

1 **COQUINA SHORES**  
2 **MASTER PLAN DEVELOPMENT AGREEMENT**

3 **THIS MASTER PLAN DEVELOPMENT AGREEMENT**, (herein referred to as the “MPD  
4 Agreement”) is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the  
5 **CITY OF PALM COAST**, a Florida municipal corporation (the “City”), whose address is  
6 160 Lake Avenue, Palm Coast, Florida, 32164, and, **JX PALM COAST LAND, LLC**, a  
7 Florida Limited Liability Company (the “Owner”), whose address is 201 E. Las Olas Blvd.,  
8 Suite 1900, Fort Lauderdale, FL 33301.

9 ***WITNESSETH:***

10 **WHEREAS**, JX Palm Coast Land, LLC is the principal owner and developer of a  
11 505.62 (+/-) acre site, as more particularly described on **Exhibit “A” (“SR-100**  
12 **Property”)**; and

13 **WHEREAS**, the Owner desires to develop the SR-100 Property for a residential  
14 community known as **Coquina Shores** (the “Project”); and

15 **WHEREAS**, the Owner intends to establish a Community Development District  
16 pursuant to Chapter 190, Florida Statutes (the “CDD”), for the planning, construction,  
17 operation, maintenance, management, and financing of the capital infrastructure of the  
18 Project; and

19 **WHEREAS**, the SR-100 Property has a Future Land Use Map designation of  
20 Residential; and

21 **WHEREAS**, the Owner is in voluntary agreement with the conditions, terms, and  
22 restrictions hereinafter recited, and has agreed voluntarily to their imposition as an  
23 incident to development of the SR-100 Property; and

24 **WHEREAS**, the City of Palm Coast Planning and Land Development Regulation  
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1 Board ("PLDRB") and City of Palm Coast City Council finds that this MPD Agreement is  
2 consistent with the City's Comprehensive Plan and Unified Land Development Code  
3 ("LDC") and that the conditions, terms, restrictions, and requirements set forth herein are  
4 necessary for the protection of the public health, safety, and welfare of the citizens of the  
5 City; and

6 **WHEREAS**, the City of Palm Coast City Council further finds that this MPD Agreement  
7 is consistent with and an exercise of the City's powers under the *Municipal Home Rule*  
8 *Powers Act*, Article VIII, Section 2(b) of the *Constitution of the State of Florida*; Chapter  
9 166, *Florida Statutes*; the *City of Palm Coast City Charter*; other controlling law; and the  
10 City's police powers; and

11 **WHEREAS**, this is a non-statutory MPD Agreement which is not subject to or enacted  
12 pursuant to the provisions of Sections 163.3220 -163.3243, *Florida Statutes*.

13 **NOW, THEREFORE**, it is hereby resolved and agreed by and between the City and  
14 the Owner that the Master Plan Development is approved subject to the following terms  
15 and conditions:  
16

17 **SECTION 1. RECITALS.**

18 The above recitals are true and correct and are incorporated herein by this  
19 reference and form a material part of this MPD Agreement upon which the City and the  
20 Owner have relied.

21 **SECTION 2. REPRESENTATIONS OF OWNER.**

22 (a) The Owner hereby represents and warrants to the City that it is the principal  
23 Owner of the SR-100 Property in accordance with the title opinion or title certification  
24 provided by the Owner to the City issued by an attorney or title insurance company  
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1 licensed to provide services in the State of Florida, showing all liens, mortgages, and  
2 other encumbrances not satisfied or released of record relative to the SR-100 Property.

3 (b) The Owner represents and warrants to the City that it has the power and  
4 authority to enter into and consummate the terms and conditions of this MPD Agreement;  
5 that all acts, approvals, procedures, and similar matters required in order to authorize this  
6 MPD Agreement have been taken, obtained or followed, as the case may be; that this  
7 MPD Agreement and the proposed performance of this MPD Agreement by the Owner is  
8 not an *ultra vires* act; and that, upon the execution of this MPD Agreement by the parties,  
9 this MPD Agreement shall be valid and binding upon the parties hereto and their  
10 successors in interest.

11 **SECTION 3. APPROVAL OF MASTER PLAN DEVELOPMENT**

12 (a) The City Council at its business meeting of \_\_\_\_\_ 2022,  
13 adopted a Master Plan Development for the SR-100 Property subject to the terms and  
14 conditions of this MPD Agreement.

15  
16 (b) The Owner acknowledges that if this MPD Agreement is ever terminated,  
17 the approval shall be deemed null and void and the land uses approved for the SR-100  
18 Property shall revert back to prior the entitlements set forth in the S.R. 100 Property  
19 Development of Regional Impact Development Order recorded in Official Records Book  
20 1555, Page 839, Public Records of Flagler County, Florida, as amended by the First  
21 Amendment to the S.R. 100 Property Development of Regional Impact Development  
22 Order (Pursuant to Settlement) recorded in Official Records Book 1614, Page 276, Public  
23 Records of Flagler County, Florida (collectively, the "DRI"), unless otherwise approved by  
24 the City Council.  
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1 (c) The current provisions of the LDC, as may be amended from time-to-time,  
2 shall be applicable to the SR-100 Property unless otherwise specifically stated herein.  
3 Any City Code provision not specifically so identified will not be affected by the terms of  
4 this MPD Agreement and will be subject to enforcement and change under the same  
5 criteria as if no MPD Agreement were in effect.

