THE COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER REGULAR MEETING AGENDA

COUNCIL CHAMBERS – 6:30 PM – CITY HALL
MARCH 28, 2017

A. OPENING

1. Roll Call
2. Election of Chairman
3. Election of Vice Chairman

B. DISCUSSION/ACTION

4. Approval of Minutes

5. An Economic Incentive Agreement Program for Town Center CRA
6. Economic Incentive Agreement with B.D.W. Land Holdings, LLC (Atlantic Marine)
7. Port Orange Town Center CRA Annual Report - FY 2015/2016

C. PUBLIC COMMENTS

D. BOARD COMMENTS

E. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDING UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER: 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE; IF YOU ARE HEARING OR VOICE IMPAIRED CONTACT THE RELAY OPERATOR AT 1-800-955-8771 FOR INFORMATION.

TOWN CENTER CRA MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
SEPTEMBER 20, 2016

THE REGULAR MEETING of the TOWN CENTER CRA was called to order by Chairman Allen Green at 6:35 p.m.

Roll Call:	Present:	Member Bob Ford Member Donald Burnette Member Scott Stiltner Member Ben Talluto Vice Chair Drew Bastian Chairman Allen Green
	Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Robin Fenwick, City Clerk

DISCUSSION/ACTION

2. Approval of Minutes
   a. March 15, 2016
   b. August 11, 2016

Motion to approve minutes as presented was made by Member Bastian, and Seconded by Member Burnette. Motion carried unanimously by roll call vote.

3. Resolution No. 16-01 - Port Orange Town Center CRA Tax Increment District FY17 Operating Budget

Motion to approve Resolution No. 16-01 was made by Member Bastian, and Seconded by Member Burnette. Motion carried unanimously by roll call vote.

BOARD COMMENTS

There were none.

ADJOURNMENT: 6:37 p.m.

_____
Vice Chairman Drew Bastian

COMMUNITY REDEVELOPMENT AGENCY FOR
PORT ORANGE TOWN CENTER

REQUESTED AGENCY MEETING DATE: 03/28/2017

Consent Item: No

SUBJECT: (B5) An Economic Incentive Agreement Program for Town Center CRA

DEPARTMENT: City Attorney

RECOMMENDED MOTION: Move to approve the program proposed in Resolution No. 17-14 and recommend adoption to the city council, finding the proposed program consistent with the CRA Plan.

SUMMARY: The proposed program for economic incentives for a portion of Town Center is attached as Resolution No. 17-14. The resolution will be considered by the city council on March 28, 2017.

ATTACHMENTS:

1.	Resolution No 17-14	Resolution No 17-14.pdf

Tracy London	Created/Initiated - 03/06/2017
Margaret Roberts	Approved - 03/16/2017
Alan Rosen	Approved - 03/16/2017
Robin Fenwick	Final Approval - 03/17/2017

AGENCY ACTION: New
CONTINUATION DATE:

Follow up letter/action needed by: Department-**No**, Clerk's Office-**No**, or N/A-**No**

RESOLUTION NO. 17-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING AN ECONOMIC INCENTIVE PROGRAM FOR A PORTION OF THE COMMUNITY REDEVELOPMENT AREA FOR PORT ORANGE TOWN CENTER; ESTABLISHING A PROGRAM AGREEMENT; ESTABLISHING PROGRAM REQUIREMENTS FOR AREA, AGREEMENT, TERM PERCENTAGE, MINIMUM CAPITAL INVESTMENT, PROGRAM ADMINISTRATION, APPLICATION DELEGATING AND AUTHORIZING THE CITY MANAGER TO REVIEW AND APPROVE ALL REVISIONS AND EXECUTION OF THE PROGRAM DOCUMENTS; PROVIDING FOR CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Community Redevelopment Area for Port Orange Town Center, "Town Center CRA", was established in 1998, and

WHEREAS, the City of Port Orange has previously executed an Economic Incentive Agreement for a portion of the Riverwalk District within the Town Center CRA; and

WHEREAS, the City of Port Orange and Town Center CRA adopted Ordinance No. 2014-22 on November 11, 2014, which authorized incentives in the form of reimbursement to developers from increment revenues attributable to a project for costs of improvements, facilities, or services which provide public benefits by written agreement; and

WHEREAS, the City of Port Orange has invested in the Riverwalk District of the Town Center CRA and continued its obligation for repayment of bonded indebtedness together with the property owners who propose to develop within the Riverwalk District; and

WHEREAS, the City Manager recommends the establishment of an economic incentive program for the portion the Town Center CRA area that is not located within the Riverwalk District; and

WHEREAS, the Town Center CRA Agency finds that the other districts in the Town Center CRA require additional economic incentives; and

WHEREAS, the Town Center CRA Agency finds that the proposed economic incentive program is consistent with the Town Center Plan, as amended; and

WHEREAS, at the time of adoption of this Resolution No. 17-14, seven (7) jurisdictions contribute to the funding of tax increment revenues, including Volusia County, Volusia Forever, Volusia Echo, Volusia Mosquito Control, Ponce Inlet Port Authority, City of Port Orange, and Halifax Hospital Authority; and

WHEREAS, the Town Center CRA Agency has recommended and approved the establishment of the proposed economic incentive program and the sharing of tax revenues generated by development activity encouraged by the proposed program for the area within the Dunlawton Village District, the Down Under District, the Causeway District and the Ridgewood Avenue District, the "Program Districts"; and

WHEREAS, the City Council of the City of Port Orange finds that it is in the best interests of the citizens of the City of Port Orange to establish an economic incentive program for certain districts of the Town Center CRA, as more set forth hereinafter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA as follows:

SECTION 1: The City Council of the City of Port Orange hereby establishes the Town Center District Economic Incentive Program, the "Program", for the Community Redevelopment Area for Port Orange Town Center as defined herein. The Program shall provide an economic incentive opportunity by sharing a portion of the increased tax revenues that are generated by the development of eligible real property and shall include all requirements as set forth in this Resolution No. 17-14. The City and the approved applicant shall execute a recordable economic incentive agreement, "the Program Agreement" consistent herewith. The Program Agreement shall provide for the economic development of residential or commercial facilities, including construction and expansion of permitted real property uses within the eligible area.

SECTION 2: The Program shall operate from the effective date of this Resolution No. 17-14 to the earlier of March 27, 2029 or the next business day thereafter, unless otherwise terminated by a resolution repealing or amending or termination of the CRA.

SECTION 3: The City Council of the City of Port Orange, hereby establishes the following:

PROGRAM REQUIREMENTS:

AREA LIMITS: The eligible area for the Program shall be defined to include the real property as graphically described in **Exhibit "A"**, attached hereto and shall include the

following Districts of the Town Center CRA as follows:

Dunlawton Village District
Down Under District
Causeway District
Ridgewood Avenue District

REVENUE SHARING PROGRAM AGREEMENT ("Program Agreement"): The City and the Town Center CRA, subject to the limitations prescribed in the Program Requirements, shall commence sharing the increased tax revenue generated by development and received by the City upon the applicant's compliance with the Program Requirements and upon execution of the Program Agreement, **Exhibit "B"**, attached hereto in substantially the same Program form and content, except for the particular applicant specific data. The City shall not distribute a share of increased tax revenue until completion of the development construction and the issuance of a certificate of occupancy for the required improvements, the "Commencement of Revenue Sharing". In the event that the development activity of the applicant fails to generate an increase in tax revenue in one or more of the term years for the applicant's property, then the City and Town Center CRA shall not have any obligation to the applicant and shall not distribute any revenue to the applicant for each year without a tax revenue increase.

REVENUE SHARING PERIOD: The period commencing the year subsequent to the issuance of the Certificate of Occupancy and that which the tax valuation will initiate a Tax Increment Revenue increase as a result of the Project and the period terminating on the earlier of: (i) the date on which the Owner has received Funding Disbursements cumulatively equaling the Revenue Sharing Cap Amount; (ii) December 31, 2036, (iii) the expiration of the Agency or (iv) the Developer's failure to timely commence and timely complete the Development Plan.

REVENUE SHARING TIME AND PERCENTAGE LIMITS: The Program shall permit each approved agreement applicant who has complied with all terms of this Resolution No. 17-14 to share for the duration of the Program Agreement in the following percentages of increased tax revenue as received by the city based on the date of execution of the Program Agreement as set forth below.

March 28, 2017 to March 27, 2020	50%
March 28, 2020 to March 27, 2022	40%
March 28, 2022 to March 27, 2024	30%
March 28, 2024 to March 27, 2029	10%

CAPTIAL INVESTMENT AND LIMITS: The applicant shall demonstrate by a professional engineer's sealed estimate of construction value for all site and building improvements as shown on a site plan or building plan approved consistent with city ordinance requirements. The proposed development combined site and building construction value shall exceed one million dollars ($1,000,000.00).

MAXIMUM PARTICIPATION LIMITS: The maximum share of increased tax increment revenue and the maximum number of years for reimbursement shall be established in the Program Agreement.

ADMINISTRATION: The Program shall be administered by the Finance Department in accordance with its forms and procedures.

APPLICATION: Each Program participant shall complete and execute a program application and shall evidence by deed or contract right to the fee simple ownership of the real property that is the subject of the application. The form of the application shall be established and recommended for approval by the Community Development Department. The City Attorney or a designee, in writing shall review each application and shall recommend action consistent with the intent of the Program Requirements.

SECTION 4: Each Program Agreement shall be subject to approval by the Town Center CRA and the City Council.

SECTION 5. All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

SECTION 6. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

SECTION 7. This resolution shall become effective immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, CMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney

Exhibit "A"

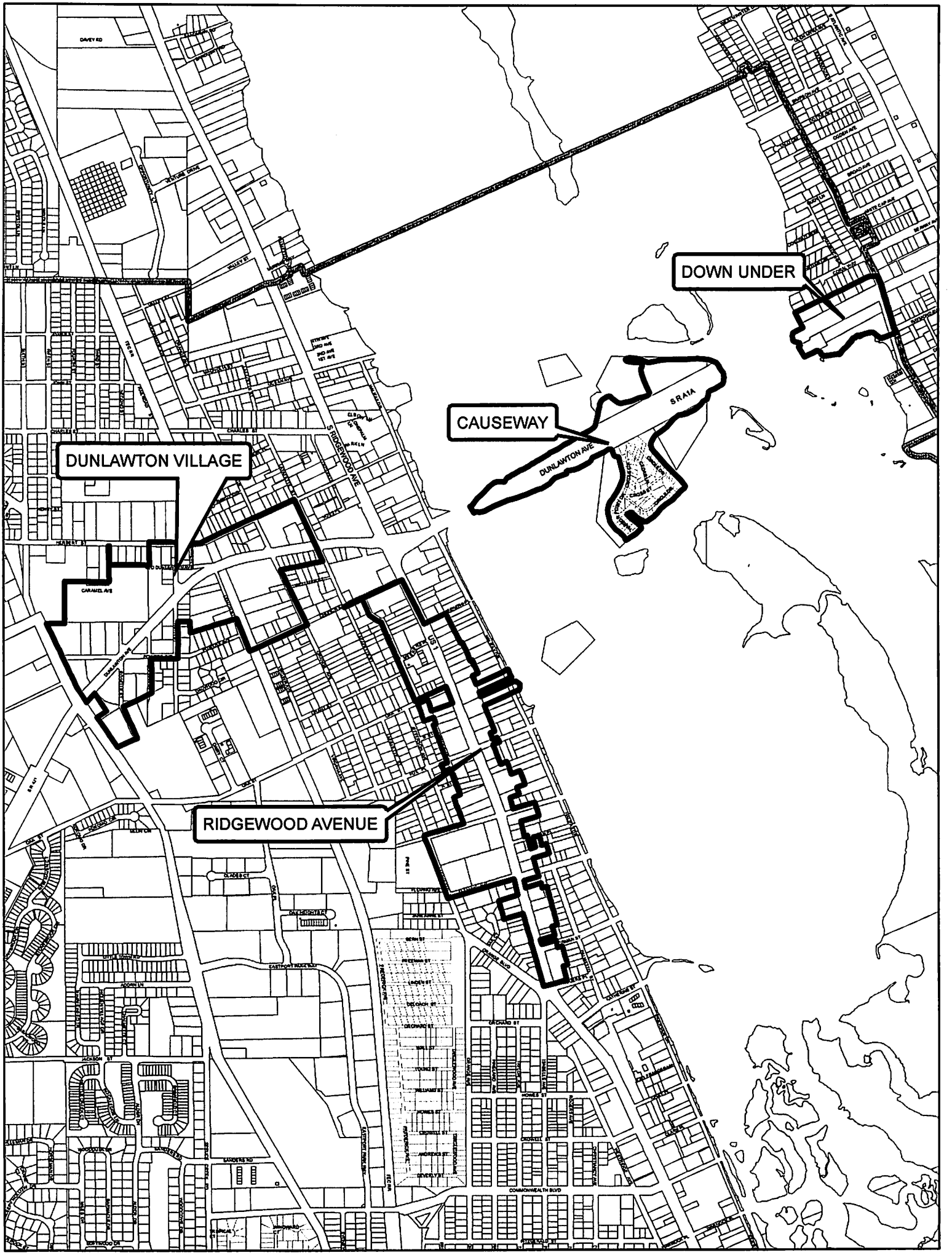

DOWN UNDER
CAUSEWAY
DUNLAWTON VILLAGE
RIDGEWOOD AVENUE
SR A1A
DUNLAWTON AVE
RIDGEWOOD AVE

Exhibit "B"
Attached to Resolution No. 17-14

ECONOMIC DEVELOPMENT INCENTIVE PROGRAM AGREEMENT BY RESOLUTION NO. 17-14

BY AND BETWEEN

PORT ORANGE TOWN CENTER
COMMUNITY REDEVELOPMENT AGENCY
and

CITY OF PORT ORANGE, FLORIDA,

and

Dated as of _____, 2017

ECONOMIC DEVELOPMENT INCENTIVE PROGRAM AGREEMENT BY RESOLUTION NO. 17-14

This Economic Development Incentive Program Agreement by Resolution No. 17-14 (the "Incentive Agreement"), dated as of _____, 2017, is entered into by and between the **Community Redevelopment Agency for Port Orange Town Center**, a special purpose unit of local government organized and existing under Chapter 163, Part III, the laws of the State of Florida (the "Agency") and the **City of Port Orange,** Florida, a municipal corporation (the "City") and _____ (the "Owner").

W I T N E S S E T H:

WHEREAS, for purposes of this Incentive Agreement, the Definitions have been set forth in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the Agency was formed for the purpose of removing slum and blight in the Port Orange Town Center Redevelopment Area (the "Redevelopment Area") and to promote redevelopment and employment within the Redevelopment Area; and

WHEREAS, the Owner is the owner of certain land located within the jurisdiction of the Agency more specifically described in Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter the "Property"); and

WHEREAS, the City has established an Economic Incentive Program in Resolution No. 17-14, attached hereto as Exhibit "C" and made a apart hereof by reference, consistent with the Redevelopment Plan, as amended; and

WHEREAS, the Owner has entered into a Master Development Agreement with the City dated _____, recorded Official Records Book ____, Page ____, Public Records, Volusia County, Florida; and *[THIS RECITAL MAY NOT APPLY T ALL PROJECTS]*

WHEREAS, the Owner has requested certain economic development incentives related to the development of the Property; and

WHEREAS, the Agency is authorized pursuant to Chapter 163, Part III, Florida Statutes (the "Act") and the Port Orange Town Center Redevelopment Plan, dated December 1, 1998, as amended by an Amendment to Redevelopment Plan, pursuant to Ordinance No. 2007-10 dated March 20, 2007; as further amended by an Amendment to Redevelopment Plan, pursuant to Ordinance No. 2014-22 dated November 11, 2014; and as further amended by Amendment to Redevelopment Plan, pursuant to Ordinance No. 2016-14, dated September 20, 2016, as amended, from time to time ("Redevelopment Plan"), to utilize economic incentives and to expend tax increment funds in order to promote and encourage development activity within the boundaries of the Port Orange Town Center Redevelopment Area; and

WHEREAS, the Agency, finding it to be in the best interest of the Agency and the health, safety and welfare of the citizens of the City of Port Orange, Florida (the "City"), intends to provide certain economic incentives to the Owner in order to facilitate the development of the

Property with the expectation that the Agency's involvement will encourage and accelerate the timing of the development, thus preserving the property values in the Port Orange Town Center Redevelopment Area, enhancing and expanding economic development and activity within Port Orange Town Center Redevelopment Area in order to provide a stronger, more balanced, and stable economy, enhance and preserve employment opportunities for residents, promote and further the redevelopment of the Port Orange Town Center Redevelopment Area and assist in the funding of certain public improvements as described herein (collectively, the "Public Benefits"); and

WHEREAS, the nature of the proposed development of the Property as more particularly described in Exhibit "D" (the "Project") and its location in the Port Orange Town Center Redevelopment Area will further the goals and objectives of the Redevelopment Plan as set forth in Section 5.2 of the Redevelopment Plan, as may be amended from time to time; and

WHEREAS, the Florida legislature has found that government sponsored public-private partnerships and the promotion and support, including financial assistance, of economic development activities is in the public interest and achieves a public benefit; and

WHEREAS, the Agency, City and the Owner wish to reduce to writing the understanding of the economic incentives provided by the Agency and the Owner's obligations with respect to the development of the Project.

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

Section 1. **Incorporation of Preamble.** The Preamble of this agreement is true and correct and incorporated herein by this reference as if fully set forth below.

Section 2. **Capitalized Terms**. Capitalized terms in this Agreement have the meanings set forth in Exhibit A or otherwise defined herein.

Section 3. **Effectiveness of Agreement.** This Agreement will become effective upon complete execution hereof.

Section 4. **Term.** Unless earlier terminated pursuant to Section 12.C hereof, the term of this Agreement ("Term") will commence on the Effective Date and will continue through and including the expiration of the Revenue Sharing Period. Nothing herein will limit the ability of the Parties to enter into future amendments to this Agreement that have the effect of extending the Term. After expiration of the Term, this Agreement will be deemed terminated and of no further force and effect; provided, however, such termination will not affect any obligation of any Party which arises under this Agreement during the Term but is not fully performed as of the end of the Term.

