

ORDINANCE NO. 2025-O-14

AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM CITY OF EDGEWATER I-1 (LIGHT INDUSTRIAL) TO CITY OF EDGEWATER MUPUD (MIXED USE PLANNED UNIT DEVELOPMENT) FOR 3.9 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 2945 W PARK AVENUE (PARCEL IDENTIFICATION NUMBER 734408000144 & 743100000128), EDGEWATER, FLORIDA; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF EDGEWATER; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE, RECORDING AND ADOPTION.

WHEREAS, the City Council of the City of Edgewater, Florida, has made the following determinations:

1. DMG 104, LLC, is the owner of property located at 2945 W Park Avenue, within the City of Edgewater, Florida. Subject property contains approximately 3.9 ± acres.
2. The owner has submitted an application for a change in zoning classification from City I-1 (Light Industrial) to City MUPUD (Mixed Use Planned Unit Development) for the property described herein.
3. On October 8th, 2025, the Local Planning Agency (Planning and Zoning Board) considered the application for change in zoning classification and recommended approval by a vote of three in favor, two in opposition.
4. The proposed change in zoning classification is consistent with all elements of the Edgewater Comprehensive Plan.
5. The proposed change in zoning classification is not contrary to the established land use pattern.
6. The proposed change in zoning classification will not adversely impact public facilities.

7. The proposed change in zoning classification will not have an adverse effect on the natural environment.

8. The proposed change will not have a negative effect on the character of the surrounding area.

NOW, THEREFORE, BE IT ENACTED by the People of the City of Edgewater, Florida:

PART A. CHANGE IN ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF EDGEWATER, FLORIDA.

The zoning classification is hereby changed for the property described in **Exhibit “A”** from City I-1 (Light Industrial) to City MUPUD (Mixed Use Planned Unit Development) pursuant to the associated MUPUD Agreement (attached and hereto incorporated as **Exhibit “B”**).

PART B. AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF EDGEWATER, FLORIDA.

The Development Services Director is hereby authorized and directed to amend the Official Zoning Map of the City of Edgewater, Florida, to reflect the change in zoning classification for the above described property.

PART C. CONFLICTING PROVISIONS.

All conflicting ordinances and resolutions, or parts thereof in conflict with this ordinance, are hereby superseded by this ordinance to the extent of such conflict.

PART D. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances, such holding shall not affect its applicability to any other person, property, or

circumstance.

PART E. RECORDING.

Upon approval and execution, this document shall be delivered to the Clerk of Court for recording into the public records of Volusia County, Florida.

PART F. EFFECTIVE DATE.

This Ordinance shall take place upon adoption.

PART G. ADOPTION.

PASSED AND DULY ADOPTED this ____ day of _____, 2025.

Diezel DePew, Mayor

ATTEST:

Monique Toupin, City Clerk

Passed on first reading on the ____ day of _____, 2025

REVIEWED AND APPROVED: _____
Aaron R. Wolfe, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

That portion of U.S. Lot 4, Section 31, Township 17 South, Range 34 East, lying Southerly of the F.E.C. Railway Branchline Northerly of Park Avenue, a 60 foot County Road and Westerly of Airpark Road, a County Road, and less and except any portion of the property conveyed to the County of Volusia in Special Warranty Deed recorded in Official Records Book 7562, Page 3974. Lying and being in Volusia County, Florida.

PARCEL 2:

That portion of Lot 14 of the SUBDIVISION OF THE SOUTH THIRD OF THE AMBROSE HULL GRANT, per Map Book 5, page 54, Public Records of Volusia County, Florida, lying Southerly of the F.E.C. Railway Branchline and Northerly of Park Avenue, a 60 foot County Road, excluding that part described in a certain Deed recorded in Official Records Book 1763, Page 1645, and also excluding any portion of the property conveyed to the County of Volusia in Special Warranty Deed recorded in Official Records Book 7562, Page 3974, Public Records of Volusia County, Florida.

