

OPTION CONTRACT FOR SALE AND PURCHASE
Project Freedom

THIS OPTION CONTRACT is made this _____ day of _____, 2021, between the following Parties: **DARK STORM INDUSTRIES, LLC**, a New York Limited Liability Company, whose address is 4116 Sunrise Highway, Oakdale, New York, 11769, as ("Optionee"), and the **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision within the State of Florida, ("Optionor"), whose address is 2725 Judge Fran Jamieson Way, A-219, Viera, Florida 32940.

RECITALS

WHEREAS, Optionor is the fee owner of certain real property measuring 9.8 acres (more or less) which is located in the City of Titusville, County of Brevard and State of Florida and contained within Parcel "D" of the Enterprise Park Plat, at Brevard County Official Records Book 32, Page 74, to be more particularly described in Exhibit "A" attached hereto and incorporated herein, based upon a survey of the exact parcel completed prior to closing (the "Property"); and

WHEREAS, Optionor desires to grant to Optionee and Optionee desires to accept certain options regarding the Property on the terms set forth herein.

NOW, THEREFORE, for good and valuable consideration and the mutual agreements herein contained, the Parties covenant and agree as follows:

1. **LEGAL DESCRIPTION OF PROPERTY.** A parcel measuring 9.8 acres (more or less), and contained within Parcel "D" of the Enterprise Park Plat, at Brevard County Official Records Book 32, Page 74, to be more particularly described in Exhibit "A" attached hereto and incorporated herein, based upon a survey of the exact parcel completed prior to closing. (hereinafter the "Property").
2. **OPTION TO PURCHASE.** In consideration for the payment of the Option Fee (as hereinafter defined) Optionor hereby grants to Optionee an option (the "Option") to purchase the Property free and clear of all liens and encumbrances except as specifically provided otherwise herein.
3. **OPTION FEE.** Simultaneously with the execution of this Option Agreement, Optionee has paid to Optionor the sum of THREE THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$3,500.00) (the "Option Fee"). The Option Fee is to be transferred to an escrow account established and held by the Brevard County Clerk and shall be applied to the Purchaser price if the Option is exercised.
4. **TERM OF OPTION.** The Option and all rights and privileges granted to Optionee hereunder shall be effective as of the date hereof, and shall continue until the earlier to occur of (i) the Option Closing (as hereinafter defined) or (ii) 11:59 P.M., Eastern Standard Time, on the day which is 180 days after the date

Optionee's Initials 

hereof (the "Option Expiration Date") (such period being hereinafter referred to as the "Option Period"), whereupon the Option shall expire and be of no further force and effect; provided, however, that if such failure to close by the expiration of the Option Period is due to a breach or default by Optionor hereunder or the failure of a condition precedent to Optionee's obligation to close hereunder, then the Option Period and the Option Expiration Date shall be, and be deemed to be, extended until such default has been cured or such condition precedent has been satisfied, as the case may be; provided, further, that if the failure to close is due to the failure of a condition precedent of Optionee's obligations to close and not due to a default by Optionor, then the Option Period and the Option Expiration Date shall in no event be extended beyond ninety (90) days. Time shall be of the essence with respect to the exercise of the Option by Optionee prior to the expiration of the Option Period.

5. OPTION PURCHASE PRICE; COSTS AND EXPENSES.

(a) The purchase price for the Property (the "Option Purchase Price") shall be THREE HUNDRED SIXTY-TWO THOUSAND SIX HUNDRED AND 00/100 DOLLARS (\$362,600.00), payable by any of the following methods designated by the Optionor:


- (i) The delivery to the Optionor of a Bank Treasurer's Check of a member Bank of the New York Clearing House, payable to the order of the Optionor; or,
 - (ii) wire or debit and credit transfer of immediately available same day United States Federal Funds to one or more accounts to be designated by Optionor.
- (b) Other than as specifically provided herein, each Party shall be responsible for its own costs and expenses in connection with this Option Agreement and the transactions contemplated hereby.

6. EXERCISE OF OPTION. Optionee may exercise the option by providing written notification to Optionor of Optionee's intent to exercise the option at any time during the Option Period. (the "Option Notice"). The Option Notice shall set forth a proposed closing date (the "Option Closing Date") for the closing of the purchase of the Property (the "Option Closing").

7. TITLE EVIDENCE. At least 15 (fifteen) days before closing date, ____ Optionor shall, at Optionor's expense, deliver to Optionee or Optionee's attorney or X Optionee may at Optionee's option and sole cost obtain a:) title search and/or b:) title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of title insurance. See Addendum 1, Standards of Real Estate Transactions (A) for additional requirements.

8. CLOSING DATE. The Parties agree that upon exercise of the Option, the transaction shall be closed and the deed and other closing papers delivered within 60 days of the exercise of the Option, unless modified by other provisions of this Contract. See Addendum 1 and 2.

