

**DEVELOPMENT AGREEMENT
RESTORATION BAY RE-DEVELOPMENT PROJECT
Pinellas County, Florida**

This Development Agreement ("Agreement") is dated March __, 2021, effective as provided in Section 5 of this Agreement, and entered into between TTGC, LLC, a Florida limited liability company ("Owner") and Pinellas County, Florida, a political subdivision of the State of Florida acting through its Board of County Commissioners, the governing body thereof ("County").

R E C I T A L S :

- A. Sections 163.3220 – 163.3243, Florida Statutes, which set forth the Florida Local Government Development Agreement Act ("Act"), authorize the County to enter into binding development agreements with persons having a legal or equitable interest in real property located within the unincorporated area of the County.
- B. Under Section 163.3223 of the Act, the County has adopted Chapter 134, Article VII of Part III, the Pinellas County Land Development Code ("Code"), establishing procedures and requirements to consider and enter into development agreements.
- C. Owner is the owner of approximately ninety-six (96) acres m.o.l. of real property located adjacent to 66th Avenue North on the property's northern boundary, the County's existing Boca Ciega Millennium Park on the property's western boundary, and Boca Ciega Bay on the property's southern boundary, in the unincorporated area of the County, as the property is more particularly described on **Exhibit "A"** attached hereto (the "Property").
- D. Owner desires to re-develop and re-purpose the Property as a Brownfield Site (as defined in Section 376.79(4), Florida Statutes) to include, *inter alia*, single-family detached residential uses, a master storm water system to help address historic, pre-existing area-wide storm water retention-detention issues and water quality discharge issues into Boca Ciega Bay, and the creation of a linear greenway/trail system to connect Millennium Park via a publicly-accessible trail and/or boardwalk system for passive viewing of environmental areas fronting Boca Ciega Bay.
- E. Various portions of the Property currently have land use designations of Recreation/Open Space (R/OS) and Preservation (P), and is zoned R-A; however, historically the County has taken the following actions with regard to the Property:
 - (i) The Property originally was provided a Residential Low (RL) land use designation, and R-1 and R-2 zoning categories, and was platted for 273 single-family residential lots, consistent with the land use, zoning, and actual uses now adjacent to the Property;
 - (ii) The golf course use originally was approved as a special exception use in the R-2 zoning district, however the Residential Low land use and R-2 zoning designations were not amended at that time;

- (iii) The Property's land use designation was changed in 1975 to Recreation/Open Space (R/OS) to reflect its then-current use as a golf course; however, the R-2 zoning category was not changed by the County to R-A until 1985, when the Board of County Commissioners indicated the zoning change to R-A was to conform to the then-current golf course use, and that the Property owner could request a future zoning modification for other uses;
- (iv) The recorded plat for 273 residential lots was not vacated by the County until 1992;
- (v) The golf course use for the Property ceased in 2018, the clubhouse and other facilities since have been removed pursuant to a County demolition permit, and the special exception use for the golf course has expired due to the cessation of such use on the Property; and
- (vi) The R-A zoning designation placed on the Property by the County allows residential density of one (1) unit for each two (2) acres of land as a permitted use; and
- (vii) Policy 1.3.5 within the Coastal Management Element of the County's Comprehensive Plan allows up to five (5) units of residential density within the Coastal Storm Area, within which the Property is located.

- F. The Property was not previously developed in concert with any surrounding properties or any other project, was not a part of any master development plan or planned unit development with any other surrounding properties, and no density attributed to the Property under its original Residential Low (RL) land use category was ever transferred out of the Property or otherwise used to justify any density increase for development of any other surrounding properties. Consequently, neither the current owner nor the former owners/developers of the Property ever derived any income, profit, or other financial return based upon the unrelated, separate development by others of any surrounding residential communities, nor from the transfer or use of any density related thereto.
- G. The Property was never deed restricted by any governmental action, private deed restriction, homeowner's association master declaration of covenants, development agreement or any other legal use restriction upon the Property.
- H. Owner has requested that the County reinstate the original land use designations of Residential Low (RL) and Preservation (P), and approve a zoning designation of RPD (Residential Planned Development) on the Property, with a voluntary limit by the Owner on the maximum density of 273 residential single-family detached lots, which is the same as the prior, recorded plat density of 273 lots pursuant to the prior R-2 Zoning density for the Property. The requested density is approximately three (3) units per acre of land within the Property, which is only sixty percent (60%) of the density allowed pursuant to Policy 1.3.5 of the Coastal Management Element of the Comprehensive Plan.
- I. The residential density otherwise available to the Owner under the RL land use and RPD zoning categories cannot legally be limited without a voluntary development agreement under applicable law, and the County cannot justify the requested action absent the restrictions contained in this Agreement and in the deed restriction required in Section

