

**Exhibit “A” to Ordinance No. 2019-26**  
**Windham and Fox Lea Farm Stipulation Comparison**

<b>Key:</b>	(not in agreement) W only    FLF only	W & FLF in agreement	unrelated to FLF
-------------	------------------------------------------	-------------------------	------------------

For purposes of the stipulations set forth below, as well as any corresponding exhibits, the following definitions shall apply:

- The “Developer” shall mean Windham Development, Inc., a Michigan corporation, its successors and assigns. In the event the current contract purchaser does not obtain title to the subject property, the term “Developer” shall refer to the property owner, its successors and assigns, and/or future contract purchasers of the subject property.
- The “Property” shall mean the real property subject to this Zoning Map Amendment Petition No. 17-16RZ, and as more specifically described in City of Venice Ordinance No. 2019-26.
- “Fox Lea Farm’s Agents” shall mean those individuals identified and authorized by Fox Lea Farm to receive notice and provide communication on its behalf.
- All references to a “PUD concept plan,” “Binding Master Concept Plan,” “Developer’s Agreement,” and any other documents comprising the Property’s development plans shall be those as approved by the Venice City Council for the Property.

**Design and Development Standards**

1. Density shall be limited to 85 single-family detached dwelling units.
2. Lot development standards:
  - a. There shall be no permanently affixed, wired, southward-facing outdoor speakers on the southernmost lots on the approved PUD Concept plan.
  - b. Maximum height of structures shall be limited to one (1) story.
  - c. No development shall be allowed within the area shaded in blue and labeled “Compatibility Buffer” on Exhibit “F1” attached hereto.
  - d. The southern stormwater pond, wall, berm and landscaping shall be constructed within the area shaded in green on Exhibit “F1” attached hereto.
  - e. No pools shall be permitted on the southernmost lots on the approved PUD Concept plan unless development is prohibited in the area shaded in blue and labeled “Compatibility Buffer” on Exhibit “F1” attached hereto.
3. Developer will submit plans for the following transportation improvements (as depicted on the Binding Master Concept Plan) concurrent with preliminary plat and construction plan approval, and shall construct the

improvements, subject to approval from Sarasota County for improvements in County right-of-way, prior to the issuance of the first certificate of occupancy:

- a. Eastbound to Southbound right turn lane from Edmondson Road to Auburn Road. If construction of the eastbound to southbound right-hand turn lane impacts the existing multi-use path on the south side of Edmondson Road, Developer will restore the multi-use path to existing conditions
- b. Right- and left-hand turn lanes from Auburn to Edmonson; Developer will incorporate on-road bicycle lane(s).
- c. The left-hand turn lane from Auburn into the project. Installation of the left-hand turn lane shall not impede on-road bicycle lanes or sidewalks.

**4. There shall be no vehicular or pedestrian access connecting the subdivision to Fox Lea Drive.**

**5. No storm water or other drainage from the developed portion, non-buffer areas, of the subdivision site shall be discharged into the existing ditch that runs east-west within the northern portion of the Fox Lea Drive right-of-way.**

6. *The Master Surface Water Management Plan shall be consistent with the Curry Creek Basin Master Plans.*

**7. Landscape and Buffer Standards/Landscape Plan. The buffers surrounding the site shall be as shown on the Landscape Plan and the Binding Master Concept Plan, consistent with the following standards (which shall govern in the case of any conflicts).**

a. Border Road Buffer: The landscaped buffer area shall be a minimum of 45.7 feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property lines and includes a six-foot-high (6') tan PVC fence within the landscaped buffer area to cover the sides of the lots designated as 11 and 12 on the binding concept plan. The remainder of the buffer will be landscaped per the Landscape Plan.

b. N. Auburn Road Buffer: The landscaped buffer area shall be a minimum of 50 feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property lines and includes a six-foot-high (6') fence, as depicted in the Landscape Plan, within the fifty-foot-wide landscaped buffer area. The 6' fence will be buffered from the public ROW by a continuous hedge to block the public from the fence. The hedge will continue along the north boundary of the property as depicted on the Landscape Plan. Existing vegetation within this buffer will be maintained as much as possible with exotics being removed and supplemented with plantings per the Landscape Plan.

i. Sidewalk. The public sidewalk depicted in the Binding Master Concept Plan and Landscape Plan shall be included within the fifty (50) foot wide buffer area. The sidewalk shall meander to avoid existing preserved trees wherever possible and be included within a public access easement. The Murphy Oaks HOA shall have maintenance responsibility of the sidewalk.

ii. Opacity. The project landscaping will achieve 90% opacity when viewed from N. Auburn Road to a height to shield the view up to the soffit level within three years of the start of construction.

c. **Fox Lea Drive Buffer: The landscaped buffer area shall be a minimum of forty (40) feet in width, and shall include a five foot (5') berm, an eight-foot-high (8') concrete wall, a continuous hedge composed of Wax Myrtles, which will be permitted to grow naturally without trimming, and additional trees and landscaping (including canopy trees) as depicted on the Landscape Plan. Developer, its successors and assigns, shall maintain the berm, wall and landscaping per the described standards in perpetuity.**

i. **Existing vegetation in Fox Lea Drive ROW.** Existing vegetation within in the Fox Lea Drive right-of-way adjacent to the property will be kept in its current condition to the extent practical. Any existing vegetation in the right-of-way damaged during construction by the Developer or its contractors will be replaced as follows: if the

damaged vegetation is a tree subject to Sarasota County's tree ordinance, it will be replaced by the required mitigation in the same location or on the berm, as required by Sarasota County; if the damaged vegetation is not protected under Sarasota County's tree ordinance, it will be replaced behind its previously location, on the berm, with a species consistent with the table shown on the landscape plan. All such vegetation planted to replace damaged existing vegetation under the terms herein, shall be in addition to the landscaping shown on the landscape plan.

d. Interstate 75 Buffer: The landscaped buffer area shall be a minimum of 120.9 feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property lines and includes a six-foot-high (6') concrete wall on top of a 7' berm. The 6' concrete wall will be buffered from the public ROW by a continuous hedge to block the public from the wall. Also, this buffer will include additional landscaping in front of the wall and on top of the berm to further block the residence from I-75, as depicted on the Landscape Plans.