PLAT OF BOUNDARY SURVEY OF

That portion of U.S. Lots 3 and 4, Section 31, Township 17 South, Range 34 East, Volusia County, Florida, lying Southerly of the Florida East Coast Railway (Edgewater Cutoff), lying Northerly of West Park Avenue (County Road 4136) and lying Westerly of "Air Park Road", an 80-foot right of way as now laid out AND that portion of Lot 13, SOUTH 1/3 OF THE AMBROSE HULL GRANT, according to the map or plat thereof, as recorded in Map Book 4, Page 199, of the Public Records of Volusia County, Florida, lying Southerly of the Florida East Coast Railway (Edgewater Cutoff), lying Northerly of West Park Avenue (County Road 4136), lying Easterly of lands described in Special Warranty Deed, recorded in Official Records Book 1611, Page 422, of the Public Records of Volusia County, Florida and lying Easterly of lands described in Special Warranty Deed, recorded in Official Records Book 1763, Page 1645, of the Public Records of Volusia County, Florida, all being more particularly described as follows: For a Point of Beginning, commence at the intersection of the Westerly right of way of said "Air Park Road" and the Northerly right of way of West Park Avenue (County Road 4136); thence South 67° 12' 42" West, along the Northerly right of way of West Park Avenue (County Road 4136), a distance of 916.61 feet to the Easterly line of said lands described in Official Records Book 1763, Page 1645; thence North 20° 16' 31" West, along said Easterly line of lands described in Official Records Book 1763, Page 1645, and along the easterly line of said lands described in Official Records Book 1611, Page 422, a distance of 188.87 feet to the Southerly right of way of the Florida East Coast Railway (Edgewater Cutoff); thence North 67° 53' 21" East, along the Southerly right of way of the Florida East Coast Railway (Edgewater Cutoff), distance of 933.82 feet to the Westerly right of way of said "Air Park Road"; thence South 12° 54' 31" East, along the Westerly right of way of said "Air Park Road, a distance of 115.87 feet to a point of curvature; thence along the Westerly right of way of said "Air Park Road and 44.43 feet along the arc of a curve to the left, said curve having a radius of 340.00 feet, a central angle of 07° 29' 13" and a chord of 44.40 feet which bears South 16° 39' 08" East to a point of tangency; thence South 20° 23' 44" East, along the Westerly right of way of said "Air Park Road", a distance of 19.37 feet to the Point of Beginning. Containing 3.88 acres, more or less.

EXHIBIT "B"
MIXED USE PLANNED UNIT DEVELOPMENT (MUPUD) AGREEMENT

Prepared by: Monique Toupin, City Clerk
City of Edgewater
104 N. Riverside Drive
Edgewater, FL 32132

MIXED USE PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT
SERVES UP

THIS AGREEMENT is made and entered into this _____ day of _____, 2025 by and between, the **CITY OF EDGEWATER, FLORIDA**, a municipal corporation, whose mailing address is P.O. Box 100, 104 N. Riverside Drive, Edgewater Florida 32132, (hereinafter referred to as "City") and, DMG 104, LLC, whose mailing address is 1901 Lismore Court, New Smyrna Beach, FL 32168 (herein after referred to as "Developer"). The purpose of this Agreement is to define the terms and conditions granting the development approval of the subject property.

NOW, THEREFORE, in consideration of the agreements, premises, and covenants set forth herein and other good and valuable consideration, the parties agree as follows:

1. LEGAL DESCRIPTION AND OWNER

The land subject to this Agreement is approximately 3.9± acres located at 2945 W Park Avenue, in Edgewater, Volusia County, Florida. The legal description of the property is attached hereto as **Exhibit "A" - Legal Description**. The record owner of the subject property is DMG 104, LLC.

2. DURATION OF AGREEMENT

The duration of this Agreement shall be thirty (30) years and run with the land. The Developer shall commence construction in accordance with the Conceptual Plan (**Exhibit "B"**) within twenty-four (24) months of the effective date of this Agreement. Developer must receive site plan approval from the City prior to commencing construction. Developer's failure to initiate

construction within the timeframe identified herein shall result in the City's termination of the Agreement. The Agreement may be extended by mutual consent of the governing body and the Developer, subject to a public hearing. Commencement of construction means land clearing and site preparation activities. In addition, commencement also means to begin performing onsite modification, fabrication, erection or installation of a treatment facility or a conveyance system for the discharge of wastes and on-site modification, fabrication, erection or installation of a treatment facility or a transmission system for the conveyance of potable water. Final approval shall include, but not be limited to utilities, stormwater, traffic, fire rescue, hydrants, law enforcement, environmental, solid waste containment, and planning elements.

