

Return to:

City of Flagler Beach
City Clerk
105 2nd Street
Flagler Beach, FL 32136

VERANDA BAY PRE-ANNEXATION AGREEMENT

THIS PRE-ANNEXATION AGREEMENT (“Agreement”) is made and entered into by and between the **City of Flagler Beach, a municipal corporation** organized and existing under the laws of the State of Florida (hereinafter referred to as the “City”), whose address is 105 South 2nd Street, Flagler Beach, Florida 32136, and **Palm Coast Intracoastal, LLC, a Florida limited liability company (“PCI”)** whose address is 3129 Springbank Lane, Charlotte, North Carolina 28226, **Veranda Bay Investments, LLC, a Florida limited liability company (“Veranda”)** whose address is 3129 Springbank Lane, Charlotte, North Carolina 28226 and **Highway 100 Commercial LLC (“HC 100”)** whose address is 800 North Highland Ave, Suite 200, Orlando, Florida 32803 (hereinafter collectively referred to as the “Owners”) this ____ day of _____, 2024, (the “Effective Date”) and shall automatically become null and void unless the events described in Section 12(C), below, have occurred on or before the date set forth therein.

RECITALS

A. The parties desire to annex the following properties (the “Annexed Property”, **Exhibit. “A”**) into the City of Flagler Beach.

B. PCI is the owner of certain real property located in Flagler County, Florida consisting of approximately 215.57 acres, which real property is more particularly described in **Exhibit “A”** attached hereto (hereinafter referred to as the “PCI Property”);

C. Veranda is the owner of certain real property located in Flagler County, Florida consisting of approximately 580 acres, which real property is more particularly described in **Exhibit “A”** attached hereto (hereinafter referred to as the “Veranda Property”);

D. HC100 is the owner of certain real property located in Flagler County, Florida consisting of approximately 18.94 acres, which real property is more particularly described in **Exhibit “A”** attached hereto (hereinafter referred to as the “HC100 Property”);

E. PCI conveyed parcels of land and lots of records to third parties (the “Sold Lots”) generally identified in those final plats recorded at Plat Book 40, Pages 59 through 64 (Phase 1A) and Plat Book 40, Pages 65 through 70 (Phase 2A). Pursuant to Section 3.2(r) of the Master Declaration of Covenants, Conditions, Restrictions and Easements for Veranda Bay, recorded in Official Records Book 2723, Page 302, all of Public Records of Flagler County, Florida, the owners of the Sold Lots consented to their respective Sold Lot being annexed into the City of Flagler Beach delegated to PCI the power and authority to do so. The Sold Lots are more particularly described on **“Exhibit B”**;

F. PCI is also the declarant and developer of a mixed use project generally known as Veranda Bay (f/k/a The Gardens at Hammock Beach) (the “Project”) encompassing the Annexed Property subject to numerous governmental approvals (the “Approvals”) which include but are not limited to those identified on **Exhibit “C”**;

G. The Annexed Property is presently located in the unincorporated areas of Flagler County and is assigned the Agriculture & Timberlands, Conservation, Mixed use: High Intensity, and Residential: Low/Medium Density/Single Family future land use designations under the provisions of the Flagler County Comprehensive Plan;

H. The Annexed Property is assigned the Planned Unit Development zoning classification under the provisions of the Flagler County Land Development Code and is subject to that PUD Development Agreement (the “PUD DA”) recorded at Official Records Book 1429, Page 19 et seq, as identified in the Approvals;

I. As negotiated in the PUD DA, the Owners, as a successor, previously conveyed approximately 1,100 acres of land designated as environmental lands to Flagler County for the purpose of preservation, conservation and public recreation for the benefit of citizens of Flagler County (the “Dedicated Lands”);

J. The City desires to annex the Annexed Property into the City of Flagler Beach recognizing that (i) the Annexed Property is intended to be developed as a mixed use development consistent with the Approvals, and (ii) the Parties to this Agreement desire to amend the PUD DA;

K. Under Section 171.044(1), Florida Statutes, property sought to be annexed must be reasonably compact and contiguous to the boundaries of the annexing municipality;

L. The Annexed Property is reasonably compact and contiguous and will satisfy all requirements for voluntary annexation set forth in Chapter 171, Florida Statutes;

M. Section 171.062(1), Florida Statutes, provides as follows:

“An area annexed to a municipality shall be subject to all laws, ordinances and regulations in force in that municipality and shall be entitled to the same privileges and benefits as other parts of that municipality upon the effective date of the annexation.”;

N. Section 166.021(8) (b) and (c), *Florida Statutes*, specifically states, with regard to economic development, that:

“(b) The governing body of a municipality may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose. The provisions of this chapter which confer powers and duties on the governing body of a municipality, including any powers not specifically prohibited by law which can be exercised by the governing body of a municipality, shall be liberally construed in order to effectively carry out the purpose of this subsection.”

and

“(c) For the purposes of this subsection, it constitutes a public purpose to expend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.”;

O. The City desires to ensure that any amendment to the Approvals and the development of the Annexed Property is compatible with surrounding land uses, that adequate public facilities exist or will be in place concurrent with the impact of such development in the manner required by applicable law;

P. The City has taken action to (i) expand the capacity of its potable water, waste water and reuse water utility services and (ii) increase the rates of its adopted impact fees both anticipating that the Annexed Property will be developed at a greater density and intensity than as presently provided in the Approvals.

Q. In the event the Approvals are amended, the City and the Owners desire to (i) implement land use densities and intensities that are compatible with the economic development goals of the City and (ii) develop the Annexed Property at its highest and best use;

R. The City represents to the Owners that adequate public facilities and services, including but not limited to potable water and wastewater, currently exist to serve the Annexed Property and will be available at the time of development in accordance with applicable laws regarding concurrency;

S. This Agreement is authorized by, permitted by, and consistent with the provisions of the City's Home Rule Charter; the City's Comprehensive Plan, Chapter 163, *Florida Statutes*, Chapter 166, *Florida Statutes*, the State Comprehensive Plan (Chapter 187, *Florida Statutes*); Article VIII, Section 2(b), *Constitution of the State of Florida*, Chapter 171, *Florida Statutes*; and other applicable law; and serves and advances a vital public purpose;

T. The City finds and determines that the City's interest will be best served by annexing the Annexed Property into its municipal boundaries and by entering into this Agreement to ensure that the proposed development of the Annexed Property is consistent with the Approvals and, if amended, is in accordance with the City's Comprehensive Plan;

U. Owners seek to obtain for the Annexed Property the benefits and privileges of inclusion within the boundaries of the City, which include the designation of the Annexed Property on the City's Future Land Use Map and the assignment of zoning categories to allow for the development of the Annexed Property consistent with the Approvals and the provisions of all services, facilities, and utilities as are available to all residents of the City; and

V. The purpose of this Agreement is to set forth the understandings and agreements of the Parties with respect to the foregoing, and other matters set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration each to the other provided, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Recitals

(A) The above recitals are adopted as the findings of the City of Flagler Beach City Commission.

(B) The above recitals are true and correct, are incorporated into this Agreement by reference, and form a material part of this Agreement upon which the Parties have relied, including, but not limited to, the assertions that the Owners own a portion of the Annexed Property and have legal authority and are empowered to enter into this Agreement to make binding commitments.

Section 2. Annexation.

(A) This Agreement, upon execution by the Owners, shall serve as and constitute an annexation petition by the Owners for the annexation of the Annexed Property into the City, provided that the City shall thereafter annex the Annexed Property into the City subject to the terms and conditions of this Agreement.

(B) This Agreement is entered into under the authority of the Florida Constitution (including Article VIII, Section 2(b) thereof), the general powers conferred upon municipalities by statute and otherwise (including Chapter 163 and 166, Florida Statutes), and the City's Charter. The persons executing this Agreement represent that they have full authority and the necessary approval and authorization to enter into and execute this Agreement on behalf of the applicable Party and all landowners of the Subject Property. The City hereby represents, warrants, and covenants to and with the Developer that this Agreement has been validly approved by the Flagler Beach City Commission, that it has been duly executed and delivered by the City, that it is consistent with the City's Comprehensive Plan (adopted by the City pursuant to Chapter 163, Part II, Florida Statutes) and the land development regulations of the City of Flagler Beach (including, without limitation, the City's Land Development Regulations and, collectively, the "**City Regulations**"), and that the enforceability hereof is not subject to impairment on the basis of any public policy or police power.

