

This instrument was prepared by  
and should be returned to:  
S. Katherine Frazier, Esq., of  
Hill, Ward & Henderson, P.A.  
Bank of America Plaza, Suite 3700  
101 East Kennedy Boulevard  
Tampa, Florida 33602

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

### **TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT**

**THIS TERMINATION AND RELEASE OF DEVELOPMENT AGREEMENT** (“**Termination**”) is made and entered into as of the 28<sup>th</sup> day of June, 2018, by and between **HUNTLEY PROPERTIES, LLC**, a Florida limited liability company, f/k/a Hardy Huntley Properties LLC, a Florida limited liability company, as successor in interest to Hardy H. Huntley, whose address is 7801 Park Blvd., Pinellas Park, Florida 33781, (“**Owner**”) and **PINELLAS COUNTY, FLORIDA**, a political subdivision of the State of Florida acting through its Board of County Commissioners, the governing body thereof (“**County**”), whose address is 315 Court St., Clearwater, Florida 33756.

#### **RECITALS**

**WHEREAS**, Owner, as successor in interest to Hardy H. Huntley, and County are parties to that certain Development Agreement recorded at Official Records Book 17244, Page 2490, Public Records of Pinellas County, Florida (“**Development Agreement**”);

**WHEREAS**, the subject property in the Development Agreement has been annexed into the City of Pinellas Park, Florida on April 26, 2018; and

**WHEREAS**, the parties desire to terminate the Development Agreement; and

**WHEREAS**, Pinellas County Code Section 134-300(a) and Section 163.3237, Florida Statutes state that a development agreement may be terminated by mutual consent of the parties to the agreement or by their successors in interest.

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Termination.** Effective as of the date hereof, the County and the Owner hereby fully terminate, release and discharge the Development Agreement and other rights granted or created thereunder, and the Development Agreement and other rights granted or created thereunder shall hereafter be null and void and of no further force and effect.

2. **Counterparts.** This Termination may be executed in one or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one agreement. Delivery of an executed counterpart of a signature page of this Termination by facsimile or other electronic transmission shall be effective as delivery of a manually executed original counterpart thereof.

IN WITNESS WHEREOF, the parties have executed this Termination as of the day and year first written above.

Witnesses:

“OWNER”

Amy Coxen  
Print Name: Amy Coxen

Cynda Ramos  
Print Name: Cynda Ramos

**HUNTLEY PROPERTIES, LLC**, a Florida limited liability company, f/k/a Hardy Huntley Properties LLC, a Florida limited liability company, as successor in interest to Hardy H. Huntley

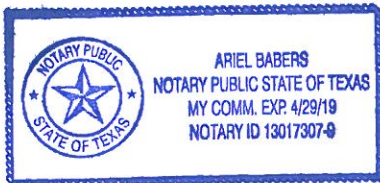
By: Dawn Huntley Mattox  
Dawn Huntley Mattox, Manager

STATE OF TEXAS

COUNTY OF Collin

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 2018, by Dawn Huntley Mattox, as Manager of **HUNTLEY PROPERTIES, LLC**, a Florida limited liability company, f/k/a Hardy Huntley Properties LLC, a Florida limited liability company, as successor in interest to Hardy H. Huntley. She is (check one) [ ] is personally known to me or [  ] produced Texas Driver License as identification.

[NOTARY SEAL]



Ariel Babers

Notary Public  
Ariel Babers  
(Print or type name)

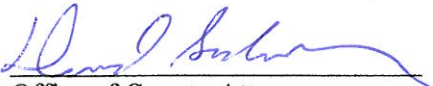
Commission No.: 130173079

My Commission Expires: 04-29-2019

ATTEST: KEN BURKE, CLERK

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Office of County Attorney

“COUNTY”

**PINELLAS COUNTY, FLORIDA**, a political subdivision of the State of Florida acting through its Board of County Commissioners, the governing body thereof

By: \_\_\_\_\_  
Kenneth T. Welch, Chairman

## DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is dated May 9, 2011, effective as provided in Section 5 of this Agreement, and entered into between Hardy H. Huntley ("Owner") and Pinellas County, Florida, a political subdivision of the State of Florida acting through its Board of County Commissioners, the governing body thereof ("County").

