

~~This instrument prepared by  
and should be returned to:~~

~~Heather M. Blom-Ramos, Esq.  
Gray Robinson, P.A.  
301 E. Pine Street, Suite 1400  
Orlando, Florida 32801~~

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## TALICHET @ VENEZIA NORTH PHASE 2 AT HOWEY-IN-THE-HILLS DEVELOPER'S AGREEMENT

This TALICHET @ VENEZIA NORTH PHASE 2 AT HOWEY-IN-THE-HILLS DEVELOPER'S AGREEMENT ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2021, between the **Town of Howey-in-the-Hills**, Florida, a Florida municipal corporation ("Town"), and **Venezia Partners, LLC**, a Florida limited liability company (the "Owner").

### RECITALS

A. The Owner is the owner of a separate parcel of property, one of which consists of approximately 10.0 acres which are more particularly described in Exhibit "A" (the "Property").

Commented [A1]: Make sure to attach legal description to complete the agreement. Done.

B. The Property has been annexed into the corporate limits of the Town and, in addition, the Property have been rezoned to Planned Unit Development ("PUD") (by Ordinance ~~2005 348~~ and Ordinance ~~2005 351~~) ("~~PUD Approvals~~").

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C. The Owner intends to develop the Property as a planned development consisting of detached single-family residential homes as more specifically set forth herein (the "Project").

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D. The Town and the Owner now desire to enter into this Agreement in order to set forth the terms of their mutual understanding regarding the development of the Property.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual covenants and benefits herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Town and Owner agree as follows:

1. Recitals. The foregoing recitals are true, correct and are hereby incorporated as terms.

2. Authority. This Agreement is entered into by the Town under the home rule powers granted to it by the Florida Constitution (including Article VIII, Section 2(b) thereof), the general powers conferred upon municipalities by statute and otherwise (including Chapter 163 and 166, Florida Statutes), and the Town's Charter. The parties specifically agree that this Agreement does not constitute a "development agreement" under the Florida Local Government Development Agreement Act, Section 163.3220-163.3243, Fla. Stat., nor do the provisions of said supplemental act apply to this Agreement. ~~Additionally, this does not constitute a "development agreement" under Article V of the Town's Land Development Regulations.~~

Commented [A2]: What is the value of this exclusion?

Commented [A3R2]: Retain as written per advice from Town Attorney.

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3. Relationship to Land Development Regulations. The Owner shall abide by and comply in all respects with the requirements of the Town's Land Development Regulations, including without limitation, those pertaining to planned unit developments and this Agreement. However, in the event of conflict between this Agreement and the Town's Land Development Regulations, this Agreement shall control to the extent of such conflict.

4. Development Standards. The Owner agrees to develop the Property substantially in conformance with the PUD Approvals and the Preliminary Development Plans prepared by Germana Engineering & Associates, LLC for the Project and approved by the Town concurrently herewith, which Preliminary Development Plans are dated September 27, 2006, and are attached hereto as Exhibit "B" and incorporated herein by reference (the "Plan"). As depicted on the Plan, the Owner may develop the Property with up to 21 single family lots 60' x 120' as depicted in the PUD Approvals and on the Plan. Exhibit B shall include the data required by Section 4.05.12 Preliminary Subdivision Plan Drawings, and approval of this Agreement shall also constitute approval of the Preliminary Subdivision Plan.

Further, the Plan approval was granted by the Howey-in-the-Hills Town Council (the "Town Council") on November 13, 2006. The approval included the following conditions and provisions:

a. ~~A maximum of 21 single family lots shall be permitted to have a minimum wetland building setback of 25 feet (the distance from the wetland line to the single family home). The Final Plans shall include a note with this provision. No development disturbance is permitted within 25 feet of a designated wetland area. This area of no disturbance shall be included in common area, or if not practical based on the required lot depth shall be protected by a conservation easement.~~

b. At the time of Final Plan approval representative examples of single family home styles shall be provided to the Town Council.

c. ~~Although the Town Council agreed that the Project open space data shall be provided to the Town for administrative compliance prior to Final Site Plan Approval by the Town Council, such Project open space data has already been submitted and approved by the Town.~~

~~Amendments to the Plan that occur after the effective date of this Agreement shall take effect only if and when approved by the Town Council. Further, upon approval by the Town Council, amendments to the Plan shall automatically be incorporated into this Agreement and shall modify or replace the Plan to the extent of such amendment to the Plan, without the necessity for an amendment to this entire Agreement. Minor amendments to the plan (Exhibit B) that occur after the effective date of this agreement shall take effect only if and when approved by the Town Council. Minor amendments include items such as minor adjustments to lot lines, wetland limits, storm water retention areas and similar adjustments that are the result of detailed engineering, more specific site data, and similar sources. Minor amendments shall be incorporated into this Agreement as a result of the Town Council approval of a final Subdivision Plan. Any amendments other than minor amendments shall be approved by Town Council using the same procedure used for adoption of this Agreement.~~

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**Commented [A4]:** Make sure to attach Exhibit B Done. Corrections required to Exhibit B.

