



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

COUNCIL CHAMBERS – 6:30 PM – CITY HALL
MARCH 17, 2020

A. OPENING

B. DISCUSSION/ACTION

1. Approval of Minutes - September 17, 2019
2. Economic Incentive Agreement with Dunlawton Village LLC
3. Port Orange Town Center CRA Annual Report - FY 2018/2019

C. PUBLIC COMMENTS

D. BOARD COMMENTS

E. ADJOURNMENT

NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE DECISION MAKER WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) 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 OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 OR HEARING 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.

COMMUNITY REDEVELOPMENT AGENCY FOR
PORT ORANGE TOWN CENTER MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
SEPTEMBER 17, 2019

THE REGULAR MEETING of the COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER was called to order by Mayor Donald Burnette at 6:33 p.m.

Roll Call:	Present:	Member Chase Tramont Member Drew Bastian Member Scott Stiltner Member Marilyn Ford Member Donald Burnette
	Absent:	Vice Chairman Stan Schmidt Chairman Raymond Donadio
	Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Robin Fenwick, City Clerk

DISCUSSION/ACTION

Motion to nominate Member Chase Tramont to Chair the meeting as the Chairman and Vice Chairman are absent was made by Member Stiltner and Seconded by Member Ford. Motion carried unanimously by voice vote.

1. Approval of Minutes – March 26, 2019

Motion to approve the Minutes of March 26, 2019 was made by Member Stiltner and Seconded by Member Burnette. Motion carried unanimously by voice vote.

2. Resolution No. 19-1 - Proposed Port Orange Town Center CRA Tax Increment District FY20 Operating Budget

Member Tramont read Resolution No. 19-1.

RESOLUTION NO. 19-1

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER, VOLUSIA COUNTY, FLORIDA; RECOMMENDING ADOPTION OF THE TENTATIVE TOWN CENTER TAX INCREMENT DISTRICT OPERATING BUDGET FOR FISCAL YEAR OCTOBER 1, 2019

THROUGH SEPTEMBER 30, 2020; SETTING FORTH ANTICIPATED SOURCES OF REVENUE IN THE ESTIMATED AMOUNT OF \$474,021; SETTING FORTH EXPENDITURES IN AN EQUIVALENT AMOUNT; PROVIDING FOR AMENDMENTS; PROVIDING FOR APPROPRIATION AND PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Resolution No. 19-1 was made by Member Stiltner and Seconded by Member Bastian. Motion carried unanimously by roll call vote.

PUBLIC COMMENTS – There were none.

BOARD COMMENTS – There were none.

ADJOURNMENT: 6:36 p.m.

Chairman Raymond Donadio



COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER

REQUESTED AGENCY MEETING DATE: 3/17/2020

Consent Item: No

SUBJECT: (B2) Economic Incentive Agreement with Dunlawton Village LLC

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve the Economic Incentive Agreement for Dunlawton Village LLC

SUMMARY: Dunlawton Village, LLC has requested financial assistance from the City in the form of Tax Increment Financing (TIF) reimbursement and partial refund/waiver of development fees through the City's Targeted Business Program related to the redevelopment of the property at 415 Dunlawton Avenue. The new Dunlawton Village office complex is located in the Dunlawton Village section of the Town Center Community Redevelopment Area (CRA). The multi-building office complex includes two new buildings that include the following uses: mortgage brokerage, financial counseling and accounting services, law office, mortgage lender, insurance agency, and the corporate office for Gaff's Realty.

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

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

The purpose of the incentives is to promote positive forms of new development and redevelopment; reward the creation and retention of value-added jobs; attract targeted businesses; revitalize the Port Orange Town Center redevelopment areas; increase the nonresidential tax-base; and foster a diverse employment base within the City.

According to the applicant's letters of request, Dunlawton Village, LLC is making a \$1,637,924 investment in the City including construction of a 4,109 square-foot multi-tenant office building and a 2,763 square-foot office building for Gaff's Realty. Gaff's Realty is an existing Port Orange-based business and the request letter states that the

new office complex will keep the business in the City and allow for new growth of smaller businesses in the CRA.

TIF Reimbursement: The applicant has requested a maximum reimbursement of \$500,000 to be paid over a 16-year TIF revenue sharing period. The reimbursement would be based on the applicant receiving 50% of the portion of the property tax increment revenue received by the CRA and directly attributable to the Dunlawton Village development. The reimbursement funds would be used to partially offset the costs of public improvements and public benefits created by architectural/aesthetics, parking, streets and drive aisles accessible to the public, lighting, drainage, utilities, landscaping, exterior signs, traffic control devices, stormwater mitigation and other public benefits created by the Dunlawton Village development.

Targeted Business Program: The applicant has requested a refund or waiver of \$22,640 in site development and building permit review fees. The refund/waiver may not be applied to impact fees and utility connection fees. The amount of assistance is based on actual fees paid to date and estimates of final development fees that must be paid before Certificate of Occupancy can be issued. Total development review fees due are estimated to be approximately \$43,455.

ATTACHMENTS:

1.	Dunlawton Village Economic Incentive Agreement with exhibits	Dunlawton Village EIA.pdf
2.	Dunlawton Village TIF Sharing Request Letter	Dunlawton Village TIF Sharing Request Letter.pdf
3.	Dunlawton Village Chapter 20 Request Letter	Dunlawton Village Chapter 20 Request Letter.pdf

Penelope Cruz	Created/Initiated - 2/26/2020
Tim Burman	Approved - 2/28/2020
Scott Neils	Approved - 2/28/2020
Shannon Balmer	Approved - 3/10/2020
Jake Johansson	Approved - 3/11/2020
Robin Fenwick	Final Approval - 3/11/2020

AGENCY ACTION: New
CONTINUATION DATE:

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

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

BY AND BETWEEN

PORT ORANGE TOWN CENTER
COMMUNITY REDEVELOPMENT AGENCY
and

CITY OF PORT ORANGE, FLORIDA,

and

DUNLAWTON VILLAGE, LLC, A FLORIDA LIMITED LIABILITY COMPANY

Dated as of _____, 2020

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

This Economic Development Incentive Program Agreement by Resolution No. 17-14 (the “Incentive Agreement”), dated as of _____, 2020, is entered into by and between the **Community Redevelopment Agency for Port Orange Town Center**, a special purpose unit of local government organized and existing under Chapter 163, Part III, the laws of the State of Florida (the “Agency”) and the **City of Port Orange**, Florida, a municipal corporation (the “City”) and **Dunlawton Village, LLC, a Florida limited liability company** (the “Owner”).