3. DEVELOPMENT STANDARDS-

Development of this Property is subject to the terms of this Agreement and in accordance with the City of Edgewater's current Land Development Code (LDC) and Comprehensive Plan. Final project approval may be subject to change based upon final environmental, permitting, and planning considerations and/or Federal and State regulatory agencies permit requirements.

a. Floor to Area

The maximum allowable square footage under the Industrial Future Land Use Designation. is 84,506 square feet. This agreement shall limit building coverage inclusive of recreational facilities and courts to 50,750 square feet.

b. Development Uses Permitted

Coffee Shop/Smoothie Shop

Bakery

Deli

Bicycle rental, repair, and sales

Brewery

Restaurant

Food Trucks

Pickleball Indoor and Outdoor

Recreational Facilities and Services

Personal Services Facilities

Health/Fitness Facilities

Retail General (limited to a maximum of 4,000 square feet under air)

Short Term Rental Cottages

c. Development Uses Conditional

Uses not listed above are considered conditional and are subject to review and approval from the Technical Review Committee based on usage type, intensity, and compatibility with the vision of activating the trail system without amending this MUPUD.

d. Outdoor Uses Prohibited

Outdoor storage of goods and property shall be prohibited, except bicycles in designated areas.

e. Short Term Rental Cottages

Short Term Rental Cottages for the purposes of this agreement shall mean a commercial business that charges a fee to occupy a dwelling for a singular night. The Short Term Rental Cottages shall not be allowed to have patrons spend more than two nights per week. The intent of the Short Term Rental Cottages is to encourage active use of the trail system by allowing overnight stays for those traveling on the St Johns River-to-Sea Loop. The Short Term Rental Cottages are not intended to be dwelling units in the sense of an apartment. As such, Short Term Rental Cottages shall be

prohibited from having a hot plate, range and oven. Short Term Rental Cottages shall be permitted to be constructed as detached units. Short Term Rental Cottages shall be a minimum of two hundred and eighty (280) square feet and have the following fixtures, appliances, or device:

- Bathroom Sink
- Toilet
- Washer and Dryer
- Kitchen Sink
- Microwave
- Mini Fridge
- Bike Rack
- Key Coded Door Lock

Short Term Rental Cottages shall be design in a manner to create a retreat or an oasis. Short Term Rental Cottages shall have the entry door from the side of the structure. Each Short Term Rental Cottage shall provide a six foot wooden fence to create a twelve (12) foot wide entry courtyard. Access to each unit shall be provided by decorative rock, stepping stones, or deck. Each Short Term Rental Cottage unit shall be required to provide a minimum of one (1) canopy tree, two (2) understory trees, and ten (10) shrubs. The landscaping shall be placed in a manner to help accent each entrance path, courtyard, and to provide buffers from adjacent units. Short Term Rental Cottages shall be exempt from the native plant species requirement for the shrubs.



Figure 1: Example of Side Loaded Short Term Rental Cottage with a Courtyard

f. Minimum Site Development Standards

| | |
|--|---------|
| Front building setback: (W Park Avenue): | 20 feet |
| Rear: (North abutting Trail) building setback: | 50 feet |
| Side: (West) building setback: | 50 feet |
| Side Corner: (Air Park Road) building setback: | 50 feet |
| Maximum Height: | 40 feet |
| Maximum Building Coverage: | 30% |
| Maximum Impervious Coverage: | 75% |
| Minimum Open Space: | 25% |

g. Landscape Buffers

1. Canopy trees shall be defined as a tree with a caliper of 2.5", twelve (12) feet in height at the time of planting and shall grow to a minimum of twenty-five (25) feet in height and fifteen (15) feet in width. Understory trees shall be defined as a tree with a caliper of 1.5", eight (8) feet in height at the time of planting and shall grow to a minimum of fifteen (15) feet in height and ten (10) feet in width. Vining plants shall be defined as a ten (15) gallon plants with a minimum height of five (5) feet in height at the time of planting. Every vining plant shall be provided a structure such as a fence or a trellis. Shrubs shall be defined as three (3) gallon plants with a minimum height of eighteen (18) inches at the time of planting. A minimum of 100% of the required plantings in this landscape buffer shall be native vegetation as defined by the University of Florida Institute of Food and Agricultural Sciences. To maintain a natural look, trees and shrubs shall be placed in an organic or curvilinear manner Linear arrangements are prohibited.
2. Rear (North): None.
3. Front (W Park Avenue.): In general, the minimum landscape buffer shall be fifteen (15') in width and consist of one (1) canopy tree per fifty (50') linear feet with one (1) understory trees per thirty linear feet (30'), and forty (40) shrubs per one hundred (100) lineal feet. The area specifically in front of the covered pickleball courts shall have an additional planting requirement of one (1) vining plant every thirty (30) feet. Modifications to the front landscape buffer shall be permitted to allow flexibility in the placement of canopy and understory trees in relation to the two proposed wall signs on the covered pickleball canopy.