6.1.4, and the County supports the change in zoning and land use designation based upon the provisions of the Agreement.

- J. The County and Owner have determined that it would be mutually beneficial to enter into a development agreement governing the matters set forth herein and have negotiated this Agreement in accordance with the Code and the Act.
- K. The County has found that the terms of this Agreement are consistent with the Pinellas County Comprehensive Plan and the Code.

STATEMENT OF AGREEMENT

In consideration of and in reliance upon the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound and in accordance with the Act, agree as follows:

Section 1. Recitals. The above recitals are true and correct and are a part of this Agreement.

Section 2. Incorporation of the Act. This Agreement is entered into in compliance with and under the authority of the Code and the Act, the terms of which as of the date of this Agreement are incorporated herein by this reference and made a part of this Agreement. Words used in this Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act.

Section 3. Property Subject to this Agreement. The Property as legally described on Exhibit A is subject to this Agreement.

Section 4. Ownership. The Property is owned in fee simple by Owner, and the required certification of title for the Property has been provided to the County.

Section 5. Effective Date/Duration of this Agreement.

5.1. This Agreement shall become effective as provided for by the Act and shall be contingent upon obtaining final approval, and effectiveness of the land use designation of Residential Low (RL) and Preservation (P), and a zoning designation of RPD (Residential Planned Development), as requested for the Property. The approved Development Master Plan (DMP) for the Property is attached hereto as **Exhibit "B."**

5.2. This Agreement shall continue in effect until terminated as defined herein but for a period not to exceed fifteen (15) years, unless extended by mutual agreement of the parties.

Section 6. Obligations under this Agreement.

6.1. Obligations of the Owner.

6.1.1. Binding Obligations. The obligations under this Agreement shall be binding on Owner, its successors or assigns, and shall run with the land.

6.1.2 Development Review Process. At the time of development of the Property, Owner will submit such applications and documentation as are required by law and shall comply with the County's Code applicable at the time of the submittal of the applicable application or plan(s) to the County, unless otherwise expressly provided in this Agreement for a specific entitlement, condition, or mitigation requirement.

6.1.3 Development Restrictions. The following restrictions shall apply to development of the Property.

6.1.3.1 Density Limit. The Property shall be platted and used for not more than 273 single-family detached residential dwelling units.

6.1.3.2 Permitted Uses. The only other uses allowed for the Property shall be storm water retention/detention/treatment, environmental mitigation and/or flood plain compensation areas, a linear greenway/trail system to connect Millenium Park to the Boca Ciega Bay frontage area, typical homeowner's association recreational and common areas, and such excavation, fill, remediation, water quality filtration/treatment system and other site work related to the Florida Brownfields Redevelopment Program identified in Section 6.1.5, below (collectively the "Residential Supporting Uses").

6.1.3.3 No Other Uses. There shall be no multi-family use, nor any commercial, office or other non-residential uses for the Property.

6.1.3.4 Development Intensities and Criteria. In addition to the 273-unit lot maximum for the Property, Owner shall comply with the building setbacks, buffers, height limitations, minimum lot criteria, and other development requirements as conceptually set forth on the DMP. In addition, the detailed engineering plans for the Property shall address and incorporate the "Public Benefit Improvements" as referenced in Section 6.1.5 below.