W I T N E S S E T H:

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

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

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

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

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

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

WHEREAS, the Agency, finding it to be in the best interest of the Agency and the health, safety and welfare of the citizens of the City of Port Orange, Florida (the “City”), intends to provide certain economic incentives to the Owner in order to facilitate the development of the Property with the expectation that the Agency’s involvement will encourage and accelerate the timing of the development, thus preserving the property values in the Port Orange Town Center Redevelopment Area, enhancing and expanding economic development and activity within Port

Orange Town Center Redevelopment Area in order to provide a stronger, more balanced, and stable economy, enhance and preserve employment opportunities for residents, promote and further the redevelopment of the Port Orange Town Center Redevelopment Area and assist in the funding of certain public improvements as described herein (collectively, the “Public Benefits”); and

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

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

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

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

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

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

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

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

Section 5. Nature of and Authority for Agreement. This Agreement constitutes an economic and business development incentive agreement between the Parties consistent with the economic development objectives of the Agency and the business development objective of the Owner, and does not constitute the creation of a joint venture, partnership or any other form of business enterprise between the Parties. This Agreement contemplates reimbursement to the Owner from the Community Redevelopment Agency for Town Center Trust Fund of significant costs to be incurred by the Owner to construct public improvements needed for the Project,

including but not limited to water, sewer, roadway improvements and stormwater retention/detention and to otherwise promote Public Benefits. The Agency and the City have determined that payment of the amounts set forth herein furthers a critical public interest of the Agency to attract and retain retail and residential development in the Community Redevelopment Area for Port Orange Town Center.

Section 6. Agreement to Develop Property. The Owner hereby represents and warrants to the Agency and the City that Owner will expend not less than One Million Six Hundred Thirty-Seven Thousand Nine Hundred Twenty-Four and NO/100 Dollars (\$1,637,924.00) in Development Costs in connection with the development of the Property as shown on the plans stamped “Approved for Construction.” Within sixty (60) days of the Substantial Completion of the Project, the Owner shall submit to the Agency and the City, the Development Costs Certificate (certified as being true and correct by the Owner). Owner shall not be entitled to any Development Increment TIF pursuant to this Section until Owner provides the Development Costs Certificate.

The Owner agrees the improvements constituting the development of the Property having an estimated assessed value of not less than \$1,637,924.00 shall be permitted and construction shall commence not later than 12 months from the date of this Agreement. Construction of the Project and shall be complete and a Certificate of Occupancy obtained not later than 24 months after the date of this Incentive Agreement.

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

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

B. **Application of City Code.** All procedures for processing of Development Applications, and all substantive, procedural, engineering, architectural design and development standards and other technical requirements and standards set forth in the City Code will, notwithstanding any provision of this Agreement, govern and control with respect to zoning, subdivision, site development, and other matters affecting development of the Property, the Public Improvements and obligations with respect thereto. Procedures, standards and requirements associated with Public Improvements and assurance of completion obligations will be governed by the plans stamped “Approved for Construction”, subdivision or site improvement agreements and the issuance of a Development Order. The Owner will be obligated to pay to the

City all nominal application and permit fees related to its development of the Property, including but not limited to application and permit fees for sign permits, impact fees, Building Permits, construction documents, construction inspections, right-of-way permits, amendments to approved Development Plans, Grading, Erosion, Sediment Control (“GESCC”) permits, or other applications or permits required by other service providers or agencies having jurisdiction over the Property except as otherwise described herein.

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

A. If the Owner expends not less than One Million Six Hundred Thirty-Seven Thousand Nine Hundred Twenty-Four and NO/100 Dollars (\$1,637,924.00) in Development Costs in connection with the development of the Project, the Agency hereby agrees to provide an economic incentive to the Owner in the form of a rebate of Fifty percent (50%) of the portion of the Tax Increment Revenue received by the Agency and directly attributable to the Property (“Tax Increment Rebate”), provided, however, that the total amount so shared shall be limited to the lesser of (i) the cost of the Public Improvements and Public Benefits expended by Owner and (ii) the Revenue Sharing Cap Amount (the “Total Tax Increment Rebate”).

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

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

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

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

ii. The millage rate applied to determine the contribution to the Community Redevelopment Agency for Town Center Trust Fund is based upon the millage rates of the taxing authorities which contribute to the Community Redevelopment Agency for Town Center Trust Fund, including the City, and is subject to change as provided by law.

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

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

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

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

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

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

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

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

Section 9. Use of Funding Disbursement Revenues by the Owner. Funding Disbursements distributed to the Owner will be applied only for a public purpose which will advance (or which has advanced) the redevelopment of the Community Redevelopment Area for Port Orange Town Center and is permitted by the Port Orange Town Center Redevelopment Plan, including, without limitation, Public Improvements and Public Benefits. For purposes of

this Agreement, “public purpose” will include, without limitation, the acquisition, design, construction, installation, erection, repair or maintenance of Public Improvements and other activities that promote Public Benefits, which for purposes of this Agreement include but are not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

incurred by the Owner in the preparation of the initial certification and any supplemental certification contemplated by Section 9 will be reimbursable from Funding Disbursement revenues as a “public purpose” within the meaning of Section 9 of this Incentive Agreement.

Section 11. Chapter 20 Economic Development Incentives. Pursuant to the Targeted Businesses Program (“TBP”) as established in Chapter 20 of the City of Port Orange Land Development Code, as may be amended from time to time, City shall grant to the Owner a credit of Twenty-Two Thousand Six Hundred Forty and 65/100 Dollars (\$22,640.65) that may be applied to fees, excluding impact fees and storm water special assessment fees, as charged by the City for building permits and inspection fees.

Section 12. Defaults and Remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Facsimile: 386-756-5208

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

Dunlawton Village, LLC
5808 Nob Hill Boulevard
Port Orange, FL 32127
Attn: Andrea Davis

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

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

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

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

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

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

Section 29. Third Party Challenges. In the event of any Legal Challenge by a third party to the validity or enforceability of any provision of this Agreement or any constituent element of the Development Plan, the Parties will cooperate in the defense of such challenge and

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

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

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

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

**COMMUNITY REDEVELOPMENT AGENCY
for PORT ORANGE TOWN CENTER**

Attest:

_____, Chairman

Robin L. Fenwick, MMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this ____ day of _____, 2020, by _____, as the Chairman of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [] is personally known to me or [] has produced _____ as identification.

