

**ORDINANCE NO. 2024-O-33**

**AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM CITY OF EDGEWATER B-3 HIGHWAY COMMERCIAL TO CITY OF EDGEWATER RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) FOR 13.56± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED EAST OF US1 AND NORTH OF ROBERTS ROAD (PARCEL IDENTIFICATION NUMBER 8412-01-00-0060, 8412-01-00-0070, 8412-01-00-0071), 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. Robert A. Merrell III, applicant on behalf of TRB Edgewater, LLC, owner, of property generally located east of US1 and north of Roberts Road, parcel identification number 8412-01-00-0060, 8412-01-00-0070, 8412-01-00-0071, within Volusia County, Florida. Subject property contains approximately 13.56± acres.
2. The owner has submitted an application for a change in zoning classification from City of Edgewater B-3 Highway Commercial to City of Edgewater RPUD (Residential Planned Unit Development) for the property described herein.
3. On Wednesday, June 12, 2024, the Local Planning Agency (Planning and Zoning Board) considered the application for change in zoning classification.
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 from City of Edgewater B-3 Highway Commercial to City of Edgewater Residential Planned Unit Development (RPUD), for the property described in **Exhibits “A” & 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 \_\_\_\_\_, 2024.

\_\_\_\_\_  
Diezel DePew, Mayor

**ATTEST:**

\_\_\_\_\_  
Bonnie Zlotnik, CMC, City Clerk

Passed on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2024

**REVIEWED AND APPROVED:** \_\_\_\_\_  
Aaron R. Wolfe, City Attorney

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**OVERALL:**

The North 200 feet lying East of that certain Highway known and designated as U.S. Highway No. 1 of Lot 6, SQUARETOPVILLE, in Section 12, Township 18 South, Range 34 East, as per map in Map Book 1, page 160, of the public Records of Volusia County, Florida.

**AND**

A parcel of land in Lots 5 and 6, Squaretopville Subdivision, according to the map or plat thereof as recorded in Plat Book 1, Page(s) 160, Public Records of Volusia County, Florida, described as follows:

As a point of reference commence at a P.R.M. marking the N.E. corner of said Squaretopville Subdivision; thence along the East line of said subdivision run South 00 degrees 20' 24" West 200.00 feet for the Point of Beginning; thence continue South 00 degrees 20' 24" West along the East line, 462.97 feet; thence South 89 degrees 00' 00" West 799.30 feet to an intersection with the Easterly right-of-way line of U.S. No. 1 Highway; thence North 15° 09'42" West along said right-of-way line 477.35 feet; thence North 89 degrees 00' 00" East, 926.92 feet to the Point of Beginning.

**TAX PARCEL 841201000060:**

The North 200 feet lying East of U.S. #1 of Lot 6, SQUARETOPVILLE, according to the map or plat thereof as recorded in Plat Book 1, Page(s) 160, Public Records of Volusia County, Florida.  
*(Official Records Book 5767, Page 2698, Public Records of Volusia County, Florida)*

**TAX PARCEL 841201000071:**

The South 51.4 feet of the North 451.4 feet as measured on the Easterly Right of Way line of U.S. #1, of Lot 6, Map of Squaretopville, according to the plat thereof as recorded in Map Book 1, Page 160, of the Public Records of Volusia County, Florida.  
*(Official Records Book 5927, Page 4668, Public Records of Volusia County, Florida)*

**TAX PARCEL 841201000070:**

PARCEL 1 - A parcel of land in Lots 5 and 6, SQUARETOPVILLE SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 1, Page 160, Public Records of Volusia County, Florida, described as follows: As a point of reference, commence at a P.R.M. marking the N.E. corner of said Squaretopville Subdivision; thence along the East line of said subdivision run South 00°20'24" West 200.00 feet for the Point of Beginning; thence continue South 00°20'24" West along the East line 462.97 feet; thence South 89°00'00" West 799.30 feet to an intersection with the Easterly right-of-way line of U.S. No. 1 Highway; thence North 15°09'42" West along said right-of-way line 477.35 feet; thence North 89°00'00" East, 926.92 feet to the Point of Beginning.  
*(Official Records Book 5766, Page 686, Public Records of Volusia County, Florida)*