8. The Developer shall commence construction of the amenity area within twelve (12) months after issuance of the first certificate of occupancy for the first residence, or upon the closing on twenty-five percent (25%) of lots to the end users, whichever shall first occur.

9. As depicted on the Binding Master Concept Plan, the bottom of Pond 1 (south pond) will be no deeper than +3' (8' deep), and the bottom of Pond 2 (the north pond) will be no deeper than -6' (17' deep).

#### **Land Development, Construction Management and Staging Standards.**

10. Timing of Land Development and Construction. Developer shall use its best efforts to limit Horizontal (land development) construction and roofing construction along the southern boundary areas south of the southernmost proposed road on the weekends during the months of January, February, March, July, and August (the "Fox Lea Farm Peak Season").

10. Timing of Land Development and Construction. The Developer shall work with Fox Lea Farm, pursuant to stipulation 19 hereof ("Communication and Coordination of Land Development and Construction"), and shall use its best efforts to limit Horizontal (land development) construction and roofing construction within the Property's southern boundary area (south of the southernmost proposed road) during the months of January, February, March, and April (the "Fox Lea Farm Peak Season"). The Developer shall use its best efforts to commence and complete such work within the Property's southern boundary area during the months of August, September, October and Mid-November. It is the intent of this stipulation that the parties communicate and the Developer schedules all land development and construction on the Property so to limit the impact on Fox Lea Farm's events and operations as much as possible.

11. No open burning; chipping. The Developer shall not utilize open burning of land clearing material and debris during all land development and/or construction activities. As part of its land clearing permit, the Developer shall create a temporary berm in the northeastern corner of the Property, the location of which is more specifically depicted in Exhibit "1" attached hereto, for its use of a wood chipper. The berm shall be at least 12' high on the south side of where the chipper is located and shall remain while the chipper is in operation.

**12. Construction Screen.** Prior to commencing any other land development or construction activity on the Property, Developer shall erect or cause to be erected a temporary construction screen (hereinafter the “Construction Screen”) as provided and specified herein.

a. Specification. The Construction Screen shall consist of a fabric or other material screen such as is typically found surrounding tennis courts and other public spaces that achieves at least 70% opacity. The Construction Screen shall be mounted to posts reaching at least 12’ above current grade, and shall reach from the 12’ height to within 2’ from the ground.

b. Location. The Construction Screen shall be located as depicted on Exhibit “1”, either along the Property’s border with Fox Lea Drive or, along Fox Lea Farm’s border with Fox Lea Drive pursuant to an agreement between Developer and Fox Lea Farm as provided herein.

c. Maintenance. If located on the Property, Developer shall be responsible for maintaining the Construction Screen until such time as all land development activities (land clearing, land grading, pond construction, street construction, utility construction and building pad construction) is complete and any houses south of the southernmost road depicted on the Binding Concept Plan are completed. If located on Fox Lea Farm’s property, Fox Lea Farm shall be responsible for maintaining the Construction Screen until such time, if any, as Fox Lea Farm determines it is no longer necessary.

d. Agreement with Fox Lea Farm. Developer may demonstrate compliance with this requirement by entering an agreement with Fox Lea Farm under which Fox Lea Farm will install and maintain the Construction Screen consistent with the requirements herein. Such agreement shall be executed no less than 30 days prior to the commencement of any land development or construction activity on the Property. Absent such an agreement, Developer shall construct the Construction Screen on the Property as provided above

**12. Construction Screen.** Prior to commencing any other land development or construction activity on the Property, the Developer shall erect or cause to be erected, at the Developer’s sole cost, a temporary construction screen (hereinafter the “Construction Screen”) as provided and specified herein.

a. Specification. The Construction Screen shall consist of material screen such as is typically found surrounding construction sites that achieves at least 90% opacity. The Construction Screen shall be mounted to posts reaching at least 12’ above current grade, and shall reach from the 12’ height to within 2’ from the ground.

b. Location. The Construction Screen shall be located along the Property’s border with Fox Lea Drive as depicted on Exhibit “1” attached hereto. However, should the parties enter into an agreement to locate the Construction Screen on Fox Lea Farm’s property, and provided that a permit may be obtained from Sarasota County for purposes of erecting and installing the Construction Screen on Fox Lea Farm’s property as specified herein, then the Construction Screen shall be located along Fox Lea Farm’s border with Fox Lea Drive as depicted on Exhibit “1” attached hereto. The Developer shall bear the full cost of obtaining any necessary permits and approvals required for installing and erecting the construction screen, including but not limited to special exceptions, variances, or other similar application processes, and shall reimburse any persons as necessary to do so. Moreover, any necessary permits and approvals from must be obtained no less than 30 days prior to commencement of land development or construction activities on the Property.

c. Maintenance. If located on the Property, the Developer shall be responsible for maintaining the Construction Screen until such time as all land development activities (land

clearing, land grading, pond construction, street construction, utility construction and building pad construction) is complete and any houses south of the southernmost road depicted on the Binding Concept Plan are completed. If located on Fox Lea Farm's property, Fox Lea Farm shall be responsible for maintaining the Construction Screen until such time, if any, as Fox Lea Farm determines it is no longer necessary. Regardless of location, the Developer shall be responsible for all costs associated with maintenance and removal of the Construction Screen, which shall include, but not be limited to, the cost of labor and materials.

d. Agreement with Fox Lea Farm. The Developer may demonstrate compliance with this requirement by entering an agreement with Fox Lea Farm under which Fox Lea Farm will install, maintain, and remove the Construction Screen consistent with the requirements herein. Such agreement shall be executed no less than 30 days prior to the commencement of any land development or construction activity on the Property. Absent such an agreement, the Developer shall construct the Construction Screen on the Property as provided hereof.

**13.** Construction of southernmost berm and wall. The 5' berm along the southern boundary shall be constructed immediately after land clearing is complete. Once the 5' berm is constructed and stabilized, the 8' wall shall be constructed. Construction of the berm and wall, and the installation of landscaping south of the wall that requires the use of heavy equipment, shall not occur during the Fox Lea Peak Season. However, if construction of the berm and wall commences prior to a Fox Lea Peak Season, then construction of the berm and wall may continue consistent with Stipulation # 14 (timing of land development and construction), Stipulation # 15 (Construction Screen), and Stipulation # 16 (Monitoring Plan). Other than installation of the Construction Screen (if on the Property), no construction or land development activities requiring the operation of heavy equipment shall occur until the wall and berm are in place other than those activities necessary or ancillary to the construction of the berm and wall, including but not limited to establishing construction access and management, site clearing, excavation of the southern pond and construction or installation of any associated dewatering facilities, and earthmoving related to the berm or the chipper.

**13.** Construction of the Southernmost Berm and Wall. The five-foot (5') berm within the Property's southern boundary shall be constructed immediately after the Construction Screen is installed and land clearing is complete. Once the five-foot (5') berm is constructed and stabilized, the eight-foot (8') wall shall be constructed. Construction of the berm and wall, as well as the installation of landscaping south of the wall that requires the use of heavy equipment, shall not occur during the Fox Lea Farm Peak Season. However, if construction of the berm and wall commences prior to the Fox Lea Farm Peak Season, provided that such construction commences no less than 16 weeks prior to the Fox Lea Farm Peak Season, then construction of the berm and wall may continue consistent with all stipulations hereof that control land development and construction activities. Other than installation of the Construction Screen (if on the Property), no construction or land development activities requiring the operation of heavy equipment shall occur until the berm and wall are in place, with the exception of those activities necessary or ancillary to the construction of the berm and wall, including but not limited to establishing construction access and management, site clearing, excavation of the southern pond and construction or installation of any associated dewatering facilities, and earthmoving related to the berm or the chipper. It is the intent of this stipulation that the minimum amount of land development and construction activities



take place prior to commencing construction of the berm and wall, and until construction of the berm and wall is complete.

**14. Construction traffic. Construction access to the site shall be from Auburn Road, and there shall be no construction entrance or construction access to the property from Fox Lea Drive.**

**15. Right-of-way for Fox Lea Drive. Developer shall support any application by Fox Lea Farm to vacate Fox Lea Drive and shall disclaim any rights in the northern half of the street.**

**16. Surficial Aquifer System Monitoring and Mitigation Plan.** Fox Lea Farm has expressed concern over the Developer's dewatering activities associated with construction of the Property's stormwater management ponds, because it will depress the water table in the area. Because Fox Lea Farm relies upon stable and adequate groundwater levels at its arenas and within its surface water supply pond and wells for its use in creating and maintaining proper soil moisture within the equestrian arenas and show rings, any insufficiency in this water supply would compromise the safety of riders and horses. In March of 2019, the Developer's certified professional hydrogeologist performed a predictive groundwater flow modeling evaluation using the Southwest Florida Water Management District (SWFWMD) District Wide Regulatory Model version 3 (DWRMv3) to predict and model water table levels during the dewatering activities, the results of which are produced in the written "Technical Memorandum" dated March 27, 2019 (hereinafter the "Predictive Model"). If water table levels at any of the proposed water table monitoring wells or staff gauge fall below the Predictive Model's site-specific water table levels, Fox Lea Farm will not have the adequate water supply it relies upon and will be adversely impacted. Therefore, to ensure that the dewatering activities do not adversely impact Fox Lea Farm, the Developer shall construct, operate and maintain a water table monitoring system, and shall avoid and mitigate all potential adverse impacts, as prescribed below:

**a. Timing, Authorization and Installation.** The monitoring and mitigation activities and facilities shall be in place and operating no less than two (2) weeks prior to the commencement of site construction work on the stormwater ponds and shall remain in place for 180 days after the new ponds are constructed and filled to their design level, or until groundwater levels at Fox Lea Farm have returned to their pre-construction state, whichever is later. (the "Monitoring Period"). The Developer shall operate and maintain the Monitoring System in good working order at all times and shall remove the Monitoring System at the end of the Monitoring Period. The Developer's engineer(s), consultant(s), subconsultant(s) and contractor(s) shall obtain verbal authorization from Fox Lea Farm's Agents prior to entering or performing any work on their property. All work authorized by Fox Lea Farm's Agents shall be performed in a manner that does not disturb or interfere with Fox Lea Farm's business operations or clients.

