



AGENDA
ENVIRONMENTAL ADVISORY BOARD
CITY OF PORT ORANGE

Meeting Date: Monday, October 28, 2019

Time: 5:15 PM

Type of Meeting: Regular

Location: 2nd Floor Conference Room
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Roll Call

B. DISCUSSION/ACTION

2. Consideration of Minutes - July 22, 2019
3. Consideration of Minutes - August 20, 2019
4. Viewing of New Development Activity Report
5. Environmental Summit
6. Update on Family Days/Preparation for next Family Days
7. Discussion on House Bill No. 1159

C. BROWNFIELD ADVISORY COMMITTEE

8. Update on Draft Excavation and Disposal Management Plan per Brownfield Site Rehabilitation Agreement for the 5811 Williamson Boulevard Brownfield Site

D. PUBLIC COMMENTS

E. BOARD COMMENTS

F. NEXT MEETING DATE

9. Next Meeting Date: December 2, 2019
10. Items for Next Agenda

G. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **ENVIRONMENTAL ADVISORY BOARD** 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 PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN 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, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

ENVIRONMENTAL ADVISORY BOARD
MEETING MINUTES
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE – CITY HALL
2nd FLOOR CONFERENCE ROOM
PORT ORANGE, FLORIDA
JULY 22, 2019 AT 5:15 P.M.

A Regular Meeting of the Environmental Advisory Board was called to order by Chairman Macaluso at 5:15 p.m.

Present: John Macaluso, Chairman
Kristine Cunningham
Philip Klema
Christina Berry
Jonathan Foley
Michael Anderson

Absent: Nancy Vaughn (excused)

Also Present: Tim Burman, Community Development Director
Margaret Tomlinson, Construction and Engineering Manager
Shelby Field, Assistant City Clerk

B. DISCUSSION/ACTION

2. Consideration of Minutes - April 22, 2019

Motion to approve the March 20, 2019 minutes as presented was made by Member Foley and Seconded by Member Klema.

Member Cunningham stated that it was not her who spoke about the Self-Storage buffer in the April 22, 2019 meeting it was Member Vaughn.

*Motion to approve the minutes as amended was made by Member Foley and Seconded by Member Klema.
Motion carried unanimously by roll call vote.*

3. Information from Public Works on Ground Covers, Maintenance and Tree Pruning

Lynn Stevens, Public Works/Utilities Director, and Ronny Buttrum, Deputy Public Works Director, provided information to the Board about how the City maintains some of the trees, but that tree trimming is contracted out by the City. Ms. Stevens also provided an update on the success of the Raintree tree removal.

Margaret Tomlinson, Construction and Engineering Manager, answered questions from the Board about different grass types that the City can try planting and suggested working with Public Works to find something that works.

4. Planning for a Booth at Family Days

Chairman Macaluso read member Vaughn's comments into the record and talked about the pros and cons of different types of straws.

Ms. Stevens informed the Board they are working on changing a few things with their recycling program and would be happy to bring a presentation to the next scheduled meeting. They will provide some flyers and fridge magnets to be passed out at the Family Days booth.

Member Anderson asked about the possibility of getting bags with the city logo and information about recycling on them. Member Foley is going to provide example options to the Clerk's office to distribute to the Board.

Chairman Macaluso requested a special meeting August 20, 2019 at 4pm to discuss this item further, receive a presentation about the City's recycling, and schedule the extra 2 meetings.

Ms. Stevens suggested checking out some of the water treatment plants websites, such as the St. Johns Water Management District, for some information and brochures to pass out as well.

5. Environmental Summit

Chairman Macaluso requested to table this item to discuss the Legislation instead. He requested this be a repeat item for the meeting agendas.

6. Update on Preemptive Legislation

Tim Burman, Community Development Director, provided information on House legislation regarding tree removal on private property and what the City can do to protect the trees. The Board asked for further discussion on this item once everyone had a chance to look it over.

C. PUBLIC COMMENTS

Derek LaMontagne, citizen, suggested putting the link to the City's website about recycling on the bag with the logo. Mr. LaMontagne informed the Board about the removal of the trees at Riverwalk property.

Peter Sigmmund, citizen, discussed the benefits of composting that could help with some recycling issues.

D. BOARD COMMENTS

Member Cunningham asked about the possibility of acquiring some money from Volusia Forever to purchase land to preserve more trees.

Member Foley is excited to join the Board and the opportunity to serve. He also commended the Spruce Creek Envirothon that was recently recognized at the last regular City Council meeting. He asked about the possibility of the Environmental Advisory Board getting a Facebook page.

Mr. Burman informed the Board about the new City Manager's conference table that was constructed using the Booth's Bowery tree that was taken down two years ago. He also informed the Board that the Tree Mitigation Bank is currently at \$26,942.

E. NEXT MEETING DATE

7. Next Meeting Date: October 28, 2019

8. Items for Next Regular Meeting Agenda

Discussion on House Bill No. 1159

Viewing of New Development Activity Report

Environmental Summit

Updated on how Family Days went, and Preparation for next Family Days

F. ADJOURNMENT – 6:27pm

Chairman John Macaluso

ENVIRONMENTAL ADVISORY BOARD
MEETING MINUTES
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE – CITY HALL
2nd FLOOR CONFERENCE ROOM
PORT ORANGE, FLORIDA
AUGUST 20, 2019 AT 4:00 P.M.

A Special Meeting of the Environmental Advisory Board was called to order by Chairman John Macaluso at 4:00 p.m.

Present: John Macaluso, Chairman
Kristine Cunningham
Philip Klema
Christina Berry (arrived late)
Jonathan Foley (arrived late)
Michael Anderson
Nancy Vaughn

Also Present: Margaret Tomlinson, Construction and Engineering Manager
Briana Conlan-King, Senior Planner
Shelby Field, Assistant City Clerk

B. DISCUSSION/ACTION

2. Presentation from Public Works on Recycling

Mick Neals, Solid Waste Manager, gave a presentation on the recycling changes in the City and answered questions from the Board. The goal is to remove glass from the recycling program by October 1, 2019 due to the difficulty of recycling it and current lack of value of glass. This will save the city about \$30,000 annually.

3. Planning for a booth at Family Days

The Board likes option # 2 on the example bags provided by Member Foley. He is going to reach out to a few printers to discuss prices and provide the information to the City Clerks office.

The Board inquired about reaching out to the Youth Leadership Program to provide their presentation on plastic straws to the public. Member Cunningham will reach out to the Assistant City Manager to discuss coordinating this.

Sande Habali, Florida Native Plant Society, offered a few of their group members to volunteer at the Family Days booth and pass out some information on native plants.

Member Foley suggested a few yard signs with information about removing glass from the recycling program if the recyclable bags are unaffordable.

4. Discussion on New Meeting Dates

The Board agreed to add an additional meeting December 2, 2019 at 4pm.

C. ADJOURNMENT – 5:15pm

Chairman John Macaluso

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/HB 1159 — Private Property Rights

by State Affairs Committee and Reps. LaRosa and Sabatini (CS/CS/SB 1400 by Judiciary Committee; Community Affairs Committee; and Senator Albritton)

Local government tree maintenance regulations vary but can require property owners to obtain a permit or pay a fee prior to trimming or removing trees on residential property. CS/HB 1159 prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the tree presents a danger to persons or property, as documented by a certified arborist or licensed landscape architect. A local government may not require a property owner to replant a tree that has been pruned, trimmed, or removed in accordance with the bill provisions. The bill does not apply to mangrove trees, which the trimming and alteration of is regulated statewide by the Department of Environmental Protection.

As it pertains to maintaining vegetation within a utility right-of-way, current law requires a utility to give five business days' advance notice to a local government prior to conducting vegetation maintenance activities within a right-of-way. No advance notice is required for service restoration, to avoid an imminent vegetation caused outage, or when performed at the request of a property owner adjacent to the right-of-way, provided the owner has obtained any required approval from the local government. The bill removes the requirement that a property owner receive approval by the local government before requesting an electric utility to prune trees and maintain vegetation in an adjacent right-of-way.

Finally, the bill requires each county property appraiser to post a Property Owner Bill of Rights on its website and specifies the text to be included in the bill of rights. The website must list the seven property rights declared in the bill and must state that the bill of rights does not represent all property rights under Florida law and does not create a civil cause of action.

If approved by the Governor, these provisions take effect July 1, 2019.

Vote: Senate 22-16; House 77-36

CHAPTER 2019-155

Committee Substitute for House Bill No. 1159

An act relating to private property rights; creating s. 163.045, F.S.; prohibiting local governments from requiring notices, applications, approvals, permits, fees, or mitigation for the pruning, trimming, or removal of trees on residential property if a property owner obtains specified documentation; prohibiting local governments from requiring property owners to replant such trees; providing an exception for mangrove protection actions; amending s. 163.3209, F.S.; deleting a provision that authorizes electric utilities to perform certain right-of-way tree maintenance only if a property owner has received local government approval; creating s. 70.002, F.S.; creating a Property Owner Bill of Rights; requiring county property appraisers to provide specified information on their websites; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.045, Florida Statutes, is created to read:

163.045 Tree pruning, trimming, or removal on residential property.—

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333.