9. WARRANTIES AND BROKERS. The following warranties are made and shall survive closing.

Optionee's Initials 

A. The following representations and warranties of Optionor are true and correct as of the date hereof and shall be true and correct on and as of the Option Closing Date (subject to be updated to reflect current information) with the same force and effect as if made at that time, and Optionor agrees to comply with each of the covenants contained herein:

- a. The execution and delivery of this Option Agreement and the other documents to be delivered hereunder by Optionor, the performance by Optionor of its obligations hereunder and under such other documents, and the consummation by Optionor of the transactions contemplated hereunder have been duly authorized; Optionor has the legal right, power and authority to enter into this Option Agreement and perform all of its obligations hereunder; and the performance by Optionor of its obligations hereunder will not conflict with, or result in a breach of, any of the terms, conditions and provisions of its certificate of formation or any contract, agreement or instrument to which Optionor is a party or by which it is bound, or to which it or any portion of its property is subject and (y) will not require the consent, approval, authority or order of any court or governmental agency that has not been previously obtained in writing and delivered to Optionor.
- b. There are no leases, tenancies, licenses or other rights of occupancy for any portion of the Property.
- c. There is no pending condemnation or similar proceeding affecting the Property or any portion thereof, nor has Optionor any knowledge that any such proceeding is contemplated.
- d. There are no actions, suits or proceedings pending or, to the knowledge of Optionor, threatened against or affecting Optionor or the Property or any portion thereof or relating to or arising out of the ownership or operation of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality, except for personal injury claims or other claims covered by insurance.
- e. Optionor will not and has not entered into any agreement still in effect, other than this Option Agreement, to sell, encumber or dispose of any interest in the Property or any part thereof; and there are no options, rights of first offer, rights of first refusal or similar rights to acquire the Property in favor of any other party.
- f. Optionor is not a "non-foreign person" within the meaning of section 1445 of the United States Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

B. The following representations and warranties of Optionee are true and correct as of the date hereof and shall be true and correct on and as of the Closing Date with the same force and effect as if made at that time:

Optionee's Initials




- a. Optionee is a liability company duly organized, validly existing and in good standing under the laws of the state of its formation; and
- b. The execution and delivery of this Option Agreement and the performance by Optionee of its obligations hereunder has been duly authorized; Optionee has the legal right, power and authority to enter into this Option Agreement and perform all of its obligations hereunder; and the performance by Optionee of its obligations hereunder (x) will not conflict with, or result in a breach of, any of the terms, conditions and provisions of its certificate of limited partnership, any law, statute, rule or regulation, or order, judgment, writ, injunction or decree of any court or governmental instrumentality, or any contract, agreement or instrument to which Optionee is a party or by which it is bound and (y) will not require the consent, approval, authority or order of any court or governmental agency that has not been previously obtained in writing and delivered to Optionor.

10. BROKERAGE.

- (a) Optionor and Optionee each agree, warrant and represent to each other that it has not dealt with any broker in connection with this Option or the acquisition of the Property contemplated hereby.
- (b) The provisions of this Section 9 hereof shall survive the Option Closing Date or the termination of this Option Agreement.

11. INSPECTIONS AND DUE DILIGENCE. Optionee may, at reasonable times and upon reasonable notice to Optionor, at Optionee's sole expense, cause the Property to be inspected by such engineers, architects and others acting on behalf of Optionee, as Optionee may designate. All inspections and due diligence must occur during the Option Period. During the Option Period, the Optionee must complete any desired physical inspection(s) and evaluation(s) of the property, including but not limited to, environmental, hazardous materials, suitability for development, access, drainage and subsurface conditions. In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to Optionee are detected, Optionor shall 1) take all steps necessary to remove Optionee's objections prior to the expiration of the option, if possible or 2) if acceptable to Optionee, Optionor shall allow an additional 90 days to provide adequate time to conduct a Phase II assessment meeting ASTM standards. If the Phase I assessment reveals contamination, this agreement may be terminated by Optionee and Optionee may decline to allow Optionor to clean up or to proceed to a Phase II assessment. Likewise, if the Phase II assessment reveals contamination objectionable to Optionee, Optionee may terminate this agreement. Alternatively, Optionee may grant Optionor an additional 90 days to clean up the site after the Phase II assessment, but Optionee is not required to do so. Optionor shall allow the Optionee or its agents reasonable right of entry upon the property for inspection purposes. Before the expiration of the inspection period or the additional 90-day extension for a Phase II assessment, Optionee shall have the right to terminate this agreement with a refund of its option payments, should the results of the inspection indicate the property cannot be used for its intended purpose or that mitigation of conditions would be required. If clean up after a Phase II assessment is attempted but unacceptable to Optionee, the Optionee shall receive a refund of its option payment. Optionee shall be permitted to conduct such invasive testings, borings, surveys, tests, studies

Optionee's Initials 

and inspections of the Property as Optionee has, in Optionee's discretion, deemed necessary or advisable as a condition precedent to Optionee's exercise of the Option and to determine the physical, environmental and land use characteristics of the Property and its suitability for Purchaser's intended use; and Optionor shall provide Optionee with adequate opportunity to make such invasive testings, borings, surveys, tests, studies and inspections of the Property.

12. NOTICES.

- A. All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing and are in effect upon receipt. Notices shall be transmitted either by personal hand delivery; United States Postal Service (USPS), certified mail return receipt requested; or, overnight express mail delivery. E-mail and facsimile transmission may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth below for the respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.
- B. The Parties' designated representatives and their respective addresses for purposes of this Agreement are as follows:

Edward Newman
Dark Storm Industries LLC
4116 Sunrise Highway
Oakdale, NY 11769

Ed Newman
Dark Storm Industries LLC
631-967-3170 x 100
www.dark-storm.com

Troy Post, Executive Director
NORTH BREVARD ECONOMIC DEVELOPMENT ZONE
400 South Street, Suite 1A
Titusville, FL 32780
Phone: 321-264-5205
E-mail: troy.post@brevardfl.gov

Special Clauses: X See attached addendum 1 and 2.

