

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

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February 15, 2024

Via Email Only

Ms. Chanda Bennett, AICP, CPM
Comprehensive Planning Administrator
Polk County Office of Planning and Development
330 W. Church Street
Bartow, FL 33830

Re: Request for Designation of the Property Located at 8161-8247 State Road 33 North, Polk County, Florida 33809, identified by Parcel Numbers 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, and portions of 242711-000000-041010 and 242711-000000-041030 as a Green Reuse Area Pursuant to Florida's Brownfields Redevelopment Act

Dear Ms. Bennett:

On behalf of Lakeland Logistics Park Owner, LLC (the "Applicant"), we are pleased to submit the enclosed request for designation of the above-referenced property (the "Subject Property"), as a Green Reuse Area pursuant to section 376.80(2)(c), Florida Statutes, of Florida's Brownfields Redevelopment Act. When fully developed as a 213,542 square foot warehouse building for logistics use, the Subject Property will include rear loading bays and an expected 2-3 tenants ranging in size from 71,000 square feet to 107,000 square feet per warehouse unit. The completed project will have an estimated cost of approximately \$15.44 million. A site map and legal description depicting the Subject Property's location are enclosed at Exhibit A and the Polk County Brownfield Designation Application form is enclosed at Exhibit B.

The Applicant is applying for this designation to utilize an important state economic and regulatory assistance program available to developers and local governments in situations where the risk of contamination is demonstrated to overwhelm key opportunities for land revitalization and job growth. In this instance, there is onsite contamination that has significantly complicated redevelopment efforts

Ms. Chanda Bennett, AICP, CPM, Comprehensive Planning Administrator
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and created a host of logistical, design, engineering, and construction concerns for the Applicant. These concerns can be easily mitigated with the assistance and resources offered by Florida's Brownfields Program and come at no cost to Polk County.

In considering a request for designation as a Green Reuse Area under Florida's Brownfields Redevelopment Act, a local government must evaluate and apply the criteria set forth in section 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit C, the Applicant meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or should further information be required. Thank you.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.



Brett C. Brumund, Esq.
/bcb

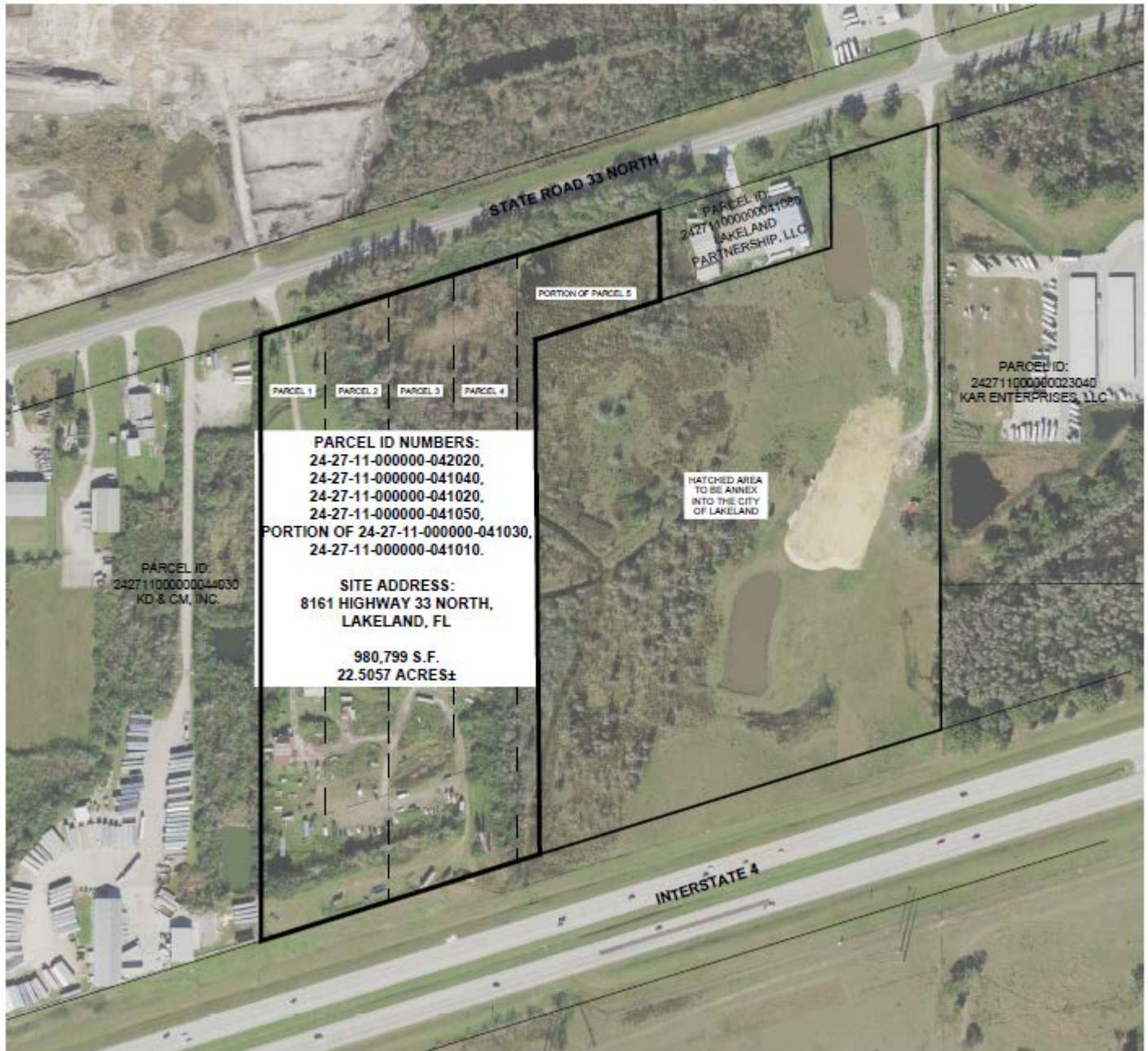
Enclosures

cc: Lakeland Logistics Park Owner, LLC
FRP Lakeland 1, LLC
Amy Edwards, Esq.
Michael R. Goldstein, Esq.

Exhibit A

OVERVIEW MAP

(NOT TO SCALE)



LEGAL DESCRIPTION

The Land referred to herein below is situated in the County of POLK, State of Florida, and is described as follows:

A PORTION OF LAND LYING IN SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1:

THE EAST 150 FEET OF THE WEST 1200 FEET AND THE SOUTH 300 FEET OF THE EAST 150 FEET THE WEST 1350 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; ALL LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 400 (I-4) AND SOUTH OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 33 IN POLK COUNTY, FLORIDA.

PARCEL 2:

THE EAST 150 FEET OF THE WEST 1350 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, LYING BETWEEN THE NORTH RIGHT-OF-WAY OF INTERSTATE HIGHWAY 4 AND THE SOUTH RIGHT-OF-WAY OF STATE ROAD 33, LESS THE SOUTH 300 FEET THEREOF IN POLK COUNTY, FLORIDA.

PARCEL 3:

THE EAST 150 FEET OF THE WEST 1500 FEET AND THE SOUTH 300 FEET OF THE EAST 150 FEET THE WEST 1650 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; ALL LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF INTERSTATE HIGHWAY 4 AND SOUTH OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 33 IN POLK COUNTY, FLORIDA.

PARCEL 4:

THE EAST 150 FEET OF THE WEST 1650 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, LESS THE SOUTH 300 FEET THEREOF; LYING BETWEEN THE NORTH RIGHT-OF-WAY OF INTERSTATE HIGHWAY 4 AND THE SOUTH RIGHT- OF-WAY OF STATE ROAD 33, IN POLK COUNTY, FLORIDA.

TOGETHER WITH A PORTION OF PARCEL 5 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; THENCE S00°19'10"W, ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 1,054.54 FEET TO THE INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 33 PER MAP PROJECT 5022 RD(2) 33 POLK COUNTY, FLORIDA; THENCE N72°44'21"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,737.53 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUE N72°54'28"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 348.47 FEET; THENCE S00°04'32"W, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 210.00 FEET; THENCE S72°48'30"W, A DISTANCE OF 300.70 FEET; THENCE S00°17'35"E, A DISTANCE OF 1,207.10 FEET TO THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE I-4 PER OF THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT-OF-WAY MAP SECTION 16320-2436; THENCE S72°48'43"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 54.37 FEET; THENCE N00°21'15"E, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,419.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 980,799 SQUARE FEET OR 22.5057 ACRES, MORE OR LESS.

Exhibit B



www.polk-county.net

LEVEL 4 BROWNFIELD DESIGNATION APPLICATION

Office of Planning and Development
Land Development Division
 330 W. Church St.
 P.O. Box 9005, Drawer GM03
 Bartow, FL 33831-9005
 Phone (863)534-6792
 FAX (863) 534-6407

Introduction

Complete this form to request designation by Polk County as a Brownfields area. It is important to complete all applicable sections and attach all necessary information. It is required that a Brownfields Pre-application Meeting be held before submitting this application. If you have any questions concerning completion of this application please call (863) 534-6792 and ask to speak to the Brownfields Coordinator; Chanda Bennett, AICP.

This application is to be completed by a person who owns/controls a potential brownfields site or represents someone who does and is requesting designation and has agreed to rehabilitate and redevelop the brownfields site or area in accordance with the Florida Brownfields Redevelopment Sections 376.77-376.84, Florida Statutes.

General Information

1. Pre Application Project # _____ (Required)
2. Is property in a Selected Area Plan (SAP) () Yes (X) No

SAP Name _____

3. Please complete the following for owner, applicant and contact person information. If the applicant is different than the owner, please submit affidavits from the owner that the applicant may proceed on their behalf.

	Owner	Applicant	Contact Person
Name	Lakeland Industrial Crossings, LLC and Lakeland 33, LLC	Lakeland Logistics Park Owner, LLC	Brett C. Brumund, Esq.
Work Number	(813) 222-3117	(305) 640-5300	(305) 640-5300
Fax Number	N/A	N/A	N/A
Mailing Address	220 NE 11 th Street Boca Raton, FL 33432	201 East Las Olas Blvd. Suite 1900 Fort Lauderdale, FL 33301	2100 Ponce de Leon Blvd. Suite 710 Coral Gables, FL 33134
Email	Ryan.mcconnell@hwlaw.com	bbrumund@goldsteinenvlaw.com	bbrumund@goldsteinenvlaw.com

If additional contacts, please list on a separate sheet and submit with application.

10. Sewer Provider Name and Phone Number: N/A

11. (X) Yes () No Is the property located in the Green Swamp Area of Critical State Concern?

12. Identify existing uses and structures on subject and surrounding properties (e.g. vacant, residential # du/ac, commercial approx. square feet, etc.):

NW: Commercial/Industrial	N: Commercial/Industrial	NE: Vacant
W: Commercial/Industrial	Subject Property: Vacant	E: Vacant
SW: I-4	S: I-4	SE: I-4

Environmental Status

13. Provide a brief description of the nature and geographical extent of contamination by hazardous substances and/or pollutants, if known: Site assessment activities revealed the presence of total petroleum hydrocarbons (“TPHs”) and arsenic in soils above Florida Department of Environmental Protection (“FDEP”) soil cleanup target levels as well as lead in groundwater above FDEP groundwater cleanup target levels.

14. Provide a brief description of any previous or current remedial action : N/A

15. If remediation is needed, will you agree to enter into a Brownfields Site Rehabilitation Agreement with the Florida Department of Environmental Protection (or authorized designee)? (X) Yes () No

Attach Phase I or Phase II Environmental Reports, if available. Please see Exhibit C.

16. The Brownfields Designation Criteria is outlined in s 376.80 F.S which provides the items the Board has to find to be able to approve a request. These items are listed below. The applicant must provide a narrative demonstrating how the following items will be met and provide substantial evidence on how each are or will be met so that it can be referenced in the approving Resolution.

- a. **Development Plan/Economic Productivity** - Provide a general description of the proposed redevelopment plans for the site also describe how the rehabilitation and redevelopment of the proposed Brownfields site or area will result in economic productivity of the area. Attach additional sheets as necessary to complete your response. ***Be sure to attach further illustrative or graphic information, as appropriate.***

Applicant is reminded that the proposed site development is subject to final approval by Polk BOCC and must be in compliance with all applicable Local Government and County Codes and regulations in effect at the time of permitting.

- b. **Job Creation** - How many new permanent full-time or part-time jobs will the project create, which are not associated with the assessment and remediation of the project site? (Please note that section s.376.80 (2)(b)(2) F.S. requires a minimum of five (5) new jobs be created) 140

Does the applicant have an agreement with the County, which contains the terms for the redevelopment of the Brownfield site or brownfield area (provide copy if available)? N/A

- c. **Consistency with the Comprehensive Plan** – Describe how the proposed development (to be completed after the site has been cleared of any contamination) is consistent with the Comprehensive Plan? *The answer should reference specific policies in the Plan. Please see Exhibit C.*
- d. **Zoning** – Describe how the proposed development (to be completed after the site has been cleared of any contamination) is consistent with the Land Development Regulations? *The answer should include references to specific LDC sections. Please see Exhibit C.*
- e. **Financial Resources** - Reasonable assurances must be provided by the applicant that sufficient financial resources are available to the applicant to implement and complete a rehabilitation agreement and redevelopment plan. ***Attach a statement, as well as any other appropriate information, outlining the financial resources available to the applicant for rehabilitation and redevelopment.*** This statement can include financial resources the applicant anticipates to obtain (private loans, equity and assistance) through designation as a Brownfields area. In short, describe your general financial plan for your project. Please see Exhibit C.

17. Have you had a Brownfields Pre-application Meeting? X Yes ___ No (It is required that applicants have a Pre-application Meeting. Please call (863) 534-6084 for more information.

18. Please check all the types of assistance/incentives below that you anticipate using:
- Regulatory Assistance (aid for meeting government agency permitting requirements)
 - Technical Assistance (aid in obtaining grants, loans, etc.)
 - Grants (gap financing for Brownfields remediation)
 - Loans (remediation loan funds)
 - Tax Credits/Exemptions due to Brownfield Area Designation
 - Job Creation Credits due to Brownfield Area Designation
 - Job Training Grants due to Brownfield Area Designation
 - Other: _____

19. Please describe in greater detail the services you would like to receive as a participant in the Brownfields program (optional):

20. What are your goals with respect to the property (i.e., sale, redevelopment, business expansion, etc.)?

Redevelopment. _____

21. Is property located within one or more of the following? (Check all that apply)

- EPA Brownfields Assessment Pilot/Grant Area
- Community Redevelopment Area
(Name of CRA: _____)
- Enterprise Zone
- Empowerment Zone
- County Redevelopment Area as defined in Section 2.124-F of the Polk County Comprehensive Plan

22. Please describe any fee waivers, grants, or other funding that has been received for either site clean up or site development by any entity and when these items were approved and received by the applicant?
N/A

23. Public Hearing Documentation: If the proposed Brownfields area is located outside of a community redevelopment area, enterprise zones, empowerment zone, closed military base, or designated Brownfields pilot area, attach the results of at least one public hearing (advertised and held in accordance with the Brownfields Redevelopment Act and Chapter 9 of the LDC) in the area to be designated. An opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents considerations, and other relevant local concerns must be provided prior to the approval of the application. Public Hearing

documentation may be provided after application is submitted but will be required prior to application approval by the County.

Date of Public Hearing March 19, 2024

Location of Public Hearing: Polk City Activity Center, 203 Lakeshore Drive, Polk City, FL

Approval of this application does not waive any other applicable provisions of the Polk County Land Development Code, the Polk County Comprehensive Plan, the Polk County Utility Code which are not part of the request for this application, nor does approval waive any applicable Florida Statutes, Florida Building Code, Florida Fire Prevention Code, or any other applicable laws, rules, or ordinances, whether federal, state or local. The applicant has the obligation and responsibility to be informed of and be in compliance with all applicable laws, rules, codes and ordinances.

I, _____ (print name), the owner of the property which is the subject of this application, or the authorized representative of owner of the property which is the subject of this application, hereby authorize representatives of Polk County to enter onto the property which is the subject of this application to perform any inspections or site visits necessary for reviewing this application. I understand that representatives of Polk County are not authorized to enter any structures dwellings which may be on the property.

Property owner or property owner's authorized representative.

Date:

Exhibit C

Green Reuse Area Designation Eligibility Statement

Lakeland Industrial Green Reuse Area

8161-8247 State Road 33 North, Polk County, Florida 33809

Parcel Nos. 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, and portions of 242711-000000-041010 and 242711-000000-041030

Lakeland Logistics Park Owner, LLC; (the “Applicant”) proposes to redevelop and rehabilitate eight parcels of land located at 8161-8247 State Road 33 North, Polk County, Florida 33809, identified by Parcel Nos. 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, and portions of 242711-000000-041010 and 242711-000000-041030 (the “Subject Property”) with an approximately 213,542-square-foot warehouse building for logistics use with rear loading bays and an expected 2-3 tenants ranging in size from 71,000 square feet to 107,000 square feet per warehouse unit (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at § 376.80(2)(c), Florida Statutes.¹ In addition, the Subject Property meets the definition of a “brownfield site” pursuant to § 376.79(4), Florida Statutes.

I. Subject Property Satisfies the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

The Applicant satisfies this criterion in that it controls the Subject Property by virtue of a Purchase and Sale Agreement with the current property owners and has agreed to redevelop and rehabilitate it.² Accordingly, the Applicant meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

The Applicant satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. The budget for rehabilitation and redevelopment is in excess of \$15.44 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, land and infrastructure improvements, and impact fees. This work will support approximately 75-100 temporary construction jobs over the period of development. The construction workers will spend a percentage of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants. The Applicant further satisfies this criterion in that approximately 140-150 new permanent full-time equivalent positions will be created at the Subject Property. For all the reasons discussed herein, the Applicant meets this second criterion.

¹ A copy of § 376.80, Florida Statutes, can be found at [Attachment A](#) to this Eligibility Statement.

² See [Attachment B](#), Assignment and Assumption of Purchase and Sale Agreement; see also [Attachment C](#) for letters of consent from the existing property owners.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

The Applicant satisfies this criterion in that Parcel Nos. 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-041010 and 242711-000000-041030 are designated as Business Park Center-1 (“BPC-1”) and parcel 242711-000000-042020 is designated as Business Park Center-2 (“BPC-2”) on Polk County’s future land use map, which permits the Subject Property’s redevelopment for logistics warehousing as described above. Specifically, both the BPC-1 and BPC-2 future land use categories allow for wholesaling, distribution centers, research and development parks, and offices, as well as light-industrial activities, such as light manufacturing, fabrication, assembly, and some retail uses.³ For these reasons, the Applicant meets this third criterion.

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

The Applicant satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice is being posted at the Subject Property;*
- (ii) notice is being published in the Lakeland Ledger;*
- (iii) notice is being published on the Lakeland community bulletin section of Craigslist; and*
- (iv) a community meeting will be held on March 19, 2024, at the Polk City Activity Center.*

All notices will contain the following narrative:

Representatives for Lakeland Logistics Park Owner, LLC, will hold a community meeting, on March 19, 2024, at the Polk City Activity Center located at 203 Lakeshore Drive, Polk City, FL 33868, from 5:30 p.m. to 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of land located at 8161-8247 State Road 33 North, Lakeland, Polk County, Florida 33089, Parcel Numbers 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, 242711-000000-041010, 242711-000000-041030, 242711-000000-041060, and 242711-000000-041090, as a Brownfield Area. The designation is being made pursuant to Section 376.80, Florida Statutes, of Florida’s Brownfield Redevelopment Act, and will involve two public hearings before the Polk County Board of County Commissioners. The community meeting will also address future development and rehabilitation activities planned for the site.