Section 5. **Nature of and Authority for Agreement.** This Agreement constitutes an economic and business development incentive agreement between the Parties consistent with the economic development objectives of the Agency and the business development objective of the Owner, and does not constitute the creation of a joint venture, partnership or any other form

of business enterprise between the Parties. This Agreement contemplates reimbursement to the Owner from the Community Redevelopment Agency for Town Center Trust Fund of significant costs to be incurred by the Owner to construct public improvements needed for the Project, including but not limited to water, sewer, roadway improvements and stormwater retention/detention and to otherwise promote Public Benefits. The Agency and the City have determined that payment of the amounts set forth herein furthers a critical public interest of the Agency to attract and retain retail and residential development in the Community Redevelopment Area for Port Orange Town Center.

Section 6. **Agreement to Develop Property**. The Owner hereby represents and warrants to the Agency and the City that Owner will expend not less than _____ Dollars ($_____) in Development Costs in connection with the development of the Property as shown on the plans stamped "Approved for Construction." Within sixty (60) days of the Substantial Completion of the Project, the Owner shall submit to the Agency and the City, the Development Costs Certificate (certified as being true and correct by the Owner). Owner shall not be entitled to any Development Increment TIF pursuant to this Section until Owner provides the Development Costs Certificate.

The Owner agrees the improvements constituting the development of the Property having an estimated assessed value of not less than $_____ shall be permitted and construction shall commence not later than 12 months from the date of this Agreement. Construction of the Project and shall be complete and a Certificate of Occupancy obtained not later than 24 months after the date of this Incentive Agreement.

Section 7. **Relationship to City Code**. The express terms and provisions of each element of the Development Agreement, and any subsequently approved amendment to any element of the Development Agreement, are subject to all provisions of City Code and the City Code will apply to the Property in the same manner as it applies to all other properties located within City.

A. Zoning. Zoning and development of the Property will be governed by the terms and conditions of the City Code and Development Agreement, if any. The Parties recognize and agree that the Owner's ability to move forward with the acquisition and development of the Property and the construction of the Project is subject to the Owner's ability to construct buildings upon the Property that are consistent in cost and general appearance with its intended development. If the Owner does not obtain City Council approval to construct buildings upon the Property pursuant to current applications filed with the City and consistent in cost and general appearance with its intended Development Plan, then the Owner shall have the right to terminate this Agreement without any further liability hereunder.

B. Application of City Code. All procedures for processing of Development Applications, and all substantive, procedural, engineering, architectural design and development standards and other technical requirements and standards set forth in the City Code will, notwithstanding any provision of this Agreement, govern and control with respect to zoning, subdivision, site development, and other matters affecting development of the Property, the Public Improvements and obligations with respect thereto. Procedures, standards and

requirements associated with Public Improvements and assurance of completion obligations will be governed by the plans stamped "Approved for Construction", subdivision or site improvement agreements and the issuance of a Development Order. The Owner will be obligated to pay to the City all nominal application and permit fees related to its development of the Property, including but not limited to application and permit fees for sign permits, impact fees, Building Permits, construction documents, construction inspections, right-of-way permits, amendments to approved Development Plans, Grading, Erosion, Sediment Control ("GESC") permits, or other applications or permits required by other service providers or agencies having jurisdiction over the Property except as otherwise described herein.

Section 8. **Tax Increment Rebate.** As an inducement to Owner to undertake the development of the Property, the Agency agrees to pay the Owner a percentage of the Tax Increment Revenue actually generated from the Property as follows:

A. If the Owner expends not less than _____ Dollars ($_____) in Development Costs in connection with the development of the Project, the Agency hereby agrees to provide an economic incentive to the Owner in the form of a rebate of _____ percent (____%) of the portion of the Tax Increment Revenue received by the Agency and directly attributable to the Property ("Tax Increment Rebate"), provided, however, that the total amount so shared shall be limited to the lesser of (i) the cost of the Public Improvements and Public Benefits expended by Owner and (ii) the Revenue Sharing Cap Amount (the "Total Tax Increment Rebate").

B. Calculation Base. For purposes of calculating the Tax Increment Revenue for the entire Property, it is agreed that the Base Year shall be defined as the valuation of the taxable assessed value of the Property as shown on the records of the Volusia County Tax Appraiser the earlier of the date of issuance of the (1) site construction development permit or (2) building construction permit. Issuance of a permit shall mean plans stamped "Approved for Construction" and permits issued.

C. Rebate Amount. Once Tax Increment Revenue is generated for the Project, the following shall apply.

i. The Tax Increment Rebate will be calculated in each year during the Revenue Sharing Period and paid on or before July 30th. The Tax Increment Rebate shall be calculated each year as _____ percent (____%) of the Tax Increment Revenue received by the Agency from the Tax Collector for such year attributable to the increase, if any, of the taxable value of the Property over the Base Year.

Each year during the Term of this Agreement the Agency will endeavor to provide the Owner with notice of the amount of the estimated Tax Increment Rebate for such year by November 1. The notice shall be delivered to the Owner on or about November 1st of each year. The actual Tax Increment Rebate will be based on actual tax increment revenue received with respect to the Property and may vary from the estimated amount.

ii. The millage rate applied to determine the contribution to the Community Redevelopment Agency for Town Center Trust Fund is based upon the millage rates

of the taxing authorities which contribute to the Community Redevelopment Agency for Town Center Trust Fund, including the City, and is subject to change as provided by law.

iii. The Owner may designate third parties to receive all or any portion of the Total Tax Increment Rebate provided that the Owner provides written notice of such designation to the Agency signed by all affected parties. Any such payment to a third party shall be subject to all the terms and conditions hereof.

iv. Tax Increment Rebate payments from the Agency shall be payable solely from assets in the Redevelopment Tax Fund and shall not be a general obligation or debt of the Agency or the City.

v. In the event that the Project of the Owner fails to generate an increase in Tax Increment Revenue in one or more of the term years for the Owner's Property, then the City and the Agency shall not have any obligation to the Owner and shall not distribute any Tax Increment Rebate to the Owner for each year without a Tax Increment Revenue.

D. Compliance Conditions. The Agency's obligation to provide the Tax Increment Rebate is contingent upon the Owner's compliance with the following provisions of this Section 8.D.

i. The Project shall be developed in accordance with the plans stamped "Approved for Construction" by the City.

ii. The Project shall be constructed by a Florida licensed general contractor substantially in accordance with the plans for the project as approved by the City in connection with the issuance of the building permits for its construction.

iii. Each phase of development of the Property is commenced and completed in accordance with the descriptions and timeframes set out in Section 6.

E. Funding Disbursements; Reporting and Disbursement. Within thirty (30) days after each June 30 of each year of the Revenue Sharing Period, the Agency will remit to the Owner a lump sum payment (a "Funding Disbursement") in the amount required by Section 8.C. Unless the Owner otherwise directs the Agency in writing, each such Funding Disbursement will be remitted to the Owner at the address set forth in Section 23 .

F. Audits. The Owner will have all rights available at law or in equity to audit or contest, at its sole expense, the Agency's computation of the Tax Increment Rebate and Funding Disbursements. Audits may be requested by the Owner in writing from time to time, but will not occur more than once annually at the time the Agency subjects its records to audits required by state law, and the scope of any such audit may include any prior period so designated by the Owner in such request. Audits will be performed by an independent auditor using generally accepted governmental accounting principles. The costs of any such audit will be paid by the Owner. The foregoing audit rights and the Agency obligations will survive termination of the Revenue Sharing Period and expiration of the Term for the longer of twelve (12) months after the date on which the Agency is required to subject its records to audits required by state law for the last year of the Revenue Sharing Period or the Parties' full performance of their

respective obligations hereunder with respect to any audit request delivered to Agency prior to termination of the Revenue Sharing Period.

Section 9. **Use of Funding Disbursement Revenues by the Owner**. Funding Disbursements distributed to the Owner will be applied only for a public purpose which will advance (or which has advanced) the redevelopment of the Community Redevelopment Area for Port Orange Town Center and is permitted by the Port Orange Town Center Redevelopment Plan, including, without limitation, Public Improvements and Public Benefits. For purposes of this Agreement, "public purpose" will include, without limitation, the acquisition, design, construction, installation, erection, repair or maintenance of Public Improvements and other activities that promote Public Benefits, which for purposes of this Agreement include but are not limited to:

A. Exterior signage and devices that provide for or permit or enhance public way-finding and direction, building and business identification to the public, traffic control, and parking management within the Property, the Development and/or proximate areas.

B. Parking structures, parking lots, drive aisles, streets, and ways within the Property, the Development and/or proximate areas provided that such locations are routinely accessible to and available for use by the general public. Excepting the public trail and park, such areas shall at all times remain the private property of the Owner and its successors and assigns.

C. Lighting fixtures, power lines, transformers, and other lighting-related improvements to illuminate parking areas, sidewalks, drive aisles, loading areas, and other locations within the Property, the Development and/or proximate areas which are routinely accessible to the general public and which equipment will aid public safety and security.

D. Drainage retention and detention ponds and holding areas, culverts, pipes, inlets, gates, grates, swales, retaining walls, and water quality facilities within the Property, the Development and/or proximate areas which improvements provide for the management of surface water and the controlled retention or release in order to reduce adverse impacts upon and damage to public streets, public intersections, public infrastructure and adjacent private property.

E. Utilities (e.g., water, sewer, gas, electric, communications) and utilities extensions serving the Property, Development and/or proximate areas to the extent that the costs of such utilities improvements are the obligation of the Owner and are not within the responsibility or obligation of the utility service provider; and for purposes of clarification, costs incurred by the Owner for any such utilities improvements prior to the dedication of such utilities improvements to a utility provider (e.g., design and construction costs) or payments or reimbursements made to a utility provider for design and construction costs shall be eligible for Funding Disbursements.

F. Landscaping, including plant materials and landscape-related features (including any artwork) located along the perimeter of the Property, the Development or proximate areas or within the parking areas or other areas within the Property, the Development or proximate areas which are routinely accessible to the general public.

G. Physical improvements and amenities intended to serve the general public while upon the Property, the Development and/or proximate areas, including but not limited to sidewalks, crosswalks, bicycle paths, bicycle racks and storage areas, benches and seating, trash cans, rest areas, overpasses, and street medians to provide pedestrian safe zones for crossing of roadways and drive aisles.

H. Traffic control devices including traffic lights and crosswalk signals within the Property, the Development and/or proximate areas.

I. Improvements to meet local, state, or federal accessibility standards such as the Americans with Disabilities Act and to aid access for handicapped persons to and within the portions and areas of the Property, the Development and/or proximate areas which are intended for public access.

J. Acceleration lanes, deceleration lanes, turn lanes, and lane striping widening or modification intended to benefit the Property, the Development and/or proximate areas.

K. Any Public Improvements identified in the Subdivision or Site Improvement Agreement or on approved development plans stamped "Approved for Construction" by the City for the Property, the Development and/or proximate areas.

L. Any other public-related improvements, whether on-site or off-site, if such improvements are for a public purpose and determined by Agency to provide a public benefit, including but not limited to promoting Public Benefits, and/or advance the health, safety and welfare of the community or public convenience.

M. Any other improvements, property, equipment, materials, services and/or undertakings directly or indirectly related to the promotion of the Public Benefits.

N. Any easement granted by Owner to the City/Agency for a public purpose or for a Public Benefit (other than easements granted pursuant to the Property Exchange Agreement or as required by the Development Plan).

The actual costs and expenses incurred by the Owner directly or indirectly related to any of the foregoing plus [redacted] percent ([redacted]%) per annum from the date the expense was incurred by the Owner shall, without limitation, be reimbursable from Funding Disbursement revenues as a "public purpose" within the meaning of Section 9 of this Agreement; provided, however, notwithstanding anything to the contrary contained in this Agreement, the Agency and the Owner acknowledge and agree that the Property and the Project shall at all times remain the private property of the Owner, subject to a public access deed and use easement rights.

The Owner shall submit to Agency such evidence of payment of such costs as Agency reasonably determines is necessary to verify expenditures for public purposes defined above and to verify that the costs and expenses for which reimbursement is sought were obtained or provided at a reasonable market price consistent with the Public Improvements and Public Benefits provided. The Agency shall have the right to require an audit of the expenditures and

the procurement or bidding process by which contracts and subcontracts were entered into; the Owner shall pay the cost of any such audit.

Section 10. Certification of Use of Funding Disbursement Revenues by the Owner. The Owner may apply revenues from Funding Disbursements toward payment or reimbursement of its costs and expenses in accordance with Section 9 above (whether incurred and/or paid prior or subsequent to commencement of the Revenue Sharing Period) up to the Revenue Cap Amount. Not later than 60 days prior to the due date of Agency's initial Funding Disbursement, the Owner will provide Agency with a certification of the actual amount of costs and expenses incurred in accordance with Section 9 above. The reasonable costs and expenses incurred by the Owner in the preparation of the initial certification and any supplemental certification contemplated by Section 9 will be reimbursable from Funding Disbursement revenues as a "public purpose" within the meaning of Section 9 of this Incentive Agreement.

Section 11. Chapter 20 Economic Development Incentives. Pursuant to the Targeted Businesses Program ("TBP) as established in Chapter 20 of the City of Port Orange Land Development Code, as may be amended from time to time, City shall grant to the Owner a credit of $_____ that may be applied to fees, excluding impact fees and storm water special assessment fees, as charged by the City for building permits and inspection fees.

Section 12. Defaults and Remedies.

A. Default by a Party. A breach or default by the either Party under this Agreement ("Default") will be defined as such Party's failure to fulfill or perform any express material obligation of that Party stated in this Agreement.

B. Notices of Default. In the event of a Default by either Party under this Agreement, the non-Defaulting Party will deliver written notice to the Defaulting Party of the Default, at the address specified in Section 24, and the Defaulting Party will have thirty (30) days from and after receipt of the notice to cure the default without liability for the Default. If the Default is not of a type which can be cured within such thirty (30) day period and the Defaulting Party gives written notice to the non-Defaulting Party within such thirty (30) day period that it is actively and diligently pursuing a cure, the Defaulting Party will have a reasonable period of time given the nature of the Default following the end of the thirty (30) day period to cure the Default, provided that the Defaulting Party is at all times within the additional time period actively and diligently pursuing the cure and such additional period shall not exceed 120 days.

C. Remedies. If an Owner Default under this Agreement is not cured as described above, City and Agency may enforce the Owner's obligations hereunder by an action for injunction, specific performance, and/or contract damages, or at its election may terminate this Agreement, following which this Agreement will be of no further force and effect and neither Party will have any further obligations to the other hereunder, except that the Owner will remain obligated to pay to City and Agency any amounts due and owing to City and Agency as provided in Section 23. If the Agency or City Default under this Agreement is not cured as described above, the Owner will have the right to enforce Agency's or City's obligations hereunder by an action for injunction, specific performance, and/or contract damages.

Section 13. **Representations.** In addition to the other representations, warranties and covenants made by the Parties herein, the Parties make the following representations, warranties and covenants to each other, and may be held liable for any loss suffered as a consequence of any misrepresentation or breach under this Section 13 .

A. Full Authority. Each Party has the full right, power and authority to enter into, perform and observe this Incentive Agreement.

B. Other Instruments. Unless otherwise specified herein, neither the execution of this Agreement, the consummation of the transactions contemplated hereunder, nor the fulfillment of or the compliance with the terms and conditions of this Agreement by each Party will conflict with, violate or result in a breach of any terms, conditions, or provisions of, or constitute a default under, or result in the imposition of any prohibited lien, charge, or encumbrance of any nature under any agreement, instrument, indenture, or any judgment, order, law or decree to which either Party hereto is a party or by which either Party is bound.

C. Covenants. Each Party will keep and perform all of the covenants and agreements of such Party contained herein.

Section 14. **Costs**. The Owner shall pay any expenses incident to the preparation of this Agreement and the performance of its obligations hereunder, including but not limited to: (i) the cost of the preparation, execution, delivery, filing and recording, as the case may be, of this Agreement and all other agreements, instruments, certificates and documents required in connection with the consummation of the transactions contemplated hereby; and (ii) the reasonable fees and disbursements of counsel and any financial advisor for the Agency and the City.

Section 15. **Severability**. Any provision of this Incentive Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.

Section 16. **Effective Date and Term**. This Incentive Agreement shall become effective and commence on the date of its approval by the City Council and the Community Redevelopment Agency for Port Orange Town Center and upon execution by the City, Agency and the Owner, subject to the termination, severability and survival provisions set forth herein.

Section 17. **Termination**. This Agreement shall terminate upon the occurrence of any of the following events:

A. The end of the Term, as provided in Section 4 .

B. Termination of this Agreement by the Owner pursuant to Section 7.A. hereof, or termination of the Agreement by its Agency pursuant to Section 12.C hereof.

Section 18. **Relationship**. This Incentive Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among the Agency, the City and the Owner. No party can create any obligation or responsibility on behalf of the others or bind the others in any manner. Each party is acting for its own account, and it has made its

own independent decisions to enter into this Incentive Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Incentive Agreement or any responsibility or obligation contemplated herein. The Owner further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by the Owner as an inducement to entering into this Incentive Agreement.

Section 19. **Personal Liability**. No provision of this Incentive Agreement is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), director, employee or agent of the Agency and the City in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any covenant or obligation of the Agency hereunder.

Section 20. **Applicable Law and Venue**. This Incentive Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any action, in equity or law, with respect to this Incentive Agreement must be brought and heard in the Circuit Court of the Seventh Judicial Court in and for Volusia County, Florida.

Section 21. **Assignment**. It is acknowledged that the Owner, as the fee simple owner of the Property, is free to convey title (fee simple, leasehold or otherwise) to third parties of all or portions of the Property. Such third parties shall acquire no right or interest in this Agreement unless expressly granted in a written instrument executed by the Owner. In connection a conveyance to a third party, the Owner (as to the Owner's interest) shall have the right to assign all or any portion of its interests in this Agreement, and the assignee of any interests in this Agreement shall also have the right to assign such interests to another party, provided that: (i) the Owner's interest hereunder shall only be assignable in whole and not in part, and (ii) the assignee shall assume in writing the responsibilities, obligations and duties associated with the interests being assigned by the assignor and which may arise after the effective date of the assignment.

