

RECORD: \$ _____

Prepared by and Return to:

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

**[DOLLAR TREE PLAZA DEVELOPMENT
AGREEMENT]**

This Development Agreement, executed by the Parties as of the _____ day of _____, 2023 and having the Effective Date specified below, is entered into by and between:

- **200 N. Orange Avenue Holdings, LLC** (“Owner”), and
- **THE CITY OF COVE SPRINGS**, a Florida municipal corporation (“City”).

RECITALS:

- A.** Owner owns a parcel of real property located in Clay County, Florida (“County”), also located within the jurisdictional boundaries of the City, described in attached Exhibit “A” (the “Property”).
- B.** The property has a Future Land Use designation of Central Business District and a Zoning designation of Central Business District and will developed in accordance with the applicable requirements of the specific Future Land Use and Zoning District.
- C.** Owner submitted an Application to the City for the Site Development Plan of the Property on September 13, 2021. Owner intends to add two additional outparcels to the developed site.
- D.** The Florida Local Government Development Agreement Act, Chapter 86-191, Laws of Florida, now codified at Sections 163.3220 through 163.3243, Florida Statutes, authorized local governments to enter into development agreements with developers subject to the procedures and requirements of the Act.
- E.** The City Council of the City held a public hearing on September 5, 2023, to consider this Agreement, has found and determined that its execution of this Agreement will further the objectives of the Local Government Comprehensive Planning and Land Development Regulation Act, and that the development contemplated and permitted by this Agreement comply with the City’s Code.
- F.** The Applicant and the City desire to enter into this Agreement to provide for the provision of certain site improvements that will benefit the Development and the public.
- G.** This Agreement is consistent with the City Charter, and the City 2045 Comprehensive Plan, as well as, with provisions of Chapter 163, Florida Statutes, Chapter 166, Florida Statutes, Chapter 187, Florida Statutes, Article VIII, Section 2(b), Constitution of the State of Florida and other applicable law and serves a public purpose.

- H. The City has determined that the requirements of Section 163.3231, Florida Statutes, have been met in that:
1. The City has adopted a local Comprehensive Plan that is in compliance.
 2. The proposed development of the Property is consistent with the City of Green Cove Springs 2045 Comprehensive Plan, including the Future Land Use Map.
 3. This Agreement constitutes a binding commitment on the part of the Applicant, its successors and assigns, to develop the Property consistent with the Comprehensive Plan.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows, which terms shall be binding upon the parties and their respective successors and assigns, as may be applicable:

1. **Incorporation of Recitals & Exhibits.** The parties confirm and agree that the above Recitals are true and correct, and incorporate their terms and provisions herein for all purposes. The content of all Exhibits referenced in this Agreement and attached hereto are incorporated into the terms of this Agreement.
2. **Definitions.** In addition to any other terms which may be specifically defined elsewhere in this Agreement, for the purposes of this Agreement the following terms shall have the following meanings:
 - 1.1. ***“Agreement”*** – This Development Agreement, as the same may be subsequently amended, modified or supplemented pursuant to its terms and provisions and pursuant to the provisions of Sections 163.3161 through 163.3215, inclusive, of the Florida Statutes.
 - 1.2. ***“City”*** – The City of Ocala, a Florida municipal corporation.
 - 1.3. ***“City Code”*** – The City’s Code of Ordinances, as the same may be subsequently amended, modified or supplemented.
 - 1.4. ***“County”*** – Clay County, Florida, a political subdivision of the State of Florida.
 - 1.5. ***“Effective Date”*** – The date the terms of this Agreement become effective, as set forth

in Section 9.17 below.

