



CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE: 05/15/07

SUBJECT: ANNEXATION AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS - EASTPORT BUSINESS PARK, UNIT II SUBDIVISION

DEPARTMENT: CITY MANAGER/REDEVELOPMENT

RECOMMENDED MOTION: To approve the Annexation Amendment for the Eastport Business Park, Unit II Subdivision, as presented.

SUMMARY: The subject *Annexation Amendment to the Declaration of Covenants, Conditions and Restrictions* has been prepared by the Office of the City Attorney and has been executed by Induprop. Upon approval by the City Council, this annexation amendment will place the Eastport Business Park, Unit II subdivision lands under the jurisdiction of the Eastport Business Park Owner's Association, Inc., thereby subject to the same covenants, conditions and restrictions as Unit I.

Pursuant to the Amended and Restated Eastport Business Park Agreement between the City and Induprop, Inc., executed in June 1999, 5.6 net useable acres of Unit II is obligated to Induprop. The City and Induprop have also agreed in concept to exchanging an additional 2.01 acres of land in Unit II for Lot 5 in Unit 1. This land exchange will be formalized in a separate agreement that will be placed before the City Council for consideration. Pursuant to that Agreement, Induprop will acquire Lots 1 through 5 and Lot 7 in Unit II, and the City will acquire Lot 5 in Unit I. The City will retain the remaining acreage in Unit II (namely, Lot 6) for economic development purposes.

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT

FINANCE DEPARTMENT N/A

CITY ATTORNEY

CITY MANAGER

Donna J. Steinebach, AICP

Approved as to Budget Requirements

Approved as to Form and Legality

Approved Agenda Item For:

Date 05-04-07

Date

Date 5.4.07

5/15/07

COUNCIL ACTION:

Approved as Recommended

Disapproved

Tabled Indefinitely

Continued to Date Certain

Approved with Modification

This Instrument Prepared By:
Linda D Johnson CP®
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129-4144

Return Recorded Document to:
Attention: Records Clerk
City of Port Orange
1000 City Center Circle
Port Orange FL 32129-4144

ANNEXATION AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
EASTPORT BUSINESS PARK
(Phase II)

This Annexation Amendment entered into this 16th day of April, 2007, by and between INDUPROP, INC., a Florida corporation, mailing address: 901 Sixth Street, Daytona Beach, FL 32117 ("Induprop"); and CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, mailing address: Attention City Manager, 1000 City Center Circle, Port Orange, FL 32129 ("City"); affects real property located in the City of Port Orange, Volusia County, Florida. All references to recording data herein are to Public Records of Volusia County, Florida.

WHEREAS, Induprop is the Declarant under the "Declaration of Covenants, Conditions and Restrictions" ("Declaration") for the Eastport Business Park, having been recorded at Official Records Book 4478, Page 2521—2549, Public Records of Volusia County, Florida; and

WHEREAS, the City of Port Orange, Florida is the owner of real property, more particularly described on the attached Exhibit "A" ("Phase II Property"), adjacent to and intended to be developed as the second phase of the business park development known as "Eastport Business Park;" and

WHEREAS, the City and Induprop desire and intend to annex the Phase II Property to the provisions of the Declaration and to the jurisdiction of the Eastport Business Park Owners Association, Inc., a non-profit Florida corporation.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and with the intent to be legally bound and to bind their successors and assigns, do hereby agree as follows:

1. The premises set forth above are true and correct, form a material part of this Annexation Amendment, and are incorporated herein by reference.

2. The Phase II Property is hereby annexed to and shall be subject to the covenants, conditions, and restrictions of record pursuant to the Declaration as if said real property was originally set forth therein; and the Phase II Property shall be held, sold, transferred and conveyed subject to all of the terms, conditions, obligations, covenants, rights, privileges, and immunities for the Declaration, and the terms and conditions of same shall constitute covenants running with the land.

3. Except as set forth above, Declarant hereby ratifies and confirms all of the terms and conditions of the Declaration.

IN WITNESS WHEREOF, the Declarant and the City have caused this Annexation Amendment to be executed on the date(s) set forth below.

Witnesses:

INDUPROP, INC., a Florida corporation

Lori Goitia

Printed Name:

Lori Goitia

By

Printed Name/Title:

David Kendall, Vice President

Printed Name:

Janet Dalphon SE
Janet Dalphon

(Corporate Seal)

Witnesses:

CITY OF PORT ORANGE, a Florida
Municipal Corporation

Printed Name:

By

Printed Name/Title: Allen Green, Mayor

Attest:

Printed Name:

Printed Name/Title: Kenneth W. Parker, City Manager

(Corporate Seal)

(Notary Acknowledgments on Following Page)

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 16th day of April, 2007, by David Kendall, the Vice President and duly authorized to execute the foregoing Annexation Amendment on behalf of the **INDUPROP, INC.**, a Florida corporation, and who are personally known to me, or have produced _____ as identification.

