

PREPARED BY & RETURN TO:
Clifford R. Repperger, Jr., Esq.,
WhiteBird, PLLC
2101 Wavery Place
Melbourne, FL 32901

CONCURRENCY MITIGATION AND RIGHT-OF-WAY USE AGREEMENT

THIS CONCURRENCY MITIGATION AND RIGHT-OF-WAY USE AGREEMENT (“Agreement”) is made and entered into this ____ day of May, 2026, by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, whose address is: 2725 Judge Fran Jamieson Way, Building C, Viera, FL 32940 (hereinafter referred to as “Brevard County”), SHANNASH PROPERTIES, INCORPORATED, a Florida limited liability company, whose address is: 5846 South Flamingo Road, STE 295, Cooper City, FL 33330 (hereinafter referred to as “Owner”), and EASTWIND ACQUISITIONS, LLC, a Florida limited liability company, whose address is: 6900 Tavistock Lakes Blvd., STE 400, Orlando, FL 32827 (hereinafter referred to as “Applicant”).

RECITALS:

WHEREAS, Applicant is the authorized representative of the Owner of certain real property located in Brevard County identified as Parcel ID Nos. 26-36-36-00-6 and 26-36-36-02-R (hereinafter referred to as “Subject Property”); and

WHEREAS, the Owner/Applicant has recently obtained various development approvals from the City of Melbourne, Florida, including annexation, comprehensive plan amendment, rezoning, and site plan approval for a 264-unit multi-family apartment complex (hereinafter referred to as “Development Project”) on the Subject Property; and

WHEREAS, the Subject Property is located immediately west of the 150-foot wide N. Wickham Road right-of-way, and the Development Project is planned to utilize a current driveway connection to N. Wickham Road via an existing signalized intersection at Preserve Drive and N. Wickham Road for ingress-egress access; and

WHEREAS, the Owner/Applicant has filed applications for Sanitary Sewer Service Availability and Capacity Reservation and Solid Waste Capacity Reservation with Brevard County (hereinafter referred to as “Applications”) and desires to connect to Brevard County Sanitary Sewer Service north of the Subject Property; and

WHEREAS, the connection to Brevard County Sanitary Sewer Service is proposed to be via a public lift station located on the Subject Property and a 4” force main extension line to be installed on the west side of the N. Wickham Road right-of-way as depicted on the Overall Site Plan prepared by Kimley-Horn and Associates, Inc. dated April 14, 2026 for “KHA PROJECT 145246002;” Sheet Number C-400 (attached and incorporated hereto as Exhibit “A”); and

WHEREAS, in response to the filed Applications, Brevard County has advised the Owner/Applicant that there is an existing deficiency of roadway concurrency as to Segment 389 of N. Wickham Road preventing approval of the Applications; and

WHEREAS, the Owner/Applicant has provided Brevard County a Traffic Impact Study revised as of March 2026 which notes no new segment deficiencies as a result of the Development Project except for minor street delays at the intersection of Wickham Road & Preserve Drive/Pebble Creek Street, and which includes data that supports the provision of certain improvements to the southbound left turn lane at the intersection of N. Wickham Road and Preserve Drive/Pebble Creek Street to meet FDOT Design Manual (FDM) Chapter 212-1 standards; and

WHEREAS, Brevard County is agreeable to the Owner/Applicant's proposal of voluntarily constructing or funding certain improvements to the southbound left turn lane at the intersection of N. Wickham Road and Preserve Drive/Pebble Creek Street to meet FDOT Design Manual (FDM) Chapter 212-1 design standards as being acceptable to resolve any potential traffic concurrency issues related to the Development Project; and

WHEREAS, in lieu of the Owner/Applicant's construction of the southbound left turn lane improvements at the intersection of N. Wickham Road and Preserve Drive/Pebble Creek Street, the parties agree that the Owner/Applicant may make a capital contribution payment in the full amount of said improvements to Brevard County which may be applied by Brevard County to either the specifically identified improvement or to any other project previously approved in Brevard County's capital improvement plan which is intended to serve concurrency needs on N. Wickham Road; and

WHEREAS, notwithstanding any specific data or conclusions in the Traffic Impact Study provided by the Owner/Applicant, the parties agree and understand that this Agreement is intended to serve as a binding proportionate-share agreement for the Development Project pursuant to Section 163.3180, Florida Statutes.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **RECITALS.**

The "WHEREAS" clauses set forth above are incorporated herein by reference and made a part of this Agreement.

