

Document prepared by:

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140 South Beach Street, Suite 400

Daytona Beach, FL 32114

Return recorded document to:

City of Daytona Beach Records Clerk

P.O. Box 2451

Daytona Beach, FL 32115-2451

246 SOUTH BEACH PLANNED DISTRICT AGREEMENT

The CITY OF DAYTONA BEACH, FLORIDA, a Florida municipal corporation located in Volusia County, Florida ("City"), and Robert W. Mansour, the record title property owner ("Owner" or "Developer"), hereby agree and covenant, and bind their heirs, successors, and assigns, as follows:

1. PROPERTY DESCRIPTION AND OWNERSHIP.

A. The property subject to this Agreement consists of approximately .06+/- acres of real property ("Property") and is described in Exhibit "A", attached hereto and by reference made a part hereof.

B. The Property is under the sole ownership of Owner.

2. EXHIBITS.

The Exhibits listed below are by reference made a part hereof, and copies or reduced size copies are attached hereto. Full-sized copies of the Exhibits shall be retained by the City Clerk and shall be controlling in case of any ambiguity in the Exhibits. In the event of a conflict between the graphic illustrations of any Exhibit and the textual provisions of this Agreement, the textual provisions shall control.

Exhibit A: Property legal description, survey, date certified 1/5/2016, prepared by Efird Surveying Group, Inc.,

Exhibit B: 2nd Floor Plan, rev. date July 12, 2017, prepared by Richard Brookfield Architect, LLC.

3. DEVELOPMENT PLAN.

A. Developer has designated the Property as "246 South Beach".

B. The Property will be developed as a Planned Development - Redevelopment

pursuant to the City's Land Development Code (LDC). Development shall be controlled by the LDC and the terms and provisions of this Agreement. In the event of a conflict between this Agreement and the LDC or other ordinances, this Agreement shall control. If this Agreement fails to address a particular subject or requirement, the applicable requirements of the LDC or other City ordinance shall control.

C. Development of the Property shall be consistent with Exhibit B (PD Plan). Exhibit B generally depicts the planned layout of buildings, parking areas, driveways, common areas, and other planned features or improvements to the Property.

D. **ADDITIONAL LOT DEVELOPMENT CRITERIA.** The following lot development criteria shall apply to the Property:

- (1) The lot and building requirements of the RDD-1 (Beach Street Retail) zoning classification, as it currently exists, or as amended.

Lot area, minimum	n/a
Lot width, minimum	n/a
Lot depth, minimum	n/a
Density, maximum	40 du/ac ²
Floor area ratio (FAR), maximum	3.0 ³
Living area per dwelling unit, minimum	n/a
Lot coverage, maximum (% of lot area)	n/a
Structure height, maximum	40 ft
Front yard setback, minimum	n/a
Front yard setback, maximum	10 ft
Street side yard setback, minimum	n/a
Interior side yard setback, minimum	n/a
Rear yard setback, minimum	n/a
Spacing between principal structures, minimum	n/a

NOTES: [sf = square feet; ft = feet; du/ac = dwelling units/acre]

1. *Development Standards.* See development standards in [Article 6](#) and any modified development standards for any overlay districts (Section [4.9](#)), subject to the following modifications:
 - a. No off-street parking is required.
 - b. Balconies extending over sidewalks shall be at least nine feet above the sidewalk level, be designed to be consistent with the period and style of the original construction of the building or surrounding buildings, and have a location and size that is proportional to the building's facade, does not adversely affect or infringe on adjacent buildings, and does not interfere with pedestrian flow. Liability insurance for such balconies shall be provided in a form approved by the City Attorney.

4. **CONFORMANCE WITH COMPREHENSIVE PLAN; CONCURRENCY; PERMITS.**

A. The City has determined that the Property is suitable in size, location, and character for the uses proposed, and that the uses proposed are consistent with the City's comprehensive plan.

