



AGENDA REPORT  
July 23, 2019

**Resolution and Exchange Agreement between NASA Investment Partners (N.I.P.) and Brevard County related to the NASA Blvd. and Wickham Road Intersection Stormwater Retention Pond – District 5.**

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**SUBJECT:**

Resolution and Exchange Agreement between NASA Investment Partners (N.I.P.) and Brevard County related to the NASA Boulevard and Wickham Road Intersection Stormwater Retention Pond – District 5.

**FISCAL IMPACT:**

FY 2018 – 2019: No impact  
FY 2019 – 2020: No impact

**DEPT/OFFICE:**

Public Works

**REQUESTED ACTION:**

It is requested that the Board of County Commissioners: 1) approve and authorize the Chair to execute the Resolution and Exchange Agreement between N.I.P. and Brevard County related to the stormwater retention area currently owned by Brevard County in the Southeast quadrant of the intersection of NASA Boulevard and Wickham Road; and 2) authorize the Chair to sign all closing documents, deeds and easement documents as required at closing.

**SUMMARY EXPLANATION and BACKGROUND:**

The parcels in question are located in Section 31, Township 27 South, Range 37, East.

At their meeting on May 30, 2019, the Board of County Commissioners directed Staff to proceed with the preparation of an Exchange Agreement between NASA Investment Partners (N.I.P.) and Brevard County. Pursuant to Section 125.37 of the Florida Statutes a Public Notice regarding the exchange was advertised on July 12, 2019 and July 19, 2019.

Pursuant to the Board's directive, the Agreement addresses:

- N.I.P. is to acquire the 2.5 acres site (currently under contract to N.I.P.) to be used as the location of the proposed stormwater retention pond.
- Brevard County owns 2.4 acres which includes the 1.6 acres portion that is to be

exchanged. The remaining 0.8 acre is to remain in County ownership as right of way for NASA Boulevard and Wickham Road.

- N.I.P. is to Design, Permit and Construct the relocated stormwater retention pond prior to the exchange to include addressing conditions needed to prevent upstream flooding.
- N.I.P. is to be responsible for future maintenance of the relocated pond (estimated 30 years cost of \$420,000.00 based upon an estimated \$14,000.00/year).
- N.I.P. is to be responsible for periodic replacement of the underdrain system (estimated to be \$150,000.00 based upon an estimated \$50,000.00 every 10 years for 30 years).
- The newly constructed stormwater retention pond is to be designed, permitted and constructed to accept the current stormwater needs as well as the stormwater needs related to the development proposed by N.I.P.

Brevard County policies related to the exchange are to be adhered to and done under supervision of the County Attorney Office.

**CLERK TO THE BOARD INSTRUCTIONS:**

Return original executed original Resolution and Exchange Agreement to Public Works Department.

**ATTACHMENTS:**

**Description**

- **NIP Exchange Agreement**

Exhibit  
F  
USER  
Agreement  
NO. Signed  
revised

RESOLUTION NO 2019 - 117

**A RESOLUTION PURSUANT TO SECTION 125.37, FLORIDA STATUTES (2018) AUTHORIZING THE EXCHANGE OF COUNTY PROPERTY FOR OTHER REAL PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Whereas**, Nasa Investment Partners, LLC (N.I.P.) has the 2.5-acre property described in Exhibit A under contract for purchase from the City of Melbourne, Florida, which is hereafter referred to as "the N.I.P. property"; and

**Whereas**, the County owns the 2.439-acre property described on Exhibit B, hereafter referred to as "County property" which is currently being used as a stormwater pond and right of way; and

**Whereas**, N.I.P. and the County desire, in accordance with the provisions set forth in Section 125.37, Florida Statutes, to effectuate an exchange of 1.6 acres more or less of the County property, as more particularly shown as Parcel 118B on Exhibit C, for the 2.5-acre N.I.P. property after that 2.5 acres is improved with a stormwater pond; and

**Whereas**, N.I.P. has agreed to reserve and dedicate perpetual easements to the County over portions of Parcel 118B (County property) for the purpose of drainage and right of way to ensure sufficient room for future expansion of NASA Blvd. and Wickham Rd; and

**Whereas**, the Parties have also agreed to N.I.P. reserving an easement for maintenance of the newly created stormwater pond

**Whereas**, relocation, redesign and construction of a County stormwater pond to be located on the N.I.P. property, along with N.I.P.'s commitment to pay the cost for maintaining that stormwater pond will result in significant savings to the County as well as enhanced stormwater treatment capacity; and

**Whereas**, as part of the relocation and redesign, N.I.P. will, at no cost to the County, upgrade the drainage canal pipes and related structures located within a County maintained drainage canal located between W. NASA Blvd. and Old NASA Blvd., at an estimated cost of \$150,000, as well as provide better access and stabilization for future County maintenance of that drainage canal easement by allowing access from both sides of the drainage canal; and

**Whereas**, the upgraded drainage pipes and structures under Old NASA Blvd. will mitigate the impacts of relocating the pond to the N.I.P. Parcel and has the potential to alleviate upstream flooding that has historically occurred in areas north of the County property and N.I.P. property; and

**Whereas**, N.I.P. will assume all cost of maintenance of the new shared retention pond in perpetuity, at an estimated savings of \$570,000 over 30 years to the County, which includes the elimination of the need to replace existing underdrains on the current County-owned retention pond located on the site; and

**Whereas**, the exchange will create private property at the corner of North Wickham Rd. and NASA Blvd. that will be subject to ad valorem taxation by the County that will result in the following estimated ad valorem tax revenues to the County:

Increase Ad Valorem Taxes on the corner parcel:

Current for both parcels:     \$0.00

Corner parcel:                 \$38,000 annually

Over 30 years:                 \$1,140,000; and

**Whereas**, the proposed use for the County property after the exchange will generate impact fees estimated at \$175,000; and

**Whereas**, proposed use on the County property, after the exchange, is estimated to provide

twenty-two (22) new employment opportunities in the County; and

**Whereas**, the new construction of the proposed use on the County property, after the exchange is estimated at \$5,000,000; and

**Whereas**, the County is willing to exchange the N.I.P. property for the County property to upgrade and relocate the existing drainage system for the surrounding area currently served by the County property; and

**Whereas**, N.I.P. has agreed to construct the improvements required to install a new and upgraded capacity stormwater pond on the N.I.P. property prior to effectuating an exchange; and

**Whereas**, the Board of County Commissioners hereby finds that, upon completion of the stormwater pond on the N.I.P. property, the County will no longer need the County property for County purposes and desires to acquire the N.I.P. property, after the construction of an upgraded drainage system; and

**Whereas**, notice of this exchange was properly advertised as required by Section 125.37, Florida Statutes; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:**

The foregoing recitals are incorporated herein and adopted as part of this resolution.

The parcel to be acquired is described as follows:

See Attached Exhibit "A"

The parcel to be exchanged is described as follows:

See Attached Exhibit "C" which shall be subject to the reservation of easements to the County described in the exchange agreement and noted on Exhibit C.

This resolution shall take effect immediately and the County Attorney is directed to prepare the necessary instruments. However, the exchange of real property and any interests therein shall not occur prior to the satisfaction by N.I.P. of all conditions and closing described above and pursuant to the Exchange Agreement executed between the parties on \_\_\_\_, \_\_\_\_, 2019.

**DONE, ORDERED AND ADOPTED**, in Regular Session, this 23 day of July 2019, 2019, A.D.

ATTEST:

A blue ink signature of Scott Ellis, written in a cursive style, positioned above a horizontal line.

Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

A blue ink signature of Kristine Isnardi, written in a cursive style, positioned above a horizontal line.

By:  
Kristine Isnardi, Chair

As approved by the Board on 7/23/19



## EXHIBIT B

ALL OF THAT CERTAIN PARCEL OF LAND BEING DESCRIBED AS FOLLOWS:

"The North 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 27 South, Range 36 East, Brevard County, Florida; lying East of Wickham Road; LESS AND EXCEPT the right-of-way for Ellis Road."

(The above described parcel of land being those lands described and recorded in Official Records Book 2558, Page 2194, Public Records of Brevard County, Florida.)

CONTAINING: 2.439 Acres, more or less.

# LEGAL DESCRIPTION PARCELS 118B, 801, AND 802

EXHIBIT "C"  
SHEET 1 OF 5

NOT VALID WITHOUT SHEET 2, 3, 4, & 5 OF 3  
THIS IS NOT A SURVEY

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST

PARENT PARCEL ID NO.: 27-36-36-00-45

PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

LEGAL DESCRIPTION: PARCEL 118B, (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 258.63 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL NUMBER 118; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE NORTH 15° 43' 55" EAST FOR A DISTANCE OF 37.76 FEET; THENCE NORTH 00° 27' 11" WEST FOR A DISTANCE OF 190.50 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 47.38 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORTH 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE POINT OF BEGINNING, CONTAINING 69,733 SQUARE FEET (1.60 ACRES), MORE OR LESS.