**LESS AND EXCEPT:**

The South 51.4 feet of the North 451.4 feet as measured on the Easterly Right of Way line of U.S. #1, of Lot 6, Map of Squaretopville, according to the plat thereof as recorded in Map Book 1, Page 160, of the Public Records of Volusia County, Florida.  
*(Official Records Book 5927, Page 4668, Public Records of Volusia County, Florida)*

## **EXHIBIT “B”**

Prepared by: Bonnie Zlotnik, City Clerk  
City of Edgewater  
104 N. Riverside Drive  
Edgewater, FL 32132

### **PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of May, 2024

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, TRB Edgewater, LLC, whose mailing address is 1366 N US HWY 1 Suite 604, Ormond Beach FL, 32174 (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 13.676± acres located at 2901 South Ridgewood 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 TRB EDGEWATER, 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 as defined by the Master Plan (**Exhibit “B”**) within sixty (60) months of the effective date of this Agreement. 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 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. Land clearing and site preparation activities related to this construction are not included herein; however, before undertaking land clearing activities, other permits for stormwater discharges from the site may be required. 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). 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. Unit Count**

Based on Final Subdivision Plan approval, the total number of units may vary, but the maximum residential units permitted shall not exceed twenty-two (22) dwelling units per net acre or 294 dwelling units.

#### **b. Minimum Square Footage**

The minimum gross square footage shall be at least 550 - square feet living area under air. Carports will not be permitted.

#### **c. Minimum Building Setbacks**

Front (Abutting US 1): 30 - feet

Rear (East): 30 - feet

Side (North): 40 – feet

Side (South): 10 - feet

Maximum Height: 35 - feet

Maximum Building Coverage: 50%

Maximum Impervious Coverage: 70%

d. Parking

Minimum Parking Setbacks:

Front (Abutting US 1): 15 - feet

Rear (East): 25 - feet

Side (North): 20 – feet

Side (South): 10 - feet

There shall be a minimum of 1.5 parking spaces per unit. Additional guest parking spaces at a rate of 5% shall be required. Five (5) percent of the total parking may be converted into compact spaces of nine by eighteen feet (9'x18'). Detached or attached garages for residents may be utilized as parking spaces, however the addition of said detached or attached garage shall not reduce the minimum parking requirement of 1.5 spaces per unit. No more than ten (10) percent of the required parking may be converted into attached or detached parking garages. ADA requirements shall adhere to the most recent Florida Building Code. Every ten (10) parking spaces must provide a two hundred (200) square foot landscape island with a minimum of one (1) understory tree at a height of twelve (12) feet.

e. Landscape Buffers

Front (Abutting US 1): Ten (10') feet.

- a. Shall adhere to the planting requirements of Article XX, Ridgewood Avenue Corridor Design Regulations.

Side (North): 30' natural vegetation, then 10' planted

- b. Shall maintain a 30' undisturbed natural buffer along the entire Northern property boundary. A six (6') foot wood or vinyl fence shall be provided immediately adjacent to the thirty (30) foot undisturbed natural landscape buffer. In addition, any area immediately adjacent to the multifamily building, which has a 40 foot building setback, shall provide an additional ten (10') foot land scape buffer. The planted buffer shall be planted in accordance with the following:

- i. One (1) canopy tree (e.g. Oak) per twenty-five linear feet (25') with one (1) understory trees per ten linear feet (10'), and seventy (70) shrubs per one hundred (100) lineal feet. Minimum 35% native vegetation of required plantings is required within this buffer yard. To maintain a natural look, trees and shrubs shall be placed in an organic or curvilinear manner that is similar to and consistent with natural adjoining areas, which have been preserved. Linear arrangements are prohibited..