6.1.3.5 Historic Resources. Phase II archeological testing is required prior to any ground-disturbing activities in the area(s) denoted and proximate to the Florida Master Site file designation(s). The necessity for any Phase III archeological testing shall be predicated on the results of the Phase II testing. The timing for the Phase II testing shall be at the Developer's discretion;

however, no ground disturbing activities and no final development orders will be approved until such time that a satisfactory Phase II test and a Phase III test and appropriate mitigation strategy, if warranted, is complete.

- 6.1.3.6 Emergency Management. The Developer shall provide a written disclosure in each residential home sale contract, in a form approved by the County, documenting the applicable flood zone and flood elevation for the applicable lot and finished floor elevation for the home. In addition, the Developer shall provide to each homeowner at closing a written summary of the applicable hurricane evacuation route(s) for the Property, full disclosure that mandatory evacuation rules may apply to the property, a list of the then-existing hurricane evacuation shelter(s) in the vicinity, and such other information as may be provided by the County for such homeowners. In addition, the Developer or its applicable builder(s) shall contribute the amount of \$250.00 per home, payable at the time of issuance of the certificate of occupancy for such home, to the County as a hurricane mitigation payment to be used by the County for provision of additional hurricane shelter(s) and/or equipment and supplies for existing hurricane shelters in the vicinity of the Property.
- 6.1.3.7 Flood Plain Management Rules. The Property shall be subject to compliance with all Flood Plain Management Rules in force at the time of site development for the Property.
- 6.1.3.8 Drainage, Conservation & Access Easement. At the time of platting for the Property, and based upon the final, approved site development plans, the areas contemplated by the DMP for the perimeter linear/public access park, storm water treatment, retention and/or detention, wetlands, and wetland buffer or wetland restoration areas (but excluding any developed lots, roadways, and internal private HOA common areas), shall be subjected to a mutually agreed Drainage, Conservation & Access Easement in favor of the County (the "New Easement"), to insure the perpetual use and maintenance of such areas for their designated purposes, and to preclude any future residential or other development use of such areas. The New Easement shall provide that the designated homeowner's association for the Property shall provide the permanent maintenance for all facilities included within the New Easement, including any storm water treatment, attenuation, and detention/retention provided within the New Easement to help accommodate off-site drainage flows which historically have crossed the Property

without formal easements. Concurrent with recordation of the New Easement, all prior County drainage easements which no longer are required shall be vacated, released and cancelled of record, based upon the new, approved drainage plans and the New Easement.

- 6.1.4 Recording of Deed Restriction. Prior to the approval of a site plan or issuance of a development permit for the Property, Owner shall record a deed restriction encumbering the Property in the official records of Pinellas County, Florida and deliver a copy of such recorded deed restriction to the Director of the County's Housing & Community Development Department or his designee. The deed restriction shall be approved as to form by the County Attorney (which approval shall not be unreasonably withheld) and shall generally describe the development limitations of this Agreement and shall include the maximum building height, density/intensity, and other development parameters set forth in the approved DMP. The deed restriction shall be perpetual and may be amended or terminated only with the consent of the County, which consent shall not be unreasonably withheld.
- 6.1.5 Commitment to Public Benefit Improvements. To implement certain on-site improvements which will provide public benefits to the County at-large and the adjacent surrounding areas, the Developer has agreed to incorporate into the site development plans for the Property appropriate features to implement the "Public Benefit Enhancements" set forth on **Exhibit "C."** The specific engineering plans for inclusion of the Public Benefit Enhancements in the site development plan shall be subject to County approval, which shall not be unreasonably conditioned or withheld provided the Public Benefit Enhancements are materially consistent with Exhibit C.
- 6.1.6 Participation in Brownfield Program. Owner has voluntarily requested that the Property be designated as a Brownfield Area under the Florida Brownfields Redevelopment Program pursuant to Sections 376.77 – 376.84, F.S. The Owner has submitted such application request, and the County shall process same for consideration and approval by the County concurrent with the pending land use and zoning applications. Such acceptance of the Property as a Brownfield Area under the Florida Brownfields Redevelopment Program shall be contingent upon, and effective concurrent with, the approval of the new land use designation, zoning category, and this Development Agreement on the terms and conditions set forth herein.
- 6.1.7 Pedestrian and Traffic Mitigation Improvements; Access Points. Owner has proposed the implementation of certain pedestrian, bicycle, and

