

This instrument prepared by and should be returned to:
Thomas J. Wilkes
GrayRobinson
301 East Pine Street, Suite 1400
Orlando, Florida 32801

**MISSION RISE PUD
DEVELOPMENT AGREEMENT**

This **MISSION RISE PUD DEVELOPMENT AGREEMENT** (“Agreement”) is made as of the _____ day of _____, 2024 (“Effective Date”), between the **Town of Howey-in-the-Hills**, Florida, a Florida municipal corporation (the “Town”), and **ASF TAP FL I, LLC**, a Delaware limited liability company (the “Owner”).

RECITALS

A. The Owner owns approximately 243 acres of property more particularly described in Attachment A to this Agreement (“the Property”).

B. The Property is within the corporate limits of the Town. The Town has assigned the Property a future-land-use designation of Village Mixed Use. To be developed the Property must be zoned PUD - Planned Unit Development.

C. The Property was zoned PUD in or about 2010, but the PUD zoning and its related development agreement expired.

D. The Owner intends to develop and use the Property as a mixed-use planned development consisting of single-family residential, civic and public uses more specifically set forth herein (“the Project”), to be known as the “Mission Rise PUD.”

E. In connection with the Owner’s request for Village Mixed Use PUD zoning, the Town and the Owner now enter into this Agreement to set forth the terms and conditions of approval negotiated between them for the development and use of the Property as the Mission Rise PUD.

NOW, THEREFORE, the Town and the Owner agree as follows:

Section 1. Land development and uses. Development and use of the Property is subject to the following conditions, requirements, restrictions, and terms:

(a) **General.** Development of the Project and use of the Property shall be governed by this Agreement, the Town’s Comprehensive Plan, the Town’s Land Development Code (“LDC”) and Code of Ordinances (“Town Code”), and all other applicable state laws and regulations and Town ordinances and rules.

Unless otherwise noted, the definition of terms in this Agreement shall be the same as the definitions set forth in the LDC. Where in conflict, the terms of this Agreement shall supersede and prevail over the LDC and Town Code, but only to the extent of the conflict.

The Conceptual Land Use Plan, or Conceptual Plan, is contained in Attachment B to this Agreement and consists of seven pages of the following graphics:

- i. Conceptual Plan;
- ii. Phasing Plan;
- iii. Parks, Trails & Open Space Plan;
- iv. Non-Residential Areas;
- v. Buffer Typical;
- vi. Street Cross Sections; and
- vii. Lot Fit.

In the Conceptual Land Use Plan for the Project the term “conceptual” means the location of land uses on the site, including areas for residential development, open space, stormwater management, parks, and roads in relation to the site area and other uses on the site. Subsequent plan development may refine the details based on detailed engineering design. “Conceptual” does not mean or contemplate the modification of proposed housing types or the relocation of land uses and roads other than minor adjustments dictated by engineering needs and best practices.

(b) **Phasing.** The Project will be developed in three phases, as shown on the Conceptual Land Use Plan or “Conceptual Plan” in Attachment B to this Agreement. Each phase must be designed and built to operate independently with all necessary public services and utilities infrastructure, including roads, multimodal trails, and master stormwater systems, consistent with Conceptual Land Use Plan. Building permits for residential units in Phase 2 will not be issued until permits for residential units have been issued for Phase 1. Building permits for residential units in Phase 3 will not be issued until permits for residential units have been issued for Phase 2. Revisions to the phasing schedule shall be considered as minor amendments to this Agreement that may be approved by Town Council with no formal amendment to this Agreement required.

(c) **Purpose.** The purpose of the Mission Rise PUD is to:

1. Create an attractive and high-quality single-family housing development compatible with the scale and character of existing residential development and land uses in the Town;
2. Develop a residential area that is safe, comfortable and attractive for and to pedestrians;

3. Create a community with direct visual and physical access to open land, with a strong community identity, and with amenities in the form of community open space;
4. Provide a network of open space for future homeowners; and
5. Provide a variety of lot sizes and housing choices for diverse age and income groups and residential preferences.

(d) **Land uses.** The Conceptual Land Use Plan for the Project in Attachment B is an integral part of the approval of the Project. Elements in the Concept Plan include single-family detached homes, civic uses, multimodal trails and approximately 90 acres of open space and preserved wetlands. No manufactured or modular homes are allowed. Uses that would be prohibited under the LDC for SFR, MDR-1, or MDR-2 zoning are likewise prohibited in residential areas of the Project.

(e) **Development standards.**

Lot Size

A range of lot sizes shall be provided in order to create variety and offer opportunity for different income households. Minimum lot size will be 60' x 120'. The Project may consist of up to ~~438~~415 total single-family residential detached lots of 60' x 120' and ~~80~~90' x 120'.

Setbacks

The setbacks for single family residential lots shall be as follows:

Front:	20 feet / 15 <u>25</u> feet (w/ recessed garage <u>excluding front porch</u>)
Rear:	25 feet
Side:	10 feet
Corner:	12.5 feet
Pool / Accessory	10 feet

Dwelling Size

The minimum dwelling size for all single-family residences shall be ~~1,400~~1,600 square feet of heated/air-conditioned space under roof plus a two-car garage with a minimum of 400 square feet. Maximum dwelling size shall be 4,600 square feet of heated/air-conditioned space under roof.

Lot Size

The minimum lot size of at least 20% of the total number of lots developed in the Project shall be at least 10,800 square feet. The minimum lot size of the remaining lots in the Project shall be at least 7,600 square feet. The minimum street frontage for all lots shall be 50 feet.

Lot Width

The minimum lot width at building line shall be 60 feet ~~for 60-foot wide lots and 80 feet for 80-foot wide lots,~~ with a minimum street frontage for all lots of ~~30~~50 feet.

Lot Coverage

Lots may have a maximum lot coverage of ~~60~~55%, to include principal dwelling, all paved areas, and swimming pools.

Height of Structures

No residential structure may exceed 35 feet in height or two (2) stories.

Building Design

If and to the extent not inconsistent with Florida law, building design shall be in accordance with the Architectural Requirements of the Town's LDC and will comply specifically with the design requirements of LDC Sections 4.06.02 and 4.06.03.

The following principles seek to promote a high-quality development that will create a sense of place and community through the development of the site.

- If and to the extent not inconsistent with Florida law, housing styles, shapes and materials shall meet the Towns Land Development Regulations.
- The different housing types shall be integrated architecturally in order to give the development a harmonious appearance.
- The creation of visual richness shall be considered when choosing materials and details. Local characteristics are encouraged.
- Side entrances for garages are encouraged.
- A variety of roof heights, pitches and materials are encouraged.
- Landscaping shall be incorporated into the overall design as a means of linking the development areas with the open spaces.
- Each exterior wall for a single-family home must be a minimum of two materials and a minimum of two colors. Primary facades must have one base color and a complementary wall material may be used to meet the second color requirement.
- Block face restrictions may be reduced to 300 linear feet. The same house model may not be used more than ~~three~~two times within a single block face. For purposes of this requirement, a different house model is a different floor plan, not the same floor plan flipped in a different direction and not the same floor plan with a different exterior treatment.

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

(g) **Potable water, wastewater, and reclaimed water.** For potable water and wastewater service, well and septic systems are not allowed. The Project must be connected to and served by the Town's potable-water and wastewater systems prior to a certificate of occupancy being issued for a structure in the Project (except temporary construction uses).

Except as may be set forth otherwise in this Agreement, the Owner must install all on-site potable-water, wastewater, and reclaimed-water infrastructure and connect to central water and wastewater systems, and to the Town's reclaimed-water system when available at the Property boundary, all at no cost to the Town. Upon installation, the ownership of all potable water,

wastewater and reclaimed-water infrastructure shall be dedicated to the Town. The Owner must pay potable-water, wastewater, and reclaimed-water capital and connection charges, impact fees, and other Town rates, fees, and charges, either applicable currently or in the future.