[Notary Stamp]

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this ____ day of _____, 2020, by Robin L. Fenwick, MMC, as City Clerk of the Community Redevelopment Agency for Port Orange Town Center, on behalf of the Agency. Said person [] is personally known to me or [] has produced _____ as identification.

[Notary Stamp]

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

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

CITY OF PORT ORANGE, FLORIDA

Attest:

By: _____
Donald O. Burnette, Mayor

Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this ____ day of _____, 2020, by Donald O. Burnette, as the Mayor of the City of Port Orange, Florida, on behalf of the City. Said person [____] is personally known to me or [____] has produced _____ as identification.

[Notary Stamp]

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this ____ day of _____, 2020, by Robin L. Fenwick, MMC, as City Clerk of the City of Port Orange, Florida, on behalf of the City. Said person [____] is personally known to me or [____] has produced _____ as identification.

[Notary Stamp]

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

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

**Dunlawton Village, LLC, a Florida
Limited Liability Company**

Printed Name:_____

By:_____Andrea Davis, Managing Member

(SEAL)

Printed Name:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization this _____ day of _____, 2020, by Andrea Davis, as Managing Member of Dunlawton Village, LLC a Florida Limited Liability Company on behalf of said corporation, who is personally known to me or has produced _____ as identification.

[Notary Stamp]

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

Exhibit “A”

Definitions

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

1. **“Affiliate”** means any person (a) that directly or indirectly controls, is controlled by or is under common control with the Owner, (b) who is an officer, manager, employee, or agent of, partner in, or trustee of , or serves in a similar capacity with respect to, the Owner, (c) of which the Owner is an officer, manager, employee, agent, partner, or trustee or serves in a similar capacity, or (d) who is a member of the Owner’s family.
2. **“Agency”** has the meaning set forth in the initial paragraph of this Agreement.
3. **“Agreement”** means this Incentive Agreement and any Exhibits attached hereto, all of which are incorporated herein by this reference, as amended from time to time in accordance with its terms.
4. **“Base Year”** shall have the meaning ascribed to such term in Section 8.B.
5. **“Building Permit”** means any site development approved by the city, and any building permit, occupancy permit, signage permit, fence permit, electrical permit, grading permit, or similar permit required by City Code and/or City’s development or building code, electrical code, plumbing code, fire code, or similar code, as in effect from time to time.
6. **“Building Codes”** means City’s adopted building code, electrical code, plumbing code, fire code, and other similar codes, as in effect from time to time.
7. **“City”** has the meaning set forth in the preambles of this Agreement.
8. **“City Code”** means the Municipal Code of City of Port Orange, Florida (including the Land Development Code and the Building Code and any similar separately codified regulations), as in effect from time to time (or, where the Agreement expressly states, at a particular time stated).
9. **“City Council”** means City Council of the City.
10. **“Default”** has the meaning set forth in Section 12 of this Agreement.
11. **“Development Agreement”** means approved development plans stamped “Approved for Construction” by the City.
12. **“Development Application”** means the substantially complete application submitted to City by the Owner for any development, subdivision, zoning, site plan or similar land use approval relating to development of any property within the Property, including, without limitation, an application for any zoning or re-zoning, site plan, subdivision plat, Building

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

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

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

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

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

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

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

Exhibit A — Definitions

Exhibit B —Legal Description of the Property

Exhibit C —Resolution No. 2017-14

Exhibit D — Approved Site Plan

Exhibit E —Developer’s Cost Certificate

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit B

LEGAL DESCRIPTION:

THE EAST 60 FEET OF THE WEST 150 FEET ON DUNLAWTON AVENUE OF LOT 3 EAST OF RR, BLOCK M, WILSONS PORT ORANGE EXC ST. PER OR 2477, PAGE 1441, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

TOGETHER WITH

THE EAST 40 FEET OF THE WEST 90 FEET OF LOT 3 AND THE WEST 50 FEET OF THE SOUTH 115 FEET OF LOT EAST OF RR, BLOCK M, WILSON PORT ORANGE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

TOGETHER WITH

THE WESTERLY 93 FEET OF THE EASTERLY 343 FEET OF LOT 2, AND THAT PORTION OF A 50 FOOT STRIP IN LOT 3, LYING EASTERLY OF AND ADJACENT TO THE EASTERLY LINE OF THE FLORIDA EAST COAST RAILROAD RIGHT-OF-WAY AND THE NORTHERLY OF A LINE LOCATED 120 FEET SOUTHERLY FROM AND PARALLEL WITH THE NORTHERLY LINE OF LOT 2, ALL IN BLOCK M, WILSON'S SUBDIVISION OF PORT ORANGE, FLORIDA AS PER MAP IN MAP BOOK 1, PAGE 154, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

TOGETHER WITH

THE WESTERLY 50 FEET OF THE EASTERLY 250 FEET OF LOT 2, BLOCK "M", WILSON'S PORT ORANGE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 1, PAGE 154, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, EXCEPTING THEREFROM THE NORTHERLY 5 FEET.

CONTAINING 0.74 ACRES MORE OR LESS.

EXHIBIT B - LEGAL DESCRIPTION

PROJECT: 842 DUNLAWTON VILLAGE, LLC

SCALE: NONE

FILE: 842-CRA SITE PLAN

DATE: 6/18/19; 11/20/19

THE PERFORMANCE GROUP

CIVIL ENGINEERING / PLANNING / DEVELOPMENT



JOSEPH H. HOPKINS, P.E. NO. 48059
100 MARINA POINT DR., DAYTONA BEACH, FL. 32114
TELEPHONE: (386) 239-7166 FAX: (386) 239-7120

Exhibit “C”

Resolution No. 17-14

Exhibit C

RESOLUTION NO. 17-14

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROGRAM REQUIREMENTS:

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

following Districts of the Town Center CRA as follows:

**Dunlawton Village District
Down Under District
Causeway District
Ridgewood Avenue District**

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

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

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

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

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

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

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

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

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

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

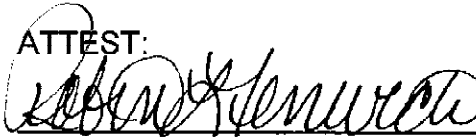
SECTION 6. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions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

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



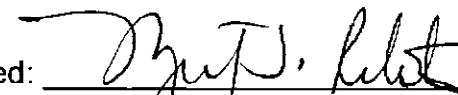
MAYOR DONALD O. BURNETTE

ATTEST:



Robin L. Fenwick, CMC, City Clerk

Adopted on the 28 day of March, 2017.