**Commented [A5]:** We can save a whole review steps for this simple subdivision so long as the Exhibit B includes the minimum data for a preliminary subdivision. Nearly all of this data is available.

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**Commented [A6]:** The map Exhibit 5 of the environmental report appears to show sufficient area to allocate land to a wetland buffer without impacting the subdivision layout.

Unless more detailed analysis shows a problem, no waiver from the Town's wetland buffer requirement is warranted.

The survey does not show a wetland limit. The wetlands need to be staked and surveyed to verify the application of this provision.

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**Commented [A7]:** This provision does not appear to be required.

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**Commented [A8]:** This proposed language allows for minor adjustments to the site layout as detailed engineering necessitates and it specifies the point when the amendments are incorporated into the agreement as the point when the Town gives final approval for construction of improvement. A process for major amendments is laid out although a major amendment to this subdivision appears unlikely.

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The Town hereby acknowledges and agrees that the Project, as depicted on the Plan ([Exhibit B](#)) (and any amendments to the Plan, which amendments must first be approved by the Town), is consistent with its Comprehensive Plan and Land Development Regulations.

5. Signage. Entrance signs and informational signage may be located in buffers, setbacks and/or signage easements as approved by the Planning and Zoning Commission.

6. Wetlands. Impacts to wetlands, if any, and wetland buffering shall be subject to the St. Johns River Water Management District regulations and the Town's Land Development Regulations.

7. Setbacks. Minimum setbacks shall be as shown on the Plan. ~~20' Front 10' Rear, 5' Side, 10' Corner~~

~~7-Front Yard 20 feet~~

~~7-Side Yard 5 feet~~

~~7-Side Corner Yard 10 feet~~

~~7-Rear Yard 10 feet~~

**Commented [A9]:** Make sure the proposed setbacks are shown on Exhibit B.

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~~12.8. Water, Wastewater and Reclaimed Water Service.~~ The Owner currently has a contract with the Central Lake Community Development District ("CDD") under which the Project will receive wastewater treatment and disposal services from the CDD's wastewater facilities. The Town shall provide the potable water and reclaimed water in accordance with all applicable ordinances, resolutions, operating regulations, policies and procedures. Except as may be set forth otherwise in this Agreement, the Owner shall install on-site facilities, connect to the Town's systems, and pay applicable capital and connection charges and other Town rates, fees, and charges.

**Commented [A10]:** Is this true? Please provide documentation.

a. Reclaimed Water. The Owner shall install reclaimed water lines, as required by ~~Article I of Chapter III Section 8.04.04~~ of the Town's ~~Code of Ordinances, Land Development Code~~, and shall obtain reclaimed water service for the Project at such time the Town constructs its reclaimed water lines to the Project's boundaries. Until such time as the Town supplies reclaimed water, the Owner may use the reclaimed water lines to irrigate properties within the Project boundaries with stormwater from on-site wet stormwater detention ponds.

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b. Water.

(i) Water Service. If and to the extent allowed by and subject to the limitations and requirements of, the permits issued to the Town from time to time by the St. John's River Water Management District in connection with water consumption, the Town shall provide potable water service to the Property in sufficient quantities as to allow for development of the Project as intended herein. The Owner shall construct, at its expense, the on and off-site transmission facilities (exclusive of water treatment plants),

lines and appurtenances necessary to serve the Project. The route of any off-site lines shall be according to engineering plans produced by the Owner and approved by the Town, which approval shall not be unreasonably withheld, conditioned or delayed. [The potable water system design shall provide for future connection to anticipated development south of the subject property. This connection shall extend to the property boundary and be properly valved to allow for future connection.](#) If roads within the Project are private, the Owner shall provide the Town with utility easements for waterlines and sewer lines.

