City Commission Workshop
Thursday, April 17, 2025 at 6:00 PM

City Commission Chambers
214 Sams Avenue, New Smyrna Beach, Florida 32168

I. CALL TO ORDER

II. PUBLIC PARTICIPATION

III. WORKSHOP

III.a Deering Park Innovation Center

IV. COMMISSION COMMENTS

V. ADJOURNMENT

Pursuant to Florida Statutes 286.0105, if an individual decides to appeal any decision made by the board, agency or commission of the City of New Smyrna Beach with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's office in person or by mail at 210 Sams Avenue, New Smyrna Beach, Florida 32168, (386) 410-2630, prior to the meeting.

THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

DEERING PARK INNOVATION CENTER

April 17, 2025

Background:
Commission will review the proposed Deering Park Development to include the attached draft of the Development Agreement.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Sharon Taylor-Harding

Attachments:

DPIC third workshop April 17- 4-16final.pptx
DPIC PUD MDA 4-3 clean (1).docx

DEERING PARK INNOVATION CENTER – NEW SMYRNA BEACH

Third Commission Workshop

April 17, 2025

DEERING PARK INNOVATION CENTER PUD
Questions and Comments
March Workshop

- The landowner has worked with staff to review and respond to questions and comments from the public and Commission at and after the March 25 workshop.

- We have tried to answer every question as to the vision for Deering Park Innovation Center.

STORMWATER MANAGEMENT SYSTEM

Can we clarify the stormwater protection requirement?

The standard has been clarified to require that the stormwater management system shall be designed to ensure that no stormwater runoff from Deering Park Innovation Center flows into the Venetian Bay Community or the Utilities Commission property.

No construction is permitted until the studies have been completed and the design and engineering is approved by the City and St. Johns River Water Management District.

STORMWATER MANAGEMENT SYSTEM

Will there be stormwater studies before any construction?

Yes. Regional stormwater directional and volume studies to determine current conditions and the means to redirect any unprecedented storm event or hurricane stormwater to appropriate areas to prevent damage to the project and to adjoining neighborhoods shall be conducted.

We anticipate two years to work with the City on these studies and to allow a design for a potential stormwater management system that provides for unprecedented storm events and to preserve existing systems that rely upon normal water flow.

STORMWATER MANAGEMENT SYSTEM

Who maintains the stormwater system and provides for the annual analysis of the system?

The Developer, the Deering Park Stewardship District, a Deering Park CDD, or a Deering Park Property Owners Association shall be required to maintain the Deering Park Innovation Center Comprehensive Stormwater Management System and shall be required to provide an annual analysis of the stormwater management system to the City of New Smyrna for review and determination that it has been properly maintained and is functioning as planned.

TRANSPORTATION

Are we encouraging transportation other than automobiles?

Land uses will be planned in conjunction with trails and multi-modal paths to encourage traveling on foot, personal electric vehicles, scooter, or bicycle.

Can minors use electric vehicles within Deering Park Innovation Center?

Personal electric vehicles must comply with state, county and local regulations and will not be able to be used by minors within Deering Park Innovation Center.

TRANSPORTATION

Is a new bridge required over I95?

No. The County has asked us to plan for a potential right of way from Williamson Boulevard to I95 in the event a bridge is ever built. Other than the requirement to provide the potential right-of-way, this potential future bridge crossing is not required by or a component of the Deering Park Innovation Center project.

TRANSPORTATION

How do we provide for connections to adjoining parcels to prevent necessity of using SR 44?

A connection is planned between South Village on the west and Deering Park Innovation Center that will allow access from Venetian Bay without using SR 44. In addition, the City agrees that in the event the parcel to the east is developed in the City, then the City will require a connection between that parcel and Deering Park Innovation Center to avoid SR44.

TRANSPORTATION

When is a Traffic Impact Analysis required to determine impacts and possible required improvements to existing road systems?

Until the stormwater studies and analysis have been completed, the timeframe and conditions for any development are unknown and therefore actual traffic conditions are unknown.

A sub-area traffic study is required to be conducted, in cooperation with the City of New Smyrna Beach, to review this issue and the impacts on State Road 44 prior to the approval of Phase 1 of the development. In addition, TIA's are required for every project phase to make certain that Traffic impacts are determined and addressed as the project builds out over the years.

DENSITY

Can we clarify maximum number of hotels?

We have clarified. The maximum number of hotel rooms for the entire project is 600. 150 hotel rooms are permitted in Innovation Park, but that is included as part of the overall 600 permitted.

DIVERSE HOUSING

Will there be affordable housing?

After the construction of a considerable amount of non-residential housing that is required, residential housing is permitted.

There will not be any government type Section 8 housing. There will be a diverse value structure to accommodate different income levels to live, work and play in Deering Park Innovation Center.

Are Accessory Dwelling Units permitted?

Permitted, but not required. Single Family homeowner may build if they need. Only one ADU is permitted per single family lot.

AMENITIES

Can we provide amenities within the community?

Amenities for residents will be determined in each residential subdivision, and may include, but are not limited to, tot lots, pocket parks, dog parks, pools, community centers, pickleball courts or tennis courts. At least one amenity will be required for every subdivision or residential site plan and any promised amenities must be built prior to the certificate of occupancy of 50% of homes in a subdivision or residential site plan.

AMENITIES

Will some bike trails go through wildlife corridors?

Yes. The SUNtrail system does require the use of wildlife corridors as part of the pedestrian and bicycle trail system. SUNtrail does not allow motorized or electric vehicles on those trail systems.

ENVIRONMENT

Can Natural Vegetation Areas be connected to expand the Habitat Corridor?

Yes. The Natural Vegetation Areas are required to be connected together and connected to the 71 square miles of conservation habitat corridor directly south of Deering Park Innovation Center.

Can the conservation easements for the Natural Vegetation Areas by layered with 2 or more beneficiaries to help ensure perpetual natural vegetation areas?

Yes. The PUD requires layering of conservation easement with multiple beneficiaries. The City is permitted to be one of the beneficiaries with no financial obligation.

ENVIRONMENT

Who pays to maintain the Natural Vegetation Areas and habitat corridors?

The Natural Vegetation Areas will be maintained in perpetuity, without cost to the City, by either the Developer, the Deering Park Stewardship District, a CDD or the Property Owners Association.

ECONOMIC DEVELOPMENT

Is the City responsible for any financial contribution in creating pad ready sites and recruiting businesses?

No. We anticipate working together for grants and to attract businesses to the City, but this collaboration does not require any financial contribution by the City.

EXACTIONS

Can the landowner give the City land for the sports complex and police station and build and maintain everything for the City?

Deering Park is providing land, but the State requires that the land be paid for through impact fee credits.

a. To develop the land, the builder will have to pay a variety of impact fees for road, recreation, police and fire protection to mitigate the impacts of the project.

b. For additional exactions, such as the donation of land, the State requires the City to pay for any such land on a dollar for dollar basis (a dollar of impact fee credits for a dollar of appraised value of land or other exactions). This requirement is in Section 163.31801(5)(a), Florida Statutes.

EXACTIONS

c. However, we have tried to work with the City to mitigate the required cost of the land. The agreement allows the City to determine when it wants to buy the land. If the land is appraised for a transfer prior to the construction of the roads, utilities, landscaping, stormwater management system and other sales, it should be assessed far below the potential value of the property after all improvements are built.

d. One estimate of the difference between the potential appraised value before improvements and the value after improvements and infrastructure shows that the landowner will be receiving approximately 16 million dollars less value for the sports complex property by appraising and selling prior to improvements and infrastructure than after.

EXACTIONS

e. In addition, the agreement provides that the landowner will allow the City to connect to the comprehensive stormwater management system without cost (saving the City approximately 11 to 22 acres that would be part of the City stormwater management system for the sports complex parcel.)

f. Further, Deering Park Innovation Center has agreed not to charge the City for its share of POA/CDD fees for maintenance of the Stormwater Management System or landscaping.

g. Additionally, Deering Park Innovation Center shall be responsible for providing road access and utility lines to the boundary of City parcel, at no cost to the City, as part of the development of that section of Deering Park Innovation Center.

GOOD PLANNING

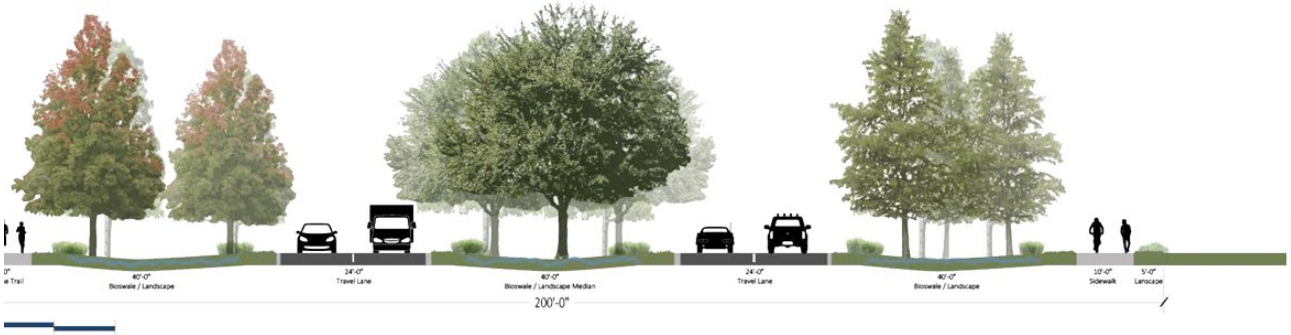
Can the plan provide for a larger vegetated buffer along SR 44 than already planned? Yes. We have increased the vegetated buffer for the entrance area along SR 44 from a 50-foot-wide buffer to a minimum of 75 feet in width.

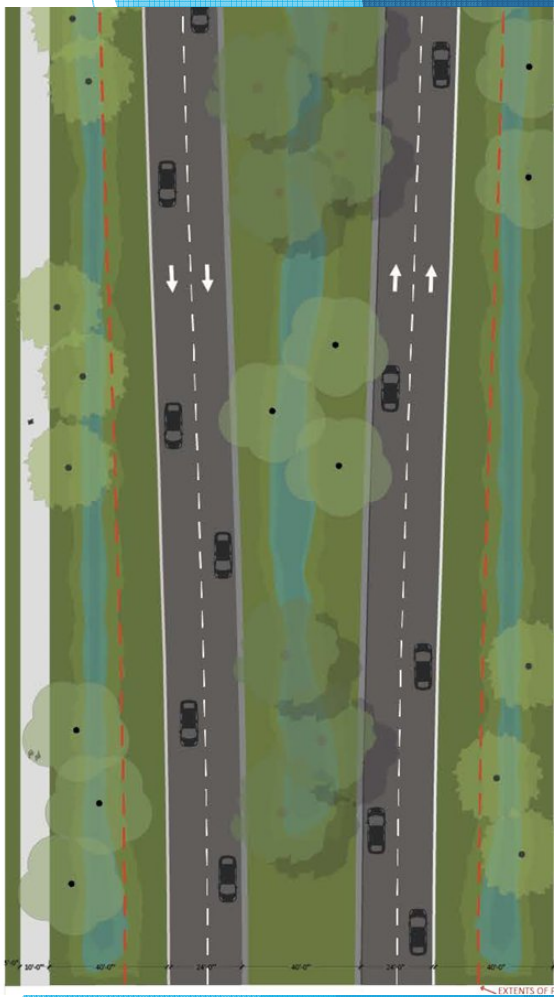
Can the plan require the planting of shade trees along pedestrian paths? Yes, that is now required, and the plan will provide for sufficient area to allow the trees and roots to grow without impacting the road or sidewalk.