vehicular traffic improvements to mitigate the potential traffic impacts from development of the Property consistent with this Development Agreement. At the County's request, the Owner's traffic impact analysis ("TIA") analyzed the use of one (1) primary project access point at the historic Property access point on 66th Avenue North (the "North Access"), and also with the addition of a second primary access point on the east boundary of the Property on existing County public right-of-way at Evergreen Avenue and then to align with Irving Avenue (the "East Access"). The TIA demonstrates that acceptable levels of service will be maintained with the addition of project traffic (based upon 273 single-family residential units) with implementation of only the North Access or with implementation of both the North Access and the East Access; however, based upon the TIA's projected trip generation for the project the Land Development Code requires a second access point. Therefore, the Owner therefore has agreed to construct primary access points at both the North Access and the East Access, as required by the County's Land Development Code at the time of site development permitting based upon the actual number of single family detached units proposed for the final plat for the Property. Dependent upon the applicable County Land Development Code requirement, the Owner's potential required off-site mitigation improvements for each access option are set forth on **Exhibit "D"** (the "Pedestrian and Traffic Mitigation Improvements"). Regardless of the number of site access points required by the County's Land Development Code, the Owner also shall provide the pedestrian improvements to 66th Avenue North and 116th Street as set forth in Exhibit D as part of the Pedestrian and Traffic Mitigation Improvements. Owner shall design, permit and construct the Pedestrian and Traffic Mitigation Improvements, at Owner's sole cost and expense, concurrent with the site development work on the Property, and shall complete same prior to issuance of the certificate of occupancy for the first dwelling unit within the Property. The construction access location shall be at either the North Access or the East Access, as directed by the County at the time of site development approval, and limited to weekdays (excluding holidays) from 7 a.m. to 5 p.m.

6.2 Obligations of the County.

6.2.1 Concurrent with the approval of this Agreement, the Board hereby amends the land use and zoning designation for the Property as set forth in Recital H above, and hereby designates the Property as a Brownfield Area under the Florida Brownfields Redevelopment Program.

6.2.2 County will process preliminary and final site plan applications for the Property that are materially consistent with the Development Master Plan and this Development Agreement, and that meet the requirements of the Code at the time

of the effective date of site development plans submittals, except for the provisions of this Agreement which shall prevail.

6.2.3 The final effectiveness of the re-designation referenced in Section 6.2.1 is subject to:

6.2.3.1 The provisions of Chapter 125 and 163, Florida Statutes, as they may govern such amendments; and

6.2.3.2 The expiration of any appeal periods or, if an appeal is filed, at the conclusion of such appeal.

Section 7. Public Facilities to Service Development. The following public facilities are presently available to the Property from the sources indicated below. Development of the Property will be governed by and must satisfy the concurrency ordinance provisions applicable at the time of the effective date of this Agreement.

- 7.1. Potable water from Pinellas County.
- 7.2. Sewer service from Pinellas County.
- 7.3. Fire protection from Pinellas County.
- 7.4. Drainage facilities for the parcel will be provided by Owner.

Section 8. Required Local Government Permits. The required local government development permits for development of the Property include, without limitation, the following:

- 8.1. Site plan approval(s) and associated utility licenses and right-of-way utilization permits;
- 8.2. Construction plan approval(s);
- 8.3. Building permit(s); and
- 8.4. Certificate(s) of occupancy.

Section 9. Consistency. The County finds that development of the Property consistent with the terms of this Agreement is consistent with the Pinellas County Comprehensive Plan.

Section 10. Termination.

- 10.1. In the event of termination pursuant to Section 10.2 or failure to commence the development of the subject property within the duration of the Agreement as defined in Section 5 above, the Property shall return to its current land use and zoning designations. Owner agrees to cooperate and not contest any administrative procedures necessary to

implement restoration of the land use and zoning designations in such event. This obligation survives the termination of the Agreement for the time necessary to accomplish the re-designations.