- 1.6. **“FDOT”** – The Florida Department of Transportation, or its successor.
- 1.7. **“Improvements”** – When used in this Agreement the term “Improvements” shall refer to all construction required to be undertaken to complete the construction, or modification, of the described infrastructure. This shall include, but not be limited to, all surface improvements, roads, paving, sidewalks, gutters, lighting, Stormwater Management Facilities, and potable water, sanitary sewer, and electrical utilities, reclaimed water, and fiber optic infrastructure.
- 1.8. **“Owner”** – The record title owners of the Property, or any portion thereof. As of the Effective Date of this Agreement the Owners of the Property (separately) are 200 N Orange Avenue Holdings, LLC. It is anticipated that there will eventually be multiple owners of parcels of the Property, the terms of this Agreement shall run with the land and remain in place and shall be effective as to all of the Property, notwithstanding the Property having multiple Owners.
- 1.9. **“Parcel” or “Parcels”** – One or more of the Parcels of real property specifically described or referenced in this Agreement, including the Property (as defined below).
- 1.10. **“Party” or “Parties”** – As applicable, either Owner, City or County.
- 1.11. **“Project”** – Collectively, the development of the Property and all related infrastructure required to market and use of the Property, or Parcels The term “Project” shall include all design, permitting and construction of infrastructure Improvements described in this Agreement; acquisition of all required ROW (as defined below) for roads and utilities infrastructure; and procurance of all necessary approvals or permits from all applicable Governmental Authorities. This term shall also apply to all actions to be undertaken by an Owner, City or County pursuant to the terms of this Agreement or any amendment or supplement thereto.
- 1.12. **“Property”** – The real property owned by Owner located in Clay County, Florida, also located within the jurisdictional boundaries of City, described on attached Exhibit “A”.
- 1.13. **“Public Facilities”** – Those public facilities identified in Section 8 below.
- 1.14. **“ROW”** – The right-of-way required for specific referenced road, parking and utilities infrastructure facilities which are the subject of this Agreement, including all land required for Stormwater Management Facilities (as defined below) required to provide surface and stormwater management with respect to the infrastructure facilities, also including any required easements, temporary easements, construction easements, temporary construction easements, crossing easements, or other contractual rights or

licenses required to facilitate the construction, modification, repair or operation of the applicable road, or utilities infrastructure.

1.15. **“Subsequent Owners”** – A successor in title to Owner or to the other current owners of the Property or any Parcel thereof.

1.16. **“Water Management District” or “District”** – The St Johns River Florida Water Management District, an agency of the State of Florida, the Governmental Authority which has jurisdiction over the design, permitting and operation of surface water and stormwater management systems, and Stormwater Management Facilities, for the Property and for all roadway improvements, and (if applicable) utilities improvements, to be constructed under the terms of this Agreement.

3. **Representations and Warranties.** As a material inducement to the other Parties to enter into this Agreement, each Party makes the following representations and warranties to the other Parties to this Agreement:

3.1 Owners’ Representations and Warranties. Owner represents and warrants to City that:

3.1.1. Owner is a validly organized and existing corporation, authorized to transact business in the State of Florida.

3.1.2. Owner has taken all actions prerequisite necessary for the execution and delivery of this Agreement, and upon the execution and delivery of this Agreement by Owner the obligations of Owner hereunder shall be valid and binding obligations of Owner. The entities or individuals executing this Agreement on behalf of Owner are duly authorized representatives for Owner, authorized to execute this Agreement in their respective capacities as set forth below.

3.1.3. The Owner is the legal and equitable owner of the Property.

3.1.4. The execution and delivery of this Agreement is not in contravention with, or prohibited by, the terms and provisions of any agreement, covenant, Court Order, Judgment, or the governing documents of Owner.

3.2 City Representations and Warranties. City represents and warrants to Owner that:

3.2.1. The actions by City hereunder are consistent with, and not in contradiction of, the terms and provisions of the City’s Comprehensive Plan.

3.2.2. City has taken all necessary actions prerequisite to the execution and delivery of this Agreement, including but not limited to the necessary public hearings, providing proper notice of the public hearings, and the conducting of public hearings related thereto.

3.2.3 Upon the execution and delivery of this Agreement by City, the obligations of City shall be valid and binding obligations of City.

3.2.4 Execution and delivery of this Agreement is not in contravention with, or prohibited by, the terms and provisions of the City's Charter, the City Code or by the terms and provisions of any agreement, covenant, Court Order or Judgment to which City is a party.

3.3 Public Facility Improvements

3.3.1 Potable Water System.

3.3.1.1 Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing potable water on-site to the Property for its intended uses. Applicant shall design, construct and extend water services to serve the outparcel structure as approved by the Green Cove Public Works Department.

3.3.1.2 Applicant agrees to provide to City of Green Cove Springs any necessary easements on, under and across the Property for the construction, operation and maintenance of the potable water system.

3.3.2 Sanitary Sewer System.

3.3.2.1 Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing sanitary sewer onsite to the Property for its intended uses.

3.3.2.2 Applicant shall design, construct, and extend the sanitary sewer to serve the outparcel structure as approved by the Green Cove Springs Public Works Department.

3.3.2.3 Applicant agrees to provide to the City of Green Cove Springs any necessary easements on, under and across the Property for the construction, operation and maintenance of the sanitary sewer system.

3.3.3 Solid Waste Collection

3.3.3.1 Solid Waste Collection for the Property will be provided pursuant City franchisee agreement as set forth in Sec. 66-10 of the City Code. The City currently has sufficient capacity, unreserved, to provide solid waste collection services for the project.