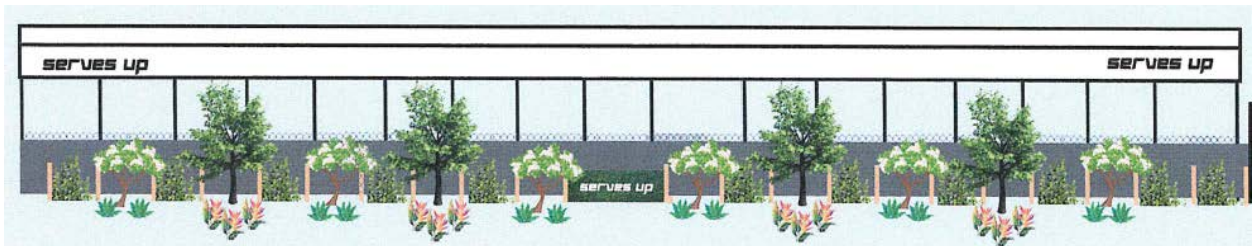


Figure 2: Visual Representation of Front Landscape Buffer

4. Side (West): Few remaining trees exist in this western portion of the site. The applicant is proposing to place a wet detention pond in this western area. The applicant shall be required to plant one (1) canopy tree for every one hundred (100) linear feet of said pond area at top of bank and shall be required to create a 500 square foot littoral shelf adjacent to the pond outfall. Said 500 square foot littoral shelf shall be planted with a minimum of fifty (50) wetland plants and a minimum of ten (10) aquatic plant species.

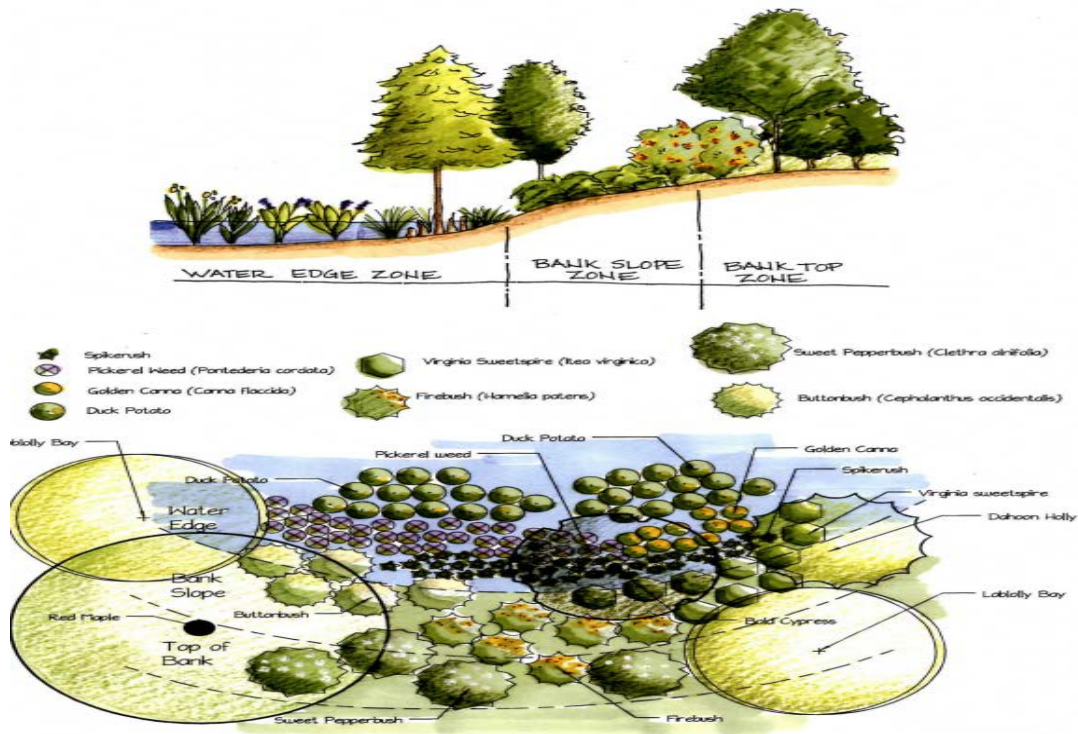


Figure 3: Example of Littoral Planting Guide

5. Side Corner (Air Park Road): Minimum landscape buffer shall be a minimum of ten (10') in width and consist of one (1) canopy tree per fifty (50') linear feet with one (1) understory trees per thirty linear feet (30'), and thirty (30) shrubs per one hundred (100) lineal feet.
- h. Parking