LEGAL DESCRIPTION: PARCEL 801, ROADWAY AND DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 38.79 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN NORTH 75° 42' 04" WEST FOR A DISTANCE OF 37.43 FEET; THENCE SOUTH 89° 32' 49" WEST FOR A DISTANCE OF 224.00 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 32.28 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORTH 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE POINT OF BEGINNING, CONTAINING 6,631 SQUARE FEET, MORE OR LESS.

LEGAL DESCRIPTION: PARCEL 802, INGRESS-EGRESS, DRAINAGE AND CANAL MAINTENANCE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 106.22 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 219.58 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 15.01 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00° 19' 11" WEST ALONG A LINE 15.00 FEET WEST OF AND PARALLEL TO SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 224.21 FEET; THENCE SOUTH 75° 42' 04" EAST FOR A DISTANCE OF 15.50 FEET TO THE POINT OF BEGINNING, CONTAINING 3,323 SQUARE FEET, MORE OR LESS.

PREPARED FOR AND CERTIFIED TO:

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

MICHAEL J. SWEENEY, PSM 4870  
PROFESSIONAL SURVEYOR & MAPPER  
NOT VALID UNLESS SIGNED AND SEALED

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
PHONE: (321) 633-2080



DRAWN BY: R. HENNING

CHECKED BY: M. J. SWEENEY

DRAWING NO.: 27362536\_SK\_1911026\_WOKHAM-ELLIS.dwg

SECTION 36  
TOWNSHIP 27 SOUTH  
RANGE 36 EAST

DATE: JUNE 26, 2019

SHEET: 1 OF 5

REVISIONS	DATE	DESCRIPTION

**LEGAL DESCRIPTION**  
**PARCELS 803, 804 AND 901**

**EXHIBIT "C"**  
**SHEET 2 OF 5**  
 NOT VALID WITHOUT SHEET 1, 3, 4, & 5 OF 5  
**THIS IS NOT A SURVEY**

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST  
 PARENT PARCEL ID NO.: 27-36-36-00-45  
 PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

LEGAL DESCRIPTION: PARCEL 803, DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 326.06 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 15° 43' 55" EAST FOR A DISTANCE OF 15.76 FEET; THENCE NORTH 87° 54' 36" EAST ALONG A LINE 15.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE FOR A DISTANCE OF 276.70 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4,183 SQUARE FEET, MORE OR LESS. UNLESS OTHERWISE INDICATED, ALL PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THE ABOVE DESCRIBED LANDS IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS, AND RESTRICTIONS OF RECORD. THIS SURVEYOR DID NOT PERFORM A SEARCH OF THE PUBLIC RECORDS; NO TITLE OPINION IS EXPRESSED OR IMPLIED.

LEGAL DESCRIPTION: PARCEL 804, ROADWAY AND DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO A POINT OF CURVATURE OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS SOUTH 88° 40' 28" WEST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET; THENCE SOUTH 87° 52' 25" WEST FOR A DISTANCE OF 210.01 FEET; THENCE SOUTH 44° 49' 10" WEST FOR A DISTANCE OF 32.28 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 44° 49' 10" WEST FOR A DISTANCE OF 15.10 FEET; THENCE SOUTH 00° 27' 11" EAST FOR A DISTANCE OF 190.50 FEET; THENCE SOUTH 15° 43' 55" WEST FOR A DISTANCE OF 37.76 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS; THENCE NORTH 87° 54' 36" EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 15.53 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00° 27' 11" WEST FOR A DISTANCE OF 224.24 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 18.06 FEET; THENCE SOUTH 89° 32' 49" WEST FOR A DISTANCE OF 7.10 FEET TO THE POINT OF BEGINNING, CONTAINING 1,399 SQUARE FEET, MORE OR LESS

LEGAL DESCRIPTION: PARCEL 901, USE AGREEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THE L-7 CANAL OF THE CRANE CREEK DRAINAGE DISTRICT AND BEING LOCATED WITHIN THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS BEING THE WEST 24.00 FEET OF THE EAST 49.50 FEET OF THE SOUTH 418.70 FEET OF THE NORTH 438.70 FEET OF SAID SECTION 36, CONTAINING 10,036 SQUARE FEET (0.23 ACRES), MORE OR LESS.

UNLESS OTHERWISE INDICATED, ALL PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THE ABOVE DESCRIBED LANDS IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS, AND RESTRICTIONS OF RECORD. THIS SURVEYOR DID NOT PERFORM A SEARCH OF THE PUBLIC RECORDS; NO TITLE OPINION IS EXPRESSED OR IMPLIED.

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
 PHONE: (321) 633-2080



DRAWN BY: R. HENNING

CHECKED BY: M. J. SWEENEY

DRAWING NO.: 27362536\_SK\_1911026\_WCXIAM-ELLIS.dwg

SECTION 36  
 TOWNSHIP 27 SOUTH  
 RANGE 36 EAST

DATE: JUNE 26, 2019

SHEET: 2 OF 5

REVISIONS

DATE

DESCRIPTION

# LEGAL DESCRIPTION SURVEYOR'S NOTES, ABBREVIATIONS

EXHIBIT "C"  
SHEET 3 OF 5  
NOT VALID WITHOUT SHEET 1, 2, 4, & 5 OF 5  
THIS IS NOT A SURVEY

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST  
PARENT PARCEL ID NO.: 27-36-36-00-45  
PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

SURVEYOR'S NOTES:

1. THIS SKETCH IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION OF THE LEGAL DESCRIPTION SHOWN HEREIN.
2. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH RIGHT OF WAY LINE OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 9 IN OFFICIAL RECORDS BOOK 2223, PAGE 832 AS BEING SOUTH 87° 52' 25" EAST, AN ASSUMED BEARING.
3. ONLY RIGHTS OF WAY AND EASEMENTS SHOWN ON APPLICABLE RECORD PLATS ARE INDICATED HEREON. NO OWNERSHIP AND ENCUMBRANCE REPORT OR OTHER INFORMATION WAS FURNISHED TO THE SURVEYOR AND MAPPER.
4. REFERENCE MATERIAL:
  - a. FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR WICKHAM ROAD AT NASA BOULEVARD AND ELLIS ROAD, SECTION 70000, FIP NUMBER 404667 1 ON FILE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT FIVE, SURVEYING AND MAPPING SECTION, DELAND, FLORIDA.
5. SECTIONAL BREAKDOWN AND ALIQUOT LINES ARE BASED SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR WICKHAM ROAD AT NASA BOULEVARD AND ELLIS ROAD, SECTION 70000.

ABBREVIATIONS	
BC	= BEGIN CURVE
B.O.B.	= BASIS OF BEARING
CB	= CHORD BEARING
ID	= IDENTIFICATION
L	= LENGTH
N/F	= NOW OR FORMERLY
NTL	= NON TANGENT LINE
ORB	= OFFICIAL RECORD BOOK
R	= RADIUS
RGE	= RANGE
SQ.FT.	= SQUARE FEET
TWP	= TOWNSHIP

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
PHONE: (321) 633-2080



DRAWN BY: R. HENNING	CHECKED BY: M. J. SWEENEY	DRAWING NO.: 27362536_SK_1911026_WICKHAM-ELLIS.dwg	SECTION 36 TOWNSHIP 27 SOUTH RANGE 36 EAST					
DATE: JUNE 26, 2019	SHEET: 3 OF 5	<table border="1"> <thead> <tr> <th>REVISIONS</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		REVISIONS	DATE	DESCRIPTION		
REVISIONS	DATE	DESCRIPTION						