3.3.4 Stormwater System.

3.3.4.1 Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing stormwater capture, retention and treatment on-site to the Property for its intended uses.

3.3.4.2 Applicant agrees to provide to the City any necessary easements on, under and across the Property for the construction, operation and maintenance of the stormwater system.

3.3.4.3 The City of Green Cove Springs will allow connection for outfall piping to the existing City storm system.

3.3.5 Recreational Facilities.

3.3.5.1 The Property is served by recreational facilities owned by the City including Spring Park which is located within 500 feet of the subject property.

3.3.6 Electric.

3.3.6.1 The city will remove the overhead electrical lines from the boundary of the site along Magnolia Avenue and provide underground services offsite.

3.3.6.2 The developer will provide all primary electrical transformers and primary and secondary wiring and conduit for all new development.

3.3.6.3 The applicant will work with the city to provide adequate locations for services and provide all secondary services.

3.3.6.4 Applicant agrees to provide to the City any necessary easements on, under and across the Property for the construction, operation, and maintenance of the electrical service for this project and any neighboring project which may be necessary.

4. Building and Site Design Improvements

4.1 Building Materials

4.1.1 Provide decorative cementitious finish or stucco on exterior side and rear walls with paint to match.

4.1.2 Replace the front façade with a decorative cementitious finish, stucco, cultured stone or brick veneer.

4.1.3 Repair steel columns and enclose with decorative cementitious finish, stucco, cultured stone or brick veneer.

4.1.4 Outparcels shall provide compatible building materials with the inline building. All mechanical equipment/a/c units shall be placed on roof and screened with a parapet.

4.1.5 Solid blank facades on the north and south building sides shall be treated with façade modulation, canopies, artwork, landscaping trellises or other architectural as approved by staff to break up the wall expanse.

4.2 Building Colors

4.2.1 80% of the façade shall be subtle, neutral, and earth-tone (browns; tans; grays; and colors which are desaturated or gray-toned).

4.2.2 The remaining 20% shall be any color, except for neon and fluorescent colors are prohibited.

4.3 Parking Area

4.3.1 Parking and Loading/Service areas shall be resurfaced and restriped.

- 4.3.2** All newly created parking spaces by the owner within the public right of way shall be:
- 4.3.2.1** Counted as required parking spaces
 - 4.3.2.2** Constructed and maintained by the owner.
 - 4.3.2.3** In compliance with all requirements of the City Code.
 - 4.3.2.4** Open to the public.
 - 4.3.2.5** Replace and Repair electrical conduit and lighting under walkways.
 - 4.3.2.6** One parking space per 333 sf (excluding ADA spaces) are required to be provided onsite pursuant to the parking analysis completed by THA and Associates. All required parking spaces shall be provided either:
 - 4.3.2.6.1** Onsite; or
 - 4.3.2.6.2** created within the City right of way as approved as part of the designated on-street parking spaces as set forth in the City's Downtown Parking Study Recommendations within the Central Business District; or
 - 4.3.2.6.3** constructed within an existing or proposed off-street parking area within the Central Business District; or
 - 4.3.2.6.4** a payment per space shall be provided, the amount of which shall be specified pursuant to the pending Downtown City Parking Study.

4.4 Service Area.

- 4.4.1** Provide loading area with a minimum of at least 10' in width and 45' in length (horizontal to the building) for delivery trucks to pull off of roadway during deliveries. No parking can be provided within loading area.
- 4.4.2** Repair, relocate and conceal mechanical piping with line set covers. Paint to match.
- 4.4.3** All dumpster containers shall be concealed in opaque concrete, vinyl fence, or brick enclosure enough height consistent with the size of the container to shield the container from view from all sides.
- 4.4.4** Dumpsters shall be oriented so that pickup can occur without blocking Magnolia Avenue.
- 4.4.5** Provide a landscape plan to address adequate screening adjacent to residential uses east of the subject property.
- 4.4.6** Provide a 6' sidewalk on the east side of Magnolia Avenue between Bay and Ferris Street.

4.5 Electric Service

- 4.5.1** Replace and repair electrical conduit and lighting systems. Paint to match on exposed surfaces.
- 4.5.2** City shall be responsible for the costs for removing the existing overhead electric lines along Magnolia Avenue.

4.6 Site Development Requirements

- 4.6.1** All requirements not specifically addressed in this Development Agreement shall comply with the Site Development requirements in the City Land Development.