Four (4) parking spaces are required per recreational court. One (1) parking space is required for every four hundred (400) square feet for all other uses. Fifteen (15) bicycle rack parking spaces shall be provided in phase 1. An additional fifteen (15) bicycle rack spaces shall be provided in phase 2. Ten (10%) percent of the total required parking may be converted to golf cart or motorcycle parking. Golf cart parking shall be a minimum of six (6) feet in width and sixteen (16) feet in length. Motorcycle parking shall be a minimum of four (4) feet wide and eight (8) feet in length. The owner shall require each lessee or owner to apply for a Certificate of Use with the number of parking spaces required for the said business. Current owner, lessee, or future owners understand parking will be calculated based upon the above referenced parking ratios. In the event more parking spaces are used per unit, the Current Owner, and all future owners understand that the uses may be restricted based upon available and allocated parking regardless of the approved uses in Section 3b and 3c of this agreement. All other parking requirements shall meet the Land Development Code.

i. Trees and Environment

Due to the agricultural exemption and the significant harvesting of timber onsite, the City shall not require the minimum tree preservation area set forth in the Land Development Code. The applicant shall provide a minimum of one (1) tree per every 2,500 square feet of lot area. A minimum of twenty-five (25%) of the site shall be designated for open space. Open Space shall be inclusive of water retention and detention ponds, landscape buffers, and tree islands.

j. Landscaping and Irrigation

Landscaping, buffer yard specifications, and irrigation plans for common areas must be submitted at site plan. Common areas and the entrance area shall be irrigated. All irrigation must comply with all Volusia County Water Wise Landscape Irrigation Standards.

k. Design Elements

- A protected twelve (12') foot bike lane with F type curb shall be constructed within the right of way of Air Park Road from the River to Sea Bike Trail to the intersection of Air Park Road and W Park Avenue. The right-of-way improvements identified above should be designed utilizing the National Association of City Transportation Officials' (NACTO) Urban Bikeway Design Guide (2025), and the City of Edgewater's Development Services.



Figure 4: Examples of a Protected Bike Lane.

- A six (6') foot wide pedestrian walkway shall be provided, adjacent to all buildings and the parking area.
- All outdoor dining establishments such as restaurants, café, brewery, coffee shop, etc. shall secure the outdoor dining area with patron seating with a four (4') foot high decorative fence. Decorative fence shall mean a permanent or temporary structure not intended or designed to enclosure or screen, but rather to decorate, accent, or frame a feature of the built environment. The decorative fence shall have a four (4) foot planting strip adjacent with a minimum of one (1) shrub every ten (10) feet.
- One (1) six (6') foot length bench shall be provided per recreational court.
- One (1) water fountain shall be provided for every four (4) courts.

- A six (6) to ten (10) foot coated chain-link fence with a black or dark green colored wind curtain shall be placed immediately adjacent to the landscape buffer and the covered courts.

l. Façade

The covered pickleball courts shall be permitted to be constructed of metal, steel, or aluminum. Earthen style materials shall be included in the design for the siding on all other structures that face W Park Avenue and Air Park Road. Earthen style materials are defined as visually represent wood or stone. Architectural elevations shall be required with site plan submittal.

m. Lighting

A photometric plan shall be submitted with every site plan demonstrating 0.1 Footcandles at all property boundaries. All lighting except permitted up-lighting shall adhere to the principles of dark sky lighting. All internal streetlights and lights on structures shall be directed downward and not outward. Up lighting shall be permitted on the corners of the front façade of the covered pickleball courts.

n. Waste Disposal

One dumpster location shall be provided on the initial site plan. City staff reserve the right upon the submittal of a site plan for phase two to require an additional dumpster depending on the actual uses. Dumpster enclosures shall meet the requirements of the Land Development code found within Article III, Section 21-34.05.

o. Entrance to Development

Two (2) entrances, per Exhibit “B” Conceptual Plan, shall be permitted for accessing the development. One access point will be from Air Park Drive as far north as possible on the property

from the Air Park and W Park intersection. The second entrance shall be on W Park Avenue and shall align with the curb cut found on parcel 734408000146.

p. Signage

Wall Signs

Four (4) wall signs shall be permitted on the mixed use building composed of a multi-purpose room, coffee shop, and check-in/drop zone for Serves up pickleball. Three (3) of the wall signs shall be permitted directly above the entry way of each unit. Each individual wall sign shall not exceed thirty-two (32) square feet. One (1) wall sign shall be permitted on the mixed use building not to exceed eighty (80) square feet.

Two (2) wall signs shall be on either end of the canopy for the covered pickleball courts. The wall signs shall be allowed to visual represent the name of the business, “Serves Up”. Each wall sign shall not exceed eighty (120) square feet.