**b. Monitoring system, wells and staff gauge.** The water table monitoring system shall be comprised of, at a minimum, water table monitoring wells, a staff gauge on Fox Lea's pond (if authorized by Fox Lea Farm), pressure transducers with a telemetry system, and remote monitoring technology via the internet, whereas all the requisite details of components are further specified throughout all provisions below (hereinafter collectively referred to as the "Monitoring System"). The Monitoring System shall allow for manual measurements to be made without material interruption to the system components. The Developer shall bear all

costs associated with the Monitoring System, including but not limited to design, installation, operation, and maintenance.

i. Number and location of monitoring wells. At least one water table monitoring well shall be established on the Property, at a location south of the southern storm water pond and near the Property's southern property line. The Developer shall request from Fox Lea Farm such consents and easements necessary and shall establish three (3) water table monitoring wells on Fox Lea Farm's property at the locations identified on Exhibit "2" attached hereto (shown as Wells 1, 2 and 4 on Exhibit "2"). Notwithstanding the foregoing, if Fox Lea Farm does not allow the Developer to establish all three (3) water table monitoring wells on its property, then the Developer shall establish at least two (2) additional water table monitoring wells along the Property's southern property line, to provide a minimum total of three (3) water table monitoring wells, so that all are equally spaced along the Property's southern storm water pond.

ii. Specification of monitoring wells. The construction of the shallow monitor wells will meet all applicable standards set by ASTM international, the Florida Department of Environmental Protection (FDEP), the Southwest Florida Water Management District (SWFWMD), and/or applicable Sarasota County regulations, respectively and if required by law. Each monitor well would extend to a depth of 15 feet and no more than 17 feet below land surface (ft. BLS) and will be constructed with 10 feet (ft.) of 10 slot PVC screen (0.01-in.) and, at a minimum, approximately 7-ft. of Schedule 40 PVC well casing. The wells are proposed to be installed by direct push methodology or similar to assure plumbness and, prior to monitoring, be developed to remove fine sediments that may have been introduced into the screens during installation. Each monitor well will have a lockable, metal protective casing extending approximately 2.5 to 3 feet above land surface (ft. ALS) and a 2-ft. by 2-ft. concrete well pad. A protective fence or bollards that ensure the safety and security of horses shall be installed around each water table monitoring well installed on Fox Lea Farm's property. Following well installation and development, a Florida licensed land surveyor will measure and provide elevations for: (1) ground surface at the well pad; (2) top of metal protective casing (lid down); (3) top of PVC well casing at an identifiable notch.

iii. Staff gauge. The Developer shall request from Fox Lea Farm such consents and easements necessary and, if Fox Lea Farms agrees to execute such consents and easements, a staff gauge shall be installed on the northern shoreline of the irrigation pond on Fox Lea Farms' property. The staff gauge will be constructed with 5 ft. of 10 slot PVC screen (0.01-in.) resting on the bottom of the pond clamped to a black steel pipe1 driven into the pond bottom for vertical support of the well screen. Following staff gauge installation, a Florida licensed land surveyor will measure and provide the elevation for the top of PVC well screen at an identifiable notch.

c. Water level monitoring equipment and monitoring. Pressure transducers at each monitor well and staff gauge will be installed along with a telemetry system. This will allow for the collection of groundwater level data without interfering with Fox Lea Farm activities. The Diver® system by Van Essen, or a similar system, be installed for this project, to allow groundwater level measurements to be monitored via a desktop web interface. The pressure transducers will be programmed for hourly measurements with telemetry data uploaded to the web interface every three (3) hours. Water table levels shall be monitored and uploaded in this manner for the entire Monitoring Period, and all data collected shall be uploaded to and remain

on the internet. The Developer shall also save the data to its hard drive for back up. For purposes of verifying the accuracy of the telemetry system measurements, the Developer's engineer(s) or hydrogeologist(s) shall take manual water table level measurements at each water table monitoring well and staff gauge on a bi-weekly basis throughout the entire Monitoring Period. If any of the telemetry system measurements differ by more than one-tenth foot (0.10-ft.) of the corresponding manual measurements, the Developer shall immediately take the following actions: (i) notify Fox Lea Farm's Agents of the Monitoring System measurement error(s); (ii) immediately fix and calibrate the Monitoring System until all telemetry measurements and corresponding manual measurements differ by no more than one-tenth foot (0.10-ft.); however, the manual measurements used for comparison must be no more than two (2) days older than the most current corresponding telemetry measurements; and, (iii) correct all previously recorded data and save the same as prescribed herein.

d. Dewatering flow monitoring. The dewatering pump(s) will be equipped with flow meters. Once dewatering begins, pumping rates will be recorded at least twice daily. Any time the pumping rate is altered, the new pumping rate shall be recorded at that time and hourly for the following four (4) hours.

e. Water Table Dewatering Compliance Levels. The Predictive Model depicts and locates the model-projected water table levels in the Property's surrounding area before, throughout, and after completion of the Developer's dewatering activities associated with construction of its storm water management ponds. Therefore, site-specific water table levels, derived from the Predictive Model, can be identified on the Developer's Property and Fox Lea Farm's property at all times before, during, and after dewatering. The precise location of all monitoring wells shall be identified at the time of installation, and at this time, the Developer shall identify the Predictive Model site-specific water table levels (the dewatering drawdowns) to be used for each well as installed. All of the Predictive Model site-specific water table levels shall be expressed at precision of one-tenth (0.10-ft.) and shall be certified by a licensed Professional Engineer or Geologist, registered in the State of Florida. The Predictive Model site-specific water table levels for all water table monitoring wells shall hereinafter be referred to collectively as the "Compliance Levels," and individually as the "Compliance Level." Upon certification and prior to initiating dewatering activities, the Developer shall provide the Compliance Levels to Fox Lea Farm. The Developer shall not allow water table measurements at any of the water table monitoring to be depressed below the Compliance Levels.