### R E C I T A L S:

- A. Sections 163.3220 – 163.3243, Florida Statutes, which set forth the Florida Local Government Development Agreement Act ("Act"), authorize the County to enter into binding development agreements with persons having a legal or equitable interest in real property located within the unincorporated area of the County.
- B. Under Section 163.3223 of the Act, the County has adopted Chapter 134, Article VII of Part III, the Pinellas County Land Development Code ("Code"), establishing procedures and requirements to consider and enter into development agreements.
- C. Owner is the owner of approximately 19.74 acres m.o.l. of real property ("Property") located on the south side of Park Boulevard approximately 1566 feet east of 83rd Street North in the unincorporated area of the County, more particularly described on Exhibit "A" attached hereto.
- D. Owner desires to develop and use the Property for retail use.
- E. The Property currently has a land use designation of Residential Urban (RU) and Preservation (P) and is zoned R-6, Mobile Home Parks and Subdivisions.
- F. Owner has requested that the County place a land use designation of Residential/Office/Retail (ROR) and Preservation (P) and a zoning designation of C-2, General Retail Commercial & Limited Services and PC, Preservation Conservation on the Property.
- G. The County cannot justify the requested action absent the restrictions contained in this Agreement and in the deed restriction required in Section 6.1.4, and the County supports the change in zoning and land use designation based upon the provisions of the Agreement.
- H. The County and Owner have determined that it would be mutually beneficial to enter into a development agreement governing the matters set forth herein and have negotiated this Agreement in accordance with the Code and the Act.
- I. The County has found that the terms of this Agreement are consistent with the Pinellas County Comprehensive Plan and the Code.

## STATEMENT OF AGREEMENT

In consideration of and in reliance upon the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound and in accordance with the Act, agree as follows:

Section 1. Recitals. The above recitals are true and correct and are a part of this Agreement.

Section 2. Incorporation of the Act. This Agreement is entered into in compliance with and under the authority of the Code and the Act, the terms of which as of the date of this Agreement are incorporated herein by this reference and made a part of this Agreement. Words used in this Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act

Section 3. Property Subject to this Agreement. The Property is subject to this Agreement.

Section 4. Ownership. The Property is owned in fee simple by Owner.

Section 5. Effective Date/Duration of this Agreement.

5.1 This Agreement shall become effective as provided for by the Act and shall be contingent upon obtaining final approval, and effectiveness of the land use designation of Residential/Office/Retail (ROR) and Preservation (P) and a zoning designation of C-2, General Retail Commercial & Limited Services and PC, Preservation Conservation, as requested on the Property.

5.2 This Agreement shall continue in effect until terminated as defined herein but for a period not to exceed ten (10) years.

Section 6. Obligations under this Agreement.

6.1. Obligations of the Owner.

6.1.1. Binding Obligations. The obligations under this Agreement shall be binding on Owner, its successors or assigns.

6.1.2. Development Review Process. At the time of development of the Property, Owner will submit such applications and documentation as are required by law, and shall comply with the County's Code applicable at the time of the effective date of this Agreement, unless otherwise modified herein.

