.40 for improvement of N. Normandy Blvd. This arrangement will focus on the improvement of N. Normandy Blvd. These agreements will need to be completed and executed before any land development application is submitted to the City for review.

As part of a site plan approval process for any individual development within the Portland Industrial Park, proportionate fair share contributions shall be made by the development commensurate with the estimated percentage of net new external PM peak hour project trips generated by the development relative to the overall Portland Industrial Park net new external PM peak hour trips. The proportionate fair share contributions will escalate based on the applicable Florida Department of Transportation published inflationary rate. Individual developments will be required, as part of a site plan review application, provide a TIA to calculate the trip generation characteristics of individual uses. Alternatively, the City may require monitoring report to serve as an updated to the 2021 Kimley-Horn TIA. The TIA will be utilized to determine the appropriate proportionate share payment for each project.

At the discretion of the City of Deltona, the City share of the proportionate fair share mitigation from the project may be used to fund the following improvement:

- a. **Lane Mile Addition**
N. Normandy Blvd. Four Lane Improvement Extending from the Established Lane Transition from the Southern Extent of Project Normandy/Amazon to South Av.

Widen N. Normandy Blvd. from two (2) to four (4) lanes from Energy Av. to South Av. All improvements will be designed and constructed at urban cross section standards. The four (4) lane

improvement will also include intersection stub-outs for the anticipated Rhode Island Av. extension. The City will grant transportation impact fee credits for all development within the Portland Industrial Park project in exchange for the developers making proportionate share payments. The proportionate share estimate for this improvement is \$889,344.40 based on Volusia County fair share calculations. The City will enter into fair share agreements, as per individual development, to reserve fair share contributions intended to be applied to the N. Normandy Blvd. widening. Depending on the timing of the N. Normandy widening, fair share payments obtained incrementally will be used to reimburse the City for performing the improvements to N. Normandy Blvd.

6) **Transit**

Appropriate transit service to the Portland Industrial Park is in the best interest of the City, the Developer, and the local transit authority (VOTRAN). Therefore, the City, as part of the site plan review process, will require developers to coordinate with VOTRAN for transit or van service to developments within the project. There is anticipation coordination will address shift changes, access, internal circulation and other matters deemed appropriate by VOTRAN.

7) **Trip Management/Limitations**

The project is forecast to generate 5,407 trips. 848 of the 5,407 trips will consist of heavy trucks. Trips originating from the Portland Industrial Park project will therefore be capped at 4,559 light duty vehicle daily trips and 848 heavy truck daily trips. To ensure there is an accurate accounting of the trips, a determination from a traffic engineer will need to be presented to the City for each individual development indicating the number of trips – both light duty vehicles and trucks. The trip findings will clearly illustrate how the trips were calculated including parameters like internal capture and pass by trips. The City reserves the right to have the trip calculations peer reviewed at the expense of the Developer/applicant.

8) **Equivalency Matrix**

There are a range of use entitlements associated with the Portland Industrial Park project. To appropriately distribute trips per land use type and square footage, the attached equivalency matrix is attached as Exhibit C.

7. **Public Facilities/Land Dedication.** Facilities or tracts that either are or shall become public facilities/tracts that will serve the development and/or are on the Subject Property are, as follows:
- a. 60-foot right of way for the northerly most east/west roadway – City, Option One (1) or a 60-foot right of way for the east/west interior roadway, (Option Two (2));
 - b. 70-foot right of way running along the southern margin of the Portland Industrial Park property - City;
 - c. Water, sewer, and related utility infrastructure – County;
 - d. Other dedications as appropriate – City or County.
8. **Development Permits/Fees.** The Owner/Developer or Developer is responsible for permitting, and the payment of all fees for facilities and services associated with the development of 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 applicable transportation impact fees shall be addressed through fair share or other arrangements.
9. **Obligations.** Should the Owner/Developer or 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 or Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation. If the Owner/Developer or Developer fails to complete the obligations within the ninety (90) day period, then the City, without further notice to the Owner/Developer or 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 or Developer and its successors in interest shall be deemed to have been given upon the mailing of notice to the address or addresses set forth in Paragraph (20) hereof.
10. **Site Plan/Plat Approval.** Exhibit "C", Master Development Plan either Options One (1) or Two (2), is the preliminary plan of the IPUD. The Master Development Plan shall not replace, supersede, or absolve the Owner/Developer or Developer from approvals for any site plan, preliminary plat, and/or final plat and associated respective requirements and regulations. Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more restrictive shall apply.