For more information regarding the community meeting, including directions, the dates of the two public hearings, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the meeting date, please contact Brett C. Brumund, who can be reached by phone at (305) 640-5300, by email at bbrumund@goldsteinenvlaw.com, and/or U.S. Mail at The Goldstein Environmental Law Firm, P.A., 2100 Ponce de Leon Blvd., Suite 710, Coral Gables, FL 33134.

³ See Attachment D for a land use verification letter concerning the Subject Property.

Proof of publication and posting will be provided to Polk County.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of over \$15.44 million for the Project may be fully funded through, but may not be limited to, any combination of the financial resources of the Applicant, its partners, as well as possible financing by major financial institutions. Based on the current financial position of the Applicant, a proven history of leveraging assets with other capital sources, an impressive track record of success, and a staff of highly experienced and sophisticated development professionals, the Applicant has provided reasonable assurance that it has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.⁴ It therefore satisfies this fifth criterion.

II. Subject Property Meets the Definition of Brownfield Site

Section 376.79(4), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here evidence that the Subject Property falls within the definition of the term “brownfield site” in that there is actual soil and groundwater contamination present that will require continued site assessment and site rehabilitation to fully delineate and address. Specifically, site assessment activities conducted at the Subject Property revealed the presence of total petroleum hydrocarbons (“TPHs”) and arsenic in soils above Florida Department of Environmental Protection (“FDEP”) soil cleanup target levels as well as lead in groundwater above FDEP groundwater cleanup target levels. The Subject Property experienced several historical uses including use for heavy construction equipment maintenance, automotive maintenance and repair, and agriculture, which are frequently associated with arsenic, TPHs, and lead because these heavy metals and petroleum byproducts exist in old motor oil, engine oil, coatings, and old paint wastes.⁵ This type of contamination generally occurs as a result of spills from vehicles and heavy machinery onsite and the breakdown or decay of car parts, engine parts, and other debris that has been abandoned onsite and exposed to the elements.

As a result of the historical uses of the Subject Property, there was and is actual contamination that the Applicant must carefully manage during redevelopment at great legal and financial risk. More specifically, actual contamination at the Subject Property has complicated redevelopment efforts for the Applicant by imposing design⁶ and construction⁷ changes on the Project that would not be required but for the presence of

⁴ See Attachment E for a letter from the Applicant confirming that sufficient financial resources are available to cover remaining redevelopment and rehabilitation costs to ensure completion of the Project.

⁵ See Attachment F for an excerpt from a Phase II Environmental Site Assessment Report, detailing the extent of soil and groundwater contamination on the Subject Property.

⁶ The discovery of soil and groundwater contamination requires rethinking how stormwater is managed at the property and how stormwater structures, such as dry detention ponds, swales, and exfiltration trenches are built and operated. Polk County, for example, will not allow stormwater to drain through contaminated soil or into groundwater in a way that spreads an existing groundwater plume.

⁷ Because soil contamination has been documented on the Subject Property, one such design change is the rethinking of how stormwater is managed at the property and how stormwater structures, such as dry detention ponds, swales, and exfiltration trenches are built and operated. This concern has become so acute that FDEP issued detailed guidance

contamination. The presence of actual contamination also increases the Applicant's exposure to environmental and regulatory liability with respect to the Project and makes it materially more expensive and time consuming to move forward. Accordingly, this designation, if granted, will allow the Applicant to access limited but important state-based economic incentives to help underwrite the costs associated with managing the environmental risk as well as, generally, to put the Project on more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger revitalization efforts for this area of Polk County.

Finally, the investigation and remediation of the contamination itself adds another major level of complexity as it will require close and constant oversight by FDEP. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, the Applicant has no assurance that as it moves forward with the Project the total cost of cleanup will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfields Program and underscores why incentives are so important for sites and projects exactly like this one. Assessment, remediation, and closure will be an expensive and lengthy process that will require the Applicant to carefully manage the contamination during redevelopment, imposing great legal and financial risk to incorporate design and construction changes on the Project that would not be required but for the presence of actual contamination.

Based on all the foregoing, the Subject Property clearly falls within the definition of "brownfield site" as set forth in § 376.79(4), Florida Statutes.

III. Conclusion

The Applicant has demonstrated that the Subject Property meets the definition of a "brownfield site" and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as a Brownfield Area pursuant to § 376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act is appropriate.

written to address this issue and help overcome the complexity posed by actual and potential contamination impacting redevelopment. The guidance document is enclosed at Attachment G.

Attachment A

Select Year:

The 2023 Florida Statutes

[Title XXVIII](#)

NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)

POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [125.66\(5\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government must grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings must be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. [376.81](#), including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. [376.77-376.86](#), and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. [376.82](#) are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. [403.182](#) to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. [376.78](#).
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114; s. 11, ch. 2023-309.

Attachment B

ASSIGNMENT AND ASSUMPTION
OF
PURCHASE & SALE AGREEMENT

For Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BBX LOGISTICS PROPERTIES LLC, a Florida limited liability company (the “**Assignor**”), does hereby assign, transfer and convey unto LAKELAND LOGISTICS PARK OWNER, LLC, a Delaware limited liability company (the “**Assignee**”) all right, title and interest of Assignor in and to that certain Purchase and Sale Agreement dated June 30, 2023 (the “**Original Agreement**”), by and among Assignor, Lakeland Industrial Crossing, LLC (“**Lakeland Industrial**”), and Lakeland 33, LLC (“**Lakeland 33**”, and together with Lakeland Industrial, “**Seller**”), as amended by that certain First Amendment to Purchase & Sale Agreement dated September 25, 2023 (the “**First Amendment**”), and as amended by that certain Second Amendment to Purchase & Sale Agreement dated December 26, 2023 (the “**Second Amendment**,” and together with the Original Agreement and the First Amendment, the “**Agreement**”). Assignee hereby assumes all obligations and liabilities of Assignor under the Agreement as set forth above and agrees to be fully bound by the terms and conditions of the Agreement as if Assignee were the original signatory thereto. Assignee also acknowledges and agrees that Assignee, as the Buyer Entity (as defined in the Second Amendment), will be responsible for the obligations of the JV Entity (as defined in the Original Agreement) under the Agreement, including, but not limited to, the JV Entity’s obligations set forth in Sections 10, 13 and 15 of the Original Agreement. Assignor acknowledges and agrees that it will remain jointly and severally liable with Assignee under the Agreement.

[Signatures on following page]

This Assignment and Assumption of Purchase & Sale Agreement has been duly executed by the parties hereto as of this 24th day of January, 2024 (the "**Effective Date**").

Assignor:

BBX LOGISTICS PROPERTIES LLC, a Florida limited liability company

By: Mark G Levy

Name: Mark G. Levy

Title: President

Assignee:

LAKELAND LOGISTICS PARK OWNER, LLC, a Delaware limited liability company

By: Mark G Levy

Name: Mark Levy

Title: President

JOINDER

The undersigned, Lakeland Industrial Crossing, LLC ("**Lakeland Industrial**"), and Lakeland 33, LLC ("**Lakeland 33**", and together with Lakeland Industrial, "**Seller**"), hereby join into this Assignment and Assumption of Purchase and Sale Agreement for the purpose of acknowledging that (i) the members of the JV Entity are FRP Lakeland 1 LLC, a Delaware limited liability company ("**FRP Member**"), and Lakeland Logistics Park Manager, LLC, a Florida limited liability company ("**BBX Member**"); (ii) that Assignor and BBX Member are affiliates; and (iii) that upon entering into the JV Entity Agreement (as defined in the Original Agreement), Assignor, JV Entity, BBX Member and FRP Member will all be affiliated. Notwithstanding the foregoing, Seller further acknowledges and agrees that: (x) the assignment of the Agreement from Assignor to Assignee does not violate Section 25(ii) of the Original Agreement which prohibits the "sale of the Property to any person or entity affiliated with BBX"; and (y) in the event that either FRP Member and/or BBX Member exercises any right(s) and/or remedy(ies) under the JV Entity Agreement (including, without limitation, any right to acquire all of the membership interests of the other party thereunder), that such exercise will not constitute a violation of Section 25(ii) of the Original Agreement.

LAKELAND INDUSTRIAL CROSSINGS, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

LAKELAND 33, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

PURCHASE & SALE AGREEMENT

THIS PURCHASE & SALE AGREEMENT (the “**Agreement**”) is made and entered into as of this 30th day of June, 2023 (the “**Effective Date**”), by and among LAKELAND INDUSTRIAL CROSSINGS, LLC, a Florida limited liability company (“**Lakeland Industrial**”), LAKELAND 33, LLC, a Florida limited liability company (“**Lakeland 33**”, and collectively with Lakeland Industrial, the “**Existing Property Owner**”), and BBX LOGISTICS PROPERTIES LLC, a Florida limited liability company (“**BBX**”). Existing Property Owner and BBX are referred to herein each as a “**Party**” and collectively as the “**Parties**”.

RECITALS:

- A. Existing Property Owner owns those certain parcels of real property (the “**Land**”) located in Polk County, Florida, as more particularly described on Exhibit “A” attached to this Agreement.
- B. BBX anticipates formation of an entity (the “**JV Entity**”) to acquire the Property and develop an approximate two hundred ten thousand (210,000) square foot warehouse facility on the Land (the “**Project**”).
- C. BBX further anticipates formation of a sponsor entity controlled by BBX (the “**BBX Manager Entity**”) that will be the manager or general partner, as applicable, of the JV Entity.
- D. Existing Property Owner desires to sell to the JV Entity the Property upon the terms and conditions more fully set forth in this Agreement below.

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements herein set forth, and for other good and valuable consideration, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. **Existing Purchase & Sale Agreement.** The Parties acknowledge and agree that this Agreement amends, restates and replaces in its entirety that certain Commercial Contract dated December 16, 2022, by and among the Parties, as previously amended and reinstated (the “**PSA**”). As of the Effective Date, the Parties agree that the PSA is deemed terminated in its entirety and that no Party thereto shall have any further liability or obligation to any other Party pursuant to the PSA.
2. **Sale of the Property.** Existing Property Owner agrees to sell, grant, deed, transfer and assign to the JV Entity, subject to the terms and conditions set forth in this Agreement and the Closing Documents, the Land together with the following property and rights:

a. all improvements, fixtures, equipment, and other tangible personal property, if any, owned by Existing Property Owner, located on and used for, or related to, the Land including, without limitation, all rights to or in all utility mains, service laterals, hydrants, connections, hook-ups and valves located on and/or servicing or available to service the Land (the “**Improvements**”). The Land and the Improvements are hereinafter collectively referred to as the “**Realty**”;

b. All of Existing Property Owner’s right, title, and interest in and to any general intangible rights, applications, submittals, authorizations, approvals, permits, licenses, entitlements, density, will-serve letters from utility providers, variances, surveys, reimbursements, prepaid impact or other fees, impact or other fee credits, water facility credits, development credits and similar items, land use or project consents, waivers, certificates, development orders, warranties, guarantees, specifications, site plans, floor plans, engineering plans and similar items related to the Land, the Project and/or the use, occupancy and operation thereof including any reports, studies, drawings, plans, percolation, soil, topographical, traffic, engineering and environmental plans or studies, surveys, plats, soil architectural, construction, road, drainage and utility drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans, marketing, feasibility and environmental studies, other studies of any kind relating to the Land or Project, the Development Approvals, and/ other materials prepared in connection therewith;

c. All of Existing Property Owner’s interest, as landlord, in and to the Billboard Lease (as defined below) (including security deposits thereunder) and any other leases for all or a portion of the Land entered into by Existing Property Owner after the Effective Date and in accordance with this Agreement (each, a “**Lease**”, and collectively if more than one, the “**Leases**”); and

d. All easements, privileges, and other rights appurtenant to the Land, including, all right, title, and interest, if any, of Existing Property Owner, in and to the land lying with any strip, gore, street or roadway adjoining the Land, rights-of-way, riparian and other water rights, oil, gas and mineral rights.

The Realty and all of the other property and rights described in this paragraph 2 are hereinafter collectively called the “**Property**.”

Notwithstanding anything to the contrary contained in this Agreement, in the event the Billboard Subdivision is achieved prior to Closing, the defined term “Land” shall not include the Billboard Parcel (as defined below) and the Billboard Lease shall not constitute a “Lease” for purposes of this Agreement.

3. **Consideration for Sale.** As full consideration for Existing Property Owner's sale of the Property to the JV Entity, BBX shall cause (i) the JV Entity to pay Existing Property Owner the sum of Two Million Eight Hundred Thousand and 00/100 Dollars (\$2,800,000.00) (the "**Cash Portion of Consideration**"), and (ii) the JV Entity to execute and deliver a contingent deferred purchase price note (the "**Contingent Note**") in favor of Existing Property Owner in the form attached hereto as Exhibit "E" (the "**Deferred Portion of Consideration**", and collectively with the Cash Portion of Consideration, the "**Consideration**"). The Contingent Note shall evidence the JV Entity's obligation to pay to Existing Property Owner an amount equal to fifty percent (50%) of the Promote Distribution (as defined in the Contingent Note) the BBX Manager Entity is actually entitled to pursuant to the limited liability company agreement or partnership agreement, as applicable, of the JV Entity (the "**JV Entity Agreement**") after payment of certain preferred returns as more particularly set forth in the example set forth on Schedule "1" attached hereto and made a part hereof.

To secure the performance by BBX of its obligations under this Agreement, within two (2) days of receipt of this Agreement executed by Existing Property Owner, BBX shall deliver to the law firm of Greenberg Traurig, P.A., as escrow agent (the "**Escrow Agent**"), the sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (the "**Deposit**"). All interest earned on the Deposit, if any, shall accrue to the benefit of BBX. The Deposit shall be credited to BBX against the Cash Portion of Consideration at the Closing. In the event BBX does not cancel this Agreement prior to the expiration of the Inspection Period as provided below in this Agreement, the Deposit shall become non-refundable except as otherwise expressly set forth in this Agreement.

4. **Title & Survey.** Prior to the expiration of the Inspection Period, BBX shall obtain a (i) commitment (the "**Commitment**") for an owner's ALTA title insurance policy from Chicago Title Insurance Company (or other national title company) (the "**Title Company**") in an amount acceptable to BBX, and (ii) ALTA survey of the Land (the "**Survey**"). BBX shall have until sixty (60) days after the Effective Date within which to examine the Commitment and the Survey. If BBX finds title to be defective, BBX shall, within sixty (60) days after the Effective Date, notify Existing Property Owner in writing (the "**Defect Notice**") specifying the defect(s) (which defect(s) shall also include any UCC-1 Financing Statements filed with the Florida Secretary of State); provided that if BBX fails to give Existing Property Owner the Defect Notice within sixty (60) days after the Effective Date, the matters shown in the Commitment or Survey shall be deemed to be waived as title objections to closing this transaction. BBX may raise as additional objections, however, any matters first shown by any update or endorsement of the Commitment or update

of the Survey after expiration of the Inspection Period. Existing Property Owner shall have a period of ten (10) days after its receipt of the Defect Notice within which to notify BBX (“**Existing Property Owner’s Notice**”) if Existing Property Owner has elected to attempt to cure the defects specified in the Defect Notice. In the event Existing Property Owner fails to respond to the Defect Notice, the same shall be deemed to be an election by Existing Property Owner that it does not intend to cure the defects specified in the Defect Notice. If Existing Property Owner elects to attempt to cure the defects specified in the Defect Notice, Existing Property Owner shall have twenty (20) days from the date of Existing Property Owner’s Notice (the “**Cure Period**”) to attempt to cure the defects specified in the Defect Notice to BBX’s reasonable satisfaction. If Existing Property Owner notifies BBX in Existing Property Owner’s Notice that Existing Property Owner will not attempt to cure the defects specified in the Defect Notice, or if Existing Property Owner elects to attempt to cure the defects specified in the Defect Notice but does not do so to BBX’s satisfaction during the Cure Period, BBX may elect, within five (5) business days after receiving the Existing Property Owner’s Notice or the expiration of the Cure Period, as the case may be, to either: (i) waive its objection to the defects specified in the Defect Notice, accept the title "as is," without reduction in the Consideration and without claim against Existing Property Owner therefor except that BBX may deduct from the Cash Portion of Consideration the amount of any lien or encumbrance which can be satisfied by a liquidated amount, and close the transaction in accordance with the terms of this Agreement; or (ii) terminate this Agreement, in which event the Deposit shall be returned to BBX, and neither party shall have any further rights, obligations and liabilities except for those rights, obligations and liabilities which expressly survive the termination of this Agreement. If BBX fails to give such notice within the aforesaid five (5) business day period, the defects specified in the Defect Notice shall be deemed to be waived as title objections to closing this transaction. Existing Property Owner shall have no obligation to cure, or attempt to cure, any title or survey defects, other than monetary liens created or caused by the actions or inactions of Existing Property Owner or any party acting on behalf of Existing Property Owner. Existing Property Owner agrees to remove by payment, bonding, or otherwise any lien against the Property caused or created by the actions or inactions of Existing Property Owner or any party acting on behalf of Existing Property Owner capable of removal by the payment of money or bonding. At BBX’s option, the Closing Date may be extended for a period not to exceed thirty (30) days for purposes of eliminating any title defects. Notwithstanding anything to the contrary contained in this Agreement, Existing Property Owner shall fully satisfy and remove from record all monetary liens granted or caused by the actions or inactions of Existing Property Owner or any party acting on behalf of Existing Property Owner at or prior to Closing.

5. **Conditions Precedent.**

a. **Conditions for BBX's Benefit.** BBX's obligation to close the transaction provided for in this Agreement shall be subject to the following conditions precedent to Closing:

i. BBX shall have until ninety (90) days following the Effective Date (the "**Inspection Period**") to examine the Leases and all of the due diligence deliveries and to decide whether they are satisfactory to BBX and to make such physical, zoning, land use, environmental and other examinations, inspections and investigations of the Property or the use or operation thereof which BBX, in BBX's sole discretion, may determine to make. In the event BBX is not satisfied with any of the foregoing, for any reason or for no reason, in BBX's sole and absolute discretion, BBX may cancel this Agreement and the transaction contemplated hereby as hereinafter provided by delivering written notice of such termination to Existing Property Owner prior to the expiration of the Inspection Period, and shall, to the extent assignable without payment of any transfer fee by BBX, assign to Existing Property Owner, at no cost to Existing Property Owner, all right, title and interest of BBX, if any, in and to any Development Approvals without representation or warranty.

ii. As of the Effective Date and as of Closing, all of the representations and warranties by Existing Property Owner contained in this Agreement shall be true and correct in all material respects.

iii. As of Closing, Existing Property Owner shall have complied with the covenants of Existing Property Owner contained in this Agreement in all material respects.

iv. There shall be no adverse environmental condition with respect to the Property at Closing that was not existing as of the expiration of the Inspection Period. BBX reserves the right to obtain an updated Phase I environmental site assessment of the Property to determine any adverse change in the environmental condition since the date of BBX's last Phase I environmental site assessment of the Property. BBX and its agents, consultants and representatives shall have continued access and inspection rights to confirm the foregoing.

v. At the Closing, the Title Company shall issue, or be irrevocably committed to issue, an owner's policy of title insurance in favor of the JV Entity in an amount acceptable to BBX

and subject only to those title exceptions accepted or deemed accepted by BBX pursuant this Agreement.

vi. At least five (5) business days prior to Closing, Existing Property Owner shall have provided to BBX executed estoppels from all tenants under the Leases; provided that Existing Property Owner shall have no obligation to deliver any estoppel from the tenant under the Billboard Lease if the Billboard Subdivision is achieved prior to Closing. In order to satisfy this condition, each such estoppel shall be in form reasonably acceptable to BBX (provided, that, as to the Billboard Lease, an estoppel in the form required pursuant to section 27 of the Billboard Lease shall be deemed acceptable to BBX) and not disclose the existence of any material default.

vii. Final Site Plan Approval shall have been obtained.

viii. The JV Entity Agreement shall have been executed and delivered amongst each party thereto.

ix. BBX and a construction lender acceptable to BBX shall have executed and delivered amongst themselves a term sheet setting forth the material terms of a construction loan for the Project acceptable to BBX.

b. **Conditions for Existing Property Owner's Benefit.** Existing Property Owner's obligation to close the transaction provided for in this Agreement shall be subject to the following conditions precedent to Closing:

i. As of Closing, BBX shall have formed the BBX Manager Entity and the JV Entity, and the BBX Manager Entity shall be the manager of the JV Entity.

ii. As of the Effective Date and as of Closing, all of the representations and warranties by BBX contained in this Agreement shall be true and correct in all material respects.

iii. As of Closing, BBX shall have complied with all of the covenants of BBX contained in this Agreement in all material respects.