B. Developer shall be responsible for obtaining all development permits required by the LDC and applicable federal and state laws. Developer specifically acknowledges that approval of this Agreement does not constitute a Concurrency Certificate as required by the LDC, and that Developer will be required to separately obtain a Concurrency Certificate or, where applicable, to enter into proportionate fair share agreement. Approval of this agreement and exhibits is not a permit to begin clearing, to begin site work, or to begin construction without necessary permits.

C. The City agrees to issue the required permits for development of the Property in the manner set forth in this Agreement and the LDC.

5. **PERMITTED USES.**

The following uses are permitted within the Property, subject to compliance with the Use-Specific Standards set forth in Article 5, LDC, and the Modified Use Standards set forth in Article 4.7.N.5: All uses as provided in the RDD-1 (Beach Street Retail) zoning district, as currently exist, or as amended, including tattooing.

- Tattooing, subject to the following conditions:
 1. 10 am to 10 pm seven (7) days per week
 2. No body piercing
 3. By appointment, in private studio not open to public view
 4. Ancillary retail sales
- Live/work unit

- Multi-family dwelling
- Upper story dwelling (above nonresidential use)
-
- Telecommunications facility, collocated on existing structure other than telecommunications tower
- Telecommunications facility, collocated on existing telecommunications tower
- Telecommunications tower, monopole up to 90 feet high
- Telecommunications tower, monopole more than 90 but less than 180 feet high
- Telecommunications tower, other than above by special use
- Museum by special use
- Medical or dental clinic/office
- Medical or dental lab
- Public square or plaza
- Utility use minor as defined by the LDC
- Animal grooming
- Business service center
- Travel agency
- Boutique bar
- Restaurant without drive-in or drive-through service
- Specialty eating or drinking establishment
- Business services offices
- Professional services offices
- Other office facility
- Cinema
- Indoor recreation/entertainment use by special use;
- The following Retail Sales and Service Uses: (antique store, art gallery, art, crafts, music, dance, photography or martial arts studio/school, book or media shop, cigar lounge, drug store or pharmacy without drive-through service, florist shop, gift shop or stationery store, jewelry store, liquor or package store, meat, poultry, or seafood market, personal services establishment, other retail sales establishment
- Visitor Accommodation Uses
- Hotel or motel
- Other accommodations.

6. ARCHITECTURAL AND DESIGN STANDARDS.

A. All buildings and accessory structures constructed within the Property shall be developed in compliance with the requirements of this section and §6.14, LDC.

B. All of the following requirements shall be met within the Property:

(1) All buildings and accessory structures shall be consistent with a common

architectural theme. The theme shall be established by harmoniously coordinating the general appearance of all buildings and accessory structures, including but not limited to: exterior wall finishes or materials; roof styles, slopes, and materials; colors; and architectural details and ornamentation.

(2) All structures shall complement one another and shall convey a sense of quality and permanence. Lower grade materials, such as unfinished concrete and pre-fabricated metal, shall be prohibited.

(3) Corporate prototype design and materials shall be permitted provided they comply with the provisions of this section.

(4) False or real windows shall be provided on all elevations visible from public right of way in sufficient size and number to complement the proportions of the building.

(5) Through the LDC site plan review process, the City reserves the right to review the proposed construction of all buildings and structures, to recommend the substitution or inclusion of colors, materials, architectural details, and ornamentation, and to require or prohibit the use of the same to ensure compliance with the requirements of this section.

(6) No outside display or storage shall be permitted.

(7) No vending machines shall be permitted on outside walkways or other outdoor pedestrian areas.

(8) The physical appearance of all parking lot lighting fixtures shall be consistent.

7. SIGNAGE.

The PD shall have a uniform sign program, as follows: All signage shall comply with the RDD-1 (Beach Street Retail) sign schedule, specifically as follows:

A. There shall be two (2) wall signs on the Beach Street frontage, each sign providing identification for the upper and lower tenants. These will be 1.25 square foot per 1 linear foot of frontage up to 100 s.f.

B. There shall be the ability to provide business identification signage at the entrances located in the Ivy Lane alleyway. These signs shall comply with the provision for an additional building access on a building face without frontage. These signs shall be calculated at 1 square foot per 1 linear foot of building frontage at the access area, up to 60 square feet.