2. **TRAFFIC CONCURRENCY MITIGATION IMPROVEMENTS.**

The parties agree that the Owner/Applicant has voluntarily proposed and Brevard County has accepted the proposed modifications to the southbound left turn lane at N. Wickham Road and Preserve Drive/Pebble Creek Street (hereinafter referred to as "Concurrency Mitigation Improvements") as being acceptable to resolve any potential traffic concurrency issues related to the Development Project. The Concurrency Mitigation Improvements shall generally improve the

southbound left turn lane to provide for a full width of 210' and a 50' taper in an effort to meet FDM 212-1 design standards. The full scope description and proposed costs associated with the Concurrency Mitigation Improvements is attached and incorporated hereto as Exhibit "B." The parties specifically agree that the named Applicant seeking a right-of-way use permit shall have the sole obligation to construct the improvements described in this Section or to make payment in lieu of such construction as provided in Section 3 of this Agreement.

3. **PAYMENT IN LIEU OF CONSTRUCTION.**

In lieu of the Owner/Applicant's construction of the Concurrency Mitigation Improvements, the parties agree that the Owner/Applicant may make a capital contribution payment in the full amount of said improvements as reflected on Exhibit "B" to Brevard County which may be applied by Brevard County to either the specifically identified improvement or to any other project previously approved in Brevard County's capital improvement plan which is intended to serve concurrency needs on N. Wickham Road, including, but not limited to, the project known as *Wickham Road and Pineda Causeway (Expand Northbound Right Turn Lane)*. The parties specifically agree that the named Applicant seeking a right-of-way use permit shall have the sole obligation to construct the improvements as described in Section 2 of this Agreement or to make payment in lieu of such construction as provided in this Section.

4. **RIGHT-OF-WAY USE PERMIT.**

Upon the occurrence of both: 1. The Owner/Applicant's compliance with the relevant provisions of Chapter 86, Article III, Division 3 Code of Ordinances of Brevard County, Florida regarding right-of-way permit application and formal bonding procedures, if applicable; and 2. The Owner/Applicant's payment of a total sum of Concurrency Mitigation Improvements as reflected on Exhibit "B" to Brevard County in lieu of the Owner/Applicant's construction of the Concurrency Mitigation Improvements, a right-of-way use permit allowing for the planned improvements and connection to Brevard County Sanitary Sewer System as reflected on Exhibit "A" shall be issued by Brevard County.

5. **CONCURRENCY MITIGATION IMPROVEMENT FUNDS.**

The parties specifically agree that Brevard County, in its sole discretion, may choose to apply any portion of the total sum of Concurrency Mitigation Improvement funds paid by the Owner/Applicant to either the specifically identified Concurrency Mitigation Improvement or to any other project previously approved in Brevard County's capital improvement plan which is intended to serve concurrency needs on N. Wickham Road, including, but not limited to, the project known as *Wickham Road and Pineda Causeway (Expand Northbound Right Turn Lane)*.

6. **SCOPE OF CONCURRENCY MITIGATION IMPROVEMENTS-
NONEXCLUSIVE SEWER CONNECTION OPTION-TERMINATION
PRIOR TO DEVELOPMENT.**

A. The parties specifically agree that the Concurrency Mitigation Improvements provided for in this Agreement are required solely for the construction, location, and use of planned

sanitary sewer infrastructure serving the Development Project in the N. Wickham Road right-of-way as depicted on Exhibit "A." The parties agree that Concurrency Mitigation Improvements are not required for the location and construction of public sidewalks adjacent to the Development Project within the N. Wickham Road right-of-way.

B. If the Owner/Applicant provides notice to Brevard County that it has: 1. Revised its Overall Site Plan as depicted on Exhibit "A" to remove said sanitary sewer infrastructure from the N. Wickham Road right-of-way and to connect to sanitary sewer service provided by the City of Melbourne via alternate route outside of the N. Wickham Road right-of-way; or 2. Decided not to proceed with the Development Project, this Agreement shall terminate upon the County's receipt of said notice and the parties shall have no further obligations under the same.

C. If the Owner/Applicant provides notice pursuant to Section 6.B. after it has paid the Concurrency Mitigation Improvement funds to Brevard County, Brevard County shall refund the amount of Concurrency Mitigation Improvement funds paid by the Owner/Applicant (minus any applicable administrative processing fees) within ninety (90) days of receipt of said notice so long as the Concurrency Mitigation Improvement funds have not been utilized. If Brevard County has utilized the Concurrency Mitigation Improvement funds paid by the Owner/Applicant at the time of receipt of a notice pursuant to Section 6.B., it shall have no obligation to refund the same to Owner/Applicant.