In the event any of the foregoing conditions precedent are not fulfilled as of Closing (or earlier date if specified otherwise), then the Party to whose benefit such condition precedent runs shall have the option of either: (i) waiving the condition and closing "as is," without reduction in the Consideration or claim against the other Party therefor, or (ii) canceling this Agreement by written notice to the other Party given by Closing (or earlier date if

specified otherwise), in which event the Escrow Agent shall return the Deposit and all interest thereon to BBX (except if, as of the Outside Closing Date, the only condition precedent not fulfilled is in paragraph 5(a)(vii), (viii) or (ix) and BBX has not elected to waive such condition, then the Deposit and all interest thereon shall be released to Existing Property Owner), whereupon the Parties shall be released from all further obligations under this Agreement, except those obligations which expressly survive termination.

6. **BBX's Representations & Warranties.** BBX represents and warrants to Existing Property Owner as follows (which representations and warranties are made on the Effective Date and shall automatically be deemed remade as of the Closing Date):

a. BBX is a limited liability company validly existing and in good standing under the laws of the state of its organization. The execution, delivery and performance of this Agreement by BBX has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this document a valid and binding instrument enforceable against BBX in accordance with its terms. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby will: (x) result in a breach of, or default under, any agreement to which BBX is a party, or (y) violate any law, any existing law or regulation, order, decree, writ, injunction or restriction to which BBX is subject.

b. There has not been filed by or against BBX a petition in bankruptcy or other insolvency proceedings or for the reorganization or the appointment of a receiver of trustee, nor has BBX made an assignment for the benefit of creditors, or filed a petition for an arrangement, or entered into an arrangement with creditors, or admitted in writing its inability to pay debts as they become due.

7. **BBX's Covenants.** BBX covenants with Existing Property Owner as follows:

a. BBX shall, at BBX's expense (the documented third-party out-of-pocket costs and expenses incurred by BBX in connection with pursuit of the Development Approvals are referred to herein as "**Entitlement Costs**"), use commercially reasonable efforts to pursue final non-appealable site plan approval for the Project acceptable to BBX (the "**Final Site Plan Approval**") and such other approvals, entitlements, permits and subdivisions in connection with the Project as BBX deems necessary (collectively and including Final Site Plan Approval, the "**Development Approvals**"). BBX shall keep Existing Property Owner reasonably informed of the status of BBX's pursuit of Development Approvals. Prior to submitting

a site plan to the applicable governmental entity for approval, BBX shall submit such site plan to Existing Property Owner for its approval, which shall not be unreasonably withheld, conditioned or delayed.

b. BBX shall cooperate, at no cost to BBX, in good faith with Existing Property Owner in connection with Existing Property Owner's pursuit of the Billboard Subdivision.

c. BBX shall provide a true, correct, and complete copy of the JV Entity Agreement to Existing Property Owner promptly after the full execution of the same. Existing Property Owner agrees to maintain any financial statements provided it pursuant to the Contingent Note, the JV Entity Agreement and its terms strictly confidential, provided, however, that Existing Property Owner may provide any financial statements provided it pursuant to the Contingent Note, the JV Entity Agreement and disclose the terms of the JV Entity Agreement to Existing Property Owner's employees, officers, directors, managers, members, partners, shareholders, attorneys, accountants, advisors, and lenders on a need-to-know basis, and only then upon obtaining the agreement of such party(ies) to keep any financial statements provided it pursuant to the Contingent Note, the JV Entity Agreement and its terms strictly confidential. The preceding sentence shall survive Closing.

8. **Existing Property Owner's Representations & Warranties.** Existing Property Owner represents and warrants to BBX as follows (which representations and warranties are made on the Effective Date and shall automatically be deemed remade as of the Closing Date):

a. Existing Property Owner is duly organized and legally existing under the laws of the State of its organization and is duly qualified to do business in the state where the Property is located. The execution and delivery of, and Existing Property Owner's performance under, this Agreement are within Existing Property Owner's powers and have been duly authorized by all requisite action. This Agreement constitutes the legal, valid and binding obligations of Existing Property Owner enforceable in accordance with its terms. Performance of this Agreement will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance upon the Property under, any agreement or other instrument to which Existing Property Owner is a party or by which Existing Property Owner or the Property might be bound.

b. There is no existing or pending litigation with respect to the Property nor, to Existing Property Owner's knowledge, have any such actions, suits, proceedings, or claims been threatened or

asserted, which could have an adverse effect on the Property or Existing Property Owner's ability to consummate the transaction contemplated by this Agreement.

c. Existing Property Owner has no actual knowledge of nor has received any written notice of violation of any restrictive covenants, deed restrictions, easement agreements or Governmental Requirements (defined below) with respect to the Property which has not been remedied. The term "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over Existing Property Owner or the Property.

d. Except as set forth on Schedule 8(d), Existing Property Owner has not received, with respect to the Property, any written notice from any governmental agency of any proceedings that could cause the change, redefinition, or other modification of the zoning classification, or of other legal requirements, applicable to the Property other than in respect of the Final Site Plan Approval, Billboard Subdivision, or Development Approvals, or of any condemnation proceeding or proceeding to widen or realign any street or highway adjacent to the Property.

e. Except for the Billboard Lease and any Leases entered into in accordance with this Agreement after the Effective Date, there are no leases, licenses, other occupancy agreements, service contracts, leasing agreements, brokerage agreements or property management agreements affecting any portion of the Property.

f. Existing Property Owner is not a "foreign person" within the meaning of Sections 1445 and 7701 the Internal Revenue Code of 1986, as amended.

g. To Existing Property Owner's knowledge, the due diligence materials provided by Existing Property Owner are true and correct copies of such materials that Existing Property Owner uses in connection with the ownership and operation of the Property.

h. Existing Property Owner has not filed (and is not contemplating filing) any bankruptcy action or petition; no such action or petition has been filed against Existing Property Owner; and, to Existing Property Owner's knowledge, no such action or petition has been threatened against Existing Property Owner.

i. To Existing Property Owner's knowledge, no other person or entity owns any development rights relating to the Property.

Existing Property Owner covenants to deliver the Land to the JV Entity at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain and operate the Land in a prudent manner consistent with current operating standards for the Property and in accordance with Existing Property Owner's past practices. Existing Property Owner makes no warranties other than marketability of title and the express representations and warranties made by Existing Property Owner in this Agreement and in any instrument delivered by Existing Property Owner at Closing.

9. **Existing Property Owner's Covenants.** From and after the Effective Date until Closing, Existing Property Owner covenants with BBX as follows:

a. Existing Property Owner shall not enter into any leases or rights of occupancy with respect to the Property, the Billboard Parcel, or any portion of either except with the prior written consent of BBX, which consent may be granted or withheld in BBX's sole discretion; provided, however, that BBX acknowledges that Lakeland Industrial and Champion Outdoor Real Estate Assets, Inc. have entered into that certain Ground Lease dated effective January 1, 2023 (the "**Billboard Lease**") for the lease of the Billboard Parcel. Prior to Closing, Existing Property Owner shall not amend, modify or terminate the Billboard Lease or any other Lease entered into in accordance with this Agreement, except with the prior written consent of BBX, which consent may be granted or withheld in BBX's sole discretion. BBX's consent shall not be required to any amendment to the Billboard Lease which solely incorporates reference to any future tax parcel ID number for the Billboard Parcel effectuated in accordance with this Agreement and/or incorporates Exhibit A of the Billboard Lease consistent with Exhibit B of the Billboard Lease, provided that BBX shall promptly share a copy of same with BBX.

b. Existing Property Owner shall not enter into any agreement to sell all or any portion of the Property or the Billboard Parcel from any party other than BBX.

c. Existing Property Owner shall cause the Land to be maintained and operated in a prudent manner consistent with current operating standards for the Property and in accordance with Existing Property Owner's past practices. Existing Property Owner shall maintain in full force and effect its existing insurance

coverage for the Property. Existing Property Owner shall not make any material alterations to any portion of the Property.

d. Except in connection with the Development Approvals, Existing Property Owner shall not initiate or permit any zoning reclassification of the Property or seek any variance under existing zoning ordinances applicable to the Property without the prior written consent of BBX.

e. Except in connection with the Billboard CCR&Es (as defined below), Existing Property Owner shall not impose, or allow to be imposed, any covenants, conditions, restrictions, easements, encumbrances, or liens on the Property or execute or file any subdivision plat affecting the Property, or otherwise alienate, encumber, convey or transfer the Property or any portion thereof, except in accordance with this Agreement.

f. Reserved.

g. Existing Property Owner shall, at Existing Property Owner's expense, use commercially reasonable efforts to evaluate the possibility of, and if possible and acceptable to BBX in BBX's reasonable discretion effectuate, either (i) a legal subdivision of the land described on Exhibit "B" attached hereto (the "**Billboard Parcel**") from the Property, or (ii) causing the Billboard Parcel to have its own tax ID number separate from the Property, so long as, in either case, the same does not result in an illegal subdivision and otherwise complies with applicable law (the "**Billboard Subdivision**") (the documented third-party out-of-pocket costs and expenses incurred by Existing Property Owner in connection with (i) the evaluation and, if applicable effectuating of, the Billboard Subdivision, (ii) the negotiation of the Billboard Lease, and (iii) the negotiation of the Billboard CCR&Es are collectively referred to herein as the "**Billboard Costs**"). Existing Property Owner shall coordinate pursuit of the Billboard Subdivision with BBX and keep BBX reasonably informed of the status thereof. If the Billboard Subdivision has not been achieved as of the expiration of the Inspection Period, commencing on the date immediately following the expiration of the Inspection Period until the date which is five (5) days thereafter, either Party may terminate this Agreement by delivering written notice of such termination to the other, in which event the Deposit shall be returned to BBX, and neither Party shall have any further obligations or liabilities under this Agreement, except those obligations and liabilities which expressly survive termination.

h. Existing Property Owner shall cooperate, at no cost to Existing Property Owner, in good faith with BBX in connection with BBX's pursuit of the Development Approvals, including, without limitation, promptly executing and/or joining into any petitions, applications, consents or other items upon request by BBX in connection with BBX's pursuit of the Development Approvals, including, without limitation, in rezoning, special use permits, conditional use permits, lot splits, subdivisions, variances, entitlements and site plans.

10. **Brokers.** The Parties each represent and warrant to the other that there are no real estate brokers, salesmen or finders involved in this transaction other than Key Group-FL, LLC ("**Broker**") which shall be paid a commission by the JV Entity pursuant to separate agreement. If a claim for brokerage in connection with the transaction contemplated by this Agreement is made by any broker, salesman or finder other than Broker, claiming to have dealt through or on behalf of one of the Parties hereto ("**Indemnitor**"), Indemnitor shall indemnify, defend and hold harmless the other Party hereunder ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from all liabilities, damages, claims, costs, fees and expenses whatsoever (including reasonable attorney's fees and court costs at trial and all appellate levels) with respect to said claim for brokerage.

11. **Billboard CCR&Es.** During the Inspection Period, the Parties covenant and agree to diligently negotiate and endeavor to agree upon the form and content of a commercially reasonable declaration of covenants, conditions, restrictions and easements to be recorded against the Land and Billboard Parcel if the Billboard Subdivision is achieved prior to Closing (the "**Billboard CCR&Es**") which contains provisions satisfying, in all material respects, the criteria set forth on Schedule "2" attached hereto (the "**Billboard CCR&Es Criteria**"). If the Parties have not agreed upon the form and content of the Billboard CCR&Es prior to the expiration of the Inspection Period, commencing on the date immediately following the expiration of the Inspection Period until the date which is five (5) days thereafter, either Party may terminate this Agreement by delivering written notice of such termination to the other, in which event the Deposit shall be returned to BBX, and neither Party shall have any further obligations or liabilities under this Agreement, except those obligations and liabilities which expressly survive termination.

12. **Prorations.** Real estate and personal property taxes, rents actually collected, interest, costs and revenues and all other proratable items shall be prorated as of the Closing Date; all prorations shall be based on a 365-day year. In the event the taxes for the year of Closing are unknown, the tax proration will be based upon the taxes for the prior year, and at the request of any Party, the taxes for the year of Closing shall be prorated and adjusted

when the tax bill for such year is received and the actual amount of taxes is known. The Parties agree that, within ninety (90) days following Closing, to perform a reconciliation of all items of income and expense which were not known or available to the Parties at Closing. The provisions of this paragraph shall survive the Closing.

13. **Reimbursements.** At Closing, the JV Entity shall, on the settlement statement, reimburse Existing Property Owner for all documented third-party out-of-pocket costs and expenses incurred by Existing Property Owner prior to the Effective Date in connection with its pursuit of approval of an initial site plan for the Project pursuant to that certain Proposal for Civil Engineering and Landscape Architecture Services dated March 27, 2023 by and between Florida Engineering Group, Inc., and Lakeland 33.

14. **Improvement Liens.** Certified, confirmed or ratified liens for governmental improvements as of the Closing Date, if any, shall be paid in full by Existing Property Owner, and pending liens for governmental improvements as of the Closing Date shall be assumed by the JV Entity, provided that where the improvement has been substantially completed as of the Closing Date, such pending lien shall be considered certified.

15. **Closing Costs.** The Parties shall bear the following costs:

a. The JV Entity shall be responsible for payment of the following: (i) the cost of the title search and the premiums for any owner's title insurance policies, lender's title insurance policies and endorsements thereto, (ii) the cost of any survey or update thereto, (iii) the documentary stamp, surtax and intangible taxes on any mortgage obtained by the JV Entity, and (iv) the real estate commission of Broker.

b. The Existing Property Owner shall be responsible for payment of the following: (i) the recording costs on the CCR&Es and documents necessary to clear title, (ii) the cost of any municipal tax & lien search, and (iii) the documentary stamp, surtax and intangible taxes on the Deed (as defined below).

c. BBX shall be responsible for payment of the cost of its physical inspections of the Property.

d. Existing Property Owner and BBX shall each pay its own legal fees except as provided in subparagraph 23(c) below.

16. **Closing.** Subject to the satisfaction or waiver of the conditions precedent contained in paragraph 5 above, the closing of the transaction contemplated by this Agreement (the "**Closing**") shall, unless otherwise agreed upon in writing by the Parties, be held on the date which is thirty (30) days following satisfaction of each of the conditions precedent in paragraphs 5(a)(vii) & (ix) (the "**Closing Date**") at the offices of the Escrow Agent via an

escrow; provided, however, that in no event shall the Closing Date be later than December 29, 2023 (the “**Outside Closing Date**”).

At Closing, Existing Property Owner shall execute and deliver to Escrow Agent the following (the “**Existing Property Owner Closing Documents**”):

- a. a special warranty deed conveying fee simple title and exclusive possession (subject, however, to the rights of the tenant under the Billboard Lease if the Billboard Subdivision is not achieved prior to Closing, and BBX does not terminate this Agreement pursuant to Section 9(g) above) to the Realty to the JV Entity in the form attached hereto as Exhibit “C” (the “**Deed**”),
- b. a bill of sale and general assignment conveying all of the Property other than the Realty to the JV Entity in the form attached hereto as Exhibit “D” (the “**Bill of Sale & General Assignment**”),
- c. an appropriate “gap” affidavit and/or indemnity as required by the Title Company,
- d. a title affidavit reasonably acceptable to the Title Company which permits Title Company to delete the so-called standard exceptions from the owner’s policy of title insurance,
- e. a non-foreign affidavit,
- f. appropriate evidence of Existing Property Owner's formation, existence, good standing and authority to sell and convey the Property as may be reasonably required by the Title Company,
- g. a counterpart signature page to the Billboard CCR&Es (if the Billboard Subdivision is achieved prior to Closing),
- h. such documents or instruments reasonably requested by the Title Company in order to consummate the transaction contemplated by this Agreement, and
- i. a counterpart signature page to the settlement statement prepared by Escrow Agent.

At Closing, BBX shall execute and deliver to Escrow Agent the following (the “**BBX Closing Documents**”, and collectively with the Existing Property Owner Closing Documents, the “**Closing Documents**”):

- a. an assignment and assumption agreement whereby BBX assigns, and JV Entity assumes, all of BBX’s rights and obligations under this Agreement signed by BBX and JV Entity,
- b. the original executed Contingent Note,
- c. a counterpart signature page to the Billboard CCR&Es (if the Billboard Subdivision is achieved prior to Closing),

- d. a counterpart signature page to the Bill of Sale & General Assignment signed by the JV Entity,
- e. such documents or instruments reasonably requested by the Title Company in order to consummate the transaction contemplated by this Agreement, and
- f. a counterpart signature page to the settlement statement prepared by Escrow Agent.

17. **Default.** In the event of a default by BBX under this Agreement, Existing Property Owner shall receive the Deposit together with all interest earned thereon as agreed and liquidated damages for said breach, and as Existing Property Owner's sole and exclusive remedy for default of BBX, whereupon the Parties shall be relieved of all further obligations hereunder, except those obligations which expressly survive termination.

In the event of a default by Existing Property Owner under this Agreement, BBX may, as its sole and exclusive remedy, either: (i) terminate this Agreement and receive the return of the Deposit together with all interest earned thereon and reimbursement by Existing Property Owner of all third-party out-of-pocket expenses incurred by BBX with respect to this transaction capped at One Hundred Thousand and 00/100 Dollars (\$100,000.00), whereupon the Parties shall be released from all further obligations under this Agreement, except those obligations which expressly survive termination, or, alternatively, (ii) seek specific performance of the Existing Property Owner's obligations hereunder, provided that if specific performance is not available due to Existing Property Owner having willfully conveyed the Property to a third-party BBX shall be entitled to seek its actual damages (provided, in no event shall BBX be entitled to seek or obtain consequential, special, or punitive damages).

Notwithstanding the foregoing, in the event of a default by either Party of any obligations, indemnities, representations or warranties which specifically survive Closing, then the non-defaulting Party shall be entitled to seek any legal redress permitted by law or equity. The provisions hereof shall survive Closing.

18. **Assignability.** No Party to this Agreement shall have the right to assign any right or obligation under this Agreement to any other Party, and any such purported assignment in violation of this paragraph shall be null, void and of no force or effect; provided, however, that BBX shall assign, and the JV Entity shall assume, all of BBX's rights and obligations under this Agreement at Closing. This paragraph shall survive Closing.