(Signature Page Follows)

Optionee's Initials



BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

ATTEST:

Rita Pritchett, Chair

Rachel Sadoff, Clerk

As Approved by the Board: _____

Approved As to Form:

Asst. County Attorney

Optionee: DARK STORM INDUSTRIES, INC

Social Security or Tax Identification Number: 46-1909201

Date: 3/13/2021

Signed: _____

By: Edward Newman

Its: Manager

Date: 3/12/2021

Signed: _____

By: Peter Morrissey

Its: Manager

Signed by Witness: _____

Maria Martinez

Print Name of Witness

03-13-2021

Date of Witness Signature

Optionee's Initials (C)

ADDENDUM 1 - STANDARDS FOR REAL ESTATE TRANSACTIONS

A. EVIDENCE OF TITLE: (Applicable in the event Optionee opts to obtain a title commitment). A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Optionee, upon recording of the deed to Optionee, an owner's policy of title insurance in the amount of the purchase price insuring Optionee's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Optionor at or before closing. Optionor shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Optionee shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Optionee shall within 3 days thereafter, notify Optionor in writing specifying defect(s). If the defect(s) render title unmarketable, Optionor will have 30 days from receipt of notice to remove the defects, failing which Optionee shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Optionor either: (1) extending the time for a reasonable period not to exceed 120 days within which Optionor shall use diligent effort to remove the defects; or (2) requesting a refund of the Option Fee(s) paid which shall immediately be returned to Optionee. If Optionee fails to so notify Optionor, Optionee shall be deemed to have accepted the title as it then is, Optionor shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Optionor is unable to remove the defects within the times allowed therefor, Optionee shall either waive the defects or receive a refund of the Option Fee(s), thereby releasing Optionee and Optionor from all further obligation under this Contract.

B. SURVEY: Within thirty (30) days of the date hereof, Optionor, at Optionor's expense, shall have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

C. TIME PERIOD: Time is of the essence in this Contract.

D. DOCUMENTS FOR CLOSING: Optionor shall furnish the deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Optionee shall furnish closing statement.

E. EXPENSES: If required, the recording of corrective instruments shall be paid by Optionor. Optionee will pay for the cost of recording the deed and any required documentary stamps on the deed.

F. PRORATIONS; CREDITS: THERE IS NO TAX PRORATION ON THIS PROPERTY.

G. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Optionor. Pending liens as of date of closing shall be assumed by Optionee. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Optionor shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

Optionee's Initials 

H. PROCEEDS OF SALE; CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Optionee's expense to show title in Optionee, without any encumbrances or change which would render Optionor's title unmarketable from the date of the last evidence. Proceeds of the sale shall be held in escrow by Optionor's attorney or by another mutually acceptable escrow agent for a period of not more than five (5) days after closing date. If Optionor's title is rendered unmarketable, through no fault of Optionee, Optionee shall, within the 5-day period, notify Optionor in writing of the defect and Optionor shall have 30 days from date of receipt of such notification to cure the defect. If Optionor fails to timely cure the defect, all the Option Fee(s) and closing funds shall, upon written demand by Optionee and within five (5) days after demand, be returned to Optionee and, simultaneously with such repayment, Optionee shall return the Personal Property, vacate the Real Property and reconvey the Property to Optionor by special warranty deed and bill of sale. If Optionee fails to make timely demand for refund, Optionee shall take title as is, waiving all rights against Optionor as to any intervening defect except as may be available to Optionee by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, Florida Statutes (1993), as amended.

I. FAILURE OF PERFORMANCE: If Optionee fails to perform this Contract within the time specified, including payment of all the Option Payment(s), the Option Payment(s) paid by Optionee may be retained by or for the account of Optionor as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Optionee and Optionor shall be relieved of all obligations under this Contract. If for any reason other than failure of Optionor to make Optionor's title marketable after diligent effort, Optionor fails, neglects or refuses to perform this Contract, the Optionee may seek specific performance or elect to receive the return of Optionee's Option Payment(s) without thereby waiving any action for damages resulting from Optionor's breach. In the event of any litigation arising out of this contract, each party shall bear its own attorney's fees and costs. **THE PARTIES AGREE TO WAIVE TRIAL BY JURY.**

J. CONVEYANCE: Optionor shall convey title to the Real Property by County's Deed.

K. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon Optionee or Optionor unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

Optionee's Initials



ADDENDUM 2 TO OPTION CONTRACT FOR SALE AND PURCHASE

1. OPTIONEE SHALL PURCHASE THE PROPERTY IN AS-IS CONDITION. OPTIONEE ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS ACCEPTED BY OPTIONEE IN ITS PRESENT CONDITION AS IS, WHERE IS, AND WITH ALL FAULTS, AND THAT NO PATENT OR LATENT PHYSICAL CONDITIONS, WHETHER OR NOT KNOWN OR DISCOVERED, SHALL AFFECT THE RIGHTS OF EITHER PARTY HERETO.
2. Optionee agrees to abide by all covenants and restrictions existing on the Spaceport Commerce Park for the development of the property in the Official Records Book (ORB) of Brevard County, Florida, including but not limited to those at ORB 2460, page 2995-3008; ORB 2508, Page 2917; ORB 6395, Page 2380, and Plat Book 32, Page 74, also more particularly identified under Exhibit "B."
3. Optionee has no right to assign this Contract without Optionor's prior written consent. Notwithstanding the preceding, prior to the exercise of the option, Optionee may assign the rights and duties of the Option Contract to a newly created Florida business entity, which shall (A) Control, (B) be under the Control of, or (c) be under common Control with Optionee and the entity to which Optionee has assigned the Economic Incentive Agreement Project "Freedom" with the North Brevard Economic Development District. "Control" (including with correlative meanings, such as "Controlling," "Controlled by" and "under common Control with") means, as applied to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and operations of such entity, whether through the ownership of voting securities or other ownership interests, by contract or otherwise."
4. Once purchased, Optionee further agrees to commence the construction of a building approximately 25,000 square feet (the "Building") within two (2) years of transfer of title from Optionor to Optionee. Failure to proceed with the construction of the Building, as evidenced by receipt of a building permit from the City of Titusville and the pouring upon the property of a concrete foundation equal to the building footprint specified above within said two (2) year period shall entitle the Optionor to the right to reacquire the property at the same consideration paid by Optionee.
6. **PROPERTY TAX DISCLOSURE SUMMARY:** OPTIONEE SHOULD NOT RELY ON OPTIONOR'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT OPTIONEE MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.