Side (South): Ten (10') feet.

- c. The planted buffer shall be planted in accordance with the following:
  - i. One (1) canopy tree (e.g. Oak) per twenty-five linear feet (25') with one (1) understory trees per ten linear feet (10'), and seventy (70) shrubs per one hundred (100) lineal feet.

Rear (East): Twenty (20') feet.



- d. Shall maintain a 20' undisturbed natural buffer along the entire Eastern property boundary. A six (6) foot wood or vinyl fence shall be constructed immediately adjacent to the twenty (20) foot undisturbed natural landscape buffer.

All future buffer maintenance responsibility will be that of the management company and shall comply with the LDC and this document.

- f. Trees and Open Space

Preservation Areas depicted on the Master Plan may be utilized to meet said requirements. A minimum 10% of the square-footage of the total project site shall be dedicated to the protection of trees. The landscape buffers, both planted and natural, as well as the planting of trees within landscape islands and around the water retention pond shall count toward this requirement. The removal of historic tree's shall be permitted, however a replacement of four (4) understory trees at a height of sixteen (16) feet and a DBH of three (3) inches shall be provided for every historic tree removed. The development shall provide a minimum of thirty (30) percent of open space. Open space is inclusive of water retention or water detention ponds, landscape buffers, and active recreational amenities such as the pool, playground, and dog park.

- g. Landscaping and Irrigation

Landscaping and irrigation plans for common areas must be submitted with final construction plans and shall comply with the current LDC.

Common areas and the entrance area shall be irrigated. All irrigation must comply with all Volusia County Water Wise Landscape Irrigation Standards and the City of Edgewater's Land Development Code.

- h. Amenities and Dumpster Enclosures

- a. Developer shall construct an amenity center including a pool, clubhouse, playground, and dog park.
  - b. Developer shall provide a six (6) foot stabilized path along the stormwater ponds with dog waste stations at a minimum of one (1) per 500 linear feet of path.
  - c. Developer shall provide one on-site dumpster enclosure or trash compactor within the site. Should the one (1) dumpster enclosure or trash compactor not be enough, the developer shall install additional dumpsters at the City of Edgewater's request.
  - d. Ownership and maintenance responsibility of the recreation/open space areas will be that of the management association or property owners' association.
- i. Roads

Roads shall be private. Roads within the Project shall have a minimum width of twenty feet (20') of pavement with a two (2) foot Miami curb and gutter per side and constructed pursuant to the City's Standard Details. A gated entrance may be provided for the multi-family development at the entrance of the development, but is not required. All gating shall comply with the requirements of the City LDC. Emergency access for all gating shall be provided by a "Click to Enter" system and a Knox® override system or other method as approved by the City's Fire Marshall. Said roads shall be dedicated to the HOA or POA subsequent to final City inspection and by a final plat. At each entrance and exit the development shall accommodate an area where the City or its contractors shall install at the cost of the developer license plate readers for public safety. In addition, the development shall pay for the annual costs associated with the leasing of said equipment for the duration of this agreement. A five-foot (5') sidewalk to be installed by the Developer on all common areas within the development.

- j. Entrance to Subdivision

One entrance, per master plan, shall be permitted for accessing the development.

k. Signage

Signage will be located along the main entrance road, not within the right-of-way, and shall meet the current City LDC. All future maintenance responsibility will be that of the Property Owners Association or Management Association.

l. 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.

m. Easements

Easements for public utilities shall be dedicated to the City and any other public utility provider. Developer agrees to provide, at no cost to the City, all required utility easements (on and off-site) for drainage and utility service consistent with this Agreement.

n. Temporary Signs

Temporary flags or insignias which read "model", "open", "open house" or any other phrase which identifies property for real estate purposes may be displayed until such time as the last lot is developed within the Development in the following locations and numbers:

- i. The maximum height of any temporary flags shall be eight feet (8') with a maximum size of fifteen (15) square feet.
- ii. The number of temporary flags shall not exceed four (4) and shall be permitted on private/common property and prohibited in the right of way area and site triangle area as outlined in the Land Development Code, Section 21-38.03.
- iii. Each model home may have a ground-based sign, not exceeding 20 square feet with a maximum height of eight (8) feet.

