

This Instrument Prepared By:
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Cobb Cole, P.A.
149 South Ridgewood Avenue
Suite 700
Daytona Beach, FL 32114

STATE OF FLORIDA

**FIFTH AMENDMENT TO THE DAYTONA
BEACH KENNEL CLUB PLANNED
COMMERCIAL DEVELOPMENT AGREEMENT**

COUNTY OF VOLUSIA

THIS FIFTH AMENDMENT TO THE DAYTONA BEACH KENNEL CLUB PLANNED COMMERCIAL DEVELOPMENT AGREEMENT (this "Fifth Amendment") is entered into by and between DAYTONA BEACH KENNEL CLUB, INC. (successor to North Delaware Land Acquisition Company, Inc.), a Florida corporation having a mailing address of 960 South Williamson Boulevard, Daytona Beach, FL 32114 (the "Developer") and the City of Daytona Beach, a Florida municipal corporation (the "City") with an address at 301 S. Ridgewood Avenue, Daytona Beach, Florida 32114.

WHEREAS, the City and North Delaware Land Acquisition Company, Inc. entered into the "Daytona Beach Kennel Club Planned Commercial Development Agreement" (the "Agreement"), recorded in Official Records Book 6012, Page 348, Public Records of Volusia County, Florida, to allow for the construction and operation of an indoor recreation/entertainment use and office space; and

WHEREAS, the City and the North Delaware Land Acquisition Company, Inc. agreed to amend the Agreement as conveyed by the "First Amendment to the Daytona Beach Kennel Club Planned Commercial Development Agreement" (the "First Amendment"), recorded in Official Records Book 6179, Page 4062, Public Records of Volusia County, Florida, to allow for expansion of the existing facility; and

WHEREAS, the Daytona Beach Kennel Club became successor to North Delaware Land Acquisition Company, Inc., and the City and the Daytona Beach Kennel Club, Inc. agreed to amend the Agreement as conveyed by the "Second Amendment to the Daytona Beach Kennel Club Planned Commercial Development Agreement" (the "Second Amendment"), recorded in Official Records Book 6628, Page 348, Public Records of Volusia County, Florida, to allow for an electronic message center sign; and

WHEREAS, the City and the Daytona Beach Kennel Club, Inc. agreed to amend the Agreement as conveyed by the "Third Amendment to the Daytona Beach Kennel Club Planned Commercial Development Agreement" (the "Third Amendment"), recorded in Official Records Book 7016, Page

4864, Public Records of Volusia County, Florida, to allow for changes to the electronic message center display screen;

WHEREAS, the City and the Daytona Beach Kennel Club, Inc. agreed to amend the Agreement as conveyed by the "Fourth Amendment to the Daytona Beach Kennel Club Planned Commercial Development Agreement" (the "Fourth Amendment"), recorded in Official Records Book 7237, Page 1633, Public Records of Volusia County, Florida, to allow for changes to permitted uses to allow solar energy collection systems; and

WHEREAS, the property subject to this Fifth Amendment remains unchanged from that of the Agreement as previously amended and consists of approximately 38 ± acres of real property located south of Bellevue Avenue, between South Williamson Boulevard and Interstate 95 within the municipal limits of the City of Daytona Beach, Florida (the "Property"), a description of which is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the Developer proposes this Fifth Amendment to the Agreement to provide for certain changes to the Sign Plan Exhibit "B" to the Third Amendment, to allow an increase in the frequency of change of the Electronic Message Center sign from every 60 seconds to every 10 seconds; and

WHEREAS, the City is willing to grant Developer's request, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer hereto covenant and bind themselves as follows:

1. The recitals provided above are recognized as true and correct representations and are incorporated herein.
2. Exhibit B of the Third Amendment is amended to allow an increase in the frequency of change of the Electronic Message Center sign from every 60 seconds to every 10 seconds.
3. The remainder of the Agreement, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment not otherwise changed by this Fifth Amendment remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have set their hands this ____ day of

_____, 2017.

WITNESSES:

THE CITY OF DAYTONA BEACH

Printed Name: _____

By: _____
Derrick L. Henry, Mayor

Printed Name: _____

Attest: _____
Letitia LaMagna, City Clerk

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by Derrick L. Henry and Letitia LaMagna, as Mayor and City Clerk, respectively, of the City of Daytona Beach, a Florida municipality, on behalf of the City. They are personally known to me or have produced _____ as identification.

NOTARY PUBLIC:

Notary Public, State of Florida at Large
Commission No.: _____
My Commission Expires: _____

Approved as to Legal Form:

By: _____
Robert Jagger, City Attorney

WITNESSES:

DAYTONA BEACH KENNEL CLUB, INC., a
Florida corporation

[Signature]
Printed Name: Todd Schryver

By: [Signature]
Fred Guzman, President
(CORPORATE SEAL)

[Signature]
Printed Name: Sandra Goster-Gostanski

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 7th day of Aug, 2017, by Fred Guzman, as President of DAYTONA BEACH KENNEL CLUB, INC., a Florida corporation. They are personally known to me or have produced _____ as identification.

[Signature]
Notary Public, State of Florida at Large
Commission No.: GG 106342
My Commission Expires: 8-7-2021

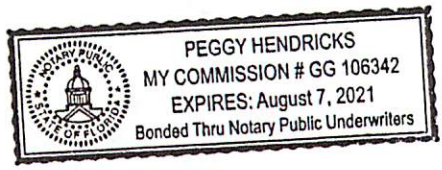


Exhibit "A"

Legal Description

A PART OF SECTIONS 26 AND 27, TOWNSHIP 15 SOUTH, RANGE 32 EAST VOLUSIA COUNTY, FLORIDA, PLATTED AS PART OF DAYTONA PARK, UNIT NO.1, AS RECORDED IN MAP BOOK 10, PAGES 26 THROUGH 40, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID SECTION 27, AS THE POINT OF BEGINNING RUN S 89°26'52" W, ALONG THE SOUTH LINE OF SAID SECTION 27, A DISTANCE OF 862.53 FEET TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE NO. 95 (STATE ROAD NO. 9); THENCE N 26°36'22" W, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 936.94 FEET TO THE WEST LINE OF THE EAST 1275 FEET OF SAID SECTION 27; THENCE N 00°29'13" W, ALONG THE WEST LINE OF THE EAST 1275 FEET OF SAID SECTION 27, A DISTANCE OF 331.75 FEET TO THE SOUTH RIGHT OF WAY LINE OF BELLEVUE AVENUE (OLD DELAND ROAD); THENCE N 64°40'38" E, ALONG THE SOUTH RIGHT OF WAY LINE OF SAID BELLEVUE AVENUE, A DISTANCE OF 786.85 FEET TO THE WESTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD; THENCE RUN ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID WILLIAMSON BOULEVARD THE FOLLOWING COURSES AND DISTANCE; S 26°39'09" E, A DISTANCE OF 455.27 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHEAST, HAVING A RADIUS OF 1100.00 FEET AND A CENTRAL ANGLE OF 35°04'07"; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 673.27 FEET TO THE POINT OF TANGENCY; THENCE S 61°43'16" E, A DISTANCE OF 671.91 FEET; THENCE DEPARTING THE WESTERLY RIGHT OF WAY LINE OF SAID WILLIAMSON BOULEVARD, RUN S 28°16'44" W, A DISTANCE OF 328.00 FEET TO THE SOUTH LINE OF SAID SECTION 26; THENCE S 89°05'56" W, ALONG THE SOUTH LINE OF SAID SECTION 26, A DISTANCE OF 528.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 37.968 ACRES MORE OR LESS.