Optionee's Initials 

EXHIBIT A

MAP AND LEGAL DESCRIPTION:

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 23 SOUTH, RANGE 35 EAST AND BEING A PART OF PARCEL "D" AS SHOWN ON THE PLAT OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 32, PAGE 74 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF STATE ROAD NO: 407 WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF SHEPHERD DRIVE; THENCE ALONG SAID RIGHT OF WAY LINE OF SHEPHERD DRIVE, THE FOLLOWING TWO COURSES AND DISTANCES: S.58°57'51"E., 380.01 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 800.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°01'09", 70.08 FEET; THENCE N.31°04'38"E., 956.73 FEET TO A POINT LYING ON THE NORTHEASTERLY LINE OF THE PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3017, PAGE 2464 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N.58°57'51"W., ALONG SAID LINE, 450.00 FEET TO A POINT LYING ON THE AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF STATE ROAD NO.407; THENCE S.31°04'38"W., ALONG SAID LINE, 959.80 FEET TO THE POINT OF BEGINNING. CONTAINING 431,839 SQUARE FEET OR 9.91 ACRES MORE OR LESS.

LEGEND:

R = RADIUS

L = LENGTH

△ = INCLUDED ANGLE

3017/2464 = TYPICAL NOMENCLATURE FOR
OFFICIAL BOOK AND PAGE

CL = CENTERLINE

P.O.B. = POINT OF BEGINNING

SHEET 1 OF 2 SHEETS

SURVEYOR'S NOTE:

THIS IS NOT A SURVEY. THIS DOCUMENT WAS PREPARED FOR LEGAL DESCRIPTION PURPOSES ONLY, AND IS IN NO WAY INDICATIVE OF AN ACTUAL FIELD SURVEY.

NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TO: _____
NORTH BREVARD ECONOMIC DEVELOPMENT ZONE

CERTIFIED BY: _____
DENNIS W. WRIGHT
REGISTERED LAND SURVEYOR NO. 4014
STATE OF FLORIDA

DATE 1/27/21
ORDER NO. 25764
FB. NO. _____
SCALE. 1" = 200'
DWG.NO. NBEDC.DWG

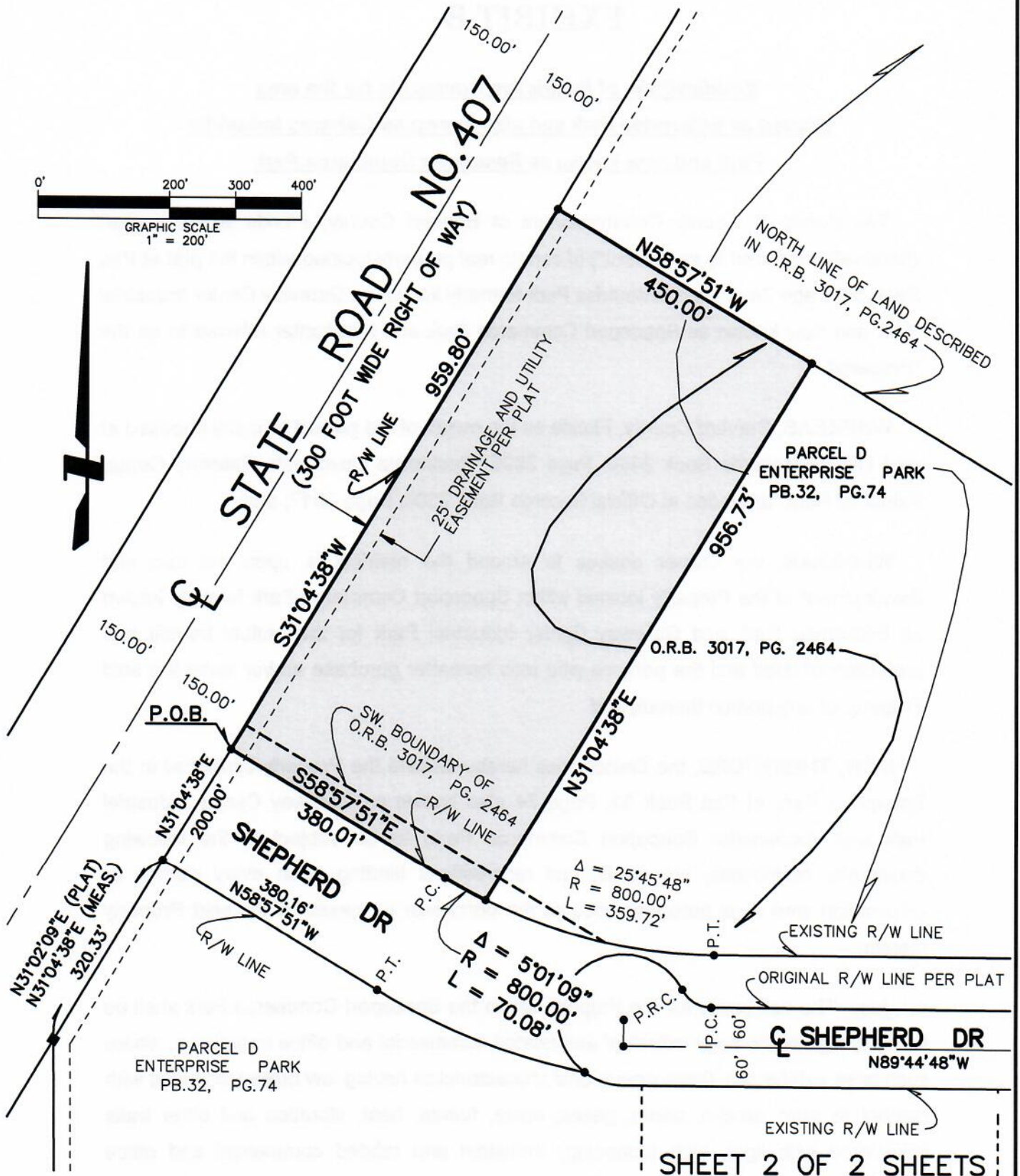
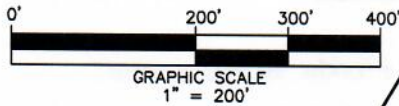
Honeycutt & Associates, Inc.