Reviewed and Approved: 

Margaret T. Roberts, City Attorney

Exhibit “A”

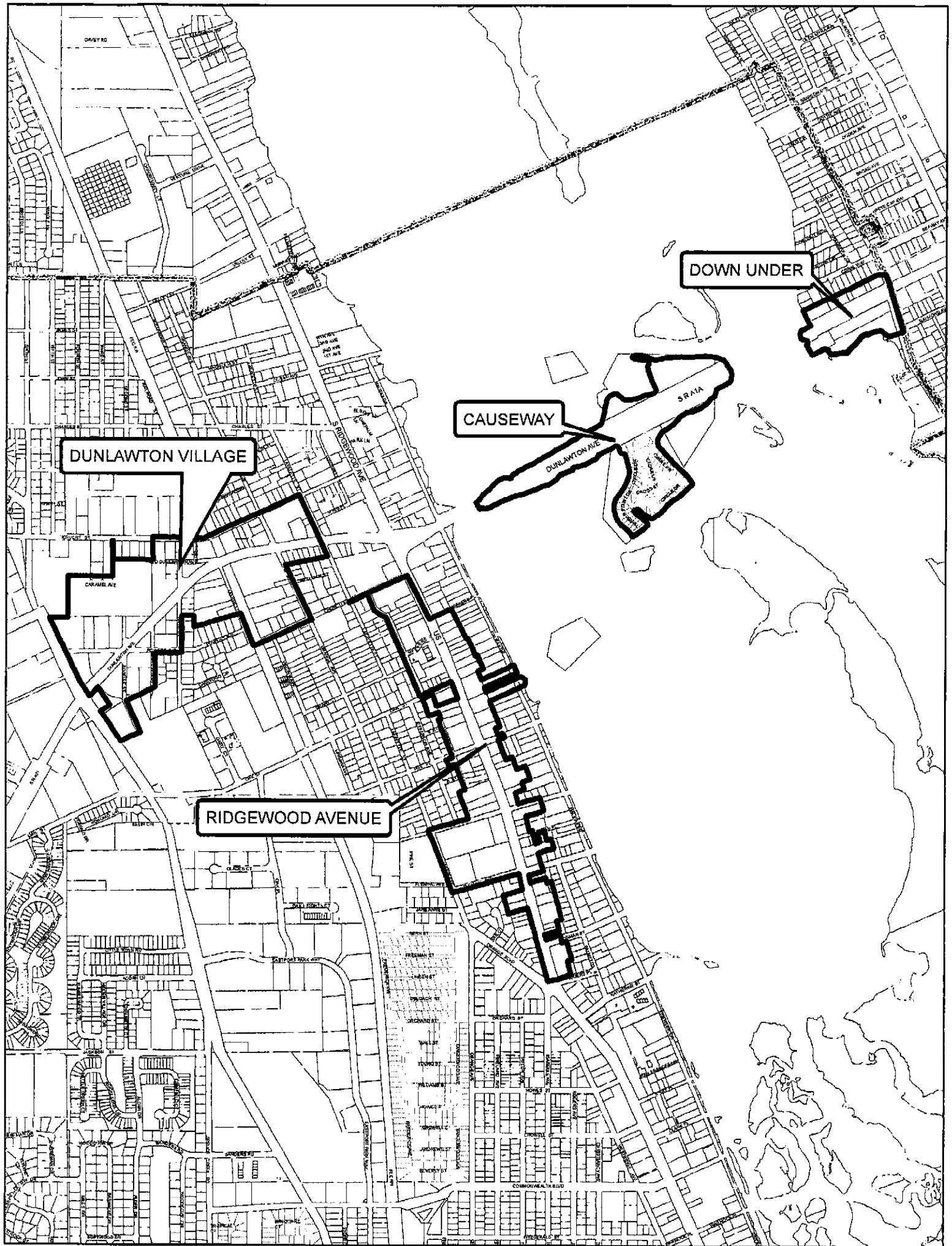


Exhibit "B"
Attached to Resolution No. 17-14

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

BY AND BETWEEN

**PORT ORANGE TOWN CENTER
COMMUNITY REDEVELOPMENT AGENCY
and**

**CITY OF PORT ORANGE, FLORIDA,
and**

Dated as of _____, 2017

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

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

WITNESSETH:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 12. Defaults and Remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To the Owner:

With a copy to:

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

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

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

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

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

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

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

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

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

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

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

**COMMUNITY REDEVELOPMENT AGENCY
for PORT ORANGE TOWN CENTER**

Attest:

_____, Chairman

Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

[Notary Stamp]

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

[Notary Stamp]

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

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

CITY OF PORT ORANGE, FLORIDA

By: _____
Donald O. Burnette, Mayor

Attest:

Robin L. Fenwick, CMC, City Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

[Notary Stamp]

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

[Notary Stamp]

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

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

Printed Name: _____ By: _____

Printed Name: _____ (SEAL)

STATE OF FLORIDA
COUNTY OF _____

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

[Notary Stamp]

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

Exhibit "A"

Definitions

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

1. **"Affiliate"** means any person (a) that directly or indirectly controls, is controlled by or is under common control with the Owner, (b) who is an officer, manager, employee, or agent of, partner in, or trustee of, or serves in a similar capacity with respect to, the Owner, (c) of which the Owner is an officer, manager, employee, agent, partner, or trustee or serves in a similar capacity, or (d) who is a member of the Owner's family.
2. **"Agency"** has the meaning set forth in the initial paragraph of this Agreement.
3. **"Agreement"** means this Incentive Agreement and any Exhibits attached hereto, all of which are incorporated herein by this reference, as amended from time to time in accordance with its terms.
4. **"Base Year"** shall have the meaning ascribed to such term in Section 8.B.
5. **"Building Permit"** means any site development approved by the city, and any building permit, occupancy permit, signage permit, fence permit, electrical permit, grading permit, or similar permit required by City Code and/or City's development or building code, electrical code, plumbing code, fire code, or similar code, as in effect from time to time.
6. **"Building Codes"** means City's adopted building code, electrical code, plumbing code, fire code, and other similar codes, as in effect from time to time.
7. **"City"** has the meaning set forth in the preambles of this Agreement.
8. **"City Code"** means the Municipal Code of City of Port Orange, Florida (including the Land Development Code and the Building Code and any similar separately codified regulations), as in effect from time to time (or, where the Agreement expressly states, at a particular time stated).
9. **"City Council"** means City Council of the City.
10. **"Default"** has the meaning set forth in Section 12 of this Agreement.
11. **"Development Agreement"** means **"Project"** and approved development plans stamped "Approved for Construction" by the City.
12. **"Development Application"** means the substantially complete application submitted to City by the Owner for any development, subdivision, zoning, site plan or similar land use approval relating to development of any property within the Property, including, without limitation, an application for any zoning or re-zoning, site plan, subdivision plat, Building