C. A projecting sign identifying the upstairs tenant shall be allowed at 1 square foot per 1 linear feet of frontage, up to 20 square feet.

D. Window signage and awning signage shall be in compliance with the RDD-1 (Beach Street Retail) district requirements as they exist or as amended.

E. One (1) easel or sandwich board sign shall be permitted for the downstairs tenant.

F. Wall graphics or architectural embellishments may be permitted subject to the review requirements and approval process provided in §6.10.J.13.c, LDC.

8. EFFECTIVE DATE; COMPLETION SCHEDULE.

A. This Agreement shall be effective upon execution by all parties. The restrictions on use and development imposed by this Agreement shall be binding upon all successors in interest in the Property, unless and until the City alters or eliminates such restrictions in the course of its actions as zoning authority.

B. Application shall be submitted for all construction permits for the development, or for the first phase of a phased development, within 18 months of the approval of this Agreement by the City Commission. The filing of an appeal of the land development order by any person shall toll the time for permitting until final resolution of the appeal. If development is phased, application for construction permits for subsequent phases shall be submitted within 30 months from the date of initial approval.

C. Construction of phase one shall be substantially complete within 5 years of the approval of this Agreement. Construction of any other phase must be substantially complete within 6 years of the initial approval of this Agreement.

D. One 12-month extension of the scheduled application or completion dates may be permitted as a minor modification to this Agreement.

E. Failure to comply with the schedule set out above shall cause the development rights granted pursuant to this Agreement to lapse.

9. MINOR MODIFICATIONS.

A. The following may be administratively authorized as minor modifications to this Agreement:

(1) Amendments to an Exhibit that are necessary for compliance with the provisions of this Agreement, the LDC, or extra-jurisdictional permitting requirements, and

address technical considerations that could not reasonably be anticipated during the Planned Development approval process;

(2) Have no material effect on the character of the approved PD district, the basic concept and terms of the PD Plan/Agreement. These may include, but are not limited to, the following:

- a) Structural alterations that do not significantly affect the basic size, form, style, and appearance of principal structures;
- b) Minor changes in the location and configuration of streets and driveways that do not adversely affect vehicular access and circulation on or off the site;
- c) Minor changes in the location or configuration of buildings, parking areas, landscaping, or other site features;
- d) Minor changes in the location and configuration of public infrastructure facilities that do not have a significant impact on the City's utility and stormwater management systems;
- e) Increases of five percent or less in the total number of parking spaces.

(3) Modifications of up to 20% to any of the lot dimensional requirements and associated Exhibit revisions, where such modifications are necessary to address minor Exhibit errors or unanticipated conditions that reasonably need to be addressed to ensure the development plan can be implemented, EXCEPT:

- a) Modifications, such as to floor area ratios, that increase intensity or density of the entire project or any phase by more than 2%;
- b) Modifications that increase building height or decrease setbacks, yards, or landscaping along the perimeter of the Property by more than 10%;
- c) Modifications that, when combined with previously approved minor and substantial modifications, would result in a cumulative change of more than 20% of the original requirement for the area in question; and
- d) Modifications that would unduly impact City-owned public utilities.

B. Requests for minor modifications shall be submitted in writing on forms provided by the City. Requests shall be reviewed pursuant to the general technical review process described in the LDC.

C. Denial of a requested minor modification shall be issued in writing to the applicant. Upon denial, or if more than 60 days elapses after the submittal of a completed

application without a decision by the City, the applicant may apply for an amendment to the agreement.

D. Approved modifications shall be noted on the official plan documents.

10. AMENDMENTS.

A. Any revision to this Agreement other than a minor modification as described above shall require an amendment approved by the City Commission after review and recommendation by the Planning Board. Requests for an amendment must be submitted in writing and, except as otherwise provided herein, shall be processed in accordance with the LDC. Notice of public hearings shall be provided as if the application is one to rezone property.