(C) The Owners consent to or petitioned for annexation of their respective properties. The Owners have delegated and assigned to PCI the right and responsibility for negotiating this Agreement on behalf of all the Owners.

Section 3. No Annexation Fees. It is understood and agreed that no fees, costs or expenses will be charged to or become due from the Owners to the City or to any other governmental authority, private individual or entity on account of or in connection with the City's review and processing of the annexation petition or the annexation of the Annexed Property into the corporate limits of the City; provided, however, that the Owners shall pay their own attorneys' fees and consulting fees.

Section 4. Development Conditions and Public Facilities

(A) **Water/Sewer/Reuse:** The Annexed Property, after the effective date of this Agreement, shall be located within the City's urban service boundary. Except as provided herein, the City's municipal services including but not limited to water, sanitary sewer and reuse water ("Services") shall be provided to the Annexed Property. As a material part of this Agreement, the City represents to the Owners that it shall provide at a minimum 850,000 gallons of water and waste water treatment capacity to the Annexed Property. Therefore, the City shall reserve sufficient potable, wastewater, and reuse water capacity for the Annexed Property. However, in the event the City cannot immediately provide and pay for one or any of these Services to the Annexed Property upon the Owners' written request, the Owners shall be permitted, without objection by the City, to either (i) obtain Services from third parties and/or (ii) construct such Services. For example, in the event the City cannot provide water sanitary sewer to the Annexed Property as provided above, the City shall permit the Owners to obtain such service from an

adjacent provider or construct facilities to provide such services. The City shall not charge a CDD or a property owners association fees for the use or consumption of City reuse water for its respective common areas. Moreover, the City shall not require the Declarant to prepay water and sewer “impact”, “connection” or “CIAC” fees until the City issues a building permit for a residential or non-residential structure.

(B) Solid Waste: Solid waste collection services are available to serve the demands generated by the Annexed Property as it is to any other owner of City property and will be available concurrent with the impacts of the development of the Annexed Property. If reasonably possible, the Owners shall utilize the City’s solid waste collection franchise.

(C) Public Safety: The City will provide fire (having a first response agreement with Flagler County as part of its service network), police, and EMS facilities, including the equipment and services necessary to serve the Annexed Property at a level consistent with the City’s adopted level of service. All such public services are available to support the development of the Annexed Property.

(D) Transportation: Transportation issues and transportation impacts will be addressed through the City’s concurrency management system as presently adopted, Chapter 163, Florida Statutes, and traffic studies performed by a qualified engineer. The City shall not require any above or below grade crossings for any intersection affected by Project.

(E) Permitting and Permit Review. As provided herein, the Parties recognize and agree that certain provisions of this Agreement will require the City and/or its boards, departments or agencies, acting in their governmental capacity to consider certain changes in the City Comprehensive Plan, zoning ordinances or other applicable City codes, plans or regulations, as well as to consider other governmental actions as set forth in this Agreement. All such considerations and actions shall be undertaken in accordance with established requirements of the City’s jurisdiction under its police power, processed in good faith and in a timely fashion. Nothing in this Agreement is intended to limit or restrict the powers and responsibilities of the City in acting on applications for Comprehensive Plan changes and applications for other development actions. The Parties further recognize and agree that these proceedings will be conducted openly, fully, freely, and fairly in accordance with law, and with both procedural and substantive due process to be accorded the applicant and any member of the public. Nothing contained in this Agreement shall entitle Owners to compel the City to take actions, except to timely process such applications. Owners must process any final plats of the Annexed Property for approval by the City which may include the posting of proper bonds as provided by Florida law and Section 9.02.04 of the City Regulations. The Owners are permitted to market for sale any parcel or lot pending approval and recording of final plats (as may be bonded), provided that title to such will not be conveyed to third party purchasers prior to the recording of final plats.

(F) Buffers/Open Space/Trees: The Owners shall ensure that buffers along John Anderson Highway are: (i) 100 ft in width along the eastern side of the right of way and (ii) fifty (50) feet in width along the western side of the right of way. In addition, the Owner shall provide a minimum of 300 acres of land as open space as may be defined by its current Land Development

Regulations (LDR) or subsequent development agreements. In consideration of these commitments and the Dedicated Lands, the Project shall be exempt from all other City tree preservation, protection and mitigation rules and ordinances unless otherwise agreed to in writing by the parties. This commitment to provide land in open space shall allow under brushing and passive recreation including non-habitable structures within the open space.

(G) Stormwater, Flood Plain, Compensating Storage. In the event that the Owners or a CDD undertakes responsibility for all or part of the stormwater management system developed on the Annexed Property, the parties shall enter into a separate agreement to adjust a portion of the stormwater service charge collected by the City to account for stormwater that is treated by the Annexed Property's systems, as applicable or as may be exempt. The City further acknowledges that the stormwater management plan and compensating storage plans for the Annexed Property shall be solely regulated and permitted by State and Federal government agencies ("Stormwater Plans"). Future phases of development of the Annexed Property shall not be required to comply with City's stormwater management or compensating storage requirements. The City agrees to cooperate with Owners' efforts to obtain Conditional Letters of Map Revision ("CLOMR.s") and Final Letters of Map Revisions ("LOMRs") with FEMA on an expedited basis.

(H) Mass Grading/Phased Infrastructure: The Annexed Property shall be developed in phases with some infrastructure being shared between phases ("Shared Infrastructure"). The parties agree that the Owners shall have the right to mass grade and construct Shared Infrastructure in portions of the Annexed Property not subject to a preliminary plat or site plan development order so long as such Shared Infrastructure is related to an approved development order. The Owners shall have the right but not the obligation to create overall master plan and mass grade plan for roadways, utility infrastructure and stormwater system generally depicting infrastructure that may be shared between phases (stormwater systems, roads, etc). Such plans shall permit phased construction of such improvements in advance of future phases of development at the Owners election, subject to approval by the City Manager.

(I) Fee Waivers. In consideration of the significant economic benefit of the Annexed Property to the City, the City shall waive comprehensive plan amendment, rezoning, master plan, and site plan application fees for projects within the Annexed Property for two (2) years after the Effective Date of this Agreement. The City shall also waive subdivision platting application fees for two (2) years after the Effective Date of this Agreement.

(J) Agriculture Exemption: Portions of the Annexed Property presently qualify for a statutory agricultural exemption. So long as the Annexed Property maintains and satisfies the statutory requirements, the City shall agree and acknowledge that portions of the Annexed Property may continue with its present agricultural and silviculture uses to maintain such qualifications.

(K) Phasing/Timelines: The City agrees that the Owners have satisfied any and all phasing obligations as may be provided by City regulations and ordinances including but not limited to City Ordinance 2024-06. Specifically, the City agrees and acknowledges that it (i) has complied with said requirements, (ii) is not subjected to being deemed lapsed and (iii) all vested rights shall remain.

(L) Community Development Districts: The City agrees and acknowledges that the Annexed Property is subject to the Gardens at Hammock Beach Community Development

District, Flagler County, Florida (“District”), pursuant to Chapter 190, Florida Statutes, which was initially established by Flagler County. The City agrees that it shall accept and acknowledge the powers granted to the District pursuant to state law. The City agrees to execute all documents that may be necessary or take any action necessary to transfer the local government jurisdiction affecting the District to the City, to the extent such may be necessary. In addition, the City agrees and acknowledges that it shall, in good faith, assist the Owners, at the Owner’s sole discretion, to amend the District’s existing boundaries and establish an additional community development district governing that portion of the Annexed Property west of John Anderson Highway which shall be permitted to finance, fund, plan, establish, acquire, construct, enlarge or extend, equip, operate and maintain projects, systems and facilities for the purposes described in Section 190.012, F.S. including but not limited to, any transportation improvements that may be required by this Agreement or other development orders.