GOOD PLANNING



Will Williamson Boulevard be landscaped? Yes. Williamson will be designed as a true boulevard with trees and landscaping. POA/CDD will be required to maintain landscaped areas.





GOOD PLANNING

The plan requires the construction of a half million square feet of non-residential and the permitting for another half million square feet of non-residential prior to building a single residential unit. Can we clarify the meaning of “constructed”?

Yes. We have added the provision: “Completion of construction shall be defined as a construction of a building that has received a final certificate of occupancy.”

MAINTAINING THE VISION FOR DEERING PARK INNOVATION CENTER

How Do We Maintain the Vision?

The landowner and the Deering Family are committed to maintain the vision of quality that is part of the entire Deering Park plan. We do not envision any opportunity for another developer to control this property and we bought the property specifically to prevent that possibility.

However, to help reduce the opportunity even more for the City or any future landowner to lower standards, the Landowner has agreed to add a provision that requires a super majority (4 out of 5) of the Commission to reduce any required standards.

MAINTAINING THE VISION FOR DEERING PARK INNOVATION CENTER

How Do We Maintain the Vision?

Remember that the City approached the landowner to work on this vision over 2 years ago.

We have all worked hard to listen to staff, to the commission and to stakeholders to craft this vision because we realize that once Williamson Boulevard is built, this one enclave between the interstate, SR 44 and projects that are planned for over 10,000 homes, will eventually be developed. The question was whether it would be developed in a piecemeal, parcel by parcel, sub-division by sub-division manner or as a regional planned mixed-use community vision.

I know it has been hard work, but I want to express the Deering family's appreciation for everyone who has participated in crafting this vision.

DEERING PARK INNOVATION CENTER
PUD MDA

Commission Questions

DEERING PARK INNOVATION CENTER AT NEW SMYRNA BEACH
PLANNED UNIT DEVELOPMENT
MASTER DEVELOPMENT AGREEMENT

The CITY OF NEW SMYRNA BEACH, FLORIDA, a Florida municipal corporation located in Volusia County, Florida ("City"), and Farmton North, LLC (“Owner”), a Delaware limited liability company, hereby agree and covenant, and bind their heirs, successors, and assigns, as follows:

INTRODUCTION:
The parties intend to plan the subject property in a sustainable manner that will provide for new job production areas in a live, work, and play manner. The project will be consistent with the comprehensive plan requirements for design of the South Village area, stressing new urbanism principles to give structure to the new development that is reflective of the assets of the older portions of the City. Additionally, the project will be planned to compliment and connect, as appropriate, to the adjacent South Village PUD immediately to the west (Sustainable Communities FLUM) and the Ocean Gate PUD immediately to the east (Southeast Volusia Activity Center FLUM).

The Deering Park Innovation Center at New Smyrna Beach (“Deering Park Innovation Center or Innovation Center”) will provide for large areas with Interstate 95 visual access for corporate headquarters and other job producers. In addition, Deering Park Innovation Center will provide for vegetated buffers and an extensively landscaped entrance into the community along SR 44, a regional bicycle trail segment, and with provisions for additional job creation within a mixed-use retail goods and services, hotel, and medical services area near SR 44.

No site plan or subdivision plan for residential shall be submitted to the City until a minimum of 500,000 square feet of non-residential has completed construction and site plans for a minimum of an additional 500,000 square feet of non-residential development have been approved by the City.

Deering Park Innovation Center will also provide an area for a regional sport complex and a police facilities site for the benefit of businesses and residents in the western portion of New Smyrna Beach.

Residential areas will be encouraged to develop in a manner to reduce the need for automobile transportation by providing higher densities near job creation areas and lower densities near natural vegetation areas or conservation areas and by planning for connections to encourage pedestrian, bicycle and low speed electric vehicle use, as well as internal vehicular trips, within the community.

Deering Park Innovation Center will be designed with a comprehensive stormwater management system connected to thousands of acres of conservation lands south of the project to provide a ~~potential~~ location to help plan for unprecedented storm events to redirect stormwater away from existing residential areas. No construc?on is permi?ed un?l the comprehensive stormwater management plan is developed and approved by the landowner, the City and St. Johns River Water Management District.

Deering Park Innovation Center is restricted to a maximum of six million square feet of non-residential uses and 2,150 residential units within the entirety of the 1,618 acres.

Natural vegetation areas shall be planned throughout the community to provide for maintenance of environmental assets and the potential for passive recreation.

The parties have worked closely to draft language and provide for a regional, long-term plan for this area that benefits the City, the Public and provides a reasonable use for the landowner's property. Therefore, the parties agree that any amendment that changes this agreement by reducing the required standards will require a super majority vote of the New Smyrna Beach Commission with a minimum of four votes.

1. PROPERTY DESCRIPTION AND OWNERSHIP

a. The property subject to this Master Development Agreement ("Agreement") consists of approximately 1,618 acres of real property ("Property") and is described in Exhibit A.
b. The Owner holds sole title to the Property.

2. EXHIBITS

a. The Exhibits listed below are incorporated by reference, and copies or reduced size copies are attached hereto. Copies of the Exhibits in 11x17 format 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 and sketch.
Exhibit B: Conceptual Master Plan, dated February 28, 2024, prepared by Marquis, Latimer + Halback, Inc.
Exhibit C: Conceptual Residential Gradation Plan, dated February 16, 2024, prepared by Marquis, Latimer + Halback, Inc. showing density graduation in designated residential areas.
Exhibit D: Project Roadway Sections, dated April 16, 2024, prepared by Marquis, Latimer + Halback, Inc.
Exhibit E: Illustrative Design Guidelines
Exhibit F: Illustrative Examples of Community Features

* Color copies of all exhibits on file with City.

3. DEVELOPMENT PLAN

a. City and Owner have designated the Property as "Deering Park Innovation Center at New Smyrna Beach" ("Deering Park Innovation Center").
b. The Property will be developed as a Mixed-Use Planned Unit Development ("PUD") pursuant to the City's Land Development Regulations ("LDRs"). Development shall be controlled by the LDRs and the terms and provisions of this Agreement. In the event of a conflict between this Agreement and the LDRs or other ordinances, this Agreement shall control. If this Agreement fails to address a particular subject or requirement, the applicable requirements of the LDRs or another City ordinance shall control.
c. Development of the Property shall be consistent with Exhibit B - Conceptual Master Plan. The parties intend that Exhibit B is conceptual in nature which means it is an illustrative plan that demonstrates the vision for the Deering Park Innovation Center. The Conceptual Master Plan includes the planning framework for development

throughout Deering Park Innovation Center, subject to adjustment through the subdivision and site planning process for each phase. The Conceptual Master Plan is based on the development principles required by the City in its comprehensive plan and LDRs, including the PUD zoning for Deering Park Innovation Center. For every phase or project, a Site Plan, or Subdivision Plat must be reviewed and approved by City Commission for each project or phase, prior to commencement of construction. The applicant has provided illustrative design guidelines attached as Exhibit E and illustrative pictures of examples of community features attached as Exhibit F that shall be part of this review, as well as the location of streets, lots, preserve areas, and ponds, along with details relating to stormwater, landscaping, streetscapes, parks, sidewalks, and other items. The standard for review will be consistency with this PUD Master Development Agreement and the City Land Development Regulations. Adaptive management planning is hereby incorporated into this Agreement to address future uncertainties by linking flexible planning strategies to decision making, and adjusting implementation, as necessary, to improve the success of the project for both the City and the Owner. Residential development shall also be consistent with Exhibit C – Conceptual Residential Gradation Plan, as to basic areas of density. The Conceptual Residential Gradation Plan is illustrative in nature. The residential development shall be based on the overall concept of higher densities closer to job producing areas and lower densities further from such job producing areas. Actual locations shall be market driven and all types of residential development shall be permitted, provided that total residential development does not exceed the total residential units provided in this Agreement.

d. The parties anticipate a range between single-family residential and multifamily residential to be 25-40% multifamily and 60-75% single-family. The 2,150 total units are currently envisioned for 925 SF Detached, 250 SF Build to Rent, 375 SF Townhomes and 600 MF Apartments.
e. A maximum of 600 hotel rooms shall be permitted for the project. There is a maximum of 150 hotel rooms within the Innovation Park business park, but those rooms are included in the total number of 600 hotel rooms within Deering Park Innovation Center.
f. The Property will be developed with a vegetated buffer along SR 44, a minimum of ~~50~~75' in depth, that provides a visual buffer along SR 44. The main entrance to the Deering Park Innovation Center will convey an authentic statement representative to Deering Park and New Smyrna Beach and include mature and park-like landscaping. The intent is to reflect the Deering Park theme of "Living in a Park." The buffer may include an area for electronic signage for the City to provide messages to residents and visitors, in an appropriate location as agreed between the parties as to size, scale and design, and a regional bicycle trail segment.
g. Common Open Space in residential platting areas shall be required as provided in the Land Development Regulations. The location of said Common Open Space will be determined during the platting process review.
h. Amenities for the general public would include the land provided to the City for the City sports complex and regional park. Amenities for residents will be determined in each residential subdivision, and may include, but are not limited to, tot lots, pocket parks, dog parks, pools, community centers, pickleball courts or tennis courts.

4. STORMWATER MANAGEMENT SYSTEM PLAN

a. An integrated and comprehensive stormwater master plan including lakes, ponds, conveyances, drainage and retention facilities will be designed, permitted, constructed, and maintained in accordance with the standards of and permits to be issued by the St. Johns River Water Management District. Stormwater retention and

drainage systems shall be designed and permitted as each project phase is designed and approved as part of a master system. Each phase of said stormwater system shall provide more capacity than necessary for that phase until the master system is complete. Collection and transmission facilities shall be located pursuant to the approved site plans and/or plats.