4.6.2 All required improvements set forth in this section shall be provided prior to the issuance of a Certificate of Occupancy for the proposed outparcel building construction.

5. Development Permits Required.

5.1 Local Development Permits. The local development permits approved or needed to be approved for the development of the Project (or portions thereof) in accordance with the provisions of this Agreement, and the status of each such permit or approval, are as follows:

PERMITS/APPROVALS_i	STATUS
Assignment of Future Land Use designation for 1.26 acres of property	Completed
Assignment of Central Business District (CBD) zoning to 1.26 acres of property	Completed
Approval of Site Development Plan for the entire Property	Pending
Approval of Building permits for the entire property	Pending
Water Management District Environmental Resources (stormwater) Permit	Pending

Nothing in this Agreement shall be deemed to obviate the Owner’s compliance with terms and provisions of each such identified Permit, nor to obligate the City, to grant any of the Permits, actions, or approvals enumerated above.

5.2 Additional Permits, Etc. The failure of this Agreement to address any particular permit, condition, term, or restriction on development shall not relieve the Owner, City or County of the necessity of complying with any law governing said permitting requirement, conditions, terms and restrictions with respect to the contemplated development of the Project, as applicable.

5.3 Additional Conditions. City reserves the right to impose additional conditions, terms, restrictions or other requirements determined to be necessary for the public health, safety, and welfare of their citizens with respect to the development contemplated by the Owner and described in this Agreement, provided that such conditions, terms or restrictions shall not be in contravention with the terms of this Agreement.

6. **Public Facilities.** The Public Facilities that will service the Project, the person or entity who or which shall provide such Public Facilities, and the date of any new Public Facilities which must be constructed, are as follows:

6.1 Potable Water. Potable water services for the Property are available from the City. City presently has sufficient permitted and constructed capacity, unreserved, for the development of the Project.

- 6.2 Sanitary Sewer.** Sanitary sewer services for the Property are available from the City. City presently has sufficient permitted and constructed capacity, unreserved, for development of the Project.
- 6.3 Solid Waste Collection.** Solid Waste Collection for the Property will be provided pursuant to the City franchisee agreement as set forth in Sec. 66-10 of the City Land Development Code. The City currently has sufficient capacity, unreserved, to provide solid waste collection services for the project.
- 6.4 Recreational Facilities.** The Property is served by recreational facilities owned by the City, including Spring Park which is located within 500 feet of the subject property.
- 7. Authority and Duration.** This Agreement is made and granted pursuant to Sections 163.3220-163.3243, Florida Statutes, and is effective through the thirtieth (30th) year anniversary of the Effective Date of this Agreement, and any extension of this Agreement.
- 8. Amendment, Extension of Agreement.** If state or federal laws are enacted after the execution of this Agreement that are applicable to and preclude the Parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant State or federal laws, pursuant to Section 163.3241, Florida Statutes, as may be amended from time to time. The duration of this Agreement may be extended by the City pursuant to law and after conducting a public hearing in the manner specified in Section 163.3225, Florida Statutes, as may be amended from time to time.
- 9. Necessity to Obtain Permits.** The Applicant acknowledges its obligation to obtain all necessary federal, state and other local development permits (not mentioned herein) for development of the Property. The failure of this Agreement to address any particular permit, condition, term or restriction applicable to development of the Property shall not relieve the Applicant or any successors or assigns of the necessity of complying with federal, state, and other local permitting requirements, conditions, terms or restrictions as may be applicable.
- 10. Agreement Consistent with Comprehensive Plan and Section 163.3180, Florida Statutes (2020).** The City hereby acknowledges and agrees that (i) the Development is consistent with Florida Statutes and with the City's Comprehensive Plan and Land Development Regulations, and (ii) that the City's Comprehensive Plan is in compliance with the State of Florida Comprehensive Plan.
- 11. Remedies.** Each party to this Agreement shall be entitled to seek enforcement of this Agreement against the other party consistent with Section 163.3243, Florida Statutes, as may be amended from time to time.
- 12. Binding Effect.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement. When Applicant is used in this Agreement, it includes Applicant and any successors and assigns owning any rights to the Property, jointly and severally, assuming all their obligations set out in the Agreement, unless the obligations have been fully discharged.

13. Applicable Law: Jurisdiction and Venue. This Agreement and the rights and obligations of the City and Applicant under this Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida (2020). This Agreement may be enforced as provided in Section 163.3243, Florida Statutes, as may be amended from time to time. Venue for any litigation pertaining to the subject matter of this Agreement shall be exclusively in Clay County, Florida. If any provision of this Agreement, or the application of this Agreement to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

The fact that this Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development contemplated by this Agreement shall not relieve Applicant or its successors in interest of the obligation to comply with the law governing such permit requirements, conditions, terms and restrictions.