(M) Agriculture/Silviculture: The Subject Property has been and will continue to be used for silviculture purpose. Silviculture activities may continue to occur on the Subject Property until that portion of the Subject Property approved for development obtains all necessary permits. All silviculture activities shall continue to comply with all federal and state requirements. All silviculture activities shall comply with the State of Florida Division of Forestry Best Management Practices. The Subject Property shall therefore remain eligible for all agricultural exemptions as provided by law.

(N) Miscellaneous: Owners will be permitted to conduct marketing and sales events on the Annexed Property on a ongoing basis without further approval.

Section 5. General Obligations/Commitments of the Parties

(A) The City has reviewed the Approvals affecting the Annexed Property and finds that the Approvals including but not limited to present zoning classification and development agreement are consistent with the City’s comprehensive plan. Moreover, the City Staff has generally evaluated the suitability to amend the Approvals affecting the Annexed Property for development of a mixed use community including but not limited to residential uses (single-family and multi-family), office, retail, commercial, a marina and open space areas as generally depicted on the Conceptual Plan (**Exhibit “D”**). The City Staff and Commission generally concur that the Annexed Property is suitable for development as a multi-use, master planned community as depicted on the Conceptual Plan, and that such development can provide for a pattern of harmonious and transitioned land uses, generally comports with sound and generally accepted land use planning and development practices and principles, and that such use will benefit the City’s residents. The City and Owners agree that a golf course, as provided in the Approvals, is not an appropriate use of the Annexed Property for various reasons including environmental impacts from pesticides or herbicides to the surrounding lands.

(B) Notwithstanding the above, the Parties acknowledge that the City cannot contract to approve specific Comprehensive Plan amendments or rezoning requests; provided, however, that this provision shall not serve to otherwise limit the terms of this Agreement. The City’s only obligation with respect to Comprehensive Plan amendments and rezoning requests is to timely process the Owners’ applications expeditiously, consider all evidence presented in support of and

in opposition to the applications, and make decisions to approve or deny the applications based upon the legal standards that govern such applications.

(C) The City agrees that all concurrency requirements related to the Annexed Property are vested by the Approvals, as may be amended and reviewed in accordance with Chapter 163, *Florida Statutes*, and other applicable regulatory requirements.

(D) The City agrees that, if requested by the Owners, their affiliates or designees, it will promptly process for City Commission the consideration to annex other lands of Owners or their affiliates consistent with the terms of this Agreement and State law.

(E) The City agrees that, subsequent to annexation, the City shall accept all preliminary plats, site plans, construction drawings and final plats presently approved by the County (collectively, the "Plats"). The City shall timely make inspection during the completion of construction provided for in the Plats and not impose new or additional comments or requirements that may be typically required by the City. The City shall honor, accept, and approve the development as provided in the Plats and previously approved construction plans consistent with County rules and regulations even if such portions might be inconsistent with the City's rules and regulations. Notwithstanding, the parties may by mutual agreement amend any Flagler County development order affecting the Annexed Property.

Section 6. De-annexation/Contraction. Any potential proposed de-annexation(s) or contractions of (i) the Annexed Property or (ii) any part or parts of the Annexed Property will be considered in accordance with the provisions of Chapter 171, *Florida Statutes*. In the event of (i) litigation brought by any third party or other governmental entity including, but not limited to, Flagler County, Florida, as a result of the annexation or this Agreement, or (ii) any termination of this Agreement under Sections 12(B) or (C), the City agrees, in good faith, to cooperate in any de-annexation or contraction to remove the Annexed Property from the City within sixty (60) days of Declarant's written request and permit the Owners to terminate this Agreement.

Section 7. Duty To Cooperate/Comprehensive Plan Amendment, etc.

(A) The City and the Owners agree to cooperate at all times in a timely manner and in good faith in the acquisition and exercise of development rights and entitlements in the Annexed Property. The good faith cooperation by the City and the Owners shall extend to the acquisition by the Owners of all applicable necessary local, State and Federal permits, development orders, licenses, easements and other approvals or rights in connection with the development of the Annexed Property in accordance with all applicable land use, zoning, land development, building and construction regulations.

(B) The City will consider the adoption of a Comprehensive Plan Amendment contemplated by this Agreement, and the Owners will cooperate with the City by providing the City with all requested data and analysis to include the Annexed Property in the City Comprehensive Plan. The City shall promptly consider the proposed Comprehensive Plan Amendment and, if approved, immediately transmit the adopted Comprehensive Plan Amendment to the Florida Department of Economic Opportunity (FDEO). Upon the FDEO's review, the City

shall work in good faith with the Owners to address any questions or concerns raised by the FDEO prior to the City's final adoption.

Section 8. Limitation of Funding Obligations. Except as provided in Section 4 of this Agreement, the City shall have no obligation to Owners to fund any public facilities or infrastructure within the Annexed Property. Rather, the City shall have a good faith obligation to provide off-site Services and infrastructure necessary to develop the Annexed Property consistent with the Approvals and their intended amendments.

Section 9. Further Assurances. In addition to the acts recited in or set forth in this Agreement, the City and the Owners agree to perform or cause to be performed, in a timely manner, any and all further acts as may be reasonably necessary to implement the provisions of this Agreement including, but not limited to, the execution and/or recordation of further instruments; provided, however, that the City's obligations shall be subject to such limitations of law as may be applicable to municipalities.

Section 10. Remedies. Nothing in this Agreement shall be construed to limit the right of either the Owners or the City to pursue any and all available remedies, if any, under non-tort or constitutional law related to a Party's non-performance under this Agreement. The City shall not be deemed to have waived sovereign immunity in any manner or respect, provided this provision shall not limit the City's contractual obligations under this Agreement.

Section 11. Disclaimer of Third Party Beneficiaries. This Agreement is solely for the benefit of the formal Parties to this Agreement, and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal Party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the Parties hereto and their respective designated representatives, successors and assigns as provided in Section 15. In the event that a party files an action in court relating to this Agreement, the parties agree that they shall submit to mediation within sixty (60) days after the parties responsive pleadings are filed.

Section 12. Effectiveness of Agreement

(A) This Agreement shall serve as an annexation petition upon execution by the Owners, which may be relied on by the City in accordance with the terms of this Agreement upon the Owners' execution of the Agreement but shall become effective as an agreement between the Owners and the City upon its being duly executed by the City. If the City does not execute this Agreement or does not complete the annexation of the Annexed Property, both within 30 days of the date that Owners have executed this Agreement, then the petition for annexation may be revoked by the Owners and, upon demand, the City shall immediately release and deliver the Annexation Petition to the Owners, and the City shall record, at the City's expense, a Notice of Termination of this Agreement and any pending annexation petition for the Annexed Property in the Public Records of Flagler County, Florida. Upon annexation and receipt of a request by Owners, the City shall expeditiously process a Comprehensive Plan Amendment and Rezoning.

(B) Notwithstanding any other provisions of this Agreement, the Owners may, at its sole discretion, terminate this Agreement by notifying the City, in writing, of such termination within thirty (30) days following a legal challenge to the annexation of the Annexed Property filed by any third parties, including, but not limited to, Flagler County, Florida.

(C) To the extent allowed by law and notwithstanding any other provisions of this Agreement, if the Comprehensive Plan Amendment and anticipated Rezoning for the Annexed Property have not been adopted, approved and finalized, with all applicable appeal periods having expired within sixty (60) days following the Effective Date of this Agreement (the “Condition Subsequent”), (i) this Agreement, and any annexation pursuant thereto, shall become null and void and of no further force and effect, unless prior to such date Owners have delivered to the City a written notice expressly waiving or extending the Condition Subsequent; and (ii) the City shall immediately consider the request to de-annex the Annexed Property from the City as provided herein and by state law.

Section 13. Indemnification. City agrees to indemnify the Owners from any and all damages arising from the negligent acts or omissions of City or its officers, employees or agents under and pursuant to this Agreement but in no case shall it waive its sovereign immunity rights pursuant to Section 768.28, F.S. and Owners agree to indemnify the City from any and all damages arising from the negligent acts or omissions of Owners or their officers, employees or agents under and pursuant to this Agreement but limited to the extent of liability of Owners.