- iv. Each sales office may have may have a maximum of two (2) flags or signs not exceeding fifteen (15) square feet each in area with a maximum height of eight (8) feet indicating "Sales Center".
- v. Temporary event signs shall be allowed on private/common property within the Development for special builder sale events, including but not limited to a "parade of homes" or similar sales promotion. Such temporary signage shall be erected for no more than 72 hours. A maximum of two special builder events shall be allowed in any calendar quarter.

#### **4. MANAGEMENT ASSOCIATION/PROPERTY OWNERS ASSOCIATION**

The Developer shall establish a mandatory management association (MA) for the purpose of maintaining the property and enforcing applicable covenants and restrictions. The MA documents, including applicable Articles of Incorporation; Covenants and Restrictions; and By-Laws shall be reviewed and approved by the City prior to final plat approval.

The Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation and By-Laws for the MA will be recorded in the public records of Volusia County at the time the Final Plat is recorded.

#### **5. FUTURE LAND USE AND ZONING DESIGNATION**

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

#### **6. PUBLIC FACILITIES**

All utility services shall be underground.

Off-site improvements are the Developer's responsibility and shall be required at the time of Site Plan approval and City inspection approval and shall meet all City, County and/or State requirements and approval.

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. This property will be master metered with one point of connection to City water service for billing purposes. All offsite and onsite water main distribution system improvements up to and including the master water meter 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 platting or in accordance with the requirements contained in the Land Development Code as it relates to performance bonds. All onsite water main distribution piping and appurtenances downstream of the master water meter, including the backflow preventer and any fire line components, shall be retained by under HOA/POA ownership. 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. This property will be master metered with one point of connection to City sewer system: the point of connection shall be to the City's sanitary force main in the Ridgewood Avenue right-of-way. All offsite wastewater collection and transmission 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 the time of platting. All onsite sanitary sewer collection system components, including gravity pipe, manholes, lift station, control panel and discharge force main shall be retained by under HOA/POA ownership. 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 HOA / POA. In addition, an easement over all common drainage system components shall dedicated to the City of Edgewater as maintainer of last resort. If City must conduct maintenance or repairs to the HOA / POA stormwater management system to preserve the public health and safety including that of the ecosystem and downstream waters, the City shall have the right to bill the HOA / POA for such extraordinary service to correct deficiencies and

delinquency of care. 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 is available in the Ridgewood Avenue right-of-way. Therefore, the Developer shall install a central reclaimed water irrigation distribution system constructed to City standards with one point of connection to the City's reclaimed water utility. All offsite reclaimed water improvements shall be conveyed to the City by Bill of Sale in a form acceptable to the City and dedicated to the City prior to or at the time of platting.
- e. All required pavement marking and signage (stop signs, road signs, etc.) within the Subdivision. 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.
- f. Streetlights shall be installed by the Developer at all entrances and intersections and shall meet the requirements set forth in the LDC prior to issuance of the Certificate of Occupancy on the first dwelling unit. The HOA will be responsible for the streetlights; including payment to Florida Power and Light for maintenance and power consumption.

## **7. 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 at the prevailing rate authorized at the time of payment.
- b. Volusia County Road and School Impact fees shall be paid to County by applicant with proof of payment provided to the City prior to a Building Certificate of Occupancy.

## **8. BONDS**

A Maintenance Bond equal to 10% of the cost of the public infrastructure improvements shall be provided to the City prior to the issuance of building permits. The Maintenance Bond shall be in effect for a two (2) year period from the date of completion of the public facilities.