Section 2. Section 163.3209, Florida Statutes, is amended to read:

163.3209 Electric transmission and distribution line right-of-way maintenance.—After a right-of-way for any electric transmission or distribution line has been established and constructed, no local government shall require or apply any permits or other approvals or code provisions for or related to vegetation maintenance and tree pruning or trimming within the established right-of-way. The term “vegetation maintenance and tree pruning or trimming” means the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way. The provisions of this section do not include the removal of trees outside the right-of-way, which may be allowed in compliance with applicable local ordinances. Prior to conducting scheduled routine vegetation maintenance and tree pruning or trimming

activities within an established right-of-way, the utility shall provide the official designated by the local government with a minimum of 5 business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage or when performed at the request of the property owner adjacent to the right-of-way, ~~provided that the owner has approval of the local government, if needed.~~ Upon the request of the local government, the electric utility shall meet with the local government to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to ANSI A300 (Part I)—2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements. Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or licensed contractors trained to conduct vegetation maintenance and tree trimming or pruning consistent with this section or by Certified Arborists certified by the Certification Program of the International Society of Arboriculture. A local government shall not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric utility right-of-way or intrude from the side closer than the clearance distance specified in Table 2 of ANSI Z133.1-2000 for lines affected by the North American Electric Reliability Council Standard, FAC 003.1 requirement R1.2. This section does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and shall not be construed to limit a local government's franchising authority. This section does not supersede local government ordinances or regulations governing planting, pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within designated canopied protection areas. This section shall not apply if a local government develops, with input from the utility, and the local government adopts, a written plan specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming by the utility within the local government's established rights-of-way and the plan is not inconsistent with the minimum requirements of the National Electrical Safety Code as adopted by the Public Service Commission; provided, however, such a plan shall not require the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric right-of-way. Vegetation maintenance costs shall be considered recoverable costs.

Section 3. Section 70.002, Florida Statutes, is created to read:

70.002 Property Owner Bill of Rights.—Each county property appraiser office shall provide on its website a Property Owner Bill of Rights. The purpose of the bill of rights is to identify certain existing rights afforded to property owners but is not a comprehensive guide. The Property Owner Bill

of Rights does not create a civil cause of action. The Property Owner Bill of Rights must state:

PROPERTY OWNER
BILL OF RIGHTS

This Bill of Rights does not represent all of your rights under Florida law regarding your property and should not be viewed as a comprehensive guide to property rights. This document does not create a civil cause of action and neither expands nor limits any rights or remedies provided under any other law. This document does not replace the need to seek legal advice in matters relating to property law. Laws relating to your rights are found in the State Constitution, Florida Statutes, local ordinances, and court decisions. Your rights and protections include:

1. The right to acquire, possess, and protect your property.
2. The right to use and enjoy your property.
3. The right to exclude others from your property.
4. The right to dispose of your property.
5. The right to due process.
6. The right to just compensation for property taken for a public purpose.
7. The right to relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity unfairly affects your property.

Section 4. This act shall take effect July 1, 2019.

Approved by the Governor June 26, 2019.

Filed in Office Secretary of State June 26, 2019.



MEMORANDUM

TO: Brownfield Advisory Committee

FROM: Tim Burman, Community Development Director

SUBJECT: Update on Draft Remediation Plan per Brownfield Site Rehabilitation Agreement for 5811 Williamson Boulevard Brownfield Site

DATE: October 21, 2019

At the October 28th Environmental Advisory Board, Michael O. Sznapstajler, Cobb Cole, will be providing an update on the Excavation and Disposal Management Plan (EDMP) for the designated Brownfield Area located at 5811 Williamson Boulevard. In 2008, the City Council designated the Environmental Advisory Board (EAB) as the Brownfield Advisory Committee for the City of Port Orange [Code of Ordinance, Ch. 2, Article III, Div. 4, Sec. 2-117(c)]. Therefore, the EAB will serve as the Brownfield Advisory Committee (BAC) during this discussion item. The EAB/BAC approved the Site Rehabilitation Agreement for the subject property in 2017. This next step is an update on the EDMP and timeline for remediation of the site. No action is required by the EAB/BAC.

The subject property is +/- 7 acres and located at the southeast corner of Williamson Boulevard and Taylor Road. The subject property is currently vacant and zoned for commercial uses. In September 2016, the previous property owner made a request to City Council that the property be designated as a Brownfield Area since the property is complicated by actual and/or perceived environmental issues associated with the former

use of the property as a truck stop with fuel operation. The City Council adopted Resolution 16-51 designating the property as a Brownfield Area pursuant to Section 376.80(2)(c), Florida Statutes. Then in December 2016, the prior property owner entered into a Site Rehabilitation Agreement with the Florida Department of Environmental Protection (FDEP) pursuant to 376.80(5) Florida Statutes. According to Section 376.79(4) Florida Statutes, a Brownfield Area is “a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprive communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.”

In January 2017, Mr. Sznajstajler provided the Brownfield Advisory Committee an update on the Site Rehabilitation Agreement between the property owner at that time and the Florida Department of Environmental Protection (FDEP) for the 5811 Williamson Boulevard Brownfield Area. Since January 2017, the subject property was sold to Memorial Health System, Inc. d/b/a Advent Health Daytona Beach (“Advent Health”) and the FDEP approved Site Rehabilitation Agreement for the property was assigned to Advent Health. The assignment only changed the name of the person/group responsible for rehabilitating the Brownfield Site and there were no changes to the Site Rehabilitation Agreement.

According to Mr. Sznajstajler, Advent Health plans to proceed with clean-up of the site, pursuant to the approved Site Rehabilitation Agreement and has prepared a draft remedial plan for the removal of identified construction debris (concrete, asphalt, wood, tile, etc.) and potentially contaminated soil prior to redevelopment of the subject property with a 24-hour Emergency Room Building and a separate Medical Office Building. Advent Health intends to finalize the draft remedial plan with FDEP and begin site clean-up work in December 2019.

Attachments

Minutes of the January 2107 EAB Meeting

Assigned Site Rehabilitation Agreement

Draft Excavation and Disposal Management Plan:

<https://portorange.sharepoint.com/:b:/g/cd/EVvKCMco9TlAnG3mHm48Et0Bx5plpyO7y6fnVgXdnf1sKQ?e=IQbqRO>

**ASSIGNMENT AND ASSUMPTION OF BROWNFIELD SITE
REHABILITATION AGREEMENT**

This Assignment and Assumption of Brownfield Site Rehabilitation Agreement ("Agreement") is made on September 6, 2019, by and between Memorial Health Systems, Inc. d/b/a AdventHealth Daytona Beach, a Florida corporation, having an address at 301 Memorial Medical Parkway, Daytona Beach, FL 32117 ("AdventHealth" or "Assignee") and Preferred Realty, Inc., a Florida corporation, and Preferred Storage Port Orange, LLC, a Florida Limited Liability Company, both having an address at 13865 W. Dixie Highway, North Miami, Florida 33161 ("Assignor"), and the Florida Department of Environmental Protection.

WHEREAS, on December 30, 2016, Assignor and the Department entered into a Brownfield Site Rehabilitation Agreement ("BSRA") pursuant to Section 376.80(5), Florida Statutes, for the 5811 Williamson Boulevard Brownfield Site (the "Property"). A copy of the BSRA is attached hereto as Exhibit "A" to this Agreement; and

WHEREAS, paragraph 17 of the BSRA provides an avenue for assignment of the BSRA; and

WHEREAS, AdventHealth intends to purchase the Property and become the Person Responsible for Site Rehabilitation and assume the obligations arising under the BSRA;

WHEREAS, Assignor intends to sell the Property and assign its obligations under the BSRA to AdventHealth; and

WHEREAS, AdventHealth meets all eligibility criteria under Section 376.82, Florida Statutes; and

WHEREAS, this assumption of the BSRA by AdventHealth has been approved by the Department, per paragraph 17 of the BSRA as evidenced herein; and

WHEREAS, the City of Port Orange does not object to this assumption of the BSRA by AdventHealth, as evidenced in Exhibit "B" to this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and in the BSRA applicable to the Property, the Parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Pursuant to this Agreement, AdventHealth, has rights, title, and interest in the BSRA as the PRFBSR.

3. Pursuant to this Agreement, AdventHealth assumes all of the obligations of the PRFBSR under the BSRA, specifically including but not limited to, conducting site rehabilitation and submitting technical reports, obtaining any local, state, and federal permits required for site rehabilitation work, allowing the Department access to the site, and conducting site rehabilitation under the observation of professional engineers or professional geologists.
4. Pursuant to this Agreement, Assignor is relieved of its obligations under the BSRA and no longer entitled to any benefits under the BSRA.
5. A revised Site Access Agreement is attached hereto as Exhibit "C" to this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed and is effective as of the date of the execution of the final required signatory.

ASSIGNOR:

PREFERRED REALTY, INC.

By: 
Name: Thomas Speno
Title: President of
Preferred Realty, Inc.

