

**OLD DOMINION FREIGHT LINE INC.  
DEVELOPMENT AGREEMENT FOR PLANNED DEVELOPMENT ON CR 231**

This Development Agreement (the “Agreement”) made this 13<sup>th</sup> day of June, 2023, by and between Old Dominion Freight Line Inc., a foreign profit corporation registered in Florida, (hereinafter referred to as “ODFL” and sometimes as “Developer”), whose mailing address is 500 Old Dominion Way, Thomasville, NC 27360 and Sumter County, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, whose principal address is 7375 Powell Road, Suite 200, Wildwood, Florida 34785 (hereinafter referred to as “County” or “Sumter”). The County and ODFL are herein collectively referred to as the “Parties”.

**WITNESSETH**

**WHEREAS**, Sections 163.3220-163.3243, Florida Statutes, authorizes local governments and developers to enter into certain types of development agreements to provide certainty to both parties in terms of current and future process and entitlements under such statutes; and

**WHEREAS**, ODFL owns a 108.05+/- acre parcel (the “Property”) in Sumter County north of SR 44 and East of CR 231; and,

**WHEREAS**, ODFL seeks to develop this property itself or by another entity affiliated with ODFL which is tentatively referred to as the Planned Development on CR 231 (the “Project”); and

**WHEREAS**, a location map sketch and legal description of the Property (Parcel # C33-008) is described in Exhibit 1, attached hereto and incorporated herein. The Property is currently owned by ODFL and on May 24, 2022, the Sumter County Board of Commissioners approved the Property with a future land use of industrial, a zoning of industrial (ID), and issued a Special Use Permit S2022-0002, which contained additional conditions to allow for a freight and trucking distribution center; and,

**WHEREAS**, the Parties desire to (1) affirm the approved conditions, so that, at the time of site development submittal, permits may be reviewed as efficiently and expeditiously as possible, (2) establish procedures that provide for predictability, yet appropriate flexibility to meet market changes during the term of this Agreement, and (3) provide assurances that ODFL will be able to retain for the term of this Agreement certain development rights as identified herein.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed as follows:

**I. RECITALS.**

The recitals set forth above are true and correct and are incorporated into this Agreement *in haec verba*.

**II. APPROVED LAND USE AND SPECIAL USE PERMIT CONDITIONS**

(A) Land Use. The County amended the future land use of the Property to Industrial and approved ID zoning under CP2022-0001 and R2022-0005 respectively. Based on the maximum intensity of 0.7 floor area ratio (FAR), the Property is entitled to 3,293,136 square feet of industrial space.

(B) Special Use Permit Conditions. The terms and conditions of approval for Special use Permit S2022-0002 are incorporated here for reference purposes only. Nothing within this Agreement, including the delineated Special Use Permit conditions in this paragraph II.B., alter, amend or extend the original terms and conditions of approval of Special Use Permit S2022-0002.

1. The Special Use Permit (S2022-0002) allows a freight and trucking distribution center in the ID zoning district less than 300 feet from a parcel zoned residential.
2. Site development shall generally conform to the conceptual plan provided and attached to Special Use Permit S2022-0002. Conceptual plan modifications that do not create negative off-site impacts, or intensify the permitted use may be approved by the Development Services Director.
3. A major site development application, including transportation impact analysis, is required within one year and site development must be complete within two years of the date of approval of the Special use Permit. Th Special Use Permit expires within two years, of the date of its approval, if site development on the Property is not complete. The Property shall not be used for trucking, parking, or storage purposes before site development is complete.
4. A 100-foot setback from CR 231 shall be maintained for outdoor activities other than storage and parking. Trucks shall not idle while parked in the setback area. Back up beepers shall not be utilized in the setback area.
5. Lighting located on the north and west borders of the Property adjacent to parcels zoned residential shall be shielded.
6. A Transportation Impact Analysis that meets Sumter County Public Work's standards must be approved within two years of the date of approval of the Special Use Permit.
7. ODFL shall provide a signed and sealed roadway analysis of CR 231 to assess what improvements to CR 231 may be necessary to accommodate the volume, size, and weight of trucks anticipated for theProject if required by the Sumter County Public Works Department.
8. ODFL may be required to enter into a developer's agreement with the County to address required improvements to CR 231. The developer shall be responsible for the cost of improvements necessary to accommodate truck traffic generated by the facility. (This Agreement resolves this condition of the Special Use Permit.)
9. Driveway locations on CR 231 are subject to Sumter County Public Works Engineering approval.
10. County personnel shall be allowed to access the site during normal business hours to perform unscheduled monitoring inspections.
11. The conditions of the Special Use Permit are binding on all future property owners.
12. Suspension, expiration, or revocation of any other agency permit shall be reported by the owner and operator to the County, in writing, by certified mail, immediately upon receipt of such notice and shall result in the immediate suspension, expiration, or revocation of this special use permit.

13. Notwithstanding the previous expiration conditions, the Special Use Permit may be suspended or revoked by the Board of County Commissioners consistent with Section 13-333(e), Sumter County Land Development Code.

### **III. PROJECT INFRASTRUCTURE OBLIGATIONS**

#### **(A) Transportation**

1. Based on the traffic impact study approved by County, the traffic-consulting firm of Burns and McDonnell Engineering Company conducted a transportation analysis for the Project. The Transportation Analysis is attached hereto and incorporated herein as Exhibit 2 to this Agreement. Burns and McDonnell Engineering Company determined that the approved amount of development requires the following:
  - a. Deceleration lanes of 455 feet at SR 44 eastbound left lane, SR 44 westbound right turn at site drive 1, SR 44 westbound right turn at CR 231.
  - b. CR 231 Roadway Improvements in proximity to the Project site.
  - c. Construction of traffic signal at the intersection of SR 44 and CR 231 which will operate in flash until a demonstrated need is observed for full activation.
  - d. Signage along SR 44 warning travelers of heavy vehicles entering roadway.
2. County will design, permit, inspect, and construct the traffic signal at SR 44 and CR 231 (Traffic Signal Improvements) and these Traffic Signal Improvements will funded from and be deemed as full use of Road Impact Fees related to this ODFL Project such that no other road impact fee credits or reimbursement will be available to Developer for any other Project Improvements required by this Agreement.
3. ODFL will design, permit, inspect (using third party engineering firm), and construction all other items listed in this Agreement, and more specifically for CR 231 the following shall be met:
  - a. Design and Construction of CR 231 Improvements shall follow the requirements of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly known as the "Florida Greenbook"), Sumter County Engineering Manual, The Manual on Uniform Traffic Control Devices for Streets and Highways, and the Florida Department of Transportation Standard Plans for Road Construction,
  - b. ODFL agrees to accept the necessary portion of the stormwater runoff, from the roadway improvements along CR 231 resulting from the Project's activities, through a recorded drainage easement (the "Easement Premises"). ODFL will design, construct, permit, maintain, inspect, install, and lay necessary appurtenances for draining stormwater runoff on and into the Easement Premises. ODFL further agrees to be the maintaining entity for the ERP permit associated with the roadway improvements including all stormwater infrastructure.
  - c. Drainage/Stormwater design shall meet the Southwest Florida Water Management District's criteria.
4. County agrees that ODFL will not be required to submit future traffic studies for the entitlements listed in this Agreement.

5. ODFL agrees that County's obligation for the Traffic Signal Improvements, as described in Paragraph 2 of this Agreement precludes and satisfies any future request for road impact fee credits for the Project.

(B) Potable Water and Sanitary Sewer Service

1. ODFL is responsible for the provision of potable water and sanitary sewer service through the City of Wildwood Utilities for the Project.

(C) Solid Waste Service

1. ODFL is responsible for the provision of solid waste service for the Project.

**IV. PERIODIC REVIEW**

County shall review the Property at least once every twelve (12) months in accordance with Section 163.3235, Florida Statutes.

**V. TERM**

The term of this Agreement shall be twenty (20) years but may be extended by mutual consent of the governing body and the Developer, subject to public hearings.