6 **SECTION 4. PROJECT DESCRIPTION**

7 The Owner intends to develop the Project consisting of a maximum total of 750  
8 residential homesites with supporting internal parks and one or more amenity centers.  
9 The Project may be developed in multiple phases. All infrastructure necessary to support  
10 each phase shall be constructed concurrently with or prior to construction of each phase  
11 as approved by the City. Adequate emergency vehicle access and turnarounds shall be  
12 provided at all times for all phases. Each phase will be determined with the submittal of  
13 an application for a subdivision master plan development order. The phasing ensures  
14 that the Project will proceed in good faith and development will not be abandoned or  
15 suspended in a manner, which is adverse to the public interest. The development plan  
16 for the Project is generally outlined below and depicted on the MPD Conceptual Master  
17 Plan which is attached as **Exhibit "B"** hereto (the "Master Plan"). Applications for  
18 subdivision master plan approval may be submitted simultaneously with preliminary  
19 plat(s) subject to review approval as provided for in the LDC. The Land Use Administrator  
20 ("LUA") may provide a clearing only development order, prior to the issuance of the  
21 preliminary plat development orders, for placement of construction fencing, clearing of  
22 trees and underbrush, provided that all applicable permits, such as gopher tortoise  
23 permits, have been obtained.  
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1 (a) Garages. Each single-family home within the Project will have a two (2) car  
2 garage in accordance with the LDC.

3 (b) Common Area Maintenance and Management. The common areas and  
4 improvements within the Project shall be maintained and managed under one or more  
5 property owners' associations or a CDD. If more than one property owner's association  
6 is created for the Project, a Master Association will be created.

7 (c) Temporary Sales/Construction Trailers and Model Units. Temporary sales  
8 and construction trailers and model units may be located within the Project, subject to  
9 review and approval at the time of site development plan approval in accordance with the  
10 LDC.

11 (d) Common Areas. Common areas are located throughout the Project and  
12 may include open space, landscape areas, recreation (active and passive), an amenity  
13 center, pocket parks, and sales centers.

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15 **SECTION 5. DEVELOPMENT PLAN**

16 (a) The Master Plan depicts the general layout of the entire development for  
17 the Project. The exact location of structures, lot lines, roadways, parks, community  
18 amenities, internal landscape buffers, wetlands, drainage facilities and other  
19 improvements shown on the Master Plan will be determined or may be modified during  
20 review of the site development plans and subdivision master plans and plats.

21 (b) Adjustments to the Master Plan are anticipated to occur during the site  
22 development plan and subdivision plat review processes. Revisions which meet the  
23 intent and purpose of the City's Comprehensive Plan and LDC shall be approved by the  
24 LUA, if the substantial integrity of the original Master Plan and the development standards  
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1 contained herein are maintained. Any modification to the Master Plan that increases the  
2 intensity or types of development uses, increases building heights, reduces the total  
3 amount of open space, or decreases the size of any perimeter buffer within the Project  
4 shall require the approval of the City Council following the review and recommendation  
5 of the PLDRB.

6 (c) The Project may be developed in multiple phases as depicted on the Master  
7 Plan and as provided herein.

8 **SECTION 6. LAND DEVELOPMENT CODE APPLICABILITY**

9 (a) The LDC applies to the SR-100 Property and development within it, unless  
10 expressly otherwise provided in this MPD Agreement.

11 (b) The requirements of this Section supersede any inconsistent provisions of  
12 the LDC or other ordinances of the City.