6.1.3. Development Restrictions. The following restrictions shall apply to development of the Property.



- 6.1.3.1. The Property shall not be used for adult uses, outdoor flea markets, festivals and other similar uses, or for dispensing alcoholic beverages for on-premises consumption, unless the sale of alcohol is incidental to food sales, as defined in Pinellas County Code Section 138-1332(c)(4).
- 6.1.3.2. The Property shall be developed with:
  - 6.1.3.2.1. A minimum fifteen (15) foot vegetated buffer on the east side, adjacent to the residential neighborhood, with additional (i.e., greater than normal site plan requirement) tree plantings in order to provide a better buffer, which will be determined at time of site plan review.
  - 6.1.3.2.2. A six (6) foot opaque PVC fence on east side, to be maintained by owner.
  - 6.1.3.2.3. A drainage easement on the west side of Property; appropriate size to be determined at the time of site plan review.
  - 6.1.3.2.4. Any outdoor sound system shall be designed and installed to minimize impacts to neighborhood residential uses. All outdoor loudspeakers shall be oriented away from adjacent residential uses and placed at an appropriate down angle.
  - 6.1.3.2.5. Outdoor lighting shall be designed and installed to prevent glare and light trespass on any abutting residential properties, and may require full cut-off lighting fixtures as determined at the time of site plan review. If the distance between the light fixture and the nearest residential lot line is less than twice the height of the light fixture, then the light fixture must be shielded from the residential lots.
  - 6.1.3.2.6. Loading areas, dumpsters, or trash pickup shall not be located on the eastern side of Property.
  - 6.1.3.2.7. As the property is located within the 100 year floodplain and adjacent to an Outstanding Florida Water, the amount of impervious surface and the quality of the surface water runoff is of concern; therefore, achieving the maximum amount of impervious surface associated with the R/O/R land use category will be based on the developer's ability to demonstrate to the County at the time of site plan development that its development proposal will be able to meet the County's floodplain/ flood protection, stormwater and water quality

management regulations and TMDLs in effect at the time of development.

- 6.1.3.3. Development Intensities. Owner shall comply with the building intensities and height required by the Property's zoning and land use designations, unless otherwise modified by this Agreement.
- 6.1.4. Development Requirements. Listed below as subsections 6.1.4.1 – 6.1.4.7 are the development requirements pursuant to Policies 1.3.1 and 1.3.2 of the Transportation Element of the Pinellas County Comprehensive Plan, and Pinellas County Code Section 134-227, Transportation Management Plan. Upon completion of these requirements, the Owner will have addressed the traffic impacts of the Property resulting from the land use amendment to Residential/Office/Retail and will have fully complied with the transportation concurrency management sections of Chapter 134 of the Pinellas County Code.
  - 6.1.4.1. Construct concrete pad and adjoining connection to frontage sidewalk in front of Property to accommodate Pinellas Suncoast Transit Authority (PSTA) bus shelter.
  - 6.1.4.2. Install pedestrian walkway with textured surface and adjacent landscape buffering, including tree canopy, to accommodate pedestrian movement between the frontage sidewalk and building entrance on the Property.
  - 6.1.4.3. Provide bicycle rack(s) proximate to building entrance that can accommodate up to a minimum 12 bicycles on the Property.
  - 6.1.4.4. Within twenty-four (24) months from the date a site plan is approved on the Property, install a vehicular/pedestrian controlled traffic signal with required signing and pavement markings at the project entrance if justified by a traffic warrant study. If not warranted by the study, upgrade existing flashing beacon signal on Park Boulevard west of 79<sup>th</sup> Street to a fully operational pedestrian signal including any required signing and pavement marking modifications.
  - 6.1.4.5. Construct deceleration lane for east bound traffic turning right into the driveway on the Property.
  - 6.1.4.6. Vehicular and pedestrian access from the Property to the adjacent residential neighborhood on the east side of the Property is prohibited.
- 6.1.5. Recording of Deed Restriction. Prior to the approval of a site plan or issuance of a development permit for the Property, Owner shall record a deed restriction encumbering the Property in the official records of Pinellas County, Florida and deliver a copy of such recorded deed restriction to the Director of the County Building and Development Review Services Department or his designee. The deed restriction shall be

approved as to form by the County Attorney (which approval shall not be unreasonably withheld) and shall generally describe the development limitations of this Agreement. The deed restriction shall be perpetual and may be amended or terminated only with the consent of the County, which consent shall not be unreasonably withheld.

6.2. Obligations of the County.

6.2.1. Concurrent with the approval of this Agreement, the Board amends the land use and zoning designation for the Property as set forth in Recital F above.