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

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

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

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

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

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

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

Exhibit A — Definitions

Exhibit B —Legal Description of the Property

Exhibit C —Resolution No. 2017-14

Exhibit D — Approved Site Plan or equivalent

Exhibit E —Developer’s Cost Certificate

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit "B"

Legal Description of the Property

Exhibit "C"

Resolution No. 17-14

Exhibit "D"

Approved Site Plan or Equivalent

Exhibit "E"

Development Costs Certificate

DEVELOPMENT COSTS CERTIFICATE

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

_____, a

By: _____

Exhibit “D”

Approved Site Plan & Architectural Elevations

INDEX OF SHEETS

6. ALL EXISTING SURFACE IMPROVEMENTS AND UNDERGROUND STORM DRAINAGE FOUNDATIONS SHALL BE REMOVED WITHIN THE PROJECT BOUNDARY LIMITS.

Digitally signed by Joseph H Hopkins
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o=IdenTrust ACES
Unaffiliated
Individual, cn=Joseph
H Hopkins,
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Date: 2018.07.10
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P.E. LIC. 48059
BUS. CERT. LIC. 7175

Dunlawton Village Architecture





Exhibit “E”

Development Costs Certificate

DEVELOPMENT COSTS CERTIFICATE

The undersigned hereby certifies to the Port Orange Town Center Community Redevelopment District, a public agency and body corporate created pursuant to 163.356, Florida Statutes (“Agency”), that Dunlawton Village, LLC, a Florida limited liability company has actually paid \$1,637,924.00 in hard and soft costs to third parties unaffiliated with Owner in connection with the development of the Project, as defined in the Economic Development Incentive Program Agreement dated _____, by and between the Agency, the City of Port Orange, and Dunlawton Village, LLC, as reflected in the Certified Engineers Cost Estimate, attached hereto as **Exhibit “1”** and the approved site or subdivision plan, conceptual development plan as contained in a Master Development Agreement, or building plans approved by the City. All statements made and incorporated herein are true and correct in all material respects.

**Dunlawton Village, LLC, a Florida Limited
Liability Company**

By: _____
Andrea Davis, Managing Member

THE PERFORMANCE GROUP



January 27, 2020

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

Ref: Economic Incentive Program (Resolution No. 17-14)
Dunlawton Village, LLC

Dear Mr. Johansson:

Dunlawton Village LLC is currently in the process of investing a total of \$1,637,924 in the City of Port Orange Town Center Community Redevelopment Area. The first phase included the development of a 4109 sq. ft. multi-tenant office building and related site improvement. The first phase of redevelopment was completed on April 24, 2019. We are now entering the second phase of redevelopment which will include a 2763 sq. ft. office building to serve as the corporate office for Gaff's Realty with an expected completion date of February 2020.

The manager of Dunlawton Village, LLC has had a presence in the Port Orange community for decades and also owns and operates the aforementioned Gaff's Realty. Their investment in the CRA will include the creation of quality office space which has exhibited high demand in the first phase of redevelopment; so much so that all but one of the newly constructed office space has been leased to new and relocating businesses within only a few weeks of completion. The second phase of redevelopment will include more of the same but will serve the expanding needs of Gaff's Realty, its agents, staff and the community.

The current tax value of the property based on the 2019 assessment is \$193,018. With the millage rate of 11.0631 the current tax yield is \$2135.38 for 2019. Based on the overall value of this redevelopment plan, the new taxable amount will be \$1,637,327 and at the current millage rate will result in a tax yield of approximately \$18,113.91, or a \$15,978.53 increase over the current 2019 assessment.

**CIVIL ENGINEERING
PLANNING
DEVELOPMENT**

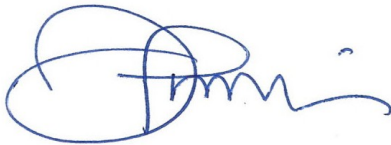
Mr. Michael J. Johansson
January 27, 2020
Page 2 of 2

Dunlawton Village, LLC was inspired to reinvest in the Port Orange Town Center CRA due in part to the Economic Incentive Program adopted by the CRA and the City. With the intent of the Program to incentivize positive development, job creation and revitalization of the Town Center, Dunlawton Village's actions are well within the overall intent and fundamental objectives of the Economic Incentive Program. Dunlawton Village has already brought six (6) new businesses with over 15 employees to the Town Center and is planning to add 50 – 100 new real estate agents in the coming year as a result of the expansion of their corporate headquarters.

Dunlawton Village, LLC's capital expenditure of \$1,007,558 towards public improvements and public benefits which include without limitation, the acquisition, design, construction, installation, erection, repair or maintenance (Resolution 17-14, Section 9). The Economic Incentive Program will allow for a maximum reimbursement of \$500,000 over the remaining 16-years of the program. The reimbursements made by the CRA through the Economic Incentive Program will help offset a portion of the cost associated with the public improvements and public benefits created by Dunlawton Village, LLC and its redevelopment plan.

With this letter I have attached a certified Engineer's Estimate of the cost associated with this redevelopment project. We respectfully request your consideration, as well as the consideration of the Council and CRA to provide the financial incentives granted through the Economic Incentive Program adopted by the City and the Town Center CRA (Resolution 17-14).

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Hopkins", with a large, stylized initial "J" and a long, sweeping underline.

Joseph H. Hopkins, P.E.
President

THE PERFORMANCE GROUP



February 4, 2020

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

Ref: Chapter 20 - Economic Development Incentive – Land Development Code
Dunlawton Village, LLC
415 Dunlawton Avenue

Dear Mr. Johansson:

I have the pleasure of representing Dunlawton Village LLC who is in the process of investing over \$1,637,924 in the City of Port Orange Town Center Community Redevelopment Area. In conjunction with this effort, Dunlawton Village, LLC is seeking Economic Development Incentives pursuant to the provisions of LDC – Chapter 20.