13 (1) Accessory Uses. Standard residential accessory uses, including,  
14 without limitation, private garages/mother-in-law suites and storage buildings; home  
15 offices; model homes; guardhouses; air conditioning units and related heating/cooling  
16 units; swimming pools and pool equipment; generators; fences, walls, or hedges;  
17 gazebos and other open-air structures; boardwalks, docks, and other similar uses shall  
18 be permitted within the Project. Standard residential accessory uses will be allowed  
19 within the building areas of the Project, including but not limited to decks, swimming pools,  
20 patios, air conditioning units, walkways, and sidewalks. Accessory uses and structures  
21 will be allowed in accordance with the LDC, provided such uses and structures are of a  
22 nature customarily incidental and clearly subordinate to a residential home as the  
23 permitted or principal use. Specifically, as follows:  
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- 1 a. Accessory uses or structures contained within or attached to a  
2 residential home shall be considered a part of the principal  
3 structure and not an accessory building and shall meet the same  
4 requirements for setbacks as the principal structure, except as  
5 provided in Section 6(b)(1)(b) below.
- 6 b. Accessory uses such as pools, covered pools, patios, outdoor  
7 fireplaces, decks, and gazebos, either attached or detached from  
8 the principal structure, may be constructed up to a minimum of  
9 three (3) feet from the rear or side property boundary.
- 10 c. Guesthouses or employee quarters, either attached or detached,  
11 shall meet the required setbacks of the principal structure.
- 12 d. Detached accessory structures, other than those described in  
13 Sections 6(b)(1)(b) and 6(b)(1)(c) above, may be constructed  
14 three (3) feet from the side or rear property boundary if such  
15 accessory structure is separated from the principal structure by  
16 ten (10) feet or more. If the accessory structure is less than ten  
17 (10) feet from the principal structure, then the accessory structure  
18 shall be a minimum of five (5) feet from the rear or side property  
19 boundary.
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21 e. No accessory structure, excluding yard ornaments, shall be  
22 located within the required front yard.  
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- 1 f. Yard ornaments may be permitted in any required yard subject to  
2 height limitations and requirements limiting obstruction of visibility  
3 as defined in the LDC.
- 4 g. No permanent structures shall be allowed within any (public or  
5 private) drainage or utility easement. Examples of permanent  
6 structures shall include, but are not limited to, buildings, footings,  
7 decks, screened enclosures, patios, swimming pools and pool  
8 decks.
- 9 h. No air-conditioning or electrical equipment, masonry walls or  
10 masonry fences, swimming pools, swimming pool decks,  
11 swimming pool enclosures or signs shall be located or  
12 constructed within any drainage or underground utility easement.
- 13 i. Mechanical equipment (HVAC, generators, pool equipment, etc.)  
14 shall be set back three (3) feet from the side or rear property  
15 boundary.  
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17 (2) Wetlands and Wetland Buffer. An upland buffer with a minimum  
18 width of fifteen feet (10') and an average width of twenty-five feet (20') shall be provided  
19 around all wetland areas not being impacted by development activities. Development  
20 activities within the upland buffer shall be limited to removal of invasive vegetation,  
21 installation of essential utilities, permitted road and trail crossings, fill slopes and retaining  
22 walls, if necessary. Wetlands and wetland buffers are regulated by the St. Johns River  
23 Water Management District ("SJRWMD").  
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1 (3) Stormwater. The SR-100 Property is being developed with roads  
2 and a drainage system that will be maintained by a property owners association or a CDD.  
3 Stormwater runoff from the Project will be conveyed to on-site stormwater retention  
4 systems by means of grassed swales, curb gutters, and an underground drainage pipe  
5 system. The stormwater retention systems onsite may be interconnected with such  
6 systems on adjacent sites, subject to approval of the SJRWMD and the City. The City  
7 and Owner will coordinate at time of subdivision master plan review to ensure that offsite  
8 drainage will not be affected by the onsite improvements.

9 (4) Roadways/Rights-of-Way. The Project is being developed with  
10 roads and other transportation improvements that will remain private, unless voluntarily  
11 dedicated to and accepted by the City, and will be maintained by a property management  
12 association or the CDD. Internal access to all residential structures and amenities shall  
13 be provided by rights-of-way to be maintained by a property owners association or the  
14 CDD. Neighborhood streets shall have a fifty (50) foot right of way, with a minimum  
15 twenty-two (22) feet of travel lanes, and cul-de-sacs shall have a 124' right-of-way  
16 diameter and a 104' pavement diameter. Islands may be constructed in the cul-de-sacs  
17 so long as a minimum asphalt roadway width of twenty-two (22) feet is maintained. The  
18 Project shall provide and maintain two access points onto SR 100. One of these access  
19 points will be improved and gated at the primary entrance to the Project as depicted on  
20 the Master Plan. The second access point to SR 100 may be a stabilized right of way for  
21 emergency access only in the general location depicted on the Master Plan and must be  
22 constructed prior to the improvement of more than fifty (50) residential lots for sale within  
23 the Project. A third improved access point to Old Kings Road will be provided for later  
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1 phases of the Project, if practically feasible, in the general located depicted on the Master  
2 Plan. Upon development of the lands shown on the Master Plan, emergency vehicle  
3 access shall be permitted through the SR-100 Property at all times.