Date: 8-27-19

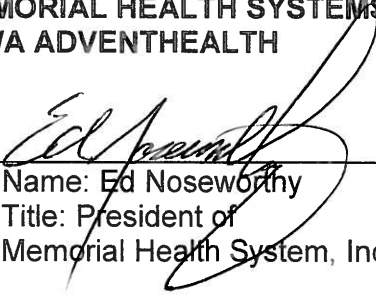
PREFERRED STORAGE PORT ORANGE, LLC

By: 
Name: Thomas Speno
Title: Manager of
Preferred Storage Port Orange, LLC

Date: 8-27-19

ASSIGNEE:

**MEMORIAL HEALTH SYSTEMS, INC.
D/B/A ADVENTHEALTH**

By: 

Name: Ed Noseworthy
Title: President of
Memorial Health System, Inc.

**FLORIDA DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

By: _____

Aaron Watkins
Director, Central District

Date: _____

Approved as to form and legality:

Ronni More, FDEP Attorney

FILING AND ACKNOWLEDGEMENT FILED, on this date,
pursuant to §120.52 Florida Statutes, with the designated
RER Clerk, receipt of which is hereby acknowledged.

Clerk (or Deputy Clerk)

Date: _____

Exhibit A
Brownfield Site Rehabilitation Agreement

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: **Preferred Realty, Inc. and Preferred Storage Port Orange, LLC**
 5811 Williamson Boulevard Brownfield Site
 5811 Williamson Boulevard, Port Orange, FL, 32128
 5811 Williamson Boulevard Brownfield Area
 Brownfield Area Identification Number: BF641602000
 Brownfield Site Identification Number: BF641602001
 OGC Tracking Number - 16-1387

BROWNFIELD SITE REHABILITATION AGREEMENT PURSUANT TO §376.80(5),
Florida Statutes (F.S.)

WHEREAS, the Brownfields Redevelopment Act was enacted to reduce public health and environmental hazards on existing commercial and industrial sites by offering incentives to encourage responsible persons to voluntarily develop and implement cleanup plans; and

WHEREAS, the Department of Environmental Protection ("Department") is the administrative agency of the State of Florida having the power and duty to protect Florida's environment and to administer and enforce the provisions of Chapters 403 and 376, F.S., and the rules promulgated thereunder, Chapters 62-777 and 62-780, Florida Administrative Code (F.A.C.), as amended; and

WHEREAS, the Department has jurisdiction over the matters addressed in this Brownfield Site Rehabilitation Agreement ("BSRA"); and

WHEREAS, the Department has the authority, pursuant to §376.81, F.S., to establish by rule, criteria for determining the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed complete;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed as follows:

This BSRA is entered into between the Department and Preferred Realty, Inc. and Preferred Storage Port Orange, LLC, hereinafter the Persons Responsible For Brownfield Site Rehabilitation ("PRFBSR") (collectively referred to as the "parties"), for the rehabilitation of a brownfield site within a designated brownfield area pursuant to §376.80(5), F.S. The Department and the PRFBSR agree to the following:

1. DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department is the agency of the State of Florida with authority and power to enforce the provisions of Chapters 376 and 403, F.S.

2. PERSON RESPONSIBLE FOR BROWNFIELD SITE REHABILITATION

Preferred Realty, Inc. and Preferred Storage Port Orange, LLC are the PRFBSR as defined in §376.79(13), F.S., for the real property described in the map and legal description in **Attachment A** (the "Brownfield Site"), incorporated herein, that has been designated by the City of Port Orange in Resolution Number 16-51 on September 20, 2016 as a brownfield area as defined in §376.79(4), F.S. **Attachment A** is a composite exhibit that includes: (A-1) the city resolution with all attachments including the map of the designated brownfield area; (A-2) the legal description of the Brownfield Site; and (A-3) a map of the Brownfield Site. The brownfield site consists of +/- 7.14 acres. The legal boundaries of the brownfield site and the brownfield area are the same.

3. PRFBSR'S DUTIES

The PRFBSR agrees:

- (a) to conduct "site rehabilitation" of any "contaminated site(s)" as defined in §376.79, F.S., whose source originates on the real property described in **Attachment A as the Brownfield site**. If such contaminated site(s) extend(s) beyond the boundary of the Brownfield site, then PRFBSR agrees to conduct site rehabilitation to address the entire contaminated site.;
- (b) to conduct site rehabilitation and submit technical reports and rehabilitation plans in a timely manner according to the attached brownfield site rehabilitation schedule agreed upon by the parties (see **Attachment B**), and incorporated herein;
- (c) to conduct site rehabilitation activities under the observation of professional engineers or professional geologists, as applicable, who are registered in accordance with the requirements of Chapters 471 or 492, F.S., respectively. Submittals provided by the PRFBSR must be signed and sealed by a professional engineer registered under Chapter 471, F.S., or by a professional geologist registered under Chapter 492, F.S., as applicable, certifying that the submittal and associated work comply with the laws and rules of the Department and those governing the profession. Upon completion of the approved remedial action, a professional engineer registered under Chapter 471, F.S., or a professional geologist registered under Chapter 492, F.S., as applicable, must certify that the corrective action was, to the best of his or her

knowledge, completed in substantial conformance with the plans and specifications approved by the Department;

- (d) to conduct site rehabilitation in accordance with Chapter 62-160, F.A.C., as the same may be amended from time to time;
- (e) to obtain any local, state or federal approvals or permits required for the site rehabilitation work and to conduct the necessary site rehabilitation consistent with local, state, and federal laws, rules and ordinances. All site rehabilitation shall be consistent with the cleanup criteria in §376.81, F.S., the requirements of Chapters 62-780, F.A.C., Contaminated Site Cleanup Criteria, and 62-777, F.A.C., Contaminant Cleanup Target Levels;
- (f) to allow access by the Department during the entire site rehabilitation process, as evidenced by the attached documentation (see **Attachment C**) incorporated herein, establishing that such site access has been secured by agreement with the **real property owner**. Upon the transfer of any real property interest in any portion of the Brownfield Site before site rehabilitation is complete, the PRFBSR shall notify the Department within 15 days from the date that such an interest is effective. With notice the PRFBSR shall provide a copy of an access agreement in substantially the same form as that in **Attachment C** with any successor in interest to the **real property owner** of the Brownfield Site or with any party with a real property interest in the Brownfield Site after the effective date of this agreement, granting such access to the Department; and
- (g) to consider appropriate pollution prevention measures and to implement those that the PRFBSR determines are reasonable and cost-effective, taking into account the ultimate use or uses of the real property described in **Attachment A**. Local pollution prevention programs as well as state pollution prevention programs are available to assist in determining pollution reduction measures. The Department recommends that the PRFBSR contact the Department's Pollution Prevention (P2)/Waste Reduction Program at (850) 245-8707 or visit the P2 web site at <http://www.dep.state.fl.us/pollutionprevention/aboutus.htm> for recommendations on waste minimization and waste management and for assistance with pollution prevention measures. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include the goals for the reduction of releases of toxic materials.

4. CERTIFICATION

The PRFBSR certifies that he/she has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with

applicable laws and requirements for such redevelopment. Documentation that supports this certification is provided as **Attachment D**.

5. SITE CONTRACTOR

The PRFBSR must ensure that the contractor who is performing the majority of the site rehabilitation program tasks pursuant to this BSRA or supervising the performance of such tasks by licensed subcontractors in accordance with the provisions of § 489.113(9), F.S., has provided certification to the Department that the contractor meets the requirements listed below. If the identity of the contractor is known at the time of the execution of this BSRA, a Brownfields Redevelopment Program Contractor Certification Form (CCF) shall be submitted as **Attachment E** to this BSRA. If the contractor has not yet been determined, the PRFBSR shall ensure that the CCF is submitted to the District Brownfield Coordinator and approved by the Department before the contractor begins performing any site rehabilitation tasks at the site.

The PRFBSR must submit to the Department documentation as **Attachment F**, which shows a National Environmental Laboratory Accreditation Program ("NELAP")-recognized authority has accredited the laboratory(s) that will perform the analyses required by this agreement.

Any contractor that performs site rehabilitation tasks at a contaminated site originating on the real property as described in **Attachment A** shall provide documentation in accordance with the provisions of the paragraph above and with **Attachments E and F**, if applicable, showing that any contractor that performs site rehabilitation tasks:

- (a) meets all certification and license requirements imposed by law; and
- (b) performs, or has laboratory analyses performed, pursuant to NELAP certification requirements and performs, or has field sampling work performed, in accordance with the Standard Operating Procedures provided in Chapter 62-160, F.A.C., as amended, if applicable to performance of site rehabilitation tasks.

6. CONTINUOUS COMPLIANCE

During the entire site rehabilitation process, the PRFBSR agrees to ensure that the contractor continues to comply with the requirements of **Paragraph 5** of this BSRA pursuant to the requirements of §376.80(6), F.S.