11. **Indemnification.** The Owner/Developer or Developer shall indemnify and hold the City harmless from any and against all claims, demands, disputes, damages, costs, 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 or Developer agrees that it, and their 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 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 and/or Developer fail to comply with the terms of this Agreement.
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, access management, directional controls, 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 and/or 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 and/or Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation at the sole expense of the Owner/Developer and/or Developer. If the Owner/Developer and/or Developer fails to complete the obligations within the ninety (90) day period, then the City, without further notice to the Owner/Developer and/or 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 and/or 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 and/or 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/or 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 and/or Developer acknowledges and agrees that prior to the issuance of any development orders for the Property, the Owner/Developer and/or Developer must have received and be in the 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 and/or Developer is responsible to obtain all site related permits and approval prior to any development activity on or for the Subject Property. This may involve mitigation for habitat of threatened or endangered flora and fauna or for species identified for proportion (i.e. tree preservation). This Agreement does not vest or exempt the Owner/Developer and/or Developer from any permitting and mitigation obligations needed to develop a Subject Property.

For any land development activity a formal consultation with the United States Fish and Wildlife Service (USFWS) and/or the Florida Fish and Wildlife Conservation Commission (FWC) for federal and state listed threatened and endangered species, specifically the Florida scrub jay (*Aphelocoma coerulescens*), indigo snake (*Drymarchon couperi*), gopher tortoise (*Gopherus polyphemus*), and Southeastern American kestrel (*Falco sparverius paulus*) is required. The results of these consultations will formalize approved avoidance and/or mitigation measures. The acquisition of permits, including required mitigation, for the potential incidental take of species and their habitat will be required. Preservation for historic and specimen tree species and/or tree removal permitting will comply with the City's Land Development Code. The property cannot be cleared before a site

plan development order is approved by the Development Review Committee and an engineering hard card is issued. After any clearing or mass grading on the PIP, the site shall be stabilized to manage both waterborne erosion, and/or aeolian oriented sand or dust. Techniques to manage erosion and/or dust shall include full compliance with the Florida Erosion Sediment Control Manual. Any off site impacts associated with erosion or wind borne dust/sand shall be addressed by the Developer and/or end user. Methods to address impacts can include cleaning, restoration, etc. of private or public property at the expense of the developer or an individual lot end user.

16. **Property Owners Association.** 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 an application is made for a plat and/or a site plan for the 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 for irrigation and site lighting, project signage, stormwater, etc. The Owner/Developer and/or 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 improvements associated with the Subject Property are not maintained following issuance of the first Certificate of Occupancy (C/O), the City will initiate Code Enforcement action.
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 and/or 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 and/or 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(s) not established on a plat for the Subject Property, the Owner/Developer and/or Developer shall provide to the

City such easements and other legal documentation, in form mutually acceptable to the City Attorney and the Owner/Developer and/or Developer, as the City 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 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'S OR DEVELOPER'S REPRESENTATIVES:

DOT Properties N V
Gary Weatherley
21/600 Madison Avenue
New York, New York 10022

CITY'S REPRESENTATIVES:

City Manager
City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

With copy to:

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

Should any party identified above change, it shall be said 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 and/or Developer 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 and/or Developer of the Subject Property (Portland Industrial Park) 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/or 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 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. 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 and/or Developer shall execute this Agreement within ten (10) business days of City Commission adoption of Ordinance No. 02-2021; 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 execution and recordation of this Agreement has 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 consistent with the City Land Development Code.
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.

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

OWNER/DEVELOPER

By:

Signature of Witness # 1

Print or type name

Signature of Witness # 1

Print or type name

Signature

Print or type name

AS:

Signature

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 _____, 202__, by _____, and _____, of _____, who is/are personally known to me or who has/have produced _____ as identification and who did not (did) take an oath.

Signature of Notary

Print or type name

(NOTARY SEAL)

IN WITNESS WHEREOF, the Developer have executed this Agreement.

DEVELOPER

By:

Signature of Witness # 1

Print or type name

Signature of Witness # 1

Print or type name

Signature

Print or type name

AS:

Signature

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 _____, 202__, by _____, and _____, of _____, who is/are personally known to me or who has/have produced _____ as identification and who did not (did) take an oath.

Signature of Notary

Print or type name

(NOTARY SEAL)

IN WITNESS WHEREOF, the City have 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 _____, 202__, by _____, and _____, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Deltona.

Signature of Notary

Print or type name

(NOTARY SEAL)

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

Marsha Segal-George
Acting City Attorney

DRAFT