Phase 2 commercial shall adhere to the requirements in the Land Development Code. Should the developer pursue the option for the Short Term Rental Cottages, then one (1) wall sign not to exceed eight (8) square feet may be place above each unit’s doorway.

Monument Sign

One (1) multitenant monument sign shall be allowed for the entire site. The multitenant sign shall not exceed ten (10) feet in height and one hundred and twenty (120) square feet. The height of the ground sign shall be measured from the finished floor elevation of the sign. The sign area shall be calculated inclusive of the entire sign.

Internal Pole Signs

Pole signs shall be allowed internally to the site to assist with wayfinding and to display general public information such as handicap stalls. Pole signs shall not exceed six (6) square feet and shall

be no taller than seven (7) feet in height. Pole signs shall be measured from the finished floor of the sign at the foundation to the top of the sign. The square footage of the sign shall only be calculated from the sign frame.

External Pole Signs

In coordination with the City of Edgewater, the developer and the City shall design a uniform trail sign. The trail signs shall be placed in three locations. The applicant shall split the initial upfront cost of three pole signs on the River to Sea Bike Trail. The City shall install along the River to Sea Trail two (2) pole signs with a six (6) feet by four (4) foot map of the Coast to Coast Trail and Saint Johns River to Sea Loop.

Temporary Signs

Temporary signs including free standing banners, feather flags, portable signs, or snipe signs shall be prohibited. Park Avenue serves as a major corridor for vehicles. Increases to the size and quantity of permanent signs has been increased to enable sufficient advertising without the use of temporary signs within the MUPUD agreement.

Mailboxes

Developer agrees to request approval from the United States Postal Service for the use of a Centralized Mail Delivery System(s) with lighted pull-off area if additional tenants are added to the development.

q. Easements and Right-of-Way Dedication

A fifty (50') foot by fifty (50') foot triangle area in the southeast corner at the intersection of Air Park Road and West Park Avenue shall be quit claim deeded to the City prior to the issuance of a Certificate of Occupancy for the purpose of right-of-way improvements.

4. FUTURE LAND USE AND ZONING DESIGNATION

The Future Land Use designation is Industrial and the zoning designation is MUPUD (Mixed Use Planned Unit Development) as defined in the City Land Development Code. The City of Edgewater's permitted uses for MUPUD (Mixed Use Planned Unit Development) are applicable to the development of the property and are consistent with the adopted Comprehensive Plan/Future Land Use Map.

5. PUBLIC FACILITIES

All utility services shall be underground.

All infrastructure facilities and improvements shall be constructed in compliance with applicable federal, state, and local standards.

A concurrency review shall be conducted to ensure that all required public facilities are available concurrent with the impacts of the development.

Developer, at the time of development, shall provide all public facilities to support this project including the following:

- a. Water Distribution System including fire hydrants. Developer agrees to connect to and utilize the City's water distribution system at nearest point of connection. All water distribution systems shall be “looped” wherever possible in order to prevent any future stagnation of water supply. All water main distribution system improvements will be installed by the Developer and conveyed to the City by Bill of Sale in a form acceptable to the City and dedicated to the City prior to or at time of Certificate of Occupancy. Water capacity shall be reserved for a period not to exceed twenty-four (24) months from the date the City signs the FDEP and/or DOH Water Application.

- b. Sewage Collection and Transmission System. Developer agrees to connect to and utilize the City's wastewater transmission and collection system. All wastewater collection and transmission system improvements will be installed by the Developer prior to or at the time of Certificate of Occupancy. Sewer capacity shall be reserved for a period not to exceed twenty-four (24) months from the date the City signs the FDEP Wastewater Application.
- c. Stormwater collection/treatment system, including outfall system. The retention and detention pond(s) shall meet the requirements for the St. Johns River Water Management District and the City of Edgewater LDC. The pond(s) will be owned and maintained by the property owner(s) or dedicated association. Developer is required to provide an outfall to a publicly owned or controlled drainage conveyance system, and obtain an off-site drainage easement space if necessary. The on-site 100-year flood elevation shall be established to the satisfaction of the Flood Plain Manager or FEMA. Compensatory Storage shall be provided for per the requirements set forth in Article IV (Resource Protection Standards) of the LDC, as may be amended from time to time.
- d. Reclaimed Water Distribution System. The City has determined that reclaimed water may be available in the foreseeable future. Therefore, the Developer shall install a central reclaimed water irrigation distribution system constructed to City standards. Water will be provided initially by onsite irrigation wells, potable water, or surface water withdrawal until reclaimed water is available to the Development and all irrigation systems shall be approved by all applicable regulatory agencies. Once reclaim is provided to the area the development must

covert irrigation systems to the reclaim water system within 180 days of written notice by the City to the Developer. The City encourages the use of the water retention pond to irrigate the site in lieu of digging an irrigation well.