1. *Potable Water.* The Town will provide potable water, and may in the future provide reclaimed water, to the Project in accordance with its applicable ordinances, resolutions, operating regulations, policies and procedures. The Town will provide potable water to the Property in sufficient quantities for development of the Project as contemplated herein, subject to the limitations and requirements of permits issued to the Town from time to time by the St. John’s River Water Management District in connection with water consumption.

The Owner shall construct, at no expense to the Town, all off-site potable-water-system facilities, lines, pumps, valves, control structures, and appurtenances (other than water-treatment plants) necessary to serve the Project. The construction and route of off-site lines and other structures shall be done according to engineering plans prepared by the Owner and approved by the Town Manager. Potable water shall not be used for irrigation.

2. *Wastewater.* The Town will provide wastewater-collection and transmission service to the Project, transmitting Project wastewater either to the Central Lake Community Development District (“CDD”) or to another wastewater utility service provider of the Town’s choosing with available capacity to treat and dispose the Project’s wastewater (“Wastewater Utility”). The Owner must obtain from the CDD or Wastewater Utility a contract right for the Project to receive treatment and disposal of its wastewater at such provider’s treatment and disposal facilities.

The Owner shall construct, at no expense to the Town, all off-site wastewater-system transmission and disposal facilities, lines, lift stations, pumps, valves, control structures, and appurtenances (other than wastewater-treatment plants) necessary to serve the Project. The construction and route of off-site lines, lift stations, pumps, and other structures shall be done according to engineering plans prepared by the Owner and approved by the Town Manager.

3. *Town Option to Oversize Water and Wastewater Lines.* In its review and processing of the preliminary subdivision plans for each phase of the Project, the Town may elect to oversize the off-site lines, pumps, improvements, or other facilities or appurtenances for the Town’s water or wastewater system, or for both, necessary to serve such phase. If the Town elects to oversize one or both systems, it must inform the Owner in writing of the specifications for the oversizing(s) prior to or as part of the Town’s first round of review comments on the preliminary subdivision plan application. The Town shall reimburse the Owner for the difference in the increase in cost of design, materials and construction to oversize the improvements based on plans and cost estimates provided by the Owner to the Town and approved by the Town Manager, which approval shall not be unreasonably withheld, conditioned or delayed. The Town shall reimburse the Owners for the difference in the costs within 60 days following (i) completion of the improvements and (ii) receipt by the Town of documentation reasonably demonstrating that the Owner has completed the work and has incurred the costs attributable to the over-sizing, all in keeping with the plans and cost estimate previously approved by the Town Manager.

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

5. *Reclaimed Water.* The Owner must install reclaimed water lines, both on-site and off-site as directed by the Town and as required by the Town's Code of Ordinances. Until such time as reclaimed water is available to the Property the Owner and its successors shall use the reclaimed water lines to irrigate properties within the Project boundaries, but only with stormwater from on-site stormwater-retention ponds or with sources other than potable water as may be approved by the Town and St. John's River Water Management District. Except for installation of reclaimed lines at the time of development as noted above, connection to reclaimed water after the development of the Project may not result in additional costs to the Owner or developer.

(h) **Solid Waste.** Solid Waste collection shall be pursuant to Town regulations.

(i) **Drainage.** The maintenance, repair, and replacement of the drainage system shall be the responsibility of the homeowners association(s).

(j) **Transportation**

1. Roadways

A. The Project must have a connected street system that serves vehicles, pedestrians and bicycles and that connects to recreation facilities and adjacent residential/community areas.

B. There must be ingress and egress points at Revels Road, County Number Two Road and Orange Blossom Road in the approximate location shown on the Conceptual Land Use Plan.

C. The access at County Road Number Two must be a full intersection, with dedication of right-of-way sufficient for both (i) construction of turn lanes and (ii) reconstruction of No. 2 Road lanes along the Project frontage with 12-foot travel lanes, 4-foot curb lanes, and 2-foot curb and gutter. Otherwise,

design of the No. 2 Road improvements are subject to review and approval by Lake County.