Upon the assignee's assumption of such responsibilities, obligations and duties, the assignor shall be relieved of same. The assignor of the Owner's interests in this Incentive Agreement shall provide notice to the Agency of such assignment within fifteen (15) days of the effective date of the assignment. The assignment instrument must include the street address, phone number and facsimile number of the assignee. Such contact information shall be used by the parties under the notices provision below.

Section 22. **Amendment**. This Incentive Agreement may not be amended, unless evidenced in writing and executed by all parties hereto.

Section 23. **Attorneys' Fees.** In the event of any litigation between the Parties hereto concerning the subject matter hereof, the substantially prevailing Party in such litigation will be entitled to receive from the non-prevailing Party, and will be awarded, in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses, including attorney fees, incurred by the substantially prevailing Party in such litigation, appeal or post judgment collection proceedings.

Section 24. **Notices**. Notices shall be deemed to have been duly given if sent by facsimile or hand-delivered or mailed, first class, postage prepaid, or by certified or registered mail (return receipt requested) to the following addresses:

To the Agency: Community Redevelopment Agency for Port Orange Town Center
1000 City Center Circle
Port Orange, Florida 32129
Attn: City Manager
Telephone: 386-506-5501
Facsimile: 386-756-5208

To the City: City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
Attn: City Manager
Telephone: 386-506-5501
Facsimile: 386-756-5208

To the Owner:

With a copy to:

The parties hereby agree to notify each other in writing of any change of address.

Section 25. **Captions**. The captions and headings of sections or paragraphs used in this Incentive Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

Section 26. **Third Parties.** The interests of the Owner in this Agreement are personal to the Owner, and although the Owner's interests may be expressly assigned in accordance with the provisions of Section 21 , they do not run with the land. The Agreement has been entered into for the benefit of the parties and there are no third party beneficiaries.

Unless expressly granted in a written instrument executed by the Owner, third parties acquiring any indicia of ownership in the Property shall not, by virtue of such acquisition or otherwise, acquire or receive any right, title or interest whatsoever in any of the monetary payments or benefits to arise or be made by the Agency under this Incentive Agreement including, but not limited to, the Tax Increment Rebate. In connection with its sale of the Property within the Project, the Owner shall hereafter provide notice of the foregoing limitation

to successor owners at such time that such purchasers give a deposit for a contract for sale and purchase.

Section 27. **No Delegation of Police Power.** The Owner's shall not pledge the credit of the City nor make the City a guarantor of payment of surety for any contract, debt, or, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to the Owner.

Section 28. **Compliance Monitoring.** The Owner agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that the Owners' implementation of the municipal purposes declared by the Agency herein.

Section 29. **Third Party Challenges.** In the event of any Legal Challenge by a third party to the validity or enforceability of any provision of this Agreement or any constituent element of the Development Plan, the Parties will cooperate in the defense of such challenge and will bear their own costs and attorneys' fees. Unless otherwise provided herein, during the pendency of any such Legal Challenge, the Parties will abide by and carry out all of the terms of this Agreement, unless otherwise ordered by a court of competent jurisdiction. If any Legal Challenge successfully voids, enjoins, or otherwise invalidates any constituent element of the Development Plan, or any portion thereof, or this Agreement, the Parties will cooperate to cure the legal defect and to process to completion such instruments as may be necessary or desirable to most fully implement the intent and purpose of this Agreement.

Section 30. **Entire Agreement**. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein, provided, however, that this Agreement shall not affect the validity of the Development Agreement executed simultaneously herewith or any other written agreement between the parties relating to road impact fees assessed in connection with development of the Property.

Section 31. **Counterparts; Copies**. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument. Additionally, signed telecopies/facsimiles shall have the same force and effect as a signed original, and, in lieu of an original, any party hereto may use a photocopy of this Agreement in any action or proceeding brought to enforce or interpret any of the provisions contained herein.

Section 32. **Conflicting Terms.** In the event that this Incentive Agreement conflicts with Resolution No. 17-14, the Incentive Agreement shall control.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Agency has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

COMMUNITY REDEVELOPMENT AGENCY for PORT ORANGE TOWN CENTER

_____

_____, Chairman

Attest:

_____

Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, as the Chairman of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [___] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____

Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Robin L. Fenwick, CMC, as City Clerk of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [__] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____

Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires:_____

IN WITNESS WHEREOF, the City has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

CITY OF PORT ORANGE, FLORIDA

By: _____
Donald O. Burnette, Mayor

Attest:

_____
Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Donald O. Burnette, as the Mayor of the City of Port Orange, Florida, on behalf of the City. Said person [___ is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Robin L. Fenwick, CMC, as City Clerk of the City of Port Orange, Florida, on behalf of the City. Said person [___] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires:_____

IN WITNESS WHEREOF, the Owner has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

_____ By:_____

Printed Name:_____

_____ (SEAL)

Printed Name:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, as _____ a _____ on behalf of said corporation, who is personally known to me or has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

Exhibit "A"

Definitions

For purposes of the foregoing Agreement, the following terms and references will have the following meanings:

1. **"Affiliate"** means any person (a) that directly or indirectly controls, is controlled by or is under common control with the Owner, (b) who is an officer, manager, employee, or agent of, partner in, or trustee of , or serves in a similar capacity with respect to, the Owner, (c) of which the Owner is an officer, manager, employee, agent, partner, or trustee or serves in a similar capacity, or (d) who is a member of the Owner's family.

2. **"Agency"** has the meaning set forth in the initial paragraph of this Agreement.

3. **"Agreement"** means this Incentive Agreement and any Exhibits attached hereto, all of which are incorporated herein by this reference, as amended from time to time in accordance with its terms.

4. **"Base Year"** shall have the meaning ascribed to such term in Section 8.B.

5. **"Building Permit"** means any site development approved by the city, and any building permit, occupancy permit, signage permit, fence permit, electrical permit, grading permit, or similar permit required by City Code and/or City's development or building code, electrical code, plumbing code, fire code, or similar code, as in effect from time to time.

6. **"Building Codes"** means City's adopted building code, electrical code, plumbing code, fire code, and other similar codes, as in effect from time to time.

7. **"City"** has the meaning set forth in the preambles of this Agreement.

8. **"City Code"** means the Municipal Code of City of Port Orange, Florida (including the Land Development Code and the Building Code and any similar separately codified regulations), as in effect from time to time (or, where the Agreement expressly states, at a particular time stated).

9. **"City Council"** means City Council of the City.

10. **"Default"** has the meaning set forth in Section 12 of this Agreement.

11. **"Development Agreement"** means **"Project"** and approved development plans stamped "Approved for Construction" by the City.

12. **"Development Application"** means the substantially complete application submitted to City by the Owner for any development, subdivision, zoning, site plan or similar land use approval relating to development of any property within the Property, including, without limitation, an application for any zoning or re-zoning, site plan, subdivision plat, Building

Permit, construction permit or other form of development permit, or any amendment to or modification of any of the foregoing.

13. "Development Costs" means the hard and soft costs actually incurred by Owner in connection with the design and construction of the Project through Completion, excluding land costs and costs paid to any Affiliates and as further certified by Owner in the Development Costs Certificate.

14. "Development Costs Certificate" means the certificate from Owner of the Development Costs in substantially the form of Exhibit "E", which certificate shall have appropriate backup, reasonably acceptable to the City Manager, to substantiate the Development Costs, certified as being true and correct by Owner.

15. "Development Order" means an *order* granting, with or without conditions, approval of an application for development, including any subdivision, site plan, rezoning, special exception, and variance, [Chapter 2, Section2, LDC.]

16. "Development Plan" means **"Project"** and approved development plans stamped, "Approved for Construction" by the City.

11. "Effective Date" means the date on which this Agreement is executed by both Parties and as set forth in Section 3.

12. "Exhibits" means the following Exhibits to this Agreement, all of which are incorporated by reference into and made a part of this Agreement:

Exhibit A — Definitions

Exhibit B —Legal Description of the Property

Exhibit C —Resolution No. 2017-14

Exhibit D — Approved Site Plan or equivalent

Exhibit E —Developer's Cost Certificate

13. "Funding Disbursement" has the meaning set forth in Section 8.D.

14. "Legal Challenge" means either of the following: (1) any third party commences any legal proceeding that directly or indirectly challenges this Incentive Agreement, the Project, and/or any of the Agency's or City's resolutions or ordinances approving or ratifying this Agreement or the Project, or (2) any third party submits a petition for a referendum seeking to reverse or nullify any such ordinances.

15. "Owner" has the meaning set forth in the initial paragraph of this Agreement.

16. "Party(ies)" means, individually or collectively as applicable, the Owner, the Agency and the City.

15. **"Project"** means **"Development Plan"** and approved development plans stamped "Approved for Construction" by the City.

18. **"Property"** means the real property that is legally described in Exhibit B.

19. **"Public Improvements"** means, as more fully discussed in Section 9 of the Agreement, any and all on-site and/or off-site improvements or property, including but not limited to roadways, water lines, sewer lines, storm water facilities, open space, landscaping, traffic control devices, sidewalks, transportation improvements, signage, parking areas or structures and similar or other infrastructure and related or other improvements or property, to be designed, constructed, improved and/or acquired, which will be dedicated for public use or which will be generally accessible to the public, or which otherwise serves a public purpose, in accordance with the Project and the Agreement.

20. **"Redevelopment Area"** means the areas as more particularly described in the Redevelopment Plan, as amended, referenced herein.

21. **"Revenue Sharing Cap Amount"** means an amount which shall not exceed the cost of the Public Improvements consistent herewith and subject to the increased tax revenue received by the City and generated by the Project.

"Revenue Sharing Period" means the period commencing the year subsequent to the issuance of the Certificate of Occupancy and that which the tax valuation will initiate a Tax Increment Revenue increase as a result of the Project and the period terminating on the earlier of: (i) the date on which the Owner has received Funding Disbursements cumulatively equaling the Revenue Sharing Cap Amount; (ii) December 31, 2036, (iii) the expiration of the Agency or (iv) the Developer's failure to timely commence and timely complete the Development Plan.

22. **"Tax Increment Rebate"** has the meaning ascribed to such term in Section 8.A.

23. **"Tax Increment Revenue"** shall mean the tax increment funds, if any, actually received by the Agency from the County and City generated from the Project for the applicable year after deducting all administrative charges imposed by the County and the City.

24. **"Term"** has the meaning set forth in Section 4.

Exhibit "B"

Legal Description of the Property

Exhibit "C"

Resolution No. 17-14

Exhibit "D"

Approved Site Plan or Equivalent

Exhibit "E"

Development Costs Certificate

DEVELOPMENT COSTS CERTIFICATE

The undersigned hereby certifies to the City of Port Orange and the Community Redevelopment Agency for Port Orange Town Center, a public agency and body corporate created pursuant to 163.356, Florida Statutes ("Agency"), that _____, a _____ has actually paid $ _____ in hard and soft costs to third parties unaffiliated with Owner in connection with the development of the Project, as defined in the Economic Development Incentive Program Agreement dated _____, and pursuant to Resolution No. 17-14, by and between the Agency, the City of Port Orange, and _____, as reflected in the Certified Engineers Cost Estimate, attached hereto as **Exhibit "1"** and the approved site or subdivision plan, conceptual development plan as contained in a Master Development Agreement, or building plans approved by the City. All statements made and incorporated herein are true and correct in all material respects.

_____, a
_____

By:_____

COMMUNITY REDEVELOPMENT AGENCY FOR
PORT ORANGE TOWN CENTER

REQUESTED AGENCY MEETING DATE: 03/28/2017

Consent Item: No

SUBJECT: (B6) Economic Incentive Agreement with B.D.W. Land Holdings, LLC (Atlantic Marine)

DEPARTMENT: City Attorney

RECOMMENDED MOTION: Move to approve the Economic Incentive Agreement for B.D.W. Land Holdings LLC

SUMMARY: Atlantic Marine and B.D.W. Land Holdings, LLC have requested financial assistance from the City in the form of Tax Increment Financing (TIF) reimbursement and partial refund/waiver of development fees through the City's Targeted Business Program related to the development of a boat sales and service headquarters facility. The new Atlantic Marine facility is located in the Dunlawton Village section of the Town Center Community Redevelopment Area (CRA).

The CRA Plan states that incentives may be provided through the process described in the City's Land Development Code (LDC), Chapter 20- Economic Development Incentives. The purpose of the incentives identified in the LDC is to promote positive forms of new development and redevelopment; reward the creation and retention of value-added jobs; attract targeted businesses; revitalize the Port Orange Town Center and Eastport Business Center redevelopment areas; increase the nonresidential tax-base; and foster a diverse employment base within the city.

The Targeted Business Program was created to provide assistance to unique business ventures which, from time to time, may be targeted by the city by virtue of the anticipated socio-economic benefits. Targeted businesses may be extended incentives to aid in retaining their operations within the city; to aid in enhancing/expanding their operations in the city, or to aid in relocating their operations to viable property within the city.

According to the applicant's letters of request, Atlantic Marine and B.D.W. Land Holdings are making a $2,200,000 investment in the City including construction of a 10,000 square foot headquarters sales and service building. Atlantic Marine is an existing Port Orange-based business and the request letter states that the new facility will keep the business in the City and allow for growth.

TIF Reimbursement: The applicant has requested a maximum reimbursement of $500,000 to be paid over a 20-year TIF revenue sharing period. The reimbursement would be based on the applicant receiving 50% of the portion of the property tax increment revenue received by the CRA and directly attributable to the Atlantic Marine development. The reimbursement funds would be used to partially offset the costs of

public improvements and public benefits created by parking, streets and drive aisles accessible to the public, lighting, drainage, utilities, landscaping, exterior signs, traffic control devices, turn lanes, stormwater mitigation and other public benefits created by the Atlantic Marine development.

Targeted Business Program: The applicant has requested a refund or waiver of $66,340 in site development and building permit review fees. The refund/waiver may not be applied to impact fees and utility connection fees. The amount of assistance is based on actual fees paid to date and estimates of final development fees that must be paid before Certificate of Occupancy can be issued. Total development review fees due are estimated to be approximately $91,000.

ATTACHMENTS:

1.	Economic Development Incentive Program Agreement	Economic Development Incentive Program Agreement.pdf
2.	TIF Request Letter	TIF Request 3-9-17.pdf
3.	Chapter 20 Request Letter	Ch 20 Request 2-24-17.pdf

Penelope Cruz	Created/Initiated - 03/09/2017
Wayne Clark	Approved - 03/09/2017
Tracey Riehm	Approved - 03/12/2017
Margaret Roberts	Approved - 03/16/2017
Alan Rosen	Approved - 03/16/2017
Robin Fenwick	Final Approval - 03/17/2017

AGENCY ACTION: New
CONTINUATION DATE: 4 - Economic Development

Follow up letter/action needed by: Department-**No**, Clerk's Office-**No**, or N/A-**No**

ECONOMIC DEVELOPMENT INCENTIVE PROGRAM AGREEMENT
BY RESOLUTION NO. 17-14

BY AND BETWEEN

PORT ORANGE TOWN CENTER
COMMUNITY REDEVELOPMENT AGENCY
and

CITY OF PORT ORANGE, FLORIDA,

and

B.D.W. LAND HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY

Dated as of _____, 2017

ECONOMIC DEVELOPMENT INCENTIVE PROGRAM AGREEMENT BY RESOLUTION NO. 17-14

This Economic Development Incentive Program Agreement by Resolution No. 17-14 (the "Incentive Agreement"), dated as of _____, 2017, is entered into by and between the **Community Redevelopment Agency for Port Orange Town Center**, a special purpose unit of local government organized and existing under Chapter 163, Part III, the laws of the State of Florida (the "Agency") and the **City of Port Orange,** Florida, a municipal corporation (the "City") and **B.D.W. Land Holdings, LLC, a Florida limited liability company** (the "Owner").

WITNESSETH:

WHEREAS, for purposes of this Incentive Agreement, the Definitions have been set forth in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the Agency was formed for the purpose of removing slum and blight in the Port Orange Town Center Redevelopment Area (the "Redevelopment Area") and to promote redevelopment and employment within the Redevelopment Area; and

WHEREAS, the Owner is the owner of certain land located within the jurisdiction of the Agency more specifically described in Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter the "Property"); and

WHEREAS, the City has established an Economic Incentive Program in Resolution No. 17-14, attached hereto as Exhibit "C" and made a apart hereof by reference, consistent with the Redevelopment Plan, as amended; and

WHEREAS, the Owner has entered into a Master Development Agreement with the City dated June 20, 2014, recorded Official Records Book 7002, Page 2003, Public Records, Volusia County, Florida; and

WHEREAS, the Owner has requested certain economic development incentives related to the development of the Property; and

WHEREAS, the Agency is authorized pursuant to Chapter 163, Part III, Florida Statutes (the "Act") and the Port Orange Town Center Redevelopment Plan, dated December 1, 1998, as amended by an Amendment to Redevelopment Plan, pursuant to Ordinance No. 2007-10 dated March 20, 2007; as further amended by an Amendment to Redevelopment Plan, pursuant to Ordinance No. 2014-22 dated November 11, 2014; and as further amended by Amendment to Redevelopment Plan, pursuant to Ordinance No. 2016-14, dated September 20, 2016, as amended, from time to time ("Redevelopment Plan"), to utilize economic incentives and to expend tax increment funds in order to promote and encourage development activity within the boundaries of the Port Orange Town Center Redevelopment Area; and

WHEREAS, the Agency, finding it to be in the best interest of the Agency and the health, safety and welfare of the citizens of the City of Port Orange, Florida (the "City"), intends

to provide certain economic incentives to the Owner in order to facilitate the development of the Property with the expectation that the Agency's involvement will encourage and accelerate the timing of the development, thus preserving the property values in the Port Orange Town Center Redevelopment Area, enhancing and expanding economic development and activity within Port Orange Town Center Redevelopment Area in order to provide a stronger, more balanced, and stable economy, enhance and preserve employment opportunities for residents, promote and further the redevelopment of the Port Orange Town Center Redevelopment Area and assist in the funding of certain public improvements as described herein (collectively, the "Public Benefits"); and

WHEREAS, the nature of the proposed development of the Property as more particularly described in Exhibit "D" (the "Project") and its location in the Port Orange Town Center Redevelopment Area will further the goals and objectives of the Redevelopment Plan as set forth in Section 5.2 of the Redevelopment Plan, as may be amended from time to time; and

WHEREAS, the Florida legislature has found that government sponsored public-private partnerships and the promotion and support, including financial assistance, of economic development activities is in the public interest and achieves a public benefit; and

WHEREAS, the Agency, City and the Owner wish to reduce to writing the understanding of the economic incentives provided by the Agency and the Owner's obligations with respect to the development of the Project.

