

Prepared by:  
Dale A. Dettmer, Esquire  
KRASNY AND DETTMER  
304 South Harbor City Blvd., Suite 201  
Melbourne, FL 32901

## BINDING DEVELOPMENT PLAN

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of September, 2021 between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida ("County") and **395 EAST, LLC**, a Florida limited liability company ("Developer/Owner").

### RECITALS

**WHEREAS**, Developer/Owner owns property ("Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

**WHEREAS**, Developer/Owner has requested the EU zoning classification and desires to develop the Property into four (4) single-family residential lots pursuant to the Brevard County Code, Section 62-1157 as depicted on Exhibit "B"; and

**WHEREAS**, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting landowners and affected facilities or services; and

**WHEREAS**, the County is authorized to regulate development of the Property.

**NOW, THEREFORE**, the parties agree as follows:

1. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, their grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. Developer/Owner agrees that (i) a maximum of four (4) single-family residences shall be constructed upon the Property; (ii) homes or portion thereof shall not exceed a height of thirty-five (35) feet; (iii) no guest houses shall be constructed on the property; (iv) ingress/egress shall be by newly constructed driveway to both South Courtenay Parkway and South Tropical Trail; (v) ingress/egress

or use of Curry Dell Lane to access the Property is prohibited; and (vi ) each residence must connect to the sanity sewer system if available at time of permitting and if sewer is unavailable at the time of permitting, each residence must be plumbed to an advanced septic system providing not less than 65% nitrogen removal.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet any additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on August 5, 2021. In the event the Property is annexed into a municipality or rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.

9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

\_\_\_\_\_  
Rachel M. Sadoff, Clerk of Court  
(SEAL)

\_\_\_\_\_  
Rita Pritchett, Chair  
As approved by the Board on \_\_\_\_\_

WITNESSES:

*Sonia Krasny*  
Sonia Krasny  
(Witness Name typed or printed)

395 EAST, LLC, a Florida limited liability company, as DEVELOPER/OWNER

By: *Michael E. Maguire*  
Michael E. Maguire, Manager

Address: 18 Marina Isle Blvd. #304  
Indian Harbour Beach, FL 32937

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of  physical presence or \_\_\_\_\_ online notarization, this 5 day of October, 2021, by Michael E. Maguire, Manager of 395 East, LLC, a Florida limited liability company, who is personally known to me or who has produced as identification.

*Debra L. Campos*  
Notary Public

My commission expires 3-21-2025  
SEAL  
Commission No.: HH 068514

(Name typed, printed or stamped)



WITNESSES:

FLORIDA DEVELOPMENT COMPANY, LLC, a Florida limited liability company, as MORTGAGEE

*[Signature]*  
Yelena Todороva  
(Witness Name typed or printed)

By: *[Signature]*  
Alex Berkovich, Manager  
Address: 1835 E. Hallandale Beach Blvd., #807  
Hallandale Beach, Florida 33009

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of  physical presence or \_\_\_\_\_ online notarization, this 3 day of October, 2021, by Alex Berkovich, Manager of Florida Development Company, LLC, a Florida limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:



*[Signature]*  
Notary Public  
(Name typed, printed or stamped) Yelena Todороva

Exhibit "A"

A parcel of land being part of Government Lot 4, Section 24, Township 25 South, Range 36 East and part of Government Lot 5, Section 19, Township 25 South, Range 37 East described in Official Records Book 261, Page 620 lying east of State Road 3, less and except that portion as described in Official Records Book 701, Page 87, and less and except a 100 foot road right of way described in Official Records Book 778, Page 719 of the Public Records of Brevard County, Florida, together being more particularly described as follows:

A strip of land 8 rods 7 1/2 feet wide extending across Merritt Island from Indian River to Banana River, the south line of which is a line 63 rods north of and parallel to the south line of Section 24, Township 25 South, Range 36 East also 63 rods north of and parallel to the south line of Section 19, Township 25 South, Range 36 East and the north line of which is 146.4 feet south of the north line of United States Government Lot 4 of Section 24, Township 25 South, Range 36 East and 146.4 feet south of the north line of United States Government Lot 5, Section 19, Township 25 South, Range 37 East.

Less and except therefrom that portion of the aforesaid strip extending from the paved State Road running northerly and southerly across the above described property to the Indian River.