Section 14. Time Of The Essence. Time is of the essence of the lawful performance of the duties and obligations contained in this Agreement. The Parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Agreement.

Section 15. Successors and Assigns. This Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and the Owners and their respective assignees and successors in interest.

Section 16. Applicable Law. This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Further, to the extent permissible under the laws of the State of Florida, if there is a conflict between this Agreement and the terms of the City Regulations, the terms of this Agreement shall control.

Section 17. Binding Effect. Each Party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement and to undertake all obligations imposed on it.

Section 18. Recording. Within five (5) business days after the approval of this Agreement by the City and the Owners’ execution of this Agreement, the City shall, at its sole cost and expense, record a fully executed copy of this Agreement in the Public Records of Flagler County, Florida.

Section 19. Choice of Law and Venue. Florida law shall govern the interpretation and enforcement of this Agreement. In any action or proceeding required to enforce or interpret the

terms of this Agreement, venue shall be in Flagler County, Florida and Orlando Middle District for federal actions.

Section 20. Effect on Change in Law. If State or Federal laws are enacted after execution of this Agreement which are applicable to and preclude the Parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws and the intent of the Parties hereto; provided, however, that the City agrees that it shall not modify this Agreement in any manner which would in any way be inconsistent with the intent of the Parties to provide for development of the Annexed Property in accordance with the terms and conditions hereof, except where required by law.

Section 21. Construction or Interpretation of the Agreement. This Agreement is the result of bona fide arm's length negotiations between the City and the Owners, and all Parties have contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one Party than against any other Party.

Section 22. Permits, Conditions, Terms or Restrictions. The failure of this Agreement to address a particular permit, condition, terms, or restriction existing at the time of execution of this Agreement shall not relieve Owners of the necessity of complying with the law governing said permitting requirement, condition, terms, or restriction.

Section 23. Attorneys' Fees and Costs. In the event of any action to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and costs incurred, whether the same be incurred in pre-litigation negotiation, litigation at the trial level, or upon appeal or any bankruptcy or collection proceedings.

Section 24. Captions/Exhibits.

(A) The headings or captions of the sections and subsections contained in this Agreement are used for convenience and reference only, and do not, in themselves, have any legal significance and shall not be afforded any.

(B) The exhibits to this Agreement are hereby incorporated into this Agreement and are an integral part of this Agreement. If an exhibit is inconsistent with any term of this Agreement, such term(s) of this Agreement shall govern and take priority.

Section 25. Parties Bound. Following the recordation of this Agreement, the benefits and burdens of this Agreement shall become a covenant running with the title to the Annexed Property, and all parts and parcels thereof, and this Agreement shall be binding upon the inure to the benefit of both the City and the Owners and their assigns and successors in interest to the said Annexed Property, and all parts and parcels thereof.

Section 26. Severability. If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any Party to the Agreement or substantially increase the burden of any Party to the Agreement, shall be held to be

unconstitutional, invalid or unenforceable to any extent by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of the Agreement.

Section 27. Notices. Any notice that is to be delivered hereunder shall be in writing and shall be deemed to be delivered (whether or not actually received) when (i) hand delivered to the official hereinafter designated; (ii) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested: or (iii) upon receipt of such notice when deposited with Federal Express or other nationally recognized overnight or next day courier, addressed to the Parties as follows (facsimile transmittal is not acceptable as a form of notice in this Agreement):

To the City:	City Manager City of Flagler Beach City Hall 105 S. 2 nd Street Flagler Beach, FL 32136
To the Owners:	Palm Coast Intracoastal, LLC 3129 Springbank Lane Charlotte, NC 28226 Veranda Bay Investments, LLC 3129 Springbank Lane Charlotte, NC 28226 Highway 100 Commercial, LLC 800 North Highland Ave, Suite 200 Orlando, FL 32803
With copies to:	Michael D. Chiumento III, Esq. Chiumento Law, PLLC 145 City Place, Suite 301 Palm Coast, FL 32164

Section 28. Entire Agreement. This Agreement constitutes the complete and entire agreement between the City and the Owners with respect to the subject matter hereof, and supersedes any and all prior agreements, arrangements or understandings, whether oral or written, between the Parties relating thereto with respect to the terms of this Agreement, all of which have been integrated herein. Specifically, the parties agree that any and all obligations of the Owners as provided in the Settlement Agreement, recorded at Official Records Book 1560, Page 471 et seq and Interlocal agreement, recorded at Official Records Book 2129, Page 1549 et seq, are void and unenforceable against the Owners or their respective successors and assigns.

Section 29. Modification. This Agreement may not be amended, changed, or modified, and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith approved by the City.

Section 30. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

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WHEREFORE, the Parties hereto have caused these presents to be signed all as of the date and year first above written.

ATTEST:

CITY OF FLAGLER BEACH

City Clerk

City Manager

**STATE OF FLORIDA
COUNTY OF FLAGLER**

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization by _____ as City Manager of the City of Flagler Beach, on its behalf, and who is personally known to me on this _____ day of _____, 2024.

NOTARY

For the use and reliance of the City of
Flagler Beach only. Approved as to form and
Legal sufficiency.

City Attorney

WITNESSES

**PALM COAST INTRACOASTAL, LLC, a
Florida limited liability company**

Print Name: _____

By: _____

William G. Allen Jr., Manager

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization by William G. Allen Jr., as Manager of Palm Coast Intracoastal, LLC and who is personally known to me on this ____ day of _____, 2024.

NOTARY

WITNESSES

**VERANDA BAY INVESTMENTS, LLC, a
Florida limited liability company**

Print Name: _____

By: _____

William G. Allen Sr., Manager

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization by William G. Allen Sr., as Manager of Veranda Bay Investments, LLC and who is personally known to me on this ____ day of _____, 2024.

NOTARY

WITNESSES

**HIGHWAY 100 COMMERCIAL, LLC, a
Florida limited liability company**

Print Name: _____

By: _____
**Michelle Chira, Trustee of the Michelle
Chira Revocable Trust, Manager**

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization by Michelle Chira, Trustee of the Michelle Chira Revocable Trust, as Manager of Highway 100 Commercial, LLC and who is personally known to me on this _____ day of _____, 2024.