Prior to any development of the site:

a. Deering Park Innovation Center shall complete at its expense a Stormwater Management and Runoff study to determine the existing runoff based on current conditions and runoff impacts that take into account revised climate and storm occurrence data in order to design an integrated stormwater master plan that directs stormwater into the south conservation easement areas and does not allow any runoff from the site into the Venetian Bay community and the Utilities Commission property.
b. Deering Park Innovation Center shall be designed as a unified project for the purpose of stormwater management. Although individual projects and phases will be developed throughout Deering Park Innovation Center, overall stormwater management will be designed in a manner to ensure that stormwater runoff to adjacent parcels resulting from development within Deering Park Innovation Center shall be equal to or less than stormwater runoff immediately prior to development based on the prevailing stormwater event/rainfall movement at the time of development, to consider sea level rise projections set forth in the NOAA Intermediate, as amended.
c. Stormwater design and construction shall prevent negative stormwater or flooding impacts to offsite properties from the site and shall be designed to have no impact on existing development or neighborhoods. Specifically, the stormwater management system shall be designed to ensure that no stormwater runoff from Deering Park Innovation Center flows into the Venetian Bay Community or the Utilities Commission property.
d. Compensating storage. Flood storage volume shall not be reduced by development unless compensating storage for all floodwater displaced by development below the 100 year flood elevation is provided at a rate of 150% of actual floodplain impacts.
e. The Property may be developed with the use of master shared stormwater systems to minimize timeframes for development and encourage investment by job creators and to provide a system capable of preventing stormwater impacts during peak storm events.
f. Deering Park Innovation Center has the ability to legally access and assist in the restoration of thousands of acres of conservation lands located south of Deering Park Innovation Center. It is the intent of Deering Park Innovation Center to design and permit a stormwater management system that re-directs stormwater runoff from the Deering Park Innovation Center stormwater management system from the west to the south, as means to increase stormwater capacity and to help restore the ecosystem within these conservation areas. However, no stormwater runoff from the Deering Park Innovation Center property is permitted to flow into the Venetian Bay Community or the Utilities Commission parcel.
g. Excluding the construction of Williamson Boulevard and the Deering Park SUNTrail bicycle trail segment, which may provide a separate stormwater system, a condition of development within Deering Park Innovation Center, shall be that the developers obtain an easement for the re-direction of stormwater through and to the conservation easement areas south of the project within Deering Park North

and, potentially, the Farmton Local Plan tracts. Prior to permitting, the Owner shall be required to provide proof of said easement to the City. The parties will encourage the County to consider the potential for incorporation of Williamson Boulevard stormwater within the comprehensive stormwater management system.

h. The design for the comprehensive stormwater management redirection into the conservation easement areas shall not impact or add to the stormwater management system for Deering Park North or Deering Park Center. Deering Park Innovation Center shall design and submit permits for such stormwater flow re-direction, which shall include provisions that the stormwater management system shall be designed to specifically ensure that no stormwater runoff from Deering Park Innovation Center flows into the Venetian Bay Community or the Utilities Commission property.
i. Deering Park Innovation Center shall design and submit permits for the comprehensive stormwater system to ensure that stormwater runoff from the site under I-95 will be less than or equal to stormwater runoff from the undeveloped site. However, no stormwater runoff from the Deering Park Innovation Center property is permitted to flow into the Venetian Bay Community or the Utilities Commission parcel.
j. The City of New Smyrna Beach shall evaluate the comprehensive stormwater and floodplain management plan during the permitting process to assess whether the goals enumerated herein have been met.
k. Upon the design and permitting of the comprehensive stormwater management system Deering Park Innovation Center shall make a presentation to the Planning and Zoning Board and the New Smyrna Beach City Commission to provide evidence of the lakes and conveyance system, anticipated capacity, and direction of runoff. This presentation shall include how the stormwater management system meets the goals provided in this section.

Accountability for the Deering Park Innovation Center Stormwater Management System:

l. Annual Analysis of Stormwater Management System: The Developer, the Deering Park Stewardship District, a Deering Park CDD, or a Deering Park Property Owners Association shall be required to maintain the Deering Park Innovation Center Comprehensive Stormwater Management System, and shall be required to provide an annual analysis of said stormwater management system to the City of New Smyrna for review to ensure that said stormwater management system continues to function as designed and complies with the goals provided hereinabove, including, but not limited to, ensuring that the stormwater management system shall be designed to specifically ensure that no stormwater runoff from Deering Park Innovation Center flows into the Venetian Bay Community or the Utilities Commission property.

m. Cost of Analysis: Subsequent to the design and permitting of the stormwater management system, a professional engineer shall provide a cost estimate for the cost of an annual analysis of said stormwater management system to ensure that said stormwater management system continues to function as designed and complies with the goals provided hereinabove, including, but not limited to, the requirement that the stormwater management system shall be designed and function to specifically ensure that no stormwater runoff from Deering Park Innovation Center flows into the Venetian Bay Community or the Utilities Commission property.

n. Stormwater Management Bond or Letter of Credit: Said cost estimate will also include an estimated cost for construction of any adjustment to the stormwater management system to ensure continued compliance based on said analysis. Deering Park Innovation Center shall provide a 10-year maintenance bond or letter of credit for said estimated cost of needed adjustments. Any indication by the annual analysis or from other sources that indicate that stormwater management system needs to be repaired or rebuilt to ensure compliance with the goals and prevent any excess stormwater run-off, shall entitle the use of the stormwater management bond or letter of credit in the event notice is given of a violation and that actions to correct the violation is not commenced within 90 days.

o. Responsibility for Maintenance of Stormwater Management System: Proper maintenance of the master stormwater system is essential and shall be the responsibility of Deering Park Innovation Center. The cost of maintenance for the master stormwater system shall be the responsibility of either a Community Development District, subject to City approval, an expanded Deering Park Stewardship District, or, if either the Stewardship District expansion or Community Development District is not approved, then by a Property Owners Association.

Construction of Regional Stormwater Management System:

p. As Built Survey: Construction of the Deering Park Innovation Center comprehensive stormwater management shall comply strictly with the terms of all permits, including permits from the St. Johns River Water Management District and City of New Smyrna Beach, and shall provide an as built survey by the project surveyor, to be reviewed and confirmed by an independent surveyor separate from the project surveyor, to the City to confirm compliance of construction with permits.

q. Compliance with New Smyrna Beach standards: Compensating storage. Flood storage volume shall not be reduced by development unless compensating storage for all floodwater displaced by development below the 100 year flood elevation is provided at a rate of 150% of actual floodplain impacts.

r. City facilities integration with regional stormwater management system: City facilities constructed within the Regional Park/Sports Complex area or the Police station, will be required to go through stormwater management review and permitting, but Owner agrees to work with the City during the site plan review process to address stormwater runoff from City constructed facilities and roadways in a manner that may incorporate such City facilities into allocations for the comprehensive stormwater management system.

5. TRAFFIC MANAGEMENT

a. GOALS: One of the goals of Deering Park Innovation Center is to properly plan for traffic management for the areas west of Interstate 95 in a regional manner. By providing for appropriate uses to encourage community capture, planning for a mixed use live, work and play community to encourage internal capture, and providing for alternative community connections such as the Williamson Boulevard extension and road connectivity to reduce trips on SR 44, Deering Park Innovation Center will mitigate trips generated by the community.

b. COMMUNITY CAPTURE: In transportation planning, the basis of understanding vehicle traffic flow is where trips are produced (i.e. residential units) versus where trips are attracted (e.g. retail or recreation land uses). The exchange of vehicles between these production areas and attractions on road networks clearly defines travel

patterns. The creation of a mixed-use commercial village will result in increased traffic Community Capture for trips originating west of Interstate 95 that previously would be forced to continue east along State Road 44 to obtain goods and services lacking on the west side of the Interstate. A sub-area traffic study will be conducted, in cooperation with the City of New Smyrna Beach, to review this issue and the impacts on State Road 44 prior to the approval of Phase 1 development.

c. INTERNAL CAPTURE: In certain mixed-use developments like Deering Park Innovation Center, a portion of trips generated by the development remain within the project boundaries which minimize impacts to external roadways. This is known as "internal capture." Certain combinations of residential and non-residential mixed uses have shown this internal capture rate to be more than 30% of total trips generated. Deering Park Innovation Center has potential for increased internal capture which will be analyzed as part of the sub-area traffic analysis, and again in individual TIA's for each phase prior to development.
d. NORTH-SOUTH THOROUGHFARE ROAD: Willamson Boulevard segments, which connect to State Road 44, are required to be built as part of the thoroughfare spine road to allow for improvements within and around those segment areas within the PUD. As provided herein, Deering Park Innovation Center shall cause a right-of-way of sufficient size and agreed upon alignment to be provided to Volusia County from State Road 44 to the Edgewater municipal boundary to allow a connection with Indian River Boulevard. Williamson Boulevard has been constructed as a major thoroughfare from Ormond Beach to Pioneer Trail. The Owner has deeded a 200-foot wide right of way to Volusia County from SR 44 to allow connection with Indian River Boulevard in Edgewater. Volusia County has also obtained a right of way between SR 44 and Pioneer Trail and will now be able to extend and complete the Williamson Boulevard Thoroughfare.
e. COMMUNITY CONNECTIONS:
    i. A connecting road is planned to connect Deering Park Innovation Center with the project known as South Village to the west of Deering Park Innovation Center allowing traffic between the projects to remain off of State Road 44.
    ii. As to a roadway connection between the project known as Ocean Gate and the King/O'Reilly parcel to the south of Ocean Gate, east of Deering Park Innovation Center, (King/O'Reilly Parcel)], the City agrees that in the event the King/O'Reilly Parcel is developed in the City, then the City will require a connection within the King/O'Reilly Parcel and Deering Park Innovation Center. Deering Park Innovation Center is required to provide a right of way to connect to this proposed roadway and provide for connection from the King/O'Reilly Parcel into the Deering Park Innovation Center roadway network.
    iii. As to a roadway connection to a potential bridge crossing (flyover of) Interstate 95 for a potential future connection by Volusia County or other parties to 10th street to the east of I-95, Deering Park Innovation Center shall be responsible for providing the required right-of-way and the construction of the connecting road within Deering Park Innovation Center from Williamson Boulevard to the west landing of any such bridge built by Volusia County or other parties. Other than the requirement to provide right-of-way, this potential future bridge crossing is not required by or a component of the Deering Park Innovation Center project.
    iv. As to a roadway connection to and through Deering Park North, the landowner has dedicated a right-of-way of sufficient size and agreed upon

alignment to Volusia County from State Road 44 to the Edgewater municipal boundary and through Deering Park North to Indian River Boulevard.

v. Planning for Traffic Connectivity: Residential subdivisions shall be designed for connectivity with other residential and non-residential areas, provide alternative travel routes, and minimize the use of cul-de-sacs.

f. TRAFFIC CALMING: Residential and non-residential areas shall employ road and street designs that emphasize the need for traffic calming and avoidance of areas or design that encourage speeding though such areas. Calming techniques may include but are not limited to road alignments, raised intersection tables, lane narrowing, landscaping, hardscaping, signage, and other appropriate techniques.

g. TRAFFIC IMPACT ANALYSIS AND ROAD IMPROVEMENTS: There are no timelines for construction within Deering Park Innovation Center. This MDA provides for long-term planning for the subject property. As phases are built, traffic impact analyses are required for each phase to determine the existing background traffic and impact of proposed new plans and construction. Said traffic impact analysis for each phase shall determine any Accessory Dwelling Units (ADU's) that have been built and incorporate said ADU's into the traffic analysis.

i. Prior to any development within Deering Park Innovation Center, a sub-regional traffic analysis will be provided to the City, FDOT, and County for approval, and will be updated in conjunction with each phase of development. The sub-regional analysis will address the internal capture rate and community capture rate and refine them phase by phase. This will be adjusted with each individual TIA for the phase and then prior to commencing a new phase, the sub-regional traffic analysis will be adjusted accordingly.

ii. In addition, the parties agree that individual Traffic Impact Analyses (TIAs) will be conducted within Deering Park Innovation Center within each phase as they come on-line for development. The TIAs will be conducted according to the then-current TPO guidelines and will include the cumulative development within Deering Park Innovation Center approved as of each successive study.

h. ADDITIONAL ANALYSIS TO SUBSTANTIATE INTERNAL CAPTURE: The City recognizes that the actual development impacts of the project may change due to the mixed-use nature of the project, projected non-residential buildout horizon and future growth of the area. Therefore, in order to accommodate unanticipated development changes within the project, additional analysis to substantiate internal capture shall be provided as part of each site plan and subdivision plat submittal as part of an individual phase to the City.

i. ALTERNATIVE MODES OF TRANSPORTATION: The reliance on vehicular travel is a societal norm particularly in the state of Florida where mass transit is limited. Multiple studies have shown the benefits of walkable places which create spaces for people to interact and bond. These walkable communities also become venues for exercise. Deering Park Innovation Center will epitomize this multi-modality with its interconnected road system enhanced with an extensive network of trails. Land uses will be sited in proximity to complementary uses to encourage traveling on foot, personal electric vehicles, scooter, or bicycle. The owners are committed to development of both a multi-modal plan and a traffic impact mitigation plan. Personal electric vehicles must comply with state, county and local regulations and will not be able to be used by minors within Deering Park Innovation Center. Additionally, The SUNTrail bicycle and pedestrian network does not permit the use of electric vehicles.