7. VOLUNTARY CLEANUP TAX CREDIT PROGRAM

Not all activities that are approved or performed in association with a BSRA are eligible for the state's Voluntary Cleanup Tax Credit (VCTC). In accordance with Section 376.30781, F.S., only costs incurred and paid by the applicant that are either

integral, necessary and required for site rehabilitation or for solid waste removal, are eligible for the VCTC. Contamination assessment or remediation paid for by the State of Florida for a discharge that is eligible for a state-funded cleanup under the Dry-Cleaning Solvent Contamination Program or one of the Petroleum Restoration Program's eligibility programs, may not be used to calculate a tax credit. "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances. "Solid waste removal" means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. Nothing contained herein is intended to limit the VCTC otherwise available to the PRFBSR under applicable law. General information about the VCTC Program is available at <http://www.dep.state.fl.us/waste/categories/vctc/default.htm>. For specific questions regarding the VCTC Program, please contact the Department's Waste Cleanup Program at (850) 245-8927.

8. ADVISORY COMMITTEE

The PRFBSR shall establish an advisory committee pursuant to the requirements of §376.80(4), F.S., for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. The advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. However, if an appropriate local advisory committee already exists, this committee may be used for requesting public participation and for the purposes of complying with this paragraph.

The PRFBSR shall provide the advisory committee a copy of the final proposed draft BSRA and a copy of the executed BSRA. When the PRFBSR submits a site assessment report or the technical document containing the proposed course of action following site assessment to the Department or the local pollution control program for review, the PRFBSR shall hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

The names, addresses, contact numbers, and applicable affiliation for each advisory committee member is included as **Attachment G**.

9. INDEMNIFICATION

The PRFBSR shall save and hold harmless and indemnify the Department against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this BSRA and from the negligent acts or omissions of the PRFBSR or its employees, agents, contractors, subcontractors, or other representatives, to the extent allowed by law.

10. LIABILITY PROTECTION

The liability protection provided under §376.82, F.S., shall become effective upon execution of this BSRA and shall remain effective, provided the PRFBSR complies with the terms of this BSRA.

11. TERMINATION

If the PRFBSR fails to comply with this BSRA, the Department shall notify the PRFBSR and allow 90 days for the PRFBSR to return to compliance with the provision at issue or to negotiate a modification to the BSRA with the Department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with this BSRA and a modification cannot be negotiated, the Department shall terminate this BSRA.

The PRFBSR may terminate this BSRA at any time upon written notice to the Department.

Termination of this BSRA by either party will revoke the immunity provision of §376.82, F.S.

12. IMMINENT HAZARD

Nothing herein shall be construed to limit the authority of the Department to undertake any action in response to, or to recover the costs of responding to, conditions at or from the real property described in **Attachment A** that require the Department to take action to abate an imminent hazard to the public health, welfare or the environment.

13. RELEASE OF LIABILITY

Upon successful completion of this BSRA as evidenced by the issuance of a Site Rehabilitation Completion Order (SRCO) for each contaminated site originating from the real property described in **Attachment A**, the PRFBSR and his or her successors and assigns, shall be relieved from further liability for site rehabilitation as described in paragraph 3.a. of this BSRA to the Department and third parties and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site(s).

This release of liability is subject to the reopener provisions of §376.82(3), F.S.

14. GOVERNING LAW

This BSRA has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida and any applicable local regulations. Wherever possible, each provision of this BSRA shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this BSRA shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this BSRA. Any action hereon or in connection herewith shall be brought in Volusia County, Florida.

15. SUBMITTALS

The PRFBSR shall submit one hard (paper) copy or one electronic (digital) copy of any certifications or documentation required in **Paragraph 6** ("Site Contractor") above, and all data, reports, responses, addenda, or modifications to reports and plans required by this BSRA to:

George Houston II, P.G.
Brownfields Coordinator, Central District
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, Florida, 32803

The Department encourages the submittal of documents for review in an electronic format rather than the submittal of paper copies. All electronic copies of documents shall be in the format listed in Section 8 of the Instructions and attached as **Attachment H**. Time frames for the Department's review of technical reports and plans and submittal of documents by the PRFBSR shall be governed by the attached schedule (see **Attachment B**), incorporated herein. After final Department approval of each report or plan, an electronic copy shall be submitted to the Department within 30 days. The electronic copy of the report shall be submitted in the format listed in **Attachment H**.

16. DOCUMENT REVIEW

During the site rehabilitation process, if the Department fails to complete the review of a technical document within the time frame specified in this BSRA, with the exceptions of "no further action proposals," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation, the PRFBSR may proceed to the next site rehabilitation task. However, the PRFBSR does so at its own risk and may be required by the Department to complete additional work on a previous task.

17. ASSIGNMENT

The PRFBSR shall not assign any rights or responsibilities under this BSRA to any other party without the written consent of the Department and the local government with jurisdiction over the real property described in **Attachment A**. However, the Department shall not withhold its consent to such an assignment if: (a) the proposed assignee meets all of the eligibility criteria under §376.82, F.S.; (b) the proposed assignee has agreed, in writing, to assume all obligations of the PRFBSR under the terms of this Agreement; and (c) the assignment of PRFBSR obligations under any agreement with the local government with jurisdiction over the real property has been approved, in writing, by the local government.

18. WAIVER

By entering into this BSRA, the PRFBSR waives its right to challenge the contents of this BSRA in an administrative hearing afforded by §120.569 and §120.57, F.S., or an appeal afforded by the terms of §120.68, F.S. This BSRA does not deny the PRFBSR a right to challenge the Department's actions taken pursuant to this BSRA. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this BSRA, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

19. EFFECTIVE DATE AND ADMINISTRATIVE HEARING

This BSRA (Order) is final and effective on the date of execution unless a timely petition for an administrative hearing is filed under §§120.569 and 120.57, F.S., within 21 days after the date of receipt of notice of agency action. Upon the timely filing of such petition, this BSRA will not be effective until further order of the Department. The liability protection for the PRFBSR pursuant to §376.82(2), F.S., becomes effective upon execution of the brownfield site rehabilitation agreement. The procedures for petitioning a hearing are set forth below.

Persons other than the PRFBSR who are affected by this BSRA have the following options:

- (a) If you choose to accept the Department's decision regarding this BSRA, you do not have to do anything. This BSRA is final and effective 21 days after the date of execution.
- (b) If you choose to challenge the Department's decision, you may do the following:
 - (i) File a request for an extension of time to file a petition for hearing with the Agency Clerk of the Department in the Office of the General

Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 within **21** days of receipt of this BSRA; such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Or

- (ii) File a petition for administrative hearing with the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 within **21** days of receipt of this BSRA.

Please be advised that mediation of this decision pursuant to §120.573, F.S., is not available.

How to Request an Extension of Time to File a Petition for Hearing:

For good cause shown, pursuant to Rule 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request shall be filed with (received by) the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within **21** days of receipt of this BSRA. Petitioner shall mail a copy of the request to the PRFBSR at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing:

A person whose substantial interests are affected by this BSRA may petition for an administrative proceeding (hearing) under §§120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed with (received by) the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within **21** days of receipt of this BSRA. Petitioner shall mail a copy of the petition to the PRFBSR at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right to request an administrative proceeding under Chapter 120, F.S.

Pursuant to §120.569(2), F.S., and Rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

1. The name, address, any e-mail address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any; the PRFBSR's name and address; the Department's

Brownfield Area and Brownfield Site Identification Numbers; and the name and address of the Brownfield Site; the name and address of each agency affected;

2. A statement of when and how each petitioner received notice of the Department's action or proposed action;

3. An explanation of how each petitioner's substantial interests will be affected by the Department's action or proposed action;

4. A statement of the disputed issues of material fact, or a statement that there are no disputed facts;

5. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;

6. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action, including an explanation of how the alleged facts relate to the specific rules of statutes; and

7. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this BSRA. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

20. JUDICIAL REVIEW

Except for the PRFBSR, any party has the right to seek judicial review of this BSRA under §120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice of appeal must be filed within 30 days after this BSRA is filed with the clerk of the Department (see below).

21. CONTACTS FOR GENERAL AND LEGAL QUESTIONS

Any questions about the content of this BSRA, the Department's review of the BSRA, or technical questions should be directed to the Department's District Brownfields Coordinator at:

George Houston II, P.G.
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, Florida, 32803
George.Houston@dep.state.fl.us
(407) 897-4322

or to the PRFBSR's representative at:

Preferred Realty, Inc. and Preferred Storage Port Orange, LLC
Attn: Thomas Speno
13865 W. Dixie Highway
North Miami, Florida, 33161
tspeno@prd-realty.com
(954) 971-6775 ext. 302

With copy to:

Cobb Cole
Attn: Michael Sznajstajler
149 S. Ridgewood Avenue, Suite 700
Daytona Beach, FL 32114
Michael.Sznajstajler@cobbcole.com
(386) 323-9222

Questions regarding legal issues should be referred to the Department's Brownfields Program Attorney in the Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

22. ENTIRETY OF AGREEMENT

This BSRA represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this BSRA shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this BSRA, unless otherwise provided herein.

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IN WITNESS WHEREOF, each of the parties has made and executed this Brownfield Site Rehabilitation Agreement on the date set forth for each signature of each representative below: Jeff Prather, Director Central District, State of Florida Department of Environmental Protection, and Preferred Realty, Inc. and Preferred Storage Port Orange, LLC, the Persons Responsible for Brownfield Site Rehabilitation, signing by and through Thomas Speno and Robert Friedman, duly authorized to execute same.