- D. Ingress and egress points at the western and eastern boundaries of the Property must also be provided, as shown on the Conceptual Land Use Plan. On the west the Project internal roads must connect to Silverwood Lane. On the east the internal roads must connect to Road DD shown on the Master Site Plan for The Reserve at Howey-in-the-Hills PUD that is to be stubbed to the boundary of the Property. If for whatever reason the internal roads cannot be connected by the Owner to Silverwood Lane on the west or to Road DD in The Reserve on the east, the Owner must stub the Project roads to the Property boundary for future connection.
- E. Revels Road and the north-south Spine Road must be constructed in phases consistent with the phasing plan shown on the Conceptual Land Use Plan. Revels Road and the Spine Road must be public, dedicated to and maintained by the Town. Revels Road and the Spine Road must have a minimum 90-foot right-of-way, 2-foot curb and gutter, and a minimum 32-foot-wide pavement with minimum 12-foot travel lanes and 4-foot curb lanes.
- F. All other internal neighborhood roads must have a minimum 50-foot right-of-way, curb and gutter, and a minimum 24-foot-wide pavement with minimum 12-foot travel lanes, ~~which may be reduced to 11-foot travel lanes when adjacent to on-street parking~~. All alley roads must have a minimum 24-foot right-of-way, curb and gutter, and a minimum 22-foot-wide pavement. Provision must be made in the rights-of-way for underground utilities.

2. ~~2.~~ Sidewalks and trails.

All portions of the development must be accessible by a direct, convenient, attractive, safe, and comfortable system of pedestrian facilities. The development must provide appropriate pedestrian amenities. A multimodal trail with minimum width of twelve feet must be constructed within each phase of the Project consistent with Conceptual Land Use Plan and the Town’s bicycle/pedestrian plan. The multimodal trail and all sidewalks within rights-of-way must be dedicated to and will be maintained by the Town.

3. ~~2.~~ Intersection Improvements in Lieu of Proportionate Fair Share Mitigation

The Owner has offered, and the Town accepts the Owner’s offer , (i) to undertake and complete at no cost to the Town the reconstruction of the intersection at Revels Road and State Road 19 as a roundabout facility, in return for (ii) the Town waiving its customary transportation-concurrency review and a proportionate fair-share payment by the Owner. The intersection and its design are subject to required approval and permits from the Florida Department of Transportation (FDOT).

The intersection construction must be complete before the issuance of the 51st residential building permit in Phase 2 of the Project.

If the Owner cannot obtain required state permits for an intersection roundabout, the Owner shall undertake and complete construction of the intersection with a traffic signal if allowed by FDOT. For either intersection type both Revels Road and State Road 19 must be constructed in the intersection as four-lane roads.

If the Owner obtains the required state permits for the roundabout intersection or, alternatively, the signalized intersection, the Town will be deemed to have waived its transportation-concurrency review. If the Owner cannot obtain required state permits for reconstruction of the intersection in either configuration, the Project must undergo transportation-concurrency review. The Owner must complete and submit for review prior to final development order a traffic-impact analysis.

If the results of the traffic-impact analysis require any mitigation for traffic generation, the Town and the Owner will work together and with any other applicable jurisdiction as required by applicable law to address such mitigation requirements through Owner's funding of its proportionate fair share of traffic improvements. Payment of the Owner's fair share must be made in pro-rata amounts upon the issuance of each building permit.

(k) **Schools.** The Project must apply for concurrency review at Lake County Public Schools. The school district has a specific application process. The Project must be shown to have appropriate school concurrency before building permits are issued.

(l) **Landscaping Requirements.** All landscaping and buffer requirements shall be in accordance with the LDC and as illustrated on the Conceptual Land Use Plan with the exception of the following:

1. All canopy trees planted at the Project will be a minimum of a 3" caliper;
2. ~~1-~~All buffer, and street, ~~and canopy~~ trees planted at the Project will be a minimum of a 2" caliper;
3. ~~2-~~the Owner shall require homebuilders to plant at least one canopy tree for each single-family lot of at least 3" DBH; and
4. ~~3-~~the developer will replace the equivalent of 30% of total tree-inches removed.