11. VARIANCES.

This Agreement shall not be deemed to prohibit any owner of property within the planned development from seeking or obtaining one or more variances from the requirements of this Agreement pursuant to the LDC. In addition to those entitled to notice pursuant to the LDC, notice of any public hearing to consider a proposed variance shall be provided to all persons owning property within the planned development. No such variance shall be deemed to require formal amendment to this Agreement.

12. POLICE POWER AND SOVEREIGN IMMUNITY NOT WAIVED.

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules, and regulations. Further, nothing contained in this Agreement shall be construed as a waiver of or attempted waiver by the City of its sovereign immunity under the constitution and laws of the State of Florida.

13. COMPLETE AGREEMENT; AGREEMENT TO BE RECORDED.

A. This Agreement represents the complete understanding by and between the parties with respect to the development and use of the Property. Any and all prior agreements between the parties with respect to any subject comprehended by this Agreement is hereby voided and superseded by this Agreement.

B. This Agreement shall be recorded in the Public Records of Volusia County, Florida, at Developer's expense. The restrictions on use and development imposed by this Agreement shall be binding upon all successors in interest in the Property.

14. VENUE AND SEVERABILITY.

A. In the event of any claim, action, litigation, or proceeding under this Agreement, venue shall be in Volusia County, Florida.

B. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not affect the validity or enforceability of any other provision of this Agreement unless the holding so states.

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

[Signature pages following]

Signed, sealed and delivered in the presence of:

**THE CITY OF DAYTONA BEACH,
FLORIDA, a Florida municipal corporation**

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

By: _____
Derrick L. Henry, Mayor

Attest:

By: _____
Letitia LaMagna, City Clerk

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 201_ by _____ and _____, Mayor and City Clerk, respectively, of The City of Daytona Beach, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public
Commission No: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 201_, by _____ as _____ of _____, referred to in this agreement as "Developer". He/she is personally known to me and did not take an oath.

Notary Public
Commission No: _____

Approved as to legal form:

By: _____
Robert Jagger, City Attorney

Signed, sealed and delivered in the presence of:

ROBERT W. MANSOUR, Owner

Robyn Caissie
Witness 1

By: [Signature]
Name: Robert W. Mansour

Robyn Caissie
Print Name of Witness 1

Date: 11-9-17

Deborah D. Lacroix
Witness 2

[Corporate Seal]

Deborah D. Lacroix
Print Name of Witness 2

Signed, sealed and delivered in the presence of:

[DEVELOPER, IF DIFFERENT FROM OWNER]

Witness 1

By: _____

Print Name of Witness 1

Name: _____

Title: _____

Witness 2

Date: _____

Print Name of Witness 2

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 9th day of November, 2017, by Robert W. Mansour as Owner of 246 S. Beach St., referred to in this agreement as "Owner." He or she is personally known to me or produced as identification and did not take an oath.

FL DL# M526-779-46-374-0

[Signature]
Notary Public

Commission No. _____



[Exhibit pages attached:]
[Delete Exhibits not included in the PD Agreement]

EXHIBIT A

Survey

EXHIBIT B

2nd Floor Plan

EXHIBIT A

Survey

EXHIBIT B
2nd Floor Plan

REVISIONS

Richard Brookfield Architect, LLC
 Fa. Reg. # AA2603248
 P.O. Box 4195 Ormond Beach, FL USA 32175
 Ph: (386) 334-3564

Tattoo Shop
 246 South Beach Street
 Daytona Beach, Florida

THIS DRAWING AND ITS REPRODUCTIONS ARE THE PROPERTY OF RICHARD BROOKFIELD ARCHITECT AND MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

DATE: Jul 19, 2017
 COMM. NO.
 DRAWN BY: BART/ST/4
 SHEET TITLE: Existing & Renovated Floor Plan

DATE: Jul 19, 2017
 COMM. NO.
 DRAWN BY: BART/ST/4
 SHEET TITLE: Existing & Renovated Floor Plan

SHEET
 Existing & Renovated Floor Plan
 A-002
 OF
 SHEET 2 OF 4