**PERSON RESPONSIBLE FOR
BROWNFIELD SITE REHABILITATION**

By: 
Thomas Speno
As: President of Preferred Realty, Inc.

Date: 12-29-16

By: 
Robert Friedman
As: Manager of Preferred Storage Port Orange, LLC

Date: 12-29-16

**STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

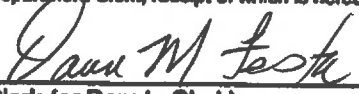
By: 
Jeff Prather
Director, Central District

Date: 12/29/16

Approved as to form and legality: 12/29/2016

For Rebecca Robinette
Rebecca Robinette, FDEP Attorney

FILING AND ACKNOWLEDGMENT FILED, on this date,
pursuant to §120.52 Florida Statutes, with the designated
Department Clerk, receipt of which is hereby acknowledged.


Clerk (or Deputy Clerk)

Date: 12/30/16

cc: FDEP Program Attorney who reviewed BSRA
Laura Barrett, FDEP Brownfields Program Manager
George Houston II, FDEP Central District Brownfields Coordinator
Michael Sznajstajler, Esquire

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List of Attachments

Attachment A	Local Government Resolution for the Brownfield Area and Map and Legal Description of the Brownfield Site
	A-1 Local Government Resolution Designating the Brownfield Area
	A-2 Legal Description of the Brownfield Site
	A-3 Map of the Brownfield Site
Attachment B	Brownfield Site Rehabilitation Schedule
Attachment C	Site Access Agreement
Attachment D	Certification of Redevelopment Agreement
Attachment E	Contractor Certification Form
Attachment F	Quality Assurance Certificate
Attachment G	Advisory Committee Members
Attachment H	Format for Submittal of Technical Documents

**ATTACHMENT A - - LOCAL GOVERNMENT RESOLUTION FOR THE BROWNFIELD
AREA AND MAP AND LEGAL DESCRIPTION OF THE BROWNFIELD SITE**

Exhibit A-1: Local Government Resolution for Brownfield Area

Exhibit A-2: Legal Description of Brownfield Site

Exhibit A-3: Map of Brownfield Site

RESOLUTION NO. 16-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, DESIGNATING THE PROPERTY SET OUT ON EXHIBITS "A" AND "B", WHICH IS 5811 WILLIAMSON BOULEVARD, LOCATED AT I-95 AND TAYLOR ROAD, IN THE CITY OF PORT ORANGE, AS A BROWNFIELD AREA FOR THE PURPOSE OF ENVIRONMENTAL REMEDIATION, REHABILITATION AND ECONOMIC DEVELOPMENT; DIRECTING THE CITY CLERK TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OR SAID DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida has provided in Ch. 97-277, Laws of Florida, codified as Sections 376.77 through 376.86, Florida Statutes, for the designation by resolution of certain areas as Brownfield areas, and for the corresponding provisions of environmental remediation, rehabilitation, and economic development for such areas; and

WHEREAS, Midwest Transit, Inc., as shown on Exhibit "A", is the owner of the property located at 5811 Williamson Boulevard, as shown on Exhibits "A" and "B" hereof; and

WHEREAS, Preferred Realty, Inc. has received authorization from Midwest Transit, Inc. to request designation of the property legally described on Exhibit "A" hereof and depicted on Exhibit "B" hereof as a Brownfield area; and

WHEREAS, the City of Port Orange has considered: (1) whether the Brownfield area warrants economic development and has a reasonable potential for such activities; (2) whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage; (3) whether the area has potential to interest the private sector in participating in rehabilitation; and (4) whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes; and

WHEREAS, the City of Port Orange has considered the requirements for Brownfield area designation as provided in Section 376.80(2)(c), Florida Statutes, and finds:

1. That Preferred Realty, Inc. has agreed to rehabilitate and redevelop the property within the Brownfield area;

2. The rehabilitation and redevelopment of the proposed Brownfield area will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs which are full-time equivalent jobs not associated with the implementation of the Brownfield site rehabilitation and redevelopment;

3. The redevelopment of the proposed Brownfield area is consistent with the City of Port Orange's comprehensive plan and is a permissible use under the City's land development regulations;

4. Notice of the Brownfield area designation and proposed applicable rehabilitation has been provided to neighboring property owners and nearby residents of the proposed area to be designated, and an opportunity has been afforded to those receiving notice for comments and suggestions about rehabilitation; and

5. Preferred Realty, Inc. has provided reasonable assurance that it has sufficient financial resources to implement and complete the applicable rehabilitation agreement and redevelopment plan on the property; and

WHEREAS, the City of Port Orange finds that City Hall is a location reasonably proximate to the area described herein and provides a fair and convenient venue for public input; and

WHEREAS, the notice, publication and public hearing requirements set forth in Section 376.80(1), Florida Statutes, have been satisfied; and

WHEREAS, the City of Port Orange shall notify the Florida Department of Environmental Protection in writing and provide a copy of this Resolution setting forth the designation of the property legally described on Exhibit "A" hereof and depicted on Exhibit "B" hereof, as a Brownfield area.

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

Section 1. In accordance with the Florida Brownfields Redevelopment Act, Sections 376.77 through 376.86, Florida Statutes, the Property legally described on Exhibit "A" hereof and depicted on Exhibit "B" hereof is hereby designated as a "Brownfield area."

Section 2. Preferred Realty, Inc. shall be responsible for the Brownfield site remediation and rehabilitation on the property currently owned by Midwest Transit, Inc. within the Brownfield area.

Section 3. The City Clerk is hereby directed to notify the Florida Department of Environmental Protection of the City of Port Orange's decision to designate a Brownfield area for remediation, rehabilitation and economic development for the purposes set forth in Sections 376.77 through 376.86, Florida Statutes, by providing the Department a copy of this Resolution.

Section 4. Designating said area as a Brownfield area shall in no way render the City of Port Orange responsible for costs of site rehabilitation or source removal, as those terms are defined in Section 376.79(17) and (18), Florida Statutes, or for any other costs that may arise or be incurred.

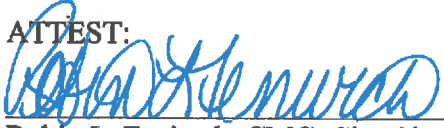
Section 5. In accordance with Chapter 2, Article III, Division 4, Sec. 2-117(c) of the Port Orange Code of Ordinances, the City of Port Orange's Environmental Advisory Board shall serve as the advisory board for Brownfield sites in this Brownfield area.

Section 6. If any provision of this resolution or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this resolution which can be given effect without the invalid provision or application, and to thios end the provision of this resolution are severable.

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


MAYOR ALLEN GREEN

ATTEST:


Robin L. Feniwick, CMC, City Clerk

Adopted on the 20 day of Sept., 2016

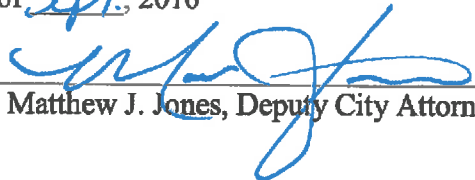
Reviewed and Approved: 
Matthew J. Jones, Deputy City Attorney

Exhibit A

Legal Description

19 16 33 IRREG PARCEL IN NE 1/4 LYING S OF TAYLOR RD & W OF I-95 R/W MEAS 565 FT ON W/L & MEAS 484.73 FT ON S/L & MEAS 609.33 FT ON E/L & 190.69 FT ON NE/L EXC NEW R/W FOR WILLIAMSON BLVD IN W 28.93 FT ON S/L PER OR 4098 PG 4639

Exhibit B

Location of Brownfield Area



Legal Description of the Brownfield Site

19 16 33 IRREG PARCEL IN NE 1/4 LYING S OF TAYLOR RD & W OF I-95 RW MEAS 565 FT ON W/L & MEAS 484.73 FT ON S/L & MEAS 609.33 FT ON E/L & 190.69 FT ON NE/L EXC NEW RW FOR WILLIAMSON BLVD IN W 28.93 FT ON S/L PER OR 4098 PG 4639

More particularly described as:

A portion of the northeast k of Section 19, Township 16 South, Range 33 East, Volusia County, Florida: more particularly described as follows: From the northeast corner of said Section 19 run S89°59'40"W along the northerly line of the northeast k of said Section 19 a distance of 173.36 feet to an intersection with the centerline of Taylor Road, as shown on Department of Transportation right-of-way map, Project No. Sheet 8 of 8; thence S63°59'10"W along the centerline of said Taylor Road a distance of 1291.7 feet; thence departing the centerline of said Taylor Road run S26°00'50"E a distance of 100.00 feet to the point of beginning, said point being a Department of Transportation concrete monument marking the intersection of the southerly right-of-way line of said Taylor Road and the easterly right-of-way line of the service road to Samsula, Florida; as shown on said right-of-way map; thence continue S26°00'50"E along the easterly right-of-way line of said service road a distance of 565.00 feet; thence departing the easterly right-of-way line of said service road N89°59'40"E parallel With the northerly line of the northeast 3/4 of said Section 19 a distance of 484.73 feet; thence N00°00'20"W a distance of 40.00 feet; thence N89°59'40"E parallel with the northerly line of the northeast k of said Section 19, a distance of 101.98 feet to the westerly right-of-way line of Interstate 95 as shown on said right-of-way map; thence N31°28'31"W, (N31°37'38"W, right-of-way map) along the westerly right-of-way line of said Interstate 95 a distance of 643.18 feet to a Department of Transportation right-of-way marker thence N70°32'17"W (N70°27'22"W, right-of-way map) along the southwesterly right-of-way line of said Interstate 95 a distance of 190.81 feet (190.49 feet, right-of-way map) to a Department of Transportation right-of-way marker and to the southerly right-of-way line of said Taylor Road; thence S65°37'37"W (S65°37'21"W, right-of-way map) along the southerly right-of-way line of said Taylor Road, a distance of 350.26 feet (350.14 feet, right-of-way map) to the point of beginning.