7. **SANITARY SEWER SYSTEM IMPROVEMENTS.**

Notwithstanding the terms of this Agreement, any sanitary sewer system improvements constructed or located with the N. Wickham Road right-of-way shall comply with all applicable permit and regulatory requirements of Chapter 110, Article II Code of Ordinances of Brevard County, Florida and Criteria for Water and Sanitary Sewerage Systems within Brevard County Florida promulgated by the Brevard County Utility Services Department as a condition to Brevard County's issuance of any right-of-way use permit.

8. **WAIVER OF CLAIMS.**

The Owner/Applicant hereby waives any and all claims against the Brevard County for any loss or damages resulting from Brevard County's evaluation of concurrency and any permitting or right-of-way use issues related to the Development Project arising from this Agreement or the operation of this Agreement and forever releases Brevard County from any claim in any way associated with the same. The Owner/Applicant further waives any right to file any action challenging the validity of this Agreement for any reason.

9. **NOTICES.**

Whenever either party desires to give notice unto the other, written notice shall be sent via hand delivery, first class mail or overnight carrier to:

If to Brevard County: County Manager,
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way

Building C
Viera, FL 32940

With a copy to: County Attorney,
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Building C
Viera, FL 32940

If to Owner: Shannash Properties, Incorporated
5846 South Flamingo Road
STE 295
Cooper City, FL 33330

If to Applicant : Eastwind Acquisitions, LLC
C/O Stephen Novacki,
Vice President Development and Acquisitions
6900 Tavistock Lakes Blvd., Suite 400
Orlando, FL 32827

With a copy to: Clifford R. Repperger, Jr., Esq.
WhiteBird, PLLC
2101 Waverly Place
Melbourne, FL 32901

All notices shall be effective upon receipt. Any party may change their representative to receive notice or their address by giving notice in this manner without the need of formal amendment of this Agreement.

10. **LIMITATION OF AGREEMENT.**

It is expressly stipulated that this Agreement is applicable solely to the Overall Site Plan as reflected in Exhibit "A" as may be amended, but shall not apply to any other proposed use or increase in density of the Development Project.

11. **PRIOR AGREEMENTS.**

This Agreement represents the entire Agreement between the parties and supersedes and nullifies any and all prior agreements, negotiations or understandings, written or oral relating to the matters set forth herein. Prior agreements, negotiations or understandings, if any, shall have no force or affect whatsoever on this Agreement.

12. **ASSIGNMENT.**

This Agreement may be assigned, delegated, and/or transferred without written approval of the other party. Any such Assignee shall give written notice to the other party within thirty (30) days after assignment of this Agreement to Assignee.

13. **SEVERABILITY.**

If any part, term, or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state or local law or regulation, such part, term or provision shall be severable, with the remainder of this Agreement remaining valid and enforceable.

14. **MODIFICATIONS.**

No modification, addendums or amendments of any kind whatsoever may be made to this Agreement unless said changes are made in writing and executed by both parties.

15. **SOVEREIGN IMMUNITY.**

Nothing in this Agreement shall be construed in any way to waive the sovereign immunity of the Brevard County.

16. **LAW AND VENUE.**

This Agreement shall be governed by the laws of the State of Florida. Venue for any dispute, claim, or action arising out of or related to this Agreement shall be in any appropriate court of jurisdiction of the Eighteenth Judicial Circuit in and for Brevard County, Florida and any trial shall be non-jury. In the event that any legal or equitable action is brought by either party to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs associated with the bringing such action.

17. **BINDING EFFECT.**

This Agreement shall be binding upon, and shall inure to the benefit of, all successors-in-interest of the parties of this Agreement. Any such successor-in-interest shall give written notice thirty (30) days after its assumption of this Agreement to the other party.

18. **PARTIES DRAFTED EQUALLY.**

Brevard County and the Owner/Applicant agree that both parties have played an equal and reciprocal part in the drafting of this Agreement. Therefore, any uncertainty or ambiguity existing herein, if any, shall not be interpreted against either party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements. Both parties acknowledge that they have had an opportunity to consult with the legal counsel of their choosing prior execution of this Agreement.

19. **TERM.**

This Agreement shall be for an initial term of thirty (30) years and shall automatically renew thereafter on an annual basis, for an unlimited number of annual periods unless terminated by the Brevard County or the Owner/Applicant as provided herein.