19. **Inspections.** BBX, and BBX's agents and contractors, shall have the right during the term of this Agreement to enter upon the Property at reasonable times for purposes of inspection and making tests and studies thereon. Throughout the term of this Agreement, Existing Property Owner, its agents and employees shall at all times

cooperate, at no cost to Existing Property Owner, with BBX, its agents and contractors in connection with their performance of the inspections provided herein. BBX agrees to indemnify, defend and hold harmless Existing Property Owner from and against all liabilities, damages, claims, liens, costs, fees and expenses whatsoever (including reasonable attorney's fees and court costs at trial and all appellate levels) arising or resulting from BBX's or any of BBX's agents' or contractors' inspections or investigations of the Property; provided, however, that the foregoing obligation to indemnify, defend and hold harmless Existing Property Owner shall not extend to (a) any matter merely discovered by BBX, or (b) any matter caused by the negligence or willful misconduct of Existing Property Owner, its agents or representatives, or any tenant under a Lease. BBX shall be responsible for repairing any damage resulting from said inspections to as reasonably close of a condition as existed immediately prior to such damage, except to the extent caused by the negligence or willful misconduct of Existing Property Owner, its agents or representatives, or any tenant under a Lease, or to the extent same is a matter merely discovered by BBX. The provisions of this paragraph shall survive the Closing and any cancellation or termination of this Agreement.

20. **Escrow Agent.** The Escrow Agent shall not be liable for any actions taken in good faith, but only for its gross negligence or willful misconduct. The Parties hereby indemnify and hold the Escrow Agent harmless from and against any loss, liability, claim or damage whatsoever (including reasonable attorney's fees and court costs at trial and all appellate levels) the Escrow Agent may incur or be exposed to in its capacity as escrow agent hereunder except for gross negligence or willful misconduct. If there be any dispute as to disposition of any proceeds held by the Escrow Agent pursuant to the terms of this Agreement, the Escrow Agent is hereby authorized to interplead said amount or the entire proceeds with any court of competent jurisdiction and thereby be released from all obligations hereunder. The Parties recognize that the Escrow Agent is the law firm representing BBX, and hereby agree that such law firm may continue to represent BBX in any litigation pursuant to this Agreement. The Escrow Agent shall not be liable for any failure of the depository.

21. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given: (i) upon receipt if delivered by hand; (ii) on the next business day if sent by recognized overnight courier (such as Federal Express); (iii) three business days after deposit in registered or certified mail, return receipt requested, in a postage prepaid envelope; or (iv) upon written electronic confirmation of transmission during the hours of 8:00 A.M. and 5:00 P.M. Eastern time (and if after 5:00 P.M., notice shall be deemed delivered on the next business day after the day it was sent by written electronic confirmation of transmission) if sent

via electronic mail (provided that if notice is delivered via electronic mail then notice shall also be sent via one of the methods set forth in the foregoing clauses (i) - (iii) on the same day that the electronic mail notice is given, provided, however, that notice shall be deemed given upon written electronic confirmation of transmission of the electronic mail message). Any notices required or permitted to be given under this Agreement shall be addressed as follows:

If to the Existing Property Owner at: c/o Charter School Properties, Inc.
220 Northeast 11th Street
Boca Raton, Florida 33432
Attn: Joseph J. Rauenhorst
E-Mail: joe@charterschoolproperties.org

With a copy to: Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Attn: S. Katherine Frazier, Esq.
E-Mail: katherine.frazier@hwlaw.com

If to the BBX at: BBX Logistics Properties, LLC
201 East Las Olas Blvd., Suite 1900
Fort Lauderdale, FL 33301
Attn: Mark G. Levy, President
Email: mlevy@bbxlogisticsproperties.com

With a copy to: Greenberg Traurig, P.A.
333 S.E. 2nd Avenue
Miami, Florida 33131
Attn: Richard J. Giusto, Esq. & R.J. Spadaro
E-Mail: giustor@gtlaw.com & spadaror@gtlaw.com

22. **Risk of Loss.** In the event that the Property or any portion thereof is taken by eminent domain prior to Closing, BBX shall have the option of either: (i) canceling this Agreement and receiving a refund of the Deposit and all interest earned thereon, whereupon both Parties shall be relieved of all further obligations under this Agreement, except those obligations which expressly survive termination, or (ii) BBX may proceed with Closing in which case the JV Entity shall be entitled to all condemnation awards and settlements net of any reasonable costs and expenses (including, but not limited to, reasonable attorneys' fees and costs) that are incurred by Existing Property Owner in connection with obtaining such awards and settlements.

23. **Radon Gas.** RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL

INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT. **[NOTE: THIS PARAGRAPH IS PROVIDED FOR INFORMATIONAL PURPOSES PURSUANT TO SECTION 404.056(8), FLORIDA STATUTES, (1988).]**

24. **Miscellaneous.**

a. This Agreement shall be construed and governed in accordance with the laws of the State of Florida. The Parties consent to jurisdiction and venue in Polk County, Florida, and agree that such jurisdiction and venue shall be sole and exclusive for any and all actions or disputes related to this Agreement or any related instruments. All of the Parties to this Agreement have participated fully in the negotiation and preparation hereof; and, accordingly, this Agreement shall not be more strictly construed against any one of the Parties hereto.

b. In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

c. In the event of any litigation between the Parties under this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The provisions of this subparagraph shall survive the Closing coextensively with other surviving provisions of this Agreement.

d. Except as otherwise expressly stated in this Agreement, all representations and warranties contained in (i) paragraph 8 of this Agreement shall survive the Closing for a period of one (1) year after Closing, and (ii) paragraph 10 of this Agreement shall survive the Closing for a period of five (5) years after Closing. No payment under the Contingent Note which becomes due and payable during the pendency of any timely claim relating to any obligations, indemnities, representations or warranties of Existing Property Owner which specifically survive Closing shall be made until such claim is either settled or a final non-appealable judgment is rendered in which case such payment, less the amount settled or delineated in a final non-appealable judgment, shall be promptly paid to Existing Property Owner. This paragraph shall survive Closing.

e. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, the use of any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

f. All of the exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.

g. Time shall be of the essence for each and every provision hereof. The expiration of any period of time prescribed in this Agreement shall occur at 5:00 P.M. Eastern time of the last day of the period. Whenever any determination is to be made or action is to be taken on a date specified in this Agreement, if such date shall fall on a Saturday, Sunday or legal holiday under the laws of the State of in which the Property is located, then in such event said date shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

h. Lakeland Industrial and Lakeland 33 shall be jointly and severally liable for the liabilities and obligations of Existing Property Owner pursuant to this Agreement. This paragraph shall survive Closing.

25. **Deferred Purchase Price Protections.** Without the prior written consent of Existing Property Owner, BBX shall not (i) consent to any amendment or modification of the provisions of the JV Entity Agreement that would have the effect of reducing, delaying or otherwise adversely impacting or affecting the Promote Distribution (as defined in the Contingent Note) or the payment thereof, nor (ii) cause the sale of the Property to any person or entity affiliated with BBX. This paragraph shall survive Closing.

26. **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties with respect to the transaction contemplated by this Agreement and there are no other agreements, representations or warranties other than as set forth herein. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the Party against whom enforcement of such change would be sought. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns.

[Signatures Begin On Next Page]

EXECUTED as of the date first above written in several counterparts, each of which shall be deemed an original, but all constituting only one agreement.

EXISTING PROPERTY OWNER:

LAKELAND INDUSTRIAL CROSSINGS, LLC,
a Florida limited liability company

By: CHARTER SCHOOL PROPERTIES, INC., its
sole manager

DocuSigned by:
By: Joseph Ravenhorst
Name: Joseph Ravenhorst
Title: Chief Executive Officer

LAKELAND 33, LLC, a Florida limited liability
company

By: CHARTER SCHOOL PROPERTIES, INC., its
sole manager

DocuSigned by:
By: Joseph Ravenhorst
Name: Joseph Ravenhorst
Title: Chief Executive Officer

BBX:

BBX LOGISTICS PROPERTIES LLC, a Florida
limited liability company

DocuSigned by:
By: Mark C. Levy
Name: Mark C. Levy
Title: President

EXHIBIT "A"

Legal Description of Land

PARCEL 1:

THE EAST 150 FEET OF THE WEST 1200 FEET AND THE SOUTH 300 FEET OF THE EAST 150 FEET THE WEST 1350 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; ALL LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 400 (I-4) AND SOUTH OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 33 IN POLK COUNTY, FLORIDA.

PARCEL 2:

THE EAST 150 FEET OF THE WEST 1350 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, LYING BETWEEN THE NORTH RIGHT-OF-WAY OF INTERSTATE HIGHWAY 4 AND THE SOUTH RIGHT-OF-WAY OF STATE ROAD 33, LESS THE SOUTH 300 FEET THEREOF IN POLK COUNTY, FLORIDA.

PARCEL 3:

THE EAST 150 FEET OF THE WEST 1500 FEET AND THE SOUTH 300 FEET OF THE EAST 150 FEET THE WEST 1650 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; ALL LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF INTERSTATE HIGHWAY 4 AND SOUTH OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF STATE ROAD 33 IN POLK COUNTY, FLORIDA.

PARCEL 4:

THE EAST 150 FEET OF THE WEST 1650 FEET OF THE SW 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, LESS THE SOUTH 300 FEET THEREOF; LYING BETWEEN THE NORTH RIGHT-OF-WAY OF INTERSTATE HIGHWAY 4 AND THE SOUTH RIGHT- OF-WAY OF STATE ROAD 33, IN POLK COUNTY, FLORIDA.

TOGETHER WITH A PORTION OF PARCEL 5 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST; THENCE S00°19'10"W, ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 1,054.54 FEET TO THE INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 33 PER MAP PROJECT 5022 RD(2) 33 POLK COUNTY, FLORIDA; THENCE N72°44'21"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,1737.53 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUE N72°54'28"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 348.47 FEET; THENCE S00°04'32"W, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 210.00 FEET; THENCE S72°48'30"W, A DISTANCE OF 300.70 FEET; THENCE S00°17'35"E, A DISTANCE OF 1,207.10 FEET TO THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE I-4 PER OF THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT-OF-WAY MAP SECTION 16320-2436; THENCE S72°48'43"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 54.37 FEET; THENCE N00°21'15"E, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,419.05 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

Legal Description of Billboard Parcel

A PORTION OF LAND LYING IN SECTION 11, TOWNSHIP 27 SOUTH, RANGE 24 EAST, POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 11746, PAGE 2249 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA. THENCE S72°48'51"W, ALONG THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE I-4, A DISTANCE OF 71.04 FEET; THENCE N17°11'07"W, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 38.26 FEET TO THE POINT OF BEGINNING; THENCE S88°45'21"W, A DISTANCE OF 14.51 FEET; THENCE N16°52'07"W, A DISTANCE OF 57.70 FEET; THENCE N82°40'19"E, A DISTANCE OF 31.82 FEET; THENCE S00°18'04"W, A DISTANCE OF 58.97 FEET TO THE POINT OF BEGINNING.

Exhibit "C"

Form of Deed

THIS INSTRUMENT PREPARED BY
AND UPON RECORDATION RETURN TO:

Ronald J. Spadaro, Jr., Esq.
Greenberg Traurig, P.A.
333 S.E. 2nd Avenue, 44th Floor
Miami, Florida 33131

Property Identification No: _____

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (this "**Deed**") is made this ____ day of _____, 20____, by _____, a _____ ("**Grantor**"), whose post office address is: _____, in favor of _____, a _____ ("**Grantee**"), whose post office address is: _____.

WITNESSETH:

That Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable considerations to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee, and Grantee's heirs, successors, and assigns forever, the following real property (the "**Property**"), situate, lying and being in the County of Polk and State of Florida, to-wit:

See Schedule A attached hereto and incorporated herein.

The Property is conveyed subject to the following:

- 1) Real estate, ad valorem and non-ad valorem taxes and/or assessments for the year 20____ and subsequent years not yet due and payable;
- 2) Conditions, restrictions, limitations, reservations, and easements of record affecting the Property, if any, but this provision shall not operate to reimpose the same; and
- 3) Applicable zoning ordinances and regulations imposed by governmental authorities.

Together with all the buildings, improvements, fixtures, tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining to the Property.

To Have and to Hold, the same in fee simple forever.

Grantor does hereby warrant the title to the Property, subject to the aforesaid, and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but none other.

[Remainder of Page Intentionally Left Blank – Signatures Appear on the Following Page]

EXHIBIT A
TO
SPECIAL WARRANTY DEED
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "D"

Form of Bill of Sale & General Assignment

BILL OF SALE & GENERAL ASSIGNMENT

_____, a _____ ("**Grantor**"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by _____, a _____ ("**Grantee**"), has GRANTED, SOLD ASSIGNED, TRANSFERRED, CONVEYED, and DELIVERED and does by these presents GRANT, SELL, ASSIGN, TRANSFER, CONVEY, and DELIVER unto Grantee, all the following described properties, rights, and interests arising or used in connection with that certain real property described on Exhibit A attached hereto (the "**Land**") and incorporated herein by reference (collectively, the "**Property**") to the extent the same exist and are conveyable, transferable, or assignable:

- (a) all fixtures, equipment and other tangible personal property, if any, owned by Grantor, located on and used for, or related to, the Land including, without limitation, all rights to or in all utility mains, service laterals, hydrants, connections, hook-ups and valves located on and/or servicing or available to service the Land (the "**Personal Property**").
- (b) All of Grantor's right, title, and interest in and to any general intangible rights, applications, submittals, authorizations, approvals, permits, licenses, entitlements, will-serve letters from utility providers, variances, surveys, reimbursements, prepaid impact or other fees, impact or other fee credits, water facility credits, development credits and similar items, land use or project consents, waivers, certificates, development orders, warranties, guarantees, specifications, site plans, floor plans, engineering plans and similar items related to the Land, the Project and/or the use, occupancy and operation thereof including any reports, studies, drawings, plans, percolation, soil, topographical, traffic, engineering and environmental plans or studies, surveys, plats, soil architectural, construction, road, drainage and utility drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans, marketing, feasibility and environmental studies, other studies of any kind relating to the Land or Project, the Development Approvals, and/ other materials prepared in connection therewith.
- (c) [All of Grantor's interest, as landlord, in and to any leases (including security deposits thereunder) for all or a portion of the Land entered into by Grantor after the Effective Date and in accordance with this Agreement as described on Exhibit B (the "**Leases**").]¹

TO HAVE AND TO HOLD the assets hereby sold, transferred and assigned unto Grantee, its successors and assigns forever, and Grantor binds itself and its successors and assigns to forever WARRANT AND DEFEND the assets hereby sold unto Grantee, its successors and assigns, forever against every person whomsoever lawfully claiming or to claim such herein described assets or any part thereof; provided that the assets are otherwise being sold, transferred and assigned without representation, warranty, or recourse, except as expressly provided in the Purchase & Sale Agreement (as defined below).

[Grantee hereby assumes and agrees to perform only the terms, covenants and conditions of the Leases on the part of the landlord or owner therein required to be performed from and after the date hereof. Grantor hereby agrees to indemnify, save and hold harmless Grantee from any and all liability, claims or causes of action, loss, cost or expense (including, without limitation, reasonable attorneys' fees and expenses) arising out of or relating to Grantor's failure to perform any of the obligations of the landlord or owner under the Leases prior to the date hereof. Grantee hereby agrees to indemnify, save and hold harmless Grantor from any and all liability, claims or causes of action, loss, cost or expense (including, without limitation, reasonable attorneys' fees and expenses) arising out of or relating to Grantee's failure to perform any of the obligations of the landlord or owner under the Leases from and after the date hereof.]²

¹ NTD: TBD

² NTD: TBD

Capitalized terms used but not defined herein shall have the meanings set forth in that certain Purchase & Sale Agreement dated _____ by and among Grantor, Grantee and [_____] (the “**Purchase & Sale Agreement**”).

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS HEREOF, Grantor has caused this Bill of Sale and General Assignment to be executed effective as of the _____ day of _____, 20____.

GRANTOR:

[_____, a _____]

By: _____

Name: _____

Title: _____

GRANTEE:

[_____, a _____]

By: _____

Name: _____

Title: _____

EXHIBIT "A"

Legal Description of the Land

[EXHIBIT "B"

Leases]³

³ NTD: TBD

EXHIBIT "E"

Form of Contingent Note

CONTINGENT DEFERRED PURCHASE PRICE PROMISSORY NOTE

Dated: [_____]

FOR VALUE RECEIVED the undersigned, [_____]⁴ (hereinafter referred to as "Maker") promises to pay to the order of Lakeland 33, LLC, a Florida limited liability company, and Lakeland Industrial Crossings, LLC, a Florida limited liability company (hereinafter referred to as the "Payee"), at c/o Charter School Properties, Inc., 220 Northeast 11th Street, Boca Raton, Florida 33432, or such other place as the holder hereof may from time to time designate in writing, the Promote Distribution (as defined below). The aforesaid Promote Distribution shall be paid in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment.

It is agreed that if any payment of Promote Distribution not be made within ten (10) business days following the date that same becomes available for distribution to BBX (as defined below) pursuant to the Project LLCA (as defined below); then, in such event, Payee shall, subject to Section 24(d) of the PSA, be entitled to (i) seek a money judgment for such unpaid Promote Distribution plus a reasonable sum as an attorney's fee incurred in connection with seeking such money judgment against Maker in a court of competent jurisdiction, (ii) default interest at the rate of ten percent (10%) per annum of the amount due but unpaid, and (iii) a late fee of \$500.00.

Nothing herein contained, nor in any instrument or transaction related hereto, shall be construed or so operate as to require the Maker, or any person liable for the payment of the loan made pursuant to this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law, it being the intent of the parties hereto that under no circumstances shall the Maker, or any parties liable for the payment of the loan hereunder, be required to pay interest in excess of the highest rate permissible under applicable law.

This note shall be construed and governed in accordance with the laws of the State of Florida. The parties consent to jurisdiction and venue in Polk County, Florida, and agree that such jurisdiction and venue shall be sole and exclusive for any and all actions or disputes related to this note. The parties hereby waive the right to a trial by jury of any matters or claims arising out of this note.

Maker shall deliver the same financial statements to Payee that are being delivered to the partners of the JV Entity.

"BBX" means [_____]⁵.

"JV Entity" means [_____]⁶.

"Project LLCA" means [_____]⁷.

"Promote Distribution" shall mean fifty percent (50%) of any distribution otherwise due to be made by the JV Entity to BBX that would be in excess of BBX's proportionate capital interest (including payment of preferred returns thereon) in the JV Entity.

⁴ **NTD**: Insert name of PropCo entity.

⁵ **NTD**: Insert name of BBX Manager Entity.

⁶ **NTD**: Insert name of PropCo entity.

⁷ **NTD**: Insert description of PropCo entity LLC Agreement.

“PSA” means that certain Purchase & Sale Agreement dated [_____] by and among Maker and [_____] ⁸ (as successor-by-assignment to BBX Logistics Properties LLC, a Florida limited liability company).

This Note is to be construed according to the applicable laws of Florida.

[INSERT SIGNATURE BLOCK OF MAKER]

⁸ ***NTD***: Insert name of PropCo entity.

Schedule "1"

GP Promote Assumptions						
	Hurdle Rate	GP Profit Split	BBX Share Before Promote *	Total GP Promote	BBX 50% Promote	Seller 50% Promote ^
Hurdle 1 <	9.0%	10.0%	10.0%	0.0%	0.0%	0.0%
Hurdle 2 <	14.0%	30.0%	10.0%	20.0%	10.0%	10.0%
Hurdle 3 <	18.0%	40.0%	10.0%	30.0%	15.0%	15.0%
Final Split >	18.0%	50.0%	10.0%	40.0%	20.0%	20.0%

*After BBX and LP preferred returns, the GP promote will be paid out 50% each to Existing Property Owner and BBX Manager Entity.