Map of Brownfield Site



ATTACHMENT B

Table I
Brownfield Site Rehabilitation Schedule

Type of Report or Activity	PRFBSR Action or Submittal Time Frames	Department Review or Comment Time frames
Notice of Interim Source Removal Action or Emergency Response Action situations.	Within 24 hours of initiation of the action.	No comment required.
Interim Source Removal Proposal	When seeking approval before implementation of an alternative product recovery method, groundwater recovery, soil treatment or disposal technique (see Rule 62-780.500).	Within 30 days of receipt.
Interim Source Removal Plan	When seeking approval before implementation of an alternative product recovery method, groundwater recovery, soil treatment or disposal technique (62-780.500, F.A.C.)	Within 30 days of receipt.
Interim Source Removal Status Report	Within 60 days of completion of source removal activities and every 60 days thereafter or when the field activity is terminated, whichever occurs first.	No comment required.
Interim Source Removal Report	Within 60 days of completion of interim source removal activities.	Within 60 days of receipt.
Site Rehabilitation Plan (SRP) or Combined Document; (Optional submittal) (See Rule 62-780.450, F.A.C.)	Optional: SRP submitted within 270 days of executing BSRA. May include multiple tasks.	Within 60 days of receipt.
Site Assessment Report (SAR)	SAR submitted within 270 days of executing BSRA.	Within 60 days of receipt.
Risk Assessment Report (RAR)	Optional: (within 60 days of SAR approval.)	Within 90 days of receipt.
No Further Action (NFA) Proposal	When the site meets the criteria for NFA (See Rule 62-780.680, F.A.C.).	Within 60 days of receipt.
Well Survey and Sampling Results pursuant to paragraph 62-780.600(3)(h), F.A.C.	Within 60 days of discovery of contamination beyond the property boundaries	Within 60 days of receipt.
Natural Attenuation with Monitoring (NAM) Plan	When the site meets the criteria for Natural Attenuation with Monitoring (See Rule 62-780.690, F.A.C.).	Within 60 days of receipt.
Natural Attenuation with Monitoring (NAM) Report	Within 60 days of sample collection.	No comment required.
Remedial Action Plan (RAP)	Within 90 days of approval of a SRP, SAR or RAR.	Within 60 days of receipt.
As-Built Drawings	Within 120 days of initiating operation of the active remediation system.	No comment required.
Initiate Operation of Active Remedial Action	Within 120 days of RAP approval.	No comment required.
Proposals submitted pursuant to subsection 62-780.700(15), F.A.C.	Optional during active remediation	Within 60 days of receipt
Remedial Action Status Report (Monthly or quarterly status reports may be required for submittal - depending on site conditions and Advisory Committee.)	Within 60 days of the anniversary date of initiating operation of active remediation system.	No comment required.

Post Active Remediation Monitoring (PARM) Plan	When the site meets the criteria for NFA (see Rule 62-780.680) or Leveling-Off (see Rule 62-780.700(17))	Within 60 days of receipt.
Post Active Remediation Monitoring (PARM) Report	Within 60 days of sample collection.	No comment required.
Leveling Off Determination	Within 60 days of sample collection.	Within 60 days of receipt.
Post Active Remediation Monitoring (PARM) Plan resampling proposal (Rule 62-780.750(4)(e), F.A.C.	Within 60 days of sample collection.	Within 60 days of receipt.
Site Rehabilitation Completion Report (SRCR)	Within 60 days of the final sampling event. If SRCR not approved then submit modifications, etc. within 60 days of Department's response.	Within 60 days of receipt. If the brownfield site meets the requirements of Chapter 62-780, F.A.C. for the issuance of a SRCO, a SRCO will be issued.
Pilot Study Work Plan	When seeking approval before implementation of a Pilot Study pursuant to Rule 62-780.700(2), F.A.C.	Within 60 days of receipt.
Notices for Field Activities except for Start of Interim Source Removal or Emergency Response Action situations.	Within seven (7) days but not less than 24 hours prior notice to the Department to perform field activity.	No comment required.
Submittal to the Department of addenda, responses, or modification to plans or reports, pursuant to Chapter 62-780, F.A.C.	Within 60 days of receipt of the Department's response.	Within the same time frame for review of the original submittal.
Submittal of Form and Actual Notice required in subsection 62-780.220(2), F.A.C.	See text of rule for "Initial Notice of Contamination Beyond Property Boundaries" in subsection 62-780.220(2), F.A.C.	No comment required.
Submittal of Actual and Constructive Notice required in subsection 62-780.220(3), F.A.C.	See text of rule for "Subsequent Notice of Contamination Beyond Source Property Boundaries for Establishment of a Temporary Point of Compliance (TPOC)" in subsection 62-780.220(3), F.A.C.	No comment required.
Submittal of proof of Constructive Notice required in subsection 62-780.680(8), F.A.C.	When seeking an SRCO with conditions, the PRFBSR must provide constructive notice of the Department's intent to approve a no Further Action Proposal with controls.	No comment required.

ATTACHMENT C -- SITE ACCESS AGREEMENT

SITE ACCESS AGREEMENT PERMISSION TO ENTER PROPERTY BROWNFIELDS REDEVELOPMENT PROGRAM

1. Preferred Storage Port Orange, LLC, the real property owner ("undersigned" or "owner"), hereby grants permission to the State of Florida, Department of Environmental Protection ("Department") and its agents and subcontractors to enter the undersigned's property ("the property") located at 5811 Williamson Boulevard, Port Orange, Florida, 32128 as described in Attachment A attached to the BSRA for the brownfield site assigned the Brownfield Site Identification Number BF6416020001, beginning on the date of execution of the BSRA and ending on such date as deemed appropriate by the Department or the successful completion of the BSRA, whichever occurs first.
2. This permission is contemplated to be used for the following activities that may be performed by the Department, its agents, representatives or subcontractors:
 - a. Having access to areas where contamination may exist.
 - b. Investigation of soil and groundwater including, but not limited to, the installation of groundwater monitoring wells, the use of geophysical equipment, the use of an auger for collection of soil and sediment samples, the logging of existing wells, videotaping, preparation of site sketches, taking photographs, any testing or sampling of groundwater, soil, surface water, sediments, air, and other materials deemed appropriate by the Department and the like.
 - c. Removal, treatment and/or disposal of contaminated soil and water, which may include the installation of recovery wells or other treatment systems.
3. Upon completion of the investigation, the Department will restore the property as near as practicable to its condition immediately prior to the commencement of such activities.
4. The granting of this permission by the undersigned is not intended, nor should it be construed, as an admission of liability on the part of the undersigned or the undersigned's successors and assigns for any contamination discovered on the property.
5. The Department, its agents, representatives or subcontractors may enter the property during normal business hours and may also make special arrangements to enter the property at other times after agreement from the undersigned.
6. The Department acknowledges and accepts any responsibility it may have under applicable law (Section 768.28, Florida Statutes) for damages caused by the acts of its employees acting within the scope of their employment while on the property.
7. In exercising its access privileges, the Department will take reasonable steps not to interfere with the Owner's operations, or the remediation and redevelopment activities pursuant to the BSRA.

[Signature]
Signature of Real Property Owner

Print Name: Robert Friedman

Title, if applicable Manager

Date

12-29-16

[Signature]
Signature of Witness

Print Name: Thomas R. Spauld

Date

12-29-16

Accepted by the Department by the following authorized agent:


Signature of Department representative

Print Name: Jeff Prather

Director
Title of Department representative

12/29/16
Date


Signature of Witness

Print Name: Aaron Watkins

12-29-16
Date

ATTACHMENT D -- CERTIFICATION OF REDEVELOPMENT AGREEMENT

A letter from the City of Port Orange that describes the proposed redevelopment of the brownfield site and expresses the City of Port Orange's agreement with the proposed redevelopment is attached hereto as **Exhibit D-1**.



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
TELEPHONE 386-506-5500
FAX 386-756-5290
www.Port-Orange.org

October 31, 2016

Florida Department of Environmental Protection
Attn: Mr. George Houston
3319 Maguire Boulevard, Suite 232
Orlando, Florida, 32803

Dear Mr. Houston,

As required by the Florida Brownfields Redevelopment Program, this letter will certify that the City of Port Orange supports the proposed redevelopment of the property located 5811 Williamson Boulevard in Port Orange, Florida (the "Property") for commercial uses consistent with the City's Comprehensive Plan And Land Development Code.