20. **RECORDATION; EFFECTIVE DATE.**

This Agreement shall be recorded in the Public Records of Brevard County, Florida. The recorded original of this Agreement, or any amendment hereto, shall be returned to Brevard County for filing in its records. This Agreement shall take effect (the "Effective Date") when a fully executed original Agreement is recorded in the Public Records of Brevard County, Florida.

**[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]
[EXECUTION PAGES TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

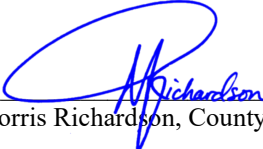
BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS
a political subdivision of the State of Florida
2725 Judge Fran Jamieson Way
Viera, Florida 32904

Rachel M. Sadoff, Clerk

By: Thad Altman, Chair

As approved by the Board on May 5, 2026

Approved as to legal form and sufficiency:



Morris Richardson, County Attorney

OWNER:
SHANNASH PROPERTIES,
INCORPORATED
5846 South Flamingo Road
STE 295
Cooper City, FL 33330

By: _____
Its: _____

Pursuant to Florida Statutes Section 117.05(13)(c), the following notarial certificate is sufficient for an acknowledgment in a representative capacity:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] by remote online notarization this _____ day of _____, 2026, by _____ as _____ for _____ who is personally known to me or produced _____ as identification.

Notary Public
Printed Name: _____
Commission No.: _____

Commission Expires: _____

Signed, sealed, and delivered in the presence of:

Witness Signature

Witness Signature

Witness Printed Name

Witness Printed Name

Witness Address:

Witness Address:

APPLICANT:
EASTWIND ACQUISITIONS, LLC
6900 Tavistock Lakes Blvd., Suite 400
Orlando, FL 32827

By: _____
Its: _____

Pursuant to Florida Statutes Section 117.05(13)(c), the following notarial certificate is sufficient for an acknowledgment in a representative capacity:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] by remote online notarization this _____ day of _____, 2026, by _____ as _____ for _____ who is personally known to me or produced _____ as identification.