NOTARY

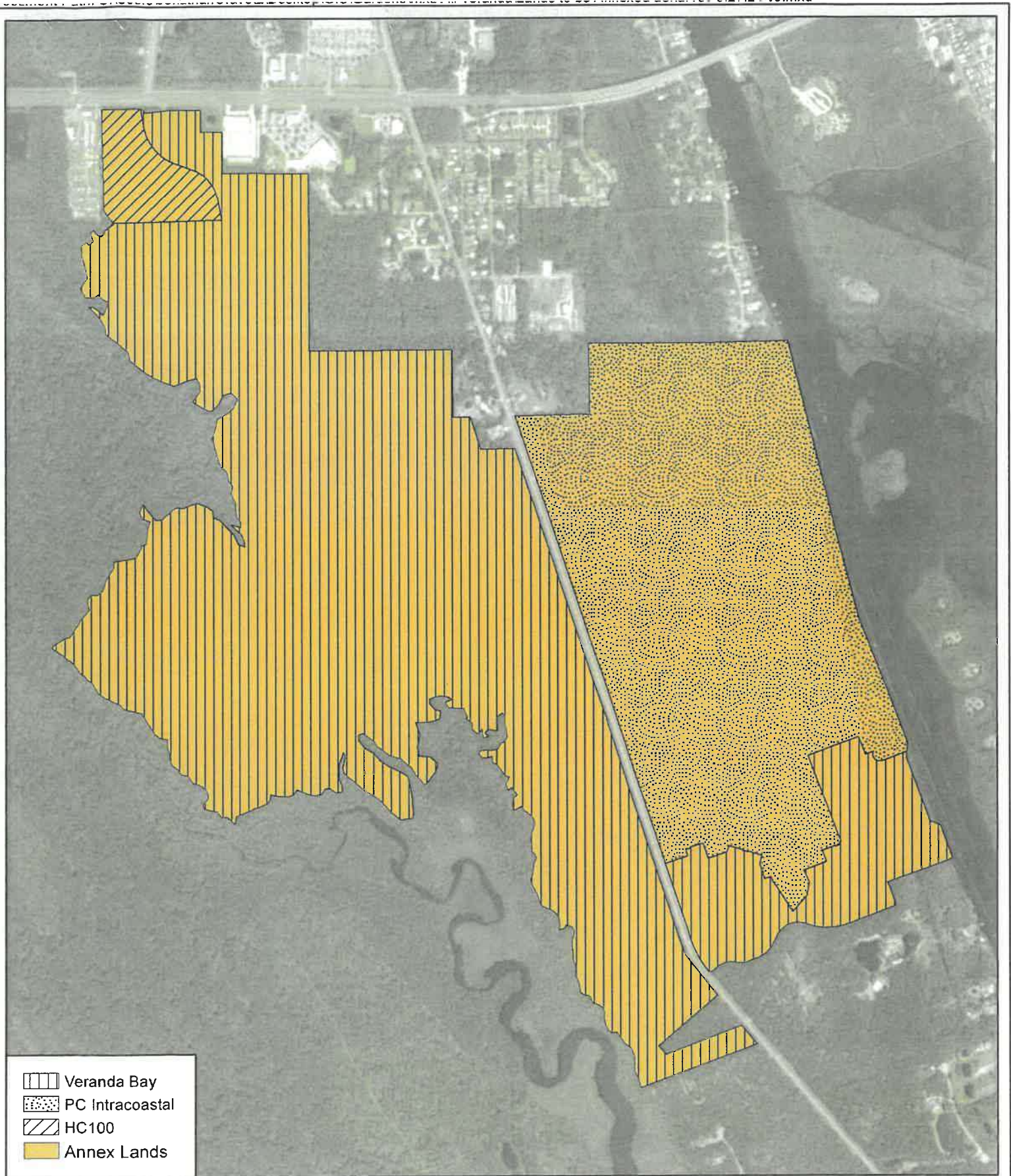


Exhibit "A"
Lands To Be Annexed
Veranda Bay
Flagler County, Florida

Date: 6-27-24

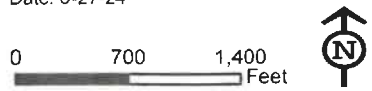


EXHIBIT "A-1"

PROPERTIES OWNED BY PALM COAST INTRACOASTAL, LLC

LEGAL DESCRIPTION ANNEXATION

TRACTS 1A-A, 1A-1, 1A-2, 1A-3, 1A-4, 1A-5, 1A-6, 1A-7, 1A-8, 1A-9, 1A-10, 1A-11, 1A-12, AND 1A-13, ALL LOCATED WITHIN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1A**, AS RECORDED IN PLAT BOOK 40, PAGES 59 THROUGH 64, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

TOGETHER WITH:

LOTS 144, 147, 148, 149, 150, 154, 157, 158, 159, 164, 165, 175, 176, 178, 180, 181, 182, 183, 186, 189, 190 AND 191, TOGETHER WITH TRACTS 1B-1 AND 1B-2, ALL LOCATED WITHIN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1B**, AS RECORDED IN PLAT BOOK 41, PAGES 11 THROUGH 15, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

ALSO, TOGETHER WITH:

LOTS 123 THROUGH 143 AND LOTS 198 THROUGH 211, TOGETHER WITH TRACTS 1C-1, 1C-3, 1C-4, AND 1C-6, ALL LOCATED WITHIN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1C**, AS RECORDED IN PLAT BOOK 41, PAGES 16 THROUGH 20, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

ALSO, TOGETHER WITH: TRACTS 2A-1 THROUGH 2A-22 AND TRACT 2A-B, ALL LOCATED WITHIN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 2A**, AS RECORDED IN PLAT BOOK 40, PAGES 65 THROUGH 70, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

ALSO, TOGETHER WITH: **PHASE 2B – PRELIMINARY PLAT OF VERANDA BAY**, DESCRIBED AS FOLLOWS: A PORTION OF SECTIONS 13 AND 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201 AND A 100 FOOT RIGHT OF WAY) AND THE NORTH LINE OF SAID SECTION 38; THENCE SOUTH 18°10'14" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 331.23 FEET; THENCE NORTH 71°49'46" EAST, DEPARTING FROM SAID RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 71°49'46" EAST, A DISTANCE OF 370.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 325.00 FEET; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 50.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 20.01 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 11°32'14"; THENCE NORTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.03 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 12°24'08" WEST AND A CHORD DISTANCE OF 5.03 FEET TO A POINT ON SAID CURVE; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 119.51 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 809.38 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 49.29 FEET; THENCE SOUTH 88°27'34" WEST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 88°27'34"

EAST, A DISTANCE 140.00 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 384.95 FEET; SOUTH 18°10'14" EAST, A DISTANCE OF 935.73 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 24.44 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 365.00 FEET AND A CENTRAL ANGLE OF 34°46'50"; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 221.57 FEET AND SUBTENDED BY CHORD BEARING OF SOUTH 00°46'49" EAST AND A CHORD DISTANCE OF 218.18 FEET TO A POINT ON SAID CURVE; THENCE S 16°36'36" W, A DISTANCE OF 18.72 FEET; THENCE NORTH 73°23'24" WEST, A DISTANCE OF 139.49 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 11°32'13"; THENCE NORTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.03 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 10°50'29" EAST AND A CHORD DISTANCE OF 5.03 FEET TO A POINT ON SAID CURVE; THENCE NORTH 73°28'41" WEST, A DISTANCE OF 50.00 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 12°16'44"; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.36 FEET AND SUBTENDED BY A CHORD BEARING OF SOUTH 22°44'58" WEST AND A CHORD DISTANCE OF 5.35 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 495.00 AND A CENTRAL ANGLE OF 16°23'29"; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 141.61 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 79°46'17" WEST AND A CHORD DISTANCE OF 141.13 FEET TO A POINT ON SAID CURVE; THENCE NORTH 02°02'07" EAST, A DISTANCE OF 77.22 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 50.30 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 80.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 1800.00 FEET TO THE POINT OF BEGINNING. CONTAINING 21.82 ACRES, MORE OR LESS.

ALSO, TOGETHER WITH: PHASE 2C – PRELIMINARY PLAT OF VERANDA BAY, DESCRIBED AS FOLLOWS: A PORTION OF SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201 AND A 100 FOOT RIGHT OF WAY) AND THE NORTH LINE OF SAID SECTION 38; THENCE SOUTH 18°10'14" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 331.23 FEET TO THE POINT OF BEGINNING; THENCE NORTH 71°49'46" EAST, DEPARTING FROM SAID RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 1906.48 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 495.00 FEET AND A CENTRAL ANGLE OF 14°32'52"; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 125.68 FEET AND SUBTENDED BY A CHORD BEARING OF SOUTH 78°18'07" WEST AND A CHORD DISTANCE OF 125.35 FEET TO A POINT OF A CURVE OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 10°55'26"; THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 4.77 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 23°37'58" WEST AND A CHORD DISTANCE OF 4.76 FEET; THENCE; THENCE SOUTH 72°11'12" WEST, A DISTANCE OF 50.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 87.31 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 225.00 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY; THENCE NORTH 18°10'14" WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1800.00 FEET TO THE POINT OF BEGINNING. CONTAINING 16.91 ACRES, MORE OR LESS

EXHIBIT "A-2"