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

Section 1. **Incorporation of Preamble.** The Preamble of this agreement is true and correct and incorporated herein by this reference as if fully set forth below.

Section 2. **Capitalized Terms**. Capitalized terms in this Agreement have the meanings set forth in Exhibit A or otherwise defined herein.

Section 3. **Effectiveness of Agreement.** This Agreement will become effective upon complete execution hereof.

Section 4. **Term.** Unless earlier terminated pursuant to Section 12.C hereof, the term of this Agreement ("Term") will commence on the Effective Date and will continue through and including the expiration of the Revenue Sharing Period. Nothing herein will limit the ability of the Parties to enter into future amendments to this Agreement that have the effect of extending the Term. After expiration of the Term, this Agreement will be deemed terminated and of no further force and effect; provided, however, such termination will not affect any obligation of any Party which arises under this Agreement during the Term but is not fully performed as of the end of the Term.

Section 5. **Nature of and Authority for Agreement.** This Agreement constitutes an economic and business development incentive agreement between the Parties consistent with the economic development objectives of the Agency and the business development objective of

the Owner, and does not constitute the creation of a joint venture, partnership or any other form of business enterprise between the Parties. This Agreement contemplates reimbursement to the Owner from the Community Redevelopment Agency for Town Center Trust Fund of significant costs to be incurred by the Owner to construct public improvements needed for the Project, including but not limited to water, sewer, roadway improvements and stormwater retention/detention and to otherwise promote Public Benefits. The Agency and the City have determined that payment of the amounts set forth herein furthers a critical public interest of the Agency to attract and retain retail and residential development in the Community Redevelopment Area for Port Orange Town Center.

Section 6. **Agreement to Develop Property**. The Owner hereby represents and warrants to the Agency and the City that Owner will expend not less than Two Million Two Hundred Thousand and NO/100 Dollars ($2,200,000.00) in Development Costs in connection with the development of the Property as shown on the plans stamped "Approved for Construction." Within sixty (60) days of the Substantial Completion of the Project, the Owner shall submit to the Agency and the City, the Development Costs Certificate (certified as being true and correct by the Owner). Owner shall not be entitled to any Development Increment TIF pursuant to this Section until Owner provides the Development Costs Certificate.

The Owner agrees the improvements constituting the development of the Property having an estimated assessed value of not less than $2,200,000.00 shall be permitted and construction shall commence not later than 12 months from the date of this Agreement. Construction of the Project and shall be complete and a Certificate of Occupancy obtained not later than 24 months after the date of this Incentive Agreement.

Section 7. **Relationship to City Code**. The express terms and provisions of each element of the Development Agreement, and any subsequently approved amendment to any element of the Development Agreement, are subject to all provisions of City Code and the City Code will apply to the Property in the same manner as it applies to all other properties located within City.

A. Zoning. Zoning and development of the Property will be governed by the terms and conditions of the City Code and Development Agreement, if any. The Parties recognize and agree that the Owner's ability to move forward with the acquisition and development of the Property and the construction of the Project is subject to the Owner's ability to construct buildings upon the Property that are consistent in cost and general appearance with its intended development. If the Owner does not obtain City Council approval to construct buildings upon the Property pursuant to current applications filed with the City and consistent in cost and general appearance with its intended Development Plan, then the Owner shall have the right to terminate this Agreement without any further liability hereunder.

B. Application of City Code. All procedures for processing of Development Applications, and all substantive, procedural, engineering, architectural design and development standards and other technical requirements and standards set forth in the City Code will, notwithstanding any provision of this Agreement, govern and control with respect to zoning, subdivision, site development, and other matters affecting development of the Property, the Public Improvements and obligations with respect thereto. Procedures, standards and

requirements associated with Public Improvements and assurance of completion obligations will be governed by the plans stamped "Approved for Construction", subdivision or site improvement agreements and the issuance of a Development Order. The Owner will be obligated to pay to the City all nominal application and permit fees related to its development of the Property, including but not limited to application and permit fees for sign permits, impact fees, Building Permits, construction documents, construction inspections, right-of-way permits, amendments to approved Development Plans, Grading, Erosion, Sediment Control ("GESC") permits, or other applications or permits required by other service providers or agencies having jurisdiction over the Property except as otherwise described herein.

Section 8. **Tax Increment Rebate.** As an inducement to Owner to undertake the development of the Property, the Agency agrees to pay the Owner a percentage of the Tax Increment Revenue actually generated from the Property as follows:

A. If the Owner expends not less than Two Million Two Hundred Thousand and NO/100 Dollars ($2,200,000.00) in Development Costs in connection with the development of the Project, the Agency hereby agrees to provide an economic incentive to the Owner in the form of a rebate of Fifty percent (50%) of the portion of the Tax Increment Revenue received by the Agency and directly attributable to the Property ("Tax Increment Rebate"), provided, however, that the total amount so shared shall be limited to the lesser of (i) the cost of the Public Improvements and Public Benefits expended by Owner and (ii) the Revenue Sharing Cap Amount (the "Total Tax Increment Rebate").

B. Calculation Base. For purposes of calculating the Tax Increment Revenue for the entire Property, it is agreed that the Base Year shall be defined as the valuation of the taxable assessed value of the Property as shown on the records of the Volusia County Tax Appraiser the earlier of the date of issuance of the (1) site construction development permit or (2) building construction permit. Issuance of a permit shall mean plans stamped "Approved for Construction" and permits issued.

C. Rebate Amount. Once Tax Increment Revenue is generated for the Project, the following shall apply.

i. The Tax Increment Rebate will be calculated in each year during the Revenue Sharing Period and paid on or before July 30th. The Tax Increment Rebate shall be calculated each year as Fifty percent (50%) of the Tax Increment Revenue received by the Agency from the Tax Collector for such year attributable to the increase, if any, of the taxable value of the Property over the Base Year.

Each year during the Term of this Agreement the Agency will endeavor to provide the Owner with notice of the amount of the estimated Tax Increment Rebate for such year by November 1. The notice shall be delivered to the Owner on or about November 1st of each year. The actual Tax Increment Rebate will be based on actual tax increment revenue received with respect to the Property and may vary from the estimated amount.

ii. The millage rate applied to determine the contribution to the Community Redevelopment Agency for Town Center Trust Fund is based upon the millage rates

of the taxing authorities which contribute to the Community Redevelopment Agency for Town Center Trust Fund, including the City, and is subject to change as provided by law.

iii. The Owner may designate third parties to receive all or any portion of the Total Tax Increment Rebate provided that the Owner provides written notice of such designation to the Agency signed by all affected parties. Any such payment to a third party shall be subject to all the terms and conditions hereof.

iv. Tax Increment Rebate payments from the Agency shall be payable solely from assets in the Redevelopment Tax Fund and shall not be a general obligation or debt of the Agency or the City.

D. Compliance Conditions. The Agency's obligation to provide the Tax Increment Rebate is contingent upon the Owner's compliance with the following provisions of this Section 8.D.

i. The Project shall be developed in accordance with the plans stamped "Approved for Construction" by the City.

ii. The Project shall be constructed by a Florida licensed general contractor substantially in accordance with the plans for the project as approved by the City in connection with the issuance of the building permits for its construction.

iii. Each phase of development of the Property is commenced and completed in accordance with the descriptions and timeframes set out in Section 6.

E. Funding Disbursements; Reporting and Disbursement. Within thirty (30) days after each June 30 of each year of the Revenue Sharing Period, the Agency will remit to the Owner a lump sum payment (a "Funding Disbursement") in the amount required by Section 8.C. Unless the Owner otherwise directs the Agency in writing, each such Funding Disbursement will be remitted to the Owner at the address set forth in Section 23 .

F. Audits. The Owner will have all rights available at law or in equity to audit or contest, at its sole expense, the Agency's computation of the Tax Increment Rebate and Funding Disbursements. Audits may be requested by the Owner in writing from time to time, but will not occur more than once annually at the time the Agency subjects its records to audits required by state law, and the scope of any such audit may include any prior period so designated by the Owner in such request. Audits will be performed by an independent auditor using generally accepted governmental accounting principles. The costs of any such audit will be paid by the Owner. The foregoing audit rights and the Agency obligations will survive termination of the Revenue Sharing Period and expiration of the Term for the longer of twelve (12) months after the date on which the Agency is required to subject its records to audits required by state law for the last year of the Revenue Sharing Period or the Parties' full performance of their respective obligations hereunder with respect to any audit request delivered to Agency prior to termination of the Revenue Sharing Period.

Section 9. Use of Funding Disbursement Revenues by the Owner. Funding Disbursements distributed to the Owner will be applied only for a public purpose which will

advance (or which has advanced) the redevelopment of the Community Redevelopment Area for Port Orange Town Center and is permitted by the Port Orange Town Center Redevelopment Plan, including, without limitation, Public Improvements and Public Benefits. For purposes of this Agreement, "public purpose" will include, without limitation, the acquisition, design, construction, installation, erection, repair or maintenance of Public Improvements and other activities that promote Public Benefits, which for purposes of this Agreement include but are not limited to:

A. Exterior signage and devices that provide for or permit or enhance public way-finding and direction, building and business identification to the public, traffic control, and parking management within the Property, the Development and/or proximate areas.

B. Parking structures, parking lots, drive aisles, streets, and ways within the Property, the Development and/or proximate areas provided that such locations are routinely accessible to and available for use by the general public. Excepting the public trail and park, such areas shall at all times remain the private property of the Owner and its successors and assigns.

C. Lighting fixtures, power lines, transformers, and other lighting-related improvements to illuminate parking areas, sidewalks, drive aisles, loading areas, and other locations within the Property, the Development and/or proximate areas which are routinely accessible to the general public and which equipment will aid public safety and security.

D. Drainage retention and detention ponds and holding areas, culverts, pipes, inlets, gates, grates, swales, retaining walls, and water quality facilities within the Property, the Development and/or proximate areas which improvements provide for the management of surface water and the controlled retention or release in order to reduce adverse impacts upon and damage to public streets, public intersections, public infrastructure and adjacent private property.

E. Utilities (e.g., water, sewer, gas, electric, communications) and utilities extensions serving the Property, Development and/or proximate areas to the extent that the costs of such utilities improvements are the obligation of the Owner and are not within the responsibility or obligation of the utility service provider; and for purposes of clarification, costs incurred by the Owner for any such utilities improvements prior to the dedication of such utilities improvements to a utility provider (e.g., design and construction costs) or payments or reimbursements made to a utility provider for design and construction costs shall be eligible for Funding Disbursements.

F. Landscaping, including plant materials and landscape-related features (including any artwork) located along the perimeter of the Property, the Development or proximate areas or within the parking areas or other areas within the Property, the Development or proximate areas which are routinely accessible to the general public.

G. Physical improvements and amenities intended to serve the general public while upon the Property, the Development and/or proximate areas, including but not limited to sidewalks, crosswalks, bicycle paths, bicycle racks and storage areas, benches and seating, trash cans, rest areas, overpasses, and street medians to provide pedestrian safe zones for crossing of roadways and drive aisles.

H. Traffic control devices including traffic lights and crosswalk signals within the Property, the Development and/or proximate areas.

I. Improvements to meet local, state, or federal accessibility standards such as the Americans with Disabilities Act and to aid access for handicapped persons to and within the portions and areas of the Property, the Development and/or proximate areas which are intended for public access.

J. Acceleration lanes, deceleration lanes, turn lanes, and lane striping widening or modification intended to benefit the Property, the Development and/or proximate areas.

K. Any Public Improvements identified in the Subdivision or Site Improvement Agreement or on approved development plans stamped "Approved for Construction" by the City for the Property, the Development and/or proximate areas.

L. Any other public-related improvements, whether on-site or off-site, if such improvements are for a public purpose and determined by Agency to provide a public benefit, including but not limited to promoting Public Benefits, and/or advance the health, safety and welfare of the community or public convenience.

M. Any other improvements, property, equipment, materials, services and/or undertakings directly or indirectly related to the promotion of the Public Benefits.

N. Any easement granted by Owner to the City/Agency for a public purpose or for a Public Benefit (other than easements granted pursuant to the Property Exchange Agreement or as required by the Development Plan).

The actual costs and expenses incurred by the Owner directly or indirectly related to any of the foregoing plus five percent (5%) per annum from the date the expense was incurred by the Owner shall, without limitation, be reimbursable from Funding Disbursement revenues as a "public purpose" within the meaning of Section 9 of this Agreement; provided, however, notwithstanding anything to the contrary contained in this Agreement, the Agency and the Owner acknowledge and agree that the Property and the Project shall at all times remain the private property of the Owner, subject to a public access deed and use easement rights.

The Owner shall submit to Agency such evidence of payment of such costs as Agency reasonably determines is necessary to verify expenditures for public purposes defined above and to verify that the costs and expenses for which reimbursement is sought were obtained or provided at a reasonable market price consistent with the Public Improvements and Public Benefits provided. The Agency shall have the right to require an audit of the expenditures and the procurement or bidding process by which contracts and subcontracts were entered into; the Owner shall pay the cost of any such audit.

Section 10. Certification of Use of Funding Disbursement Revenues by the Owner. The Owner may apply revenues from Funding Disbursements toward payment or reimbursement of its costs and expenses in accordance with Section 9 above (whether incurred and/or paid prior or subsequent to commencement of the Revenue Sharing Period) up to the

Revenue Cap Amount. Not later than 60 days prior to the due date of Agency's initial Funding Disbursement, the Owner will provide Agency with a certification of the actual amount of costs and expenses incurred in accordance with Section 9 above. The reasonable costs and expenses incurred by the Owner in the preparation of the initial certification and any supplemental certification contemplated by Section 9 will be reimbursable from Funding Disbursement revenues as a "public purpose" within the meaning of Section 9 of this Incentive Agreement.

Section 11. Chapter 20 Economic Development Incentives. Pursuant to the Targeted Businesses Program ("TBP) as established in Chapter 20 of the City of Port Orange Land Development Code, as may be amended from time to time, City shall grant to the Owner a credit of Sixty Six Three Hundred Forty and NO/100 Dollars ($66,340.00) that may be applied to fees, excluding impact fees and storm water special assessment fees, as charged by the City for building permits and inspection fees.

Section 12. Defaults and Remedies.

A. Default by a Party. A breach or default by the either Party under this Agreement ("Default") will be defined as such Party's failure to fulfill or perform any express material obligation of that Party stated in this Agreement.

B. Notices of Default. In the event of a Default by either Party under this Agreement, the non-Defaulting Party will deliver written notice to the Defaulting Party of the Default, at the address specified in Section 24, and the Defaulting Party will have thirty (30) days from and after receipt of the notice to cure the default without liability for the Default. If the Default is not of a type which can be cured within such thirty (30) day period and the Defaulting Party gives written notice to the non-Defaulting Party within such thirty (30) day period that it is actively and diligently pursuing a cure, the Defaulting Party will have a reasonable period of time given the nature of the Default following the end of the thirty (30) day period to cure the Default, provided that the Defaulting Party is at all times within the additional time period actively and diligently pursuing the cure and such additional period shall not exceed 120 days.

C. Remedies. If an Owner Default under this Agreement is not cured as described above, City and Agency may enforce the Owner's obligations hereunder by an action for injunction, specific performance, and/or contract damages, or at its election may terminate this Agreement, following which this Agreement will be of no further force and effect and neither Party will have any further obligations to the other hereunder, except that the Owner will remain obligated to pay to City and Agency any amounts due and owing to City and Agency as provided in Section 23. If the Agency or City Default under this Agreement is not cured as described above, the Owner will have the right to enforce Agency's or City's obligations hereunder by an action for injunction, specific performance, and/or contract damages.

Section 13. Representations. In addition to the other representations, warranties and covenants made by the Parties herein, the Parties make the following representations, warranties and covenants to each other, and may be held liable for any loss suffered as a consequence of any misrepresentation or breach under this Section 13 .

A. Full Authority. Each Party has the full right, power and authority to enter into, perform and observe this Incentive Agreement.

B. Other Instruments. Unless otherwise specified herein, neither the execution of this Agreement, the consummation of the transactions contemplated hereunder, nor the fulfillment of or the compliance with the terms and conditions of this Agreement by each Party will conflict with, violate or result in a breach of any terms, conditions, or provisions of, or constitute a default under, or result in the imposition of any prohibited lien, charge, or encumbrance of any nature under any agreement, instrument, indenture, or any judgment, order, law or decree to which either Party hereto is a party or by which either Party is bound.

C. Covenants. Each Party will keep and perform all of the covenants and agreements of such Party contained herein.

Section 14. Costs. The Owner shall pay any expenses incident to the preparation of this Agreement and the performance of its obligations hereunder, including but not limited to: (i) the cost of the preparation, execution, delivery, filing and recording, as the case may be, of this Agreement and all other agreements, instruments, certificates and documents required in connection with the consummation of the transactions contemplated hereby; and (ii) the reasonable fees and disbursements of counsel and any financial advisor for the Agency and the City.

Section 15. Severability. Any provision of this Incentive Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.

Section 16. Effective Date and Term. This Incentive Agreement shall become effective and commence on the date of its approval by the City Council and the Community Redevelopment Agency for Port Orange Town Center and upon execution by the City, Agency and the Owner, subject to the termination, severability and survival provisions set forth herein.

Section 17. Termination. This Agreement shall terminate upon the occurrence of any of the following events:

A. The end of the Term, as provided in Section 4 .

B. Termination of this Agreement by the Owner pursuant to Section 7.A. hereof, or termination of the Agreement by its Agency pursuant to Section 12.C hereof.