Dunlawton Village LLC, has completed the development of a new 4109 sf office complex that has brought six (6) new businesses and fifteen (15) new employees to the Town Center CRA. In addition, Dunlawton Village, LLC is in the process of completing the redevelopment of the new 2763 sf Gaff's Realty Office. This new facility will replace the original 1450 sf office and will serve as the headquarters for over 230 existing real estate agents. Gaff's Realty anticipates adding an additional 50-100 agents in the coming year as a result of the expansion of their headquarters. This facility will also serve as a community hub for people seeking information about the City, surrounding community and affordable housing. These improvements will stand as a model and catalyst for redevelopment opportunities for other properties in the Dunlawton corridor and Town Center CRA.

The LDC describes the "Purpose and Intent" of the incentive program and outlines specific objectives which Dunlawton Village, LLC has achieved as part of the overall redevelopment of the subject property. These direct accomplishments are outlined below:

- Promote positive forms of new development and redevelopment
- Reward the creation and retention of value-added jobs

**CIVIL ENGINEERING
PLANNING
DEVELOPMENT**

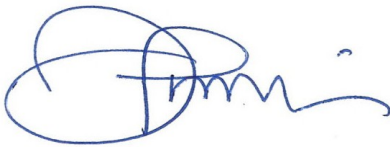
Mr. Michael J. Johansson
February 4, 2020
Page 2 of 2

- Revitalize the Port Orange Town Center
- Increase the nonresidential tax-base
- Foster a diverse employment base within the city.

In redeveloping this property Dunlawton Village, LLC incurred expenses from the City of Port Orange that total \$43,455. Through the provisions of LDC Chapter 20, Dunlawton Village is seeking the City's assistance in the form of a refund of City fees in the amount of \$22,640.65.

Without the benefit of outstanding corporate citizens like Dunlawton Village, LLC and their investment in the Town Center CRA, we would not reap the benefits of this truly outstanding example of redevelopment in the City of Port Orange. I am hopeful that you will agree and support this request for economic development incentive.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Hopkins", with a large circular flourish at the beginning.

Joseph H. Hopkins, P.E.
President



COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER

REQUESTED AGENCY MEETING DATE: 3/17/2020

Consent Item: No

SUBJECT: (B3) Port Orange Town Center CRA Annual Report - FY 2018/2019

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to accept the FY 2018/2019 Annual Report for the Port Orange Town Center Community Redevelopment Agency.

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

ATTACHMENTS:

1.	FY 18-19 POTC CRA Annual Report	FY 18-19 POTC CRA Annual Report.pdf
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Penelope Cruz	Created/Initiated - 2/28/2020
Tim Burman	Approved - 2/28/2020
Scott Neils	Approved - 2/28/2020
Jake Johansson	Approved - 3/2/2020
Robin Fenwick	Final Approval - 3/11/2020

AGENCY ACTION: New
CONTINUATION DATE:

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



ANNUAL REPORT FY 18/19

Port Orange Town Center CRA

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THIS IS TOWN CENTER

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

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

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

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

The original base year taxable value within POTC as of the day the CRA was created was \$29,588,416. Based on the Volusia County Property Appraiser’s Final Tax Roll data, there was \$2,239,256 increase in taxable value between 2018 and 2019. The 2019 total taxable value within the POTC CRA stands at \$45,836,467.

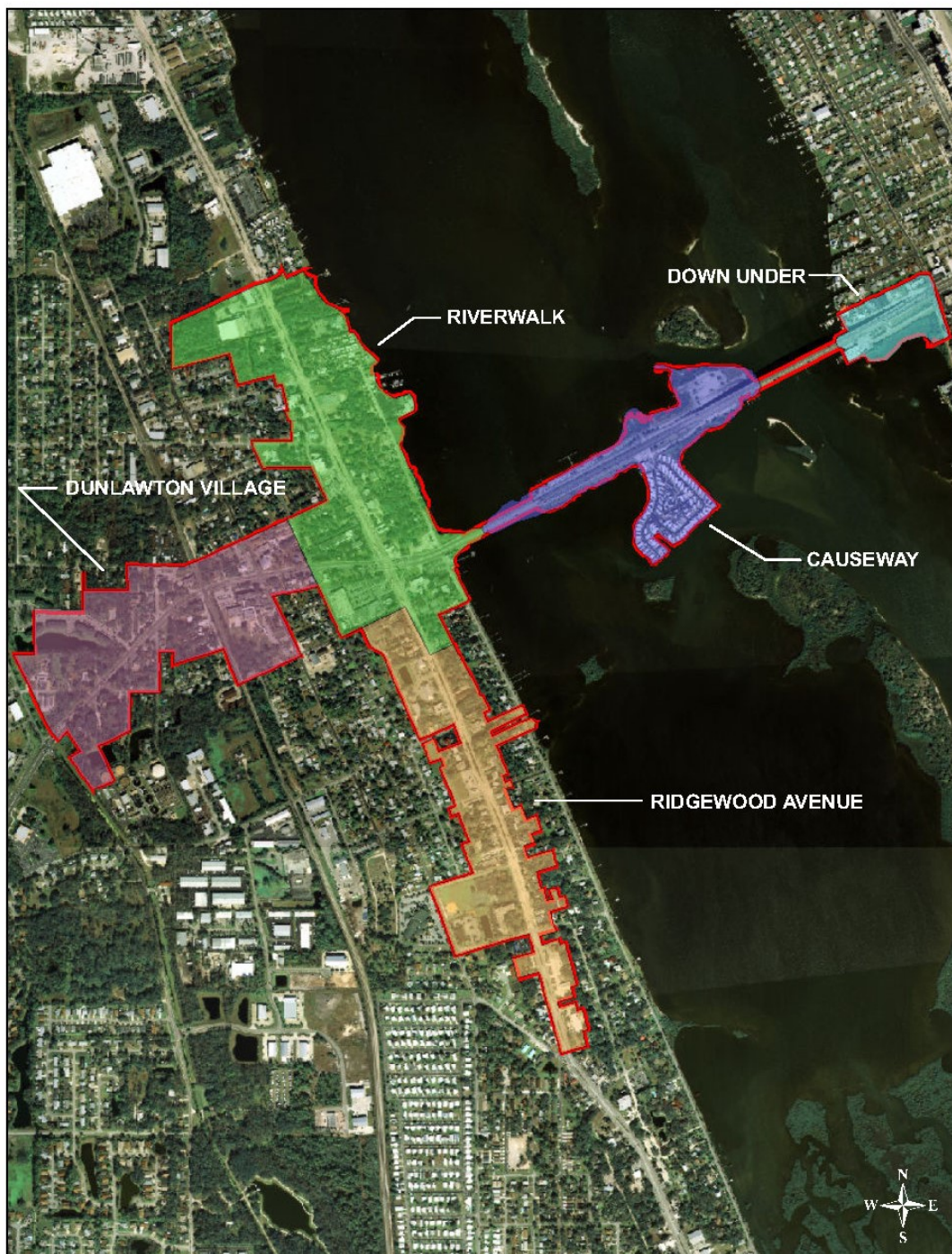
The County of Volusia and Halifax Hospital participate in the Tax Increment Trust Fund and are valued partners in the City’s redevelopment efforts.