4 (5) Landscape. Efforts to preserve and enhance the Project design will  
5 be achieved through adjustments of building, parking, roadway, and stormwater location  
6 and through landscaping that will blend with the natural vegetation yet carefully  
7 accentuate the residential areas, entrances, and other common spaces. Reasonable  
8 efforts shall be made to preserve existing native trees and vegetation on the site. General  
9 landscaping around parking lots, roadways, entrances, residential buildings, and other  
10 common areas will be landscaped with ornamental and native plant materials and in  
11 accordance with the LDC. These areas will be landscaped to include pockets of  
12 preserved trees, enhanced street frontage landscaping, garden courtyards, foundation,  
13 and other types of landscaping to reflect outdoor spaces and to blend with the natural  
14 vegetation. All ornamental landscape beds and lawn areas will have irrigation. Florida  
15 Water Star landscaping standards are encouraged where feasible.  
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17 (6) Signage and Entry Features. All signage shall be regulated per the  
18 LDC except as provided herein. Directional signage for pocket parks, recreational areas,  
19 and other community amenities may be provided throughout the Project. Directional signs  
20 shall be uniform and consistent in design throughout the Project and shall be located in a  
21 tract or easement designated for signage and maintained by a property owners  
22 association or CDD. Directional signage may include the identity of the facility or amenity.  
23 The monument entrance signage at the entrance into the Project from SR-100 may be  
24 dual entry on both sides of the entrance, at the option of Owner. A screening wall  
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1 constructed of concrete or masonry up to 8 feet in height may be constructed, at the  
2 option of Owner, along the frontage of SR-100. All main entrance monumentation  
3 signage for the Project may exceed the requirements of the LDC subject to the approval  
4 of the LUA. All signage will be consistent and uniform in design. All signs will comply  
5 with the setbacks and sight clearance requirements of the LDC, except as provided herein  
6 or as approved by the LUA as an administrative variance. The Owner reserves the right  
7 to construct secured entry gates to the Project or any of the communities within the  
8 phases of the Project. Vehicular access shall be designed to accommodate emergency  
9 vehicle access pursuant to the dimensional requirements of the LDC.

10 (7) Recreation. Recreation facilities shall be provided consistent with  
11 LDC level of service standard.

12 (8) Pedestrian / Bicycle Access. A pedestrian / bicycle system will  
13 provide connection between the residential phases, pocket parks, community amenities  
14 and the City's and Flagler County's pedestrian and bike paths located adjacent to the  
15 boundaries of the Project, including the Lehigh Trail adjacent to the northern boundary of  
16 the Project, for active and passive recreational needs.

17 (9) Lighting. Decorative pole mounted lighting fixtures will be provided  
18 throughout the Project, including, but not limited to, solar powered lighting fixtures.  
19 Additional landscape lighting may include low level lighting and occasional accent lighting.  
20 The locations of such fixtures shall be further described at the time of subdivision master  
21 plan approval for each phase of the Project.

22 (10) Nothing herein shall be deemed a prohibited exaction under Fla.  
23 Stat. 70.45, and Owner agrees it has not suffered any damages under that statute.  
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1 **SECTION 7. SITE DEVELOPMENT PLAN**

2 (a) The following table lists the site development requirements that are  
3 applicable within the Property.

4 **Table of Site Development Requirements**

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TYPE	SINGLE FAMILY HOMESITES	COMMUNITY AMENITY CENTER
Lot Width Minimum	40 ft	N/A
Lot Size Minimum	4,800 Sq.Ft.	N/A
Living Area Minimum	1,200 Sq.Ft.	N/A
Height Maximum <sup>1</sup>	35'	35'
Setbacks from Street Minimums <sup>2</sup>	N/A	Arterial/Collector Road 25' Local Road 20' Or Landscape Buffer whichever is greater
Front Setback Minimum <sup>2</sup>	20'	N/A
Side Yard Setback Minimum <sup>2 3</sup>	5'	10'
Rear Setback Minimum <sup>2 3</sup>	10'	10' Interior boundary
Side Street Setback Minimum <sup>2 3</sup>	15'	N/A
Max Impervious Surface Ratio (ISR) <sup>4</sup>	.75	.70
Maximum Floor Area Ratio (FAR)	N/A	.40

6 <sup>1</sup> Roof heights shall be measured in accordance with the LDC

7 <sup>2</sup> All setbacks will be measured from the lot line to the foundation of the structure.

8 <sup>3</sup> Minimum setbacks for accessory structures are defined in Section 6(b)(1) of this Agreement.

9 <sup>4</sup> ISR is calculated on the whole project rather than individual lots.

10 (b) Emergency Services. Fire protection requirements for the Project  
11 will be met through a system of fire hydrants installed on the site by the Owner in  
12 accordance with City standards. The locations of fire hydrants will be shown on the final  
13 site plans or Subdivision Plans. The water requirements for the fire system will be served  
14 by the City.

15 (c) Parking. Parking shall comply with the LDC

16 (d) Maintenance The common areas and other land that are owned or  
17 controlled by a property owner's association or CDD will be maintained by same.  
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1 (e) Services All services for the Project, including utilities, fire  
2 protection, solid waste, telephone, electricity, cable television, fiber optics, and  
3 stormwater management shall be provided by the responsible parties. All new utilities  
4 serving the Project shall be installed underground except wells and pump stations. Water  
5 and wastewater services will be provided by the City of Palm Coast.

6 **SECTION 8. BREACH; ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.**

7 (a). In the event of a breach hereof by either party hereto, the other party hereto  
8 shall have all rights and remedies allowed by law, including the right to specific  
9 performance of the provisions hereof.