ENGINEERS • SURVEYORS • PLANNERS

3700 South Washington Avenue • Titusville, Florida 32780

(321) 267-6233 Fax (321) 269-7847

CERTIFICATE OF AUTHORIZATION NO. LB 6762



SHEET 2 OF 2 SHEETS

DATE 1/27/21
 ORDER NO. 25764
 FB. NO. _____
 SCALE. 1" = 200'
 DWG.NO. NBEDC.DWG

Honeycutt & Associates, Inc.

ENGINEERS • SURVEYORS • PLANNERS

3700 South Washington Avenue • Titusville, Florida 32780

(321) 267-6233 Fax (321) 269-7847

CERTIFICATE OF AUTHORIZATION NO. LB 6762

EXHIBIT B

Modifications of Restrictive Covenants for the area
Platted as Enterprise Park and also known as Gateway Industrial
Park and now known as Spaceport Commerce Park

The Board of County Commissioners of Brevard County, Florida is the owner, (hereinafter referred to as "Owner") of certain real property located within the plat at Plat Book 32, Page 74 entitled Enterprise Park formerly known as Gateway Center Industrial Park and now known as Spaceport Commerce Park and hereinafter referred to as the "Property".

WHEREAS, Brevard County, Florida as the owner of the platted property imposed at said Official Records Book 2460, Page 2995 "Restrictive Covenants Gateway Center Industrial Park" amended at Official Records Book 2508, Page 2917; and

WHEREAS, the Owner desires to amend the restrictions upon the use and development of the Property located within Spaceport Commerce Park formally known as Enterprise Park and Gateway Center Industrial Park for the mutual benefit and protection of itself and the persons who may hereafter purchase and/or lease the said Property or any portion thereof; and

NOW, THEREFORE, the Owner does hereby declare the Property contained in the Enterprise Park at Plat Book 32, Page 74 also known as Gateway Center Industrial Park and (hereinafter Spaceport Commerce Park) to be subject to the following conditions, restrictions, standards, and reservations binding upon every person or corporation who shall hereafter become the purchaser or lessee of the said Property therein:

1. **Use:** The use policy for the Property within the Spaceport Commerce Park shall be for light, high technology industrial and related commercial and office operations, where such uses exhibit only those operational characteristics having low nuisance values with respect to dust, smoke, odors, gases, noise, fumes, heat, vibration and other traits associated with light, high technology industrial and related commercial and office operations. The specific uses identified below are allowed:

Permitted Principal Uses: Light High Technology

- (a.) Wholesaling distribution centers and associated warehousing and storage.
- (b.) Research and design laboratories.
- (c.) Exhibition and nonretail showroom centers/ trade or convention centers.
- (d.) Manufacturing including manufacturing, compounding, processing, packaging, storage, treatment or assembly of products utilizing preprocessed materials within a structure that does not require exterior storage.
- (e.) Technology and research centers including fabrication or production of technical/ scientific products and materials within an enclosed structure.
- (f.) Printing, publishing or similar establishments.
- (g.) Service establishments catering to commerce and industry including but not limited to restaurants, coffee shops and cafeterias, outlets for business supplies, sales of prescriptions and personal care products, newsstands and similar establishments.
- (h.) Business and professional offices.
- (i.) Vocational, technical, trade or industrial schools and similar uses.
- (j.) Freight movers.
- (k.) Medical clinic in connection with industrial activity.
- (l.) Packaging and delivery express service.
- (m.) Employee credit unions.
- (n.) Retail sales incidental to manufacturing or product floor area. Such retail sales shall be located within the principal buildings.
- (o.) Heliports or landing pads.

Accessory Use:

- (a.) Uses and structures which are on the same lot and of a nature customarily incidental and subordinate to the principal building structure or use.
- (b.) Uses and structures which are in keeping with the character of the district.
- (c.) No residential facilities shall be permitted except for watchmen or caretakers whose work requires residence on the premises or for employees who will be temporarily quartered on the premises.

Conditional Use:

- (a.) Child care facility.

- (1.) No certificate of occupancy shall be issued until a license has first been obtained from the state department of health and rehabilitative services and any other permitting agency as required by law including the provisions of these regulations.

- (2.) A landscape buffer in accordance with Section 35-38 shall be required on nonstreet property lines.

- (3.) Such facility shall provide a passenger dropoff zone adjacent to the facility providing clear ingress and egress from parking and other areas.

- (4.) All structures, playgrounds, and outdoor recreation areas be setback minimum of fifty (50) feet from any abutting residential zoning district or residential use.

- (b.) Motion pictures, radio and television broadcasting facilities and transmission towers.