Section 18. Relationship. This Incentive Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among the Agency, the City and the Owner. No party can create any obligation or responsibility on behalf of the others or bind the others in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Incentive Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Incentive Agreement or any responsibility or obligation contemplated herein. The Owner further represents and acknowledges that no one

was paid a fee, commission, gift or other consideration by the Owner as an inducement to entering into this Incentive Agreement.

Section 19. **Personal Liability**. No provision of this Incentive Agreement is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), director, employee or agent of the Agency and the City in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any covenant or obligation of the Agency hereunder.

Section 20. **Applicable Law and Venue**. This Incentive Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any action, in equity or law, with respect to this Incentive Agreement must be brought and heard in the Circuit Court of the Seventh Judicial Court in and for Volusia County, Florida.

Section 21. **Assignment**. It is acknowledged that the Owner, as the fee simple owner of the Property, is free to convey title (fee simple, leasehold or otherwise) to third parties of all or portions of the Property. Such third parties shall acquire no right or interest in this Agreement unless expressly granted in a written instrument executed by the Owner. In connection a conveyance to a third party, the Owner (as to the Owner's interest) shall have the right to assign all or any portion of its interests in this Agreement, and the assignee of any interests in this Agreement shall also have the right to assign such interests to another party, provided that: (i) the Owner's interest hereunder shall only be assignable in whole and not in part, and (ii) the assignee shall assume in writing the responsibilities, obligations and duties associated with the interests being assigned by the assignor and which may arise after the effective date of the assignment.

Upon the assignee's assumption of such responsibilities, obligations and duties, the assignor shall be relieved of same. The assignor of the Owner's interests in this Incentive Agreement shall provide notice to the Agency of such assignment within fifteen (15) days of the effective date of the assignment. The assignment instrument must include the street address, phone number and facsimile number of the assignee. Such contact information shall be used by the parties under the notices provision below.

Section 22. **Amendment**. This Incentive Agreement may not be amended, unless evidenced in writing and executed by all parties hereto.

Section 23. **Attorneys' Fees.** In the event of any litigation between the Parties hereto concerning the subject matter hereof, the substantially prevailing Party in such litigation will be entitled to receive from the non-prevailing Party, and will be awarded, in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses, including attorney fees, incurred by the substantially prevailing Party in such litigation, appeal or post judgment collection proceedings.

Section 24. **Notices**. Notices shall be deemed to have been duly given if sent by facsimile or hand-delivered or mailed, first class, postage prepaid, or by certified or registered mail (return receipt requested) to the following addresses:

To the Agency: Community Redevelopment Agency for Port Orange Town Center
1000 City Center Circle

Port Orange, Florida 32129
Attn: City Manager
Telephone: 386-506-5501
Facsimile: 386-756-5208

To the City: City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
Attn: City Manager
Telephone: 386-506-5501
Facsimile: 386-756-5208

B.D.W. Land Holdings, LLC
5481 S. Ridgewood Avenue
Port Orange, FL 32127
Attn: Jack Wiles

With a copy to:

James S. Morris, P.A.
750 Oak Heights Court, Unit 304
Port Orange, FL 32127
Attn: James S. Morris, Esq.

The parties hereby agree to notify each other in writing of any change of address.

Section 25. **Captions**. The captions and headings of sections or paragraphs used in this Incentive Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

Section 26. **Third Parties.** The interests of the Owner in this Agreement are personal to the Owner, and although the Owner's interests may be expressly assigned in accordance with the provisions of Section 21 , they do not run with the land. The Agreement has been entered into for the benefit of the parties and there are no third party beneficiaries.

Unless expressly granted in a written instrument executed by the Owner, third parties acquiring any indicia of ownership in the Property shall not, by virtue of such acquisition or otherwise, acquire or receive any right, title or interest whatsoever in any of the monetary payments or benefits to arise or be made by the Agency under this Incentive Agreement including, but not limited to, the Tax Increment Rebate. In connection with its sale of the Property within the Project, the Owner shall hereafter provide notice of the foregoing limitation to successor owners at such time that such purchasers give a deposit for a contract for sale and purchase.

Section 27. **No Delegation of Police Power.** The Owner's shall not pledge the credit of the City nor make the City a guarantor of payment of surety for any contract, debt, or, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to the Owner.

Section 28. Compliance Monitoring. The Owner agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that the Owners' implementation of the municipal purposes declared by the Agency herein.

Section 29. Third Party Challenges. In the event of any Legal Challenge by a third party to the validity or enforceability of any provision of this Agreement or any constituent element of the Development Plan, the Parties will cooperate in the defense of such challenge and will bear their own costs and attorneys' fees. Unless otherwise provided herein, during the pendency of any such Legal Challenge, the Parties will abide by and carry out all of the terms of this Agreement, unless otherwise ordered by a court of competent jurisdiction. If any Legal Challenge successfully voids, enjoins, or otherwise invalidates any constituent element of the Development Plan, or any portion thereof, or this Agreement, the Parties will cooperate to cure the legal defect and to process to completion such instruments as may be necessary or desirable to most fully implement the intent and purpose of this Agreement.

Section 30. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein, provided, however, that this Agreement shall not affect the validity of the Development Agreement executed simultaneously herewith or any other written agreement between the parties relating to road impact fees assessed in connection with development of the Property.

Section 31. Counterparts; Copies. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument. Additionally, signed telecopies/facsimiles shall have the same force and effect as a signed original, and, in lieu of an original, any party hereto may use a photocopy of this Agreement in any action or proceeding brought to enforce or interpret any of the provisions contained herein.

Section 32. Conflicting Terms. In the event that this Incentive Agreement conflicts with Resolution No. 17-14, the Incentive Agreement shall control.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Agency has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

COMMUNITY REDEVELOPMENT AGENCY for PORT ORANGE TOWN CENTER

_____

Attest: _____, Chairman

_____

Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA
7

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, as the Chairman of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [___] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Robin L. Fenwick, CMC, as City Clerk of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [__] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires:_____

IN WITNESS WHEREOF, the City has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

CITY OF PORT ORANGE, FLORIDA

By: _____
Donald O. Burnette, Mayor

Attest:

_____
Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Donald O. Burnette, as the Mayor of the City of Port Orange, Florida, on behalf of the City. Said person [___ is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Robin L. Fenwick, CMC, as City Clerk of the City of Port Orange, Florida, on behalf of the City. Said person [___] is personally known to me or [___] has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

IN WITNESS WHEREOF, the Owner has duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

B.D. W. LAND HOLDINGS, LLC, a Florida Limited Liability Company

_____ By:_____

Printed Name:_____ Bradley D. Wiles, Manager

_____ (SEAL)

Printed Name:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Bradley D. Wiles, as Manager of B.D.W. Land Holdings, LLC a Florida Limited Liability Company on behalf of said corporation, who is personally known to me or has produced _____ as identification.

[Notary Stamp]

_____
Signature of Notary Public
Printed Name: _____
Serial No. (if any): _____
Commission Expires: _____

Exhibit "A"

Definitions

For purposes of the foregoing Agreement, the following terms and references will have the following meanings:

1. **"Affiliate"** means any person (a) that directly or indirectly controls, is controlled by or is under common control with the Owner, (b) who is an officer, manager, employee, or agent of, partner in, or trustee of , or serves in a similar capacity with respect to, the Owner, (c) of which the Owner is an officer, manager, employee, agent, partner, or trustee or serves in a similar capacity, or (d) who is a member of the Owner's family.

2. **"Agency"** has the meaning set forth in the initial paragraph of this Agreement.

3. **"Agreement"** means this Incentive Agreement and any Exhibits attached hereto, all of which are incorporated herein by this reference, as amended from time to time in accordance with its terms.

4. **"Base Year"** shall have the meaning ascribed to such term in Section 8.B.

5. **"Building Permit"** means any site development approved by the city, and any building permit, occupancy permit, signage permit, fence permit, electrical permit, grading permit, or similar permit required by City Code and/or City's development or building code, electrical code, plumbing code, fire code, or similar code, as in effect from time to time.

6. **"Building Codes"** means City's adopted building code, electrical code, plumbing code, fire code, and other similar codes, as in effect from time to time.

7. **"City"** has the meaning set forth in the preambles of this Agreement.

8. **"City Code"** means the Municipal Code of City of Port Orange, Florida (including the Land Development Code and the Building Code and any similar separately codified regulations), as in effect from time to time (or, where the Agreement expressly states, at a particular time stated).

9. **"City Council"** means City Council of the City.

10. **"Default"** has the meaning set forth in Section 12 of this Agreement.

11. **"Development Agreement"** means approved development plans stamped "Approved for Construction" by the City.

12. **"Development Application"** means the substantially complete application submitted to City by the Owner for any development, subdivision, zoning, site plan or similar land use approval relating to development of any property within the Property, including, without limitation, an application for any zoning or re-zoning, site plan, subdivision plat, Building

Permit, construction permit or other form of development permit, or any amendment to or modification of any of the foregoing.

13. **"Development Costs"** means the hard and soft costs actually incurred by Owner in connection with the design and construction of the Project through Completion, excluding land costs and costs paid to any Affiliates and as further certified by Owner in the Development Costs Certificate.

14. **"Development Costs Certificate"** means the certificate from Owner of the Development Costs in substantially the form of Exhibit "E", which certificate shall have appropriate backup, reasonably acceptable to the City Manager, to substantiate the Development Costs, certified as being true and correct by Owner.

15. **"Development Order"** means an *order* granting, with or without conditions, approval of an application for development, including any subdivision, site plan, rezoning, special exception, and variance, [Chapter 2, Section2, LDC.]

16. **"Development Plan"** means **"Project"** or approved development plans stamped, "Approved for Construction" by the City.

11. **"Effective Date"** means the date on which this Agreement is executed by both Parties and as set forth in Section 3.

12. **"Exhibits"** means the following Exhibits to this Agreement, all of which are incorporated by reference into and made a part of this Agreement:

Exhibit A — Definitions

Exhibit B —Legal Description of the Property

Exhibit C —Resolution No. 2017-14

Exhibit D — Approved Site Plan

Exhibit E —Developer's Cost Certificate

13. **"Funding Disbursement"** has the meaning set forth in Section 8.D.

14. **"Legal Challenge"** means either of the following: (1) any third party commences any legal proceeding that directly or indirectly challenges this Incentive Agreement, the Project, and/or any of the Agency's or City's resolutions or ordinances approving or ratifying this Agreement or the Project, or (2) any third party submits a petition for a referendum seeking to reverse or nullify any such ordinances.

15. **"Owner"** has the meaning set forth in the initial paragraph of this Agreement.

16. **"Party(ies)"** means, individually or collectively as applicable, the Owner, the Agency and the City.

15. **"Project"** means approved development plans stamped "Approved for Construction" by the City.

18. **"Property"** means the real property that is legally described in Exhibit B.

19. **"Public Improvements"** means, as more fully discussed in Section 9 of the Agreement, any and all on-site and/or off-site improvements or property, including but not limited to roadways, water lines, sewer lines, storm water facilities, open space, landscaping, traffic control devices, sidewalks, transportation improvements, signage, parking areas or structures and similar or other infrastructure and related or other improvements or property, to be designed, constructed, improved and/or acquired, which will be dedicated for public use or which will be generally accessible to the public, or which otherwise serves a public purpose, in accordance with the Project and the Agreement.

20. **"Redevelopment Area"** means the areas as more particularly described in the Redevelopment Plan, as amended, referenced herein.

21. **"Revenue Sharing Cap Amount"** means an amount which shall not exceed the cost of the Public Improvements consistent herewith and subject to the increased tax revenue received by the City and generated by the Project.

"Revenue Sharing Period" means the period commencing the year subsequent to the issuance of the Certificate of Occupancy and that which the tax valuation will initiate a Tax Increment Revenue increase as a result of completion of the Project and the period terminating on the earlier of: (i) the date on which the Owner has received Funding Disbursements cumulatively equaling the Revenue Sharing Cap Amount; (ii) December 31, 2036, (iii) the expiration of the Agency or (iv) the Developer's failure to timely commence and timely complete the Development Plan.

22. **"Tax Increment Rebate"** has the meaning ascribed to such term in Section 8.A.

23. **"Tax Increment Revenue"** shall mean the tax increment funds, if any, actually received by the Agency from the County and City generated from the Project for the applicable year after deducting all administrative charges imposed by the County and the City.

24. **"Term"** has the meaning set forth in Section 4.

Exhibit "B"

Legal Description of the Property

LEGAL DESCRIPTION – PARCEL SURVEYED

LOTS 4 AND 5, BLOCK "O", ACCORDING TO S.B. WILSON'S SURVEY AND MAP OF PORT ORANGE, FLORIDA, AS RECORDED IN MAP BOOK 1, PAGE 154, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

TOGETHER WITH... LOTS 29, 30 AND 31 OF WEST PARK, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 89, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

LESS AND EXCEPT... THOSE PORTIONS OF THE ABOVE REFERENCED LOTS TAKEN FOR RIGHT-OF-WAY PURPOSES.

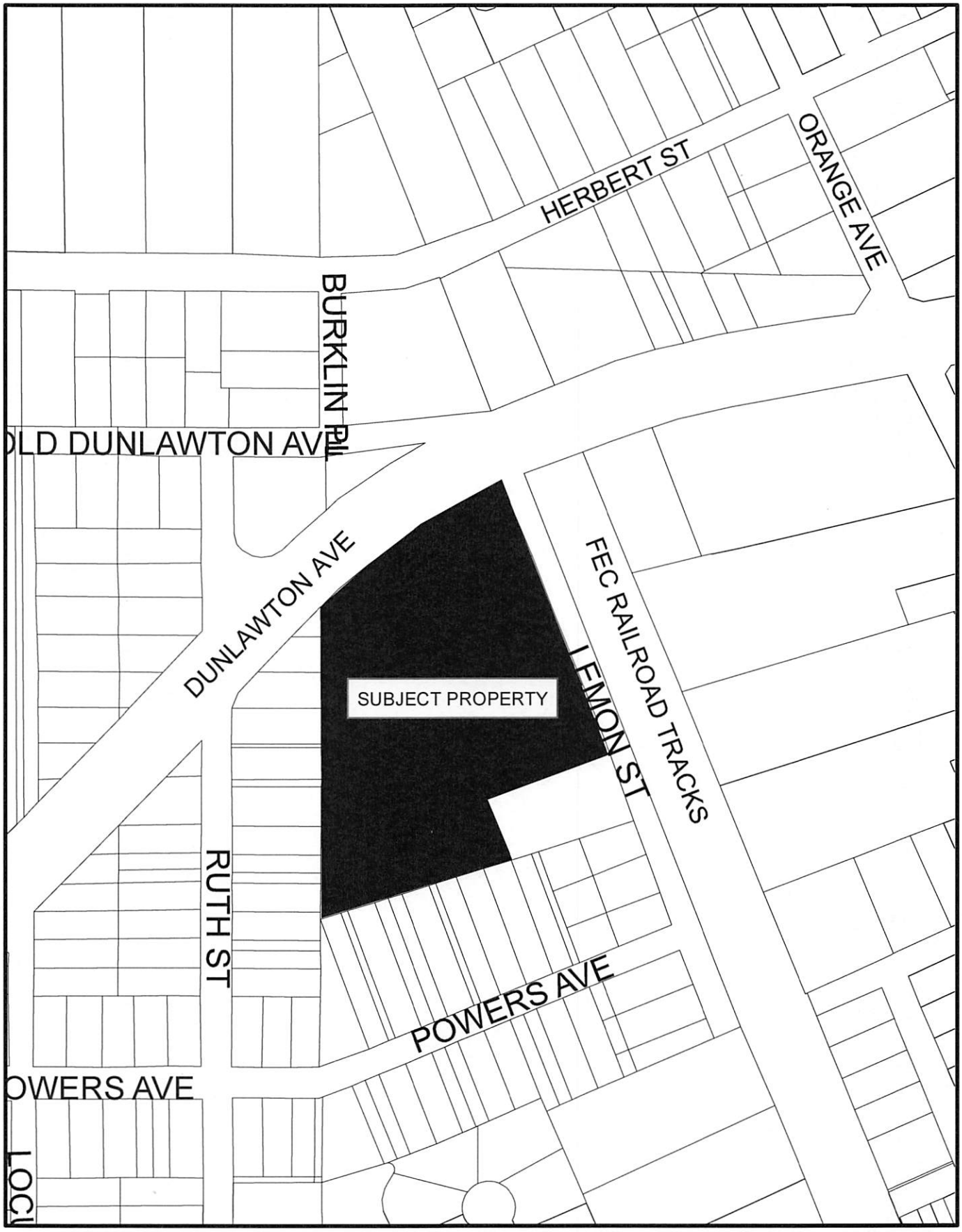

HERBERT ST
ORANGE AVE
BURKLIN PL
OLD DUNLAWTON AVE
DUNLAWTON AVE
SUBJECT PROPERTY
LEMON ST
FEC RAILROAD TRACKS
RUTH ST
POWERS AVE
OWERS AVE

Exhibit "C"

Resolution No. 17-14

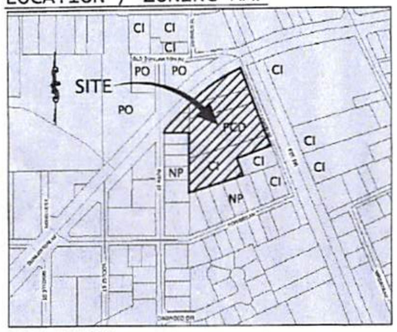
Exhibit "D"

Approved Site Plan or Equivalent

ATLANTIC MARINE PCD

520 DUNLAWTON AVE, PORT ORANGE, FL 32127

LOCATION / ZONING MAP

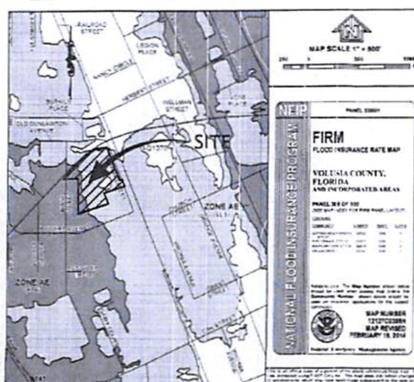


PARCEL NUMBERS:
6303-11-15-0030; 6303-11-15-0050; 6303-11-15-0051;
6303-11-15-0040; 6304-05-00-0291; 6304-05-00-0300

FUTURE LAND USE MAP

1. PUBLIC/QUASI-PUBLIC
2. URBAN LOW DENSITY RESIDENTIAL 4-8 UNITS/ACRE
3. OFFICE/RESIDENTIAL TRANSITION
4. COMMERCIAL
5. WAREHOUSE/INDUSTRIAL