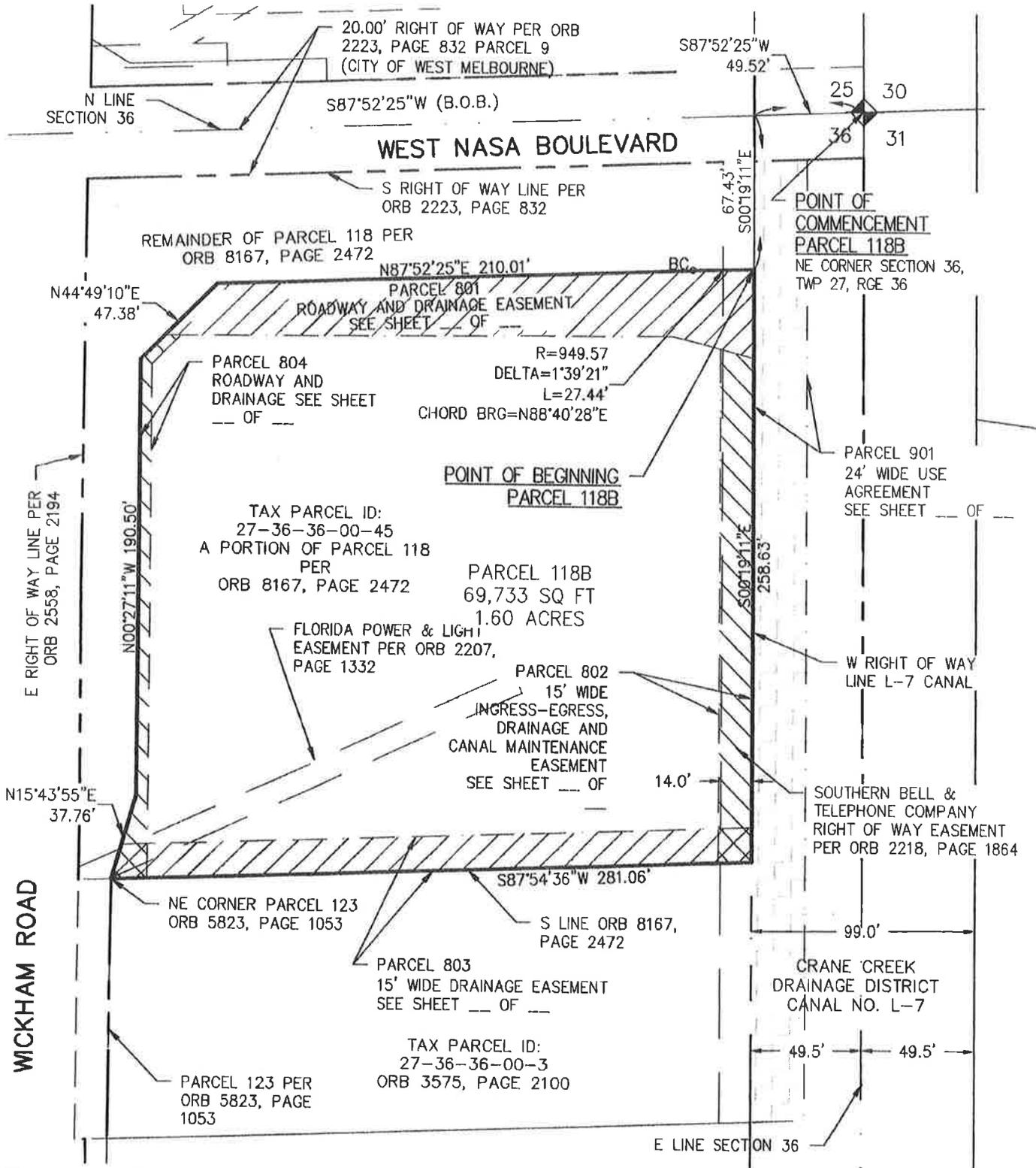
# SKETCH OF DESCRIPTION



**EXHIBIT "C"**  
**SHEET 4 OF 5**

NOT VALID WITHOUT SHEET 1, 2, 3, & 5 OF 5  
**THIS IS NOT A SURVEY**

**PARCEL 118B**  
 SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST  
 PARENT PARCEL ID NO.: 27-36-36-00-45  
 PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT



PREPARED BY: BREVARD COUNTY PUBLIC WORKS  
 SURVEYING AND MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220,  
 VERA, FLORIDA 32940

SCALE: 1"=60'  
 DRAWING NO.: 273636-00-45-0000-0000-0000-0000

SECTION 36  
 TOWNSHIP 27 SOUTH  
 RANGE 36 EAST



## EXCHANGE AGREEMENT

This Exchange Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between NASA Investment Partners, LLC, a Florida limited liability company, (hereafter referred to as "N.I.P.") and Brevard County, Florida, a political subdivision of the State of Florida (hereafter referred to as "County").

**Whereas**, N.I.P. has the 2.5-acre property described in Exhibit A under contract for purchase from the City of Melbourne, Florida, which is hereafter referred to as "the N.I.P. property"; and

**Whereas**, the County owns the 2.439-acre property described on Exhibit B, hereafter referred to as "County property" which is currently being used as a stormwater pond and right of way; and

**Whereas**, N.I.P. and the County desire, in accordance with the provisions set forth in Section 125.37, Florida Statutes, to effectuate an exchange of 1.6 acres more or less of the County property, as more particularly shown as Parcel 118B on Exhibit C, for the 2.5-acre N.I.P. property after that 2.5 acres is improved with a stormwater pond; and

**Whereas**, N.I.P. has agreed to reserve and dedicate perpetual easements to the County over portions of Parcel 118B (County property) for the purpose of drainage and right of way to ensure sufficient room for future expansion of NASA Blvd. and Wickham Rd; and

**Whereas**, the Parties have also agreed to N.I.P. reserving an easement for maintenance of the newly created stormwater pond on the future County pond parcel; and

**Whereas**, relocation, redesign and construction of a County stormwater pond to be located on the N.I.P. property, along with N.I.P.'s commitment to pay the cost for maintaining that stormwater pond will result in significant savings to the County as well as enhanced stormwater treatment capacity; and

**Whereas**, as part of the relocation and redesign, N.I.P. will, at no cost to the County, upgrade the drainage canal pipes and related structures located within a County maintained drainage canal located between W. NASA Blvd. and Old NASA Blvd., as highlighted shown on Exhibit D, attached hereto, at an estimated cost of \$150,000, as well as provide better access and stabilization for future County maintenance of that drainage canal easement by allowing access from both sides of the drainage canal; and

**Whereas**, the upgraded drainage pipes and structures under Old NASA Blvd. will mitigate the impacts of relocating the pond to the N.I.P. Parcel and has the potential to alleviate upstream

flooding that has historically occurred in areas north of the County property and N.I.P. property;  
and

**Whereas**, N.I.P. will assume all cost of maintenance of the new shared retention pond: at an estimated savings to the County set forth below, which includes the elimination of the need to replace existing underdrains on the current County-owned retention pond located on the site:

Annual maintenance savings:	\$14,000
30-year maintenance savings:	\$420,000 (Not adjusted for inflation or price increases.)
Replacement of under drains:	\$50,000 (estimated to occur every 10 years)
30-year underdrain savings:	\$150,000

Total 30-year savings on Maintenance: \$570,000; and

**Whereas**, the exchange will create private property at the corner of North Wickham Rd. and NASA Blvd. that will be subject to ad valorem taxation by the County that will result in the following estimated ad valorem tax revenues to the County:

Increase Ad Valorem Taxes on the corner parcel:

Current for both parcels:	\$0.00
Corner parcel:	\$38,000 annually
Over 30 years:	\$1,140,000; and

**Whereas**, the proposed use for the County property after the exchange will generate impact fees estimated at \$175,000; and

**Whereas**, proposed use on the County property, after the exchange, is estimated to provide new employment opportunities in the County as follows:

- General Manager
- Co-Manager
- 10 Full time associates
- 5 Part time associates
- Assistant Manager Relief
- 2 Assistant Manager-2

2 Assistant Manager-3

22 Total Employees; and

**Whereas**, the new construction of the proposed use on the County property, after the exchange is estimated at \$5,000,000; and

**Whereas**, the County is willing to exchange the N.I.P. property for the County property to upgrade and relocate the existing drainage system for the surrounding area currently served by the County property; and

**Whereas**, N.I.P. has agreed to construct the improvements required to install a new and upgraded capacity stormwater pond on the N.I.P. property prior to effectuating an exchange; and

**Whereas**, the Board of County Commissioners hereby finds that, upon completion of the stormwater pond on the N.I.P. property, the County will no longer need the County property for County purposes and desires to acquire the N.I.P. property, after the construction of an upgraded drainage system;

**Now, therefore**, in consideration of the promises, covenants and conditions set forth in this Agreement, as set forth below, N.I.P., and its successors and assigns, and the County (hereafter sometimes referred to as the "Parties") do agree as follows:

### **1. Recitals**

The recitals set forth above are incorporated by reference in this Agreement and that the matters set forth in those recitals are true representations and findings agreed upon by both Parties.

### **2. Exchange, Consideration and Conditions**

As consideration for this Agreement, N.I.P. agrees to perform the conditions set forth below and the County and N.I.P. agree to exchange the 1.6 acres, more or less, County parcel identified as Parcel 118B as shown and described on Composite Exhibit C for the N.I.P. property, and to exchange or reserve the easements shown on and described on Composite Exhibit C, subject to the satisfaction of the N.I.P. Obligations and County Obligations set forth in the subparagraphs., below.