10.2. If Owner's obligations set forth in this Agreement are not followed in a timely manner, as reasonably determined by the County Administrator, after notice to Owner and an opportunity to be heard, existing permits shall be administratively suspended and issuance of new permits suspended until Owner has fulfilled its obligations. Failure to timely fulfill its obligations may serve as a basis for termination of this Agreement by the County, at the discretion of the County and after notice to Owner and an opportunity for Owner to be heard.

Section 11. Other Terms and Conditions. Except in the case of termination, until fifteen (15) years after the effective date of this Agreement, the Property shall not be subject to subsequently adopted laws and policies unless the County has held a public hearing and determined:

11.1. They are not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities, or densities in this Agreement;

11.2. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;

11.3. They are specifically anticipated and provided for in this Agreement;

11.4. The County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or

11.5. This Agreement is based on substantially inaccurate information provided by Owner.

Section 12. Compliance with Law. The failure of this Agreement to address any particular permit, condition, term or restriction shall not relieve Owner from the necessity of complying with the law governing such permitting requirements, conditions, terms or restrictions.

Section 13. Notices. Notices and communications required or desired to be given under this Agreement shall be given to the parties by hand delivery, by nationally recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, addressed as follows (copies as provided below shall be required for proper notice to be given):

If to Owner:	TTGC, LLC 111 S. Armenia Avenue Suite 201 Tampa, FL 33609
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With copy to: Joel R. Tew, Esquire
Tew & Associates
35595 U.S. Highway 19, North
921
Palm Harbor, FL 34684

If to County: Pinellas County Board of County Commissioners
c/o County Administrator
315 Court St.
Clearwater, FL 33756

With copy to: David S. Sadowsky, Esquire
Senior Assistant County Attorney
Pinellas County Attorneys Office
315 Court Street
Clearwater, Florida 33756

Properly addressed, postage prepaid, notices or communications shall be deemed delivered and received on the day of hand delivery, the next business day after deposit with an overnight courier service for next day delivery, or on the third (3rd) day following deposit in the United States mail, certified mail, return receipt requested. The parties may change the addresses set forth above (including the addition of a mortgagee to receive copies of all notices), by notice in accordance with this Section.

Section 14. Right to Cure. Owner will not be deemed to have failed to comply with the terms of this Agreement until Owner shall have received notice from the County of the alleged non-compliance and until the expiration of a reasonable period after receipt of such notice to cure such non-compliance. Whether the time period has been reasonable shall be based on the nature of the non-compliance and shall be determined in the sole judgment of the County Administrator, reasonably exercised.

Section 15. Minor Non-Compliance. Owner will not be deemed to have failed to comply with the terms of this Agreement in the event such non-compliance, in the judgment of the County Administrator, reasonably exercised, as a minor or inconsequential nature.

Section 16. Covenant of Cooperation. The parties shall cooperate with and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement and in achieving the completion of development of the Property.

Section 17. Approvals. Whenever an approval or consent is required under or contemplated by this Agreement, such approval or consent shall not be unreasonably withheld, delayed or conditioned. All such approvals and consents shall be requested and granted in writing.

Section 18. Completion of Agreement. Upon the completion of performance of this Agreement or its revocation or termination, the Owner or his successor in interest shall record a statement in the official records of Pinellas County, Florida, signed by the parties hereto, evidencing such completion, revocation or termination, and shall forthwith deliver a copy of this document to the Director of the County Building and Development Review Services Department or his designee.

Section 19. Entire Agreement. This Agreement (including any and all Exhibits attached hereto, all of which are a part of this Agreement to the same extent as if such Exhibits were set forth in full in the body of this Agreement), constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof.