FEMA F.I.R.M. MAP



ENGINEER:
THE ALANN ENGINEERING GROUP, INC.
CONSULTING ENGINEERS
880 AIRPORT RD. STE. 113
ORMOND BEACH, FL 32174
PH. (386) 673-7640
FAX (386) 673-3927

ARCHITECT:
BPF DESIGN INCORPORATED
207 FAIRVIEW AVE.
DAYTONA BEACH, FL 32114
PH. (386) 257-0502; FAX (386) 257-1050
EMAIL: BPFDESIGN@CFL.RR.COM

OWNER
B.D.W. LAND HOLDINGS, LLC
5481 S. RIDGEWOOD AVE
PORT ORANGE, FL 32127
PH. (386) 788-1644
E-MAIL: ATLANTIC MARINE@BELLSOUTH.NET

SURVEYOR: (DUNLAWTON ROW)
MYER LAND SURVEYING, INC.
316 RIDGEWOOD AVE
HOLLY HILL, FL 32117
PH. (386) 255-6304
MMERYER4006@BELLSOUTH.NET

SURVEYOR:
KUHAR SURVEYING AND MAPPING, LLC.
112 OCEAN GROVE DR.
ORMOND BEACH, FL 32176
PH. (386) 295-8051
WWW.KUHARSURVEYING.COM

STATEMENT OF INTENT

TO CONSTRUCT A BOAT SALES, REPAIR & STORAGE FACILITY WITH ASSOCIATED PARKING & INFRASTRUCTURE

PROPOSED USES:

BOAT SALES, REPAIRS & STORAGE

BUILDING DATA:

BUILDING FOOTPRINT:
16,939 SF (DOES NOT INCLUDE 1,060 SF ADDITIONAL SERVICE BAY)

PARKING REQUIREMENTS:
BOAT SALES FACILITY (INDOOR): 5,386 SF @ 1 SPACE / 1,000 SF = 6
OUTDOOR DISPLAY AREA: 6,000 SF @ 1 SPACE / 3,000 SF = 2
SERVICE BAYS: 6 SERVICE BAYS @ 1 SPACE / BAY = 6
REQUIRED PARKING: = 14

PARKING PROVIDED:
12 REGULAR, 1 HANDICAP, 1 EMPLOYEE SPACE LOCATED IN STABILIZED BOAT STORAGE AREA = 14 TOTAL SPACES

SITE DATA:

CURRENT ZONING:
CI - COMMERCIAL/INDUSTRIAL
PCD - COMMERCIAL DEVELOPMENT

FUTURE LAND USE:
WAREHOUSE/INDUSTRIAL & OFFICE RESIDENTIAL

EXISTING USE: AUTO BODY/PAINT & TREE SERVICE

PROPOSED BUILDING COVERAGE (35% MAX): 16,939 SF (0.39 AC.) = 15.7%
(DOES NOT INCLUDE THE 1,060 SF ADDITIONAL SERVICE BAY)

520 DUNLAWTON AVE
PROPOSED IMPERVIOUS SURFACE RATIO: 73,354 SF (1.68 AC.) = 67.6%
PROPOSED OPEN SPACE RATIO (30% MIN): 35,188 SF (0.81 AC.) = 32.4%
TOTAL AREA: 108,542 SF (2.49 AC.) = 100%

619 LEMON STREET
PROPOSED IMPERVIOUS SURFACE RATIO: 23,517 SF (0.54 AC.) = 45.4%
PROPOSED OPEN SPACE RATIO (30% MIN): 28,319 SF (0.65 AC.) = 54.6%
TOTAL AREA: 51,837 SF (1.19 AC.) = 100%

REQUIRED BUILDING SETBACKS:
DUNLAWTON AVE & LEMON ST - 20'
REAR - 25'
SIDE - 25'

PROPOSED BUILDING SETBACKS:
DUNLAWTON AVE - 88.26'
LEMON ST - 88.26
REAR - 116.61'
SIDE - 54.21'

LEGAL DESCRIPTION

LEGAL DESCRIPTION -

LOTS 3,4 & 5, BLOCK "D", ACCORDING TO S.B. WILSON'S SURVEY AND MAP OF PORT ORANGE, FLORIDA, AS RECORDED IN MAP BOOK 1, PAGE 154, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA
LESS AND EXCEPT...
THE EASTERLY 200' OF THE SOUTHERLY 100' OF SAID LOT 3
TOGETHER WITH ...
LOTS 29, 30 AND 31 OF WEST PARK, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 3, PAGE 89, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA
LESS AND EXCEPT...
THOSE PORTIONS OF THE ABOVE REFERENCED LOTS TAKEN FOR RIGHT-OF-WAY PURPOSES.

ADJACENT PROPERTY OWNERS MAP

1. PID: 6303-11-15-0031
WOHLHUTER WILLIAM M III
617 LEMON ST
PORT ORANGE FL 32127
2. PID: 6304-07-00-0240
URQUHART FREDERIC C JR & DRUCILLA H URQUHART H&W
511 POWERS AVE
PORT ORANGE FL 32127
3. PID: 6304-07-00-0230
URQUHART F C JR & DRUCILLA H
511 POWERS AVE
PORT ORANGE FL 32127
4. PID: 6304-07-00-0210
LINDSAY FRED G & CORNELIA
509 POWERS AVE
PORT ORANGE FL 32127
5. PID: 6304-07-00-0190
CHRISTENSEN REX L & KIM M
507 POWERS AVE
PORT ORANGE FL 32127
6. PID: 6304-07-00-0180
COMREY THOMAS JASON & CHRISTINA DARLENE COMREY
505 POWERS AVE
PORT ORANGE, FL 32127
7. PID: 6304-07-00-0150
C & S LAND TRUST
32 CARIBBEAN WAY
PONCE INLET FL 32127
8. PID: 6304-07-00-0140
RAFFERTY WILLIAM W & ELLEN L
501 POWERS AVE
PORT ORANGE FL 32127
9. PID: 6304-05-00-0320
AARON DAVID GUY PATTERSON & MARGARET V PATTERSON JTRS
528 RUTH ST
PORT ORANGE FL 32127
10. PID: 6304-05-00-0330
BENNETT MARILYN S SUCC TTEE
4247 JACKSON ST
PORT ORANGE, FL 32127
11. PID: 6304-05-00-0340
TERESA A VALDES & JOAN H LEE
3831 S ATLANTIC AVE UNIT 1001
DAYTONA BEACH FL 32118
12. PID: 6304-07-00-0260
MCNEW KIMBERLY
620 RUTH ST
PORT ORANGE FL 32119
13. PID: 6304-07-00-0280
MICHAEL L GARDNER & DIANNE TEMPLETON GARDNER
518 RUTH ST
PORT ORANGE, FL 32127
14. PID: 6304-07-00-0310
DDS LLC
951 NE CLONINGER MILL RD
HICKORY NC 28601
15. PID: 6304-07-00-0670
RHODES EUGENE E JR
PO BOX 290580
PORT ORANGE, FL 32129
16. PID: 6304-05-00-0110
AMSOUTH BANK
250 RIVERCHASE PKWY #600
BIRMINGHAM AL 35244
17. PID: 6303-11-14-0050
SCHOOL BOARD OF VOLUSIA COUNTY
230 N STONE ST
DELAND FL 32720
18. PID: 6303-11-14-0031
SCHOOL BOARD OF VOLUSIA COUNTY
230 N STONE ST
DELAND FL 32720
19. PID: 6303-11-14-0021
SCHOOL BOARD OF VOLUSIA COUNTY
230 N STONE ST
DELAND FL 32720

UTILITY NOTES:

1. LOCATION OF UTILITIES ARE APPROXIMATE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY.
2. NEW OR RELOCATED UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A HORIZONTAL DISTANCE OF AT LEAST SIX FEET, AND PREFERABLY TEN FEET, BETWEEN THE BOTTOM OF THE WATER MAIN AND THE OUTSIDE OF ANY EXISTING OR PROPOSED GRAVITY- OR PRESSURE-TYPE SANITARY SEWER, WASTEWATER FORCE MAIN, OR PIPELINE CONVEYING RECLAIMED WATER NOT REGULATED UNDER PART III OF CHAPTER 62-610, F.A.C. THE MINIMUM HORIZONTAL SEPARATION DISTANCE BETWEEN WATER MAINS AND GRAVITY-TYPE SANITARY SEWERS SHALL BE REDUCED TO THREE FEET WHERE THE BOTTOM OF THE WATER MAIN IS LAID AT LEAST SIX INCHES ABOVE THE TOP OF THE SEWER. NEW OR RELOCATED UNDERGROUND WATER MAINS CROSSING ANY EXISTING OR PROPOSED GRAVITY- OR VACUUM-TYPE SANITARY SEWER [illegible] BE LAID SO THE OUTSIDE OF THE WATER MAIN IS AT LEAST SIX INCHES, AND PREFERABLY TWEL[illegible] ABOVE OR AT LEAST TWELVE BELOW THE OUTSIDE OF THE OTHER PIPELINE. HOWEVER, IT IS PRE[illegible] LAY THE WATER MAIN ABOVE THE OTHER PIPELINE.

AT THE UTILITY CROSSINGS DESCRIBED ABOVE, ONE FULL LENGTH OF WATER MAIN PIPE SHALL BE CENTERED ABOVE OR BELOW THE OTHER PIPELINE SO THE WATER MAIN JOINTS WILL BE AS FAR AS POSSIBLE FROM THE OTHER PIPELINE. ALTERNATELY, AT SUCH CROSSINGS, THE PIPES SHALL BE ARRANGED SO THAT ALL WATER MAIN JOINTS ARE AT LEAST THREE FEET FROM ALL JOINTS IN VACUUM-TYPE SANITARY SEWERS, OR PIPELINES CONVEYING RECLAIMED WATER REGULATED UNDER PART III OF CHAPTER 62-610 F.A.C., AND AT LEAST SIX FEET FROM ALL JOINTS IN GRAVITY- OR PRESSURE-TYPE SANITARY SEWERS, WASTEWATER FORCE MAINS, OR PIPELINES CONVEYING RECLAIMED WATER NOT REGULATED UNDER PART II OF CHAPTER 62-610, F.A.C.
3. SANITARY SEWER PIPE SPECIFICATION: PVC ASTM D-3034, SDR-35, SANITARY SEWER JOINT SPECIFICATION ASTM D-3212.
4. POTABLE WATER SPECIFICATION: DUCTILE IRON PIPE: ANSI A21.51 MINIMUM CLASS 51; LINING: WATER PIPE: THIN CEMENT ANSI A21.4. WASTEWATER PIPE: COAL TAR EPOXY 40 MILS. JOINTS FOR CI FITTINGS SHALL BE PUSH ON TYPE PER ANSI STD. A21.11-1980. ALL BURIED GATE VALVES SHALL CONFORM TO AWWA C-500 SPECIFICATIONS.
5. WATER PIPE LESS THAN 2" DIAMETER SHALL BE GALVANIZED STEEL PIPE: ASTM A120, A-338 AND A113.
6. WATER MAIN PRESSURE TESTING: 150 PSI.
7. ALL WATER MAINS SHALL MAINTAIN 3 FEET OF COVER. WHERE SHALLOW UTILITIES CONFLICT, INSTALL WATER MAIN BELOW CONFLICTING UTILITY.
8. HYDROSTATIC TESTS CONSISTING OF PRESSURE TEST AND LEAKAGE TEST SHALL BE CONDUCTED ON ALL NEWLY INSTALLED WATER DISTRIBUTION SYSTEM PRESSURE PIPES AND APPURTENANCES. THE TESTS SHALL BE IN ACCORDANCE WITH AWWA C-600 OR M-23 AS APPLICABLE.
9. DISINFECTION OF THE WATER DISTRIBUTION SYSTEM SHALL BE PERFORMED IN ACCORDANCE WITH AWWA C651. DISINFECTING WATER MAINS.
10. UNLESS OTHERWISE NOTED, FOLLOW FDOT 2015 STANDARD SPECIFICATIONS.
11. FIRE HYDRANTS SHALL BE OF THE TRAFFIC TYPE, MUELLER A-423 OR APPROVED EQUAL, PAINTED WITH TWO COATS OF PAINT ACCEPTABLE TO THE CITY OF PORT ORANGE. THEY SHALL BE IN ACCORDANCE WITH AWWA C-502 SPECIFICATIONS.
12. COORDINATE INSTALLATION OF UTILITIES WITH THE CITY OF PORT ORANGE.
13. ALL UTILITIES AND SERVICE LINES FOR ELECTRIC, PHONE AND CABLE SHALL BE INSTALLED UNDERGROUND.

SHEET INDEX

SHEET #	TITLE
C1	DEMOLITION/EROSION CONTROL PLAN
C2	TREE PRESERVATION PLAN
C3A	DIMENSION PLAN
C3B	PAVEMENT MARKINGS & SIGNAGE PLAN
C3C	EASEMENT EXHIBIT PLAN
C4A	PAVING AND DRAINAGE PLAN
C4B	PAVING AND DRAINAGE DETAILS
C5	UTILITY PLAN
C6A & C6B	CROSS SECTIONS
C7-C13	FDOT CONSTRUCTION DETAILS
C14-C20	CITY CONSTRUCTION DETAILS

FDOT GENERAL NOTES

1. MAINTENANCE OF TRAFFIC TO BE SUPERVISED BY A PERSON/CONTRACTOR CERTIFIED WITH FDOT TO PROVIDE MAINTENANCE OF TRAFFIC.
2. THE CONTRACTOR SHALL NOTIFY FDOT PERMIT MANAGER A MINIMUM OF TWO BUSINESS DAYS PRIOR TO ANY LANE CLOSURES OR BEGINNING ANY CONSTRUCTION WITHIN THE FDOT RIGHT-OF-WAY.
ALL WORK PERFORMED WITHIN THE FDOT RIGHT-OF-WAY SHALL BE IN ACCORDANCE WITH THE 2015 FDOT DESIGN STANDARDS, SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AND THE UTILITY ACCOMMODATION MANUAL.
4. IF THE DEPARTMENT DETERMINES THAT AS-BUILT CONDITIONS VARY SIGNIFICANTLY FROM THE APPROVED PLANS, THE PERMITTEE SHALL PROVIDE AS-BUILT PLANS, ALONG WITH A RECORD DRAWINGS REPORT BY PERMITTEE'S PROFESSIONAL ENGINEER. FORM 850-040-19, WITHIN 30 DAYS AFTER FINAL ACCEPTANCE.
5. IT WILL BE THE RESPONSIBILITY OF THE PERMITTEE TO REPAIR ANY DAMAGE TO FDOT FACILITIES CAUSED BY CONSTRUCTION OF THE PROJECT.
6. TEST RESULTS OF ANY TESTS TAKEN FOR OR DURING CONSTRUCTION OF THE PERMITTED WORK SHALL BE PROVIDED TO THE FDOT UPON REQUEST.
7. ALL CONCRETE TO BE REMOVED SHALL BE SAW CUT AT THE NEAREST JOINT IN GOOD CONDITION, SO AS TO PRODUCE A CONNECTION WITH NEW CONCRETE THAT IS FREE OF CRACKS, DEFORMITY IN SHAPE, NOTICEABLE VOIDS, SURFACE IRREGULARITIES, AND OTHER DEFECTS. CONCRETE GUTTER.
8. ALL CONCRETE SHALL BE AN APPROVED FDOT MIX DESIGN OF 3,000 PSI.
9. ALL MATERIALS INSTALLED WITHIN FDOT RIGHT-OF-WAY SHALL BE LIMITED TO THOSE ON THE FDOT'S QUALIFIED PRODUCTS LIST OR APPROVED PRODUCT'S LIST OF TRAFFIC CONTROL SIGNALS AND DEVICES.
10. NOTIFY THE FDOT AT (386) 740-3406 2 BUSINESS DAYS PRIOR TO THE START OF CONSTRUCTION FOR ANY WORK WITHIN FDOT AVE RIGHT-OF-WAY INCLUDING BUT NOT LIMITED TO DRIVEWAY CONSTRUCTION, GRADING, PAVING, STORMWATER and /OR UTILITY WORK AS SHOWN ON THESE PLANS.