All trees planted at the Project shall adhere to the current guidelines established by the Florida Grades and Standards for nursery-grown trees and must be Florida grade #1 or better.

Developer must install street trees along each roadway where a common ~~area~~ area abuts the road as required by the LDC.

(m) **Tree Protection.** Under no circumstances may any tree, regardless of size or species, be removed from any designated wetland or conservation easement. Trees proposed to be maintained on-site must comply with LDC requirements. No construction activity, equipment or material is permitted inside a tree protection barrier.

(n) **Lighting.** Decorative street lighting (Sanibel fixture, a Duke Energy standard fixture) must be installed (i) at every intersection, (ii) at the end of each cul-de-sac, and (iii) at intervals of ~~300~~250 feet or as approved otherwise by the Town Manager. Street lighting must be installed by the Owner. All lighting must be directional, shielded lighting designed to minimize light pollution. All lighting must be maintained by the HOA.

(o) **Utilities.** All utilities must be underground.

(p) **Signage.** Entrance signs and informational signage may be located in buffers, setbacks/and or signage easements as approved by the Planning and Zoning Board. Unless stated otherwise in this Agreement all signage must comply with requirements and restrictions in the LDC. The Owner shall present a sign plan for review and approval by the Planning and Zoning Board with the final site plan for each phase of the Project.

The Owner and/or builder(s) may erect temporary vertical marketing flags, also known as feather banners, with the following stipulations:

1. Feather banners must be placed no less than 200 feet apart.
2. A maximum of 10 feather banners, in total.
3. Feather banners cannot be placed within the right of way.
4. Feather banners cannot be located offsite of PUD property.
5. Feather banners cannot exceed 12 feet in height.
6. Feather banners must be replaced or removed if they become faded, torn, or tattered.
7. Feather banners must be removed when 90% of the homes in the development have received building permit approval.

Billboards and pole signs are prohibited. Unless defined differently in the LDC, a pole sign is a permanent sign supported by at least one upright pole, pylon, or post secured to the ground, with the bottom of the sign face four feet or higher above the finished grade.

(q) **Maintenance of Common Areas.** Maintenance of each common area within the Project is the responsibility of the homeowners' association(s) for the affected subdivision.

(r) **Parks, Trails, and Open Spaces.** Each phase of the Project must include (i) the recreation and civic facilities for the phase and (ii) an integrated bicycle network that ties into the bicycle facilities in The Reserve PUD so as to loop the system to connect cyclists from both developments. Structures, facilities, and other improvements to be constructed and installed at the sites designated on the Conceptual Land Use Plan as parks, trails and open spaces must be included for review and approval as part of the final site plan approval for each phase or subdivision of each phase. Plans submitted must be in sufficient detail to provide reasonable understanding and certainty of the improvements, facilities, and uses to be made at each such site.;

~~Section 2.~~ Amendments. Amendments to the Conceptual Land Use Plan that occur after the effective date of this Agreement shall take effect only if and when approved by the Town Council ~~or Town staff as applicable. Major amendments include material changes such as:~~

- ~~• in changes to the location of individual land uses;~~
- ~~• any increase in the total number of residential units; and~~
- ~~• relocation and realignment of roads and routes for pedestrian and bicycle facilities.~~

~~Major amendments take effect only if approved by the Town Council in~~ the manner required by law or otherwise as determined by Town Council, which may include public notice(s) and hearing(s).

