

## DEVELOPER'S AGREEMENT

This Agreement is entered into this \_\_\_\_\_ day of February, 2014, by and between Laurel Road Property, LLC, a Limited Liability Company, organized under the laws of the State of Florida ("Developer") and the City of Venice ("City"), a municipal corporation organized under the laws of the State of Florida.

### RECITALS

WHEREAS, Developer is the contract purchaser of property now known as Portofino, more particularly described in Exhibit "A" attached hereto (the "Property"); and,

WHEREAS, OB Waterford, LLC, a Limited Liability Company, organized under the laws of the State of Florida, is the owner of the Property and through its agent, seeks to rezone the Property to the Commercial Mixed Use ("CMU") zoning district; and,

WHEREAS, Developer plans to acquire and develop the Property; and,

WHEREAS, for CMU zoned property, Section 86-97(p)(1)f. requires that the Developer specify the three minimum land uses required and the minimum percentages of each use.

NOW THEREFORE, for and in consideration of the premises and in reliance on the mutual promises, covenants, undertakings, recitals and other matters contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

**1. Land Subject to the Agreement.** The land subject to this Agreement, consisting of approximately fifty (50) acres, is commonly known as Portofino and is more particularly described in Exhibit A" of this Agreement.

**2. Development According to Code.** Developer, for itself, its successors in title and as agent for and on behalf of OB Waterford, LLC, agrees to proceed with the proposed development according to the provisions of Chapter 86, Article V, and all other provisions of the Venice Land Development Code, as modified by Ordinance Number 2014-04 including, but not limited to, the binding master plan titled "Portofino Rezoning Application December, 2013, as Amended January 28, 2014", and such conditions as may be set forth as a condition of approval for the development.

**3. Uses.** Developer, for itself, its successors in title and as agent for and on behalf of OB Waterford, LLC, pursuant to Section 86-97(p)(1)f. of the Venice Land Development Code, agrees to three minimum land uses of residential dwellings, including assisted living facilities (minimum 8% of the total area of the Property), offices (minimum 2% of the total area of the Property) and commercial, retail and service establishments (minimum 2% of the total area of the Property).

**4. Development Arising out of Master Plan.** Developer, for itself, its successors in title and as agent for and on behalf of OB Waterford, LLC, agrees to provide agreements, contracts, deed restrictions and sureties, as necessary, acceptable to the City Council for completion of the development according to the binding master development plan approved at the time of acceptance of the area for CMU zoning and for continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at public expense.

**5. Traffic Concurrency.** The Portofino CMU Development is hereby deemed concurrent with regard to transportation facilities under the City of Venice Concurrency Management Ordinance, subject to the terms and conditions contained in this Agreement.

The Traffic Impact Study dated September 6, 2013, established total P.M. Peak Hour trips vested for this project at 1,154 net new trips (1,599 gross P.M. Peak Hour trips) and stipulates the required off-site and onsite transportation facilities needed to support the Property. The required Developer Roadway Improvements are as follows (unless otherwise indicated, the timing of each improvement will be determined to be required or not at each site and development plan review):

<b>Roadway Improvements</b>		
<b>Improvement Location</b>	<b>Intersection</b>	<b>Improvement</b>
A	Knights Trail Road & North Project Driveway	Construct one northbound right-turn lane
B	Knights Trail Road & North Project Driveway	Construct one southbound left-turn lane
C	Knights Trail Road & South Project Driveway	Construct one northbound right-turn lane
D	Laurel Road & Middle Project Driveway	Construct one eastbound left-turn lane
E	Laurel Road & East Project Driveway	Construct one westbound right-turn lane
F	Laurel Road and East Project Driveway	Construct one eastbound left-turn lane
G	Coordinated Signalized Intersections on Laurel Road	Construct one traffic signal cycle length modification to a 100-second cycle length
H	Knights Trail Road & North Project Driveway	Construct one traffic signal at intersection, when warranted

In addition to the Roadway Improvements above, Developer shall pay the City of Venice \$51,224.85 within 10 days after Rezone Ordinance Number 2014-04 is deemed final and non-appealable. The City and Developer agree that said payment represents the full and complete payment obligation of Developer for the extension of the eastbound

left-turn lane at the intersection of Laurel Road and Knights Trail Road by 125 feet and the extension of the westbound left-turn lane at the intersection of Laurel Road and Albee Farm Road by 25 feet.

**6. Impact Fee Credits.** The City agrees that Developer shall have the right to seek impact fee credits, as allowed by law, for the Roadway Improvements and for the payment described in paragraph 5, herein.

**7. Failure to Comply with the Requirements.**

- a) The parties shall have all rights available by law and equity to enforce this Agreement.
- b) Notice of any failure to comply with the requirements of this Agreement, or for any other purpose, shall be sent in writing via U.S. Mail, postage prepaid to:

Developer at:                      Laurel Road Property, LLC  
  c/o Jeffery A. Boone, Esquire  
  1001 Avenida Del Circo  
  Post Office Box 1596  
  Venice, Florida 34284

City at:                                City of Venice  
  ATTN: City Manager  
  401 W. Venice Avenue  
  Venice, Florida 34285

With copy to:                      David P. Persson, Esquire  
  Persson & Cohen, P.A.  
  217 S. Nassau Street  
  Venice, Florida 34285

- c) The parties hereto recognize and agreed that this Developer's Agreement shall bind Laurel Road Property, LLC, its successors and assigns, but, in the event that Laurel Road Property, LLC does not acquire the Property, this Developer's Agreement and all City agreements referenced therein, shall be null and void, without further force and effect.
- d) The parties agree that suits or actions at law arising from the provisions, performance, or breach of this Agreement shall initially be brought, for State Court jurisdiction, in Sarasota County, Florida, South County Division, and for Federal Court jurisdiction, in the appropriate Federal District Court, and no other jurisdictions. This

Agreement shall be construed and interpreted under the laws of the State of Florida.

- e) By execution of this Agreement, the parties certify that they have authority to make the representations and agreements contained herein.
- f) This Agreement shall be construed as written by both parties and shall not be construed more strictly against either party.

**8. Duration of Agreement.** This Agreement shall be effective upon execution by the last party to this Agreement and shall continue in force until the completion of the development referenced herein.

**9. Amendment of Agreement.** This Agreement may only be amended in writing by mutual consent of the parties or their successors in interest.

**10. Successors and Assigns.** This Agreement shall inure to the benefit of and be obligatory upon the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF,** City and Developer have executed this Agreement on the date first above written.

Witness:

Laurel Road Property, LLC,  
a Florida Limited Liability Company

By: ACK Property Management, LLC, a  
Delaware Limited Liability Company, As  
its Manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: John R. Peshkin  
Its: Manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ as \_\_\_\_\_, for ACK Property Management, LLC, as Manager, for Laurel Road Property, LLC, for and on behalf of whom this instrument was executed.

\_\_\_\_\_

Notary Public State of Florida  
Typed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

Personally known \_\_\_\_\_  
or Produced Identification  
Type of Identification Produced  
\_\_\_\_\_

This Agreement is approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

City of Venice

By: \_\_\_\_\_  
John Holic, Mayor

ATTEST

\_\_\_\_\_  
Lori Stelzer, MMC, City Clerk

Approved as to form:

\_\_\_\_\_  
David P. Persson, City Attorney