The Property has a Future Land Use designation of Commercial under the City of Port Orange's Comprehensive Plan, which allows commercial uses such as shopping centers, retail stores, restaurants, automobile service facilities, personal services, offices, and similar uses. In addition, the Property is located in the Interchange Commercial Development (ICD) zoning district, which provides land uses designed to meet the commercial needs of the local community, traveling motorists, and businesses within the adjoining commercial areas.

The City understands that Preferred Realty, Inc. intends to redevelop the Property into a multiphase commercial development. The first phase is a Class A Climate Controlled Self-Storage Facility. Redevelopment of the Property for commercial uses, including the climate controlled self-storage facility (referred to as a mini-warehouse facility), is consistent with the Comprehensive Plan and is permitted as a Special Exception within the ICD zoning district. A Special Exception for a mini-warehouse facility on the Property was approved by the City Council on December 1, 2015. As part of the redevelopment process, Preferred Realty, Inc. will continue to work with the City of Port Orange to obtain all necessary development approvals for the redevelopment.

Should you need any additional information, please do not hesitate to contact me at (386) 506-5615. Thank you for your consideration in this matter.

Sincerely,

Wayne Clark
Director of Community Development
City of Port Orange



CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT

1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129 (386) 506-5600 FAX (386) 506-5699

SPECIAL EXCETPION DEVELOPMENT ORDER

PROPERTY ADDRESS: 5811 S. WILLIAMSON BOULEVARD

APPLICANT'S NAME: Preferred Realty, Inc.

CASE NUMBER: 15-70000001

PARCEL NUMBER: 6319-00-00-0190

DESCRIPTION OF APPROVED USE: Allowance of a mini-warehouse facility within the Interchange Community Development (ICD) zoning district

The City of Port Orange has approved the development activity described above, and issues this Development Order pursuant to Chapter 3, Section 4 of the Land Development Code.

This order is issued subject to the general conditions of the Land Development Code (see attached), and compliance with the requirements of all City Codes and Ordinances. This order does not relieve the applicant or the applicant's agents from any law, regulation, or requirement of any other government or agency. In addition, this Order is issued subject to any special conditions listed below or attached.

SPECIAL CONDITIONS ATTACHED:

☒ YES

☐ NO

Issuance of this Development Order entitles you to apply for site development and/or building permits related to the Special Exception use outlined above. If permits have not been issued and construction on any above names activity has not commenced, or, if the building construction or the use authorized by this Special Exception has not been established by **December 3, 2016**, this Development Order shall expire, and a new Development Order must be secured. Also, if the Special Exception use is abandoned for a period of six (6) months or more, a new application shall be filed and a public hearing held in accordance with the procedures and requirements in Chapter 3 of the Land Development Code.

1. Special Exceptions run with property, therefore the ownership of a Special Exception use may not be transferred to another party.
2. A 6' tall decorative wall is not required if landscaping above the minimum required by the Land Development Code is provide in the required Landscape Buffers along I-95, Taylor Road, and Williamson Blvd.

Issued by:

Tim Burman
Tim Burman, Interim Community Development Director

Date: 12-3-15

ATTACHMENT E - - CONTRACTOR CERTIFICATION FORM



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

BOB MARTINEZ CENTER
2600 BLAIRSTONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTRA
LT. GOVERNOR

JONATHAN P. STEVERSON
SECRETARY

**CONTRACTOR CERTIFICATION FORM
Brownfields Redevelopment Program**

Contractor Name: Cardno, Inc. Date: November 9, 2016

Contractor Address: 380 Park Place Boulevard, Suite 300, Clearwater, Florida 33759

Contact Name: Terry Griffin, PG

Phone No.: 727-531-3505 Fax No.: 727-431-1777

Brownfield Site ID #: BF641602001

Contractor Certifies by Checking All Appropriate Boxes:		Yes	No
1.	It meets all certification and license requirements imposed by law.	☒	☐
2.	It performs or contracts laboratory analysis pursuant to National Environmental Laboratory Accreditation Program certification requirements and performs or contracts field-sampling work in accordance with the Standard Operating Procedures for Field Activities pursuant to Chapter 62-160, Florida Administrative Code.	☒	☐
3.	It complies with all applicable OSHA regulations.	☒	☐
4.	Has the capacity to perform the majority of the site rehabilitation program tasks pursuant to a brownfield site rehabilitation agreement or supervise the performance of such tasks by licensed subcontractors in accordance with Section 489.113(9), F.S.	☒	☐

The person named below by signing as an "Officer of the Company" hereby certifies to the Florida Department of Environmental Protection (FDEP) that the Contractor named above meets the requirements for contractors participating in the Brownfields Redevelopment Program [Sections 376.80(6) and (7), Florida Statutes (F.S.)]:

Signature of Officer of the Company and Date Signed

Steve P. Howarth, PE

Print Name of Officer of the Company

Vice President

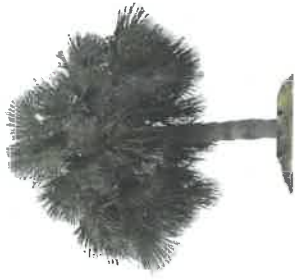
Title of Officer of the Company

This form will be kept on file by the FDEP District office. Contractors must immediately notify the FDEP (Brownfields District Coordinator) of any change in the above criteria. The FDEP may order a suspension or cessation of work for failure of a contractor to maintain their required certification. Please return this form to the appropriate District Brownfields Coordinator.

ATTACHMENT F
Quality Assurance Certificate



State of Florida
Department of Health, Bureau of Public Health Laboratories
This is to certify that



E83079

PACE ANALYTICAL SERVICES, LLC - ORMOND BEACH FL
8 EAST TOWER CIRCLE
ORMOND BEACH, FL 32174

has complied with Florida Administrative Code 64E-1,
for the examination of environmental samples in the following categories

DRINKING WATER - GROUP I UNREGULATED CONTAMINANTS, DRINKING WATER - GROUP II UNREGULATED CONTAMINANTS, DRINKING
WATER - OTHER REGULATED CONTAMINANTS, DRINKING WATER - GROUP III UNREGULATED CONTAMINANTS, DRINKING WATER -
MICROBIOLOGY, DRINKING WATER - PRIMARY INORGANIC CONTAMINANTS, DRINKING WATER - SECONDARY INORGANIC CONTAMINANTS,
DRINKING WATER - RADIOCHEMISTRY, DRINKING WATER - SYNTHETIC ORGANIC CONTAMINANTS, NON-POTABLE WATER - EXTRACTABLE
ORGANICS, NON-POTABLE WATER - GENERAL CHEMISTRY, NON-POTABLE WATER - METALS, NON-POTABLE WATER - MICROBIOLOGY,
NON-POTABLE WATER - PESTICIDES-HERBICIDES-PCB'S, NON-POTABLE WATER - VOLATILE ORGANICS, SOLID AND CHEMICAL MATERIALS -
EXTRACTABLE ORGANICS, SOLID AND CHEMICAL MATERIALS - GENERAL CHEMISTRY, SOLID AND CHEMICAL MATERIALS - METALS, SOLID AND
CHEMICAL MATERIALS - MICROBIOLOGY, SOLID AND CHEMICAL MATERIALS - PESTICIDES-HERBICIDES-PCB'S, SOLID AND CHEMICAL
MATERIALS - VOLATILE ORGANICS, BIOLOGICAL TISSUE - METALS

Continued certification is contingent upon successful on-going compliance with the NELAC Standards and FAC Rule 64E-1
regulations. Specific methods and analytes certified are cited on the Laboratory Scope of Accreditation for this laboratory and
are on file at the Bureau of Public Health Laboratories, P. O. Box 210, Jacksonville, Florida 32231. Clients and customers are
urged to verify with this agency the laboratory's certification status in Florida for particular methods and analytes.

Date Issued: October 13, 2016 Expiration Date: June 30, 2017



Susanne Crowe

Susanne Crowe, MHA
Acting Chief, Bureau of Public Health Laboratories
DH Form 1697, 7/04
NON-TRANSFERABLE E83079-59-10/13/2016
Supersedes all previously issued certificates

ATTACHMENT G - - ADVISORY COMMITTEE MEMBERS

In accordance with the City of Port Orange's Resolution 16-51 and Chapter 2, Article II, Division 4, Sec. 2-117(c) of the Port Orange Code of Ordinances, the City of Port Orange's Environmental Advisory Board is the "brownfield advisory committee" for the applicable brownfield area. All advisory board members are residents of the City of Port Orange. The current name, address and phone number for the brownfield advisory committee members is set forth below:

Derek La Montagne – Chairman
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

Newton White – Vice Chairman
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

James Meadows
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

Jeremy Terhune
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

Brian Syford
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

Philip Klema
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

Dennis Young
1000 City center Circle
Port Orange, FL 32129
(386) 506-5600

ATTACHMENT H - - FORMAT FOR SUBMITTAL OF TECHNICAL DOCUMENTS

1. One hard copy or one electronic copy of each report or proposal and final reports shall be submitted to the Department or to the delegated local program.
2. In an effort to increase efficiency, responsiveness, and to enhance environmental protection, electronic records are an acceptable media substitute for hard copy and shall be pursued as the first option of choice to arrive at compliance. Where an electronic format exists of the records it shall be used to transmit the data, file, report, document, map, plans, picture, record, or any other object that may be available in an electronic format. Electronic records shall be kept in industry standard non-proprietary formats: TIFF, GIF, JPEG, PDF, or in Microsoft Word, Microsoft Excel, and Microsoft Access not older than one (1) release behind the current.
3. Data requested shall be transmitted using available media such as E-mail, Compact Disc (CD), or File Transfer via an FTP site. Additional formats may be considered at the time of the request.
4. After final approval of each report, an electronic copy and one hard copy shall be submitted within 30 days.
5. The media shall include a file directory and specify the "naming convention".
 - (a) Final reports (any text files) must be in one of the approved formats.
 - (b) Site maps and surveys shall be in TIFF, JPEG or ".pdf" format.
 - (c) Site-specific GIS data tables shall be in Excel or text (tab delimited) format.
 - (d) The cover of the media shall include the Site Name, Designated Brownfield Area, Date and Type of Report(s).