6. OVERALL PROPERTY CRITERIA

The intent of Deering Park Innovation Center is to encourage job producing mixed-use development with retail, commercial, hotel, restaurant, corporate offices, light industrial, research, office, retail, parks, and other similar uses within proximity to residential areas and with internal vehicular, bicycle, and pedestrian access between such uses. High, medium, and low-density residential uses will be located strategically to provide attainable housing and reduced traffic, locating residential areas near the job producing areas. The following Development Districts, as shown on the attached Conceptual Master Plan, shall apply pursuant to the terms of this PUD. The actual location of said Development Districts may be adjusted but the acreages shown for the Development Districts shall remain consistent. However, although the parties have agreed upon a minimum of 68 acres for dedicated public use areas, the parties may agree upon the dedication of additional public lands, such as a potential school site or additions to the Regional Park/Sports Complex, Police Station, and Utility Use area. Deering Park Innovation Center is permitted to add such public areas over and above these 68 acres of public lands, without adding additional acreage to Innovation Park.

DEVELOPMENT DISTRICTS:

A. Mixed-Use/Commercial Village is a mixed-use designation designed for commercial, retail, hotel, restaurant and entertainment uses, along major arterial corridors, and some medium-density or high-density residential uses to encourage pedestrian, bicycle access, personal electric vehicles and low speed vehicles. The goal of said Commercial Village is to provide a unique, upscale destination and meeting place that provides the necessary commercial and office uses to service the area west of Interstate 95, thereby increasing quality of life and reducing length of trips. The mixed-use area adjacent to the northernmost roundabout as shown on the Conceptual Master Plan (Exhibit B) shall encourage neighborhood commercial and services to provide for the residents of Deering Park Innovation Center. The small Mixed-Use/ Commercial area shown on the Conceptual Master Plan that is east of the main Williamson Road entrance to Deering Park Innovation Center and immediately adjacent to the existing Racetrack gas station and convenience store shall be required to have a 25 ft. vegetative buffer along SR 44 and is only permitted to have a right in/right out ingress and egress to and from SR 44. This small parcel will not connect to the balance of the project to minimize impact to the adjacent wetland system.

B. Innovation Park is a mixed-use designation designed for corporate headquarters, light industrial, research, hotel (150 room maximum), small non-retail business, and office uses balanced with no more than twenty (20) percent of net usable acreage allowed for medium-density or high-density residential to encourage pedestrian and bicycle access for job producing area. The City agrees that this area provides for potential job producing areas and specifically is consistent with the New Smyrna Beach Comprehensive Plan provision for the Commercial Space Industry Opportunity Overlay Zone. The City and Owner will work together to the extent that this site can be a catalyst for the extension of infrastructure and funding to develop “pad-ready” sites for office and light industrial uses for the project. A “pad-ready” site would be defined as a subdivided lot, with vehicular access and utilities provided to the site and provision for stormwater capacity within a master or sub-master stormwater system that could accommodate the impervious surface areas to be placed on said “pad-ready” site. This collaboration does not require any financial contribution by the City.

C. Residential Rental Village is the designation for commercial rental communities that may include detached homes, cottages, and bungalows of no less than 800 square feet, duplex units of no less 800 square feet, townhouses, and multi-family apartments. Such

commercial rental communities will be maintained as a single parcel for each project and shall not be permitted to be subdivided or sold as individual homes.

D. Residential is the designation for neighborhood residential areas that will contain a diversity of housing options with the goal of providing pedestrian and multi modal connections to nearby job producing areas. The densities of such Residential areas shall be based on proximity to the job producing and urban commercial uses to encourage pedestrian and bicycle access as depicted on Exhibit C. Therefore, areas designated residential in the southern portion of Deering Park Innovation Center, adjoining a large conservation area, should be reserved for low-density residential. The wavy boundaries between residential density categories provided on Exhibit C showing a graduation of density, from low density nearest to the conservation areas to high density closest to job creation areas, are approximate and provided to illustrate the concept, with actual density locations to be adjusted during the subdivision process. In no event shall overall project density exceed the maximum number of 2,150 residential units within Deering Park Innovation Center. The intent is to provide a wide range of housing types, sizes, and pricing, with higher densities closest to the intensive non-residential uses. Owner agrees and stipulates to prohibit short term rentals, of less than six (6) months, within the Residential District and in every Homeowners Association, which shall enforce such prohibition. Accessory dwelling units (ADU) of no more than 800 square feet will be permitted within the Residential District. Said ADUs are permitted as part of single-family residential areas. Said ADUs are only permitted after or as part of the construction of the primary dwelling and shall not count against Deering Park Innovation Center's cumulative total density. All ADU's shall provide for one (1) additional parking space, on the lot, above the principal unit's required parking count.

E. Regional Park/Sports Complex is a recreation use area contemplated to be dedicated to the City of New Smyrna in exchange for park impact fee credits. The complex site shall be a minimum of 50 acres and the actual dimensions will be determined as part of the Williamson Boulevard segment construction review. It is the goal of both parties that the width of the park area should be approximately 550 feet and the parties will work together on plans to achieve this result. Since wetland jurisdictional lines have not been established in this area, it is important to provide that it is a goal of the parties that the land provided to the City is not primarily wetlands that would increase the costs of development but should be primarily uplands. Deering Park Innovation Center shall provide a site that is a minimum of 85% developable and reasonably contiguous uplands. The City and the developer will work together, once jurisdictional lines are established, to provide an area appropriate for the use contemplated by the City for this regional park/sports complex. The City may use this property for any recreational or community use, including, but not limited to parks, sports fields, and a community center, provided such center is not used for incompatible uses such as medical uses, drug treatment centers, transient housing, or homeless shelters. The Owner is not obligated to improve the land prior to dedication. Dedication of said parcel, and appraisal of same for impact fee credits, shall be at a time at the option of the City. Access to said parcel is planned via a future east west road from Williamson Boulevard and transfer should only occur upon ability for the City to access said parcel via public roads or rights-of-way. Upon written notice of full access to said parcel, the City shall have 5 years to exercise its option and 10 years after the date of transfer to utilize the parcel for its intended purpose. Should the City not exercise its option within 5 years, or construct the public facilities contemplated, which are at a minimum, sport fields for the public, and provided for hereinabove, within 10 years after transfer of the parcel in return for impact fee credits, then the parcel shall revert to owner upon notice and request by owner and proffer of impact fee credits back to city. The designation for this parcel shall revert to Innovation

Park. During the City ownership, prior to construction, City agrees to maintain the parcel in a mowed and maintained manner or as an attractive natural vegetation area to reflect the standards of Deering Park Innovation Center. The City agrees to construct any structures consistent with the architectural styles prevalent in Deering Park Innovation Center and maintain landscaping in the same manner. However, all structures and uses within these parcels are for the public good and as such the regional park / sports complex area shall not be subject to the requirements of a Property Owners Association, nor shall be required to join such a Property Owners Association, nor be required to pay such POA fees or dues, nor shall the City have a voting interest in the POA. Deering Park Innovation Center agrees to provide stormwater retention capacity as part of the comprehensive stormwater management system for city construction on the parcel.

F. Natural Vegetation Areas: Planning for Deering Park Innovation Center shall include the requirement for a connection of wildlife corridors and multi-use trails to existing wildlife corridors and multi-use trails south of Deering Park Innovation Center. This connection will expand the habitat corridor.

1. Deering Park Innovation Center will include a minimum of 400 acres of Natural Vegetation Areas to be established through the permitting, site plan and/or plat process.
2. There have been no jurisdictional wetland determinations on this site. The applicant, in working with planners and city staff, have used the best available information to determine appropriate planning areas for natural vegetation areas. Jurisdictional determinations and wetland lines will be determined as part of the permitting and site plan and/or plat process.
3. Natural Vegetation areas shall be placed within a conservation easement consistent with the terms of this Agreement, and maintained in conservation as provided herein, without cost to the City of New Smyrna Beach, after issuance of and in accordance with St. Johns River Water Management District and other required environmental permits.
4. These conserva?on easements will prevent any development not specifically allowed. Public trails will be permi?ed within the conserva?on easement areas. The conserva?on easements will be provided to two or more beneficiaries to layer those easements and facilitate perpetual conserva?on. The City of New Smyrna Beach shall be one of the beneficiaries, if they chose to accept the conserva?on easement.
5. The landowner has already caused the crea?on of 46,000 acres [over 71 square miles] of connected wildlife corridors by placement of lands in conserva?on easements. The Natural Vegeta?on Areas within Deering Park Innovation Center will connect to and extend these conservation areas into New Smyrna Beach. The Natural Vegetation Areas will be maintained in perpetuity, without cost to the City, based upon the terms of the conservation easements. The costs for such maintenance of the conservation easement shall be borne by either a Community Development District, subject to City approval, an expanded Deering Park Stewardship District, or, if either the Stewardship District expansion or Community Development District is not approved, then by a Property Owners Association.

G. Police Facilities Site is a municipal use for a potential police station site as shown on the Conceptual Master Plan contemplated to be dedicated to the City of New Smyrna Beach in return for Police impact fee credits. Said site shall be of sufficient size to accommodate a police substation and shall be a minimum of 10 contiguous and developable acres. The Owner is not obligated to improve the land prior to dedication. Dedication of said parcel,

and appraisal of same for impact fee credits, shall be at a time at the option of the City. Access to said parcel is planned via Williamson Boulevard and a future east west two-lane road into Innovation Park and transfer should only occur upon the ability for the public to access said parcel via public roads. Upon written notice of full access to said parcel, the City shall have 5 years to exercise its option and 10 years after the date of transfer to utilize the parcel for its intended purpose. Should the City not exercise its option within 5 years, or construct the police substation facilities contemplated, and provided for hereinabove, within 10 years after transfer of the parcel in return for impact fee credits, then the parcel shall revert to owner upon notice and request by owner and proffer of impact fee credits back to city. The designation for this parcel shall revert to Innovation Park. During the City ownership, prior to construction, City agrees to maintain the parcel in a mowed and maintained manner or as an attractive natural vegetation area to reflect the standards of Deering Park Innovation Center. The City agrees to construct any structures on this site consistent with the architectural styles prevalent in Deering Park Innovation Center and maintain landscaping in the same manner. However, all structures and uses within these parcels are for the public good and as such the police facilities site shall not be subject to the requirements of a Property Owners Association, nor shall be required to join such a Property Owners Association, nor be required to pay such POA fees or dues, nor shall the City have a voting interest in the POA. Deering Park Innovation Center agrees to provide stormwater retention capacity as part of the comprehensive stormwater management system for city construction on the parcel.

H. Density: As defined, Low Density is 0-5 units per acre; Medium Density is 5-8 units per acre and High Density is 8-18 units per acre.