APPROVED FOR CONSTRUCTION

GENERAL NOTES:

1. CONTRACTOR SHALL VERIFY ALL PERTINENT FEATURES WHICH MAY AFFECT HIS BID PRIOR TO BIDDING THE PROJ[illegible] NOTED DURING CONSTRUCTION WILL NOT BE CONSIDERED CAUSE FOR EXTRA PAYMENT ON ANY OF THE PAY ITEMS IN THE CONTRACT.
2. UTILITIES MAY EXIST WHICH ARE NOT SHOWN ACCURATELY ON THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE [illegible] ALL UTILITY LOCATIONS PRIOR TO ANY CONSTRUCTION.
3. CONTRACTOR SHALL IMMEDIATELY NOTIFY DESIGN ENGINEER AND FDOT PERMIT MANAGER OF ANY DISCREPANCIES FOUND ON THE [illegible]
4. ANY PUBLIC LAND CORNER WITHIN THE LIMITS OF CONSTRUCTION IS TO BE PROTECTED. IF A CORNER MONUMENT IS IN DANGER OF BEING DESTROYED AND HAS NOT BEEN PROPERLY REFERENCED, THE CONTRACTOR SHOULD NOTIFY THE COUNTY LOCATION SURVEYOR WITHOUT DELAY BY TELEPHONE.
5. MAINTENANCE OF TRAFFIC WILL BE IN ACCORDANCE WITH THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS", & THE 2015 FDOT ROADWAY AND TRAFFIC DESIGN STANDARDS.
6. THERE SHALL BE THREE (3) COMPACTION TESTS PER 300 FEET OR PORTION THEREOF OF ROADWAY. PERFORMED ON THE RIGHT AND LEFT SIDES AS WELL AS THE CENTER OF THE ROADWAY.
7. A MINIMUM OF ONE (1) COMPACTION TEST PER 5,000 SQUARE FEET OF PARKING AREA IS REQUIRED. A COPY OF THE TEST REPORTS SHALL BE GIVEN TO THE PORT ORANGE'S ENGINEERING INSPECTOR.
8. TEMPORARY DRAINAGE SHALL BE PROVIDED DURING CONSTRUCTION TO ELIMINATE ANY FLOODING OF PRIVATE PROPERTY.
9. UNSTABLE MATERIALS SHALL BE REMOVED FROM CONSTRUCTION AREAS AND BACKFILLED WITH SUITABLE MATERIALS.
10. CONSTRUCTION SHALL INCLUDE REPLACING, WITH MATCHING MATERIALS, THE DRIVEWAYS, WALKS, MAILBOXES, CURBS AND LANDSCAPING THAT ARE DAMAGED OR REMOVED DUE TO CONSTRUCTION. THIS WORK SHALL BE COORDINATED WITH PROPERTY OWNERS.
11. ALL STORM SEWER LINES AND INLETS SHALL BE CLEANED OF DEBRIS AND ERODED MATERIALS AT LAST STAGES OF CONSTRUCTION.
12. ANY DRAINAGE PROBLEMS CREATED BY CONSTRUCTION OR EXISTING BEFORE CONSTRUCTION AND NOT ALLEVIATED SHOULD BE BROUGHT TO THE ATTENTION OF THE CITY OF PORT ORANGE AND THE DESIGN ENGINEER.
13. ALL AREAS DISTURBED DURING CONSTRUCTION SHALL BE RESTORED TO ORIGINAL CONDITION.
14. CONTRACTOR SHALL PROVIDE AN AS-BUILT SURVEY PERFORMED BY A REGISTERED SURVEYOR. SURVEY SHALL INDICATE AS-BUILT OF ALL IMPROVEMENTS.
15. THE CONTRACTOR SHALL CALL FOR LOCATES 2 BUSINESS DAYS PRIOR TO STARTING CONSTRUCTION.
16. ALL ELEVATIONS REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), AS REFERENCED TO NGS PUBLISHED BENCHMARK T-225, ELEV 11.90 (FOR ON-SITE ELEVATIONS ONLY).
17. ALL CONSTRUCTION SHALL COMPLY WITH THE CURRENT STANDARD CONSTRUCTION DETAILS AS ADOPTED BY RESOLUTION OF THE CITY COUNCIL. ANY DEVIATION FROM THE ADOPTED STANDARDS SHALL BE CLEARLY NOTED AS SUCH IN ALL PLANS AND SPECIFICATIONS. IF INADVERTENT DEVIATIONS IN PLANS ARE NOT SO NOTED, ADOPTED STANDARDS SHALL APPLY.
18. NO LAND SHALL BE CLEARED, EXCAVATED OR FILLED AND NO STRUCTURE SHALL BE ERECTED, REPAIRED OR DEMOLISHED WITHOUT PROPER PERMIT(S) AS REQUIRED BY THE CITY OF PORT ORANGE.
19. ANY CONSTRUCTION CHANGES TO APPROVED PLANS SHALL BE SUBMITTED TO THE CITY OF PORT ORANGE & FDOT FOR APPROVAL PRIOR TO PERFORMING THE WORK.
20. ROAD CONSTRUCTION AND PIPE INSTALLATION COMPACTION AND DENSITY TESTING SHALL CONFORM TO THE CITY OF PORT ORANGE'S MINIMUM REQUIREMENTS. CERTIFIED COPIES OF TEST REPORTS SHALL BE SUBMITTED TO THE CITY INSPECTOR AND THE CITY'S ENGINEERING DIVISION.
21. A PRE-PAVING UTILITY INSPECTION MUST BE REQUESTED AND COMPLETED PRIOR TO THE PAVING OF ALL ROADS, STREETS, AND PARKING AREAS.
22. A FINAL INSPECTION, TO BE CONDUCTED BY THE CITY OF PORT ORANGE, SHALL BE PERFORMED ON ALL CONSTRUCTION. THE DESIGN ENGINEER SHALL NOTIFY THE CITY OF PORT ORANGE'S ENGINEERING DEPARTMENT (386) 506-5682, ONCE AS-BUILT DRAWINGS AND CLEARANCES HAVE BEEN SUBMITTED.
23. A COMPLETE SET OF AS-BUILT DRAWINGS ARE REQUIRED TO BE SUBMITTED TO THE CITY OF PORT ORANGE PRIOR TO REQUESTING A FINAL INSPECTION.
24. ALL PAVEMENT MARKINGS AND STRIPING WITHIN FDOT RIGHTS-OF-WAY SHALL BE THERMOPLASTIC AND WILL BE INSTALLED IN ACCORDANCE WITH THE FDOT STANDARD INDEX #17346, LATEST EDITION AVAILABLE.
25. THIS PROPERTY LIES IN FLOOD ZONE "X" & "AE" (B.F.E. - 8') AS SCALED FROM FEMA FIRM MAP NUMBER 12127C0388 H, FIRM MAP DATED FEBRUARY 19, 2014
26. ALL DAMAGED SIDEWALK SHALL BE REPLACED.
27. THE CITY DOES NOT GUARANTEE THE ACCURACY OF AS-BUILTS

1-800-432-4770

RECEIVED
FEB 2 0 2015
CITY OF PORT ORANGE
COMMUNITY DEVELOPMENT

ALANN ENGINEERING GROUP, INC.
CONSULTING ENGINEERS
CERTIFICATE NO. EB5479
880 AIRPORT ROAD, SUITE 113
ORMOND BEACH, FL 32174
TEL: (386) 673-7640
FAX: (386) 673-3927

ATLANTIC MARINE SITE PLAN
PORT ORANGE, FL

NO.	DATE	REVISION	BY
3	2/10/15	FEC/FDOT COMMENTS	MRZ
2	1/8/15	COPO/FDOT COMMENTS	MRZ
1	10/22/14	COPO/FDOT COMMENTS	MRZ

DESIGNER	FILE	DATE
KAB	1201.1	7-7-14
DRAWN BY	PROJECT	SCALE
MRZ	1201-1	

FEB 25 2016

SHEET
OF

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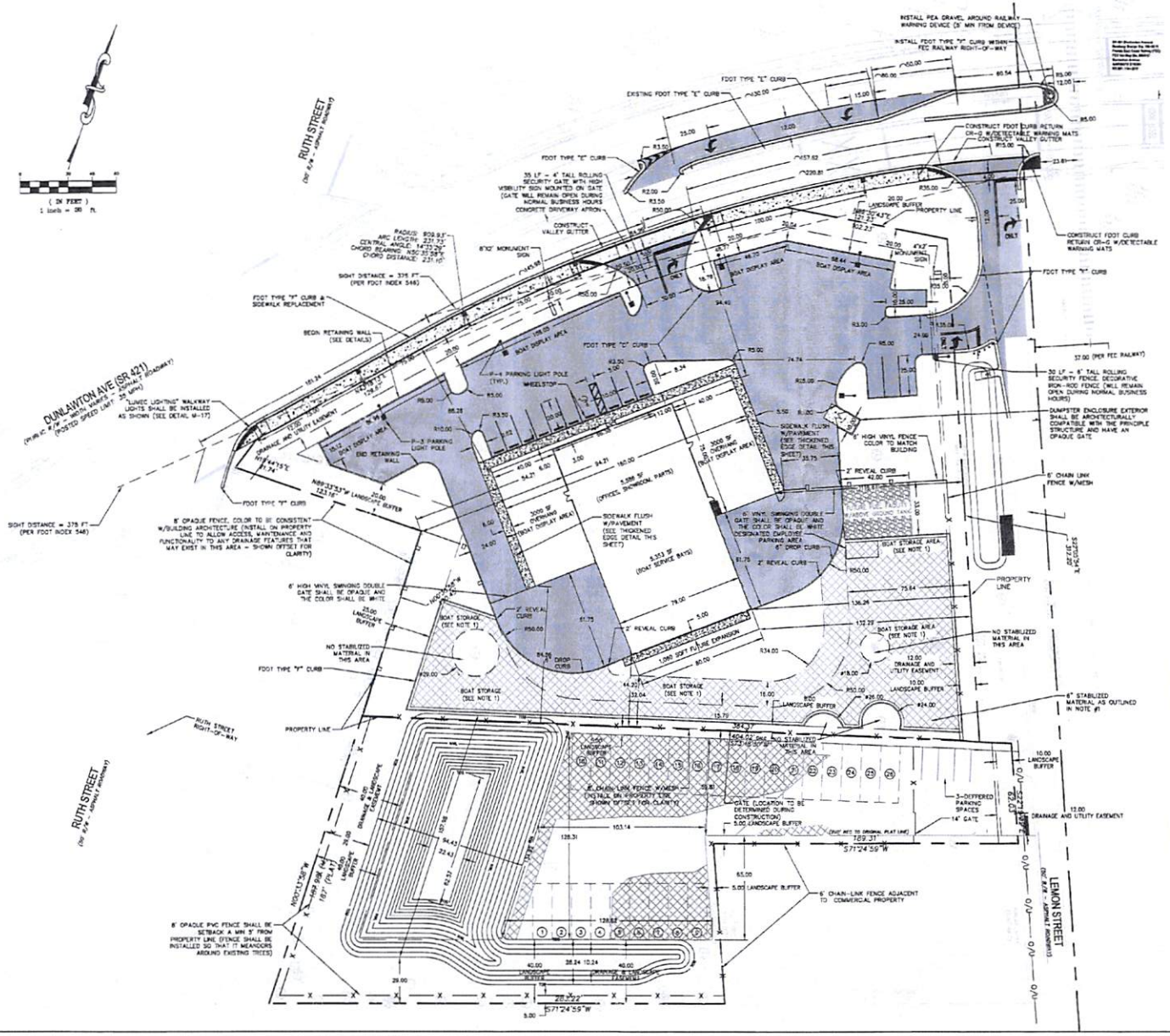
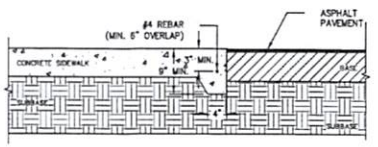


NOTES:

1. THE USE OF ALTERNATIVE SURFACES SUCH AS RECYCLED CONCRETE, AGGREGATE CONCRETE, PAVER BLOCKS OR OTHER SEMI-IMPERVIOUS MATERIALS SHALL BE ALLOWED IN THE FUTURE STORAGE FACILITY AND SECURED BOAT STORAGE AREA (NOT TO BE LOCATED IN THE LANDSCAPE BUFFERS)
2. ALL SITE LIGHTING (SECURITY LIGHTS, FLOODLIGHTS, PARKING LOT LIGHTS OR ANY SIMILAR TYPE LIGHTS) SHALL BE DIRECTED OR SCREENED IN SUCH A MANNER THAT NO DIRECT OR SKY-REFLECTED GLARE SHINE ACROSS LOT LINES WITH INTENSITY IN EXCESS OF 0.5 FOOT-CANDLE. GLARE GUARDS WILL BE REQUIRED IF IT IS DETERMINED THAT SITE LIGHT FROM THE BUILDING OR PARKING LOT LIGHTS IS SHINING UPON ANY ADJACENT RESIDENCE OR RIGHTS-OF-WAY AND PRODUCES EXCESSIVE GLARE.
3. REQUIREMENT TO INSTALL A SIDEWALK ON THE WEST SIDE OF LEMON STREET WAS WAIVED BY THE PORT ORANGE CITY COUNCIL AT THE MARCH 25TH, 2014 CITY COUNCIL MEETING [3-25-14 CC MEETING].

PARKING LOT LIGHT POLE SCHEDULE

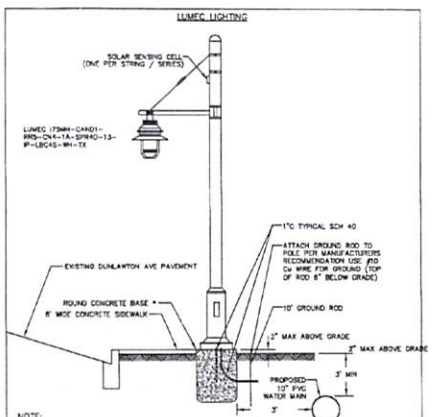
P-3 CL1S-A-48LU-5K-3-BC MOUNTED ON 25' GENERAL STRUCTURES POLE QTY: 1
P-4 CL1S-A-48LU-5K-4-BC MOUNTED ON 25' GENERAL STRUCTURES POLE QTY: 6



NOTES:
1. CONCRETE JOINTS SHALL BE IN ACCORDANCE WITH FDOT DESIGN INDEX #310.
2. CONCRETE STRENGTH SHALL BE 3000 PSI MIN.
3. SUBGRADE SHALL BE A MINIMUM 12" THICK AND COMPACTED TO 98% AASHTO T-180 MINIMUM LBR = 40

THICKENED EDGE SIDEWALK DETAIL
N.T.S.

LUMEC LIGHTING



NOTE:
1. ALL WALKLIGHTS SHALL BE LOCATED ON 100' CENTERS. THE PLANNING DIVISION SHALL BE CONTACTED AT (386) 506-5600 TO FIELD VERIFY THE PROPOSED LOCATIONS FOR WALKLIGHTS.
2. ALL LIGHT POLES SHALL BE DESIGNED TO WITHSTAND 130 M.P.H. WIND SPEED.
3. THE STRING / SERIES OF WALK LIGHTS ADJACENT TO EACH PROJECT SHALL BE FITTED AND CONTROLLED BY ONE SINGLE SOLAR CELL.
4. MAINTENANCE AND OPERATION OF WALKLIGHTS SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION OR ADJACENT PROPERTY OWNER.

STANDARD CONSTRUCTION DETAIL WALKWAY LIGHTS "LUMEC LIGHTING"	FILE NAME: M17.DWG DETAIL REF: M-17 REV. 2/13

1. CONTRACTOR IS RESPONSIBLE FOR OBTAINING PERMIT FOR LIGHT POLES AND SUBMITTING APPROPRIATE INFORMATION (ENGINEERING, SPECIFICATIONS, ETC.) FOR LIGHT POLES AND FIXTURES AT TIME OF PERMIT REVIEW.
2. CONTRACTOR IS RESPONSIBLE FOR HIRING STRUCTURAL ENGINEER FOR THE DESIGN OF LIGHT POLE FOUNDATIONS.

ALANN ENGINEERING GROUP, INC.
CIVIL ENGINEERING
CERTIFICATE NO. 0854479
880 AIRPORT ROAD, SUITE 113
ORMOND BEACH, FL 32174
TEL: (386) 671-7640
FAX: (386) 673-3927

ATLANTIC MARINE SITE PLAN
PORT ORANGE, FL
DIMENSION PLAN

NO.	DATE	REVISION	BY
3	12/19/13	FEC/FDOT COMMENTS	MRZ
2	1/6/13	CDPQ/FDOT COMMENTS	MRZ
1	10/22/14	CDPQ/FDOT COMMENTS	MRZ

DESIGNER	FILE	DATE
AAB	1201-1	7-7-14
DRAWN BY	PROJECT	SCALE
MRZ	1201-1	1"=30'

FEB 25 2015

SHEET
C3A OF 20

Exhibit "E"

Development Costs Certificate

DEVELOPMENT COSTS CERTIFICATE

The undersigned hereby certifies to the Port Orange Town Center Community Redevelopment District, a public agency and body corporate created pursuant to 163.356, Florida Statutes ("Agency"), that BDW Land Holdings, LLC, a Florida limited liability company has actually paid $ _____ in hard and soft costs to third parties unaffiliated with Owner in connection with the development of the Project, as defined in the Economic Development Incentive Program Agreement dated _____, by and between the Agency, the City of Port Orange, and BDW Land Holdings, LLC, as reflected in the Certified Engineers Cost Estimate, attached hereto as **Exhibit "1"** and the approved site or subdivision plan, conceptual development plan as contained in a Master Development Agreement, or building plans approved by the City. All statements made and incorporated herein are true and correct in all material respects.

B.D. W. LAND HOLDINGS, LLC, a
Florida limited liability company

By:_____
Bradley D. Wiles, Manager

JAMES S. MORRIS
ATTORNEY AND COUNSELOR AT LAW

March 9, 2017

Michael J. Johansson
City Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Re: Financial Assistance Request - Developer Incentive Program 5.6.2 (TIF)

Dear Mr. Johansson,

Atlantic Marine and BDW Land Holdings, LLC, are making a $2,200,000.00 investment in the City of Port Orange. This includes the construction of a 10,000 sq. ft. building on 3.74 acres of land that is on a major roadway in Port Orange. This property is also in the Town Center Redevelopment area. This investment by BDW greatly improves the area and is the first significant project in the Town Center area since it's inception. For many years the City of Port Orange has solicited businesses to move to the Town Center through the referenced incentive programs. BDW and Atlantic Marine have stepped forward with a major project for the Town Center.

Atlantic Marine already does business in Port Orange. It will remain in Port Orange with a current staff of 9 employees. With growth will be a need to hire several more employees as a result of the expansion of the business. Atlantic Marine intends to continue to operate both of its locations and it will hire at least 6 more employees over the next two years.

The increased City tax revenue of the new BDW property will be significant. The property currently has a tax value of $558,866.00 with a tax yield of 11.8842 millage or $6,641.68 for 2016. Upon completion the new taxable amount of the project is conservatively expected to be $2,200,000.00 with an estimated tax yield of approximately $26,145.24 in property taxes on year 1. That results in a tax increase of over $19,503.56 for one year.

BDW was aware of the City's TIF program when it elected to start its new project. The purpose and intent of the TIF incentive program is to entice businesses to develop property to grow tax revenue, especially non-residential revenue; positive development and expansion; reward retain value added jobs and revitalize the Port Orange Town Center. BDW's action, enticed by the City's program is the positive outcome and implementation of City policy. With

JAMES S. MORRIS, P.A. ♦ P.O. BOX 291687 ♦ PORT ORANGE, FL 32129
750 OAK HEIGHTS COURT, UNIT 304 ♦ PORT ORANGE, FL 32127
386-310-8784 ♦ 386-310-8783 FAX♦ JIM@JAMESMORRISPA.COM

BDW's action, even with TIF in favor of BDW, the City and County tax revenues are increased by the improvements placed by BDW in the Town Center area.