The left inside cover of the media should list all the files located on the media.

EXHIBIT B
Letter from City of Port Orange



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
TELEPHONE 386-506-5500
FAX 386-756-5290
www.Port-Orange.org

July 5, 2019

Florida Department of Environmental Protection
Attn: Ms. Lu Burson
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803

Re: Brownfield Site Rehabilitation Agreement for
5811 Williamson Boulevard Brownfield Site
5811 Williamson Boulevard Brownfield Area
BF Area Identification Number BF641602000
BF Site Identification Number BF641602001

Dear Ms. Burson,

This letter is intended to address a proposed assignment of the Brownfield Site Rehabilitation Agreement ("BSRA") for the above-referenced site. The BSRA identifies Preferred Realty, Inc. and Preferred Storage Port Orange, LLC as the Persons Responsible for Brownfield Site Rehabilitation ("PRFBSR"). The above-referenced site, which is more particularly described in the BSRA, is located within the jurisdictional limits of the City of Port Orange. The above-referenced property is located within the 5811 Williamson Boulevard Brownfield Area.

Preferred Realty, Inc. and Preferred Storage Port Orange, LLC are requesting assignment of its PRFBSR obligations, conditions, requirements and liabilities under the BSRA to Memorial Health System, Inc. d/b/a AdventHealth Daytona Beach ("AdventHealth"). The City of Port Orange does not object to the assignment to AdventHealth, as this is the name of the entity that is under contract to purchase the property that is subject to the BSRA.

If you have any questions or concerns, please do not hesitate to contact me.

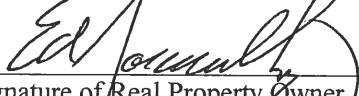
Best Regards,

Penelope G. Cruz
Planning Manager

EXHIBIT C
Site Access Agreement

**SITE ACCESS AGREEMENT
PERMISSION TO ENTER PROPERTY
BROWNFIELDS REDEVELOPMENT PROGRAM**

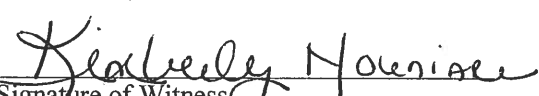
1. Memorial Health Systems, Inc. d/b/a AdventHealth Daytona Beach, the real property owner ("undersigned" or "owner"), hereby grants permission to the State of Florida, Department of Environmental Protection ("Department") and its agents and subcontractors to enter the undersigned's property ("the property") located at 5811 Williamson Boulevard, Port Orange, FL 32128 as described in **Attachment A** attached to the Brownfield Site Rehabilitation Agreement ("BSRA") for the brownfield site assigned the Brownfield Site Identification Number **BF641602001**, beginning on the date of execution of the BSRA and ending on such date as deemed appropriate by the Department or the successful completion of the BSRA, whichever occurs first.
2. This permission is contemplated to be used for the following activities that may be performed by the Department, its agents, representatives or subcontractors:
 - a. Having access to areas where contamination may exist.
 - b. Investigation of soil and groundwater including, but not limited to, the installation of groundwater monitoring wells, the use of geophysical equipment, the use of an auger for collection of soil and sediment samples, the logging of existing wells, videotaping, preparation of site sketches, taking photographs, any testing or sampling of groundwater, soil, surface water, sediments, air, and other materials deemed appropriate by the Department and the like.
 - c. Removal, treatment and/or disposal of contaminated soil and water, which may include the installation of recovery wells or other treatment systems.
3. Upon completion of the investigation, the Department will restore the property as near as practicable to its condition immediately prior to the commencement of such activities.
4. The granting of this permission by the undersigned is not intended, nor should it be construed, as an admission of liability on the part of the undersigned or the undersigned's successors and assigns for any contamination discovered on the property.
5. The Department, its agents, representatives or subcontractors may enter the property during normal business hours and may also make special arrangements to enter the property at other times after agreement from the undersigned.
6. The Department acknowledges and accepts any responsibility it may have under applicable law (Section 768.28, Florida Statutes) for damages caused by the acts of its employees acting within the scope of their employment while on the property.
7. In exercising its access privileges, the Department will take reasonable steps not to interfere with the Owner's operations, or the remediation and redevelopment activities pursuant to the BSRA.



Signature of Real Property Owner
Print Name: Ed Nasworthy
Title, if applicable President/CEO

8/22/19

Date



Signature of Witness
Print Name: Kimberly Hourian

08-22-19

Date

JC *Sept.*
Site Access Agreement
Brownfield Site ID #: BF641602001
~~August 6~~, 2019
Page 2 of 2

Accepted by the Department by the following authorized agent:

Signature of Department representative

Print Name: _____

Title of Department representative

Date

Signature of Witness

Print Name: _____

Date

ENVIRONMENTAL ADVISORY BOARD MEETING MINUTES
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE – CITY HALL
2nd FLOOR CONFERENCE ROOM
JANUARY 24, 2017 @ 5:15 P.M.

THE ENVIRONMENTAL ADVISORY BOARD of the City of Port Orange was called to order by Chairman LaMontagne at 5:19 p.m.

Present: Derek La Montagne
 Philip Klema
 Dennis Young
 Kristine Cunningham

Absent: Newton White (Excused)
 James Meadows
 Danielle Elwood

Also, Present: Margaret Tomlinson, Construction/ Engineering Manager
 Barbara Abbate, City Clerk's Office

B. ELECTION OF OFFICERS

Motion was made by Member Klema to nominate Member LaMontagne as the Chairman for the Board. Motion was seconded by Member Young. Motion carried unanimously by voice vote.

Motion was made by Member Young to nominate Member White as the Vice Chairman for the Board. Motion was seconded by Member Klema. Motion carried unanimously by voice vote.

C. DISCUSSION/ACTION

1. Consideration of Minutes

Motion made by Member Klema to accept the minutes from the July 26, 2016 meeting. Motion was seconded by Member Cunningham. Motion carried unanimously by voice vote.

2. Brief overview of the Brownfield Program and update on Site Rehabilitation for the 5811 Williamson Boulevard Brownfield Area.

Michael Sznajstajler, Attorney with Cobb Cole, gave the Board an overview of the Florida Brownfield Program and the Brownfield Advisory Board. Mr. Sznajstajler passed out a power point presentation and reviewed it with the Board. He also went over the cleanup process, and options to cleanup a site. Mr. Sznajstajler said any restrictions that were set with the cleanup will still apply if the property is sold.

Mr. Sznajstajler passed out the actual voluntary cleanup agreement between the new owner of 5811 Williamson Blvd and the Department of Environmental Protection that was signed at the end of 2016, and discussed same. Mr. Sznajstajler said Preferred Realty, Inc. and Preferred Storage Port Orange, LLC has signed the contract and plans to put a clement controlled storage facility on the site. Mr. Sznajstajler will update the Board when there is progress to the cleanup and redevelopment.

3. Inaugural Tree-Seedling Program Update.

Chairman LaMontagne asked if there have been any trees given away. Ms. Tomlinson said no, but April 28, 2017 is the Parks & Recreation Arbor Day / Earth Day Event and that's when the trees will be given away. She will bring the information to the April meeting.

4. Foxboro Retention Pond Tree Planting Update.

Chairman LaMontagne asked if there was any money in the tree bank for planting trees in this area. Ms. Tomlinson updated the Board on the tree bank fund. She said \$100,800 will be used for Riverwalk Park.

D. PUBLIC COMMENTS

There was none.

E. BOARD COMMENTS

Member Klema asked about the East Coast Bike Trail that will come through Port Orange. Ms. Tomlinson said there have been some projects submitted to the TPO and one of them is the East Coast Bike Trail. This trail will run through Riverwalk Park and down Halifax Drive. Ms. Tomlinson will have an update for the Board at the April 25, 2017 meeting.

F. NEXT MEETING DATE

5. Next Meeting Date: 4/25/17

G. ADJOURNMENT

*Motion was made by Member Klema to adjourn;
seconded by Member Young. Motion carried
unanimously by voice vote and the meeting
ended at 7:04 p.m.*


Chairman LaMontagne