The Port Orange Town Center CRA, outlined in red on page 4, is approximately 271 acres in size and represents 1.32% of the City’s total tax base.

Points of Interest

- The Port Orange Town Center (POTC) CRA was created in 1998, with an original taxable value of \$29,588,416.
- POTC CRA is comprised of five Special Character Districts: Riverwalk, Causeway, Down Under, Dunlawton Village, and Ridgewood Avenue.
- The Riverwalk Project Area comprises 35 acres out of the total 271 acres in POTC CRA.
- The taxable values in POTC CRA have grown 55% since 1998.

Port Orange Town Center CRA Boundary



REDEVELOPMENT PLAN & GOALS

The Port Orange Town Center (POTC) Redevelopment Plan was originally adopted in 1998. Amendments to the Plan were adopted in 2007, 2014, and 2016 to facilitate redevelopment in the Riverwalk Project area. The Redevelopment Plan will continue to be used to guide redevelopment activities throughout the entire POTC Community Redevelopment Area (CRA) until the sunset of the CRA in 2036. The POTC Redevelopment Plan is available for review on the City's website. POTC CRA Webpage: <https://www.port-orange.org/374/Port-Orange-Town-Center-CRA>

The POTC Redevelopment Plan establishes a series of goals, objectives and policies designed to ensure that this historic area of the community remains a viable center of commercial and civic activity. The nine (9) primary goals of the plan are:

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

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

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

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

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

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

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

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

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

REDEVELOPMENT ACTIVITIES UPDATE

Implementation of the plans, projects and programs identified in the POTC Redevelopment Plan is largely dependent on available revenues. During FY 2018/2019, the POTC Community Redevelopment Agency (CRA) operated with an adopted budget of \$479,503. Of that amount, 93% went towards debt service obligations, leaving very limited amount of funding for plan implementation.

Development projects completed, under construction, or under review between September 2018 and October 2019:

- **Jimmy Hula's** (65 Dunlawton Avenue) - ±3,700 square-foot restaurant, along with associated site improvements
- **Dunlawton Village** (415 Dunlawton Avenue) – construction of a ±5,570 square-foot multi-tenant office building at the Gaff's Realty Company site, and construction of a ±2,763 square-foot office building for Gaff's Realty, along with associated site improvements
- **Riverwalk Park Trail** (Phase 2) - A 940-foot-long, 20-foot-wide paver/concrete walkway, including landscaping, stormwater, walk lights, and site furnishings (benches, trash cans, bike rack, bollards), along the shoreline of the Halifax River between Ocean Avenue and Herbert Street. The trail was built by Halifax River Partners, LLC, as required by the Riverwalk Master Development Agreement.
- **Dunlawton Street Lighting**— This project that began in 2019 and consists of removing all the white walk lights along both sides of Dunlawton Avenue between Spruce Creek Road and Ridgewood Avenue and installing new LED streetlights along this segment and at the Spruce Creek Road/Dunlawton Avenue and Ridgewood Avenue/Dunlawton Avenue intersections.

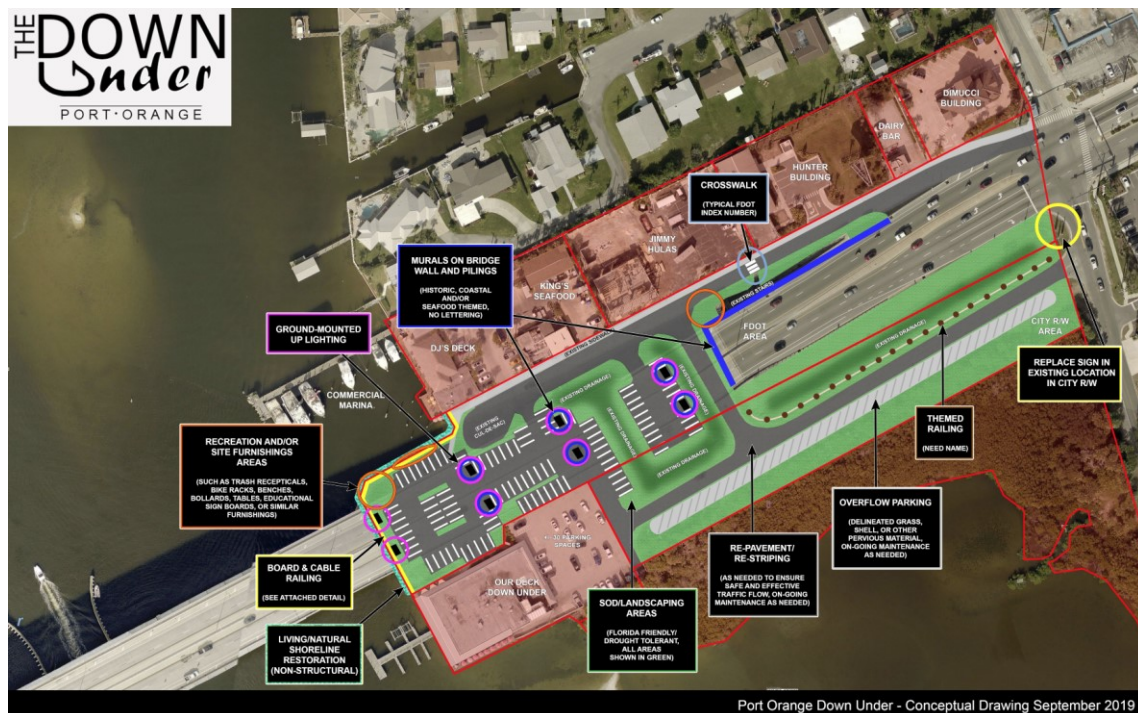


Targeted Business Program

In December 2017, the City adopted regulations for a three-year pilot program for Ridgewood Corridor Targeted Businesses to encourage redevelopment of the corridor. The program applies to all properties along the Ridgewood Corridor, including those in the CRA. The program allows for site improvements to be waived if there is no increase in the size of the existing principal structure. The only upgrades required are those related to accessibility, Building and Fire Code requirements. This pilot program runs until January 31, 2021. Two targeted businesses that have utilized the program are located within the Port Orange Town Center CRA: Waters Edge Dental and La Cantina Cocina Mexican Restaurant.