~~Minor amendments shall include lesser changes such as:~~

- ~~• minor adjustments of roads, trails and pedestrian ways based on more detailed site-specific data;~~
- ~~• modifications to the phasing schedule;~~
- ~~• adjustments to utility locations based on more detailed engineering data; or~~
- ~~• adjustments to parks and open space based on more detailed subdivision design.~~

~~Minor amendments may be approved by the Town Manager without referral to the Planning and Zoning Board or Town Council. Whether a proposed amendment is major or minor will be determined by the Town Manager. Minor amendments to the Conceptual Land Use Plan shall be deemed incorporated into this Agreement and shall modify or replace the Conceptual Land Use Plan in Attachment B to the extent of such amendment to the Conceptual Land Use Plan, without the necessity for an amendment to this Agreement.~~

Section 3. Notices. All notices or payments required to be made hereunder shall be made at the following addresses:

To Town: Sean O’Keefe, Town Manager
Town of Howey-in-the-Hills
101 North Palm Avenue
Howey-in-the-Hills, FL 34737
sokeefe@howey.org

With copies to: John Brock, CMC, Town Clerk
Town of Howey-in-the-Hills
101 North Palm Avenue
Howey-in-the-Hills, FL 34737
jbrock@howey.org

Thomas J. Wilkes, Town Attorney
Gray Robinson, P.A.
301 East Pine Street, Suite 1400
Orlando, FL 32801
twilkes@gray-robinson.com

To Owner:

Jason Humm
1170 Peachtree Street NE, Suite 1150
Atlanta, GA 30309
jhummm@turnstonegroup.com

With copies to:

Rhea Lopes, AICP
RVI Planning + Landscape Architecture
10150 Highland Manor Dr, Suite 450
Tampa FL 33610
rlopes@rviplanning.com

Mike Ripley
Land Advisors
399 Carolina Ave, Suite 200
Winter Park, Florida 32789
MRipley@landadvisors.com

Jonathan Huels
Lowndes
215 North Eola Drive
Orlando, Florida 32801
Jonathan.huels@lowndes-law.com

Section 4. Severability. If any provision or portion of this Agreement is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Agreement shall remain in full force and effect. To that end, this Agreement is declared to be severable.

Section 5. Binding Effect. This Agreement runs with the land and is binding on and enforceable by and against the parties hereto and all their successors in interest. However, no Lot Owner shall have the obligations imposed on the Owner as the developer of the Project under this Agreement. For that purpose, a “Lot Owner” means an end-user of a lot created within the Property with a completed residential unit constructed thereon, for which a certificate of occupancy has been issued. Each party covenants to each other party that this Agreement is a legal, valid, and binding agreement, enforceable against the party in accordance with its terms.

Section 6. Negotiated Agreement. The land uses, densities, intensities, and other conditions of approval of the Project have been negotiated and agreed to by the Owner and the Town. The Conceptual Land Use Plan and this Agreement together constitute an agreement between the

parties with the knowledge that the Owner’s successors in title, the future homeowners, and other landowners within the Property, as well as the Town and its affected property owners and residents, all will rely justifiably on the agreed-to land uses, densities, and intensities authorized hereby for the Property. For that reason, the Owner and the Owner’s successors in interest have the contract right to develop the PUD with the uses, densities, and intensities approved by the Town, subject to the restrictions and requirements in the conditions of approval set forth in this Agreement. Neither the Owner (and its successors in interest) nor the Town shall have the right in the future to rezone or downzone the property, or otherwise alter the uses, densities and intensities, or delete, waive or amend any conditions of approval except through an amendment to the Plan negotiated and approved by the Town Council and the owner or owners of the then-subject parcel or parcels. This section shall survive the termination and expiration of this Agreement.

Section 7. Homeowners’ Association(s).

(a) **Association Responsibilities.** A homeowner’s association and/or a property owner’s association (“HOA”) must be created by the Owner. Membership in the HOA shall be mandatory for all property owners within the Project. The HOA, not the Town, must maintain, repair, and replace all parks, open-space and buffer areas, streetlights, stormwater-management areas and drainage systems, entrance features, boundary walls and/or fences, access tracts, and landscaped tracts within the Project. The Town may opt, however, to undertake any such project of maintenance, repair, and replacement of those structures, facilities and systems. If the Town exercises its option, it may charge or assess either the HOA or its homeowners and property owners to recover the cost of the project.