- (1.) Towers shall be located on the site so as to provide a minimum distance equal to the height of the tower front all property lines.

(c.) Multi-use buildings consisting of two or more permitted and/or conditional uses.

(d.) Health studio spa and similar establishments.

(e.) Banks and financial institutions (with drive-in facilities).

(1.) Each drive-in stacking lane must be clearly defined and designed as to not conflict or interfere with other traffic utilizing the site.

(2.) A bypass lane shall be provided if one way traffic flow pattern is utilized.

Prohibited uses shall include churches, K-12 private or public schools, and other schools unrelated to manufacturing and "high tech" industries. In no way shall this use policy be construed to imply the Property can be used for heavy manufacturing, hotel or motel, establishments serving food or beverages for the employees or guests of the facility. The latter may be permitted where the establishment is part of a light, high technology industrial and related commercial or office operation functioning as a company cafeteria, lunch room, day care, etc. solely for the use of its employees and guests. The Owner, its successors or assigns, shall not be obligated to grant their consent to any industrial, commercial or office use, and shall have the right, as a condition to any consent, to impose limitations and requirements as it may deem to be in the best interests of the area and to the objectives of the Spaceport Commerce Park. Any consent may be revoked if at any time a consented use is found to be inconsistent with the use policy as stated herein, and/or is found to be an unreasonable and uncorrectable nuisance in spite of limitations or requirements.

Anything herein to the contrary notwithstanding, this amendment shall only apply to those properties located within the Plat of Enterprise Park recorded in Plat Book 32, Page 74, Public Records of Brevard County, Florida. Should additional properties outside the Plat of Enterprise Park be encumbered by the initial restrictions to Spaceport Commerce Park f/k/a Gateway Central Industrial Park f/k/a Enterprise Park recorded in Official Records Book 2460, Page 2295, Public Records of Brevard County,

Florida, this amendment shall not apply to such property. In addition, one property owner within the Spaceport Commerce Park had an existing daycare use not included within this paragraph 1 as a permitted use on the date of recording this amendment. That parcel with a partial inconsistent use is identified at Official Records Book 5996, Page 1770. The inconsistent or nonconforming use is located on 3600 square feet out of 14,000 square feet shall be entitled to continue to have such uses upon the property, for as long as that use shall be continuously maintained and is not abandoned for more than one year.

2. **Review:** The Owner sells or leases the Property subject to the expressed condition that the purchaser or tenant shall assure that any future user purchasing, leasing, or subleasing the Property from the purchaser or tenant shall meet the use restrictions set forth in paragraph 1. Use: of the Restrictive Covenants. Such assurance shall take the form of a clause in the lease instrument of deed requiring compliance. The lease instrument or deed shall be submitted to the Spaceport Commerce_Park Authority, or its successors or assigns, prior to sale, lease or sublease of the Property so that the Spaceport Commerce Park Authority may verify the imposition of such condition and restriction.

The Board of County Commissioners, through the Spaceport Commerce Park Authority, shall have the right to approve the intended use of such subsequent owner or tenant, which approval will be based on the permitted uses described in the Restrictive Covenants. The intended use will be deemed approved if not rejected in writing within ten (10) days of the request for approval.

3. **Limitations:** No illegal trade, business or activity shall be permitted on the said Property. No operations shall be conducted on said Property which will cause an emission of offensive dust, smoke, odors, gases, noise, fumes, heat vibrations or other industrial traits which may be or become a nuisance or an unreasonable annoyance to other property within the Spaceport Commerce Park, except for temporary periods of construction and repairs of buildings, parking areas and other improvements.

4. **Lot Restrictions:** The minimum size of a lot shall be two and one-half (2½) acres. However, minimum lot sizes shall be subject to reduction to not less than one (1) acre lots in forty percent (40%) of the platted area of Enterprise Park, now known as Spaceport Commerce Park; no more than one hundred thirty and a half (130.5) acres may be reduced to less than two and a half (2.5) acre lots. In addition, no lot abutting Shepherd Drive shall be less than 2 ½ acres in size. Structural coverage, including outside storage areas, shall not exceed fifty (50) percent of the lot.
5. **Building Material and Architectural Standards:** No wooden frame, metal or pre-engineered metal buildings shall be constructed or placed on the property. No building shall have a metal roof without written permission of the Owner. Metal or pre-engineered metal buildings may be considered as viable construction alternatives if such buildings are designed with a façade that completely disguises the metal construction characteristics of the building's front and the first twenty-five (25) feet of each side. The Owner reserves the right to reject any architectural design if so recommended by the Spaceport Commerce Park Authority. Except for metal or pre-engineered metal buildings as provided for herein, all exterior walls of buildings shall be of exposed, concrete-aggregate, stucco, glass, terrazzo, natural stone, brick, or wood siding. All buildings shall be finished by painting, staining or other processes. An Architectural Elevations and Building Materials Statement shall be submitted to the Spaceport Commerce Park Authority.
6. **Signs and Lighting:** No lighted signs with neon lights, intermittent, or flashing lights or LED lights shall be allowed.
7. **Utilities:** The Purchaser or Lessee shall make arrangements with applicable utility providers for securing electrical and telephone services to said property.
8. **Water and Sanitary Sewer Systems and Solid Waste:** Water Distribution lines are located in easements or street rights-of-way. The Purchaser or Lessee shall be responsible for constructing water line extensions to the building site. The Purchaser or Lessee shall be required to obtain approval (permits) from the City of Titusville.