10 (b). In the event that a dispute arises under this MPD Agreement, the parties  
11 shall attempt to resolve all disputes informally. A party who unreasonably refuses to  
12 submit to mediation may not later object in Circuit Court that the other party failed to  
13 comply with this Section 8(b) by not participating in the mediation prior to filing suit.

14 (c). Prior to the City filing any action or terminating this MPD Agreement as a result  
15 of a default under this MPD Agreement, the City shall first provide the Owner written  
16 notice of the said default. Upon receipt of said notice, the Owner shall be provided a thirty  
17 (30) day period in which to cure the default to the reasonable satisfaction of the City prior  
18 to the City filing said action or terminating this MPD Agreement. If thirty (30) days is not  
19 a reasonable period of time in which to cure the default, the length of the cure period shall  
20 be extended for a time period acceptable to the City, but in no case shall the cure period  
21 exceed ninety (90) days from the initial notification of default. Upon proper termination of  
22 the MPD Agreement, as provided herein, the zoning for the property shall revert back to  
23 the entitlements set forth in the DRI.  
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1 **SECTION 9. NOTICES.**

2 (a). All notices required or permitted to be given under this MPD Agreement  
3 shall be in writing and must be delivered to the City or the Owner at its address set forth  
4 below (or such other address as may be hereafter be designated in writing by such party).

5 (b). Any such notice shall be personally delivered or sent by registered or  
6 certified mail, overnight courier, facsimile, or telecopy.

7 (c). Any such notice will be deemed effective when received (if sent by hand  
8 delivery, overnight courier, telecopy, or facsimile) or on that date which is three (3) days  
9 after such notice is deposited in the United States mail (if sent by registered or certified  
10 mail).

11 (d). The parties' addresses for the delivery of all such notices are as follows:

12 As to the City: City Manager  
13 160 Lake Avenue  
14 Palm Coast, Florida, 32164

15 As to the Owner: JX Palm Coast Land, LLC  
16 ATTN: Bruce J. Parker, Vice President  
17 201 East Las Olas Blvd., Suite 1900  
Fort Lauderdale, FL 33301

18 **SECTION 10. SEVERABILITY.**

19 It is hereby declared to be the intention of the City Council that the sections,  
20 paragraphs, sentences, clauses and phrases of this MPD Agreement are severable, and  
21 if any phrase, clause, sentence, paragraph or section of this MPD Agreement shall be  
22 declared unconstitutional by the valid judgment or decree of a court of competent  
23 jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses,  
24 sentences, paragraphs and sections of this MPD Agreement.

25 **SECTION 11. SUCCESSORS AND ASSIGNS.**

1 (a). This MPD Agreement and the terms and conditions hereof shall be binding  
2 upon and inure to the benefit of the City and Owner and their respective successors-in-  
3 interest. The terms and conditions of this MPD Agreement similarly shall be binding upon  
4 the property and shall run with the land and the title to the same.

5 (b). This MPD Agreement touches and concerns the SR-100 Property.

6 (c). The Owner has expressly covenanted and agreed to this provision and all  
7 other terms and provisions of this MPD Agreement.

8 **SECTION 12. GOVERNING LAW/VENUE/COMPLIANCE WITH LAW.**

9 (a). This MPD Agreement shall be governed by and construed in accordance  
10 with the laws of the State of Florida and the Code of Ordinances of the City.

11 (b). Venue for any dispute shall be in the Seventh Judicial Circuit Court in and  
12 for Flagler County, Florida.

13 (c). The Owner shall fully comply with all applicable local, state, and federal  
14 environmental regulations and all other laws of similar type or nature.

15 (d). Without waiving the Owner's potential rights, remedies and protections or  
16 the City's defenses pursuant to Chapter 70 of the Florida Statutes, as may be amended,  
17 this MPD Agreement shall not limit the future exercise of the police powers of the City to  
18 enact ordinances, standards, or rules regulating development generally applicable to the  
19 entire area of the City, such as requiring compliance with the City capital facilities plan;  
20 parks master plan, including parks and trail dedications; utility construction and  
21 connections; mandating utility capacities; requiring street development or other such  
22 similar land development regulations and requirements.  
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1 (e). If state or federal laws are enacted after execution of this MPD Agreement,  
2 which are applicable to and preclude the parties' compliance with this MPD Agreement,  
3 this MPD Agreement shall be modified or revoked as necessary to comply with the  
4 relevant law.

5 (f). This MPD Agreement shall also not be construed to prohibit the City from  
6 adopting lawful impact fees applicable to the Owner and the Master Plan development  
7 authorized hereunder.

8 **SECTION 13. TERM / EFFECTIVE DATE.**

9 This MPD Agreement shall be effective upon adoption by the City Council of the  
10 City and execution of this MPD Agreement by all parties and shall terminate ten (10) years  
11 from its effective date. This MPD Agreement may be extended by mutual consent of the  
12 City and the Owner, subject to a public hearing by the City Council to approve the consent  
13 by the City.