(b) **Requirement for Plat Recording.** Before a plat may be recorded for the Property and the Project, the Owner shall furnish to the Town copies of the pertinent documents for the homeowners’ or property owners’ association or associations, which documents must contain the covenants, conditions and restrictions for the Property and must set forth the requirements and restrictions imposed on the HOA and its homeowners and property owners as enumerated in this section 7 and other applicable parts of this Agreement.

Section 8. Additional Requirements.

(a) **Letter of credit.** Construction and dedication to the Town of the public facilities and improvements required under this Agreement and the LDC for each phase of the Project is a condition precedent to final plat approval for such phase. In lieu of construction and dedication, however, the Owner may post a letter of credit or performance bond with the Town for 125% of the cost of such improvements not completed at the time of plat, in which event this condition precedent to final plat approval (but not the requirement to complete construction and to dedicate the public facilities and improvements required under this Agreement and the LDC) will be deemed satisfied.

(b) **Conveyances to the Town.** Property dedicated or otherwise conveyed to the Town under this Agreement must be free and clear of encumbrances unless and to the extent an encumbrance is acceptable to the Town. Encumbrances discovered after the Effective Date of

this Agreement must be removed or resolved by the Owner or its successor developer prior to dedication or conveyance of the affected property to the Town.

(c) **Changes in status of land.** Until completion of the Project, the Owner or its successor developer of the Project has a continuing duty (i) to disclose promptly to the Town all changes in ownership, encumbrances, and other matters of record affecting the Property and (ii) to resolve all issues, title or otherwise, that may be identified by the Town as a result of such changes. Failure to disclose such changes or to resolve resulting issues may result in delay in issuance of building and other development permits.

(d) **Developer representations binding.** If at Town Council hearings on the approval of the Project the Owner makes a written or oral promise or representation, and if the promise or representation was relied upon by Town Council in approving the Project or otherwise acted to induce or materially influence Town Council in its vote to approve the Project, the promise or representation is a condition of approval of the Project. The promise or representation is binding on the Owner and its successors and enforceable by the Town against the Owner and its successors as if set forth fully in this Agreement.

Section 9. Governing Law. This Agreement shall be governed by the laws of the State of Florida. Venue for any judicial proceeding pertaining to the Agreement shall be in the Fifth Judicial Circuit of Florida, in Lake County, Florida.

Section 10. Effective Date; Termination.

(a) **Effective Date.** This Agreement shall take effect upon the Effective Date above, or on the date when it has been executed by both the Town Council and the Owner, whichever is later.

(b) **Termination.** This Agreement shall remain in effect unless and until terminated under one of the following conditions:

1. If as of the second anniversary of the Effective Date of this Agreement an Owner's contract right to treatment and disposal services by the CDD or Wastewater Utility, as required under Section 1(g) above, has not taken effect, the Town may terminate this Agreement by vote of its Town Council. The vote must occur no later than (i) the third anniversary of the Effective Date or (ii) the CDD or Wastewater Utility Contract Date, whichever occurs first. The "Contract Date" is the date on which the Owner's contract right to treatment and disposal services by the CDD or Wastewater Utility takes effect.

2. If as of the second anniversary of the Contract Date no building permit for a residential unit in the Project has been issued, the Town may terminate this Agreement by vote of its Town Council. The vote must occur no later than (i) the third anniversary of the Contract Date or (ii) the date a building permit is issued, whichever occurs first.

3. If as of the fifth anniversary of the Contract Date no building permit for a residential unit in the second phase of the Project has been issued, the Town may terminate this Agreement by vote of its Town Council, but only as it applies to development of the second phase. The vote must occur no later than (i) the sixth anniversary of the Contract Date or (ii) the

date a building permit is issued for a residential unit in the second phase, whichever occurs first. Termination of the Agreement for this reason will not act to preclude the Owner or its successor from completing the first phase of the Project.

4. If as of the tenth anniversary of the Contract Date no building permit for a residential unit in the third phase of the Project has been issued, the Town may terminate this Agreement by vote of its Town Council, but only as it applies to development of the third phase. The vote must occur no later than (i) the eleventh anniversary of the Contract Date or (ii) the date a building permit is issued for a residential unit in the third phase, whichever occurs first. Termination of the Agreement for this reason will not act to preclude the Owner or its successor from completing the first or second phase of the Project.