14. Joint Preparation. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

15. Exhibits. All exhibits attached to this Agreement contain additional terms of this Agreement and are incorporated into this Agreement by reference.

16. Captions or Paragraph Headings. Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision of this Agreement.

17. Counterparts. This Agreement may be executed in counterparts, each constituting a duplicate original; such counterparts shall constitute one and the same Agreement.

18. Effective Date.

18.1 This Agreement shall become effective upon the occurrence of all of the following events: (1) the approval of the site development plan, (2) execution of this Agreement by all Parties; (3) and the recordation of the Agreement in the Public Records of Clay County, Florida.

18.2 Notwithstanding the foregoing:

18.2.1 The parties shall be obligated to perform any such obligations hereunder that are required before such Effective Date; and

18.2.2 In the event this Agreement is challenged, including a challenge pursuant to Section 163.3243, Florida Statutes, within thirty (30) days of the recordation of this Agreement in the Public Records of Clay County, Florida, the obligations of the parties shall be suspended hereunder.

19. Amendment. This Agreement may be amended, cancelled or revoked consistent with the notice and hearing procedures of Section 163.3225, Florida Statutes, and the terms of Section 163.3237, Florida Statutes, as may be amended from time to time.

20. Further Assurances. Each party to this Agreement agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

21. Notices. Any notices or reports required by this Development Agreement shall be sent to the following:

AS TO OWNER:

With Copy To: 200 N. Orange Avenue Holdings, LLC

AS TO THE CITY:

With Copy To: City of GCS Development Services Department
Attn: Director of Development
Services 321 Walnut Street
Green Cove Springs, FL 32043

Additional Copy To: City of Green Cove Springs City Manager
Attn: City Manager

Additional Copy To: City Attorney
Attn:

Any party may modify the address for notices set forth above by providing notice of the change of address to all parties to this Agreement, which notice is to be provided in accordance with the requirements of this Section.

INTRODUCED AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, ON THIS 5TH DAY OF SEPTEMBER 2023.

CITY OF GREEN COVE SPRINGS, FLORIDA

Connie Butler, Mayor

ATTEST:

Erin West, City Clerk

PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, THIS 19th DAY OF SEPTEMBER 2023.

CITY OF GREEN COVE SPRINGS, FLORIDA

Connie Butler, Mayor

Section 1. ATTEST:

Erin West, City Clerk

Section 2. APPROVED AS TO FORM ONLY:

L.J. Arnold, III, City Attorney

**SIGNATURE PAGE OF 200 N ORANGE
AVENUE HOLDINGS, LLC
TO DEVELOPMENT AGREEMENT BETWEEN 200 N
ORANGE AVENUE HOLDINGS, LLC AND CITY OF
GREEN COVE SPRINGS**

AS TO OWNER:

**200 N ORANGE AVENUE
HOLDINGS, LLC**

Witness
Print Name: _____

By: _____
BERNARD NIEDERMAN

Title: Manager

Witness
Print Name: _____

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing **DEVELOPMENT AGREEMENT** was acknowledged before me by **BERNARD NIEDERMAN**, as **MANAGER** of **200 N ORANGE AVENUE HOLDINGS, INC.**, a corporation authorized to transact business in the State of Florida, who is:

- _____ Personally known by me, OR
- _____ Produced a driver's license as identification.

Dated: this _____ day of _____, 2023.

Print Name: _____
Notary Public, State of _____
Commission number: _____
Commission expires: _____

**SIGNATURE PAGE OF CITY OF GREEN
COVE SPRINGS
TO DEVELOPMENT AGREEMENT BETWEEN 200 N
ORANGE AVENUE HOLDINGS, LLC AND CITY OF
GREEN COVE SPRINGS**

AS TO CITY:

**CITY OF GREEN COVE SPRINGS,
FLORIDA**, a Florida municipal corporation

By: _____
CONSTANCE BUTLER, MAYOR

*APPROVED AS TO FORM AND
LEGALITY:*

**L.J. ARNOLD, III,
CITY ATTORNEY**

ATTEST:

ERIN WEST, CITY CLERK

APPROVED BY THE GREEN COVE SPRINGS CITY COUNCIL ON: _____, 2023.

SCHEDULE OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Legal – Property
B	Project Site Development Plan
C	Building Renderings
D	On-street parking spaces
E	Off-street parking spaces