A Performance Bond, or other acceptable financial instrument such as a Letter of Credit, may be accepted by the City and shall be 130% of the costs of all remaining required improvements.

## **9. 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.

## **10. 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 - Subdivision Preliminary and Final Plat Approval, Subdivision Construction 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 of the development, including recording fees.

#### **11. DEDICATION OF LAND FOR PUBLIC PURPOSES**

The Developer shall convey to the City, by warranty deed and title insurance free and clear of all liens and encumbrances at plat dedication, all roadway right-of-way and utility easements as required. All utilities shall be dedicated to the City of Edgewater.

#### **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.

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## **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. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

## **23. CAPTIONS**

Captions of the sections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

## **24. 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**

\_\_\_\_\_  
Bonnie Zlotnik  
City Clerk

By: \_\_\_\_\_  
Diezel Depew  
Mayor

**WITNESSES:**

**Enter Developer/Company Name.**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

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**

The North 200 feet lying East of that certain Highway known and designated as U.S. Highway No. 1 of Lot 6, SQUARETOPVILLE, in Section 12, Township 18 South, Range 34 East, as per map in Map Book 1, page 160, of the public Records of Volusia County, Florida.

AND

A parcel of land in Lots 5 and 6, Squaretopville Subdivision, according to the map or plat thereof as recorded in Plat Book 1, Page(s) 160, Public Records of Volusia County, Florida, described as follows:

As a point of reference commence at a P.R.M. marking the N.E. corner of said Squaretopville Subdivision; thence along the East line of said subdivision run South 00 degrees 20' 24" West 200.00 feet for the Point of Beginning; thence continue South 00 degrees 20' 24" West along the East line, 462.97 feet; thence South 89 degrees 00' 00" West 799.30 feet to an intersection with the Easterly right-of-way line of U.S. No. 1 Highway; thence North 15° 09'42" West along said right-of-way line 477.35 feet; thence North 89 degrees 00' 00" East, 926.92 feet to the Point of Beginning.

TAX PARCEL 841201000060:

The North 200 feet lying East of U.S. #1 of Lot 6, SQUARETOPVILLE, according to the map or plat thereof as recorded in Plat Book 1, Page(s) 160, Public Records of Volusia County, Florida.

*(Official Records Book 5767, Page 2698, Public Records of Volusia County, Florida)*

TAX PARCEL 841201000071:

The South 51.4 feet of the North 451.4 feet as measured on the Easterly Right of Way line of U.S. #1, of Lot 6, Map of Squaretopville, according to the plat thereof as recorded in Map Book 1, Page 160, of the Public Records of Volusia County, Florida.

*(Official Records Book 5927, Page 4668, Public Records of Volusia County, Florida)*

TAX PARCEL 841201000070:

PARCEL 1 - A parcel of land in Lots 5 and 6, SQUARETOPVILLE SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 1, Page 160, Public Records of Volusia County, Florida, described as follows: As a point of reference, commence at a P.R.M. marking the N.E. corner of said Squaretopville Subdivision; thence along the East line of said subdivision run South 00°20'24" West 200.00 feet for the Point of Beginning; thence continue South 00°20'24" West along the East line 462.97 feet; thence South 89°00'00" West 799.30 feet to an intersection with the Easterly right-of-way line of U.S. No. 1 Highway; thence North 15°09'42" West along said right-of-way line 477.35 feet; thence North 89°00'00" East, 926.92 feet to the Point of Beginning.

*(Official Records Book 5766, Page 686, Public Records of Volusia County, Florida)*

LESS AND EXCEPT:

The South 51.4 feet of the North 451.4 feet as measured on the Easterly Right of Way

line of U.S. #1, of Lot 6, Map of Squaretopville, according to the plat thereof as recorded in Map Book 1, Page 160, of the Public Records of Volusia County, Florida.  
*(Official Records Book 5927, Page 4668, Public Records of Volusia County, Florida)*



## EXHIBIT “B” MASTER PLAN