^ Promote percentages represent the total promote, not the incremental promote; for example, once the 3rd hurdle is reached, the seller will be receiving an additional promote of 5%, not an additional promote of 15%

*The numbers and percentages used above are examples only for illustration purposes.

Schedule "2"

Billboard CCR&Es Criteria

1. The Billboard CCR&Es shall grant the fee owner of the Billboard Parcel, for use by the fee owner of the Billboard Parcel and its tenant pursuant to a written lease agreement, a perpetual, non-exclusive easement for ingress and egress over and across the surface of a portion of the Property reasonably acceptable to BBX and Existing Property Owner for purposes of accessing the Billboard Parcel upon reasonable advance notice to BBX in connection with the maintenance, repair, replacement and operation of the billboard.
2. Subject to certain conditions to be detailed in the Billboard CCR&, the Billboard CCR&Es shall allow the owner of the Property to reasonably relocate such non-exclusive easement of ingress and egress to another location on the Property, at the owner of the Property's sole cost and expense, if it interferes with the development, use or operation of the Property.
3. The Billboard CCR&Es shall grant the fee owner of the Billboard Parcel, for use by the fee owner of the Billboard Parcel and its tenant pursuant to a written lease agreement, a perpetual, non-exclusive easement to tie into the electrical facilities on the Property for the purpose of electrifying the billboard on the Billboard Parcel via underground electrical wiring that complies with applicable law and provided that the Billboard Parcel is separately metered and all such electrical expenses are timely paid by the fee owner of the Billboard Parcel or its tenant.
4. Subject to certain conditions to be detailed in the Billboard CCR&Es, the Billboard CCR&Es shall allow the owner of the Property to reasonably relocate such non-exclusive easement for underground electrical wiring to another location on the Property, at the owner of the Property's sole cost and expense, if it interferes with the development, use or operation of the Property.
5. The Billboard CCR&Es shall include indemnification and insurance provisions reasonably acceptable to BBX and Existing Property Owner.
6. The Billboard CCR&Es shall prohibit the display of content on the Billboard Parcel relating to (i) adult bookstore, adult video store, adult movie theatre, or any other establishment selling, renting or exhibiting pornographic material or drug related paraphernalia, (ii) any adult entertainment club or establishment, (iii) any mortuary or funeral home, and (iv) any use or business that conflicts with or competes with any tenant, user, occupant or owner of the Property.
7. Existing Property Owner shall endeavor to (i) cause the lease and any rights of the tenant thereunder to be expressly subject and subordinate to the CCR&Es, and (ii) expressly require such tenant's compliance with all existing and future covenants, conditions, restrictions and easements affecting the Billboard Parcel.

Schedule "8(d)"

NONE.

FIRST AMENDMENT TO PURCHASE & SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE & SALE AGREEMENT (the “**Amendment**”) is made as of this 25th day of September, 2023 (the “**Effective Date**”), by and between LAKELAND INDUSTRIAL CROSSINGS, LLC (“**Crossings**”), and LAKELAND 33, LLC (“**33**”, and collectively with Crossings, the “**Existing Property Owner**”), and BBX LOGISTICS PROPERTIES LLC (“**BBX**”).

WHEREAS:

A. Existing Property Owner and BBX are the parties to that certain Purchase & Sale Agreement dated June 30, 2023 (the “**Agreement**”), with respect to certain real property located in Lakeland, Florida, as more particularly described in the Agreement (the “**Property**”).

B. The parties desire to amend the Agreement in certain respects as more particularly set forth below.

NOW, THEREFORE, in consideration of the execution and delivery of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby further agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein in their entirety.

2. **Interpretation.** This Amendment shall be deemed a part of, but shall take precedence over and supersede any provisions to the contrary contained in the Agreement. Except as specifically modified hereby, all of the provisions of the Agreement which are not in conflict with the terms of this Amendment shall remain in full force and effect.

3. **Defined Terms.** All initial capitalized terms used in this Amendment shall have the same meaning as set forth in the Agreement unless otherwise provided.

4. **Inspection Period.** The first (1st) sentence of Section 5(a)(i) of the Agreement is hereby amended by deleting the phrase “ninety (90) days” and replacing such phrase in its entirety with “one hundred twenty (120) days”.

5. **Outside Closing Date.** The first (1st) sentence of Section 16 of the Agreement is hereby amended by deleting the phrase “provided, however, that in no event shall the Closing Date be later than December 29, 2023 (the “**Outside Closing Date**”)” and replacing such phrase in its entirety with “provided, however, that in no event shall the Closing Date be later than January 31, 2024 (the “**Outside Closing Date**”).

6. **Execution and Counterparts.** This Amendment may be executed in counterpart originals, each of which when taken together shall be deemed an original and shall constitute one and the same instrument. Signatures, including electronic signatures (e.g., DocuSign), of the

parties hereto on copies of this Amendment transmitted by facsimile machine or electronic mail shall be deemed originals for all purposes hereunder, and shall be binding upon the parties hereto.

[Signature Pages Follow]

NOW THEREFORE, the parties hereto have executed this Amendment as of the date first above written.

EXISTING PROPERTY OWNER:

LAKELAND INDUSTRIAL CROSSINGS, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

LAKELAND 33, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

BBX:

BBX LOGISTICS PROPERTIES, LLC

By: 
Name: Mark G. Levy
Title: President

ACTIVE 690403266v1

SECOND AMENDMENT TO PURCHASE & SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE & SALE AGREEMENT (the “**Amendment**”) is made as of this 26th day of December, 2023 (the “**Effective Date**”), by and between LAKELAND INDUSTRIAL CROSSINGS, LLC (“**Crossings**”), and LAKELAND 33, LLC (“**33**”, and collectively with Crossings, the “**Existing Property Owner**”), and BBX LOGISTICS PROPERTIES LLC (“**BBX**”).

WHEREAS:

A. Existing Property Owner and BBX are the parties to that certain Purchase & Sale Agreement dated June 30, 2023 (the “**Original Agreement**”), as amended by that certain First Amendment to Purchase & Sale Agreement dated September 25, 2023 (the “**First Amendment**”; the Original Agreement, as amended by the First Amendment, is referred to herein as the “**Agreement**”), with respect to certain real property located in Lakeland, Florida, as more particularly described in the Agreement (the “**Property**”).

B. At the time the Agreement was executed, the exact corporate structure of the JV Entity was unknown.

C. BBX now desires that an entity owned directly or indirectly by the JV Entity (the “**Buyer Entity**”) acquire the Property from Existing Property Owner at Closing to accomplish certain debt and equity capital raising objectives.

D. The parties desire to amend the Agreement in certain respects to memorialize the foregoing and certain other items as more particularly set forth below.

NOW, THEREFORE, in consideration of the execution and delivery of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby further agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein in their entirety.

2. Interpretation. This Amendment shall be deemed a part of, but shall take precedence over and supersede any provisions to the contrary contained in the Agreement. Except as specifically modified hereby, all of the provisions of the Agreement which are not in conflict with the terms of this Amendment shall remain in full force and effect.

3. Defined Terms. All initial capitalized terms used in this Amendment shall have the same meaning as set forth in the Agreement unless otherwise provided.

4. Outside Closing Date. The first (1st) sentence of Section 16 of the Original Agreement, as amended by the First Amendment, is hereby deleted and replaced in its entirety with the following: “Subject to the satisfaction or waiver of the conditions precedent contained in paragraph 5 above, the closing of the transaction contemplated by this Agreement (the “**Closing**”)

shall, unless otherwise agreed upon in writing by the Parties, be held on the date which is thirty (30) days following satisfaction of each of the conditions precedent in paragraphs 5(a)(vii), (ix), (x) & (xi) (the “**Closing Date**”) at the offices of the Escrow Agent via an escrow; provided, however, that in no event shall the Closing Date be later than March 15, 2024 (the “**Outside Closing Date**”).”.

5. Conditions for BBX’s Benefit. The following new paragraphs are added to the end of paragraph 5(a) of the Agreement:

“x. On or before February 15, 2024, BBX shall have completed such additional environmental testing as it deems appropriate. BBX and its agents, consultants and representatives shall have continued access and inspection rights to complete such testing.

xi. An initial meeting with respect to remediation of environmental conditions at the Property between BBX and the Florida Department of Environmental Protection shall have taken place no later than February 15, 2024.”

6. Conditions Generally. The last paragraph of Section 5 of the Original Agreement is hereby amended by deleting the phrase “except if, as of the Outside Closing Date, the only condition precedent not fulfilled is in paragraph 5(a)(vii), (viii) or (ix) and BBX has not elected to waive such condition” and replacing such phrase in its entirety with “except if, as of the Outside Closing Date, the only condition(s) precedent not fulfilled are in paragraph 5(a)(vii), (viii), (ix), (x) or (xi) and BBX has not elected to waive such condition(s)”.

7. Additional Environmental Testing. BBX covenants and agrees to use commercially reasonable efforts to cause its environmental consultant (whether Geosyntec Consultants or another consultant engaged by BBX) to perform and complete the additional environmental testing on the Property recommended by BBX’s environmental lawyer and Geosyntec Consultants (the “**Additional Testing**”) on or before February 15, 2024. Notwithstanding the foregoing, failure of BBX’s environmental consultant to perform and complete the Additional Testing on or before February 15, 2024 despite BBX’s use of commercially reasonable efforts to cause same shall not be deemed a BBX default.

8. JV Entity. Notwithstanding anything contained in the Agreement to the contrary, the Parties acknowledge and agree that, subject to the provisions of the Agreement as amended by this Amendment, at Closing (i) BBX shall assign and the Buyer Entity shall assume all of BBX’s rights and obligations pursuant to the Agreement as amended hereby, and (ii) Seller shall convey and deliver to the Buyer Entity, and the Buyer Entity shall purchase from Existing Property Owner, the Property.

9. Contingent Note; Guaranty. Notwithstanding anything contained in the Agreement to the contrary, (i) the form of Contingent Note attached as Exhibit “E” to the Original Agreement is hereby deleted in its entirety and replaced with the form attached hereto as Replacement Exhibit “E”, and (ii) at Closing, BBX shall cause (a) the BBX Manager Entity to execute and deliver the Contingent Note in the form attached hereto as Replacement Exhibit “E” in lieu of the same being executed and delivered by the JV Entity, and (b) BBX Industrial Guaranty, LLC, a Florida limited

liability company, to execute and deliver the Joinder and Guaranty to the Contingent Note in the form contained on Replacement Exhibit “E”.

10. Execution and Counterparts. This Amendment may be executed in counterpart originals, each of which when taken together shall be deemed an original and shall constitute one and the same instrument. Signatures, including electronic signatures (e.g., DocuSign), of the parties hereto on copies of this Amendment transmitted by facsimile machine or electronic mail shall be deemed originals for all purposes hereunder, and shall be binding upon the parties hereto.

[Signature Pages Follow]

NOW THEREFORE, the parties hereto have executed this Amendment as of the date first above written.

EXISTING PROPERTY OWNER:

LAKELAND INDUSTRIAL CROSSINGS, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

LAKELAND 33, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

BBX:

BBX LOGISTICS PROPERTIES, LLC

By: _____
Name: Mark G. Levy
Title: President

NOW THEREFORE, the parties hereto have executed this Amendment as of the date first above written.

EXISTING PROPERTY OWNER:

LAKELAND INDUSTRIAL CROSSINGS, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: _____
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

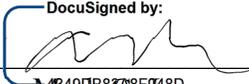
LAKELAND 33, LLC

By: CHARTER SCHOOL PROPERTIES, INC.,
its sole manager

By: _____
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

BBX:

BBX LOGISTICS PROPERTIES, LLC

By:  _____
Name: Mark G. Levy
Title: President

REPLACEMENT EXHIBIT “E”

Form of Contingent Note

CONTINGENT DEFERRED PURCHASE PRICE PROMISSORY NOTE

Dated: [_____]

FOR VALUE RECEIVED the undersigned, [_____]¹ (hereinafter referred to as "Maker") promises to pay to the order of Lakeland 33, LLC, a Florida limited liability company, and Lakeland Industrial Crossings, LLC, a Florida limited liability company (hereinafter referred to as the "Payee"), at c/o Charter School Properties, Inc., 220 Northeast 11th Street, Boca Raton, Florida 33432, or such other place as the holder hereof may from time to time designate in writing, the Promote Distribution (as defined below). The aforesaid Promote Distribution shall be paid in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment.

It is agreed that if any payment of Promote Distribution not be made within ten (10) business days following the date that same becomes available for distribution to Maker pursuant to the Project LLCA (as defined below); then, in such event, Payee shall, subject to Section 24(d) of the PSA, be entitled to seek a money judgment for such unpaid Promote Distribution plus a reasonable sum as an attorney’s fee incurred in connection with seeking such money judgment against Maker in a court of competent jurisdiction.

Nothing herein contained, nor in any instrument or transaction related hereto, shall be construed or so operate as to require the Maker, or any person liable for the payment of the loan made pursuant to this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law, it being the intent of the parties hereto that under no circumstances shall the Maker, or any parties liable for the payment of the loan hereunder, be required to pay interest in excess of the highest rate permissible under applicable law.

This Contingent Deferred Purchase Price Promissory Note is unsecured, and Payee shall have no right to remove Maker as the manager of the Project Company in connection with Maker’s failure to timely make any payments hereunder or otherwise.

“Project Company” means [_____]².

“Project LLCA” means [_____]³.

“Promote Distribution” shall mean fifty percent (50%) of any distribution to be made by the Project Company to Maker that is in excess of Maker’s proportionate capital interest (including payment of preferred returns thereon) in the Project Company.

“PSA” means that certain Purchase & Sale Agreement dated June 30, 2023 by and among [_____]⁴ (as successor-by-assignment to BBX Logistics Properties LLC, a Florida limited liability company), and Payee, as amended by that certain First Amendment to Purchase & Sale Agreement dated September 25, 2023, and as amended by that certain Second Amendment to Purchase & Sale Agreement dated [_____].

This Note is to be construed according to the applicable laws of Florida. This Note is personal to and may not be assigned or negotiated by Payee; provided, however, notwithstanding the foregoing, Payee may assign this

¹ **NTD:** Insert name of BBX Manager Entity.

² **NTD:** Insert name of JV Entity.

³ **NTD:** Insert description of JV Entity LLC Agreement.

⁴ **NTD:** Insert name of Buyer Entity.

Note without Maker's consent to any entity or trust under common control with, controlling, or controlled by Payee or Joseph J. Rauenhorst.

[INSERT SIGNATURE BLOCK OF MAKER]

JOINDER AND GUARANTY

The undersigned hereby joins into the Contingent Deferred Purchase Price Promissory Note (the "Note") to which this Joinder and Guaranty is attached for the sole purpose of (a) agreeing to pay all amounts pursuant to the Note if, as and when the same become due and payable to the extent not timely paid by Maker (as defined in the Note), and (b) unconditionally and irrevocably guaranteeing the payment of all amounts due pursuant to the Note by Maker (including, but not limited to, any interest or attorneys' fees payable under or in connection with the Note) . The undersigned and Maker shall be jointly and severally liable for the payment of all amounts due pursuant to the Note. The undersigned agrees that the obligations set forth in this Joinder and Guaranty are independent of the obligations of Maker, and Payee shall have the right to proceed against the undersigned without first proceeding against Maker. This is a continuing guaranty that applies to all renewals, extensions, modifications, or assignments of the Note. At all times while the Note remains outstanding, the undersigned covenants and agrees to (i) maintain sufficient liquid assets (i.e., unencumbered cash, time deposits, short term government securities, and equity securities readily convertible to cash) in an amount of not less than \$5,000,000.00, (ii) maintain its limited liability company existence and remain in good standing under the laws of the State of Florida, and (iii) provide Payee with the undersigned's quarterly financial statements to evidence its compliance with the covenant contained in (i) above upon request from Payee. In the event of any litigation between the parties arising out of this Joinder and Guaranty or the collection of any funds due from the undersigned pursuant to this Joinder and Guaranty, the prevailing party shall be entitled to recover from the non-prevailing party all costs incurred, including without limitation, reasonable attorneys' and paralegals' fees and costs, whether such fees and costs are incurred before trial, at trial, on appeal or in any bankruptcy proceedings. The undersigned represents and warrants that the individual signing this Joinder on its behalf has the authority to bind it to the terms and conditions of this Joinder and that this Joinder has been duly executed and delivered by such party.

BBX INDUSTRIAL GUARANTY, LLC,
a Florida limited liability company

By: _____

Name: _____

Title: _____

Attachment C

Lakeland Industrial Crossings, LLC
220 NE 11th Street, Boca Raton, FL 33432

February 13, 2024

Via Email

Mr. Bill Beasley, County Manager
Polk County
330 W. Church Street
Bartow, FL 33830

Re: Consent to Request for Designation of Property Located at 8161-8247 State Road 33 North, Polk County, Florida 33809, identified by Parcel ID Numbers 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, and 242711-000000-042020, as a "Green Reuse Area" Pursuant to Section 376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act

Dear Mr. Beasley:

Please be advised that Lakeland Industrial Crossings, LLC ("Lakeland Industrial"), the owner of the above-referenced parcels (the "Subject Property"), has entered into a Purchase and Sale Agreement with Lakeland Logistics Park Owner, LLC (the "Applicant") for the Subject Property, wherein the Applicant plans to construct a new logistics warehouse. For purposes of such development, the Applicant has control of the Subject Property and is authorized to seek and obtain all necessary approvals. To that end, Lakeland Industrial understands that the Applicant is filing a request for designation of the Subject Property as a "Green Reuse Area" pursuant to Section 376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act and confirms that it consents to the designation. Thank you.

Sincerely,

Lakeland Industrial Crossings, LLC

**By: Charter School Properties, Inc.,
its Manager**

By: 

Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

cc: Lakeland Logistics Park Owner, LLC
FRP Lakeland 1, LLC
Amy Edwards, Esq.
Brett C. Brumund, Esq.

Lakeland 33, LLC
220 NE 11th Street, Boca Raton, FL 33432

February 13, 2024

Via Email

Mr. Bill Beasley, County Manager
Polk County
330 W. Church Street
Bartow, FL 33830

Re: Consent to Request for Designation of Property Located at 8161-8247 State Road 33 North, Polk County, Florida 33809, Identified by Portions of Parcel ID Numbers 242711-000000-041010 and 242711-000000-041030 as a “Green Reuse Area” Pursuant to Section 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act

Dear Mr. Beasley:

Please be advised that Lakeland 33, LLC (“Lakeland 33”), the owner of the above-referenced parcels (the “Subject Property”), has entered into a Purchase and Sale Agreement with Lakeland Logistics Park Owner, LLC (the “Applicant”) for the Subject Property (the “PSA”), wherein the Applicant plans to construct a new logistics warehouse. For purposes of such development, the Applicant has control of the Subject Property and is authorized to seek and obtain all necessary approvals. To that end, Lakeland 33 understands that the Applicant is filing a request for designation of the Subject Property as it is described in the PSA as a “Green Reuse Area” pursuant to Section 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act and confirms that it consents to the designation. Thank you.