Notary Public
Printed Name: _____
Commission No.: _____

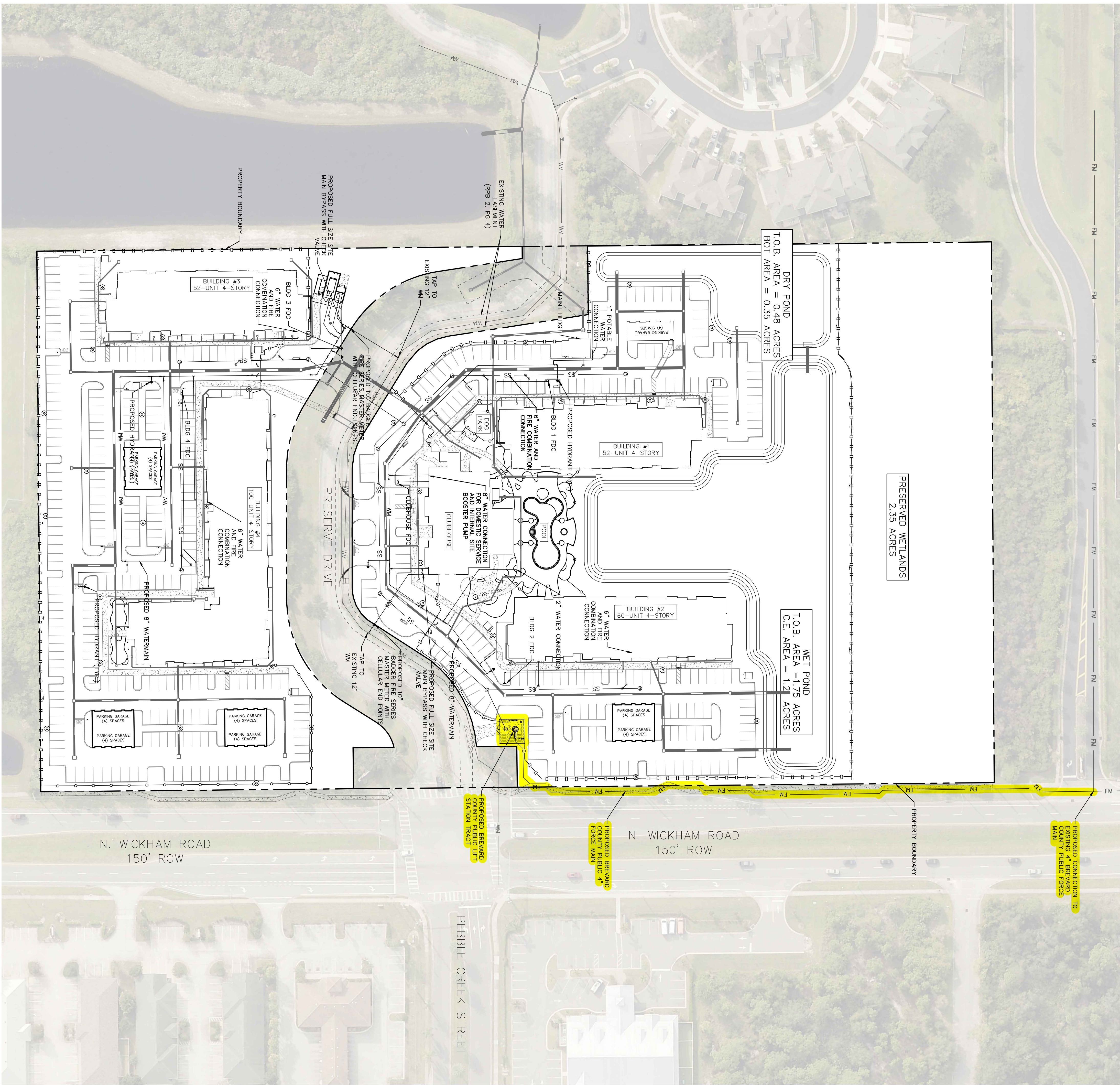
Commission Expires: _____

Signed, sealed, and delivered in the presence of:

_____ Witness Signature	_____ Witness Signature
_____ Witness Printed Name	_____ Witness Printed Name
_____ Witness Address:	_____ Witness Address:
_____	_____
_____	_____

EXHIBIT "A"
Overall Site Plan

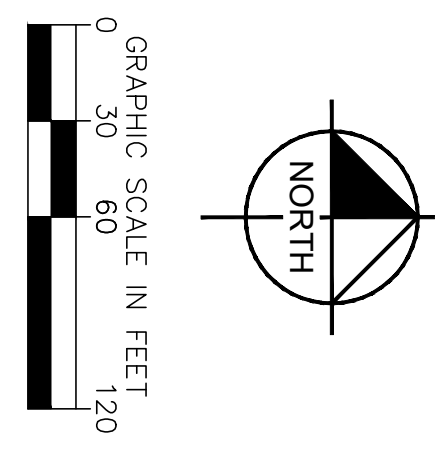
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



PROPOSED CONNECTION TO COUNTY PUBLIC FORCE MAIN

PROPOSED BREVARD COUNTY PUBLIC FORCE MAIN

PROPOSED BREVARD COUNTY PUBLIC LIFT STATION TRASH



UTILITY LEGEND

WM	EXISTING WATER MAIN
WM	PROPOSED WATER MAIN
SS	PROPOSED SEWER GRAVITY MAIN
SS	PROPOSED SEWER FORCE MAIN
FM	PROPOSED FIRE HYDRANT
WM	PROPOSED WATER METER AND 992
SM	PROPOSED SEWER MANHOLE

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY TYLER ENRIGHT, P.E. ON THE DATE ADJACENT TO THE SEAL.
 PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

PRIVATE FIRE SERVICE MAIN SHOWN FOR ALIGNMENT PURPOSES ONLY. FIRE SERVICE ELEVATIONS SHOWN HEREON ARE BASED UPON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
 PRIVATE FIRE SERVICE MAIN INSULATION IS PER PERSONAL ENGINEER DESIGNER. CONTRACTOR HOLDING A FIRE PROTECTION CONTRACTOR LICENSE MUST SECURE REQUIRED PERMITS FROM JURISDICTION HAVING AUTHORITY.