I. Vegetated Buffer Requirements:

1. Perimeter
    i. The perimeter of Deering Park Innovation Center along the South Village project shall have a minimum 20’ wide vegetated buffer.
    ii. The perimeter of Deering Park Innovation Center adjoining the conservation easement on the south side of Deering Park Innovation Center that is part of the Deering Park North project shall have a minimum 50’ wide vegetated buffer.
    iii. The perimeter of Deering Park Innovation Center along State Road 44, with the exception of the access to Williamson Road, and the small mixed-use area next to the Ocean Gate subdivision shall have a minimum 50’ vegetated buffer, which may include within the buffer a 12’ wide paved multi-use trail connecting to the SUNTrail network.
    iv. The area adjoining Williamson Boulevard shall have a minimum 20’ vegetated buffer for all areas not used by access points or road right-of-way. Multi-modal trails or sidewalks may be within said vegetated buffer areas and shall incorporate the native vegetation or trees in the design of any such multi-modal trail or sidewalks.
    v. No perimeter buffer shall be required along the perimeter boundary with Deering Park North in light of the similar mixed-use of the adjoining property.
    vi. No perimeter buffer shall be required along the boundary with Interstate 95 in light of the intent to design and showcase businesses to be located along the interstate.
    vii. No landscape buffers are required for individual cottages or homes within the rent to own area. However, the rent to own area shall have a 20’ perimeter vegetated buffer.

DISTRICT SPECIFIC DEVELOPMENT CRITERIA. The following development criteria shall apply to the Districts within the Property:

INNOVATION PARK

NON-RESIDENTIAL

- Minimum lot area: 5,000 square feet
- Minimum lot width: Deering Park Innovation Center light industrial or office uses may be subdivided into 18' wide lots, an appropriate number of such lots shall then be combined to meet "building site" requirements including all minimum lot area and other standards.
- Maximum building height: 75 ft.
- Maximum building coverage: 50%
- Setbacks:
    - Other than 25 ft. vegetated setback from Williamson right-of-way all structures erected shall have -0- foot lot setback lines from lot lines located within the Property.
    - All structures shall have a minimum 10 ft. setback from contiguous property not zoned Residential.
    - All structures shall have a minimum 20 ft. setback from contiguous property zoned Residential.
- FAR: 2.0
- Minimum open space: 10%
- Wetland buffer: 25 ft.
- Transient lodging:
    - "Transient lodging rooms, standard," as defined by this LDR, shall be a maximum of 500 square feet.
    - "Transient lodging rooms, deluxe," as defined by this LDR, shall be a maximum of 750 square feet.
    - The maximum room size does not include any balcony, porch or deck area connected to the unit.
    - No more than 30 percent of the units may be deluxe.

RESIDENTIAL

- See Residential District site development criteria below.

MIXED-USE/COMMERCIAL

NON-RESIDENTIAL

- Minimum lot area: No minimum required.
- Minimum lot width: No minimum required.
- Maximum building height: 75 ft.
- Maximum building coverage: 80%
- Setbacks:
    - Other than 25 ft vegetated. setback from Williamson Boulevard right-of-way and 50 ft. vegetated setback from SR44 right-of-way, all structures erected shall have -0- foot lot setback lines from lot lines located within the Property
    - All structures shall have a minimum 10 ft. setback from contiguous property not zoned Residential.
    - All structures shall have a minimum 20 ft. setback from contiguous property zoned Residential.
- FAR: 2.0

- Minimum open space: 10%
- Wetland buffer: 25 ft.
- Transient lodging:
    - "Transient lodging rooms, standard," as defined by this LDR, shall be a maximum of 500 square feet.
    - "Transient lodging rooms, deluxe," as defined by this LDR, shall be a maximum of 750 square feet.
    - The maximum room size does not include any balcony, porch or deck area connected to the unit.
    - No more than 30 percent of the units may be deluxe.

RESIDENTIAL

- See Residential District site development criteria below.

RESIDENTIAL RENTAL VILLAGE:

- Cottages:
    - Cottages do not require road frontage and may face a mew or other green space.
    - Maximum building height: 35 ft.
    - Single parcel for commercial cottages project with no individual lots
    - Minimum living area per dwelling unit:
        - 1 Bedroom: 600 sq. ft.
        - 2 Bedrooms: 800 sq. ft.
        - 3 Bedrooms: 1,000 sq. ft.
    - Minimum building setbacks:
        - Side: 5 ft.
        - Side Street: 10 ft.
        - Front: 15 ft.
        - Rear: 10 ft.
    - Minimum building separation: 10 ft.
- Multifamily:
    - Maximum building height: 75 ft.
    - Minimum lot area: 6,500 sq. ft.
    - Minimum lot width: 65 ft.
    - Minimum lot depth: 100 ft.
    - Minimum living area per dwelling unit:
        - 1 Bedroom: 600 sq. ft.
        - 2 Bedrooms: 800 sq. ft.
        - 3 Bedrooms: 1,000 sq. ft.
        - 4 Bedrooms: 1,100 sq. ft.
    - Maximum building coverage: 35%.
    - Minimum building setbacks:
        - Side: 25 ft.
        - Side Street: 25 ft.
        - Front: 25 ft.
        - Rear: 25 ft.
    - Minimum building separation: 30 ft.
    - Minimum open space: 20%
    - Common open space: 25% of open space
- Duplexes:

- Maximum building height: 35’.
- Minimum lot area: 3,000 sf.
- Minimum lot width: 30’ per dwelling unit and 60’ per building.
- Minimum lot depth: 100’.
- Maximum building coverage: 70%.
- Minimum building setbacks:
  - Interior Side: 5’ (end units only); however, no side setback shall be required for property line along common wall.
  - Side Street: 10’.
  - Front: 20’.
  - Rear: 5’.
- Minimum open space: 20%.

- Townhomes:
  - Maximum building height: 35 ft.
  - Minimum lot area: 1,800 sq. ft.
  - Minimum lot width: 18 ft.
  - Minimum lot depth: 100 ft.
  - Minimum living area per dwelling unit: 750 sq. ft.
  - Maximum building coverage: 90%
  - Minimum building setbacks:
    - Side: 5 ft.; however, no side setback shall be required for property line along common wall.
    - Side Street: 10 ft.
    - Front: 20 ft.
    - Rear: 5 ft.
  - Minimum spacing between buildings: 10 ft.
  - Minimum open space: 20%

RESIDENTIAL

- Single-family detached dwellings:
  - Maximum building height: 35 ft.
  - Minimum lot area: 5,500 sq. ft. however staff may permit reduced lot areas designed consistent with new urbanism principles including access alleys and rear loaded garages.
  - Minimum lot width: 50 ft.
  - Minimum lot depth: 110 ft.
  - Maximum building coverage: 70%
  - Minimum building setbacks:
    - Side: 5 ft.
    - Side Street: 10 ft.
    - Front: 20 ft. however, front setback may be reduced to 10ft. if unit is alley loaded without garage access to front street
    - Rear: 15 ft. except must maintain a minimum driveway depth of 20 ft.
  - Minimum open space: 20%.
  - Minimum accessory structure setbacks:
    - Pool: 5 ft.
    - Pool equipment: 5 ft.
    - Screen enclosure 5 ft.
    - Shed: 5 ft.

        - Generators/other mechanical equipment: 1.5 ft., however, generators must maintain a 10 ft. separation from all operable windows on adjoining lots.
        - Eaves: 3 ft.
    - Accessory structures shall not be located within required front or side setbacks.
- Duplexes:
    - Maximum building height: 35 ft.
    - Minimum lot area: 3,000 sq. ft.
    - Minimum lot width: 30 ft. per dwelling unit and 60' per building.
    - Minimum lot depth: 100 ft.
    - Maximum building coverage: 70%.
    - Minimum building setbacks:
        - Interior Side: 5 ft. (end units only); however, no side setback shall be required for property line along common wall.
        - Side Street: 10 ft.
        - Front: 20 ft.
        - Rear: 5 ft.
    - Minimum open space: 20%.
- Townhomes:
    - Maximum building height: 35 ft.
    - Minimum lot area: 1,800 sq. ft.
    - Minimum lot width: 18 ft.
    - Minimum lot depth: 100 ft.
    - Minimum living area per dwelling unit: 750 sq. ft.
    - Maximum building coverage: 90%
    - Minimum building setbacks:
        - Side: 5 ft.; however, no side setback shall be required for property line along common wall.
        - Side Street: 10 ft.
        - Front: 20 ft.
        - Rear: 5 ft.
    - Minimum spacing between buildings: 10 ft.
    - Minimum open space: 20%
- Multifamily:
    - Maximum building height: 75 ft.
    - Minimum lot area: 6,500 sq. ft.
    - Minimum lot width: 65 ft.
    - Minimum lot depth: 100 ft.
    - Minimum living area per dwelling unit:
        - 1 Bedroom: 600 sq. ft.
        - 2 Bedrooms: 800 sq. ft.
        - 3 Bedrooms: 1,000 sq. ft.
        - 4 Bedrooms: 1,100 sq. ft.
    - Maximum building coverage: 35%.
    - Minimum building setbacks:
        - Side: 25 ft.
        - Side Street: 25 ft.
        - Front: 25 ft.
        - Rear: 25 ft.
    - Minimum building separation: 30 ft.

  - Minimum open space: 20%
  - Common open space: 20% of open space
- Rear loaded homes, with garages facing alleys as opposed to streets, are permitted in all residential categories.
- Parking: Residential lots or residential subdivisions will provide for a minimum average of 4 spaces per home as averaged using the entire subdivision. The calculation for the average of 4 spaces per single-family home and 3 spaces per multi-family home shall include garage spaces, and the residential units that have one car garage spaces or smaller homes with one bedroom, and on street parking specifically permitted and identified for resident parking. Parking along residential streets shall be specifically prohibited unless parking spaces are specifically designated within widened street areas.
- Although the community will be developed as a walkable, multi-modal friendly mixed-use development, there shall be no reduction in required parking as a result of said walkability and alternative transportation options.

MAXIMUM ENTITLEMENTS: Deering Park Innovation Center is restricted to a maximum of six million square feet of non-residential uses and 2,150 residential units within the entirety of the 1,664 acres.

CONCEPTUAL MASTER PLAN: The City acknowledges that the location of proposed phases shown on the Conceptual Master Plan may shift to ensure sound, long range planning and development of the Property. The location of land uses, roadways and trails as provided in the Conceptual Master Plan may be altered as the Property is developed over time in accordance with the planning framework as shown on the Conceptual Master Plan, although the total acreages for Mixed-Use and Innovation Park shall not be reduced. Construction and installation of all common areas and common facilities within each phase shall be completed or bonded prior to issuance of the first certificate of occupancy for that phase.

a. Owner will subdivide the Property in phases and in accordance with the requirements of the City's LDRs. As part of the subdivision process, Owner will be responsible for ensuring that the Property will be serviced with public utilities and right-of-way access, and for providing on-site detention/retention facilities as required by St. Johns River Water Management District permitting requirements. Site development approval is contingent upon approval of the final plat of each phase of the Property. A site plan is required for a build to rent community within an approved parcel and said community is not permitted to subdivide to allow for sale of individual homes. Owner agrees to work with the City during the site plan review process to address stormwater runoff from City constructed facilities and roadways.