14 **SECTION 14. RECORDATION.**

15 Upon adoption by the City Council of the City of Palm Coast, Florida, and execution  
16 of this MPD Agreement by all parties, this MPD Agreement and any and all amendments  
17 hereto shall be recorded by the City with the Clerk of the Circuit Court of Flagler County  
18 within thirty (30) days after its execution by the City and the MPD Agreement shall run  
19 with the land.  
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21 **SECTION 15. PERMITS.**

22 (a). The failure of this MPD Agreement to address any specific City, county,  
23 state, or federal permit, condition, term, or restriction shall not relieve the Owner or the  
24 City of the requirement of complying with the law governing said permitting requirements,  
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1 conditions, terms, or restrictions.

2 (b). The terms and conditions of this MPD Agreement determine concurrency  
3 for the Project.

4 (c) All development and impact fees charged by the City for construction or  
5 development of subdivisions or site plans shall be paid by the Owner at the time the City  
6 issues a building permit or a certificate of occupancy.

7 **SECTION 16. THIRD PARTY RIGHTS.**

8 This MPD Agreement is not a third-party beneficiary contract and shall not in any  
9 way whatsoever create any rights on behalf of any third party.

10 **SECTION 17. TIME IS OF THE ESSENCE.**

11 (a). Strict compliance shall be required with each and every provision of this  
12 MPD Agreement.

13 (b). Time is of the essence to this MPD Agreement, and every right or  
14 responsibility required herein shall be performed within the times specified.

15 **SECTION 18. ATTORNEY'S FEES.**

16 In the event of any action to enforce the terms of this MPD Agreement, the  
17 prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees,  
18 and all costs incurred, whether the same be incurred in a pre-litigation negotiation,  
19 litigation at the trial, or appellate level.

20 **SECTION 19. FORCE MAJEURE.**

21 The parties agree that in the event that the failure by either party to accomplish  
22 any action required hereunder within a specific time period ("Time Period") constitutes a  
23 default under terms of this MPD Agreement and, if any such failure is due to any  
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1 unforeseeable or unpredictable event or condition beyond the control of such party  
2 including, but not limited to, acts of God, acts of government authority (other than the  
3 City's own acts), acts of public enemy or war, terrorism, riots, civil disturbances, power  
4 failure, shortages of labor or materials, injunction or other court proceedings beyond the  
5 control of such party, or severe adverse weather conditions ("Uncontrollable Event"), then  
6 notwithstanding any provision of this MPD Agreement to the contrary, that failure shall  
7 not constitute a default under this MPD Agreement and any Time Period prescribed  
8 hereunder shall be extended by the amount of time that such party was unable to perform  
9 solely due to the Uncontrollable Event.

10 **SECTION 20. CAPTIONS.**

11 Sections and other captions contained in this MPD Agreement are for reference  
12 purposes only and are in no way intended to describe, interpret, define, or limit the scope,  
13 extent, or intent of this MPD Agreement, or any provision hereof.

14 **SECTION 21. INTERPRETATION.**

15 (a). The Owner and the City agree that all words, terms, and conditions  
16 contained herein are to be read in concert, each with the other, and that a provision  
17 contained under one (1) heading may be considered to be equally applicable under  
18 another in the interpretation of this MPD Agreement.

19 (b). This MPD Agreement shall not be construed more strictly against either  
20 party on the basis of being the drafter thereof, and both parties have contributed to the  
21 drafting of this MPD Agreement.

22 **SECTION 22. COUNTERPARTS.**

23 This MPD Agreement may be executed in any number of counterparts, each of  
24  
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1 which shall be deemed an original, but all of which, taken together, shall constitute one  
2 (1) and the same document.

3 **SECTION 23. MODIFICATIONS / AMENDMENTS/NON-WAIVER.**

4 (a). Amendments to and waivers of the provisions herein shall be made by the  
5 parties only in writing by formal amendment. This MPD Agreement shall not be modified  
6 or amended except by written agreement executed by all parties hereto and upon  
7 approval of the City Council of the City.

8 (b). Failure of any party hereto to exercise any right hereunder shall not be  
9 deemed a waiver of any such right and shall not affect the right of such party to exercise  
10 at some future date any such right or any other right it may have.

11 **SECTION 24. ENTIRE AGREEMENT; EFFECT ON PRIOR AGREEMENTS.**

12 This MPD Agreement constitutes the entire agreement between the parties and  
13 supersedes all previous oral discussions, understandings, and agreements of any kind  
14 and nature as between the parties relating to the subject matter of this MPD Agreement.

15  
16 **(SIGNATURES AND NOTARY BLOCKS ON NEXT PAGE)**

1           **IN WITNESS WHEREOF**, the City and the Owner have caused this MPD  
2 Agreement to be duly executed by his/her/its/their duly authorized representative(s) as of  
3 the date first above written.

4 **OWNER'S/APPLICANT'S CONSENT AND COVENANT:**

5           **COMES NOW**, the Owner on behalf of itself and its successors, assigns and  
6 transferees of any nature whatsoever, and consents to and agrees with the covenants to  
7 perform and fully abide by the provisions, terms, conditions, and commitments set forth  
8 in this MPD Agreement.