PRESERVE DRIVE MULTIFAMILY
 PREPARED FOR EASTWIND
 CITY OF MELBOURNE FL

OVERALL UTILITY PLAN

KHA PROJECT 145246002
 DATE 4/14/2026
 SCALE AS SHOWN
 DESIGNED BY TJE
 DRAWN BY JRP
 CHECKED BY TJE

LICENSED PROFESSIONAL
 TYLER J ENRIGHT, P.E.
 FL LICENSE NUMBER 97824
 DATE: ---

Kimley-Horn
 © 2026 KIMLEY-HORN AND ASSOCIATES, INC.
 7341 OFFICE PARK PLACE, SUITE 102, MELBOURNE, FL 32940
 PHONE: 321-430-1138
 WWW.KIMLEY-HORN.COM REGISTRY NO. 35106

No.	REVISIONS	DATE	BY

EXHIBIT "B"
Engineer's Opinion of Probable Construction Costs
SB Wickham Road Turn Land Extension

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS

(actual construction costs will vary)

SB WICKHAM ROAD TURN LANE EXTENSION

BREVARD COUNTY, FL

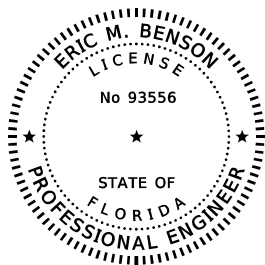
Prepared: April 2026

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE*	TOTAL
ROADWAY					
110-1-1	CLEARING AND GRUBBING	AC	0.04	\$55,401.29	\$ 2,350.36
120-1	REGULAR EXCAVATION	CY	136.9	\$8.70	\$ 1,190.93
120-6	EMBANKMENT	CY	136.9	\$13.96	\$ 1,910.97
160-4	TYPE B STABILIZATION	SY	205	\$11.99	\$ 2,461.95
285-7-09	OPTIONAL BASE, BASE GROUP 09	SY	205	\$21.23	\$ 4,359.23
327-70-6	MILLING EXISTING ASPHALT PAVEMENT, 1.5" AVG DEPTH	SY	907	\$3.41	\$ 3,091.73
334-1-53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG76-22 (2")	TN	22.6	\$164.29	\$ 3,710.76
337-7-83	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22	TN	91.7	\$171.00	\$ 15,687.54
570-1-2	PERFORMANCE TURF, SOD	SY	78	\$5.55	\$ 431.67
ROADWAY TOTAL					\$ 35,195.14

* VALUES WERE OBTAINED USING THE HIGHER UNIT COST OF THE FOLLOWING THREE SOURCES: FDOT ESTIMATES OFFICE WEBSITE HISTORICAL AVERAGES FOR SIX MONTH FROM 2025/09/01 TO 2026/02/28 , TWELVE MONTH FROM 2025/03/01 TO 2026/02/28 , AND MARKET AREA 8 FROM 2025/03/01 TO 2026/02/28 .

CONSTRUCTION CATEGORIES TOTAL	\$ 35,195.14
MOBILIZATION (15%)	\$ 5,279.27
MAINTENANCE OF TRAFFIC (15%)	\$ 5,279.27
DRAINAGE (20%)	\$ 7,039.03
SIGNING AND PAVEMENT MARKINGS (15%)	\$ 5,279.27
CONTINGENCY (10%)	\$ 5,807.20
PROJECT SUBTOTAL	\$ 63,879.17
SOFT COST	
PROJECT DESIGN	\$ 45,000.00
POST DESIGN SERVICES (10%)	\$ 3,519.51
CEI (3%)	\$ 1,055.85
PERMIT COST	\$ 5,000.00
PROJECT GRAND TOTAL	\$ 118,454.54

NOTE: KIMLEY-HORN HAS NO CONTROL OVER THE COST OF LABOR, MATERIALS, EQUIPMENT, OR OVER THE CONTRACTOR'S METHODS OF DETERMINING PRICES OR OVER COMPETITIVE BIDDING OR MARKET CONDITIONS. OPINIONS OF PROBABLE COSTS PROVIDED HEREIN ARE BASED ON THE INFORMATION KNOWN TO KIMLEY-HORN AT THIS TIME AND REPRESENT ONLY KIMLEY-HORN'S JUDGMENT AS A DESIGN PROFESSIONAL FAMILIAR WITH THE CONSTRUCTION INDUSTRY. KIMLEY-HORN CANNOT AND DOES NOT GUARANTEE THAT PROPOSALS, BIDS, OR ACTUAL CONSTRUCTION COSTS WILL NOT VARY FROM ITS OPINIONS OF PROBABLE COSTS.



This document has been digitally signed and sealed by:

on the date adjacent to the seal.

Printed copies of this document are not considered signed and sealed. The signature must be verified on any electronic copies.

Eric M. Benson, P.E. No. 93556
 Kimley-Horn and Associates, Inc.
 200 S. Orange Avenue, Suite 600
 Orlando, FL 32801