Sincerely,

Lakeland 33, LLC

**By: Charter School Properties, Inc.,
its Manager**

By: 
Name: Joseph J. Rauenhorst
Title: Chief Executive Officer

cc: Lakeland Logistics Park Owner, LLC
FRP Lakeland 1, LLC
Amy Edwards, Esq.
Brett C. Brumund, Esq.,

Attachment D

330 West Church Street
PO Box 9005 • Drawer GM01
Bartow, Florida 33831-9005



PHONE: 863-534-6467
FAX: 863-534-6543
www.polk-county.net

OFFICE OF PLANNING AND DEVELOPMENT

John Bohde, AICP, CPM
Director, Office of Planning and Development

February 3, 2022

Julie P. Kendig
Greenberg Traurig, P.A.
450 S. Orange Avenue, Suite 650
Orlando, FL 32801

RE: Land Use Verification – LDAA-2022-12

Staff has reviewed your request regarding the following parcels and according to the Polk County Property Appraiser's Office, parcels 242711-000000-041020, 041040, 041050, 042020, 041010, 041030, 041060 and 041090 measures approximately 49.78 +/- acres. The property is located on the south side of Highway 33 N. The Future Land Use designation is Business Park Center-1 (BPC-1) and parcel 242710-000000-042020 has a sub-district of BPC-2. The subject site is also located within the Polk City Special Protection Area (SPA) in the Green Swamp Area of Critical State Concern (ACSC). Chapter 5 of the Land Development Code can assist you with development requirements of properties located in the Polk City SPA and Green Swamp ACSC.

The purpose of BPC-1 is to provide areas for office and business park development. The BPC-1 district permits office, research and development parks, distribution centers and wholesaling activities. Some retail uses are also permitted to support the businesses and activities within the Business Park Center. The BPC-2 district is to provide areas for light-industrial activities. The BPC-2 district permits light manufacturing, fabrication, assembly, distribution and wholesaling activities, and some retail uses to support the businesses and activities within the Business Park Center. Copies of the Polk County Comprehensive Plan and Land Development Code outlining the land use are available for viewing and downloading on the County's website at library.municode.com/fl/polk_county.

Since there are wetlands and Flood Zone A locations on the subject site you will want to contact the Floodplain Manager Brian Corcoran for questions regarding flood zones and wetlands at (863) 534-6765.

This letter is rendered based on the current information available. If any of the information or circumstances change, please contact the County for a revised letter. This letter shall not be interpreted to waive any requirements and procedures authorized by the codes and ordinances of Polk County. Any development activity taken pursuant to the authority of this letter must be consistent with all applicable laws, ordinances, and regulations. Copies of the Polk County Comprehensive Plan and Land Development Code outlining the land use are available for viewing and downloading on the County's website at www.polk-county.net.

Respectfully,



Michelle Orton
Senior Planner

Exhibits

- Exhibit 1 – Location Map
- Exhibit 2 – 2020 Aerial - Context
- Exhibit 3 – 2020 Aerial – Close-up
- Exhibit 4 – Future Land Use Map
- Exhibit 5 – Flood Zone Map

From: rebecca@reliableliensearch.com
To: Jason@reliableliensearch.com
Subject: FW: URGENT - Please revise RE: Land Use Verification Letter
Date: Thursday, February 3, 2022 3:31:18 PM
Attachments: [242711-000000-041020 LDAA 2022-12 Lakeland Industrial Crossing Revised.pdf](#)

From: Orton, Michelle <MichelleOrton@polk-county.net>
Sent: Thursday, February 3, 2022 3:27 PM
To: rebecca@reliableliensearch.com
Cc: Jason@reliableliensearch.com
Subject: RE: URGENT - Please revise RE: Land Use Verification Letter

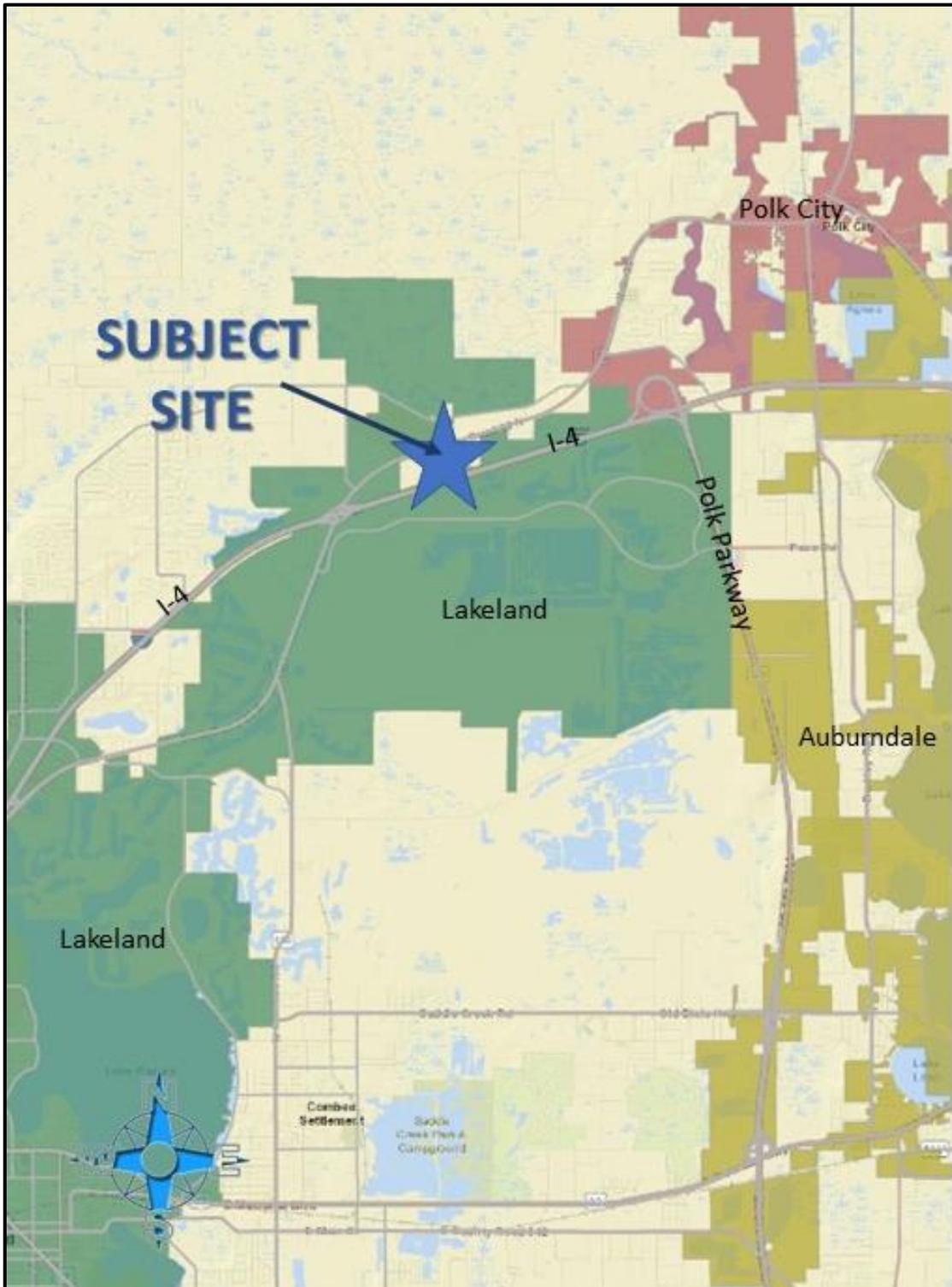
This is a Land Use Verification Letter, Polk County does not have zoning. For a complete matrix of uses allowed in the land use districts as well as setback and height restrictions please refer to Tables 2.1 and 2.2 of the Land Development Code. Development Standards such as parking, landscaping, driveways, signs, etc. can all be located in Chapter 7 of the LDC.

Staff's research has not discovered additional variances for this property. For building violations, permit fee, impact fees and certificates of occupancy, please contact Polk County's Building Department at (863) 534-6080. For fire code violations, please contact the Polk County Fire Marshal at (863) 519-7350. Please contact Code Enforcement at (863) 534-6003 for other violations.

Copies of the Polk County Comprehensive Plan and Land Development Code outlining the land use are available for viewing and downloading on the County's website at library.municode.com/fl/polk_county.

Michelle Orton

Senior Planner
Land Development Division
863-534-6468



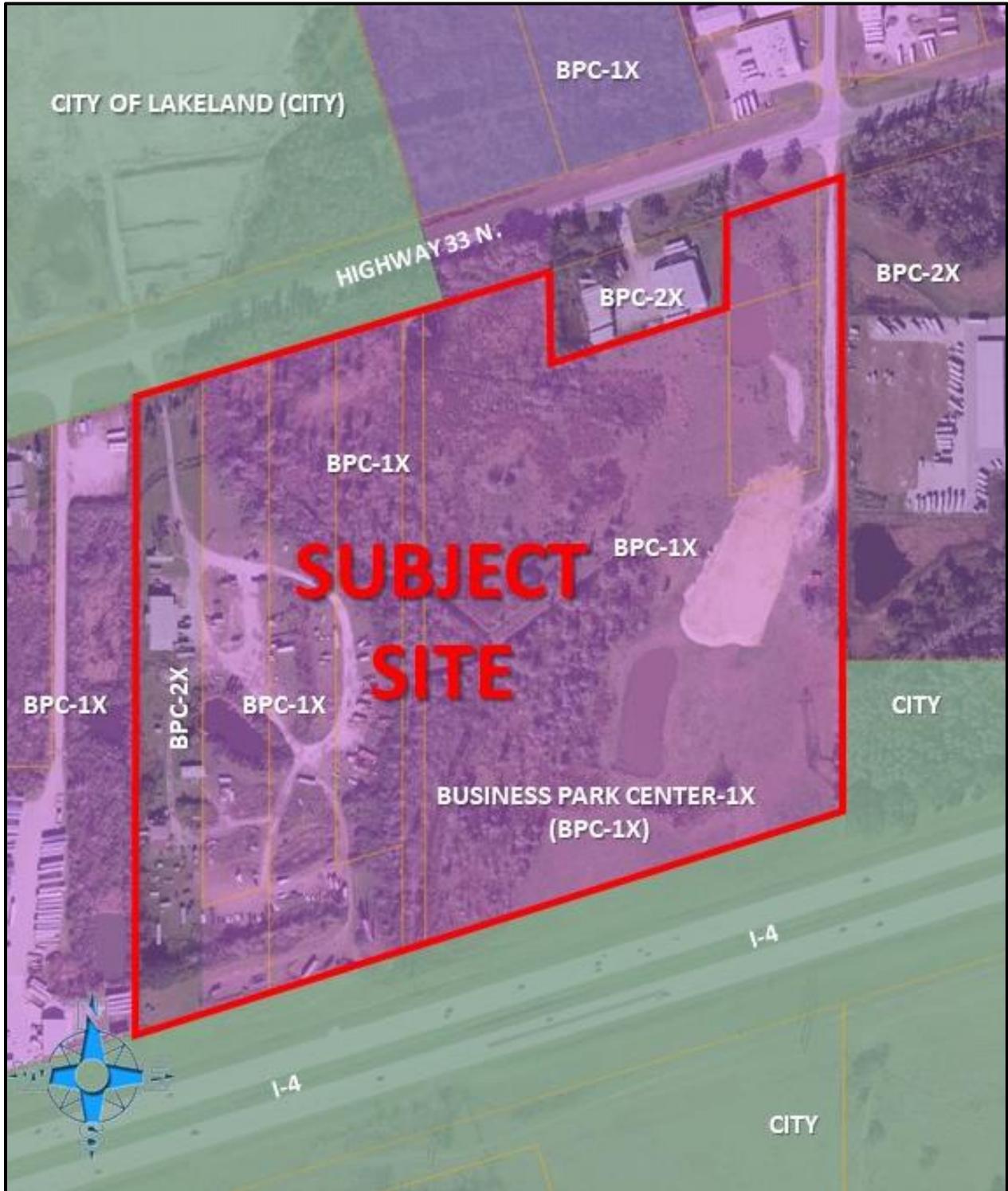
LOCATION MAP



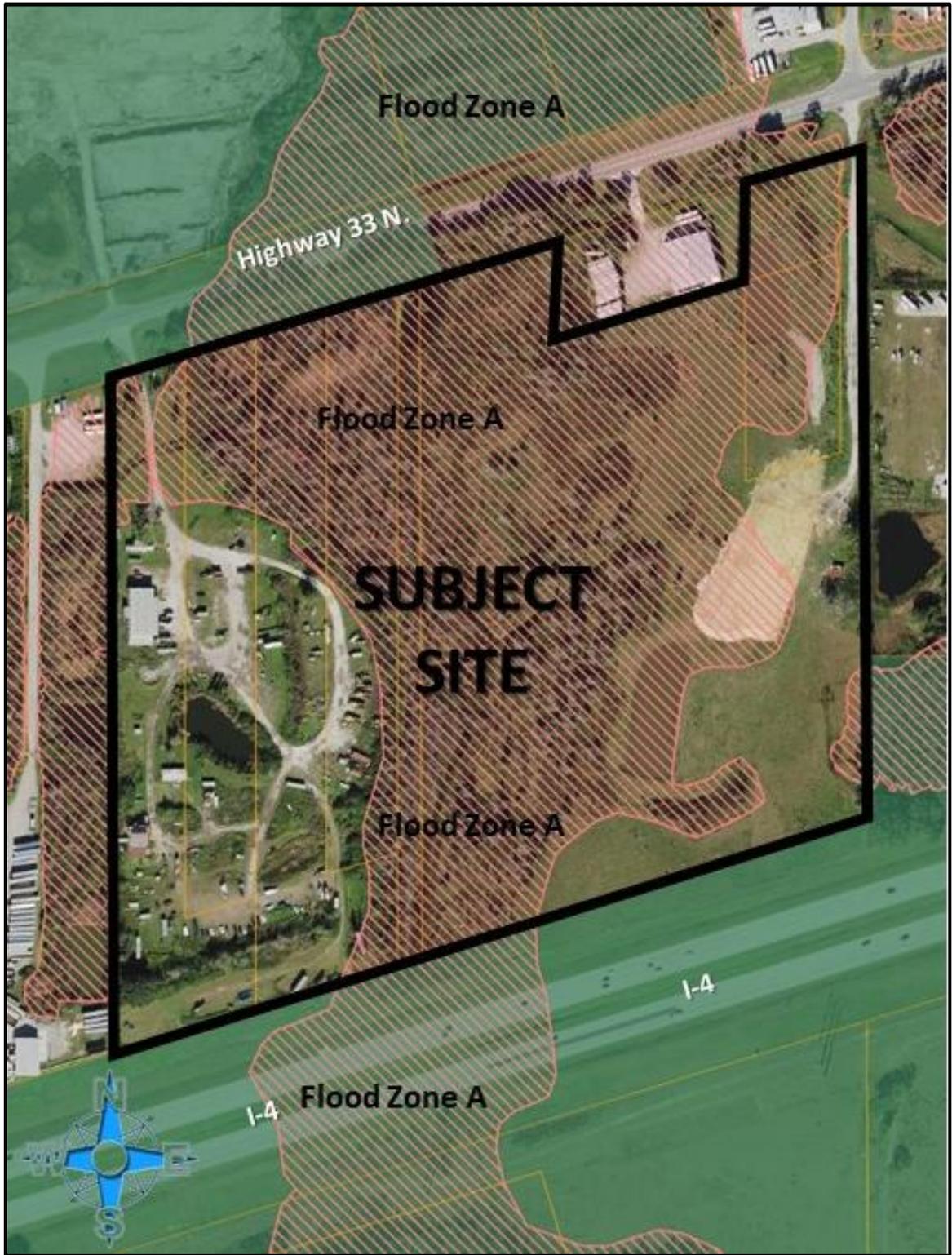
AERIAL-CONTEXT



AERIAL-CLOSE-UP



**FUTURE LAND USE
BUSINESS PARK CENTER (BPC)**



FLOOD ZONE MAP

Attachment E

LAKELAND LOGISTICS PARK OWNER, LLC

February 13, 2024

Bill Beasley, County Manager
Polk County
330 W. Church Street
Bartow, FL 33830

Re: Further Demonstration of Reasonable Financial Assurances in Connection with Pending Application for Brownfield Area Designation for Lakeland Logistics Park Owner, LLC

Dear Mr. Beasley:

This letter is submitted in connection with the pending application for brownfield area designation for Lakeland Logistics Park Owner, LLC (the "Company") that is being filed with Polk County (the "County") by The Goldstein Environmental Law Firm, P.A. The purpose of this letter is to provide reasonable assurance that the Company has sufficient financial resources to implement the rehabilitation and redevelopment plan for the real property identified by Parcel Numbers 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, and portions of 242711-000000-041010 and 242711-000000-041030 (the "Subject Property"). Accordingly, please note the following:

- The Company is under contract to purchase the Subject Property and has sufficient funds available to complete the purchase.
- The Company is adequately capitalized.
- The Company has sufficient liquidity on hand to fund the expected \$15.44 million budget for the Subject Property's rehabilitation and redevelopment. However, the Company may seek additional funding from preferred financial institutions as required.
- The Company has a history of leveraging assets with other capital sources, an impressive track record of success, highly experienced and sophisticated development staff, and the cultivated relationships with financial institutions necessary to raise additional capital as needed.

In addition, in my capacity as Vice President for the Company and based upon my personal knowledge, I certify that the Company has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan at the Subject Property as referenced above.

Thank you in advance for your continuing assistance with this matter and for the County's support for this important project.

Very truly yours,



Andrew Meran, VP

Attachment F

Phase II Environmental Site Assessment

BBX Industrial
Lakeland Industrial Property
State Road 33 North
Lakeland, Polk County, Florida

Prepared for:

BBX Industrial
201 East Las Olas Boulevard
Suite 1900
Ft. Lauderdale, Florida 33301

Prepared by:

Professional Service Industries, Inc.
1748 33rd Street
Orlando, Florida 32805
(407) 304-5560

PSI Project Number: 06636400

August 31, 2023





Project Number: 06636400
August 31, 2023

Professional Service Industries, Inc.
1748 33rd Street, Orlando, Florida 32839
Phone: (407) 304-5560
Fax: (407) 304-5561

Via Email: balbertson@bbxlogisticsproperties.com

Mr. Brent Albertson, P.E.
Sr. Vice President
BBX Industrial
201 East Las Olas Boulevard, Suite 1900
Ft. Lauderdale, Florida 33301

Re: Phase II Environmental Site Assessment
Lakeland Industrial Crossings - 49.83± Acres
State Road 33 North
Lakeland, Polk County, Florida

Dear Mr. Albertson:

Pursuant to your request, Professional Service Industries, Inc. (PSI), an Intertek company, has performed Phase II Environmental Site Assessment (ESA) activities at the subject property. PSI provided the services in general accordance with PSI Proposal Number 0663-379542-R2, dated July 26, 2023. One electronic copy of this Phase II ESA report is being provided for your use.

PSI thanks you for choosing us as your consultant for this project. Please contact us at (407) 304-5560 if you have any questions or if we may be of further service.

Respectfully Submitted,

PROFESSIONAL SERVICE INDUSTRIES, INC.

Jeffrey M. Martineau
Director / Principal Consultant

Mark Rasberry, P.G.
Senior Geologist

cc: Vicki B. Lewis, PSI

JMM/MR;jmm
06636400 BBX Industrial_Lakeland Industrial Crossing_Ph II Report - Final - 8-31-23



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Table 1	Soil Analytical Data Summary (Detected Parameters Only)
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Figure 1	USGS Topo Map
Figure 2	Site Vicinity Map
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LIST OF APPENDICES

Appendix A	Field Forms
Appendix B	Laboratory Analytical Report and Chain-of-Custody Documentation





1. EXECUTIVE SUMMARY

Professional Service Industries, Inc. (PSI), an Intertek company, has conducted Phase II Environmental Site Assessment (ESA) activities at the 49.83± acres subject property located on State Road 33 North in Lakeland, Polk County, Florida. Authorization to perform the Phase II ESA activities was provided by approval of PSI’s July 26, 2023 proposal (PSI Proposal No. 0663-379542-R2).