#### **N.I.P. Obligations**

- a. NASA Investment Partners, LLC (N.I.P.) must acquire title to the N.I.P. property currently under contract for purchase within 45 days after the City of Melbourne

- approves a site plan for the construction of the stormwater pond to be located on the County property prior to the exchange.
- b. Within one hundred twenty days after the date this agreement is approved by the Board of County Commissioners, N.I.P. shall provide to the County signed and sealed engineering plans for the construction of an upgraded stormwater retention pond on the N.I.P. property for review and approval by County engineering staff.
    - (1) The stormwater pond design in the submitted plans shall, at a minimum, provide for the collection, retention and treatment of stormwater runoff, to the extent reasonably required, to provide a functional drainage system.
    - (2) The stormwater pond shall be designed to accommodate all of the existing stormwater runoff currently routed to the existing retention area, in accordance with the permits issued for the original pond construction, plus the volume required to accommodate and permit runoff from the new development on the 1.6 acre, more or less, parcel and from any runoff generated by additional lane widening abutting the boundaries of the 1.6 acre, more or less, property along Nasa Blvd. and Wickham Road. County shall have discretion in approval of the stormwater pond design plans, provided, nothing in this sentence shall be construed to eliminate or supersede the permitting requirements of city, state, or other agencies with permitting jurisdiction. Approval of stormwater pond design plans shall not be unreasonably withheld by County.
  - c. Within one hundred twenty days after the date this Agreement is approved by the Board of County Commissioners of Brevard County, Florida, N.I.P. shall provide to the County signed and sealed engineering plans for the canal drainage improvements contemplated by Exhibit D for review and approval by County engineering staff.
    - (1) The canal drainage improvements design in the submitted plans shall, at a minimum, be designed in a way to not adversely affect stages within the canal system and, to the extent required, to provide upgraded drainage pipes and structures to mitigate upstream flooding that has historically occurred in areas north of the County property and N.I.P. property.
    - (2) County shall have discretion in approval of the canal drainage design plans, provided, nothing in this sentence shall be construed to eliminate or supersede the permitting requirements of city, state, or other agencies with permitting jurisdiction. Approval of canal drainage design plans shall not be unreasonably withheld by County.
  - d. Upon approval by County engineering staff, and with the County cooperation specified in the County obligations below, N.I.P. shall prepare and submit permit applications for construction of the stormwater retention pond and canal drainage

- improvements to all County and State agencies with jurisdiction to issue the permits required to construct the stormwater pond and canal drainage improvements.
- e. Upon receipt of the necessary permits, N.I.P. shall be solely responsible for constructing the stormwater pond and canal drainage improvements in accordance with the approved engineering plan and permits, at no expense to the County.
  - f. N.I.P. shall seek and obtain all inspections and approvals required from all agencies with jurisdiction to allow the use of the stormwater pond on what is currently the N.I.P. property. Upon connection to the new stormwater pond and receipt of those approvals, N.I.P. will disconnect the drainage system from the existing pond located on what is currently the County property.
  - g. N.I.P. shall provide the County an as-built survey of the newly constructed pond and drainage facilities.
  - h. N.I.P. shall seek and obtain all inspections and approvals required from all agencies with jurisdiction required for the canal drainage improvements.
  - i. N.I.P. shall bear all closing costs and costs for publishing the required statutory notice of exchange, as well as the preparation and recording of the documents necessary to complete the exchange by conveyance of the N.I.P. and the County properties.
  - j. At closing, N.I.P. shall transfer to the County the N.I.P. property described in Exhibit A in fee simple, subject to the reservation of a non-exclusive easement by N.I.P. for maintenance of the stormwater pond system over the 2.5 acres.

### **County Obligations**

- a. The closing of the exchange of the N.I.P. property and the County property shall be conditioned upon satisfaction of the following conditions:
  - (1) Completion and connection of the new stormwater pond by N.I.P. on the 2.5-acre N.I.P. property and disconnection of the existing stormwater pond on the County property; and
  - (2) receipt of approval to place that new stormwater pond into operation from all agencies with jurisdiction; and
  - (3) completion of construction of the canal drainage improvements
  - (4) compliance in full by N.I.P. with this Agreement
  - (5)
- b. The County will provide the Sketch and Descriptions for the 1.6-acre parcel and easements shown on Composite Exhibit C.
- c. The County shall cooperate with N.I.P. and execute any necessary documents required by agencies for N.I.P. to acquire the permits, from any non-County agency, that are necessary to construct or utilize the new stormwater pond. The Board of

County Commissioners' approval of this Agreement shall constitute the authority for the Chair, County Manager or his designee to execute all documents required to obtain the applications and documents required by the agencies that will be issuing the necessary permits. The Board of County Commissioners approval of this Agreement shall also constitute authorization for N.I.P. to apply for any land use, zoning, site plan or other approval required to utilize the County property for commercial use but shall not guarantee approval of such application.

- d. The County shall review the proposed stormwater pond design engineering plans submitted to the County for approval within fifteen days after receiving the plans from N.I.P. If plan revisions are required by the County, the County shall review those revisions within fifteen days after receipt of the revised plans. Review times associated with any city, state, and federal agencies with jurisdiction are not guaranteed under this Agreement.
- e. The County may inspect the progress of the stormwater pond and canal drainage improvement construction at any time but shall provide and complete an inspection of the finished stormwater drainage system within five business days after final as-builts have been provided and notification from N.I.P. that the project has been completed.
- f. At closing of the exchange, the County will:
  - (1) convey by County deed to N.I.P. the property shown and described in Exhibit C, provided the County deed shall reserve, and/or N.I.P. shall dedicate, the following easements as shown and described on Exhibit C:
    - Parcel 801: an irregular shaped roadway and drainage easement over the northern boundary of Parcel 118B
    - Parcel 802: a fifteen-foot-wide ingress and egress easement for the purpose of maintaining the portion of the drainage ditch system adjacent to the easternmost property line of Parcel 118B,
    - Parcel 803: a fifteen-foot-wide drainage easement over the southern boundary of Parcel 118B
    - Parcel 804: an irregular shaped roadway and drainage easement over the western boundary of Parcel 118B
  - (2) approve and execute a 30-year Right of Way Use Agreement (ROWUA) with automatic 30-year extensions over the reserved easement and the area shown and described in the ROWUA, including the reserved easement area specified in subparagraph g.(1) above. The form and terms of ROWUA shall be substantially those set forth in Exhibit F, attached hereto, which terms shall allow access to and across the area described in the ROWUA to N.I.P., its successors, assigns, lessees and commercial or government vehicles providing service or delivery to

any business located on the 1.6-acre, more or less, site, including waste removal trucks and emergency vehicles. N.I.P. and the County agree that the County's use of the easement reserved under subparagraph g.(1) above will involve maintenance of the ditch using heavy equipment including track hoes. N.I.P. therefore agrees to design and construct its access over the portion of area described in the ROWUA abutting the property line of Parcel 118B, as that parcel property line is shown in Exhibit C to the exchange agreement between the parties with features and material of sufficient strength to support such heavy machinery.

### **3. Title Evidence and Insurance.**

NIP shall provide marketable title to County. At least twenty days prior to Closing Date, a title insurance commitment for the N.I.P. property shall be issued by a Florida licensed title insurer with Brevard County, Florida as the insured, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an Owner's Policy of title insurance shall be obtained and delivered to the County. If N.I.P. has an Owner's Policy of title insurance covering the N.I.P. Property, a copy shall be furnished to the County and Closing Agent within fifteen days after obtaining that policy. N.I.P. shall designate the Closing Agent and pay for Owner's Policy and Charges including charges for closing services.

### **4. Title Examination**

The County shall have ten days after receipt of Title Commitment to examine it and notify N.I.P. in writing specifying defect(s), if any, that render title unmarketable. If N.I.P. provides Title Commitment and it is delivered to the County less than twenty days prior to Closing Date, the County may extend Closing for up to ten days after date of receipt to examine same in accordance with this section. N.I.P. shall have thirty days ("Cure Period") after receipt of the County's notice to take reasonable diligent efforts to remove defects. If the County fails to so notify N.I.P., the County shall be deemed to have accepted title as it then is. If N.I.P. cures defects within Cure Period, N.I.P. will deliver written notice to the County (with proof of cure acceptable to the County and the County's attorney) and the Parties will close this exchange on the Closing Date (or if Closing Date has passed, within ten days after the County's receipt of N.I.P.'s notice). If N.I.P. is unable to cure defects within the Cure Period, then the County may, within five days after expiration of Cure Period, deliver written notice to N.I.P.:

- extending Cure Period for a specified period not to exceed 120 days within which N.I.P. shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or

- elect to accept title with existing defects and close this exchange on Closing Date (or if Closing Date has passed, within the earlier of ten days after end of Extended Cure Period or the County's receipt of N.I.P.'s notice), or
- elect to terminate this Agreement, thereby releasing the County and N.I.P. from all further obligations under this Agreement. If after reasonable diligent effort, N.I.P. is unable to timely cure defects, and the County does not waive the defects, this Agreement shall terminate, thereby releasing the County and N.I.P. from all further obligations under this Agreement.