- e. All permanent markings and signage shall comply with Florida Department of Transportation (FDOT) standards. Enhanced special signage may be used if it meets FDOT standards and approved by the City.

6. IMPACT FEES

Impact fees will be paid in accordance with the following schedule:

- a. City Impact Fees and Connection Fees shall be paid at Building Permit issuance for each dwelling unit at the prevailing rate authorized at the time of payment.
 - i. Multi-Modal Impact Fee Credits shall be credited on a dollar for dollar basis for the bike path extension within the right-of-way on Air Park Road.
- b. Volusia County Road and School Impact fees (if deemed applicable by the Volusia County School District) shall be paid to County by applicant with proof of payment provided to the City prior to a Building Certificate of Occupancy.

7. CONSISTENCY OF DEVELOPMENT

The City agrees to issue the required permits for the development in the manner defined in the Agreement after having determined it is not contrary to the City of Edgewater Comprehensive Plan and Land Development Code and is compliant with all concurrency requirements set forth in said documents.

8. PERMITS REQUIRED

The Developer will obtain required development permits or letters of exemption. Permits may include but not be limited to the following:

1. Department of Environmental Protection, St. Johns River Water Management District, Army Corps of Engineers and Florida Fish and Wildlife Conservation Commission.
2. City of Edgewater – Site Plan approval, all applicable clearing, removal, construction and building permits.

Developer agrees to reimburse the City of Edgewater for direct costs associated with the legal review, engineering review, inspections of required infrastructure improvements, and the review and approval of the site plan related to the development, including recording fees.

10. DEVELOPMENT REQUIREMENTS

Failure of this Agreement to address a particular permit, condition, term or restriction shall not relieve the Developer of the necessity of complying with those permitting requirements, conditions, terms or restrictions and any matter or thing required to be done under the existing ordinances of the City. Existing ordinances shall not be otherwise amended, modified, or waived unless such modification, amendment or waiver is expressly provided for in this Agreement with specific reference to the ordinance provisions so waived.

11. HEALTH SAFETY AND WELFARE REQUIREMENTS

The Developer shall comply with such conditions, terms, restrictions or other requirements determined to be necessary by the City for the public health, safety or welfare of its citizens.

12. APPEAL

If the Developer is aggrieved by any City official interpreting the terms of this Agreement, the Developer shall file a written appeal to the City Manager. After receiving the written appeal, the appeal will be reviewed by the City Manager and City Attorney. If the City Manager cannot

resolve the dispute, the issue shall be scheduled for the City Council agenda. The action of the City Council is the final authority concerning this Agreement.

13. PERFORMANCE GUARANTEES

During the term of this Agreement, regardless of the ownership of the Property, the Property shall be developed in compliance with the terms of this Agreement and applicable regulations of the City not inconsistent with, or contrary to, this Agreement.

14. BINDING AFFECT

The provisions of this Agreement, including any and all supplementing amendments, and all final site plans, shall bind and inure to the benefit of the Developer or its successors in interest and assigns and any person, firm, corporation, or entity who may become the successor in interest to the land subject to this Agreement or any portion thereof and shall run with the land and shall be administered in a manner consistent with the laws of the State of Florida.

15. RECORDING

Upon execution by all parties, the City shall record the Agreement with the Clerk of the Court in Volusia County. The cost of recording shall be paid by the Developer.

16. PERIODIC REVIEW

The City shall review the development subject to this Agreement every 12 months, commencing 12 months after the date of this Agreement to determine if there has been good faith compliance with the terms of this Agreement. If the City finds on the basis of competent substantial evidence that there has been a failure to materially comply with the terms of this Agreement, the Agreement may be revoked or modified by the City. Any such revocation or modification shall only occur after the City has notified the Developer in writing of Developer's failure to materially

comply with the terms of this Agreement and Developer fails to cure such breach after receiving written notice and a reasonable opportunity to cure such breach from the City.

17. APPLICABLE LAW

This Agreement and provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

18. TIME OF THE ESSENCE

Time is hereby declared of the essence of the lawful performance of the duties and obligations contained in the Agreement.