6.2.2. The final effectiveness of the redesignation referenced in Section 6.2.1 is subject to:

6.2.2.1. The provisions of Chapter 125 and 163, Florida Statutes, as they may govern such amendments; and

6.2.2.2. The expiration of any appeal periods or, if an appeal is filed, at the conclusion of such appeal.

Section 7. Public Facilities to Service Development. The following public facilities are presently available to the Property from the sources indicated below. Development of the Property will be governed by and must satisfy the concurrency ordinance provisions applicable at the time of the effective date of this Agreement.

7.1 Potable water from Pinellas County.

7.2 Sewer service from Pinellas County.

7.3 Fire protection from Pinellas Park.

7.4 Drainage facilities for the parcel will be provided by Owner.

Section 8. Required Local Government Permits. The required local government development permits for development of the Property include, without limitation, the following:

8.1. Site plan approval(s) and associated utility licenses and right-of-way utilization permits;

8.2. Construction plan approval(s);

8.3. Building permit(s); and

8.4. Certificate(s) of occupancy.



Section 9. Consistency. The County finds that development of the Property that is consistent with the terms of this Agreement is consistent with the Pinellas County Comprehensive Plan.

Section 10. Termination.

- 10.1. In the event of termination pursuant to Section 10.2 or failure to commence the development of the subject property within the duration of the Agreement as defined in Section 5 above, the Property shall return to its current land use and zoning designations. Owner retains the right, however, to participate in and address the County Commission at any rezoning and land use proceeding, and present any alternate course of action. This obligation survives the termination of the Agreement for the time necessary to accomplish the redesignations.
- 10.2. If Owner's obligations set forth in this Agreement are not followed in a timely manner, as determined by the County Administrator, after notice to Owner and an opportunity to be heard, existing permits shall be administratively suspended and issuance of new permits suspended until Owner has fulfilled its obligations. Failure to timely fulfill its obligations may serve as a basis for termination of this Agreement by the County, at the discretion of the County and after notice to Owner and an opportunity for Owner to be heard.

Section 11. Other Terms and Conditions. Except in the case of termination, until five (5) years after the effective date of this Agreement, the Property shall not be subject to subsequently adopted laws and policies unless the County has held a public hearing and determined:

- 11.1. They are not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities, or densities in this Agreement;
- 11.2. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;
- 11.3. They are specifically anticipated and provided for in this Agreement;
- 11.4. The County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or
- 11.5. This Agreement is based on substantially inaccurate information provided by Owner.

Section 12. Compliance with Law. The failure of this Agreement to address any particular permit, condition, term or restriction shall not relieve Owner from the necessity of complying with the law governing such permitting requirements, conditions, terms or restrictions.

Section 13. Notices. Notices and communications required or desired to be given under this Agreement shall be given to the parties by hand delivery, by nationally recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, addressed as follows (copies as provided below shall be required for proper notice to be given):

If to Owner: Hardy H. Huntley  
7801 Park Blvd  
Pinellas Park, Florida 33781

With copy to: Peter Creighton  
7801 Park Boulevard  
Pinellas Park, Florida 33781

If to County: Pinellas County Board of County Commissioners  
c/o County Administrator  
315 Court St.  
Clearwater, FL 33756

With copy to: David S. Sadowsky, Esquire  
Senior Assistant County Attorney  
Pinellas County Attorney's Office  
315 Court Street  
Clearwater, Florida 33756

Properly addressed, postage prepaid, notices or communications shall be deemed delivered and received on the day of hand delivery, the next business day after deposit with an overnight courier service for next day delivery, or on the third (3rd) day following deposit in the United States mail, certified mail, return receipt requested. The parties may change the addresses set forth above (including the addition of a mortgagee to receive copies of all notices), by notice in accordance with this Section.

Section 14. Right to Cure. Owner will not be deemed to have failed to comply with the terms of this Agreement until Owner shall have received notice from the County of the alleged non-compliance and until the expiration of a reasonable period after receipt of such notice to cure such non-compliance. Whether the time period has been reasonable shall be based on the nature of the non-compliance and shall be determined in the sole judgment of the County Administrator, reasonably exercised.