Section 20. Construction. The titles, captions and section numbers in this Agreement are inserted for convenient reference only and do not define or limit the scope or intent and should not be used in the interpretation of any section, subsection or provision of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and plural shall include the singular and any reference in this Agreement to Owner includes Owner's successors or assigns. This Agreement was the production of negotiations between representatives for the County and Owner and the language of the Agreement should be given its plain and ordinary meaning and should not be construed against any party hereto. If any term or provision of this Agreement is susceptible to more than one interpretation, one or more of which render it valid and enforceable, and one or more of which would render it invalid or unenforceable, such term or provision shall be construed in a manner that would render it valid and enforceable.

Section 21. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance is declared invalid or unenforceable, the remainder of this Agreement, including any valid portion of the invalid term or provision and the application of such invalid term or provision to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall with the remainder of this Agreement continue unmodified and in full force and effect. Notwithstanding the foregoing, if such responsibilities of any party thereto to the extent that the purpose of this Agreement or the benefits sought to be received hereunder are frustrated, such party shall have the right to terminate this Agreement upon fifteen (15) days notice to the other parties.

Section 22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to the conflict of laws principles of such state.

Section 23. Counterparts. This Agreement may be executed in counterparts, all of which together shall continue one and the same instrument.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement the date and year first above written.

[END OF SUBSTANTIVE PROVISIONS; SIGNATURES PAGES FOLLOW]

SAMPLE

WITNESSES:

OWNER:

TTGC, LLC,
a Florida limited liability company

By:

Printed Name: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2011, by _____, who is personally known to me or who produced
_____ as identification.

Notary Public

By:

Print Notary Name
My Commission Expires:

ATTEST:

PINELLAS COUNTY, FLORIDA

KEN BURKE, CLERK

Deputy Clerk

By:

Chairman
Board of County Commissioners

APPROVED AS TO FORM:

County Attorney

Exhibit A:
Legal Description for the Property

SAMPLE

Exhibit B:
Development Master Plan (DMP)

SAMPLE

Exhibit C:
Public Benefit Enhancements

SAMPLE

Exhibit D:
Pedestrian and Traffic Mitigation Improvements

Pedestrian Improvements to 66th Avenue North & 116th Street

66th Avenue North currently has intermittent sidewalks on either the north or south side at various intervals. The Owner has proposed and agreed to add sidewalks on the north and south side of 66th Avenue North, where existing public right-of-way is available, and a connecting cross-walk where the sidewalk location changes, as depicted on the attached Transportation Mitigation Plan graphics (the “66th Avenue North Pedestrian Improvements”). The goal of the 66th Avenue North Pedestrian Improvements is to provide a more functional and safe environment with the addition of project traffic to facilitate pedestrian movement along 66th Avenue North to and from Millenium Park, interconnecting with the public-access portion of the new trail system on the Property to Boca Ciega Bay and Millenium Park, and to/from the adjacent neighborhoods. In addition, the Owner has proposed and agreed to add a sidewalk along the west side of 116th Street, with a crosswalk at 74th Avenue North (the “116th Avenue Pedestrian Improvements”), to enhance pedestrian connectivity to and from the subdivision north of Restoration Bay, as depicted on the attached Transportation Mitigation Plan graphics.

Vehicular Traffic Improvements

As set forth in the Development Agreement, the Owner has agreed to provide two primary access points to the Property at the time of site development, as required by the Land Development Code. Dependent upon the County’s Land Development Code requirements, the Owner also has agreed to construct the following off-site access improvements if directed by the County at such time:

North Access Requirements:

With respect to the North Access, the Owner’s TIA indicates that the existing northbound left-turn lane on 113th Street, at 66th Avenue North, may warrant extension to accommodate peak season traffic only and subject to certain existing median modifications. If directed by the County, the Owner shall at the Owner’s cost extend the existing 140-foot long northbound left-turn lane to up to 360 feet in length, with such median closures as directed by the County.

East Access Requirements:

The Owner’s TIA indicates that in addition to the North Access item set forth above, the existing northbound left-turn lane on 113th Street, at 62nd Avenue North, may warrant extension to accommodate peak season traffic only and subject to certain existing median modifications. If directed by the County, the Owner shall at the Owner’s cost extend the existing 145-foot long northbound left-turn lane to up to 260 feet in length, with such median closures as directed by the County.