The Purchaser or Lessee shall be responsible for the design and construction of sanitary sewer extensions to the building site from the existing sanitary sewer system, designed to collect effluents at the property line. The Purchaser or Lessee shall be responsible for obtaining permit approval from the City of Titusville and The State of Florida Department of Environmental Protection for the construction of sanitary sewer extensions. Special requirements may be imposed on the industrial user to limit or control problems which could occur at the treatment site as a result of heavily loaded industrial waste discharge. The State of Florida Department of Environmental Protection shall govern the quality of sewage discharge of the Purchaser or Lessee. No septic tanks shall be used for the treatment of industrial effluent.

9. **Maintenance:** The Purchaser or Lessee of any lot shall at all times keep the premises, buildings, and improvements in a safe and clean condition, and comply in all respects with government health and policy requirements. All landscaping and exterior portions of structures shall be maintained in order to keep an attractive appearance.

10. **Waiver:** The Owner, its successors or assigns, shall have the right in writing to waive minor variances of any of the restrictions or requirements herein set forth.

11. **Enforcement of Restrictive Covenants:** These restrictive covenants herein are made for the benefit of the Owner, its successors or assigns, and all persons who shall hereafter occupy the Property as Purchasers or Lessees to the Owner. Any person or persons for whose benefit these covenants have been made may pursue any suit or action necessary to enforce them for breach or refusal to conform to the specific requirements thereof or any action lawfully taken thereunder, or to seek injunctive relief or enforcement of assessments or damages, as the case may be, in any court of competent jurisdiction.

12. **Invalidation and Termination:** Invalidation of any restrictive covenant shall not affect the validity of any other covenant, but the same shall remain in full force and effect.

Any covenant herein above may be altered or rescinded by the recording of a document among the Public Records of Brevard County, Florida, and signed by the Owner, together with other Purchasers or Lessees owning and controlling three-fourths in area of the property within the Spaceport Commerce Park.

13. The Owner, its successors or assigns, shall adhere to all applicable local, state and federal laws.

14. Attorneys Fees In any suit to enforce the Restrictive Covenants, each party shall bear its own attorneys fees.

IN WITNESS WHEREOF, the Owner has executed these Covenants and Restrictions by the undersigned executive officer, and has caused its seal to be affixed, attested by its undersigned Clerk, all pursuant to lawful authority, as of the 3 day of August, 2010.

ATTEST:

STATE OF FLORIDA
COUNTY OF BREVARD

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

This is to certify that the foregoing is a true and current copy of the Restrictive Covenants and official seal title of the Board on: AUG 03 2010

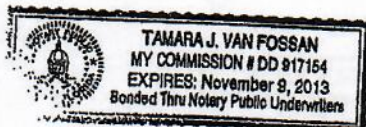
Scott Ellis, Clerk

SCOTT ELLIS
Clerk Circuit Court
D.C.

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared MARY BOLIN and SCOTT ELLIS, to me known and known to be the person(s) described in and who executed the foregoing Restrictive Covenants as CHAIRMAN and CLERK, respectively, of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, and severally acknowledged the execution thereof to be their free act and deed as such officers for the uses and purposes therein mentioned, and that they affixed thereto the official seal of said Board.

WITNESS my hand and official seal in the State and County last aforesaid this 3 day of Aug 2010.



Tamara J. Van Fossan
Notary Public Tamara J. Van Fossan

Advanced Electrical Installations, Inc.

WITNESS

Matthew E. Gass, President
Owner of 2.74 acres or ____% of platted
area.

(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this ____ day of _____, 2010
by _____ who is personally known to me or who has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Type or Print Name

Commission No.: _____

Commission Expires: _____

City of Titusville

Debra S. Denman
Debra S. Denman
witness

Wanda F. Wells
WITNESS

Wanda F. Wells
(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 24 day of August, 2010
by Mark Ryan who is personally known to me or who has produced
personally known as identification and who did/did not take an oath.

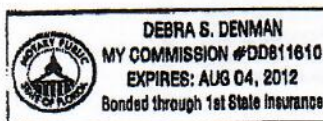
NOTARY PUBLIC

Debra S. Denman

Type or Print Name

Commission No.: DD811610

Commission Expires: Aug. 4, 2012



WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 24th day of March, 2010 by Mary J. Cianfiogna who is personally known to me or who has produced driver's license as identification and who did/did not take an oath.



WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this ___ day of _____, 2010 by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

Mary J. Cianfiogna, as Successor
Trustee of the Louis V. Cianfiogna Trust
U/A/D July 11, 2008

Mary J. Cianfiogna, as Successor
Trustee

Owner of 4.76 acres or ___% of platted
area

NOTARY PUBLIC

Type or Print Name

Commission No.:

Commission Expires: 10/27/13

Knight Enterprises, LLC

C. Reed Knight, Jr., Managing Member
Owner of 11.96 acres or ___% of platted
area

NOTARY PUBLIC

Type or Print Name

Commission No.:

Commission Expires:

WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this day of , 2010
by who is personally known to me or who has produced
 as identification and who did/did not take an oath.

Cartridge Source America, Inc.

Joseph R. Hurston, President
Owner of 5.15 acres or % of platted
area

NOTARY PUBLIC

Type or Print Name

Commission No.:

Commission Expires:

Kathryn Parris
WITNESS
Kathryn Parris
(Print or Type Name)

Brittany Ray
WITNESS
Brittany Ray
(Print or Type Name)

Transport Refrigeration Parts Exchange,
Inc.

Scott Rittenhouse
Scott Rittenhouse, President
Owner of 2.46 acres or % of platted a
area

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 13 day of December, 2010
by Scott Rittenhouse who is personally known to me or who has produced
Drivers License as identification and who did/did not take an oath.