## **5. Closing**

The closing of the exchange shall take place within thirty days after the new stormwater pond on the 2.5-acre N.I.P. property has been connected and is operable in accordance with the final approval of the constructed stormwater system by the County and all other agencies with jurisdiction as well as completion of the canal drainage improvements contemplated in Exhibit D and according to the approved construction plans. Should N.I.P. fail to complete its obligations in full under this Agreement, the County may refuse to close and terminate this Agreement. N.I.P. assures the County that at the time of closing no mortgages or security will be placed upon Parcel 118B so as to take priority over the covenants and conditions agreed to in this Agreement.

## **6. Closing Documents and Costs**

N.I.P. shall, at or prior to Closing, execute and deliver, as applicable, deed, bill of sale, certificate(s) of title or other documents necessary to transfer title to the N.I.P. Property, a construction lien affidavit(s), owner's possession and no lien affidavit(s). N.I.P. shall furnish to the County and pay for a survey of Parcel 118B, as shown on Composite Exhibit C, as well as a description of the easements referenced in paragraph 2, above. Said survey shall be subject to review and approval by the County and County survey staff. N.I.P. shall be responsible for the preparation of all closing documents. N.I.P. shall also pay all closing and title insurance costs.

## **7. N.I.P. Representation as to Non-Foreign Status**

N.I.P. hereby warrants and represents that it is a Florida limited liability company and not a "foreign person" as defined by FIRPTA, section 1445 of the Internal Revenue Code.

## **8. Maintenance and Lien in the Event of Default**

N.I.P. or its assigns or successors in interest agree:

- a. to maintain the new stormwater pond constructed on the 2.5-acre N.I.P. property in perpetuity so long as the stormwater pond is used for stormwater collection purposes. Such maintenance shall be to County and State of Florida Department of Transportation

- (F.D.O.T.) standards and shall include replacement of underdrains or reconstruction as necessary;
- b. to notify the County in writing thirty days prior to any non-routine replacements or reconstruction work and obtain any necessary permits or approvals as they may be required.
  - c. that in the event N.I.P. or its successor defaults on its maintenance obligation, after delivering thirty days written notice of default and right to cure to N.I.P., the County may impose a lien for the reasonable cost to maintain the stormwater pond together with the reasonable administrative cost to the County for perfecting or recording such a lien. Subject to subparagraph d., below, the Parties agree that such a lien on the future N.I.P. property (Parcel 118B) is subject to foreclosure or other collection remedies available under Florida law.
  - d. the stormwater pond maintenance obligation is being agreed to by N.I.P. as partial consideration for the exchange provided for in this Agreement.
  - e. Delinquent amounts due and subject to lien for the cost to cure non-maintenance by N.I.P., or its successors and assigns, shall become due and payable at the office of the County Manager thirty days after the notice of default is mailed. If the amount is not paid or the lack of maintenance is not cured within thirty days, the lien may be recorded by the County and thereafter, the amount due to satisfy the lien shall bear interest at the rate of two percent above the prime interest rate per annum, as determined by the Wall Street Journal Prime Rate.
  - f. Collection and foreclosure of a lien, including interest, penalties and a reasonable attorney's fee, may be made by the Board of County Commissioners by instituting proceedings in a court with jurisdiction to foreclose the lien as provided by law. At the County's discretion, the property subject to the lien may be redeemed at any time prior to sale by paying the total amount due, including interest, court costs, advertising costs and a reasonable attorney's fee or, at the County's discretion, allowing N.I.P. to perform the delinquent maintenance at its cost, plus payment of any court costs, advertising costs and a reasonable attorney's fee, if such fees have been incurred by and invoiced to the County.
  - g. The lien right, maintenance obligation and collection rights provided for in this paragraph 8 shall survive closing.

## **9. Licensing**

All contractors, subcontractors, consultants, sub-consultants, engineers, or other required professionals employed or contracted by N.I.P. to perform the requirements of this Agreement, including any and all future maintenance obligations pursuant to paragraph 8 of this

Agreement, shall be properly licensed as required by the State of Florida and the County. This provision shall survive closing.

### **10. Assignability**

Upon construction of the improvements required under this Agreement and closing, this Agreement and N.I.P.'s obligations hereunder, may be assigned by N.I.P. to any affiliated entity or to any successor in interest to N.I.P. by reason of purchase or lease of the 1.6-acre (more or less) property being conveyed to N.I.P. by the County under this Exchange Agreement. Notice shall be provided by N.I.P. to the County within fifteen days of any such assignment. Such notice shall include contact information for the assignee. Following the closing on the exchange, all provisions surviving closing shall be binding upon on all such successors and assigns. This provision shall also survive closing.

### **11. Attorney's Fees**

In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.

### **12. Venue**

Venue for any legal action by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury.

### **13. Insurance**

N.I.P., or its successors and assigns, shall cause any contractor, sub-contractor, consultant or sub-consultant retained by N.I.P. to provide services necessary to fulfill the terms of this Agreement, including all maintenance activities required by this Agreement and paragraph 8, shall have in place the following insurance:

- **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies and in a form acceptable to the County, with combined single limits of not less than One Million Dollars for Bodily Injury and Property Damage per occurrence.
- **Automobile Liability Insurance:** Automobile Liability coverage shall be in the minimum amount of One Million Dollars combined single limits for Bodily Injury and Property Damage per accident.
- **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.
- **Insurance Certificates:** N.I.P. shall provide certificates of insurance to the County demonstrating that the aforementioned insurance requirements have been met under this Agreement and upon insurance renewal annually. Insurance carriers providing

coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. Said Liability Policies shall provide that the County be an additional insured for the General Liability and Auto Liability insurance. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

This provision shall survive closing.

#### **14. Indemnification**

- a. N.I.P., and its successors and assigns, shall indemnify and hold harmless the County and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of N.I.P., or anyone directly or indirectly employed by N.I.P., or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by in part by a party indemnified thereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by N.I.P. or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under workers' compensation acts, or other related policies of insurance. The Parties acknowledge specific consideration has been exchanged for this provision. Nothing contained in this paragraph shall be construed as a waiver of the County's right to the protections of and/or caps on damages afforded by sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on County's potential liability under state or federal law. This indemnification shall survive the termination of this Agreement. This indemnification shall apply to maintenance activities included in paragraph 8. Nothing in this Agreement shall be interpreted to create any causes of action for any third parties not a party to this Agreement.
- b. N.I.P., and its successors and assigns, agrees to include the following indemnification in all contracts with contractors/subcontractors, or consultants/sub consultants who perform work in connection with this Agreement, including any future maintenance activities required in paragraph 8:

“To the fullest extent permitted by law, the contractor shall indemnify and hold harmless Brevard County, Florida and its officers and employees from liabilities, damages, losses and costs including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the County’s sovereign immunity.”

This provision shall survive closing.

### **15. Independent Contractor**

Nothing in this Agreement shall be interpreted or construed to constitute N.I.P., or any of its agents or employees, or any contractors, subcontractors, consultants, sub-consultants retained by N.I.P. to be the agent, employee or representative of the County.

### **16. Right to Audit Records**

In performance of this Agreement, the N.I.P. shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by N.I.P. in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County. N.I.P. shall retain all documents, books and records for a period of five years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. It will be N.I.P.’s duty to identify any information in records created by N.I.P. which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt. All records or documents created by or provided to N.I.P. by the County in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County. N.I.P. shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if N.I.P. does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, N.I.P. may transfer, at no cost to the County, all public records in possession of N.I.P. If N.I.P. transfers all public records to the County upon termination of the Agreement, N.I.P. shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

## **17. Public Records**

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify N.I.P. of the request and N.I.P. must provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07. N.I.P. may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order-47, incorporated herein by this reference. A copy of Administrative Order-47 is available upon request from the County's public records custodian designated below.

If N.I.P. fails to provide the requested public records to the County within a reasonable time, N.I.P. may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. N.I.P.'s failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within N.I.P.'s possession and control, N.I.P. agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. N.I.P. shall hire and compensate attorney(s) to represent N.I.P. and County in defending such action. N.I.P. shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:**

**ROBERT HENDRICKS 321-617-7202**  
**robert.hendricks@brevardfl.gov**  
**2725 Judge Fran Jamieson Way, Suite A-201**  
**Viera, FL 32940**

## **18. Further Assurances and Survival of Closing**

The Parties agree that the provisions of this Agreement not directly related to the exchange of property by deed, including the construction, maintenance, ROWUA, plan preparation, permitting, cooperation and other similar obligations of the Parties, along with the further assurance agreement provided for in this paragraph, shall survive the closing of that exchange.

The Parties acknowledge that the construction of a new retention pond and continuing maintenance of that pond may require modifications to the easements and agreements that survive the closing. The Parties, therefore, provide a mutual assurance and agreement that neither party shall unreasonably withhold approval of any reasonably necessary modifications to the easements or provisions of this Agreement that survive closing where such modifications will allow or facilitate the performance of the Parties respective obligations under the surviving provisions of this Agreement. Nothing in this section shall be construed to supersede the requirements of paragraph 22 of this Agreement, applicable law, or the requirement that the Board of County Commissioners of Brevard County, Florida must approve any amendments to this Agreement.