9  
10 WITNESSES:

**JX Palm Coast Land, LLC**  
A Florida Limited Liability Company

11 \_\_\_\_\_  
12 \_\_\_\_\_

(print)

By: \_\_\_\_\_  
Bruce J. Parker, Vice President

13  
14 \_\_\_\_\_  
15 \_\_\_\_\_

(print)

16  
17 STATE OF FLORIDA

18  
19 COUNTY OF \_\_\_\_\_

20 The foregoing instrument was acknowledged before me by means of  physical presence  
21 or  online notarization, this \_\_\_\_\_ (date) by Bruce J. Parker, Vice  
22 President of JX Palm Coast Land, LLC, a Florida Limited Liability Company, on behalf of  
23 the company. He is personally known to me or who has produced (type of identification)  
24 as identification.

25 \_\_\_\_\_  
Notary Public – State of Florida  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

CITY OF PALM COAST, FLORIDA

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\_\_\_\_\_  
David Alfin, Mayor

ATTEST:

\_\_\_\_\_  
Virginia A. Smith, City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney

STATE OF FLORIDA

COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_(date) by \_\_\_\_\_ (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

\_\_\_\_\_  
Notary Public – State of Florida

Print Name:\_\_\_\_\_

My Commission expires:

**EXHIBIT "A"**

LEGAL DESCRIPTION

OFFICIAL RECORDS BOOK 1027, PAGE 212

BEING A PART OF SECTIONS 4, PART OF FR'S PELLIECER GRANT (SECTION 39) AND A PART OF MCDON'ELY BLACK GRANT (SECTION 40), TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE COMMENCE AT THE EASTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT MONUMENT RIGHT-OF-WAY) AND THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200 FOOT RIGHT-OF-WAY); THENCE N 87°48'45" E ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID STATE ROAD 100 FOR A DISTANCE OF 79.60 FEET; THENCE LEAVING SAID NORTH RIGHT-OF-WAY LINE N 02°11'15" W FOR A DISTANCE OF 24.00 FEET; THENCE N 87°48'45" E PARALLEL WITH THE SAID NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100 A DISTANCE OF 868.71 FEET TO THE POINT OF BEGINNING OF THIS DESCRIBED PARCEL; THENCE THE FOLLOWING COURSE AND DISTANCE ALONG THE APPROXIMATE UPLAND SIDE OF A WETLAND: THENCE N 23°46'37" W A DISTANCE OF 309.76 FEET; THENCE N 87°50'18" E A DISTANCE OF 81.42 FEET; THENCE N 02°01'18" E A DISTANCE OF 152.26 FEET; THENCE N 49°35'38" E A DISTANCE OF 163.44 FEET; THENCE N 57°25'13" E A DISTANCE OF 139.56 FEET; THENCE N 35°51'53" E A DISTANCE OF 80.63 FEET; THENCE N 37°28'27" W A DISTANCE OF 189.56 FEET; THENCE S 71°24'28" W A DISTANCE OF 65.32 FEET; THENCE N 23°55'22" W A DISTANCE OF 191.00 FEET; THENCE N 32°00'32" W A DISTANCE OF 162.42 FEET; THENCE N 40°33'42" W A DISTANCE OF 162.61 FEET; THENCE S 61°16'18" W A DISTANCE OF 160.60 FEET; THENCE S 47°56'03" W A DISTANCE OF 136.98 FEET; THENCE S 82°39'53" W A DISTANCE OF 240.90 FEET; THENCE N 26°35'32" W A DISTANCE OF 224.76 FEET; THENCE N 65°34'07" W A DISTANCE OF 157.70 FEET; THENCE N 18°34'47" W A DISTANCE OF 91.65 FEET; THENCE N 30°06'23" E A DISTANCE OF 95.79 FEET; THENCE N 06°54'53" E A DISTANCE OF 83.87 FEET; THENCE N 79°48'42" W A DISTANCE OF 77.16 FEET; THENCE S 30°41'18" W A DISTANCE OF 128.85 FEET; THENCE N 41°09'52" W A DISTANCE OF 114.68 FEET; THENCE N 81°43'42" W A DISTANCE OF 111.79 FEET; THENCE S 33°16'58" W A DISTANCE OF 136.88 FEET; THENCE S 52°56'28" W A DISTANCE OF 140.60 FEET; THENCE N 84°49'42" W A DISTANCE OF 99.96 FEET; THENCE S 88°03'03" W A DISTANCE OF 86.69 FEET; THENCE N 38°47'49" W A DISTANCE OF 81.75 FEET TO THE CENTER LINE OF A 80 FEET WIDE DRAINAGE CANAL; THENCE CONTINUE ALONG THE SAID UPLAND LINE OF N 27°25'56" W A DISTANCE OF 133.41 FEET; THENCE N 04°07'27" E A DISTANCE OF 81.48 FEET; THENCE N 50°42'03" W A DISTANCE OF 157.13 FEET; THENCE N 01°39'23" W A DISTANCE OF 98.02 FEET; THENCE N 32°50'53" W A DISTANCE OF 129.71 FEET; THENCE N 02°23'08" W A DISTANCE OF 103.99 FEET; THENCE N 33°50'27" E A DISTANCE OF 103.26 FEET; THENCE N 18°43'17" E A DISTANCE OF 160.81 FEET;