i. The staff gauge will be monitored but will not be incorporated into the "Compliance Level" monitoring system due to the many potential variables which can contribute to pond level reduction. If there is a decline at the staff gauge location greater than 1-ft., the Contractor will immediately notify Fox Lea Farms to meet, discuss potential factors contributing to the observed drawdown, and jointly determine what the appropriate response will be.

f. Data collection and sharing.

i. Water level data and notifications. The Developer's engineers/geologists shall monitor, collect, record, save, and share the data from the water table monitoring wells and staff gauge to all required parties, as specified herein. Access to the data and real-time viewing via the internet will be provided to Fox Lea Farm's designated agent(s), to the Construction Manager, the Dewatering Contractor, and, on request, to a representative of the City's Engineering Department and SWFWMD (the "Notification Recipients"). The telemetry system shall immediately (in real time) send a warning notification to the site



dewatering contractor, Fox Lea Farm's Agents, and the Developer and its engineer(s) when the water table measurements at any of the water table monitoring wells or staff gauge first reach the following measurements:

1. Groundwater levels at any monitoring well are at or within 1.0-ft. of the of the Compliance Level (Caution Level 1); or
  2. Groundwater levels at any monitoring well are at or within 0.5-ft. of the Compliance Level (Caution Level 2); or
  3. Groundwater levels at any monitoring well are at or below the Compliance Level (Caution Level 3). Should Caution Level 3 conditions occur, the system shall send notifications on an hourly basis until water levels exceed the Compliance Level; or
  4. Groundwater levels at any monitoring well are at or below one-tenth of one foot (0.1-ft.) of the Compliance Level.
- ii. Pump rate data. The dewatering contractor and the Construction Manager shall monitor and maintain the pump rate data in an electronic spreadsheet. The pump rate data shall be sent weekly, or upon request, to the Notification Recipients.
- iii. Data sharing. In addition to the automatic sharing of water level data, at least weekly during pond construction, the Developer's engineers/geologists shall review and assess the pump rate data and groundwater level data to determine whether an adverse impact to groundwater levels at Fox Lea Farm has occurred or is likely to occur, and shall provide report on the conditions to the Notification Recipients. Additionally, precipitation data will be collected on site by the Developer provided during the weekly update submittal to Fox Lea Farm's representative. In addition, on a weekly basis the Construction Manager shall provide the Notification Recipients with a schedule of contacts for the Construction Manager and Dewatering Contractor responsible for monitoring and managing the dewatering pumps.
- g. Avoidance and mitigation of adverse impacts to Fox Lea Farm.
- i. Adverse impact. An Adverse Impact occurs if groundwater levels at any monitoring well falls below the Compliance Level by more than a tenth of a foot (0.1-ft.). An Adverse Impact shall be considered corrected if the measured groundwater levels return to levels that would not be an adverse impact.
  - ii. Avoiding or mitigating adverse impacts.
    1. If a Caution Level 1 notification is sent, the Construction Manager and Dewatering Contractor will have personnel available to monitor and manage the pumping rate within an hour's notice until groundwater levels return to levels greater than 1.0-ft. above the Compliance Level.
    2. Within one (1) hour of a Caution Level 2 notification, the Construction Manager or Dewatering Contractor shall reduce the pumping rate by 10 percent or such rate as may be necessary to prevent groundwater levels from falling below the Compliance Level, direct construction dewatering water to the Fox Lea Drive ditch, unless already full, record the new pumping rate, and email the Notification Recipients with the time of the notification, the time the pumping rate was altered, and the new pumping rate. Pump rates may be increased if the change in groundwater levels stabilize and will not exceed the Compliance Level.
    3. Within one (1) hour of a Caution Level 3 notification (that Compliance Level has been reached), the Construction Manager or Dewatering Contractor shall

reduce the pumping rate to such rate as may be necessary to prevent an Adverse Impact, direct construction dewatering water to the Fox Lea Drive ditch, unless already full, record the new pumping rate, and email the Notification Recipients with the time of the notification, the time the pumping rate was altered, and the new pumping rate. Pumping rates may be increased once groundwater levels return to or exceed the Caution 2 Level.

4. Should an Adverse Impact occur, the Construction Manager or Dewatering Contractor shall cease dewatering, and shall email the Notification Recipients of the time the pumps were turned off. Dewatering shall not resume until groundwater levels rebound to greater than 0.25-ft. above the Compliance Level, and pumping rates shall remain at levels that do not allow groundwater levels to fall below the Compliance Level. Upon any change of the pumping rates, the Construction Manager or Dewatering Contractor shall email the Notification Recipients with the time of the change and the new pumping rate.

5. Additional Remedies. Should an Adverse Impact occur and persist for more than eight (8) hours, Fox Lea Farm shall have the right to seek, and the City of Venice shall have the right to issue, a “Stop Work Order” upon the Developer, which shall require all land development, construction and dewatering activities to cease until the dewatering activities can reliably be maintained at Compliance Levels. In addition, Fox Lea Farm shall have the right to seek damages for any personal or economic loss incurred as a result of the Developer’s or, including but not limited to, Developer’s engineers, contractors, subcontractors, consultants, failure to comply with any of the requirements hereof. This right of Fox Lea Farm’s shall be cumulative and available for every occurrence of an Adverse Impact.