1.1 SITE DESCRIPTION

PSI understands that the subject property consists of eight contiguous parcels located on State Road 33 North totaling 49.83± acres. According to information provided by the client and a review of the Polk County Property Appraiser’s website, the property information is detailed below:

Address	Parcel Number	Acreage	Owner
0 Highway 33 North	24-27-11-000000-041010	1.59	Lakeland 33 LLC
8255 North State Road 33	24-27-11-000000-041030	25.78	Lakeland 33 LLC
8247 State Road 33 North	24-27-11-000000-041060	1.94	Lakeland 33 LLC
8241 North State Road 33	24-27-11-000000-041090	0.97	Lakeland 33 LLC
0 Highway 33 North	24-27-11-000000-041020	5.70	Lakeland Industrial Crossings LLC
0 Highway 33 North	24-27-11-000000-041040	4.07	Lakeland Industrial Crossings LLC
0 Highway 33 North	24-27-11-000000-041050	4.08	Lakeland Industrial Crossings LLC
8161 Highway 33 North	24-27-11-000000-041020	5.70	Lakeland Industrial Crossings LLC

PSI conducted a Phase I ESA at the subject property (PSI Project No. 06635873) and issued the Draft Phase I ESA report on July 1, 2022.

Based on the historical sources reviewed, the subject property consisted of undeveloped land and low-lying wet areas from the 1940s to 1950s, the southwest and eastern portions of the property appeared to have been developed for agriculture use from at least the late 1960s to the early 1980s. Based on aerial photograph review and previous reports, the western portion of the subject property was utilized primarily for vehicle and heavy machinery service and storage, with the construction of maintenance buildings, an office trailer, a residence and numerous staging areas for vehicles and equipment from at least the late 1980s to the early 2020s.

Based on review of a previous Phase I ESA performed on the subject property, the western portion of the current subject property was occupied by Munday Truck Service, which leased tenant spaces to a crane



maintenance business, J.H. & Sons Trucking, Asplundh Tree Service, and dump trucks/excavators maintenance businesses.

The following recognized environmental conditions (RECs) were identified in connection with the historical use of the subject property:

- One septic tank historically located on the north side of the maintenance building that serviced the former maintenance buildings and office trailer. At the time of PSI's site reconnaissance, petroleum odors were evident in the area of the previously identified septic system in the area of the former maintenance service building.
- Several areas of stained soil were observed on the property, which included the following areas:
 - In front of the maintenance building;
 - Inside the smaller maintenance building;
 - The vehicle maintenance area behind the residence;
- An area of heavy machinery storage. Stained pavement was observed inside the maintenance building. The stained pavement was considered to be indicative of petroleum products leaks or discharges from vehicles and/or machinery, and was considered to be a REC.

At the time of PSI's Phase I ESA site reconnaissance, the above-noted areas were observed to have been graded; however, based on PSI's conversation with the current property owners, no assessment activities were performed to determine the absence or presence of impact in the areas where the RECs were identified. As such, these areas have been identified to be evidence of a REC. PSI also considers the area of the former septic system at the maintenance facility to be a vapor encroachment condition (VEC) in connection with the subject property.

1.2 ASSESSMENT ACTIVITIES

Based on the historical assessment activities performed at the subject property, the following Phase II ESA activities were performed by PSI to further evaluate the subject property to determine whether petroleum, solvent, and/or metal impacts are present on the subject property. The general scope of services performed is described as follows:

- PSI performed 14 soil borings to evaluate the soil quality within the five (5) areas of concern identified in the Phase I ESA. Soil samples were collected from each soil boring for field screening purposes. Based on the results of the field screening activities and field observations, five (5) soil samples were collected for laboratory analysis by U.S. Environmental Protection Agency (EPA) Method 8260 for volatile organic compounds (VOCs), EPA Method 8270 for semi-volatile organics (SVOCs), and laboratory analytical method Florida Petroleum Residual Organics (FL-PRO) for total petroleum hydrocarbons (TPH). In addition, the soil sample collected from the septic tank area was laboratory analyzed for 13 priority pollutant metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc), and the soil samples collected for the areas of the former maintenance activities were laboratory analyzed for the eight (8) Resource Conservation



Recovery Act (RCRA) metals (arsenic, barium, chromium, cadmium, lead, mercury, silver, and selenium) in the samples collected in the former maintenance areas.

- PSI installed one (1) shallow temporary monitoring well within each of the five (5) areas of concern to facilitate the collection of groundwater samples for laboratory analysis by EPA Method 8260 for VOCs, EPA Method 8270 for SVOCs, and laboratory analytical method FL-PRO for TPH in all samples collected. In addition, the groundwater sample collected from the septic tank area were laboratory analyzed for 13 priority pollutant metals (total and dissolved), and the groundwaters samples collected from the areas of the former maintenance activities were laboratory analyzed for eight (8) RCRA metals (total and dissolved).

The Phase II ESA scope of work did not include soil vapor assessment activities.

1.3 CONCLUSIONS

Based on the assessment results, the following conclusions are provided:

Soil

Stained soil, likely resulting from the performance of historical vehicle maintenance activities, was observed in Areas #3 and #4 during both the Ph I and II ESA site visits. Due to the presence of very tall grass across the site and removal of all on-site structures prior to the performance of the Phase II ESA activities, visual inspection of the surficial soils was difficult. Sampling locations were determined based on aerial photographs, on-site observations, and identifiable landmarks. Based on the field screening activities, other than the limited observation of surficial staining, no obvious indications of soil impact were identified during performance of the soil borings.

The laboratory analytical data did identify the presence of Total Arsenic and TPH in Area #3 in excess of Chapter 62-777, Florida Administrative Code (FAC) DE-I criteria (residential). It should be noted that unless a full assessment has been completed and engineering and/or administrative controls are put into place, the residential standard applies to this and other commercial properties. TPH was also identified in Area #4 at elevated levels, although not in exceedance of Chapter 62-777, FAC criteria. As the concern in Area #4 was the presence of surficial staining which is now covered with very tall grass, it should be noted that although an exceedance of TPH was not identified in this area, the possibility does exist that some limited area(s) of soil exceeding Chapter 62-777, FAC criteria may be present.

Groundwater

Total lead was identified in groundwater in excess of Chapter 62-777, FAC Groundwater Cleanup Target Levels (GCTLs) in two areas (Area #3 and #5) at the site. Being that temporary monitoring wells were installed for Ph II ESA screening purposes, filtered groundwater samples were also collected as a way of determining whether potential exceedances of total metals values may be the result of the solids being present in the water samples versus being an actual dissolved metals issue. Based on the data for the analysis of the filtered groundwater samples, which indicate "dissolved" concentrations below their respective Chapter 62-777, FAC GCTLs, it appears likely the elevated Total Lead concentrations are not



representative of groundwater conditions in the two (2) areas. It should be noted that the Florida Department of Environmental Protection (FDEP) does not accept filtered groundwater samples as a representative test for total metals; therefore, to determine the actual total metals values, a monitoring well installed in general accordance with acceptable FDEP guidelines for the performance of site assessments would be required.

1.4 RECOMMENDATIONS

Based on the findings of the Phase II ESA activities performed and detailed herein, PSI provides the following recommendation:

- Further soil and groundwater assessment should be performed in Area #3 to further evaluate the level of arsenic, lead and TPH impacts identified.
- As a result of the elevated TPH concentration in the soil sample collected from Area #4, further soil testing may be performed to determine whether TPH impacts in excess of Chapter 62-777, FAC criteria are present within the area.
- Based on the groundwater analytical results indicating an elevated total lead concentration in groundwater in Area #5, PSI recommends that a standard site assessment well utilizing hollow-stem auger techniques be installed in this area and sampled to determine whether the total lead concentration in the area exceeds the Chapter 62-777, FAC GCTL.
- Due to the presence of very high grass during Ph II, it was difficult to identify stained soil areas. The possibility exists that areas of unidentified, isolated impacts are present at the site. During the site development process, PSI recommends that close observation of the soils in the various areas for visual signs of impact (staining, odors, etc.). If such identifiers are observed, assessment and development of a soil management plan to ensure proper handling may be necessary.

PSI also recommends that the client consult legal counsel regarding potential liabilities related to purchasing a property with documented soil impacts, and regarding regulatory reporting requirements. This summary does not contain all the information presented in the full report. The report should be read in its entirety to obtain a complete understanding of the information provided and to aid in any decisions made or actions taken based on this information.



2. INTRODUCTION

2.1 AUTHORIZATION

Authorization to perform the Phase II ESA activities was provided by approval of PSI’s July 26, 2023 proposal (PSI Proposal No. 0663-379542-R2).

2.2 SITE DESCRIPTION

PSI understands that the subject property consists of eight contiguous parcels located on State Road 33 North totaling 49.83± acres. According to information provided by the client and a review of the Polk County Property Appraiser’s website, the property information is detailed below:

Address	Parcel Number	Acreage	Owner
0 Highway 33 North	24-27-11-000000-041010	1.59	Lakeland 33 LLC
8255 North State Road 33	24-27-11-000000-041030	25.78	Lakeland 33 LLC
8247 State Road 33 North	24-27-11-000000-041060	1.94	Lakeland 33 LLC
8241 North State Road 33	24-27-11-000000-041090	0.97	Lakeland 33 LLC
0 Highway 33 North	24-27-11-000000-041020	5.70	Lakeland Industrial Crossings LLC
0 Highway 33 North	24-27-11-000000-041040	4.07	Lakeland Industrial Crossings LLC
0 Highway 33 North	24-27-11-000000-041050	4.08	Lakeland Industrial Crossings LLC
8161 Highway 33 North	24-27-11-000000-041020	5.70	Lakeland Industrial Crossings LLC

PSI conducted a Phase I ESA at the subject property (PSI Project No. 06635873) and issued the Draft Phase I ESA report on July 1, 2022.

Based on the historical sources reviewed, the subject property consisted of undeveloped land and low-lying wet areas from the 1940s to 1950s, the southwest and eastern portions of the property appeared to have been developed for agriculture use from at least the late 1960s to the early 1980s. Based on aerial photograph review and previous reports, the western portion of the subject property was utilized primarily for vehicle and heavy machinery service and storage, with the construction of maintenance buildings, an office trailer, a residence and numerous staging areas for vehicles and equipment from at least the late 1980s to the early 2020s.

Based on review of a previous Phase I ESA performed on the subject property, the western portion of the current subject property was occupied by Munday Truck Service, which leased tenant spaces to a crane maintenance business, J.H. & Sons Trucking, Asplundh Tree Service, and dump trucks/excavators maintenance businesses.

The following RECs were identified in connection with the historical use of the subject property:



- One septic tank historically located on the north side of the maintenance building that serviced the former maintenance buildings and office trailer. At the time of PSI's site reconnaissance, petroleum odors were evident in the area of the previously identified septic system in the area of the former maintenance service building.
- Several areas of stained soil were observed on the property, which included the following areas:
 - In front of the maintenance building;
 - Inside the smaller maintenance building;
 - The vehicle maintenance area behind the residence;
- An area of heavy machinery storage. Stained pavement was observed inside the maintenance building. The stained pavement was considered to be indicative of petroleum products leaks or discharges from vehicles and/or machinery, and was considered to be a REC.

At the time of PSI's Phase I ESA site reconnaissance, the above-noted areas were observed to have been graded; however, based on PSI's conversation with the current property owners, no assessment activities were performed to determine the absence or presence of impact in the areas where the RECs were identified. As such, these areas have been identified to be evidence of a REC. PSI also considers the area of the former septic system at the maintenance facility to be a vapor encroachment condition (VEC) in connection with the subject property.

2.3 PURPOSE AND SCOPE OF SERVICES

Based on the historical assessment activities performed at the subject property, the following Phase II ESA activities were proposed by PSI to further evaluate the subject property to determine whether impacts resulting from historical vehicle maintenance and/or an on-site septic drainfield are present on the subject property. The scope of services, as detailed in PSI's August 26, 2023 proposal, is described as follows:

Utility Clearance

PSI contacted Sunshine One Call at least three (3) working day prior to mobilizing to the site to locate public underground utilities in the vicinity of the subject property. PSI and the subcontract drillers also cleared each boring using hand auger methodologies to approximately 5 feet below land surface (BLS).

Soil Assessment Activities

In an effort to evaluate the potential for impact from the historical vehicle maintenance activities and the operation of the on-site septic system to the on-site soils, PSI proposed the following:

- Utilizing hand auger and Geoprobe® drill rig methodologies, PSI will perform a minimum of three (3) soil borings in the septic area and a minimum of eight (8) soil borings throughout the remaining areas where staining was previously observed and/or where maintenance activities occurred, for a total of up to 11 soil borings to facilitate the collection of soil samples for field screening purposes in the vicinity of the septic system. Each of the borings will be cleared using decontaminated hand auger methodologies, PSI will collect soil samples at approximate 1- to 2-foot intervals to a termination depth of approximately



2 feet below the groundwater table surface or to a maximum depth of 10 feet below land surface (BLS), whichever is encountered first. The soil samples will be screened in the field utilizing an organic vapor analyzer equipped with a flame ionization detector (OVA-FID) and an OVA equipped with a photoionization detector (OVA-PID).

- Based on field observations and OVA-FID/PID responses, PSI will collect up to five (5) soil samples for laboratory analysis. The samples will be submitted to an analytical laboratory for analysis by U.S. Environmental Protection Agency (EPA) Method 8260 for volatile organic compounds (VOCs), EPA Method 8270 for semi-volatile organics (SVOCs), and laboratory analytical method Florida Petroleum Residual Organics (FL-PRO) for total petroleum hydrocarbons (TPH). In addition, the soil sample collected from the septic tank area will be laboratory analyzed for 13 priority pollutant metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc), and the soil samples collected for the areas of the former maintenance activities will be laboratory analyzed for the eight (8) Resource Conservation Recovery Act (RCRA) metals (arsenic, barium, chromium, cadmium, lead, mercury, silver, and selenium) in the samples collected in the former maintenance areas.

Groundwater Assessment Activities

In an effort to evaluate the potential for impact to the on-site groundwater from the operation of the on-site septic systems and maintenance activities performed, PSI proposes the following:

- To evaluate the current groundwater conditions, PSI will install up to five (5) shallow temporary monitoring wells (TMWs) to facilitate the collection of groundwater samples for laboratory analysis. The TMWs will be installed to a maximum depth of 20 feet BLS utilizing Geoprobe® drill rig methodologies to facilitate the collection of groundwater samples.
- After allowing the TMWs to stabilize overnight, PSI will collect groundwater samples from each of the two TMWs.
- Subsequent to collection, the groundwater samples will be submitted for laboratory analysis by EPA Method 8260 for VOCs, EPA Method 8270 for SVOCs, and laboratory analytical method FL-PRO for TPH in all samples collected. In addition, the groundwater sample collected from the septic tank area will be laboratory analyzed for 13 priority pollutant metals (total and dissolved), and the groundwaters samples collected from the areas of the former maintenance activities will be laboratory analyzed for eight (8) RCRA metals (total and dissolved).

Please note that the scope of work does not currently include a soil-gas vapor assessment (SVA).

2.4 QUALITY ASSURANCE/QUALITY CONTROL MEASURES

All field decontamination and sampling procedures were performed in general accordance with the FDEP's Standard Operating Procedures (SOPs) for field activities. All downhole equipment utilized during the field activities was decontaminated prior to and between each soil boring and temporary monitoring well. Decontamination of said equipment was accomplished by washing the equipment with a non-phosphate detergent and distilled water solution followed by a final distilled water rinse. Single-use disposable gloves and sample tubing were used for each sampling point to minimize the potential for cross-contamination between sampling locations.



Laboratory analytical procedures were performed by National Environmental Laboratory Accreditation Program (NELAP)-certified Eurofins Environmental Testing, located in Altamonte Springs, Florida (Florida Department of Health [FDOH] # E83018).



3. SITE ASSESSMENT ACTIVITIES

Field investigation and sampling activities were conducted by PSI personnel on August 15 and 16, 2023. Subsequent to performance of the sampling activities, the temporary monitoring wells were removed (on August 15, 2023) and the site was restored to its original condition.

3.1 UTILITY CLEARANCE

PSI contacted Sunshine One prior to the performance of the field activities to locate underground utilities in the vicinity of the subject property. Additionally, each of the borings was cleared using a hand auger to a depth of approximately 5 feet BLS to ensure no underground utilities were present at each sample location.

3.2 SOIL ASSESSMENT ACTIVITIES

Based on the historical assessment activities performed at the subject property, the following Phase II ESA activities were performed by PSI to further evaluate the subject property to determine whether petroleum, solvent, and/or metal impacts are present on the subject property. The general scope of services performed is described as follows:

On August 2, 2023, JAEE Environmental Services, Inc. (JAEE) and PSI personnel performed 14 soil borings to evaluate soil quality conditions in the vicinity of the five (5) areas of concern identified on the subject property. The soil borings were performed utilizing hand auger and direct-push technologies to facilitate the collection of soil samples for field screening purposes. Soil samples were collected at approximately 2-foot intervals to boring termination of approximately 6 feet BLS. Following inspection of the soils for soil classification purposes, an OVA-FID was used to screen the soil for organic vapor content. Each soil sample collected was placed into glass sample jars (partially filled), covered with aluminum foil, sealed, and set aside to allow the volatiles to equilibrate throughout the headspace. The organic vapor response for each soil sample was determined by inserting the probe of the OVA-FID into the headspace of the sample container and recording the highest sustained reading. Due to no elevated OVA-FID response (> 10ppm), no carbon filtered readings were obtained for the soil samples screened utilizing the OVA-FID to account for the presence of naturally occurring methane in the on-site soil.

Based on the results of the field screening activities and field observations, five (5) soil samples were collected (1 sample from each area of concern) for laboratory analysis by EPA Method 8260 for VOCs, EPA Method 8270 for SVOCs, and laboratory analytical method FL-PRO for TPH. In addition, the soil sample collected from the septic tank area was laboratory analyzed for 13 priority pollutant metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc), and the soil samples collected for the areas of the former maintenance activities were laboratory analyzed for the eight (8) RCRA metals (arsenic, barium, chromium, cadmium, lead, mercury, silver, and selenium) in the samples collected in the former maintenance areas.

The sample locations are provided on Figure 3, and a copy of the soil Boring Logs, inclusive of the OVA-FID responses, and field instrument calibration records is provided in Appendix A. The laboratory analytical report is provided as Appendix B.



3.3 GROUNDWATER ASSESSMENT ACTIVITIES

On August 2, 2023, to evaluate the subject property for possible impacts resulting from possible releases that may have occurred on the property in association with the historical vehicle maintenance activities and an on-site septic system. PSI installed one (1) shallow temporary monitoring well within each of the five (5) areas of concern to facilitate the collection of groundwater samples.

The monitoring wells were installed to approximately 12 feet BLS utilizing hand auger methods and a Geoprobe® push rig. The monitoring wells were installed utilizing 0.006-inch factory slotted PVC well screen coupled with solid PVC riser so that the screened interval of the wells intersected the groundwater table surface. Following installation, the monitoring wells were developed until the purged water was observed to be relatively clear.