Section 15. Minor Non-Compliance. Owner will not be deemed to have failed to comply with the terms of this Agreement in the event such non-compliance, in the judgment of the County Administrator, reasonably exercised, as a minor or inconsequential nature.

Section 16. Covenant of Cooperation. The parties shall cooperate with and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement and in achieving the completion of development of the Property.

Section 17. Approvals. Whenever an approval or consent is required under or contemplated by this Agreement, such approval or consent shall not be unreasonably withheld, delayed or conditioned. All such approvals and consents shall be requested and granted in writing.

Section 18. Completion of Agreement. Upon the completion of performance of this Agreement or its revocation or termination, the Owner or his successor in interest shall record a statement in the official records of Pinellas County, Florida, signed by the parties hereto, evidencing such completion, revocation or termination, and shall forthwith deliver a copy of this document to the Director of the County Building and Development Review Services Department or his designee.

Section 19. Entire Agreement. This Agreement (including any and all Exhibits attached hereto, all of which are a part of this Agreement to the same extent as if such Exhibits were set forth in full in the body of this Agreement), constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof.

Section 20. Construction. The titles, captions and section numbers in this Agreement are inserted for convenient reference only and do not define or limit the scope or intent and should not be used in the interpretation of any section, subsection or provision of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and plural shall include the singular and any reference in this Agreement to Owner includes Owner's successors or assigns. This Agreement was the production of negotiations between representatives for the County and Owner and the language of the Agreement should be given its plain and ordinary meaning and should not be construed against any party hereto. If any term or provision of this Agreement is susceptible to more than one interpretation, one or more of which render it valid and enforceable, and one or more of which would render it invalid or unenforceable, such term or provision shall be construed in a manner that would render it valid and enforceable.

Section 21. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance is declared invalid or unenforceable, the remainder of this Agreement, including any valid portion of the invalid term or provision and the application of such invalid term or provision to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall with the remainder of this Agreement continue unmodified and in full force and effect. Notwithstanding the foregoing, if such responsibilities of any party thereto to the extent that the purpose of this Agreement or the benefits sought to be received hereunder are frustrated, such party shall have the right to terminate this Agreement upon fifteen (15) days notice to the other parties.

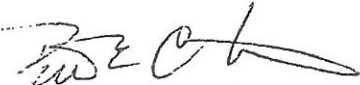
Section 22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to the conflict of laws principles of such state.


Section 23. Counterparts. This Agreement may be executed in counterparts, all of which together shall continue one and the same instrument.


IN WITNESS WHEREOF, the parties have hereto executed this Agreement the date and year first above written.

WITNESSES:

OWNER

  
Printed Name: Peter E. Craighton

By:   
\_\_\_\_\_

  
Printed Name: Cynthia Gilbert

STATE OF FLORIDA  
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of May, 2011, by Hardy H. Hestley, who is personally known to me or who produced \_\_\_\_\_ as identification.

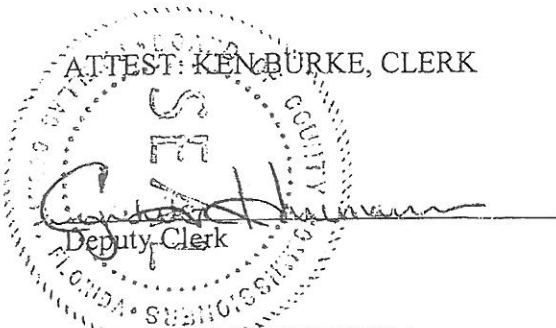


  
Notary Public

Cynthia A. Gilbert  
Print Notary Name  
My Commission Expires: 3-11-15

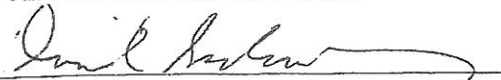
ATTEST: KEN BURKE, CLERK

PINELLAS COUNTY, FLORIDA



By:   
Chairman  
Board of County Commissioners

APPROVED AS TO FORM:

  
County Attorney