Connie M. Fagan

Notary Public, State of Florida at Large
Printed name, commission seal and expiration:



STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, duly authorized to execute the foregoing Annexation Amendment on behalf of the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, and who are personally known to me, or have produced _____ as identification.

Notary Public, State of Florida at Large
Printed name, commission seal and expiration:

EXHIBIT "A"
Eastport Business Park, Phase II

DESCRIPTION:

A PORTION OF BLOCK 15, AND THAT PORTION OF WOOD STREET LYING NORTH OF COMMONWEALTH BOULEVARD, ALL IN DEPOT ADDITION TO ALLANDALE, AS RECORDED IN MAP BOOK 11, PAGE 83, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; TOGETHER WITH A PORTION OF ALLANDALE GARDENS UNIT 1 AS RECORDED IN MAP BOOK 9, PAGE 192, SAID PUBLIC RECORDS, LYING WEST OF 100' FLORIDA EAST COAST RAILWAY RIGHT-OF-WAY; AND TOGETHER WITH A PORTION OF LOT 13 AND WOOD ROAD, ALLANDALE GARDENS UNIT 3, AS RECORDED IN MAP BOOK 9, PAGE 194, SAID PUBLIC RECORDS; ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF EASTPORT BUSINESS PARK, AS RECORDED IN MAP BOOK 47, PAGE 93, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN N89°11'39"E ALONG THE SOUTHERLY BOUNDARY LINE OF SAID EASTPORT BUSINESS PARK, 327.88 FEET TO THE SOUTHWEST CORNER OF TRACT H, SAID EASTPORT BUSINESS PARK; THENCE DEPART SAID SOUTHERLY BOUNDARY LINE S04°51'06"E, 38.44 FEET; THENCE N85°08'54"E, 228.66 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY, A 100 FOOT RIGHT OF WAY; THENCE S04°39'03"E ALONG SAID WESTERLY RIGHT OF WAY LINE, 1315.80 FEET TO THE SOUTHEAST CORNER OF LOT 15, SAID ALLANDALE GARDENS UNIT NO. 1; THENCE ALONG THE SOUTH LINE OF SAID LOT 15, S89°00'34"W, 147.99 FEET TO THE WESTERLY LINE OF BLOCK 9, SAID DEPOT ADDITION TO ALLANDALE; THENCE ALONG THE WEST LINE OF SAID BLOCK 9, S01°12'14"E, 200.15 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF COMMONWEALTH BOULEVARD, A 60 FOOT RIGHT OF WAY; THENCE DEPART SAID WESTERLY LINE ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID COMMONWEALTH BOULEVARD, S88°52'27"W, 94.92 FEET; THENCE DEPART SAID NORTHERLY RIGHT OF WAY LINE N01°07'33"W, 8.79 FEET; THENCE N41°26'58"E, 29.12 FEET; THENCE N86°50'14"E, 15.19 FEET TO THE EASTERLY LINE OF BLOCK 15, SAID DEPOT ADDITION TO ALLANDALE; THENCE ALONG THE EASTERLY LINE OF SAID BLOCK 15, N01°12'14"W, 169.52 FEET TO THE SOUTHEAST CORNER OF LOT 13, SAID ALLANDALE GARDENS, UNIT 3; THENCE ALONG THE EASTERLY LINE OF SAID LOT 13, N09°17'38"W, 202.24 FEET; THENCE CONTINUE ALONG SAID EASTERLY LINE N00°45'48"W, 317.51 FEET; THENCE DEPART SAID EASTERLY LINE OF LOT 13 S88°55'58"W, 219.94 FEET; THENCE N21°37'57"W, 365.00 FEET; THENCE N39°16'49"W, 610.20 FEET TO THE SOUTH LINE OF LOT 4, ALLANDALE GARDENS, UNIT 4, AS RECORDED IN MAP BOOK 9, PAGE 193, SAID PUBLIC RECORDS; THENCE N89°08'13"E ALONG SAID SOUTH LINE, 320.05 FEET TO THE POINT OF BEGINNING.
CONTAINING 14.128 ACRES, MORE OR LESS.