## **19. Notice**

Notice shall be provided to the Parties as follows:

- County: Public Works, c/o Public Works Director, 2725 Judge Fran Jamieson Way, Viera, FL 32940
- N.I.P.: to NASA Investment Partners LLC, the Manager identified in the corporate records of the Secretary of State, which is currently Dale A. Dettmer, 304 S Harbor City Blvd. Ste 201, Melbourne, FL 32901

## **20. Recording**

N.I.P. shall be responsible for recording this Agreement in the official public records of Brevard County, Florida at the time of closing.

## **21. Covenants Running with the Land**

This Agreement and all of the covenants and provisions thereof shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the Parties hereto. Each provision hereof (including the burden of perpetual maintenance of the stormwater pond to be built upon the lands described in Exhibit A) shall be deemed both a covenant and a condition and shall run with the lands described in Exhibit C upon closing:

### LEGAL DESCRIPTION: PARCEL 118B, (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BEVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT

ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 258.63 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL NUMBER 118; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE NORTH 15° 43' 55" EAST FOR A DISTANCE OF 37.76 FEET; THENCE NORTH 00° 27' 11" WEST FOR A DISTANCE OF 190.50 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 47.38 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORTH 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE POINT OF BEGINNING, CONTAINING 69,733 SQUARE FEET (1.60 ACRES), MORE OR LESS.

Subject only to taxes imposed by any governmental authority, each and every assessment of lien which the County has authority to impose, together with any collection costs, attorneys' fees, penalties or interest authorized to be established, reserved, or imposed hereby, or under this restrictive covenant shall relate back to this Agreement and shall be superior to any mortgage or other security placed on the property described in this section.

## **22. Entirety**

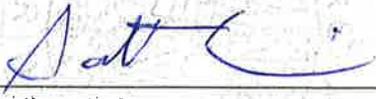
This Agreement represents the understanding and agreement of the Parties in its entirety. There shall be no amendments to the Agreement unless such amendments are in writing and signed by both Parties.

## **23. Effective Date**

This Agreement shall take effect upon date of execution by the last party to the Agreement.

In witness whereof, the Parties hereto have set their hands and seals the day and year first below written.

Attest:

  
\_\_\_\_\_  
Scott Ellis, Clerk

Board of County Commissioners of  
Brevard County, Florida

BY:   
\_\_\_\_\_  
BRYAN A. LOBER, VICE CHAIR  
7/23/19

Date  
Approved by the Board on: 7/23/19

Approved as to legal form and content:

BY: \_\_\_\_\_  
Assistant County Attorney

Witnesses:

BY:   
\_\_\_\_\_  
Debra L Campos  
Printed Name

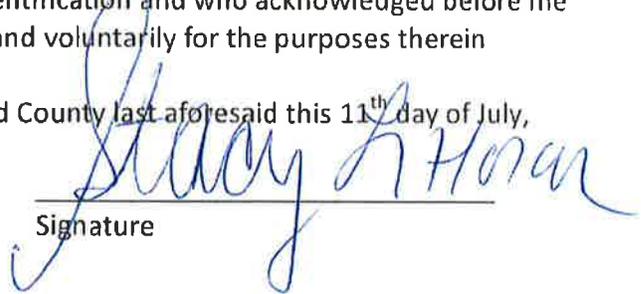
NASA Investment Partners, LLC  
BY:   
\_\_\_\_\_  
Dale A. Dettmer, Manager

BY:   
\_\_\_\_\_  
Stacy Horan  
Printed Name

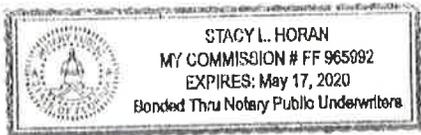
STATE OF FLORIDA  
COUNTY OF BREVARD

I hereby certify that before me, an officer duly authorized to take acknowledgments, personally appeared Dale A. Dettmer to me known to be the Manager of NASA Investment Partners, LLC, or provided \_\_\_\_\_ as identification and who acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

Witness my hand and official seal in the State and County last aforesaid this 11<sup>th</sup> day of July, 2019.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Name (typed or printed)





## **EXHIBIT B**

**ALL OF THAT CERTAIN PARCEL OF LAND BEING DESCRIBED AS FOLLOWS:**

**"The North 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 27 South, Range 36 East, Brevard County, Florida; lying East of Wickham Road; LESS AND EXCEPT the right-of-way for Ellis Road."**

**(The above described parcel of land being those lands described and recorded in Official Records Book 2558, Page 2194, Public Records of Brevard County, Florida.)**

**CONTAINING: 2.439 Acres, more or less.**

# LEGAL DESCRIPTION

## PARCELS 118B, 801, AND 802

**EXHIBIT "C"**  
**SHEET 1 OF 5**  
 NOT VALID WITHOUT SHEET 2, 3, 4, & 5 OF 3  
**THIS IS NOT A SURVEY**

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST  
 PARENT PARCEL ID NO.: 27-36-36-00-45  
 PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

LEGAL DESCRIPTION: PARCEL 118B. (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 258.63 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL NUMBER 118; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE NORTH 15° 43' 55" EAST FOR A DISTANCE OF 37.76 FEET; THENCE NORTH 00° 27' 11" WEST FOR A DISTANCE OF 190.50 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 47.38 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORTH 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE POINT OF BEGINNING, CONTAINING 69,733 SQUARE FEET (1.60 ACRES), MORE OR LESS.

LEGAL DESCRIPTION: PARCEL 801, ROADWAY AND DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 38.79 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN NORTH 75° 42' 04" WEST FOR A DISTANCE OF 37.43 FEET; THENCE SOUTH 89° 32' 49" WEST FOR A DISTANCE OF 224.00 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 32.28 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORTH 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE POINT OF BEGINNING, CONTAINING 6,631 SQUARE FEET, MORE OR LESS.

LEGAL DESCRIPTION: PARCEL 802, INGRESS-EGRESS, DRAINAGE AND CANAL MAINTENANCE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 106.22 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 219.58 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 15.01 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00° 19' 11" WEST ALONG A LINE 15.00 FEET WEST OF AND PARALLEL TO SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 224.21 FEET; THENCE SOUTH 75° 42' 04" EAST FOR A DISTANCE OF 15.50 FEET TO THE POINT OF BEGINNING, CONTAINING 3,323 SQUARE FEET, MORE OR LESS.

PREPARED FOR AND CERTIFIED TO:  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

MICHAEL J. SWEENEY, PSM 4870  
 PROFESSIONAL SURVEYOR & MAPPER  
 NOT VALID UNLESS SIGNED AND SEALED

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
 PHONE: (321) 633-2080



DRAWN BY: R. HENNING

CHECKED BY: M. J. SWEENEY

DRAWING NO.: 27362536\_SK\_1911026\_WCKHAM-ELJIS.dwg

SECTION 36  
 TOWNSHIP 27 SOUTH  
 RANGE 36 EAST

DATE: JUNE 26, 2019

SHEET: 1 OF 5

REVISIONS

DATE

DESCRIPTION

# LEGAL DESCRIPTION

## PARCELS 803, 804 AND 901

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST

PARENT PARCEL ID NO.: 27-36-36-00-45

PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

# EXHIBIT "C"

## SHEET 2 OF 5

NOT VALID WITHOUT SHEET 1, 3, 4, & 5 OF 5

**THIS IS NOT A SURVEY**

**LEGAL DESCRIPTION: PARCEL 803, DRAINAGE EASEMENT (BY SURVEYOR)**

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 326.06 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 15° 43' 55" EAST FOR A DISTANCE OF 15.76 FEET; THENCE NORTH 87° 54' 36" EAST ALONG A LINE 15.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE FOR A DISTANCE OF 276.70 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4,183 SQUARE FEET, MORE OR LESS.

UNLESS OTHERWISE INDICATED, ALL PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THE ABOVE DESCRIBED LANDS IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS, AND RESTRICTIONS OF RECORD. THIS SURVEYOR DID NOT PERFORM A SEARCH OF THE PUBLIC RECORDS; NO TITLE OPINION IS EXPRESSED OR IMPLIED.