PROPERTIES OWNED BY VERANDA BAY INVESTMENTS, LLC

LEGAL DESCRIPTION ANNEXATION

WEST SIDE OF JOHN ANDERSON HIGHWAY

A PORTION OF LOTS 1, 3, 7, 8 AND 9, AND ALL OF LOTS 4, 10, 11 AND 12, BLOCK C, BUNNELL DEVELOPMENT COMPANY'S LAND AS RECORDED IN PLAT BOOK 1, PAGE 1, IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, TOGETHER WITH A PORTION OF GOVERNMENT SECTION 14, 38, AND 39, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, SITUATED IN GOVERNMENT SECTIONS 11, 14, 38 AND 39, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201) AND THE NORTH LINE OF SAID SECTION 38-12-31; THENCE SOUTH 71°47'17" WEST, A DISTANCE OF 100.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201), ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING THREE COURSES: SOUTH 18°10'26" EAST, A DISTANCE OF 3,184.36 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1,196.28 FEET, A CENTRAL ANGLE OF 22°09'26" AND A CHORD DISTANCE OF 459.74 FEET WHICH BEARS SOUTH 29°14'21" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 462.62 FEET; THENCE SOUTH 40°21'41" EAST, A DISTANCE OF 776.28 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE SOUTH 69°18'47" WEST, A DISTANCE OF 1,433.82 FEET, THENCE NORTH 20°41'22" WEST, A DISTANCE OF 995.98 FEET, THENCE NORTH 24°04'44" WEST, A DISTANCE OF 1,618.01 FEET; THENCE NORTH 86°17'06" WEST, A DISTANCE OF 2,604.28 FEET; THENCE NORTH 60°37'10" WEST, A DISTANCE OF 341.50 FEET; THENCE NORTH 43°23'02" WEST, A DISTANCE OF 2,172.87 FEET, THENCE NORTH 30°47'31" EAST, A DISTANCE OF 1,526.35 FEET; THENCE NORTH 45°31'15" EAST, A DISTANCE OF 902.38 FEET; THENCE NORTH 40°14'18" WEST, A DISTANCE OF 1,732.75 FEET; THENCE NORTH 06°10'40" WEST, A DISTANCE OF 189.68 FEET; THENCE NORTH 00°15'33" WEST, A DISTANCE OF 614.90 FEET; THENCE NORTH 88°32'16" EAST, A DISTANCE OF 257.93 FEET; THENCE NORTH 01°27'08" WEST, A DISTANCE OF 1,087.72 FEET TO A POINT ON THE SOUTH LINE OF STATE ROAD NO. 100; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE SOUTH 89°29'03" EAST A DISTANCE OF 959.81 FEET; THENCE DEPARTING SAID SOUTH RIGHT OF WAY LINE SOUTH 00°30'57" WEST, A DISTANCE OF 210.00 FEET; THENCE SOUTH 89°29'03" EAST, A DISTANCE OF 210.00 FEET; THENCE SOUTH 00°30'57" WEST, A DISTANCE OF 389.92 FEET; THENCE SOUTH 89°28'38" EAST, A DISTANCE OF 822.42 FEET; THENCE SOUTH 00°06'48" EAST, A DISTANCE OF 1,704.61 FEET; THENCE NORTH 88°51'12" EAST, A DISTANCE OF 1,350.55 FEET; THENCE SOUTH 01°10'32" EAST, A DISTANCE OF 660.84 FEET; THENCE NORTH 88°37'17" EAST, A DISTANCE OF 158.75 FEET; THENCE SOUTH 18°14'40" EAST, A DISTANCE OF 330.09 FEET; THENCE NORTH 88°50'11" EAST, A DISTANCE OF 330.04 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201); THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 18°15'00" EAST, A DISTANCE OF 1,788.60 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

EAST SIDE OF JOHN ANDERSON HIGHWAY

A PORTION OF SECTIONS 13, 14 AND 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201) AND THE NORTH LINE OF SAID SECTION 38-12-31; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 18°15'00" WEST, A DISTANCE OF 2,087.53 FEET; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE NORTH 88°47'52" EAST, A DISTANCE OF 710.35 FEET TO A POINT ON THE WEST LINE OF SECTION 13-12-31; THENCE ALONG SAID WEST SECTION LINE NORTH 01°13'40" WEST, A DISTANCE OF 661.23 FEET TO A POINT ON THE NORTH LINE OF SECTION 13-21-31; THENCE ALONG SAID NORTH SECTION LINE NORTH 88°36'18" EAST, A DISTANCE OF 1,890.40 FEET TO THE POINT ON THE WEST RIGHT OF WAY LINE OF FLORIDA INTRACOASTAL WATERWAY; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: SOUTH 13°59'25" EAST, A DISTANCE OF 2,750.14 FEET; THENCE SOUTH 21°17'55" EAST, A DISTANCE OF 1,265.83 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE AND ALONG A WESTERLY LINE OF THE HISTORIC CHANNEL OF HAW LOVER CREEK, SOUTH 03°54'35" WEST, A DISTANCE OF 148.38 FEET; THENCE SOUTH 19°27'08" EAST, A DISTANCE OF 643.95 FEET; THENCE SOUTH 68°38'53" EAST, A DISTANCE OF 113.53 FEET TO A POINT ON THE AFORESAID INTRACOASTAL RIGHT OF WAY, THENCE SOUTH 21°17'55" EAST, A DISTANCE OF 647.80 FEET; THENCE DEPARTING SAID RIGHT OF WAY SOUTH 69°10'09" WEST, A DISTANCE OF 2,520.12 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201); THENCE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING THREE COURSES: NORTH 40°21'41" WEST, A DISTANCE OF 74.31 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1,095.28 FEET, A CENTRAL ANGLE OF 22°09'21" AND A CHORD DISTANCE OF 421.29 FEET WHICH BEARS NORTH 29°14'17" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 423.92 FEET; THENCE NORTH 18°10'26" WEST, A DISTANCE OF 3,184.44 FEET TO THE POINT OF BEGINNING.

FORMERLY KNOWN AS GARDENS AT HAMMOCK BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGES 80 THROUGH 100, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

ALSO, TOGETHER WITH:

TRACTS 1C-2 AND 1C-5, BOTH LOCATED WITHIN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1C**, AS RECORDED IN PLAT BOOK 41, PAGES 16 THROUGH 20, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 3.23 ACRES, MORE OR LESS.

ALSO, TOGETHER WITH:

TRACT 2A-A (FUTURE DEVELOPMENT TRACT) OF THE SUBDIVISION PLAT OF VERANDA BAY PHASE 2A, AS RECORDED IN PLAT BOOK 40, PAGES 65 THROUGH 70, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 22.64 ACRES, MORE OR LESS.

ALSO, TOGETHER WITH:

TRACT 2B-5 (IDENTIFIED AS FUTURE DEVELOPMENT TRACT) OF PHASE 2B – PRELIMINARY PLAT OF VERANDA BAY, DESCRIBED AS FOLLOWS:

A PORTION OF SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201 AND 100 FOOT RIGHT OF WAY) AND THE NORTH LINE OF SAID SECTION 38; THENCE SOUTH 18°10'14" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 633.41 FEET; THENCE NORTH 71°49'46" EAST, DEPARTING FROM SAID RIGHT

OF WAY LINE, A DISTANCE OF 440.39 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 71°49'46" EAST, A DISTANCE OF 199.61 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 137.81 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 199.71 FEET; THENCE NORTH 18°07'48" WEST, A DISTANCE OF 137.82 FEET TO THE POINT OF BEGINNING. CONTAINING 0.63 ACRES, MORE OR LESS.

LESS AND EXCEPT: THE LAND CONTAINED IN THE QUIT CLAIM DEED TO EAST FLAGLER MOSQUITO CONTROL DISTRICT RECORDED IN OFFICIAL RECORDS BOOK 1620, PAGE 434, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 0.89 ACRES, MORE OR LESS.

LESS AND EXCEPT: THE LAND CONTAINED IN THE SPECIAL WARRANTY DEED TO FLAGLER COUNTY RECORDED IN OFFICIAL RECORDS BOOK 1636, PAGE 1694, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 81.32 ACRES, MORE OR LESS.

LESS AND EXCEPT: THE LAND CONTAINED IN THE SPECIAL WARRANTY DEED TO HIGHWAY 100 COMMERCIAL LLC RECORDED IN OFFICIAL RECORDS BOOK 1789, PAGE 750, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 18.94 ACRES, MORE OR LESS.

LESS AND EXCEPT: TRACTS PL-2 AND PL-3, OF THE VACATED PLAT OF GARDENS AT HAMMOCK BEACH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 35, PAGES 80 THROUGH 100, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING A TOTAL OF 13.17 ACRES, MORE OR LESS.

