

DISCLAIMER
(TO BE DELETED UPON ADOPTION)

THIS DRAFT SETTLEMENT AGREEMENT (“DRAFT”) BETWEEN THE CITY OF VENICE (“CITY”) AND NEAL COMMUNITIES OF SW FL, LLC (“NEAL”) HAS BEEN PREPARED FOR PURPOSES OF NEGOTIATING AND COMPLETING A GLOBAL SETTLEMENT BETWEEN THE CITY AND NEAL. THIS DRAFT IS SUBMITTED IN CONNECTION WITH DISPUTED MATTERS PURSUANT TO FLORIDA STATUTES § 90.408 AND IS INADMISSIBLE IN ANY PROCEEDING.

NO INDIVIDUAL PROVISION IS INTENDED TO REPRESENT A PROPOSED TERM, FINDING OR CONDITION OF AN AGREEMENT, EXCEPT IN THE CONTEXT OF EACH AND EVERY OTHER PROVISION IN THE DRAFT, AND ONLY IF INCLUDED IN A WRITTEN AGREEMENT EXECUTED BY THE PARTIES.

MOREOVER, THE DRAFT PROVISIONS HAVE BEEN JOINTLY PREPARED BY SHUBIN & BASS, P.A. AND MOORE BOWMAN & RIX, P.A. AND DO NOT REPRESENT OFFICIAL OR UNOFFICIAL POSITIONS OF THE CITY OR NEAL ON ANY PARTICULAR SUBJECT UNTIL A FINAL AGREEMENT IS APPROVED AND ADOPTED BY THE CITY DURING A PUBLICLY NOTICED MEETING. NO PART OF THIS DRAFT SHOULD BE CONSTRUED AS REFLECTING ANY OFFICIAL POSITION OF THE CITY.

SETTLEMENT AND RELEASE AGREEMENT

The Parties to this Settlement Agreement, the City of Venice, a municipal corporation of the State of Florida, whose address is 401 W Venice Ave, Venice, FL 34285 (hereinafter, the “City”) and Neal Communities of SW FL, LLC; Border and Jacaranda Holdings, LLC; Windwood Neighborhood Association, INC.; Pamlico Point Management, LLC; Border Road Investments, LLC; Myarra Property Joint Ventures, LLC; Woolridge Investments-Florida, LLC, and FC Laurel, LLC, whose addresses are collectively 5800 Lakewood Ranch Blvd. N, Sarasota, Florida 34240 (hereinafter, “Neal”, and the City and Neal hereinafter collectively, the “Parties”), in consideration of the premises and the covenants, conditions and agreements set forth herein, each intending legally to be bound, enter into this Settlement Agreement and hereby agree as follows:

WHEREAS, Neal and the City are parties to certain litigation in Sarasota County Circuit Court styled *City of Venice v. Neal Communities, et al.*, Case No. 17-3532 CA 09 (the “Lawsuit”);

WHEREAS, the Parties desire to settle all claims asserted in the Lawsuit, without incurring further costs of litigation, and without admission of either Party to the allegations set forth in the Lawsuit;

NOW, THEREFORE, in mutual consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, each of the Parties, each intending to be legally bound, agree as follows:

1. Recitals; Incorporation. Each of the Parties acknowledges and agrees that the introductory background recitals set forth above are true and correct, are the basis for this Settlement Agreement, and are incorporated within and made a part of the substance of this Settlement Agreement.

2. Consideration. The Parties agree to the following monetary terms:

(a) The City agrees to return to Neal the escrowed extraordinary mitigation fees (“EMF”) in the amount of \$795,399.47, plus those EMFs Neal paid to the City since March 1, 2019. Said refunds to occur within ten (10) days of the execution of this Settlement Agreement and made in one lump-sum payment to the Trust Account of Moore Bowman & Rix, for disbursement to Neal.

(b) The City agrees to pay Neal an additional amount of \$160,000.00. Payment to be made in the same manner and timing as with the EMF reimbursement in paragraph 2(a) above.

(c) The City agrees that Neal is not obligated in any way to pay any future EMFs for Neal's developments.

(d) Neither Party will have any further monetary claim or obligation to the other in relation to the issues raised in the Lawsuit.

3. Dedication of Land Along Laurel Road.

(a) Within ten (10) days of the execution of the Settlement Agreement, Neal agrees to dedicate (not develop, design, or construct), to the City, a 12-foot wide parcel of land along the entire northern property line of the Subdivisions identified in the Court's Final Declaratory Summary Judgment (i.e., Bridges, Milano, Villa Paradiso, Laurel Lakes, and SJMR/Hurt) and bordering Laurel Road (the "Dedication"). This Dedication does not relieve Neal of any obligations under the City Code to develop sidewalks for the Subdivisions or Neal's obligation to build an 8-foot Multi-Use Recreational Trail ("MURT") along Laurel Road on the Property known as SJMR/Hurt, pursuant to City of Venice Ordinance 2018-11. Should the 8-foot MURT required under Ordinance 2018-11 be located on Neal's Property, the land Dedication adjacent to SJMR/Hurt on Laurel Road will be a total of 12 feet, including the 8-foot MURT.