16. Water Table Monitoring and Mitigation Plan. Fox Lea Farm has expressed concern over the Developer’s dewatering activities associated with construction of the Property’s stormwater management ponds, due to the fact that it will depress the water levels beneath their property and in their water supply pond. Because Fox Lea Farm relies upon stable soil moisture in their equestrian arenas and show rings and adequate water levels within its water supply pond, depressed water levels would compromise the safety of riders and horses. In March of 2019, the Developer’s certified professional hydrogeologist performed a predictive ground water flow modeling evaluation using the Southwest Florida Water Management District (SWFWMD) District-Wide Regulatory Model version 3 (DWRMv3) to predict and model water table levels during the dewatering activities, the results of which are produced in the written “Technical Memorandum” dated March 27, 2019 (hereinafter the “Predictive Model”). If water table levels at any of the proposed water table monitoring wells or staff gauge fall below the Predictive Model’s site-specific water table levels, Fox Lea Farm will not have the adequate soil moisture and water supply it relies upon and will be adversely impacted. Therefore, to ensure that the dewatering activities do not adversely impact Fox Lea Farm, the Developer shall construct, operate and maintain a water table monitoring system, and shall avoid and mitigate all potential adverse impacts, as prescribed below:

a. Water Table Dewatering Compliance Levels. The Predictive Model simulates and depicts model-projected water table levels before, throughout, and after completion of the Developer’s dewatering activities associated with construction of its stormwater management

ponds. Therefore, site-specific water table levels, derived from the Predictive Model, can be identified on the Developer's Property and Fox Lea Farm's property at all times before, during, and after dewatering. The precise location of all monitoring wells and the staff gauge shall be identified at the time of installation, and at this time, the Developer shall identify the Predictive Model site-specific water table levels (the dewatering drawdowns) to be used for each monitoring well and staff gauge as actually installed. All of the Predictive Model site-specific water table levels shall be expressed at precision of one-tenth (0.10) foot, and shall be certified by a licensed Professional Engineer or Geologist, registered in the State of Florida. Given that Fox Lea Farms utilizes its water supply pond for hydration of the equestrian arenas and show rings, the proposed water table monitoring wells are considered the most accurate determiners of depressed water levels. Therefore, the Predictive Model's site-specific water table levels for all water table monitoring wells shall hereinafter be referred to collectively as the "Compliance Levels," and individually as the "Compliance Level." Upon certification and prior to initiating dewatering activities, the Developer shall provide the Compliance Levels to Fox Lea Farm. The Developer shall not allow water table measurements at any of the water table monitoring wells to be depressed below the Compliance Levels.

b. Monitoring System. The water table monitoring system shall be comprised of, at a minimum, water table monitoring wells, a staff gauge, pressure transducers with a telemetry system, and remote monitoring technology via the internet, whereas all the requisite details of components are further specified throughout all provisions below (hereinafter collectively referred to as the "Monitoring System"). The Monitoring System shall allow for manual measurements to be made without material interruption to the system components. The Developer shall bear all costs associated with the Monitoring System, including but not limited to design, permitting, installation, operation, and maintenance.

i. Timing and Authorization for Installation. The Monitoring System shall be in place, collecting water table level data, and operating in good working order, no less than two (2) weeks prior to the commencement of site construction work on the Property's stormwater ponds and shall remain in place for 180 days after the Property's stormwater ponds are constructed and filled to their design water levels, or until ground water levels at Fox Lea Farm have returned to their pre-construction state, whichever is later (the "Monitoring Period"). The Developer shall operate and maintain the Monitoring System in good working order at all times, and shall remove the Monitoring System at the end of the Monitoring Period. The Developer's engineer(s), consultant(s), subconsultant(s) and contractor(s) shall obtain verbal authorization from Fox Lea Farm's Agents prior to entering or performing any work on their property. All work authorized by Fox Lea Farm's Agents shall be performed in a manner that does not disturb or interfere with Fox Lea Farm's business operations or clients.

ii. Water Table Monitoring Wells and Staff Gauge.

1. Number and Location of Water Table Monitoring Wells. At least one water table monitoring well shall be established on the Property, at a location south of the southern storm water pond and near the Property's southern property line. The Developer shall request from Fox Lea Farm such consents and easements necessary and shall establish three (3)

water table monitoring wells on Fox Lea Farm's property at the locations identified on Exhibit "F2" attached hereto (shown as Wells 1, 2 and 4 on Exhibit "F2"). Notwithstanding the foregoing, if Fox Lea Farm does not allow the Developer to establish all three (3) water table monitoring wells on its property, then the Developer shall establish at least two (2) additional water table monitoring wells along the Property's southern property line, to provide a minimum total of three (3) water table monitoring wells, so that all are equally spaced along the Property's southern storm water pond.

2. Specification of Water Table Monitoring Wells. The Developer shall construct the water table monitoring wells to meet all applicable standards set by American Society for Testing and Materials (ASTM) International, the Florida Department of Environmental Protection (FDEP), the SWFWMD, applicable Sarasota County regulations, and applicable City of Venice regulations, if any, respectively and if required by law. Each water table monitoring well shall be a minimum of two (2) inches in diameter and extend to a depth of at least 15 feet and no more than 17 feet below land surface (ft. BLS). Each water table monitoring well shall be constructed with 10 feet (ft.) of 10 slot PVC screen (0.01-in.) and, at a minimum, approximately 8-ft. of Schedule 40 PVC well casing. Each water table monitoring well shall have a lockable, metal protective casing extending approximately three (3) feet above land surface (ft. ALS) and a 2-ft. by 2-ft. concrete well pad. The water table monitoring wells shall be plumb and developed (pumped until discharge water is clear) to remove fine sediments that may have been introduced into the well screens during installation. A protective fence or bollards that ensure the safety and security of horses shall be installed around each water table monitoring well installed on Fox Lea Farm's property. Following installation and development of every water table monitoring well, a Florida licensed land surveyor shall measure and provide elevations for each and every: (i) ground surface at the well pad; (ii) top of metal protective casing (lid down); and, (iii) top of PVC well casing at an identifiable notch.