From its anticipated minimum total for acquisition, design and site development expenditure of $2,200,000.00 dollars, over the allowable twenty (20) year TIF period, BDW is only requesting a maximum reimbursement of Five Hundred Thousand ($500,000.00) Dollars. Of course, all TIF reimbursement that may occur is a product of the increased ad valorem taxes paid to the City by BDW over the allowable twenty (20) year period. The reimbursement funds will be used to partially offset public improvements and public benefits created by parking, streets and drive aisles accessible to the public, lighting, drainage, utilities, landscaping, exterior signs, traffic control devices, turn lanes, stormwater mitigation and other ancillary benefits created by the Atlantic Marine development. The total estimated value of the improvements is $2,200,000.00.

My office has previously submitted a Tax Incentive Agreement to the City Attorney's office. A copy of my previous submission is attached. It is my understanding the City Attorney is developing a new agreement format. BDW is willing to work with whatever format the City selects. In conjunction with the Town Center Developer Incentive Program 5.6.2, it is respectfully requested that financial assistance under the TIF mechanism be provided to DBW from the Town Center CRA.

Best regards,

JAMES S. MORRIS, P.A.

James S. Morris, Esquire

JSM/kf
Cc: client

JAMES S. MORRIS

ATTORNEY AND COUNSELOR AT LAW

February 24, 2017

Michael J. Johansson
City Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Re: Land Development Code, Chapter 20- Economic Development Incentives Request for Assistance

Dear Mr. Johansson,

In accordance with the Port Orange Land Development Code, Chapter 20, on behalf of B.D.W. Land Holdings, LLC, a Florida limited liability company ("BDW"), in regard to the Atlantic Marine development at 520 Dunlawton Avenue, it is formally requested that pursuant to LDC Chapter 20, the City provide assistance to BDW in the form of a waiver/refund of City fees in the amount of $66,340.00. Pursuant to Chapter 20, BDW has expended $91,318.00 for City fees, applications, permits and/or inspections related to the development of BDW's new sales and service facility located in the Town Center CRA. Those fees or portions thereof are legally refundable to BDW under the terms and provisions of LDC Chapter 20. With Chapter 20 incentive and TIF incentives that are separately requested, BDW will locate its primary business site in the Town Center CRA at 520 Dunlawton Avenue.

The requested credits are a modest, approximately 66%, part of the total City fees paid by BDW to develop its property. The return to the City for the requested reimbursement is significant. The project, due to the neighborhood history of flooding, meets a higher standard for stormwater retention/detention than ordinarily required for any development in Port Orange. The project, almost single handedly is addressing correction to the Town Center of some historic roadway deficiencies by (a) improving and widening the intersection of Lemon Street and Dunlawton at the FEC right of way; (b) greatly improving the line of sight available to east bound Dunlawton traffic as it rounds the turn at the FEC tracks to enter the core of the Town Center CRA and the immediate location of Port Orange Elementary; (c) providing FDOT approved modifications to Dunlawton to address traffic movement in the vicinity; and finally (d) remarkably improving the aesthetics of the Atlantic Marine site that was formerly populated by aged, dilapidated buildings, tree removal equipment and a stump dump. Respectfully, it is suggested that the efforts of BDW to literally be ground breaking CRA pioneers and developers to an improved site with significant aesthetics, tax base and financial benefit to the City warrant the Chapter 20 funding requested by this letter.

JAMES S. MORRIS, P.A. ♦ P.O. BOX 291687 ♦ PORT ORANGE, FL 32129
750 OAK HEIGHTS COURT, UNIT 304 ♦ PORT ORANGE, FL 32127
386-310-8784 ♦ 386-310-8783 FAX♦ JIM@JAMESMORRISPA.COM

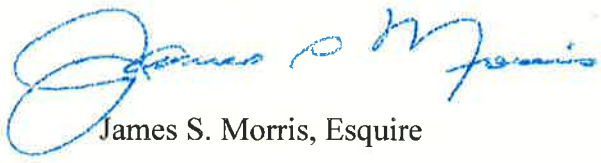
BDW through Atlantic Marine currently employs 9 local residents. With the proposed relocation and expansion, BDW estimates it will add approximately 6 jobs to the Atlantic Marine work force. With the consolidation and development of its assembled parcels, BDW will create an estimated post development tax value of Two Million Two Hundred Thousand ($2,200,000.00) Dollars.

BDW has, or will by the time of project C.O., construct public improvements through modification of the Dunlawton right of way (turn lanes), improvement of line of site and ease of traffic movement at the intersection of Lemon Street and Dunalwaton, removal of vegetation and a non-conforming sign near the intersection of Lemon Street and Dunlawton and the addition of surplus on site stormwater retention/detention to minimize impact on the known neighborhood flooding condition of the residential neighborhood near the subject property. The effort by BDW will complement stormwater improvements already made by the City of Port Orange.

BDW is making a pioneering effort within the Town Center CRA. BDW has assembled parcels of land and with redevelopment of the land will create a new image for the subject property, provide a visual announcement to visitors and citizens alike that are entering the Port Orange Town Center and finally provide a substantial augmentation of the Town Center tax base by providing some of the first new construction and development in the area since the creation of the Town Center CRA. B.D.W. Land Holdings, LLC is a family owned business. The family that owns BDW resides in the City as well as operates its business within the City. BDW proudly calls Port Orange home for both personal and professional endeavors. With the City's help, BDW plans to continue growing for years to come in the City.

Best regards,

JAMES S. MORRIS, P.A.



James S. Morris, Esquire

JSM/kf
Cc: client

COMMUNITY REDEVELOPMENT AGENCY FOR
PORT ORANGE TOWN CENTER

REQUESTED AGENCY MEETING DATE: **03/28/2017**

Consent Item: No

SUBJECT: (B7) Port Orange Town Center CRA Annual Report - FY 2015/2016

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to accept the FY 2015/2016 Annual Report for the Port Orange Town Center Community Redevelopment Agency, as presented.

SUMMARY: Pursuant to Chapter 163.356(3)(c), Florida Statutes, all CRAs are required to annually file a report of activities and a financial statement for the preceding fiscal year with the local governing body. The attached report has been provided to the Port Orange City Council in fulfillment of this requirement. The County of Volusia and Halifax Hospital, both of whom contribute to the Tax Increment Fund, have also been provided a copy of the Annual Report. Notice of availability of this report has been published in the Daytona Beach News Journal to meet legal advertising requirements, and a copy of the report has been posted on the City's website for review by the public.

ATTACHMENTS:

1.	POTC CRA Annual Report	FY15-16 PORT ORANGE TOWN CENTER CRA ANNUAL REPORT.pdf

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Penelope Cruz	Created/Initiated - 02/21/2017
Wayne Clark	Approved - 02/21/2017
Tracey Riehm	Approved - 03/01/2017
Margaret Roberts	Approved - 03/16/2017
Alan Rosen	Approved - 03/16/2017
Robin Fenwick	Final Approval - 03/17/2017

AGENCY ACTION: New
CONTINUATION DATE:

Follow up letter/action needed by: Department-**No**, Clerk's Office-**No**, or N/A-**Yes**

PORT ORANGE TOWN CENTER

Community Redevelopment Agency Port Orange, Florida

ANNUAL REPORT FY 2015/2016

THIS IS TOWN CENTER

The Port Orange Town Center CRA, outlined in red above, is approximately 271 acres in size and represents 1.52% of the City's total tax base.

The Port Orange Town Center Community Redevelopment District is comprised of three hundred and seven (307) parcels constituting two hundred seventy-one (271) acres of land situated within the eastern section of Port Orange. This area historically served as the commercial core of the City. The creation of the Port Orange Town Center Community Redevelopment District in 1998 was the first of many steps to be undertaken by the City to ensure that this historic area of the community remains a viable center of commercial and civic activity.

The vision for the "rebirth" of Town Center includes a strong emphasis on mixed-use development. The goal is to create a signature destination that reestablishes Port Orange's image as a premier waterfront community.

Port Orange Town Center is comprised of five Special Character Districts. These Special Character Districts are; Riverwalk, Causeway, Down Under, Dunlawton Village, and Ridgewood Avenue. Each of these districts have their own unique attributes and opportunities, but they all share the same vision of a revitalized "heart of Port Orange"; a unique place within the community that blends history, culture and public access to the water.

The 35-acre Riverwalk Project Area, located east of U.S. 1/Ridgewood Avenue and north of Dunlawton Avenue, has been the focal point for the redevelopment efforts and investment in Town Center.

TOWN CENTER GOALS AND OBJECTIVES

GOALS

1. Develop five **Special Character Districts** recognizing that these areas are distinct in terms of uses and built environment;

2. Identify and **promote land uses and zoning** which are compatible with the special character districts and the overall POTC visions;

3. Introduce **mixed-use development** comprised of commercial, office and residential uses and active programming to draw people to POTC;

4. Develop a **coordinated design concept** for open space, streetscape, furniture and recreation facilities in a manner that emphasizes the nautical history and location of POTC;

5. Identify suitable locations for **housing** and promote a variety of dwelling types to complement the mixed-use nature of POTC;

6. Establish **architectural guidelines** to provide architectural consistency within the special character districts over time;

7. Provide for an **interconnected transportation network** which aims at balancing the needs of pedestrians, cyclists and vehicles;

8. Identify and **secure all feasible sources of funding**, including tax increment financing (TIF) revenues, that will aid in implementing the Redevelopment Plan throughout both short and long term; and

9. Identify and **offer an array of incentives to encourage redevelopment** and revitalization of POTC through realization of specific plan objectives over time.

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Financial Statement & Debt Service	2 & 3
Agency Board	4
Redevelopment Plan & Trust Fund Partners	4

SPECIAL POINTS OF INTEREST:

- The Community Redevelopment Agency for Port Orange Town Center ("Town Center") was created in 1998.
- The Riverwalk Project Area comprises 35 acres out of the total 271 acres in Town Center.
- The taxable values in Town Center have grown 43% since 1998.

REDEVELOPMENT ACTIVITIES UPDATE

Council and the CRA approved the Conceptual Master Plan for the Riverwalk Park in February 2014. Phase 1A, from the Chamber building north to the property line abutting Intercoastal Villas along the shoreline of the Halifax River to US1, opened to the public in April 2016. This portion of the project includes: Kayak/Canoe launch, restrooms, portion of the boardwalk and upgrades to the existing fishing pier, wave break, crossover bridge and the northern portion of the 12' wide trailway. Phase 1B is under construction and scheduled to open in the Fall of 2017. The amenities included in Phase 1B include: a restroom/concession building, multiple parking areas, continuation of the 12'-wide trail way, a playground, a splash park, an event lawn, pavilions, lighting, landscaping, irrigation, seawall repair, utilities upgrade, and storm water improvements.

An activity-focused marketing effort is also in development to promote outdoor and water-based activities and businesses along the Ridgewood corridor to build on the area as a unique destination.

Working with representatives from all east Volusia cities to develop regional US-1 special events/activities and campaigns to draw attention to this area. "Rediscover US1 – America's Business Highway," is the branding theme/logo. The group successfully implemented a regional Scavenger Hunt in April 2015 and 2016. This effort was featured in the Nov./Dec. 2016 issue of Quality Cities Magazine.

Riverwalk Park Phase 1A

TAX INCREMENT FINANCING

TIF Revenues may only be spent on redevelopment plans, projects and programs, as identified in the adopted CRA Plan.

Tax Increment Financing, often referred to as "TIF", is a financial method employed to target ad valorem tax revenues to an area that has been designated for redevelopment. Upon creation of a TIF district, a base year for property values within the district is established. Growth in the taxable value of property within the district over time is then applied to the current ad valorem millage rate, resulting in the tax increment revenue. This increment revenue is then deposited into a special Trust Fund account and may only be spent on redevelopment activities that are identified in the adopted redevelopment plan. The ad valorem millage from Volusia County (including General Fund, Echo, Forever, Mosquito Control and Ponce Inlet Port Authority), the City of Port Orange Operating and Halifax Hospital comprise the tax increment millage in Town Center.

The FY 2015/2016 adopted budget for the Port Orange Town Center Fund (Fund #103), anticipated $113,019 in TIF revenue. The City's unaudited figures show actual receipt of $117,781 from TIF, $251,389 in grants, and $28,773 in miscellaneous income, for total revenues of $397,943.

FINANCIAL STATEMENT & DEBT SERVICE

The 2007 Town Center TIF Bond Issue raised $5.6 million in capital for redevelopment activities.

The Annual Financial Statement of each CRA in the State of Florida is required to set forth the Agency's assets, liabilities, income and operating expenses as of the end of the fiscal year. This information is presented on the following page. The Community Redevelopment Agency for Port Orange Town Center operates on an October 1st - September 30th fiscal year.

In 2007, the Agency pledged its tax increment revenues to support a $5.6 million bond issue to fund redevelopment activities in Town Center. The majority of the bond proceeds were used to fund property acquisitions in the Riverwalk Project Area. The total debt service payment for the 2007 Town Center TIF Bond for FY 2015/2016 was $401,192. This represents a payment of $165,000 in Principal and $233,442 in Interest plus $2,750 in other bond related fees.

The Town Center CRA Debt Service Schedule is available from the City's Finance Department and Redevelopment Agency Office. The 2007 Town Center TIF Bond is projected to be paid off by 2036.

FINANCIAL STATEMENT

Town Center	Port Orange Audited FY15	Port Orange Unaudited FY16
Assets:		
Equity in pooled cash	$ 102,942	$ 209,092
Receivables, net	$ 138,263	$ 137,685
Prepaid items	$ 5,116	$ 5,383
Total	**$ 246,321**	**$ 352,160**
Liabilities:		
Accounts payable and accrued liabilities	$ 3,431	$ 41,669
Customer deposits	$ 740	$ 48,740
Due to other funds	$ 1,536,861	$ 1,840,890
Total	**$ 1,541,032**	**$ 1,931,299**
Sources (Revenues):		
City TIF	$ 39,142	$ 42,329
County TIF	$ 58,394	$ 66,248
Halifax Hospital TIF	$ 8,509	$ 9,204
Property Tax Recovery	$ 3,803	$ 3,862
State Grants	$ 121,113	$ 251,389
Miscellaneous (includes transfers)	$ 24,980	$ 24,911
Total	**$ 255,941**	**$ 397,943**
Expenditures:		
Contract Services Other	$ -	$ -
Communication Services	$ -	$ -
Electrical Services	$ 584	$ 422
Library Impact / Utility	$ 228	$ 833
Commercial Policy Insurance	$ 4,950	$ 5,120
Taxes, Licenses, and Fees	$ 3,803	$ 3,862
Insurance 504	$ -	$ -
Transfer to 506 Bldg. Maint. Fund	$ -	$ -
Dues and Memberships	$ 548	$ 175
Land	$ 108,575	$ 180,039
Professional Svcs/Capital (Riverwalk Ph1A)	$ 381,325	$ 61,703
Interest Internal Loans	$ 24,466	$ 29,026
Transfer to 218 Town Center Bond	$ 350,592	$ 401,192
Total	**$ 875,071**	**$ 682,371**
Net change in fund balance	$ (619,130)	$ (284,428)
Fund balance - Beginning	$ (675,581)	$ (1,294,711)
Fund Balance - Ending	**$ (1,294,711)**	**$ (1,579,139)**

COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER

City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Phone: 386-506-5671
Fax: 386-506-5699
e-mail: pcruz@port-orange.org

We're on the web!

www.port-orange.org

AGENCY BOARD

Mayor Donald O. Burnette , Chairman
Vice-Mayor Bob Ford, Vice Chair
Council Member Drew Bastian
Council Member Scott Stiltner
Council Member Chase Tramont
Ben Talluto
Raymond M. Donadio, Jr.

Staff support provided by:

M.H. Johansson, City Manager

Margaret Roberts, City Attorney

Tracey Riehm, Finance Director

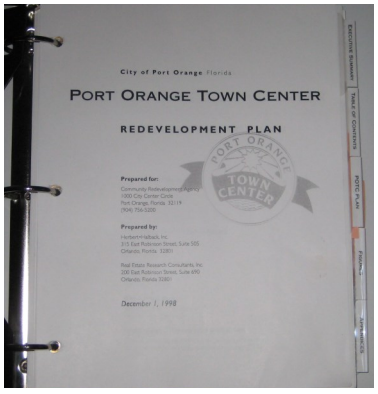
Nadia Todor, Accountant II

Wayne Clark, Community Development Director

Penelope Cruz, Principal Planner

This Annual Report has been prepared in compliance with the requirements of Chapter 163.356(3)(c), Florida Statutes. The notice of the availability of this report has been published in the Daytona Beach News Journal. Additionally, the governing body of each special district is required under Chapter 163.387(8) to annually provide an independent financial audit of its trust fund to each taxing authority that pays into the trust fund. This audit of the Agency's assets, liabilities, income and expenses, as required under Chapter 163.356(3)(3) is included with the City's Comprehensive Annual Financial Report

REDEVELOPMENT PLAN & REDEVELOPMENT TRUST FUND PARTNERS



The Port Orange Town Center Redevelopment Plan is available for review on the City's website.

Redevelopment plans, projects and programs are made possible through tax increment financing. The County of Volusia and Halifax Health, along with the City of Port Orange, contribute to the Port Orange Town Center Redevelopment Tax Increment Trust Fund. All revenue derived from tax increment financing is deposited into the Trust Fund. All expenditures of TIF revenues must be consistent with the plans, projects and programs outlined in the adopted Community Redevelopment Plan for Port Orange Town Center.

The Town Center Redevelopment Plan was originally adopted in 1998. Amendments to the Plan were adopted in 2007 and 2014 to facilitate redevelopment in the Riverwalk Project area.

The Redevelopment Plan will continue to be used to guide redevelopment activities throughout the entire Town Center Community Redevelopment Area until the sunset of the CRA in 2036.

CITY OF PORT ORANGE 1867 FLORIDA

Volusia County FLORIDA

HALIFAX HEALTH