LESS AND EXCEPT: THOSE LANDS DESCRIBED IN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1A**, AS RECORDED IN PLAT BOOK 40, PAGES 59 THROUGH 64, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 82.08 ACRES, MORE OR LESS.

LESS AND EXCEPT: THE BALANCE OF THOSE LANDS DESCRIBED IN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 2A**, AS RECORDED IN PLAT BOOK 40, PAGES 65 THROUGH 70, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 65.85 ACRES, MORE OR LESS.

LESS AND EXCEPT: THOSE LANDS DESCRIBED IN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1B**, AS RECORDED IN PLAT BOOK 41, PAGES 11 THROUGH 15, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 18.02 ACRES, MORE OR LESS.

LESS AND EXCEPT: THE BALANCE OF THOSE LANDS DESCRIBED IN THE SUBDIVISION PLAT OF **VERANDA BAY PHASE 1C**, AS RECORDED IN PLAT BOOK 41, PAGES 16 THROUGH 20, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. CONTAINING 23.50 ACRES, MORE OR LESS.

LESS AND EXCEPT: PHASE 2B – PRELIMINARY PLAT OF VERANDA BAY, DESCRIBED AS FOLLOWS:
A PORTION OF SECTIONS 13 AND 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201 AND A 100 FOOT RIGHT OF WAY) AND THE NORTH LINE OF SAID SECTION 38; THENCE SOUTH 18°10'14" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 331.23 FEET; THENCE NORTH 71°49'46" EAST, DEPARTING FROM SAID RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 71°49'46" EAST, A DISTANCE OF 370.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 325.00 FEET; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 50.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 20.01 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 11°32'14"; THENCE NORTHERLY ALONG SAID

CURVE AN ARC DISTANCE OF 5.03 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 12°24'08" WEST AND A CHORD DISTANCE OF 5.03 FEET TO A POINT ON SAID CURVE; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 119.51 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 809.38 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 49.29 FEET; THENCE SOUTH 88°27'34" WEST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 88°27'34" EAST, A DISTANCE 140.00 FEET; THENCE SOUTH 01°32'26" EAST, A DISTANCE OF 384.95 FEET; SOUTH 18°10'14" EAST, A DISTANCE OF 935.73 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 71°49'46" EAST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 24.44 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 365.00 FEET AND A CENTRAL ANGLE OF 34°46'50"; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 221.57 FEET AND SUBTENDED BY CHORD BEARING OF SOUTH 00°46'49" EAST AND A CHORD DISTANCE OF 218.18 FEET TO A POINT ON SAID CURVE; THENCE S 16°36'36" W, A DISTANCE OF 18.72 FEET; THENCE NORTH 73°23'24" WEST, A DISTANCE OF 139.49 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 11°32'13"; THENCE NORTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.03 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 10°50'29" EAST AND A CHORD DISTANCE OF 5.03 FEET TO A POINT ON SAID CURVE; THENCE NORTH 73°28'41" WEST, A DISTANCE OF 50.00 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 12°16'44"; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.36 FEET AND SUBTENDED BY A CHORD BEARING OF SOUTH 22°44'58" WEST AND A CHORD DISTANCE OF 5.35 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 495.00 AND A CENTRAL ANGLE OF 16°23'29"; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 141.61 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 79°46'17" WEST AND A CHORD DISTANCE OF 141.13 FEET TO A POINT ON SAID CURVE; THENCE NORTH 02°02'07" EAST, A DISTANCE OF 77.22 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 50.30 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 80.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 1800.00 FEET TO THE POINT OF BEGINNING. CONTAINING 21.82 ACRES, MORE OR LESS.

LESS AND EXCEPT: PHASE 2C – PRELIMINARY PLAT OF VERANDA BAY, DESCRIBED AS FOLLOWS:

A PORTION OF SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201 AND A 100 FOOT RIGHT OF WAY) AND THE NORTH LINE OF SAID SECTION 38; THENCE SOUTH 18°10'14" EAST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 331.23 FEET TO THE POINT OF BEGINNING; THENCE NORTH 71°49'46" EAST, DEPARTING FROM SAID RIGHT OF WAY LINE, A DISTANCE OF 400.00 FEET; THENCE SOUTH 18°10'14" EAST, A DISTANCE OF 1906.48 FEET TO A POINT ON A CURVE OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 495.00 FEET AND A CENTRAL ANGLE OF 14°32'52"; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 125.68 FEET AND SUBTENDED BY A CHORD BEARING OF SOUTH 78°18'07" WEST AND A CHORD DISTANCE OF 125.35 FEET TO A POINT OF A CURVE OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 10°55'26"; THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 4.77 FEET AND SUBTENDED BY A CHORD BEARING OF NORTH 23°37'58" WEST AND A CHORD DISTANCE OF 4.76 FEET; THENCE; THENCE SOUTH 72°11'12" WEST, A DISTANCE OF 50.00 FEET; THENCE NORTH 18°10'14" WEST, A DISTANCE OF 87.31 FEET; THENCE SOUTH 71°49'46" WEST, A DISTANCE OF 225.00 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED EAST RIGHT OF WAY LINE OF JOHN ANDERSON HIGHWAY; THENCE NORTH 18°10'14" WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1800.00 FEET TO THE POINT OF BEGINNING. CONTAINING 16.91 ACRES, MORE OR LESS.

EXHIBIT "A-3"

HIGHWAY 100 COMMERCIAL, LLC

LEGAL DESCRIPTION

A PORTION OF TRACT "FD2", GARDENS AT HAMMOCK BEACH, AS RECORDED IN MAP BOOK 35, PAGES 80 THROUGH 100 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT THE NORTHWESTERLY CORNER OF SAID TRACT "FD2", SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 100 (A 200 FOOT RIGHT OF WAY AS ESTABLISHED); THENCE SOUTH 89 DEGREES 29 MINUTES 03 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 382.15 FEET TO THE INTERSECTION WITH SOUTHWESTERLY RIGHT OF WAY LINE OF VILLA DRIVE WEST (A VARIABLE WIDTH PRIVATE RIGHT OF WAY AS ESTABLISHED), SAID POINT BEING THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 35.00 FEET; THENCE ALONG SAID CURVE AND SAID SOUTHWESTERLY RIGHT OF WAY LINE AN ARC DISTANCE OF 51.49 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 41 DEGREES 37 MINUTES 50 SECONDS EAST, AND A CHORD DISTANCE OF 46.97 FEET; THENCE SOUTH 00 DEGREES 30 MINUTES 47 SECONDS WEST, A DISTANCE OF 29.81 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 470.00 FEET; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 578.46 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 34 DEGREES 44 MINUTES 45 SECONDS EAST, AND A CHORD DISTANCE OF 542.64 FEET; THENCE SOUTH 70 DEGREES 00 MINUTES 17 SECONDS EAST, A DISTANCE OF 190.75 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 360.00 FEET; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 364.42 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 41 DEGREES 00 MINUTES 17 SECONDS EAST, AND A CHORD DISTANCE OF 349.06 FEET; THENCE SOUTH 12 DEGREES 00 MINUTES 17 SECONDS EAST, A DISTANCE OF 170.79 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 260.00 FEET; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 48.62 FEET, SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 06 DEGREES 3B MINUTES 50 SECONDS EAST AND A CHORD DISTANCE OF 48.55 FEET; THENCE SOUTH 88 DEGREES 37 MINUTES 36 SECONDS WEST DEPARTING THE AFOREMENTIONED SOUTHWESTERLY RIGHT OF LINE OF VILLA DRIVE WEST, A DISTANCE OF 471.38 FEET; THENCE SOUTH 88 DEGREES 28 MINUTES 30 SECONDS WEST, A DISTANCE OF 589.08 FEET; THENCE NORTH 33 DEGREES 37 MINUTES 07 SECONDS WEST, A DISTANCE OF 50.65 FEET; THENCE NORTH 38 DEGREES 07 MINUTES 37 SECONDS WEST, A DISTANCE OF 95.67 FEET TO A POINT ON A WESTERLY LINE OF THE AFOREMENTIONED TRACT "FD2, GARDENS AT HAMMOCK BEACH"; THENCE NORTH 01 DEGREES 27 MINUTES 08 SECONDS WEST, A DISTANCE OF 968.01 FEET TO THE POINT OF BEGINNING.