CONSTRUCTION CONSISTENCY WITH DEERING PARK INNOVATION CENTER PUD MDA: There are a substan?al number of requirements for the Developer that are provided within the Deering Park Innova?on Center PUD Master Development Agreement. Many of these standards and requirements, such as stormwater management design review and permi? ng and conserva?on easements, are required to be in place prior to any construc?on. It is important that staff able to easily determine all such requirements and whether the Developer has met those requirements. The Owner agrees to work with the staff to prepare a standard checklist of all such requirements to allow staff to review and confirm compliance for every new plat or site plan to ensure that any construc?on is consistent with the requirements of the Deering Park Innova?on Center PUD. A copy of said checklist showing compliance with every requirement shall be part of the record for every plat or site plan review.

PHASING AND PRIORITY OF MIXED USE NON-RESIDENTIAL DEVELOPMENT: Development is expected to be completed in multiple phases as generally shown on the Conceptual Master Plan, and individual phases may be developed and constructed simultaneously and/or in any order.

i. Residential Phasing: The City and Owner agree that the intent is to provide for a mixed-use community, rather than a residential community without job producing or other non-residential uses.

ii. Residential Unit Mix: Multi-family, townhouses, villas, and build-to-rent will be located near job-producing or other non-residential uses to support recruitment of non-residential development. Single-Family areas will be located further away from the non-residential development.

iii. Phasing of Residential and Non-Residential: The City and owner agree to the following additional limitations on the issuance of building permits for single-family residential development:

1. No building permit for residential will be issued earlier than 3 years after the approval and recording of this Agreement.
2. In addition to the 3-year period, the parties agree to further restrict the timeframe for residential development as follows:
   a. No site plan or subdivision plan for residential shall be submitted to the City until a minimum of 500,000 square feet of non-residential has completed construction and site plans for a minimum of an additional 500,000 square feet of non-residential development have been approved by the City. Completion of construction shall be defined as a construction of a building that has received a final certificate of occupancy.
   b. After a minimum of 500,000 square feet of non-residential has completed construction and site plans for a minimum of an additional 500,000 square feet of non-residential development has been approved by the City, subdivision plats for residential may be submitted to the City pursuant to Table 1.

Table 1 (Residential Phasing Restrictions)

Phase	Start Date*	# of units	Total # of units
I	Start Date	600	600
II	Start Date + 2 years	600	1,200
III	Start Date + 4 years	400	1,600
IV	Start Date + 5 years	550	2,150

*The residential start date shall be the date that 500,000 square feet of non-residential has been constructed and site plans are approved for additional non-residential development within Deering Park Innovation Center at or above 500,000 square feet.

Accelerator Clause: The Table 1 schedule for residential phasing shall be accelerated by 1 year for every additional 1 million square feet of site plans approved for non-residential development, with a minimum of 500,000 square feet having been constructed for each million approved. For example, if, after the initial construction and site plan approval has been provided to allow for a start date, and it is beyond the three-year time restriction, then if 2 million additional square feet of non-residential development site plans are approved, with 1 million of those square feet constructed, then the schedule for Phases II, III & IV would be accelerated by 2 years. Under no circumstance shall any residential building permit be issued earlier than 3 years after the approval and recording of this Agreement.

7. CONFORMANCE WITH COMPREHENSIVE PLAN; CONCURRENCY; PERMITS.

A . The comprehensive plan designation for the site is Industrial Mixed Use. 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. Owner shall be responsible for obtaining all development permits required by the LDRs and applicable federal and state laws. Owner specifically acknowledges that approval of this Agreement does not constitute a Concurrency Certificate as required by the LDRs, and that Owner 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 LDRs.

D. Each project within Deering Park Innovation Center shall require site plan reviews or subdivision plats that will be reviewed by the Planning and Zoning Board and City Commission to determine consistency with the New Smyrna Beach Comprehensive Plan, this PUD MDA and the New Smyrna Beach Land Development Regulations as provided herein.

8. SPECIFIC PERMITTED USES:

Deering Park Innovation Center intends to utilize a flexible approach including but not limited to, innovative land use techniques, creative urban design, environmental protections and the judicious use of sustainable development practices and principles. To meet the aforementioned goals, the following uses are permitted within the Property, subject to compliance with the standards set forth in the LDRs for such uses, except to the extent specifically provided otherwise herein.

A. Bona Fide Agricultural Uses: The parties specifically agree that the current use of the Property is bona fide commercial agriculture, including but not limited to timber and cattle, and that so long as Owner continues to use the Property for bona fide commercial agriculture, it shall be a permitted use under the terms of this PUD. Bona fide commercial agricultural activities shall maintain a 200-foot separation from permitted non-agricultural uses. The term bona fide commercial agricultural activities shall not include periodic maintenance and

permitted trimming, planting, and clearing. Once a specific section of the Property is converted to a different use, and a certificate of occupancy has been issued for said different use, then agricultural use would no longer be permitted on that specific section of the Property, but all other remaining sections would still be permitted as agricultural use. The Owner shall use best management practices in the use of such agricultural uses, including, if required by such practices and permitted by the State of Florida, controlled burns to maintain the safe operation of agricultural use.

B. Innovation Park

i. The following uses are specifically permitted:

1. Aerospace manufacturing and research
2. Aerospace light distribution
3. Biomedical Manufacturing and research
4. Biomedical light distribution
5. Childcare facilities, including within office and corporate headquarters buildings.
6. Coffee Shops
7. Corporate offices
8. Deli and food services, including within office and corporate headquarters buildings.
9. Food and beverage processing and distribution, except the slaughter of animals
10. Industry, light
11. Medical and dental laboratories
12. Medical and dental offices
13. Medical Manufacturing and research
14. Medical light distribution
15. Municipal and governmental buildings
16. Pharmaceutical Manufacturing and research
17. Professional offices
18. Technological Manufacturing and research
19. Technological light distribution
20. Transient lodging
21. Warehouse
22. Maximum of 20% of the area may be used for medium or high density residential.
23. A single destination icon sign as defined hereinafter is permitted as a use within Innovation Park in a location with Interstate 95 visibility.
24. Multi-tenant non-retail spaces for small businesses with warehouse and office needs.

ii. Conditional Uses as defined in the City LDR:

1. A maximum of 5% of the area may be used for Self-storage and/or Boat/RV storage facilities.
2. Specific review criteria for such a conditional use shall include the requirement that stored boats or RV's are not visible from any public road or adjoining properties and any other LDR requirement for such uses.

iii. Although any use that is not specifically permitted shall be considered excluded, the following uses are specifically excluded:
1. Asphalt Batch Plants
2. Fuel Farms
3. Concrete Production and Concrete Crushing Plants
4. Borrow Pits that provide off-site fill material. Borrow Pits that provide fill material for the subject property are specifically permitted.
5. Heavy Industrial uses similar to specifically excluded uses.
6. Recycling/Biomass electrical generation facilities

C. Mixed-Use/Commercial Village:

i. The following uses are specifically permitted:
1. Assisted living facility
2. Nursing home facility
3. Adult congregate living facility
4. Ambulance service
5. Animal clinics (outpatient care only and no overnight boarding near residential)
6. Bakeries
7. Banks
8. Bowling alley
9. Business and communications systems
10. Transit Facilities
11. Car rental and leasing
12. Carwashes
13. Childcare facilities
14. Club, semi-public
15. Coffee Shops
16. College level and adult educational facilities
17. Convenience stores with gas pumps
18. Dry cleaners
19. Farmers markets
20. Financial services
21. Florists
22. Funeral homes
23. Furniture showrooms
24. Grocery stores
25. Hospitals
26. Home Accessory Showrooms
27. Microbrewery, micro winery and/or craft distillery
28. Museums
29. Multi-family dwelling units, along with vertically mixed live-work units with workspace on the first floor.
30. Municipal and governmental buildings
31. Offices, general, professional and real estate
32. Offices, medical, including, but not limited to, medical office buildings, health and wellness facilities, outpatient surgery, imaging and primary care facilities.

33. Pedestrian, Multimodal, Bicycle trails.
34. Personal services
35. Pet grooming (not in residential buildings or near residential areas that might be impacted by noise)
36. Pet shop (not in residential buildings or near residential areas that might be impacted by noise)
37. Restaurants, types "A," "B," "C," and "D"
38. Retail sales and services
39. RV, Boat and low speed electric vehicle sales
40. Service stations, types "A" and "B"
41. Sport facilities
42. Taverns
43. Textile Showrooms
44. Theaters
45. Transient lodging
46. Maximum of 30% of the area may be used for medium or high density residential
47. A single destination icon sign, as defined hereinafter is permitted as a use within the Mixed-Use/Commercial Corridor area in a location with SR 44 frontage and visibility.
48. A single electronic sign, as defined hereinafter is permitted as a use within the Mixed-Use/Commercial Corridor area in a location with SR 44 frontage and visibility.

D. Residential Rental Village

i. The following uses are specifically permitted:
   1. Single-family dwellings detached and attached [cottages, townhomes, duplexes]
   2. Pedestrian, Multimodal, Bicycle trails.
   3. Multifamily dwellings including townhomes and apartments
   4. Accessory Amenities

E. Residential

i. The following uses are specifically permitted:
   1. Single-family dwellings detached and attached [townhomes, duplexes]
   2. Pedestrian, Multimodal, Bicycle trails.
   3. Multifamily dwellings including townhomes and apartments.
   4. Accessory Amenities

F. Regional Park/Sports Complex/Police

i. The following uses are specifically permitted:
   1. Public Recreation and Sports Complexes
   2. Pedestrian, Multiuse, Bicycle and Hiking trails, including trails that connect to trails within the Edgewater Wetland Park and to the Florida SUNTrail system. Public trails

that are built without grant funds may be eligible for park impact fee credits.

3. Municipal and governmental buildings and ancillary parking
4. Community Center; provided such center is not used for incompatible uses such as medical use, drug treatment centers, transient housing or homeless shelters.
5. Farmers Market
6. Amphitheater

G. Natural Vegetation Areas

i. The following uses are specifically permitted:

1. Natural Vegetation
2. Pedestrian, Multiuse, Bicycle and Hiking trails
3. Utility corridors
4. Passive Recreation Use

H. Schools

i. Schools and related structures and uses are specifically permitted within Deering Park Innovation Center and school sites may be reserved for such use within the conceptual master plan.

9. PUBLIC INFRASTRUCTURE -UTILITIES, PEDESTRIAN AND MULTI-USE TRAILS

a. Utilities and utility easements. New public utilities including water, wastewater, reclaimed water, electrical transmission and distribution, will be installed underground and constructed to New Smyrna Beach Utilities ("NSBU") latest Rules, Design, and Construction Specifications standards. Prior to the approval of any initial phase within this development, a master utilities plan (water, reclaimed water and wastewater) and hydraulic calculations are required and must be submitted to and approved by NSBU for both the entire development as a whole as well as any individual stand-alone phases. The master utilities plan shall comply with NSBU Water Resources System Master Plan 2016 or latest edition. Utilities shall be interconnected with all adjacent developments. All wastewater shall be discharged to the future Southwest Regional Lift Station within the South Village development to the West. Deering Park Innovation Center will provide the NSBU approximately 8 acres of land adjacent to the proposed police sub-station, with the specific location and configuration to be mutually agreed upon, when access is provided to the area to allow the NSBU to provide for utility infrastructure, including an electrical substation and above ground water tank, large enough to provide for a maximum of 6 million square feet of non-residential use. Design and construction of the electrical sub-station and above ground water storage tank within the donated 8-acre site shall be without cost to the developer of Deering Park Innovation Center, however, the parties specifically recognize that all normal utility development fees and normal capital connection fees shall continue to be required by New Smyrna Beach Utilities. The parties recognize that Florida Power & Light constructed a transmission line through the Property. As a result, for some uses, especially residential use, additional buffers, or landscaping may be provided to assist in the compatibility with said transmission line. In addition, roadways will need to

be planned in such a manner to avoid impact with the transmission line infrastructure.

b. Hardening utility lines as protection against storm. The utility designs shall plan for such storm events by hardening its infrastructure. All electrical service, internet service and key traffic signalization are required to be placed underground at a safe depth as required by the Utilities Commission to protect those lines from storm impacts.

c. Access easements, roadways, and rights-of-way. Access easements, roadways, and rights-of-way may be public or private within Deering Park Innovation Center and shall be designed in compliance with the City LDR or as amended by this PUD. Proposed roadway sections for the project are attached hereto as Exhibit D. A multi-use path and trail network may be provided throughout Deering Park Innovation Center in phases that will allow for connection to the regional trail network. The network of paved walkways or natural trails ~~may~~ will provide access to community facilities, recreational facilities, job production areas and preserved conservation areas.