(ii) [Town's Option to Oversize Water Lines.](#) Within three (3) months of the date of this Agreement, the Town Council may elect to oversize such lines, improvements or appurtenances for the Town's use in the expansion of its potable water system. In the event the Town so elects to oversize such improvements, then the Town shall be responsible for the difference in the cost of design, materials and construction to oversize the improvements based on plans and cost estimates provided by the Owner to the Town, and approved by the Town Council, which approval shall not be unreasonably withheld, conditioned or delayed. The Town shall reimburse the Owner for the difference in cost of materials to oversize such improvements in the form of cash. The Town shall make such reimbursement to the Owner within sixty (60) days following a written request therefor from the Owner, accompanied by such supporting documentation as is reasonably necessary to demonstrate that the Owner has incurred and paid the costs which are attributable to such over-sizing in keeping with the plans and cost estimate previously approved by the Town Council.

(iii) [Permit-Induced Costs, Restrictions, Requirements, and Risks.](#) Under state and federal laws and regulations, the Town may provide its potable water service to the Property and the Owner only if the Town first has been issued certain permits, and the Owner acknowledges that the permits are inevitably conditioned with requirements and restrictions that typically impose costs and risks. The Owner further acknowledges that, for the Town to operate its potable water system in an orderly, dependable, and cost-effective manner, the Town must have the ability legally to spread the costs and risks among its customers and property owners who benefit from the service. The Owner acknowledges, therefore, (i) that from time to time the Town must impose fees and charges and must issue potable water system regulations and policies that impose restrictions and requirements on its customers and benefiting property owners, such as the Owner, and (ii) that the imposition of such fees and charges and the issuance of such system regulations are not prohibited by or otherwise a breach of this Agreement.

c. [Wastewater.](#) The parties acknowledge and agree that the Owner has entered into that certain Agreement and Commitment for Utility Services, dated

June 21, 2005 (the “Utilities Commitment”), with the CDD, the terms of which provide, in relevant part, that the Project will receive wastewater treatment and disposal service from the wastewater facilities of the CDD.

The owner shall provide written approval from the Talichet @ Venezia North Phase I to accept sewage flow into the private pump station service Phase 1.

The Owner acknowledges that (i) from time to time the Town must impose fees and charges and must issue wastewater-system regulations and policies that impose restrictions and requirements on its wastewater customers and benefiting property owners, such as the Owner, and (ii) the imposition of such fees and charges and the increase of such regulations are not prohibited by or otherwise a breach of this Agreement.

~~13.9.~~ Necessity of a Letter of Credit. Construction and dedication to the Town of any new public facilities or improvements that are required to be constructed as part of this Agreement will be a condition precedent to final plat approval; provided, however, in lieu of such construction and dedication, the Owner must post a letter of credit with the Town for one hundred twenty-five percent (125%) of the cost of such improvements, in which event the condition precedent to final plat approval will be deemed satisfied.

~~14.10.~~ Owner’s Associations. The Owner, a homeowner’s association, and/or a property owner’s association created by the Owner, not the Town, shall be responsible for maintaining any and all community parks, open space areas, roads, sidewalks, streetlights, signs, stormwater management structures, entrance features, boundary walls and/or fences, access tracts and landscaped tracts within the Project. This paragraph shall survive the termination of this Agreement. The Owner envisions developing a portion of the Project as a gated community. The Town shall maintain waterlines and the wastewater provider shall maintain the sewer lines which serve the property within the Project. For any portion of the Project that is not developed as a gated community and for which the streets are dedicated to the Town, then the Town shall maintain the roads, sidewalks and signs.

~~15.11.~~ Transportation. The Owner acknowledges that the Town has performed an overall traffic analysis entitled “Cumulative Traffic Study for Howey-in-the-Hills” dated November 27, 2006 [study is marked DRAFT - date, title, and findings within the study may change when study is finalized] The Owner shall be responsible to pay for the fair share of improvements found to be necessary by the Town and traffic analysis to develop the Project.

**Commented [A11]:** Insert the date and proper citation for the mre current traffic study.

~~16.12.~~ School Concurrency. ~~The Project shall be placed on the Town’s “exempt” status list to be provided to Lake County and exempted from school concurrency requirements if the following requirements are completed on or before the date that the school concurrency element is adopted by the Town: (i) the Project has Preliminary Plan approval with no outstanding conditions, and (ii) this Developer’s Agreement has been finalized and executed by all parties hereto. Inclusion on the “exempt” status list will not guarantee that the Project will remain on the list until after a formal determination has been rendered by the Town Council as to whether the Project is vested for school concurrency purposes in accordance with Florida law. The~~

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Owner shall provide a current certificate of concurrency issued by the Lake County School District prior to any approval of a Final Subdivision Plan.

**Commented [A12]:** These units are not exempt from the Lake County Schools concurrency requirements.

~~17.13.~~ **Binding Effect; Assignability.** This Agreement, once effective, shall be binding upon and enforceable by and against the parties hereto and their assigns. This Agreement shall be assignable by the Owner without the need for consent by the Town. The rights and obligations set forth in this Agreement shall run with the land and be binding on all successors and/or assigns. The parties hereby covenant that they will enforce this Agreement and that it is a legal, valid, and binding agreement.

~~18.14.~~ **Notices.** All notices or payments required to be made hereunder shall be made at the following addresses:

To Town:                   The Honorable Martha Macfarlane  
Mayor, Town of Howey-in-the-Hills  
101 North Palm Avenue  
Howey-in-the-Hills, Florida 34737

With a Copy to:       Tom Wilkes  
Gray Robinson  
301 East Pine Street  
Suite No. 1400  
Orlando, Florida 32801

To Owner:               Venezia Partners, LLC  
2406 Cypress Glen Drive  
Suite No. 102  
Wesley Chapel, Florida 33543  
Attn: Ronald Roberts  
Theodore Bolin

With a Copy to:       Shimel Law, P.A.  
1190 Business Center Drive  
Suite 2000  
Lake Mary Florida 32746  
Attn: Chad Shimel

~~19.15.~~ **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the parties relating to this Agreement. No amendment to the terms of this Agreement shall be effective unless it is in writing signed by all parties hereto. Amendments to this Agreement will take effect and will be binding against the Town only if approved by a vote of the Town Council.

~~20.16.~~ **Waiver.** The failure of any party hereto to insist upon or enforce any right or privilege granted hereunder shall not constitute or operate as a waiver thereof and nothing shall

constitute a waiver of any party's right to insist upon strict compliance with the terms hereof. Provided however, any party may, in writing, waive the benefit of any provision or condition for its benefit which is contained herein. Waivers of material provisions of either this Agreement or the Town's Land Development Regulations will be valid and binding against the Town only if approved by a vote of the Town Council.

~~24-17~~. Governing Law. This Agreement shall be governed by the law of the State of Florida. Venue for any judicial proceeding pertaining to this Agreement shall be in the Fifth Judicial Circuit of Florida, in Lake County, Florida.

~~22-18~~. Effective Date. This Agreement shall become effective after approval by the Town Council and execution of this Agreement by both parties.

~~23-19~~. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall remain enforceable to the greatest extent permitted by law.

~~24-20~~. Negotiated Agreement. The uses, densities, intensities and all of the conditions of approval of the Plan have been negotiated and agreed to by both the Owner and the Town. The Plan constitutes an agreement between the parties. The Owner and the Owner's successors in interest have the contract right to develop the PUD with the uses, densities and intensities approved by the Town, subject to the restrictions and requirements in the conditions of approval, and neither the applicant nor the Town shall have the right to rezone or downzone the property, or otherwise alter the uses, densities and intensities, or delete, waive or amend any conditions of approval except through an amendment to the Plan that is negotiated and approved by all parties.

~~25-21~~. Recording. This Agreement shall be recorded by the Owner, at the Owner's expense, in the Public Records of Lake County, Florida, and shall constitute a covenant running with the land for the term hereof.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have set their hands and seals on the date first written above.

TOWN OF HOWEY-IN-THE HILLS, FLORIDA

By: \_\_\_\_\_  
MARTHA MACFARLANE, Mayor

Attest:

By: \_\_\_\_\_  
John Brock, Town Clerk

Approved as to form and correctness:

By: \_\_\_\_\_  
Tom Wilkes, Town Attorney

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was executed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by MARTHA MACFARLANE, as Mayor of the Town of Howey-in-the-Hills.

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Name of Notary Public  
(Typed, Printed or stamped)

Personally Known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced: \_\_\_\_\_



Witnesses:

“OWNER”

VENEZIA PARTNERS, LLC, a Florida limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

As its: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was executed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of Venezia Partners, LLC, a Florida limited liability company, on their behalf.

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Name of Notary Public  
(Typed, Printed or stamped)

Personally Known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced: \_\_\_\_\_

**EXHIBIT "A"**

**Legal Description**

ALSO DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, THENCE RUN SOUTH 89°27'45" EAST, ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 661.44 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE RUN SOUTH 00°34'04" WEST, ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 662.94 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35 AND THE POINT OF BEGINNING; THENCE RUN SOUTH 89°25'04" EAST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 659.88 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE RUN SOUTH 00°27'45" WEST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 662.82 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE RUN NORTH 89°22'50" WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 661.08 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE RUN NORTH 00°33'59" EAST, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 662.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 437,633.7512± SQUARE FEET OF 10.04± ACRES.

**EXHIBIT "B"**  
**Preliminary Development Plan**