3. Staff Gauge. The Developer shall request from Fox Lea Farm such consents and easements necessary and shall install a staff gauge on the northern shoreline of the water supply pond on Fox Lea Farms' property, as shown on Exhibit "F2" attached hereto (shown as S9 on Exhibit "F2"). Notwithstanding the foregoing, if Fox Lea Farm does not allow the Developer to establish a staff gauge water table on its property, then the Developer shall establish at least one (1) staff gauge in the Property's southern storm water pond. The staff gauge(s) shall be constructed with five (5) ft. of two (2) inch diameter 10 slot PVC screen (0.01-in.) resting on the bottom of the pond where installed and clamped to a black steel pipe driven into the pond's bottom for vertical support. Following staff gauge installation, a Florida licensed land surveyor shall measure and provide the elevation for the top of PVC well screen at an identifiable notch.

c. Monitoring System Equipment, Technology and Use. The Developer shall install recording water level pressure transducers at each water table monitoring well and staff gauge along with a telemetry system. The telemetry system shall allow for the remote observation and collection of water table level data without interfering with Fox Lea Farm's business operations or clients. The Developer shall install the Diver® system by Van Essen, or a similar system, that allows water table level measurements to be remotely monitored via the internet. The pressure transducers shall take hourly measurements and telemetry data shall be uploaded to the internet at

a minimum of every three (3) hours. Water table levels shall be monitored and uploaded in this manner for the entire Monitoring Period, and all data collected shall be uploaded to and remain on the internet. The Developer shall also save the data to its hard drive for back up. For purposes of verifying the accuracy of the telemetry system measurements, the Developer's engineer(s) or hydrogeologist(s) shall take manual water table level measurements at each water table monitoring well and staff gauge on a bi-weekly basis throughout the entire Monitoring Period. If any of the telemetry system measurements differ by more than one-tenth (0.10) foot of the corresponding manual measurements, the Developer shall immediately take the following actions: (i) notify Fox Lea Farm's Agents of the Monitoring System measurement error(s); (ii) immediately fix and calibrate the Monitoring System until all telemetry measurements and corresponding manual measurements differ by no more than one-tenth (0.10) foot—however, the manual measurements used for comparison must be no more than two (2) days older than the most current corresponding telemetry measurements; and, (iii) correct all previously recorded data and save the same as prescribed herein.

d. Data Collection; Sharing and Notification Protocol. The Developer's engineer(s) shall monitor, collect, record, save, and share the data from the water table monitoring wells and staff gauge to all required parties, as specified herein. Access to the data and real-time viewing via internet of the water level measurements shall be provided to the site dewatering contractor, Fox Lea Farm's Agents, the Developer and its engineer(s). The telemetry system shall immediately (in real time) send a warning notification to the site dewatering contractor, Fox Lea Farm's Agents, and the Developer and its engineer(s) when the water table measurements at any of the water table monitoring wells or staff gauge first reach the following measurements: (i) at or within one (1.0) foot above the Compliance Level; (ii) one-half (0.5) of a foot above the Compliance Level; and, one-tenth (0.10) of a foot below the Compliance Level.

e. Avoidance and Mitigation of Adverse Impacts. The parties agree that once a measured water level at any of the water table monitoring wells decreases to within one (1) foot above the Compliance Level, it indicates that the present dewatering rate is likely to cause water levels to continue to decrease if onsite monitoring of dewatering rates does not occur. The intent of these provisions is only to require the site dewatering contractor to be present onsite to monitor and adjust dewatering rates, as necessary, so that all water levels do not continue to decrease to an Adverse Impact level. Therefore, so long as all measured water levels at all water table monitoring wells are greater than one (1) foot above the Compliance Level, onsite monitoring shall not be required.

i. Adverse Impact Defined. An "Adverse Impact" is deemed to occur whenever the measured water table level at any of the water table monitoring wells are greater than one-tenth (0.10) of a foot below the Compliance Level (i.e., one-fifteenth (0.15) of a foot below the Compliance level). At all times, the Developer should maintain water table levels at all water table monitoring wells at or above Compliance Levels in order to avoid an Adverse Impact.

ii. Avoidance and Mitigation Requirements.

1. As soon as a measured water level at any of the water table monitoring wells are at or within one (1) foot above the Compliance Level, the site dewatering



contractor shall be present at the construction and monitoring facility sites to monitor conditions and take actions necessary to avoid and mitigate adverse impacts.

2. As soon as a measured water level any of the water table monitoring wells are less than one-half (0.5) foot above the Compliance Level, the site dewatering contractor shall immediately reduce the dewatering rate to correct water table levels so that measurements at all water table monitoring wells are at or above the Compliance Level.

3. As soon as an Adverse Impact occurs (when the measured water level any of the water table monitoring wells is greater than one-tenth (0.10) of a foot below the Compliance Level), the site dewatering contractor shall immediately cease all dewatering activities. Fox Lea Farm shall have the right to seek, and the City of Venice shall have the right to issue, a “Stop Work Order” upon the Developer, which shall require all land development, construction and dewatering activities to cease for a minimum of 30 days.

4. Upon the occurrence of an Adverse Impact, Fox Lea Farm shall have the right to seek damages for any personal or economic loss incurred as a result of the Developer’s or, including but not limited to, Developer’s engineers, contractors, subcontractors, consultants, failure to comply with any of the requirements hereof. This right of Fox Lea Farm’s shall be cumulative and available for each and every occurrence of an Adverse Impact.