**LEGAL DESCRIPTION: PARCEL 804, ROADWAY AND DRAINAGE EASEMENT (BY SURVEYOR)**

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO A POINT OF CURVATURE OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS SOUTH 88° 40' 28" WEST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET; THENCE SOUTH 87° 52' 25" WEST FOR A DISTANCE OF 210.01 FEET; THENCE SOUTH 44° 49' 10" WEST FOR A DISTANCE OF 32.28 FEET TO THE TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 44° 49' 10" WEST FOR A DISTANCE OF 15.10 FEET; THENCE SOUTH 00° 27' 11" EAST FOR A DISTANCE OF 190.50 FEET; THENCE SOUTH 15° 43' 55" WEST FOR A DISTANCE OF 37.76 FEET TO A POINT ON THE SOUTH LINE OF SAID DESCRIBED LANDS; THENCE NORTH 87° 54' 36" EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 15.53 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00° 27' 11" WEST FOR A DISTANCE OF 224.24 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 18.06 FEET; THENCE SOUTH 89° 32' 49" WEST FOR A DISTANCE OF 7.10 FEET TO THE POINT OF BEGINNING, CONTAINING 1,399 SQUARE FEET, MORE OR LESS

**LEGAL DESCRIPTION: PARCEL 901, USE AGREEMENT (BY SURVEYOR)**

A PARCEL OF LAND BEING A PORTION OF THE L-7 CANAL OF THE CRANE CREEK DRAINAGE DISTRICT AND BEING LOCATED WITHIN THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS BEING THE WEST 24.00 FEET OF THE EAST 49.50 FEET OF THE SOUTH 418.70 FEET OF THE NORTH 438.70 FEET OF SAID SECTION 36, CONTAINING 10,036 SQUARE FEET (0.23 ACRES), MORE OR LESS.

UNLESS OTHERWISE INDICATED, ALL PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THE ABOVE DESCRIBED LANDS IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS, AND RESTRICTIONS OF RECORD. THIS SURVEYOR DID NOT PERFORM A SEARCH OF THE PUBLIC RECORDS; NO TITLE OPINION IS EXPRESSED OR IMPLIED.

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
 PHONE: (321) 633-2080



DRAWN BY: R. HENNING

CHECKED BY: M. J. SWEENEY

DRAWING NO.: 27362536\_SK\_1911026\_WCKHAM-ELLIS.dwg

SECTION 36

DATE: JUNE 26, 2019

SHEET: 2 OF 5

REVISIONS

DATE

DESCRIPTION

TOWNSHIP 27 SOUTH

RANGE 36 EAST

# LEGAL DESCRIPTION SURVEYOR'S NOTES, ABBREVIATIONS

EXHIBIT "C"  
SHEET 3 OF 5  
NOT VALID WITHOUT SHEET 1, 2, 4, & 5 OF 5  
THIS IS NOT A SURVEY

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST  
PARENT PARCEL ID NO.: 27-36-36-00-45  
PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT

SURVEYOR'S NOTES:

1. THIS SKETCH IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION OF THE LEGAL DESCRIPTION SHOWN HEREIN.
2. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH RIGHT OF WAY LINE OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 9 IN OFFICIAL RECORDS BOOK 2223, PAGE 832 AS BEING SOUTH 87° 52' 25" EAST, AN ASSUMED BEARING.
3. ONLY RIGHTS OF WAY AND EASEMENTS SHOWN ON APPLICABLE RECORD PLATS ARE INDICATED HEREON. NO OWNERSHIP AND ENCUMBRANCE REPORT OR OTHER INFORMATION WAS FURNISHED TO THE SURVEYOR AND MAPPER.
4. REFERENCE MATERIAL:
  - a. FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR WICKHAM ROAD AT NASA BOULEVARD AND ELLIS ROAD, SECTION 70000, FIP NUMBER 404667 1 ON FILE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT FIVE, SURVEYING AND MAPPING SECTION, DELAND, FLORIDA.
5. SECTIONAL BREAKDOWN AND ALIQUOT LINES ARE BASED SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR WICKHAM ROAD AT NASA BOULEVARD AND ELLIS ROAD, SECTION 70000.

**ABBREVIATIONS**

BC = BEGIN CURVE  
 B.O.B. = BASIS OF BEARING  
 CB = CHORD BEARING  
 ID = IDENTIFICATION  
 L = LENGTH  
 N/F = NOW OR FORMERLY  
 NTL = NON TANGENT LINE  
 ORB = OFFICIAL RECORD BOOK  
 R = RADIUS  
 RGE = RANGE  
 SQ.FT. = SQUARE FEET  
 TWP = TOWNSHIP

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940  
 PHONE: (321) 633-2080



DRAWN BY: R. HENNING

CHECKED BY: M. J. SWEENEY

DRAWING NO.: 27362536\_SK\_1911026\_WICKHAM-ELLIS.dwg

SECTION 36  
TOWNSHIP 27 SOUTH  
RANGE 36 EAST

DATE: JUNE 26, 2019

SHEET: 3 OF 5

REVISIONS

DATE

DESCRIPTION

# SKETCH OF DESCRIPTION



EXHIBIT "C"  
SHEET 4 OF 5

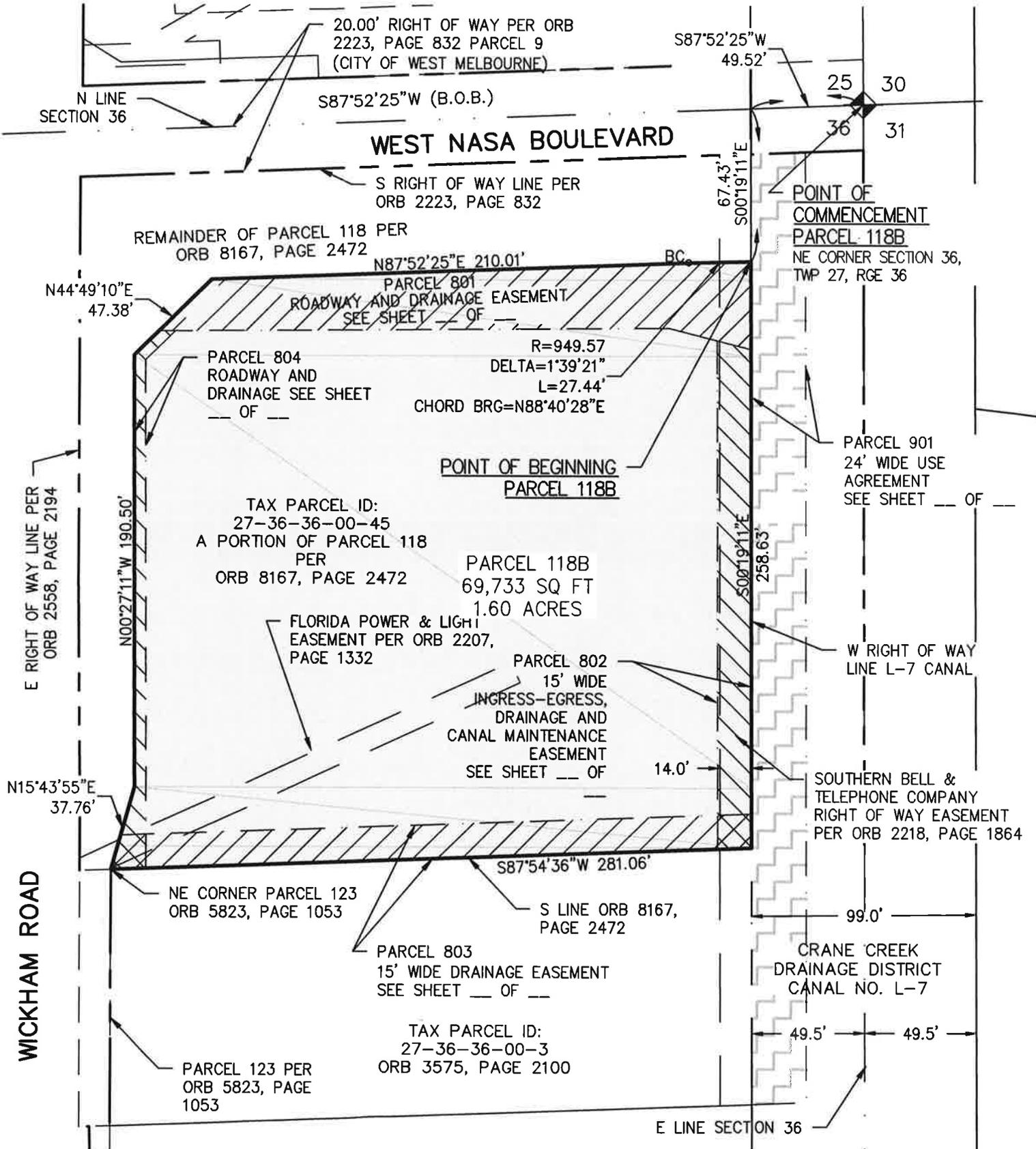
NOT VALID WITHOUT SHEET 1, 2, 3, & 5 OF 5  
**THIS IS NOT A SURVEY**

PARCEL 118B

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST

PARENT PARCEL ID NO.: 27-36-36-00-45

PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT



PREPARED BY: BREVARD COUNTY PUBLIC WORKS  
SURVEYING AND MAPPING DIVISION  
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220,  
VIERA, FLORIDA 32940

SCALE: 1"=60'  
DRAWING NO.: 07720576 04 1011008 WICKHAM PUBLIC...