**VI. GOVERNING LAW**

This Agreement, and the rights and obligations of the Parties hereunder, shall be governed by, construed under and enforced in accordance with the laws of the State of Florida. Venue for any action to enforce this Agreement shall lie solely and exclusively in a state court of competent jurisdiction in and for Sumter County, Florida. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against a party to the Agreement.

**VII. SEVERABILITY**

If any provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**VIII. EXHIBITS**

Unless otherwise provided in this Agreement, all exhibits are incorporated herein by reference.

**IX. CAPTIONS FOR PARAGRAPH HEADINGS**

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

**X. COUNTERPARTS**

This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting the same instrument. Execution of this Agreement may be evidenced by transmission of facsimile or electronic pdf copies.

**XI. ASSIGNABILITY**

This Agreement may be not be assigned by ODFL without the prior express written permission granted by County.

**XI. EFFECTIVE DATE**

This Agreement is effective when fully executed by all Parties, and a copy is filed with the County Clerk in the Official Records.

**XII. TERMINATION**

This Agreement shall terminate upon the expiration of the term, or may be terminated by mutual consent of the Parties.

**XIII. AMENDMENTS**

This Agreement may be extended or amended by mutual consent of the parties so long as the extensions and amendments meet the requirements of Sections 163.3220-163.3243, Florida Statutes

**XIV. FURTHER ASSURANCES**

The undersigned individuals signing this Agreement on behalf of their respective Parties represent that they have full authority to execute this Agreement on behalf of their respective Party, and to bind their respective Party thereto. Each of the Parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

**XV. NOTICES**

Any notices or reports required by this Agreement shall be sent to the following:

For COUNTY:  
County Administrator  
7375 Powell Road  
Wildwood, Florida 34785

County Copy to:  
County Attorney  
7375 Powell Road  
Wildwood, Florida 34785

For ODFL:

Cecil Overbey  
Senior Vice President  
Strategic Development  
500 Old Dominion Way  
Thomasville, NC 27360

**XVI. PUBLIC HEARINGS**

This Agreement was approved by County at a duly advertised public hearing on June 27, 2023

**XVII. DISPUTE RESOLUTION**

All disputes arising out of or in connection with this Agreement shall be attempted to be settled through good-faith negotiation between the Parties, followed, if necessary, within thirty (30) days by professionally-assisted mediation upon written request of either party. Any mediator so designated must be acceptable to each party. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and, therefore, will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties. Failing resolution through negotiation or mediation, either party may file an action in a court of competent jurisdiction or other appropriate remedy available in law or equity as defined herein below.

**XVIII. ATTORNEYS' FEES**

In the event that it becomes necessary for any party to this Agreement to enforce its rights under the terms of this Agreement, then in that event, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, including all trial and appellate litigation.

**XIV. PUBLIC RECORDS**

IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 352-689-4400, Sumter County Board of County Commissioners, 7375 Powell Road, Wildwood, Florida 34785 or via email at records@sumtercountyfl.gov

**IN WITNESS WHEREOF**, the parties hereto, through their duly authorized representatives, have executed this Development Agreement as of the date set forth below.

**WITNESSES:**

**Old Dominion Freight Lines, Inc.**

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
By: Cecil Overbey, Senior Vice President

\_\_\_\_\_  
(Witness Printed Name)

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me by means of physical presence, this \_\_\_\_ day of \_\_\_\_\_, 2023 by, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name (typed, printed or stamped)

**Board of County Commissioners Sumter  
County, Florida**

By: \_\_\_\_\_  
Craig A. Estep, Chairman

ATTEST:

Date: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

Approved as to Form:

\_\_\_\_\_  
COUNTY ATTORNEY

## **EXHIBIT 1**

### **LEGAL DESCRIPTION**

The East ½ of the NE ¼ of Section 33, Township 18 South, Range 22 East, Sumter County, Florida, and all that part of the East ½ of the SE ¼ of said section lying North of the North right of way line of State Road 44, less all rights of way easements of record.



**EXHIBIT 2**

**BURNS AND MCDONNELL ENGINEERING COMPANY TRAFFIC ANALYSIS**