   ~~i.~~ Right-of-Way has been dedicated to Volusia County for each segment of Williamson Boulevard. Deering Park Innovation Center shall work with Volusia County to incorporate the stormwater from Williamson Boulevard into the comprehensive stormwater system.

   ii. Any private roads shall be maintained as a common area.

d. Sidewalks. For each individual phase, Owner shall install sidewalks in conformance with the LDR in all common areas except the trail network, as identified below, may substitute for sidewalks subject to the approval of the City's Technical Review Committee. Individual builders shall install sidewalks in conformance with the LDR in other required locations. Sidewalks shall have a minimum width of five-feet (5') within neighborhoods and six-feet (6') along arterial and collector roadways. A twelve-feet (12') wide multi-use path shall be provided along at least one side of Williamson Boulevard in lieu of one of the six-feet sidewalks. Such Multi-Use Paths may potentially allow for bicycles, pedestrians, and low speed or personal electric vehicles with appropriate speed restrictions to allow for shared use. The sidewalks or multi-use paths must be approved by the City prior to issuance of Certificates of Occupancy for each home or non-residential building. The Owner shall provide a bond or surety in a form acceptable to the City in an amount as provided in the fee resolution for the costs to complete the construction of the sidewalk for each phase, as amended from time to time, for three (3) years prior to final plat approval. Or, upon review and approval and at the City's sole discretion, the City may allow the Owner to extend the sidewalk bond for an additional two (2) year term. If sidewalks within an approved subdivision or neighborhood are not completed within three (3) years, unless such time is extended by the City, the Owner or its successor(s) will install the remaining sidewalks, or City may utilize bond to provide same.

e. Trees along pedestrian areas: A shade tree plan shall be provided with each phase to provide for the planting of shade trees along pedestrian areas to enable shade areas on the pedestrian walkways. Shade trees at planting shall be a minimum of fourteen feet in height and have a

minimum caliper of three inches when measured six inches above ground level.

f. Low Speed Vehicles. All motor vehicles, including low speed vehicles as defined by Florida Statutes, shall be properly registered and comply with the requirements Florida Statutes, as may be amended from time to time.

11. POLICE AND FIRE PROTECTION:

a. Owner has agreed to dedicate a site of sufficient size to accommodate a police substation. Said site shall be a minimum of 10 contiguous and developable acres. Owner shall be responsible for providing road and utility infrastructure to said site.
b. Prior to any vertical construction within Deering Park Innovation Center, the applicant will work with the City to complete a fire department service concurrency evaluation, which may require an independent third-party evaluation of said evaluation at the expense of the applicant.

12. WATER AND ENERGY CONSERVATION – SUSTAINABILITY

a. All construction within Deering Park Innovation Center shall adhere to higher standards to accomplish water and energy efficiency and conservation.
b. Deering Park Innovation Center shall utilize the Sustainable Floridians Certification and Monitoring Program (SF CAMP), developed by the University of Florida, as may be amended from time to time.
c. SF CAMP is a comprehensive, incentive based certification program for new developments that minimize water and energy demand and protect natural resources.
d. Deering Park Innovation Center shall work with SF CAMP to establish specific elements of sustainability for the following specific elements:
    i. Energy Conservation
    ii. Water Conservation
    iii. Environmental Preservation
    iv. Mixture of Housing Types and Price Points
    v. Efficient Infrastructure
    vi. Transportation Efficiency
    vii. Water Quality Preservation
e. All landscape plant materials shall be either Florida native species or Florida Friendly plant material to reduce or eliminate the need for irrigation and replanting.
f. All residences will meet the Energy Star program standards provided by the United States Environmental Protection Agency and the United States Department of Energy.
g. Planning for colors for buildings shall include the consideration of the use of higher light reflective values for paint and roofing materials.
h. The plan shall ~~encourage~~ require the planting of shade trees along pedestrian paths as protection from the sun.
i. The plan for the entirety of Deering Park Innovation Center shall result in a minimum of 50% open space.
j. The stormwater management system shall be designed to also provide habitat by providing for the planting of a minimum of 50% of the slopes in appropriate native vegetation and the creation of vegetated littoral shelves within no less than 25% of the shoreline of the stormwater management system lakes.

k. The stormwater management system lakes shall encourage the potential for dual use of the lakes by allowing the stormwater management system lakes to also be used as amenities.

13. <u>ENVIRONMENTAL STANDARDS AND OPEN SPACE.</u>

a. Deering Park Innovation Center shall provide for Natural Vegetation areas that shall provide connection to the wildlife corridor and conservation easements south of Deering Park Innovation Center to expand a huge existing habitat corridor and continuous wildlife corridor.

b. The Natural Vegetation areas shall be placed in a conservation easement to preserve said Natural Vegetation areas and shall total no less than 400 acres.

c. Planning for Deering Park Innovation Center shall include connection of wildlife corridors and multi-use trails to existing wildlife corridors and multi-use trails south of Deering Park Innovation Center.

d. Parcel boundaries, development areas and Natural Vegetation Areas which provide for passive recreation and placed within conservation easements, will be determined as to the exact location and size, in part, by jurisdictional wetland studies and subject to State and Federal permitting, and therefore the locations as shown on the Conceptual Master Plan are subject to change which shall not require an amendment to this MDA.

e. The overall PUD area shall include 50% open space. Individual phases may have less than 50% open space provided the entire PUD area provides for 50% open space. \

f. All landscape plant materials shall be either Florida native species or Florida Friendly plant material.

g. Development of the Property shall comply with the LDR tree preservation requirements. However, the parties specifically recognize that all or part of the Property is permitted to remain in agricultural use, including silvicultural use for timber production. The removal of agricultural timber is governed by State of Florida Best Management Practices, and therefore, the LDR tree preservation requirements to do not apply to trees removed pursuant to bona fide commercial agricultural practice prior to development of any section of the Property.

h. Upon development of any section of the Property consistent with site plan review approval and the zoning provisions provided herein, Owner shall comply with all rules, statutes, and regulations pertaining to protected wildlife species, including but not limited to the rules and permitting requirements of the Florida Game and Freshwater Fish Commission concerning gopher tortoises.

i. Burning shall not be used to clear land and there shall be no burning of cleared materials on site.

j. Deering Park Innovation Center shall be required to address all St. Johns River Water Management District comments as part of the permitting requirements.

14. <u>ATTAINABLE HOUSING.</u>

a. The parties recognize the importance of providing a wide range of housing options at various price points. The existence of attainable housing to a wide range of households is key to recruiting businesses and economic growth. The businesses that Deering Park Innovation Center intends to attract will need a diversity of workers to thrive and grow; and those workers in turn need a range of attainable housing options. Deering Park Innovation Center provides attainable housing options with 600 apartments and 250 build-to-rent units which represent nearly 40% of the total residential units within Deering Park Innovation Center.

b. Additionally, accessory dwelling units (ADU's) are permitted as part of single-family residential areas, which provides additional opportunities for attainable housing. Said ADU's shall not exceed 800 square feet.
c. These attainable housing options will help recruit and retain businesses within Deering Park Innovation Center and support economic development efforts.

15. INNOVATIVE DESIGN

a. The property infrastructure shall be designed to provide sufficient wiring infrastructure to permit cameras at intersections for public safety purposes.
b. The property infrastructure shall be designed to provide appropriate areas for cell towers to ensure appropriate cell phone coverage for the community, with procedures in place to provide for full disclosure of potential cell tower sites to prospective residential home purchasers prior to closing.

16. ECONOMIC DEVELOPMENT:

a. The Owner will work together with the City to recruit investment in the appropriate areas by job producers, and will work with the City and County Economic Development Departments to recruit and facilitate such uses. The City and the Owner will specifically work together to develop shovel-ready industrial and/or office sites, which includes the permitting and development of stormwater and transportation infrastructure, and the pursuit of grants and economic development funding. The City shall use all available resources to attract and recruit users for Deering Park Innovation Center, including a collaborate effort to create an economic development strategic plan for non-residential uses for the Deering Park Innovation Center.

17. 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 with the applicable provisions of the LDRs relating to architectural standards where they do not conflict with the provisions of this section.
b. The intent of the residential portion of the project is to have diverse lot sizes, housing sizes, elevations, colors and other techniques to avoid a "cookie cutter" subdivision with identical homes in a row and to provide for diverse housing options throughout the community
c. Buildings shall strive to utilize a Florida Vernacular or other historical Florida style of architecture such as Florida Coastal or Farmhouse. Industrial buildings or buildings within Innovation Park shall be exempt from this standard.
d. All of the following requirements shall be met within the Property:
    i. All structures shall complement one another and shall convey a sense of quality and permanence.
    ii. Lower grade materials, such as unfinished concrete and prefabricated metal, shall be prohibited.
    iii. Corporate prototype design and materials shall be permitted provided they comply with the provisions of this section.
    iv. False or real windows shall be provided on all elevations visible from public roadways, but not including alleys, in sufficient size and number to complement the proportions of the building.
e. No more than 10% of the individual approved lot may be permitted for outside display or storage within the Innovation Park District nor shall such outside display or storage be visible from the public right-of-way or adjoining properties.

f. No vending machines shall be permitted on outside walkways or other outdoor pedestrian areas that are visible from the public street.
g. The physical appearance of all parking lot lighting fixtures shall be consistent.
h. Deering Park Innovation Center may provide additional architectural, or landscaping standards or covenants provided same are not inconsistent with the LDR.
i. Proposed architectural design demonstrating consistency with this Section shall be submitted and reviewed as part of the site plan and subdivision process, and design guidelines for each development district shall be provided as part of the initial site plan or subdivision platting submittal for each development district. Such design guidelines for each district shall be processed and approved as a minor modification to this Agreement.
j. Deering Park Innovation Center provides various natural vegetation areas and multi-use trials throughout the project that will be considered amenities for the project. Additional residential amenities will be provided for individual projects as part of site plan and/or subdivision review with the City.