1 THENCE N 08°59'48" W A DISTANCE OF 171.58 FEET; THENCE N 18°32'08" E A  
2 DISTANCE OF 140.89 FEET; THENCE N 14°10'27" E A DISTANCE OF 67.04 FEET;  
3 THENCE N 23°02'47" E A DISTANCE OF 126.55 FEET; THENCE N 04°37'18" W A  
4 DISTANCE OF 175.86 FEET; THENCE N 09°55'07" E A DISTANCE OF 86.88 FEET;  
5 THENCE N 28°22'13" W A DISTANCE OF 124.61 FEET; THENCE N 00°05'23" W A  
6 DISTANCE OF 132.00 FEET; THENCE N 43°09'03" W A DISTANCE OF 72.27 FEET;  
7 THENCE N 26°41'18" W A DISTANCE OF 160.08 FEET; THENCE N 83°43'28" W A  
8 DISTANCE OF 87.39 FEET; THENCE N 21°56'06" W A DISTANCE OF 135.18 FEET;  
9 THENCE N 51°59'56" W A DISTANCE OF 182.12 FEET; THENCE N 25°41'41" E A  
10 DISTANCE OF 150.53 FEET; THENCE N 33°14'47" W A DISTANCE OF 42.82 FEET  
11 TO THE CENTER LINE OF AN 80 FOOT WIDE DRAINAGE CANAL; THENCE N  
12 80°19'59" W LEAVING SAID UPLAND TO WETLANDS A DISTANCE OF 414.03 FEET;  
13 THENCE N 24°04'58" W A DISTANCE OF 3025.22 FEET; THENCE N 38°41'25" W A  
14 DISTANCE OF 281.36 FEET; THENCE N 30°11'46" W A DISTANCE OF 425.92 FEET;  
15 THENCE N 11°45'58" W ALONG THE MONUMENTED EAST RIGHT-OF-WAY LINE  
16 OF OLD KINGS ROAD FOR A DISTANCE OF 199.95 FEET TO A POINT ON THE  
17 SOUTH LINE OF LEHIGH ROAD; THENCE N 89°15'49" E ALONG THE SOUTH LINE  
18 OF LEHIGH ROAD A DISTANCE OF 2153.65 FEET TO A POINT OF CURVE CONCAVE  
19 SOUTHWEST, SAID CURVE HAVING A RADIUS OF 450.00 FEET, A CENTRAL  
20 ANGLE OF 86°20'19", A CHORD BEARING OF S 47°34'01" E, A CHORD DISTANCE  
21 OF 615.74 FEET; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 678.10 FEET  
22 TO THE TANGENT THEREOF; THENCE S 04°23'52" E A DISTANCE OF 221.47 FEET;  
23 THENCE N 85°36'08" E FOR A DISTANCE OF 60.00 FEET; THENCE N 04°23'52" W  
24 A DISTANCE OF 160.04 FEET TO A CURVE CONCAVE TO THE SOUTHEAST, SAID  
25 CURVE HAVING A RADIUS OF 450.00 FEET, A CENTRAL ANGLE OF 93°39'41", A  
CHORD BEARING OF N 42°25'58" E, A CHORD DISTANCE OF 656.40 FEET;  
THENCE ALONG SAID CURVE AN ARC DISTANCE OF 735.61 FEET TO A POINT ON  
THE SOUTH LINE OF SAID LEHIGH ROAD; THENCE N 89°15'49" E, A DISTANCE OF  
457.56 FEET; THENCE LEAVING THE SOUTH LINE OF SAID LEHIGH ROAD S  
20°54'58" E FOR A DISTANCE OF 2024.75 FEET; THENCE S 18°25'23" E FOR A  
DISTANCE OF 5894.57 FEET TO A POINT THAT IS 24.00 FEET NORTH OF THE  
NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100 AS PREVIOUSLY STATED;  
THENCE S 87°48'45" W ALONG A LINE THAT IS PARALLEL WITH THE NORTH  
RIGHT-OF-WAY LINE OF STATE ROAD 100 FOR A DISTANCE OF 1959.16 FEET TO  
THE POINT OF BEGINNING.

20 LESS AND EXCEPT MASONIC CEMETERY WITH EASEMENT AS SET FORTH IN  
21 DEED BOOK 30, PAGE 201 AND DEED BOOK 32, PAGE 15, AND AS SET FORTH IN  
22 THE COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED IN OFFICIAL  
23 RECORDS BOOK 551, PAGE 574, RE-RECORDED IN OFFICIAL RECORDS BOOK  
24 554, PAGE 1271, ALL IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.  
25



