

**FOURTH AMENDMENT TO THE
DAYTONA AUTO MALL
PLANNED COMMERCIAL DEVELOPMENT (PCD) AGREEMENT
AS APPLIED TO LOTS 1-5**

WHEREAS, the City of Daytona Beach, Florida, a political subdivision of the State of Florida ("City") and Daytona Beach Auto Mall, LLC (DBAM), a Florida Limited Liability Company, "Owner" all parties to or successors to the terms and provisions of a development agreement entitled "Daytona Auto Mall Planned Commercial Development (PCD)", recorded in Official Records Book 4290, Page 982, Public Records of Volusia County, Florida ("the PCD Agreement"), relating to property described therein and owned by Owner ("the Property"); and

WHEREAS, the City and the Owner wish to amend Section 3 B, Permitted Uses as applied to Lots 1-5 inclusive of the Auto Mall Subdivision of the PCD Agreement, and

WHEREAS, Owner owns Lots 1-5 of the Daytona Auto Mall PCD and it is allowed certain usages outlined within Section 3B of the PCD Agreement, and

WHEREAS, due to changed circumstances since the adoption of the PCD, there is a need to amend Section 3B as it applies to Lots 1-5 of the PCD;

NOW, THEREFORE, the parties agree as follows:

1. PCD Section 3B as it applies to the usage of Lots 1-5 of the originally adopted PCD is amended and replaced as follows:

Section 3. DESCRIPTION OF DEVELOPMENT.

B) Permitted Uses:^{1, 2}

Interchange Retail Parcels (Lots 1-5) (~~Exhibit "B"~~)

- Retail Sales and Services (~~limited to items marketed primarily to the traveling public~~)

- Restaurants (A1, A2, A3) with the following accessory use:
Cocktail Lounges

- Tourist Accommodations (includes Motel and Hotel) with the following accessory uses:

Personal Services

Cocktail Lounges

¹ "Retail Sales and Service" shall not allow pawn shops, auto supply stores, grocery markets and drug and sundry stores.

² Lots 1-5 shall not be allowed to be used for the sale of new or used automobiles.

- Day Care
- Auto Rental Office
- Gas Station (with Light Vehicular Service)
- Car Wash
- Tourist Welcome Center
- Auto Rental Office
- Business Services
- Indoor Recreation
- Private Transportation Service

2. This Fourth Amendment shall be effective as of the date it is executed by all parties.

3. This Fourth Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Owners' expense.

4. The PUD Agreement, as previously enacted, shall remain in full force and effect except with respect to those matters specifically amended by this Fourth Amendment and shall bind the parties hereto and their future successors and assigns subject to any future amendments of equal dignity.

IN WITNESS WHEREOF, the parties have executed this Second Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

CITY OF DAYTONA BEACH, a
Florida municipal corporation

Christine M. Rindel
Christine M. Rindel
Printed Name

By Yvonne Scarlett Golden
Yvonne Scarlett-Golden, Mayor

Shirley G. Stickney
Shirley G. Stickney
Printed Name

Attest: Jennifer Thomas
Jennifer Thomas, City Clerk

Deborah E. Foster
Deborah E. Foster
Printed Name

Paula B. Crue
Paula B. Crue
Printed Name

Date: November 21, 2003

APPROVED:

[Signature]

CITY ATTORNEY