(b) Prior to constructing any sidewalks along Laurel Road pursuant to the City Code, Neal agrees to confer with the City on the possibility of constructing a MURT in lieu of sidewalks. Upon written notice by Neal to the City that Neal intends to begin the construction of sidewalks, if the City does decide to construct a MURT in lieu of the sidewalks planned by Neal, the City shall, within ten (10) working days of receipt of said notice, convene a conference with Neal to discuss the City's intentions. Within thirty (30) days of the conference between Neal and the City concerning the sidewalk/MURT decision, the City shall transmit to Neal the final design and construction details of its choice. The cost of any resulting up-sizing of the sidewalks presently planned by Neal will be paid by the City to Neal within thirty (30) days of presentation by Neal to the City of the invoices for that up-sizing. If the City fails to comply with the timeframes set out in this paragraph, Neal will proceed with the construction of sidewalks as planned and required by the City Code, however, should the delay result from any action or inaction by Sarasota

County in providing any required approvals of a MURT, the Parties agree to reasonably extend the timeframes to obtain any required approvals from Sarasota County.

(c) Neal does not warrant any suitability of the dedicated parcel for any particular or specific purpose. Neal reserves the right to apply to the County for mobility credits related to the Dedication and/or construction of the MURT as required by Ordinance 2018-11.

(d) Other than the obligations related to the 12-foot land Dedication and MURT obligation regarding SJMR/Hurt contained in paragraph 3(a) above, the City agrees that Neal has no obligation to the City related to rights of way for dedication, reservation, or construction of, Laurel Road.

4. Waiver of Claims.

In consideration of this Settlement Agreement, and conditioned upon its performance, the Parties each hereby absolutely and irrevocably waive, acquit, demise, satisfy, and discharge each other and their respective elected officials, officers, administrators, employees, agents, servants, consultants, committee, representatives, and members thereof, whether public employees or private citizens, and their respective agencies, instrumentalities, heirs, executors, administrators, personal representatives, successors, and assigns (“Released Parties”), of and from, any causes of action, actions, suits, obligations, liabilities, debts, dues, sums of money, costs, losses, penalties, fines, expenses (including attorney’s fees), damages, judgements, claims, and demands whatsoever arising from law or in equity, which the Parties, respectively, or any of their legal or equitable successors or signs, now has, whether asserted or un-asserted, arising from the beginning of time to the date of this Settlement Agreement, against the Released Parties or any of them by reason of any matters, claims or assertions pleaded in the Lawsuit; provided that such releases do not apply to the terms and conditions of this Settlement Agreement or the Parties’ rights to enforce this Settlement Agreement.

5. Satisfaction of Judgment.

(a) Within fifteen (15) days of the execution of this Agreement, Neal shall file a satisfaction of Judgment in the Lawsuit.

(b) The City agrees not to appeal the Court’s Final Summary Declaratory Judgment, entered on March 4, 2019.

6. No Admission of Liability. It is understood and agreed by the Parties that this Agreement, and the consideration exchanged therefor, are made in compromise of the disputed claims and that by agreeing to this compromise and settlement, no Party is making or shall be construed to have made an admission of liability as to any claim or demand made by any Party.

7. Entire Agreement; Amendments. This Settlement Agreement constitutes the entire agreement among the Parties regarding the subject matter hereof and may not be amended or modified except in writing signed by each of the Parties or their respective duly authorized representatives after approval by the City Council and except for the necessary amendments to the Pre-Annexation Agreements made in conformance with this Settlement Agreement.

8. Interpretation. This Settlement Agreement is a joint product of the respective Parties and may not be more strictly construed against any Party. The Parties acknowledge, agree and stipulate that all of the above terms and conditions have been freely bargained for, and each Party is foregoing certain rights and assuming duties and obligations which but for this Settlement Agreement, would not have been released or assumed. Accordingly, the Parties agree that this Settlement Agreement is fully and adequately supported by reasonable and adequate consideration and that the Parties have had an opportunity to consult with and have in fact consulted with attorneys and experts of their respective choices and have had the opportunity to discuss this matter and the matters which are the subject hereof, with counsel of their respective choices.

9. Authorization. Each signatory hereto represents that he/she is authorized by the entity on behalf of which he/she is acting to enter into this Settlement Agreement and the covenants contained herein and to bind the entity which each represents.

10. Third Party Beneficiaries. There are no express or implied third-party beneficiaries under this Settlement Agreement.

11. No Partnership. This Settlement Agreement does not create a partnership or joint venture between Neal and the City, who remains an independent public agency. Each Party will bear its own costs incurred in negotiating and finalizing this Settlement Agreement.

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed and sealed this Settlement and Release Agreement entered into this ____ day of _____, 2019.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

CITY OF VENICE, FLORIDA

BY: _____
JOHN HOLIC, MAYOR

ATTEST:

LORI STELZER, CITY CLERK

(SEAL)

Kelly Fernandez, CITY ATTORNEY

BORDER AND JACARANDA
HOLDINGS, LLC a Florida limited
liability company

BY: _____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

NEAL COMMUNITIES OF SW FL,
LLC, a Florida limited liability company

BY: _____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

BORDER ROAD INVESTMENTS,
LLC, a Florida limited liability company

_____ BY: _____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

PAMLICO POINT MANAGEMENT,
LLC, a Florida limited liability company

_____ BY:_____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

WOOLRIDGE INVESTMENT-
FLORIDA, LLC, a Florida limited
liability company

_____ BY: _____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of
_____, 2019, by _____ who is personally
known to me or who has produced _____ (type of
identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

MYARRA PROPERTY JOINT
VENTURES, LLC, a Florida limited
liability company

_____ BY:_____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of
_____, 2019, by _____ who is personally
known to me or who has produced _____ (type of
identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number:

FC LAUREL, LLC, a Florida
limited liability company

_____ BY:_____

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary:

Commission Number: