

## PARTNER AGREEMENT

THIS PARTNER AGREEMENT (hereinafter referred to as the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the CITY OF VENICE, a municipality duly enacted under the laws of the State of Florida, whose address is 401 W. Venice Ave., Venice, Florida 34285 (hereinafter referred to as "City"), and VENICE HERITAGE INC., a registered 501(c)(3) Florida nonprofit corporation, hereinafter referred to as VHI.

### WITNESSETH:

WHEREAS, the Lord-Higel House (LHH) is a City owned asset located at the southeast corner of Granada Boulevard and Avenida de Parques;

WHEREAS, the LHH is a valuable and historically significant City asset which is intended for the benefit and enjoyment of the public;

WHEREAS, VHI has contributed significant funding, project management, volunteer hours and in-kind services to the restoration of the LHH;

WHEREAS, the LHH requires additional restoration and site work in order to gain the certificate of occupancy for public use (hereinafter referred to as the "Partner Project");

WHEREAS, VHI wishes to remain a participating partner in the Partner Project by raising funds for that purpose and soliciting volunteers to assist in the work to be performed on the property;

WHEREAS, this Agreement will replace and supersede the existing Agreement to Complete Lord-Higel House Construction entered into on January 26, 2016.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the City and Partner agree as follows:

1. Recitals. The above recitals are true and correct and incorporated into the substantive body of this Agreement as if set forth therein.

2. Role of VHI. VHI will act as a partner to the City in regards to completion of the Partner Project. VHI will retain the authority to fundraise on behalf of the Partner Project, contribute in-kind services and perform volunteer efforts on the Partner Project. VHI will also have the ability to hold special events on the property for purposes of fundraising, with approval from the City, necessary special event permits and evidence of certain other insurance such as Host or Legal Liquor Liability. VHI will assist the City project manager and any contractors with input on design decisions, interpretation of design plans and the historical accuracy of the restoration. VHI may take project management roles and hire contractors for specific Partner Project components as assigned by the City and with prior approval of the City.

3. Role of City. The City will be responsible for all project management functions necessary to complete the Partner Project. The City reserves the right to perform value engineering and project scope adjustments as necessary to complete the Partner Project within the allotted budget. Any design or scope of work modifications will be reviewed and discussed with VHI prior to proceeding, with consideration given for maintaining historical accuracy and appropriateness. After completion of the Partner Project, the City will work in good faith with VHI and other City partners to develop the plan for beneficial public use and enjoyment of the LHH.

4. Insurance. VHI shall procure and maintain, during the life of this Agreement, the insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City, placed with insurance carriers approved and licensed by the Florida Office of Insurance Regulation, and meet a minimum financial AM Best and Company rating of no less than A:VII.

No changes are to be made to these specifications without prior written specific approval by the City.

- a. Commercial General Liability insurance providing coverage for premises and operations including but not limited to bodily injury, property damage, contractual, products and completed operations, collapse, underground and explosion, owner's and contractor's protection, contractual and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate.

All policies required by this Agreement, unless specific approval is given by the City, are to be written on an occurrence basis and shall name the City of Venice, its Elected Officials, Officers, Agents, and Employees as additional insured as their interest may appear under this Agreement. Insurer(s) shall agree to waive all rights of subrogation against the City of Venice, its Elected Officials, Officers, Agents, and Employees.

Each insurance policy required by this Partner Agreement shall:

- a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability; and
- b. Be endorsed to state that coverage shall not be suspended, voided or canceled by either party except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City of Venice Risk Manager.

The City shall retain the right to review, at any time, coverage form/policy, and amount of insurance.

The procuring of required policies of insurance shall not be construed to limit VHI's liability nor to fulfill the indemnification provisions and requirements of this Agreement.

VHI shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not the City is an insured under the policy. Deductible levels should be acceptable to the City.

Certificates of Insurance evidencing Occurrence form coverage and conditions to this Agreement are to be furnished to the Lessor's Risk Manager, 401 West Venice Avenue, Venice, FL 34285, ten (10) business days prior to commencement of this Agreement and a minimum of thirty (30) calendar days prior to expiration of the insurance policy.

Notices of Claims associated with this Agreement shall be provided to VHI's insurance company and the City's Risk Manager, as soon as practicable after notice to VHI.

VHI is, and shall be, in the performance of all activities and work, under this Agreement, an independent contractor, and not an employee, agent or servant of the City. VHI has no authority or power to bind the City in any other agreement, promise or representation.

5. Termination of Agreement.

- a. Termination for Cause: In the event either party defaults or otherwise violates any of the terms of this Agreement, the non-defaulting party shall give the defaulting party written notice of the default, and that such default shall be corrected within ten (10) business days of the date of the written notice. In the event the defaulting party fails to correct the condition(s) of the default within the aforementioned timeframe, the non-defaulting party shall have all legal remedies available to it, including but not limited to, termination of this Agreement for cause.

- b. Termination for Convenience of City: The City for any reason may terminate this Agreement at any time by giving at least sixty (60) days written notice to VHI.
- c. Termination for Convenience of VHI: This Agreement may be terminated by VHI by either: (i) mutual consent of both parties; or (ii) upon sixty (60) days written notice delivered by certified mail, return receipt requested to the City.
- d. Termination at end of project: This agreement shall terminate once the Certificate of Occupancy is issued for the LHH Project.

6. Assignment. Neither party may assign this Agreement or any portion thereof, without the prior written consent of the other party.

7. Third Parties. There shall be no third-party beneficiaries with respect to this Agreement and no right nor any cause of action shall accrue to or the benefit of any third party.

8. Governing Law and Venue. This Agreement shall be governed by and in accordance with the laws of the State of Florida. Any action or proceeding related to this Agreement shall be brought in Sarasota County, Florida.

9. Public Records. To the extent applicable, Partner agrees to comply with Florida's public records law by keeping and maintaining public records that ordinarily and necessarily would be required by the City in order to perform the services under the Agreement by doing the following: upon the request of the City's Custodian of Public Records, providing the City with copies of or access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided by Florida law; by ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of the Agreement if the Partner does not transfer the records

to the City; and upon completion of the Agreement by transferring, at no cost, to the City all public records in possession of the Partner or by keeping and maintaining all public records required by the City to perform the services. If the Partner transfers all public records to the City upon completion of the Agreement, the Partner shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Partner keeps and maintains public records upon completion of the Agreement, the Partner shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's Custodian of Public Records, in a format that is compatible with the information technology systems of the City.

**IF THE PARTNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PARTNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS CITY CLERK, AT 401 WEST VENICE AVENUE, VENICE, FLORIDA 34285, KMICHAELS@VENICEFL.GOV, OR (941) 882-7390.**

10. Captions. The captions in this Agreement are for convenience of reference only and do not describe the scope or intent of this Agreement or the interpretation or construction thereof.

11. No Joint Venture or Agency. Nothing contained in this Agreement or in any other document executed in connection herewith, is intended or shall be construed to establish the City as a joint venturer or partner, team member, contractor, agent, or assign of the Partner. The City and Partner, along with their respective agents and assigns shall perform all activities that are required by this Agreement as separate and independent entities and not as agents of the other party hereto. Nothing herein operates to impose any obligation, responsibility or liability upon the City with respect to the Partner Services.

12. Severability. If any sentence, phrase, section, provision or any portion thereof of this Agreement is for any reason held illegal or invalid by a court of competent jurisdiction, such part shall be deemed of no effect and shall be deemed stricken from this Agreement without affecting the full force and binding effect of the remainder of this Agreement.

13. Default Notice. The City and Partner will immediately notify each other in the event of any known, discovered, or anticipated default hereunder.

14. Non-Action or Failure to Observe Provisions. The failure of either party to promptly insist upon strict performance of any term of this Agreement shall not be deemed a waiver of any right or remedy and shall not be deemed a waiver of a subsequent default or nonperformance of such term.

15. Modification. Modification of this Agreement may only be made by written agreement of the parties hereto.

16. No Waiver of Regulatory Authority. Nothing in this Agreement operates as a waiver of the City's regulatory authority, including, though not exclusively, with respect to the Partner Project.

17. Litigation and Attorney's Fees. In the event either party to this Agreement should bring or defend any suit to enforce or interpret any provision hereof, the predominantly prevailing party shall be entitled to reasonable attorney's fees and costs and expenses of investigation, all as actually incurred, including, without limitation, attorney's fees, costs and expenses incurred before, during or after trial or in any appellate proceedings. The terms of this section shall survive the termination of this Agreement.

18. Indemnification. Partner hereby agrees to indemnify, release and hold the City, its agents, assigns, employees, elected and appointed officials, harmless from and against any and all

claims, causes of action, liability and damages (including attorney's fees) that may arise under this Agreement, except to the extent that said claims, causes of action, liability and damages arise from the negligence of the City.

19. Effective Date. This Agreement shall be effective upon the date of full and complete execution by both parties hereto.

20. Entire Agreement. This Agreement constitutes the entire Agreement between the parties and supersedes and replaces any and all prior agreements, undertakings, representations and statements, including the Agreement to Complete Lord-Higel House Construction entered into on January 26, 2016.



IN WITNESS WHEREOF, City and Partner set their hands and seals hereto on the day and year first above written.

**CITY OF VENICE, FLORIDA**

ATTEST:

\_\_\_\_\_  
Ron Feinsod, Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**PARTNER, VENICE HERITAGE, INC.**

ATTEST:

Gary Youngberg  
Secretary  
Gary Youngberg

Bonnie Fernandez  
Print Name: Bonnie Fernandez  
Its: President