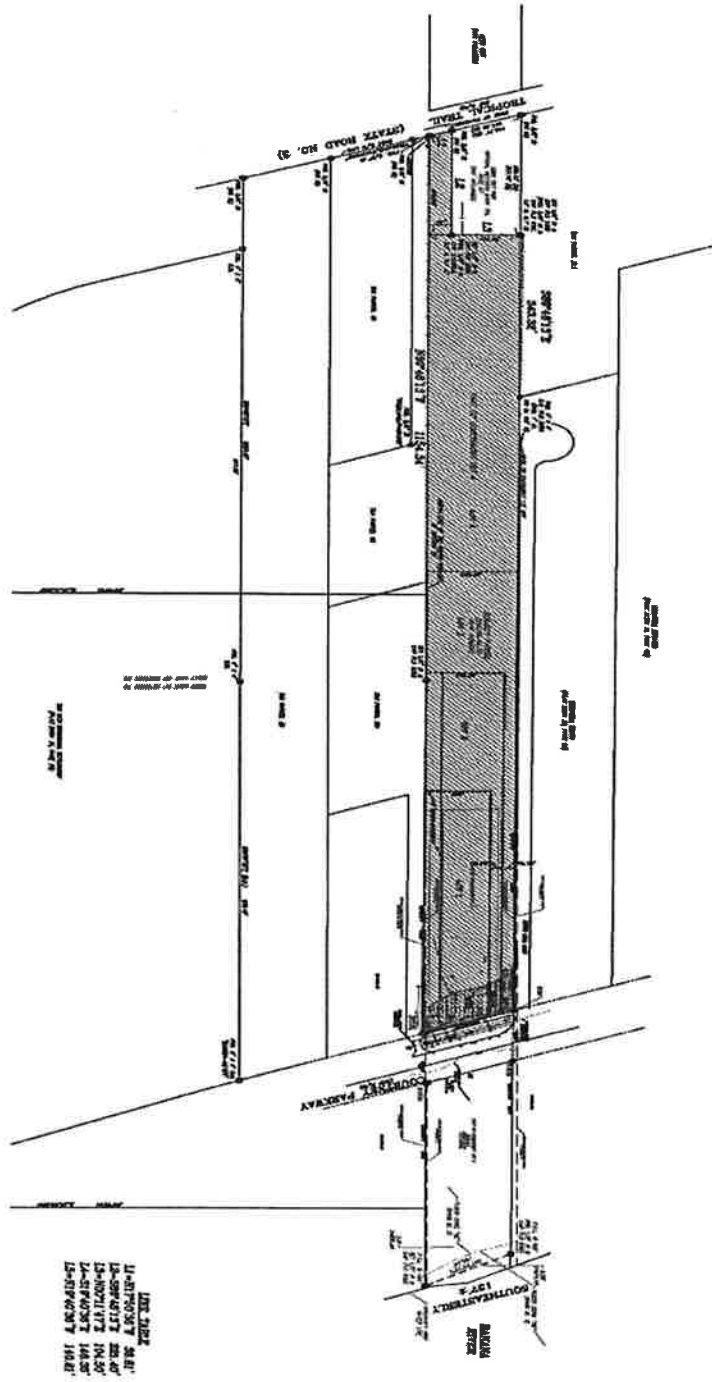
Also, less and except that portion thereof described in deed from Raymond F. Holland and Ruby E. Holland, his wife, in favor of Archie P. Barksdale and Dorothy D. Barksdale, his wife, dated June 17, 1964 and recorded in Official Records Book 701, Page 87 of the Public Records of Brevard County, Florida being described as follows:

Begin at the Southwest corner of the property described In Official Records Book 261, Page 620 and for a first course run Northwesterly along the West line of said land which is also the East right of way of State Road 3, as presently located, 147.30 feet to the Northwest corner of said land; thence run easterly along the north line of said land 257.10 feet to a point; thence run Southerly perpendicular to said North line 139.40 feet to the South line of said land; thence run Westerly along said South line 210.00 feet to the Point of Beginning. Less the South 35 feet thereof.

Less a right of way 100 feet wide through that portion of Government Lot 5, Section 19, Township 25 South, Range 37 East as described In Official Records Book 795, Page 28, Public Records of Brevard County, Florida, the centerline of which is described as follows:

Beginning at a point on the North line of that parcel of land described in Official Records Book 261, Page 620 which is 752.26 feet East of the East line of Section 24, Township 25 South, Range 36 East, Brevard County, Florida; thence run South 20°40'45" East a distance of 141.72 feet to the South line of the above referenced parcel.

Exhibit "B"



**JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated 03/04/2021, given by 395 East, LLC, as mortgagor, in favor of the undersigned, Florida Development Company, LLC, as mortgagee, recorded in Official Records Book 9042, Page 580, of the Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

**MORTGAGEE CORPORATION NAME AND ADDRESS**

Florida Development Company, LLC

Mortgagee Corporation Name

1835 E. Hallandale Bch Blvd, # 807 Hallandale Beach FL 33009

Street

City

State

Zip Code



Alex Berkovich, Manager

\*Authorized Agent Signature

Authorized Agent Printed Name and Title

\*Note: All others besides CEO or President require attachment of original corporate resolution of authorization to sign documents of this type.

**AFFIX CORPORATE SEAL**

**WITNESSES**

Karen De Long  
Signature

Karen De Long  
Print Name

[Signature]  
Signature

ARNE NE GRANT.  
Print Name



STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 12 day of Oct, 20 21  
by Alexander Berkovich, who is personally known to me or who has produced  
FLDL as identification.

Karen DeLong  
Notary Public Signature

Karen DeLong  
Name Printed

SEAL