NOTARY PUBLIC

Type or Print Name

Commission No.: DD936475

Commission Expires: 10/27/13

Karen L Shelley
WITNESS
Karen L Shelley
(Print or Type Name)
Meagan O'Connor
WITNESS
Meagan O'Connor
(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 13 day of December 2010 by Angela D. Heyne who is personally known to me or who has produced drivers license as identification and who did not take an oath.



H.I.S. Painting, Inc.

Angela D. Heyne
Angela D. Heyne, President
Owner of 5.01 acres or ___% of platted area

Brittany Ray
NOTARY PUBLIC
Brittany Ray
Type or Print Name
Commission No.: DD936475
Commission Expires: 10/27/13

H.I.S. Painting, Inc.

Angela D. Heyne
Angela D. Heyne, President
Owner of 5.00 acres or ___% of platted area

Karen L Shelley
WITNESS
Karen L Shelley
(Print or Type Name)
Meagan O'Connor
WITNESS
Meagan O'Connor
(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 13 day of December 2010 by Angela D. Heyne who is personally known to me or who has produced drivers license as identification and who did not take an oath.



Brittany Ray
NOTARY PUBLIC
Brittany Ray
Type or Print Name
Commission No.: DD936475
Commission Expires: 10/27/13

Susan Schricker
WITNESS

Susan Schricker
(Print or Type Name)

Brittany Ray
WITNESS

Brittany Ray
(Print or Type Name)

Stinger Fiberglass, LLC

Arthur Schricker
Arthur Schricker, President
Owner of 2.58 acres or ___% of platted
area

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 3 day of December, 2010
by Arthur Schricker who is personally known to me or who has produced
drivers license as identification and who did/did not take an oath.



Brittany Ray
NOTARY PUBLIC
Brittany Ray
Type or Print Name
Commission No.: DD936475
Commission Expires: 10/27/13

WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

David Hofius

Shirley Hofius

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this ___ day of _____, 2010
by _____ who is personally known to me or who has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Type or Print Name
Commission No.: _____
Commission Expires: _____

WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this day of , 2010
by who is personally known to me or who has produced
 as identification and who did/did not take an oath.

Millsource, Inc.

Dale Barry, President
Owner of 10 acres or % of platted area

NOTARY PUBLIC

Type or Print Name
Commission No.:
Commission Expires:

Allied Industries, LLC

Stuart C. Anders, Managing Member
Owner of 2.5 acres or % of platted
area

WITNESS

(Print or Type Name)

WITNESS

(Print or Type Name)

STATE OF ~~FLORIDA~~ ^{WISCONSIN} §
COUNTY OF Dane §

The foregoing instrument was acknowledged before me this 8 day of March, 2010
by Stuart C. Anders who is personally known to me or who has produced
 as identification and who did/did not take an oath.

NOTARY PUBLIC

Type or Print Name
Commission No.:
Commission Expires: 11/06/11

Mary D. Jimenez
Mary D. Jimenez

Kimberly J. Paschke
WITNESS

Kimberly J. Paschke
(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 2nd day of November, 2010
by Nicholas D. Powell who is personally known to me or who has produced
known as identification and who did/did not take an oath.



Titusville-Cocoa Airport Authority

Nicholas D. Powell
, President
Owner of 52.092 acres or ___% of platted
area

Mary D. Jimenez
NOTARY PUBLIC
Mary D. Jimenez
Type or Print Name
Commission No.: _____
Commission Expires: _____

Petroleum Resources and
Development, Inc.

Robert Griner
Robert Griner, President
Owner of 4.74 acres or ___% of platted
area

Kenneth P. Richard
WITNESS

Kenneth P. Richard
(Print or Type Name)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 2nd day of February, 2010
by Kenneth P. Richard who is personally known to me or who has produced
_____ as identification and who did/did not take an oath.



Jesse Richard
NOTARY PUBLIC
Jesse Richard
Type or Print Name
Commission No.: DD 702189
Commission Expires: 8-6-11

Regulation Type	Planned Industrial Park Zoning	Restricted Covenants	Comments
Land Use	Warehousing, wholesale Laboratories Manufacturing Technology, Research Printing Service establishments Offices Vocational Trade Schools Freight Movers Packaging & Delivery Employee Credit Unions Retail Sales (Incidental)	Light Industrial High Technology Office (Incidental) Commercial (Incidental) Light Manufacturing	Similar goals. PID has broader use language, but the intent is very similar City removed assembly (convention centers and trade shows) from the PID in 2005
Lot Size	Five acres for development site 30,000 square feet (.69 acres) for minimum lot size within the development	2.5 acres	The PID facilitates smaller industries
Lot Width	150 feet	None	Inconsistent
Min. Lot Coverage	None	50 percent	Inconsistent
Height	None, except over fifty feet shall provide 1 foot additional setback for each additional foot in height.	60 feet	Inconsistent, either one could be considered more flexible
Setbacks	Front: 50 feet for building, 25 feet for parking Side: 35 feet for building, 15 feet for parking Side Corner: 50 feet with parking permitted Rear: 25 feet	Front: 50 feet (states from ROW, assuming front), 30 feet for parking Side: 25 feet Side Corner: 50 feet Rear: 25 feet	Inconsistent
Landscaping	Must have theme Underground irrigation on ROW Curbed Islands 20 feet buffer	Must have plan No specific requirements	PID is much more stringent
Loading areas	Must have 100% opaqueness from ROW with landscaping/build Cannot be in front yard or within 10 feet of side or rear property line	Must be in rear or side of building Must have screen of 6' masonry wall	PID more flexible.
Parking	1 space for each 500 sq ft of space for first 10,000, then 1 space for each 1,000 sq ft	1.5 spaces per 500 sq ft OR 2 spaces for every 3 employees	Inconsistent