19. AGREEMENT/AMENDMENT

This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings, and agreements, with respect to the subject matter hereof. Amendments to and waivers of the provisions of this Agreement shall be made by the parties only in writing by formal amendment. Substantial changes, as determined by the City Manager, shall require City Council approval.

20. FURTHER DOCUMENTATION

The parties agree that at any time following a request therefore by the other party, each shall execute and deliver to the other party such further documents and instruments, in form and substance reasonably necessary to confirm and/or effectuate the obligations of either party hereunder.

21. SPECIFIC PERFORMANCE

Both the City and the Developer shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance. _____

22. SEVERABILITY

If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of the competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and entered into the date and year first written above.

ATTEST:

**CITY COUNCIL OF THE
CITY OF EDGEWATER, FLORIDA**

Monique Toupin
City Clerk

By: _____
Diezel Depew
Mayor

WITNESSES:

Enter Developer/Company Name.

By: _____

Printed Name: _____

Enter Signers Name.

Address: _____

Enter Signers Address.

Printed Name: _____

Address: _____

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____ who is ☐ Personally Known OR who ☐ Produced _____ as Identification.

Signature of Notary Public

Stamp/Seal

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

That portion of U.S. Lot 4, Section 31, Township 17 South, Range 34 East, lying Southerly of the F.E.C. Railway Branchline Northerly of Park Avenue, a 60 foot County Road and Westerly of Airpark Road, a County Road, and less and except any portion of the property conveyed to the County of Volusia in Special Warranty Deed recorded in Official Records Book 7562, Page 3974. Lying and being in Volusia County, Florida.

PARCEL 2:

That portion of Lot 14 of the SUBDIVISION OF THE SOUTH THIRD OF THE AMBROSE HULL GRANT, per Map Book 5, page 54, Public Records of Volusia County, Florida, lying Southerly of the F.E.C. Railway Branchline and Northerly of Park Avenue, a 60 foot County Road, excluding that part described in a certain Deed recorded in Official Records Book 1763, Page 1645, and also excluding any portion of the property conveyed to the County of Volusia in Special Warranty Deed recorded in Official Records Book 7562, Page 3974, Public Records of Volusia County, Florida.

PLAT OF BOUNDARY SURVEY OF

That portion of U.S. Lots 3 and 4, Section 31, Township 17 South, Range 34 East, Volusia County, Florida, lying Southerly of the Florida East Coast Railway (Edgewater Cutoff), lying Northerly of West Park Avenue (County Road 4136) and lying Westerly of "Air Park Road", an 80-foot right of way as now laid out AND that portion of Lot 13, SOUTH 1/3 OF THE AMBROSE HULL GRANT, according to the map or plat thereof, as recorded in Map Book 4, Page 199, of the Public Records of Volusia County, Florida, lying Southerly of the Florida East Coast Railway (Edgewater Cutoff), lying Northerly of West Park Avenue (County Road 4136), lying Easterly of lands described in Special Warranty Deed, recorded in Official Records Book 1611, Page 422, of the Public Records of Volusia County, Florida and lying Easterly of lands described in Special Warranty Deed, recorded in Official Records Book 1763, Page 1645, of the Public Records of Volusia County, Florida, all being more particularly described as follows: For a Point of Beginning, commence at the intersection of the Westerly right of way of said "Air Park Road" and the Northerly right of way of West Park Avenue (County Road 4136); thence South 67° 12' 42" West, along the Northerly right of way of West Park Avenue (County Road 4136), a distance of 916.61 feet to the Easterly line of said lands described in Official Records Book 1763, Page 1645; thence North 20° 16' 31" West, along said Easterly line of lands described in Official Records Book 1763, Page 1645, and along the easterly line of said lands described in Official Records Book 1611, Page 422, a distance of 188.87 feet to the Southerly right of way of the Florida East Coast Railway (Edgewater Cutoff); thence North 67° 53' 21" East, along the Southerly right of way of the Florida East Coast Railway (Edgewater Cutoff), distance of 933.82 feet to the Westerly right of way of said "Air Park Road"; thence South 12° 54' 31" East, along the Westerly right of way of said "Air Park Road, a distance of 115.87 feet to a point of curvature; thence along the Westerly right of way of said "Air Park Road and 44.43 feet along the arc of a curve to the left, said curve having a radius of 340.00 feet, a central angle of 07° 29' 13" and a chord of 44.40 feet which bears South 16° 39' 08" East to a point of tangency; thence South 20° 23' 44" East, along the Westerly right of way of said "Air Park Road", a distance of 19.37 feet to the Point of Beginning. Containing 3.88 acres, more or less.

EXHIBIT "B" MASTER PLAN