Termination of this Agreement, in whole or in part, under this section shall be without prejudice to the Owner or its successor to apply for Town approvals to undertake or continue development of the Property in light of the circumstances and subject to the land-development regulations then existing in the Town.

Section 11. Recording. This Agreement shall be recorded by the Town, at the Owner’s expense, in the Public Records of Lake County, Florida, and shall constitute a covenant running with the land.

Section 12. Authority. This Agreement is entered into by the Town under the home-rule powers granted to it by the Florida constitution (including specifically Article VIII, Section 2(b) thereof), the home-rule powers granted municipalities by statute (including specifically Chapter 166, Florida Statutes), and the Town’s Charter. This Agreement does not constitute a “development agreement” under the Florida Local Government Development Agreement Act.

Section 13. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the transactions contemplated herein. It supersedes all prior understandings or agreements between the parties relating to the Property and the Project. No amendment to the terms of this Agreement shall be effective unless in writing signed by all parties hereto. Amendments to this Agreement will take effect and will be binding against the Town only if approved by a vote of the Town Council.

Section 14. Waiver. The failure of a party hereto to insist upon or enforce any right or privilege granted hereunder shall not constitute or operate as a waiver thereof and nothing shall constitute a waiver of any party’s right to insist upon strict compliance with the terms hereof. However, any party may waive in writing the benefit of any provision or condition for its benefit which is contained herein. Waivers of material provisions of either this Agreement or the Town’s LDC will be valid and binding against the Town only if approved by a vote of the Town Council.

[Signature pages follow]

IN WITNESS WHEREOF, the parties are signing this Agreement as of the Effective Date or, if later, the date by which both parties have fully executed this Agreement.

**TOWN OF HOWEY-IN-THE-HILLS,
FLORIDA**
By: its Town Council

By: _____
Hon. Martha McFarlane, Mayor

Attest:

By: _____
John Brock, CMC, Town Clerk

Approved as to form and legality:
(for the use and reliance of the Town only)

Thomas J. Wilkes, Town Attorney

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was executed, sworn to and acknowledged before me this ____ day of _____, 2024, by Martha McFarlane, personally known to me to be the Mayor of the Town of Howey in the Hills.

(SEAL)

Signature of Notary

Name of Notary Public
(Typed, Printed or stamped)

Signed, sealed and delivered
in the presence of:

WITNESSES

“OWNER”

Printed Name: _____

ASF TAP FL I, LLC, a Delaware limited liability company

By: _____

Printed Name: _____

As its: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was executed, sworn to and acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2024, by _____, as _____ of **ASF TAP FL I, LLC.**, a Delaware limited liability company, on its behalf.

(SEAL)

Signature of Notary Public

Name of Notary Public
(Typed, Printed or stamped)

Personally Known ____ **OR** Produced Identification _____
(Type of Identification Produced)

**Attachment A
To
MISSION RISE PUD DEVELOPMENT AGREEMENT**

LEGAL DESCRIPTION

**Attachment B
To
MISSION RISE PUD DEVELOPMENT AGREEMENT**

CONCEPTUAL LAND USE PLAN

Including the following graphics:

1. Conceptual Plan;
2. Phasing Plan;
3. Parks, Trails & Open Space Plan;
4. Non-Residential Areas;
5. Buffer Typical;
6. Street Cross Sections; and
7. Lot Fit.

[insert Conceptual Land Use Plan]

#52338764 v3

Summary report:	
Litera Compare for Word 11.4.0.111 Document comparison done on 5/17/2024 11:44:59 AM	
Style name: Lowndes	
Intelligent Table Comparison: Active	
Original DMS: iw://LOWNDES-DMS.IMANAGE.WORK/Active/12958008/9	
Modified DMS: iw://LOWNDES-DMS.IMANAGE.WORK/Active/12958008/10	
Changes:	
<u>Add</u>	27
Delete	42
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	69