Down Under District Revitalization Plan

The Down Under is the commercial area located under the Dunlawton Avenue Bridge, west of South Peninsula Drive. The Down Under is one of 5 districts identified in the Port Orange Town Center CRA Plan. City Staff has worked with FDOT to amend the existing Lease Agreement between the City and FDOT for the Down Under to allow the City to implement the planned improvements to make the area a unique destination in the CRA. These proposed improvements to the Down Under are to build upon the recent private redevelopment in this area (e.g. DiMucci building, Hunter building, DJ's Deck, Jimmy Hula's) and improve the aesthetics and vitality of the area. The proposed improvements include murals and ground-mounted lighting on the concrete bridge pilings and walls under the bridge, site furniture, native, drought-tolerant landscaping, master sign replacement, living shoreline improvements, and repaving and striping of the shared parking. Funding is anticipated to be a combination of City funding, funding from community partners and business owners in the Down Under area, and grants.



TAX INCREMENT FINANCING

Tax Increment Financing, often referred to as “TIF”, is a financial method employed to target ad valorem tax revenues to an area that has been designated for redevelopment. Upon creation of a TIF district, a base year for property values within the district is established. Growth in the taxable value of property within the district over time is then applied to the current ad valorem millage rate, resulting in the tax increment revenue. This increment revenue is then deposited into a special Trust Fund account and may only be spent on redevelopment activities that are identified in the adopted redevelopment plan. The ad valorem millage from Volusia County (including General Fund, Echo, Forever, Mosquito Control and Ponce Inlet Port Authority), the City of Port Orange Operating and Halifax Hospital comprise the tax increment millage in Town Center. The FY 2018/2019 adopted budget for the Port Orange Town Center Fund (Fund #103), anticipated \$88,623 in TIF revenue. The City’s unaudited figures show actual receipt of \$150,052 from TIF and \$14,491 in miscellaneous income, for total revenues of \$164,544.



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



FINANCIAL STATEMENT AND DEBT SERVICE

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

In 2007, the Agency pledged its tax increment revenues to support a \$5.6 million bond issue to fund redevelopment activities in Town Center. The majority of the bond proceeds were used to fund property acquisitions in the Riverwalk Project Area. The total debt service payment for the 2007 Town Center TIF Bond for FY 2018/2019 was \$402,813. This represents a payment of \$190,000 in Principal and \$212,063 in Interest plus \$750 in other bond related fees.

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



FINANCIAL STATEMENT

Town Center	Port Orange Audited FY18	Port Orange Unaudited FY19
Assets:		
Equity in pooled cash	\$ 173,372	\$ 199,462
Receivables, net	\$ -	\$ -
Prepaid items	\$ 5,669	\$ 5,966
Total	\$ 179,041	\$ 205,428
Liabilities:		
Accounts payable and accrued liabilities	\$ 1,308	\$ 5,544
Customer deposits	\$ 1,540	\$ 1,540
Deferred Revenue	\$ -	\$ -
Due to other funds	\$ 3,698,306	\$ 4,023,306
Total	\$ 3,701,154	\$ 4,030,390
Sources (Revenues):		
City TIF	\$ 57,551	\$ 61,734
County TIF	\$ 83,541	\$ 83,589
Halifax Hospital TIF	\$ 4,642	\$ 4,729
Property Tax Recovery	\$ -	\$ -
State Grants	\$ 94,861	\$ -
Miscellaneous (includes transfers)	\$ 4,102	\$ 14,491
Total	\$ 244,697	\$ 164,544
Expenditures:		
Contract Services Other	\$ -	\$ 11,507
Communication Services	\$ -	\$ -
Electrical Services	\$ 482	\$ 485
Water/Sewer / Utility	\$ 691	\$ 691
Drainage	\$ 455	\$ 585
Commercial Policy Insurance	\$ 5,670	\$ 5,669
Taxes, Licenses, and Fees	\$ -	\$ -
Insurance 504	\$ -	\$ -
Transfer to 506 Bldg. Maint. Fund	\$ -	\$ -
Dues and Memberships	\$ 548	\$ 485
Other Operating Supplies	\$ 8	\$ -
Land	\$ 1,219,416	\$ -
Professional Svcs/Capital	\$ 167,383	\$ -
Interest Internal Loans	\$ 44,486	\$ 37,718
Other Grants and Aid	\$ 85	\$ 5,439
Transfer to 218 Town Center Bond	\$ 402,374	\$ 404,814
Total	\$ 1,841,598	\$ 467,394
Net change in fund balance	\$ (1,596,901)	\$ (302,850)
Fund balance - Beginning	\$ (1,925,212)	\$ (3,522,113)
Fund Balance - Ending	\$ (3,522,113)	\$ (3,824,962)

TRUST FUND PARTNERS

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



POTC CRA Webpage:
<https://www.port-orange.org/374/Port-Orange-Town-Center-CRA>

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

AGENCY BOARD

Mayor Donald O. Burnette

Vice-Mayor Chase Tramont

Council Member Drew Bastian

Council Member Marilyn Ford

Council Member Scott Stiltner

Raymond M. Donadio, Jr., Chairman

Stan Schmit, Vice-Chairman

Staff support provided by:

M.H. Johansson, City Manager

Matt Jones, City Attorney

Lupe Reyna-Coffin, Budget Manager

Darlene Barnett, Budget Analyst

Kevin Fall, Cap Improvements/Revenue Coordinator

Tim Burman, Community Development Director

Penelope Cruz, Planning Manager

Registered Agent's Name: Penelope Cruz

Registered Office Address:

City of Port Orange

1000 City Center Circle

Port Orange, FL 32129

Phone: 386-506-5671

Fax: 386-506-5699

e-mail: pcruz@port-orange.org