On August 3, 2023, groundwater samples were collected from Temporary Monitoring Wells TMW-1, TMW-3, TMW-4, and TMW-5. Due to the presence of clayey soils at the site resulting in the poor to slow recovery of groundwater into the wells, PSI remobilized to the site to obtain groundwater samples from Temporary Monitoring Wells TMW-2 and TMW-3 on August 4, 2023, and again on August 9, 2023 (TMW-2). The collected groundwater samples were laboratory analyzed by EPA Method 8260 for VOCs, EPA Method 8270 for SVOCs, and laboratory analytical method FL-PRO for TPH in all samples collected. Due to the poor recovery, Temporary Monitoring Well TMW-2 could not be sampled for analysis by EPA Method 8270 for SVOCs. Additionally, the groundwater sample collected from the septic tank area were laboratory analyzed for 13 priority pollutant metals (total and dissolved), and the groundwaters samples collected from the areas of the former maintenance activities were laboratory analyzed for eight (8) RCRA metals (total and dissolved).

The temporary wells were removed from the site following groundwater sample collection, and the bore holes were patched with concrete to match the surrounding area.

The monitoring well locations are depicted in Figure 3. Copies of the monitoring well construction data sheets, field equipment calibration forms, and groundwater sampling logs are provided in Appendix A, and the laboratory analytical report is provided as Appendix B.

3.4 VARIANCE FROM PROPOSED SCOPE OF WORK

The following is a list of variances from the scope of work as originally proposed:

- An OVA-PID was not utilized as part of the field screening process.
- Due to the poor recovery, Temporary Monitoring Well TMW-2 could not be sampled for analysis by EPA Method 8270 for SVOCs.



4. DATA ANALYSIS AND INTERPRETATION

Analysis and interpretation of the data generated during the field investigation and laboratory analyses are presented in the following sections. Where appropriate, the results are compared with regulatory limits for the test parameters identified in the applicable media. All laboratory analytical procedures were performed by Eurofins. A copy of the laboratory analytical report and chain-of-custody is provided in Appendix B.

4.1 SOIL ASSESSMENT RESULTS

Based on the results of the soil screening, vadose zone (unsaturated) soil samples collected from one (1) of the 14 soil borings performed on August 2, 2023 indicated an OVA-FID responses above the minimum equipment detection limit of 1 part per million (ppm). Detectable OVA-FID responses of 1.3 and 0.10 ppm were observed in Soil Boring SB-13 (Area #5) at depths of 1 foot and 4 feet BLS, respectively.

Based on the soil laboratory analytical results, metals, VOCs, and TPH were detected in the soil samples collected at the site, as summarized on Table 1. A summary of the analytes identified in excess of their respective Laboratory Method Detection Limits (LMDLs) are provided below. Those analyte groups with test parameters identified at concentrations exceeding their respective Chapter 62-777, FAC Soil Cleanup Target Levels (SCTLs) have been presented in **bold**.

<u>SS-1 (0-1')</u> :	Metals, VOCs, and TPH
<u>SS-2 (0-1')</u> :	Metals, VOCs, and TPH
<u>SS-3 (0-1')</u> :	Metals, VOCs, and TPH
<u>SS-4 (2')</u> :	Metals and TPH
<u>SS-5 (2')</u> :	Metals and TPH

4.2 GROUNDWATER ASSESSMENT RESULTS

Based on the groundwater laboratory analytical results, one VOC (chlorobenzene) was detected in one (1) of the three (3) groundwater samples collected at the site, as summarized on Table 3. A summary of the analytes identified in excess of their respective LMDLs is provided below. Those analyte groups with test parameters identified at a concentration exceeding their respective Chapter 62-777, FAC GCTL have been presented in **bold**.

<u>TMW-1:</u>	Total Metals and Dissolved Metals
<u>TMW-2:</u>	Total Metals, Dissolved Metals, and VOCs
<u>TMW-3:</u>	Total Metals , Dissolved Metals, VOCs, and TPH
<u>TMW-4:</u>	Total Metals, Dissolved Metals, VOCs, and TPH
<u>TMW-5:</u>	Total Metals and Dissolved Metals



5. CONCLUSIONS AND RECOMMENDATIONS

PSI has conducted Phase II ESA activities at the subject property located 290 and 292 North Beach Street in Daytona Beach, Volusia County, Florida. Authorization to perform the Phase II ESA activities was provided by approval of PSI's August 1, 2023 proposal (PSI Proposal No. 0663-405181).

Based on the results of the soil and groundwater sampling activities performed, the following conclusions and recommendations are provided.

5.1 CONCLUSIONS

Based on the assessment results, the following conclusions are provided:

Soil

Stained soil, likely resulting from the performance of historical vehicle maintenance activities, was observed in Areas #3 and #4 during both the Ph I and II ESA site visits. Due to the presence of very tall grass across the site and removal of all on-site structures prior to the performance of the Phase II ESA activities, visual inspection of the surficial soils was difficult. Sampling locations were determined based on aerial photographs, on-site observations, and identifiable landmarks. Based on the field screening activities, other than the limited observation of surficial staining, no obvious indications of soil impact were identified during performance of the soil borings.

The laboratory analytical data did identify the presence of Total Arsenic and TPH in Area #3 in excess of Chapter 62-777, FAC DE-I criteria (residential). It should be noted that unless a full assessment has been completed and engineering and/or administrative controls are put into place, the residential standard applies to this and other commercial properties. TPH was also identified in Area #4 at elevated levels, although not in exceedance of Chapter 62-777, FAC criteria. As the concern in Area #4 was the presence of surficial staining which is now covered with very tall grass, it should be noted that although an exceedance of TPH was not identified in this area, the possibility does exist that some limited area(s) of soil exceeding Chapter 62-777, FAC criteria may be present.

Groundwater

Total lead was identified in groundwater in excess of Chapter 62-777, FAC GCTLs in two areas (Area #3 and #5) at the site. Being that temporary monitoring wells were installed for Ph II ESA screening purposes, filtered groundwater samples were also collected as a way of determining whether potential exceedances of total metals values may be the result of the solids being present in the water samples versus being an actual dissolved metals issue. Based on the data for the analysis of the filtered groundwater samples, which indicate "dissolved" concentrations below their respective Chapter 62-777, FAC GCTLs, it appears likely the elevated Total Lead concentrations are not representative of groundwater conditions in the two (2) areas. It should be noted that the FDEP does not accept filtered groundwater samples as a representative test for total metals; therefore, to determine the actual total metals values, a monitoring well installed in general accordance with acceptable FDEP guidelines for the performance of site assessments would be required.



5.2 RECOMMENDATIONS

Based on the findings of the Phase II ESA activities performed and detailed herein, PSI provides the following recommendation:

- Further soil and groundwater assessment should be performed in Area #3 to further evaluate the level of arsenic, lead and TPH impacts identified.
- As a result of the elevated TPH concentration in the soil sample collected from Area #4, further soil testing may be performed to determine whether TPH impacts in excess of Chapter 62-777, FAC criteria are present within the area.
- Based on the groundwater analytical results indicating an elevated total lead concentration in groundwater in Area #5, PSI recommends that a standard site assessment well utilizing hollow-stem auger techniques be installed in this area and sampled to determine whether the total lead concentration in the area exceeds the Chapter 62-777, FAC GCTL.
- Due to the presence of very high grass during Ph II, it was difficult to identify stained soil areas. The possibility exists that areas of unidentified, isolated impacts are present at the site. During the site development process, PSI recommends that close observation of the soils in the various areas for visual signs of impact (staining, odors, etc.). If such identifiers are observed, assessment and development of a soil management plan to ensure proper handling may be necessary.

PSI also recommends that the client consult legal counsel regarding potential liabilities related to purchasing a property with documented soil impacts, and regarding regulatory reporting requirements.



6. REPRESENTATIONS

6.1 WARRANTY

The field observations, measurements, and research reported herein are considered sufficient in detail and scope to form a reasonable basis for a Phase II ESA of this property. The assessment and conclusions presented herein are based upon the subjective evaluation of limited data. They may not represent all conditions at the subject site as they reflect the information gathered from specific locations. PSI warrants that the findings and conclusions contained herein have been promulgated in accordance with generally accepted environmental investigation methodologies and only for the site described in this report.

The Phase II ESA has been developed to provide the client with information regarding degree of impact (not delineation) relating to the subject property. It is necessarily limited to the conditions observed to the information available at the time of work.

Due to the limited nature of the work, there is a possibility that there may exist conditions which could not be identified within the scope of the assessment or which were not apparent at the time of report preparation. It is also possible that the testing methods employed at the time of the report may later be superseded by other methods. The description, type, and composition of what are commonly referred to as "hazardous materials or conditions" can also change over time. PSI does not accept responsibility for changes in the state of the art, nor for changes in the scope of various lists of hazardous materials or conditions. PSI believes that the findings and conclusions provided in this report are reasonable. However, no other warranties are implied or expressed.

6.2 USE BY THIRD PARTIES

This report was prepared pursuant to the contract PSI has with BBX Industrial. Because of the importance of the communication between PSI and its client, reliance or any use of this report by anyone other than BBX Industrial for whom it was prepared, is prohibited and therefore not foreseeable to PSI.

Reliance or use by any such third party without explicit authorization in the report does not make said the third party a third-party beneficiary to PSI's contract with BBX Industrial. Any such unauthorized reliance on or use of this report, including any of its information or conclusions, will be at third party's risk. For the same reasons, no warranties or representations, expressed or implied in this report, are made to any such third party.

Attachment G

FINAL DRAFT

**Considerations for Stormwater Features within
Contaminated Sites**

**Florida Department of Environmental Protection
Division of Waste Management
District & Business Support Program
Tallahassee, FL**

Problem Statement:

Conditional Site Rehabilitation Completion Orders (CSRCOs) under Rule 62-780.680(2) or (3), F.A.C. may restrict construction of new and/or alteration of existing stormwater management systems (SWMS). The State supports reuse of contaminated sites and recognizes that new construction requires placement of SWMS to appropriately manage runoff from impervious surfaces. Contaminated sites may require expansion of the impervious areas (new building foundations, parking, pavement, access roads, etc.) and may trigger modification of the existing SWMS.

In the case of contaminated sites that qualify for a conditional site rehabilitation completion order (CSRCO), the planning for potential areas on the site for future SWMS is important so as not to violate the possible engineering control, or otherwise cause contamination to circumvent the control and spread contamination to either previously uncontaminated areas or offsite. If such a spread or impact occurred, it would render the CSRCO void.

Goal:

The construction or modification of SWMS should not affect contamination at the site (cause leaching from soil or mobilize the groundwater contaminant plume). In some cases, the construction of SWMS may be addressed prior to closure and the restriction removed from the CSRCO. Please note that adequate demonstration must be provided that neither the currently proposed or any future modification of the SWMS will exacerbate the contamination at the site. Potential future development including the type and location of the SWMS should be evaluated. Guidance on addressing SWMS construction prior to closure is provided below.

For situations where prior SWMS evaluation is not possible, this guidance can also assist in obtaining approval for the construction of a new or modification of an existing SWMS on a contaminated site following closure.

SWMS - Design & Best Practices at Contaminated Soil and/or Groundwater Sites in Relation to CSRCOs

The placement, design and use of stormwater structures, ponds, and pathways is a critical part of a plan to prevent the spread of pollution at known contaminated sites due to the potential to cause leaching from soils or to create a hydraulic head to spread contamination in groundwater across the site or off site to previously uncontaminated areas.

In general, stormwater structures, ponds and pathways are to be placed in previously non-contaminated areas of a site to prevent and/or reduce the possibility of causing the contamination to spread or increase due to leaching or hydraulic head conditions.

Dry Pond vs Wet Pond. Subject to comments and requirements of the SWMS reviewing agencies, as appropriate, dry ponds should be designed to recover within 72 hours of a rain event. Dry ponds with underdrains should recover within 36 hours. It is recommended that the bottom of the dry pond be at least 2 ft above the Seasonal High-Water Table (SHWT). Wet ponds have to recover to their static elevation within a certain timeframe (usually noted in the construction application) and the pond bottom is below the SHWT.

SWMS must be designed with site groundwater elevation data in mind to not adversely affect the contaminated areas of the site. A sufficient number of wells or piezometers must be used, and groundwater elevation contour maps developed to accurately demonstrate the direction of

groundwater flow at the site. The stormwater design may only be placed in specific areas in such a way to not impact or cause movement of contamination.

Further consideration is needed to evaluate the placement of engineering controls, to clearly define the appropriate or available locations for the construction of SWMS.

The following questions should be considered during the planning stages of the SWMS

- What will be the type of the future development, residential or commercial?
- Because of the land use and size as well as the underlying lithology, what type of stormwater system will work better:
 - a. Wet detention system
 - b. Detention with effluent filtration
 - c. Lined detention pond or vault
 - d. Dry system (retention pond)
 - e. Underground exfiltration (subterranean gallery)
 - f. Sand chimney
- What is the extent and depth of the groundwater plume in the restrictive area?
- Is the restriction for the use of groundwater and/or irrigation wells?
- Is soil contamination under an engineering control (EC) and will the EC be breached?
- Will dewatering during construction of the SWMS affect plume migration?
- How will the water from the dewatering operations be disposed (e.g., onsite management, sanitary sewer, generic permit, NPDES)?

Groundwater:

A mounding model can be used to support that a SWMS installed some distance or location away from the plume will not cause the plume to migrate. Approved models and design requirements must be consistent with the agencies responsible for reviewing the SWMS application.

Prior to Closure

- a. Depth to contaminant if a demonstration is provided that groundwater is at a depth that the infiltration from the SWMS will not cause the plume to migrate, then it may be possible to remove the stormwater restriction from the CSRCO. The demonstration or modeling should be based upon the appropriate design storm event usually 100-yr/24-hour or 25-year/24-hour depending on the type of system (open or closed) and the reviewing agency requirements. The SWMS should be engineered to impact only the upper surficial aquifer.
- b. Plume in relationship to confining layer – If groundwater contamination is below a competent confining layer, stormwater restrictions should not be necessary. However, language may need to be included in the CSRCO that the confining unit cannot be breached in the construction of the SWMS.
- c. If construction of the SWMS will occur on top of the plume and cannot be addressed by a. or b. above, then the CSRCO can specify that any SWMS construction will require use of a liner thereby eliminating the need for subsequent Department (Waste Management) approval. Please note that lined ponds are for storage/evaporation and need to have outflow structures. The outflow should direct runoff to areas away from the contamination.

Subsequent to Closure

SWMS constructed on top of the groundwater plume will require a liner unless a. and b. from “Prior Closure Section” above can be demonstrated.

SWMS constructed upgradient, cross-gradient or downgradient, and within 500 feet of the plume will require a mounding analysis be submitted to determine if the mound intersects the plume.

Soil:

If soil contamination is present, the impact of the proposed SWMS on potential leaching or direct exposure must be addressed.

If soils exceed the Leachability Soil Cleanup Target Level (L-SCTL), Synthetic Precipitation Leachate Procedure (SPLP, EPA Method SW-846-1312) testing can be conducted prior to closure to demonstrate that the contamination will not leach and the restriction on SWMS can be removed. An appropriate number of samples should be collected from different lithologies and the highest concentrations within those lithologic units used in the SPLP analysis. A minimum of three samples per lithologic unit is recommended, but additional samples may be required depending on the size of the impacted area.

If a dry pond is to be constructed on top of soil that exceeds the direct exposure soil cleanup target level, the pond bottom must have an engineering control in place to mitigate the exposure risk. This could be in the form of a 2-foot clean fill barrier, impermeable liner, or the use of an alternative soil cleanup target level for an appropriate exposure scenario. The control would be included in the Institutional Control Registry and documented in the CSRCO.

Dewatering

Pursuant to Rule 62-621.300(2), F.A.C., coverage under this generic permit constitutes authorization to discharge groundwater from dewatering operations through a point source to surface waters of the State. Please ensure that the parameters of concern in the groundwater restricted area are below the surface water criteria. See Chart 1 below.

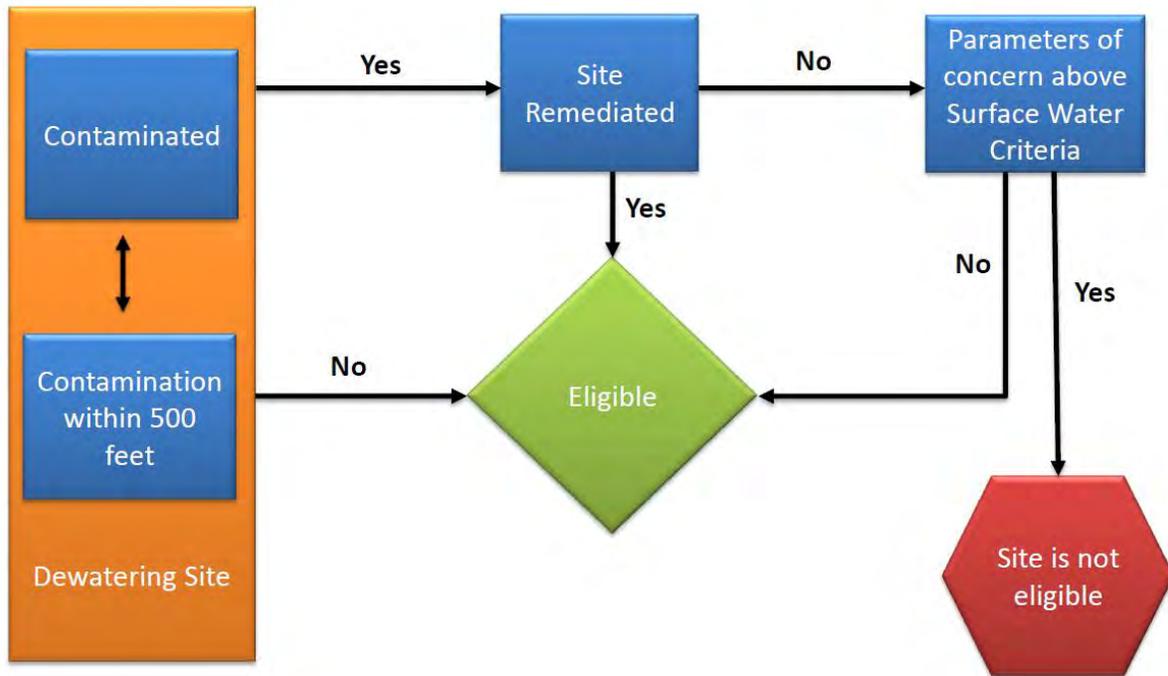


Chart 1. Decision tree for dewatering at contaminated sites. Provided by the Southwest District.

If the site does not qualify for a non-contaminated site permit, then an option is to contact the appropriate lead government agency for approvals to discharge to the sanitary sewer. The Dewatering permit is processed by DEP District Offices.

Further Consideration

It may be prudent to label areas acceptable and non-acceptable to stormwater structures, ponds, and pathways as part of the draft CSRCO Process. This in effect would be a secondary restrictive area(s) for non-acceptable future stormwater structure construction zones. The primary restrictive area would be the contaminated area(s) itself. Each CSRCO site would have specific maps which specifically designates these areas and defines the extent of contamination and the restricted area(s). The secondary restrictive area map would create a future stormwater use map for each site.

For additional information please contact Lynn Walker at Lynn.Walker@floridadep.gov or 850-245-7502. You may also contact the contributors listed below.

References:

- a. *Operating Agreement Concerning Regulations under Part IV, Chapter 373 F.S. between SWFWMD and DEP*
- b. *SWFWMD Environmental Resource Permit Applicant Handbook Volume II, effective June 1, 2018*
- c. *DEP-NWFWMD ERP References and Design Aids*

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