**17. Enforcement.** The City, or any person who is aggrieved or adversely affected by, or who suffers property or business damages from, a violation of the stipulations set out in this ordinance has a cause of action for damages resulting from such violation, and for equitable relief, and the court shall, upon proof of the violation, have the duty to forthwith issue such temporary and permanent injunctions as may be necessary to halt or prevent the violation, notwithstanding the availability of monetary relief.

**17. Enforcement.** The City, or any person, including but not limited to a business entity, who is aggrieved or adversely affected by, or who suffers personal or bodily injury, property or business damages from a violation of the stipulations set forth in this ordinance shall have a cause of action for damages resulting from such violation and for equitable relief, and the court shall have the duty to forthwith issue such temporary and permanent injunctions as may be necessary to halt or prevent the violation, notwithstanding the availability of monetary relief. No bond shall be required for any party seeking temporary or permanent injunctive relief.

**18. Inspection by Fox Lea Farm during Land Development and Construction.** Fox Lea Farm may name an officer, independent contractor, employee, or other agent of Fox Lea Farm, as an authorized inspector (the “Inspector”) and identify that representative to the Developer or the Construction Manager on-site. Fox Lea Farm’s Inspector will be permitted to enter and inspect the subject property, upon reasonable notice to and permission from the Construction Manager, which shall not be unreasonably withheld. Excluding willful or grossly negligent action by the Developer and any contractors, Fox Lea Farm and the Inspector shall indemnify Developer and any contractor working on the subject property against any claims based on injury suffered by the Inspector while on the subject property prior to conducting any inspection.

**19. Communication and Coordination of Land Development and Construction.** For purposes of protecting the safety and welfare of persons, animals, and the associated operations on Fox Lea Farm during the course of all land development and/or construction related activities on the Murphy Oaks property, the Developer shall perform the following actions:

a. **Contact information.** The Developer shall provide Fox Lea Farm with the name, phone number, and email address of the representative of the contractor or engineer in charge of construction on the property (the “Construction Manager”), the phone number for the construction trailer on site, and the identity (name, license, address and company phone number) of the contractor and any major subcontractors (site work, land clearing, excavation, utilities) working on site. Fox Lea Farm shall identify up to three (3) agents to receive notice and be authorized for communication, and shall provide the Developer and Construction Manager with the names, phone numbers, and email addresses for its agents (Fox Lea Farm’s “Agents”).

b. **Initial Meeting between Parties.** Fox Lea Farm’s Agents and the Developer’s Construction Manager shall hold an initial meeting prior to commencement of any land development and construction activities on the subject property. The meeting shall be held at least two (2) weeks prior to commencement of any land development and construction activities on the subject property. Prior to the initial meeting, the Construction Manager shall provide to Fox Lea Farm’s Agents a proposed written construction schedule. At the initial meeting, the parties shall review and discuss Developer’s proposed construction schedule, including the nature and extent of site work to be performed during each phase as well as the personnel to be employed, for purposes of coordinating before and during land development and construction. The stipulations relating to Developer’s obligations before and during land development and construction activities shall also be reviewed and discussed by the parties. Within one (1) week following the initial meeting, and based upon the parties’ discussion at the meeting, the Construction Manager shall provide Fox Lea Farm’s Agents with a finalized written construction schedule.

c. **Weekly Meeting between Parties.** Once land development and construction has begun on the subject property, the Developer’s Construction Manager shall schedule and hold a regular weekly meeting or conference call, during working hours, with Fox Lea Farm’s Agents to discuss the current status of land development and construction on site. Any anticipated changes to the construction schedule must be communicated at this time, and an updated written construction schedule shall be provided to Fox Lea Farm at this time.

d. **Notice.** The Developer or its Construction Manager shall notify Fox Lea Farm’s Agents of any change in land development or construction plans by email and phone as soon as reasonably practical, but within at least twenty-four (24) hours of making such change, and in no event shall any such change be implemented without prior notice to Fox Lea Farm as specified hereof. An updated written construction schedule shall be provided to Fox Lea Farm’s Agents upon request.

**Post-Land Development and Post construction Development and Use Standards.**

**20. The Developer shall comply with all terms of the Developer's Agreement offered by the Developer concurrent with the rezoning, and shall demonstrate that any required off-site improvements and recorded documents have been completed prior to the approval of the final plat.**

**21. Additional provisions in the declarations and covenants for the subdivision. Developer will submit deed restrictions for the Property to the City for review prior to the application for final plat approval, as required by Section 86-232(4) of the Land Development Code. The deed restrictions shall include:**

**a. A Notice of Proximity for I-75, Fox Lea Farm and the Fox Lea Farm Operations (which also will be recorded in the public records separately), as set forth in Exhibit "B" to the Developer's Agreement. The deed restrictions will require every purchaser, as well as all renters and/or sublessors of every purchaser, to execute an acknowledgement of the Notice of Proximity, and copies of the acknowledgements will be maintained by the homeowners' association and provided to Fox Lea Farm and the City upon request.**

**b. The following restrictions to protect Fox Lea Farm:**

**i. The use of outdoor speakers or outdoor amplified music are prohibited on the southside of the southernmost lots on the approved PUD Concept plan. Speakers for fire or burglar alarms oriented to the north are excepted.**

**ii. The use of fireworks, as defined in Florida Statutes, are prohibited.**

**iii. The launching or operation of drones or radio-controlled aircraft from the Property which fly over Fox Lea Farm is prohibited, unless permission is received in writing from Fox Lea Farm.**

**iv. The burning of trash or yard waste, and other outdoor burning such as bonfires, is prohibited, but this prohibition shall not apply to outdoor barbeques for cooking, outdoor propane heaters, or small fire pits/fire tables.**