18. <u>SCHOOL CAPACITY</u>

a. Deering Park Innovation Center at New Smyrna Beach will be developed in phases. The residential component of Deering Park Innovation Center at New Smyrna Beach, which potentially encompasses several phases, will require a concurrency evaluation for school capacity and for the Owner of Deering Park Innovation Center at New Smyrna Beach, its successors and assigns, and the Volusia County School Board to enter into a capacity enhancement agreement to provide for the owner of Deering Park Innovation Center at New Smyrna Beach, its successors and assigns, to dedicate a school site of at least thirty (30) usable acres to the Volusia County School Board based upon negotiations for use of the parcel for school capacity construction within a timely manner with a provision for re-acquisition (upon surrendering of impact fee credits granted in exchange for the dedication) if the property is not used for such school construction Or, if the school site dedication is not desirable to the Volusia County School Board, in its absolute discretion, may require the owner of Deering Park Innovation Center at New Smyrna Beach, its successors and assigns, to otherwise provide for sufficient student capacity. Capacity and concurrency issues will be re-evaluated simultaneously with any subdivision plat or site plan review.
b. The density permitted on the property that is the subject of Deering Park Innovation Center at New Smyrna Beach prior to amendment was for 140 single family dwelling units. The comprehensive plan amendment does, and the Deering Park Innovation Center PUD (or any other development permitted within the Deering Park Innovation Center at New Smyrna Beach) shall, limit the number of dwelling units at Deering Park Innovation Center to no more than 2150 dwelling units. However, the City of New Smyrna Beach may not issue any preliminary site plan approval or approve or enter into any plats for the residential component of Deering Park Innovation Center at New Smyrna Beach, or permit or allow the construction of any dwelling units within the said residential component, until such time as the aforesaid capacity enhancement agreement is entered into between the owner of Deering Park Innovation Center at New Smyrna Beach, its successors and assigns, and the School District and a Finding of Adequacy is issued and provided to the City of New Smyrna Beach by the School Board.

c. In the event of an application to increase the number of dwelling units above 2150 dwelling units or if the number of dwelling units approved for the Deering Park Innovation Center at New Smyrna Beach exceeds 2150 dwelling units, then the excess units (over 2150 dwelling units) shall be subject to school concurrency review.
d. Public schools are consistent uses and are permitted in the Deering Park Innovation Center at New Smyrna Beach.

19. MAINTAIN LOCAL CONTROL: It is important that the City maintain control over this project based on the terms contained within this Master Development Agreement. Prior to the start of any construction, the landowner also agrees to provide and record a restrictive covenant over the entirety of the subject parcel to conform to the PUD restrictions providing the maximum number of residential units permitted within Deering Park Innovation Center, as a whole, and the maximum number of any residential units permitted within the Innovation Park business park area and the Mixed-Use areas.

20. SIGNAGE

a. The PUD shall have a uniform sign program, as follows:
    i. State Road 44 Entrance: The major signage near Deering Park Innovation Center's entrance at State Road 44 shall have special signage to reveal the commercial, office, hotel or other usage within the mixed-use area with immediate access to SR 44. Said signage specifically may include an electronic sign that can provide the ability for the City to provide public announcements. The electronic sign shall be subject to DOT review and approval if required.
    ii. Residential: All signage for residential uses shall be developed in accordance with the City's LDR requirements.
    iii. Commercial, Industrial, and Institutional: All signage for commercial, industrial and institutional uses shall be developed in accordance with City's LDR requirements, with building mounted and illuminated signage permitted along Interstate 95 frontage. Buildings fronting on Interstate 95 may also provide decorative and attractive illumination of the buildings fronting the interstate.
b. The PUD has also provided as specific permitted uses, the following described structures:
    i. Destination Sign: A maximum building pad of 50' x 50' for a monument icon tower with a maximum height of 50' feet shall be permitted along Interstate-95. The Destination Sign may be landscaped and illuminated, and placed within required setbacks or landscape buffers, but shall be located no closer than 5 feet from the perimeter property line.
    ii. Entry Monument Sign: An entrance icon similar in design shall be permitted at the entrance to Deering Park Innovation Center from SR 44. Said SR 44 Icon destination signage shall be limited to 25' in height. The Entry Monument Sign may be landscaped and illuminated, and placed within required setbacks or landscape buffers, but shall be located no closer than 5 feet from the perimeter property line.

21. PROPERTY OWNERS' ASSOCIATION AND COMMON AREA MAINTENANCE

a. "Common areas" and "common facilities" are defined as all lands and facilities that are intended to be set aside for common ownership, use, or benefit, whether or not

identified as common areas on Exhibit B, such as conservation easements, retention ponds, subdivision entry walls, and passive recreational areas.

b. Prior to final plat approval or prior to issuance of the first certificate of occupancy within the development, whichever is earlier:
    i. Owner will form and incorporate a non-profit Property Owners' Association ("POA"). The final plat shall include such language as the City may deem necessary to reflect the POA's responsibilities. The POA shall be responsible for operation, maintenance, and control of all common areas and common facilities, including signage, and landscaping. The POA shall have authority to establish and assess dues and fees upon its members to recoup the cost of maintenance, and the power to impose and enforce liens against those members who fail to pay such assessments; however, property dedicated to and/or owned by the City shall not be subject to assessment. All persons purchasing property within the project shall be members of the POA. Owner may from time to time add additional covenants and restrictions or make changes in POA's by-laws as may be required to guarantee that the project will be developed in accordance with the policies outlined in this Agreement.
    ii. Owner shall complete construction and installation of all common areas and common facilities within the development or phase; or, for those common facilities within a phase that may be susceptible to damage due to remaining construction, the City may allow postponement of this requirement subject to Owner's provision of adequate assurances that the work will be done. For example, the City may require Owner to post a bond sufficient to cover 120% of the cost of such facilities according to certified estimates. Any bond shall be in a form approved by the City Attorney.
    iii. Natural Vegetation Areas provided for passive recreation and preservation will be determined as to the exact location and size, in part, by jurisdictional wetland studies and subject to State and Federal permitting. Once determined, said Natural Vegetation area shall be a separate platted lot or parcel.
c. The parties anticipate the potential need for a Community Development District or the expansion of the Deering Park Stewardship District to facilitate the design and construction of the infrastructure required for Deering Park Innovation Center including, but not limited to, roads, utilities, and common stormwater systems. This will either require a separate application and approval by the City Commission or by the Legislature and Governor of the State of Florida, depending on the size of the taxing district. The parties specifically recognize the potential need for such district and anticipate the request for same to facilitate job production and infrastructure that would allow for the use of Deering Park Innovation Center. At the Owner's option, all of the project and/or owner requirements under this agreement are hereby expressly authorized to be assigned to and/or undertaken by a Community Development District, if one is approved by the City as provided herein, without further action of the parties hereto and pursuant to Section 190.012(1)(g), Florida Statutes, or the Deering Park Stewardship District if expanded.
d. Common areas shall be identified and established as part of the site plan or subdivision platting process.

22. <u>EFFECTIVE DATE; COMPLETION SCHEDULE.</u>

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. The parties recognize that this is a large-scale, long-term plan for mixed-use development of Deering Park Innovation Center. The parties recognize that there is a mutual desire for quality development and job production and that this use is market driven. Therefore, there is no timeframes required for submittal of applications for all construction permits for the development, or for the first phase of a phased development or completion of construction, other than requirements within the land development code.
c. This PUD is binding on Owner, and on Owner's successors in interest and assigns.
d. This Agreement is valid for a period of 30 years from the date of execution by both parties, unless extended, in writing, by both parties. In the event no construction has occurred within Deering Park Innovation Center within this timeframe, the development rights within this PUD shall expire. However, construction of any part of Deering Park Innovation Center, including the construction of the first segment of Williamson Boulevard from State Road 44 to a new intersection within Deering Park Innovation Center shall vest this Agreement. Upon said construction the terms of this MDA shall be considered in full force and effect.

23. <u>MINOR MODIFICATIONS.</u>

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

i. Amendments to an Exhibit that are necessary for compliance with the provisions of this Agreement, the LDRs, or extra-jurisdictional permitting requirements, and address technical considerations that could not reasonably be anticipated during the PUD approval process;

ii. Have no material effect on the character of the approved PUD district, the basic concept and terms of the PUD Master Development Agreement. These may include, but are not limited to, the following:

1. Structural alterations that do not significantly affect the basic size, form, style, and appearance of principal structures;
2. 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;
3. Minor changes in the location or configuration of buildings, parking areas, landscaping, or other site features;
4. Minor changes in the location and configuration of public infrastructure facilities that do not have a significant impact on the utility and stormwater management systems;
5. Increases of five percent or less in the total number of parking spaces.

iii. Modifications of up to 5% 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, <u>EXCEPT</u>:

1. Modifications, such as to floor area ratios, that increase intensity or density of the entire project or any phase by more than 2%;

2. Modifications that increase building height more than 3% or decrease setbacks, yards, or landscaping along the perimeter of the Property by more than 10%;

3. Modifications that, when combined with previously approved minor and substantial modifications, would result in a cumulative change of more than 10% of the original requirement for the area in question; and

4. Modifications that would unduly impact public utilities.

This Paragraph is not intended to modify permitted Conceptual Master Plan adjustments to the size and location of the Development Districts outlined in this Agreement.

iv. 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 LDRs.

v. 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.

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

24. 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 and Zoning Board. Requests for an amendment must be submitted in writing and, except as otherwise provided herein, shall be processed in accordance with the LDRs. Notice of public hearings shall be provided as if the application is one to rezone property.

b. In recognition of the City's general authority to rezone and legislate land uses and zoning requirements, all signatories to this Agreement and all individual lot owners, fee titleholders, mortgagees, or lien holders who now or hereafter own property subject to this Agreement, agree as follows:

i. The property owners association established pursuant to Section 7 above shall be authorized to represent and execute amendments to the Agreement on behalf of all lot owners other than the owners of lots directly impacted by the amendment.

ii. If the property owners association fails to retain its corporate status, then all directly impacted owners shall be authorized to represent and execute an amendment on behalf of all owners not directly impacted who have received notice of the proposed amendment as required by this Agreement or applicable law.

iii. For purposes of this section, a lot is "directly impacted" by an amendment to this Agreement only where the amendment would revise the listed uses, dimensional requirements, architectural requirements, or sign requirements for that lot.

25. 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 LDRs. In addition to those entitled to notice pursuant to the LDRs, notice of any public hearing to consider a proposed variance shall be provided to the property owners

association/s representing all property owners within the planned development. No such variance shall be deemed to require formal amendment to this Agreement.

26. COMPLETE AGREEMENT

This Agreement represents the complete understanding by and between the parties with respect to the development and continued use of the subject 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. Any amendment to this Agreement shall be in writing and signed by the City and the property owner.

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

SIGNATURES ON NEXT PAGE

Signed, sealed and delivered in the presence of:

CITY OF NEW SMYRNA BEACH, a Florida Municipal Corporation

_____

_____
Witness 1

By:

Fred E. Cleveland, Mayor

_____
Print Name of Witness 1

Attest:

_____

_____
Witness 2

By:

Sharon Taylor-Harding, City Clerk

_____
Print Name of Witness 2

Dated: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ___day of _____, 20___, by **FRED E. CLEVELAND and SHARON TAYLOR-HARDING, Mayor and City Clerk**,

respectively, of The City of New Smyrna Beach, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

(Seal)

_____
Notary Public

APPROVED AS TO FORM AND CORRECTNESS
As Attested to

By: _____ Dated: _____
City Attorney, Carrie Avalone

Signed, sealed and delivered
in the presence of:

FARMTON NORTH, LLC,
a Florida limited liability company

_____

By:

_____
Witness 1

Print Name: _____

_____
Print Name of Witness 1

As: _____

_____
Witness 2

_____
Print Name of Witness 2

Dated: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by _____ as _____ of FARMTON NORTH, LLC, a Florida limited liability company, who [ ] is personally known to me or [ ] has produced _____ as identification.

(Seal)

_____

Notary Public