EXHIBIT “B”

SOLD PLATTED LOTS

PHASE 1A

Lots 43 through 98 of the subdivision plat of Veranda Bay Phase 1A, as recorded in Plat Book 40, Pages 59 through 64, of the Public Records of Flagler County, Florida.

PHASE 1B

Lots 145, 146, 151 152, 153, 155, 156, 160, 161, 162, 163, 166, 167, 168, 169, 170, 171, 172, 173, 174, 177, 179, 184, 185, 187, 188, 192, 193, 194, 195, 196 and 197 of the subdivision plat of Veranda Bay Phase 1B, as recorded in Plat Book 41, Pages 11 through 15, of the Public Records of Flagler County, Florida.

PHASE 2A

Lots 1 through 42 and Lots 99 through 122, of the subdivision plat of Veranda Bay Phase 2A, as recorded in Plat Book 40, Pages 65 through 70, of the Public Records of Flagler County, Florida.

**EXHIBIT “C”
APPROVALS**

GOVERNMENTAL APPROVALS

1. Gardens at Hammock Beach Planned Unit Development Agreement effective November 17, 2005 and recorded on May 3, 2006 in Official Records Book 1429, Page 19, Public Records of Flagler County, Florida.
2. Interlocal Agreement Water and Wastewater Service Area John Anderson Corridor dated May 16, 2016 and recorded on May 19, 2016 in Official Records Book 2129, Page 1549, Public Records of Flagler County, Florida.
3. Approval of the preliminary plats and construction plans for Veranda Bay Phases 1A, 1B, 1C, 2A, 2B and 2C by Flagler County Board of County Commissioners on November 16, 2020.
4. Army Corps of Engineers Permit number SAJ-1996-00918 effective December 3, 2020.
5. Florida Department of Environmental Protection Water Permit 0080281-030-DSGP effective January 6, 2021.
6. Florida Department of Environmental Protection Wastewater Permit 0018857-024-DWC effective January 6, 2021.
7. Public School Proportionate Share Mitigation Agreement with the Flagler County School Board effective January 19, 2020 and recorded on January 22, 2021 in Official Records Book 2518, Page 920, Public Records of Flagler County, Florida.
8. Flagler County Subdivision Site Development Permit issued on 1/14/2021 for Veranda Bay Phase 1A Subdivision Infrastructure (AKA The Gardens 1A).
9. Flagler County Subdivision Site Development Permit issued on 1/14/2021 for Veranda Bay Phase 1B/1C Subdivision Infrastructure (AKA The Gardens 1B/1C).
10. Flagler County Subdivision Site Development Permit issued on 1/14/2021 for Veranda Bay Phase 2A Subdivision Infrastructure (AKA The Gardens 2A).
11. Flagler County Right of Way Permit issued on 4/18/2023 for offsite installation of reuse main and fittings along John Anderson Highway.
12. St. Johns River Water Management District ERP Permit number 80599-6 issued April 23, 2021 (Hammock Beach River Club Transfer – now known as Veranda Bay).
13. St. Johns River Water Management District ERP Permit number 80599-8 issued October 7, 2021 (Gardens Phase 1A, 1B, 1C, 2A, 2B and 2C – now known as Veranda Bay).

14. Utility Service Agreement with City of Flagler Beach recorded on March 29, 2022 in Official Records Book 2672, Page 74, Public Records of Flagler County, Florida.
15. Recorded Plat of Veranda Bay Phase 1A, recorded on July 21, 2022 in Plat Book 40, Pages 59 through 64, Public Records of Flagler County, Florida.
16. Recorded Plat of Veranda Bay Phase 2A, recorded on July 21, 2022 in Plat Book 40, Pages 65 through 70, Public Records of Flagler County, Florida.
17. Recorded Plat of Veranda Bay Phase 1B, recorded on September 11, 2023, in Plat Book 40, Pages 11 through 15, Public Records of Flagler County, Florida.
18. Recorded Plat of Veranda Bay Phase 1C, recorded on September 11, 2023, in Plat Book 40, Pages 16 through 20, Public Records of Flagler County, Florida.

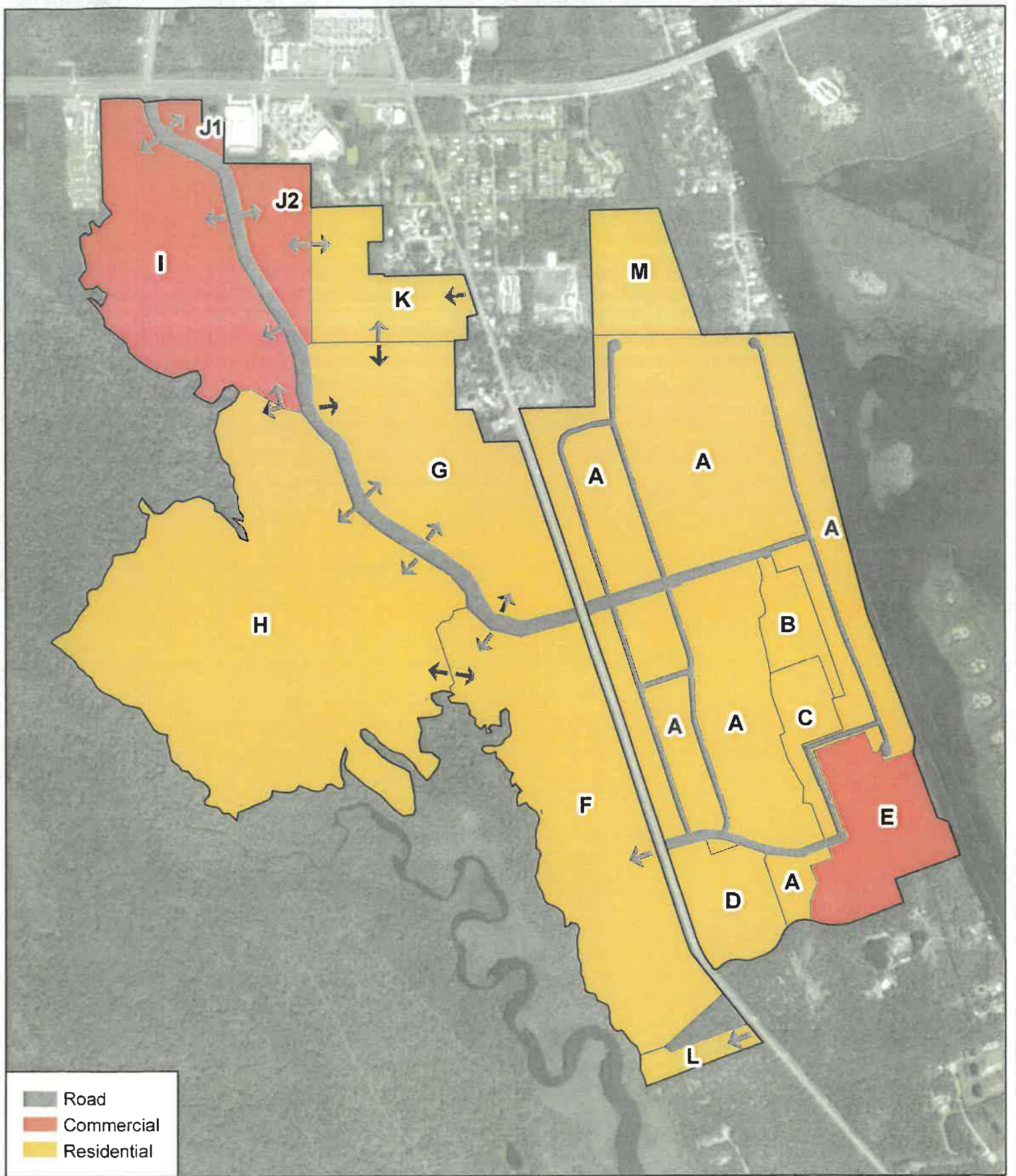


Exhibit "D"
MPD Master Plan
Veranda Bay
Flagler County, Florida

Date: 6-20-24

0 700 1,400 Feet