SECTION 36  
TOWNSHIP 27 SOUTH  
RANGE 36 EAST

# SKETCH OF DESCRIPTION PARCELS 801, 802, 803, 804, & 901

EXHIBIT "C"

SHEET 5 OF 5

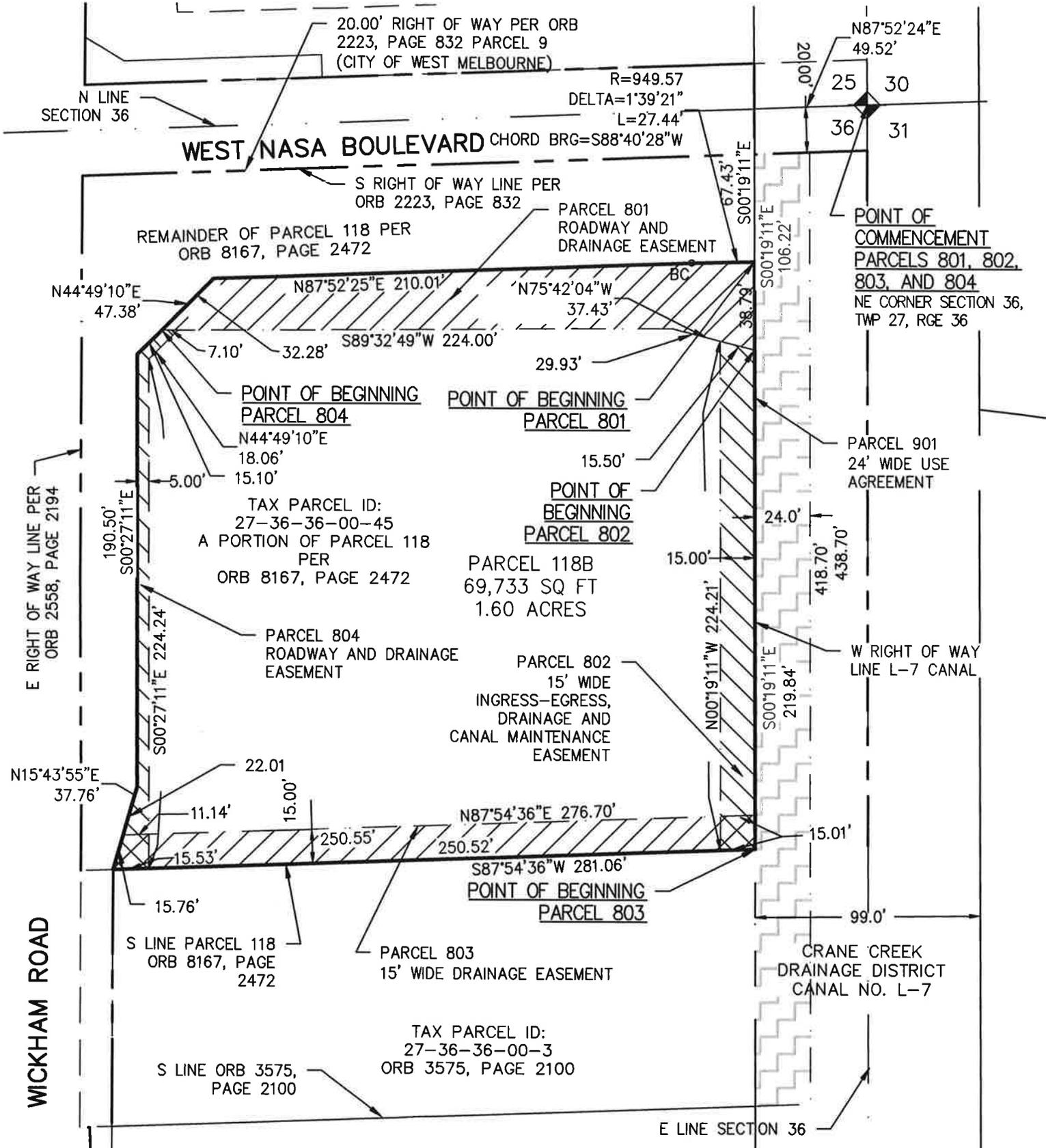
NOT VALID WITHOUT SHEET 1, 2, 3, & 4 OF 5

**THIS IS NOT A SURVEY**

SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST

PARENT PARCEL ID NO.: 27-36-36-00-45

PURPOSE: FEE SIMPLE CONVEYANCE WITH EASEMENTS AND USE AGREEMENT



PREPARED BY: BREVARD COUNTY PUBLIC WORKS  
SURVEYING AND MAPPING DIVISION  
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220,  
VIERA, FLORIDA 32940

SCALE: 1"=60'  
DRAWING NO.:

SECTION 36  
TOWNSHIP 27 SOUTH  
RANGE 36 EAST

EXHIBIT "D"

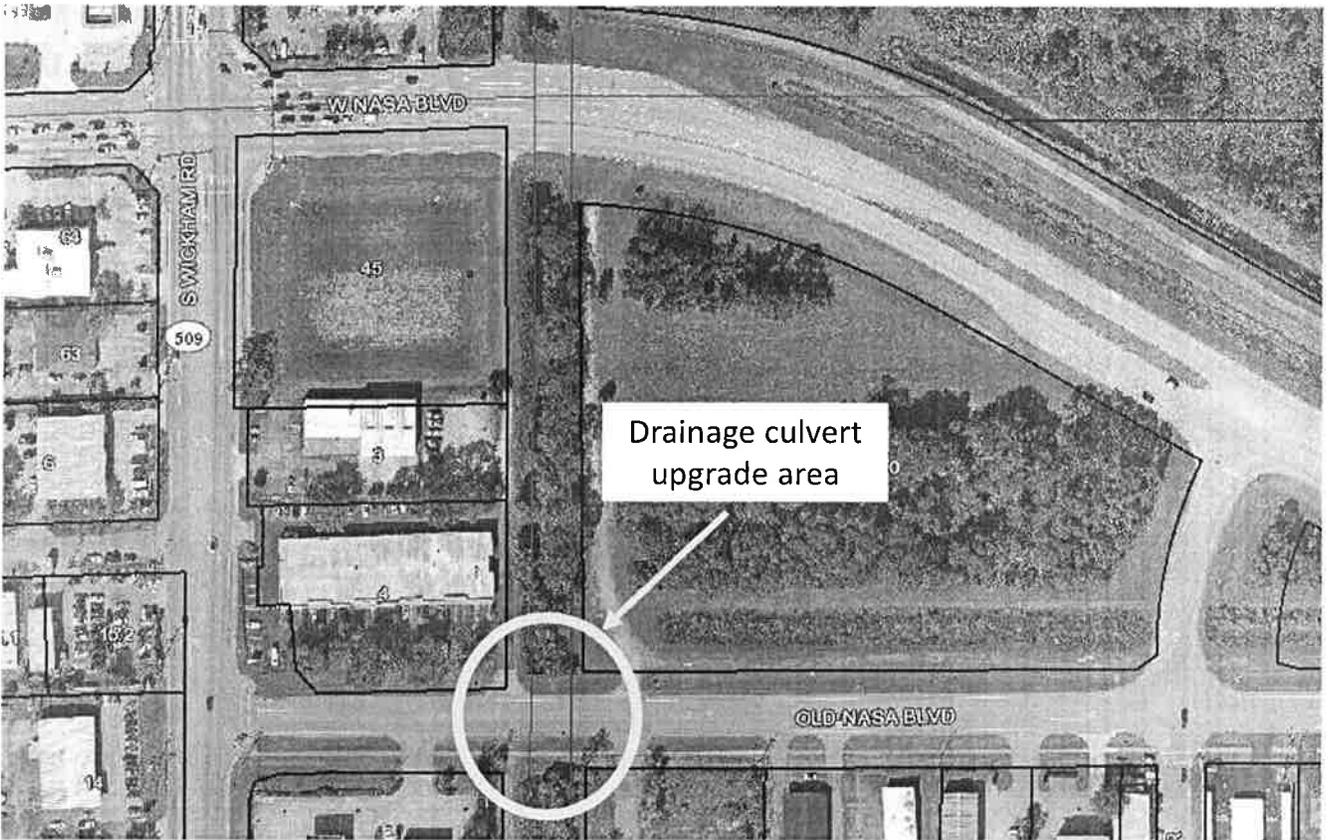


Exhibit E

PUBLIC NOTICE  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

Notice is hereby given that BREVARD COUNTY will consider entering into an agreement for the exchange of real property with NASA INVESTMENT PARTNERS, LLC at the regularly scheduled meeting at 9:00 a.m. on July 23, 2019. This notice is being published as required by Section 125.37, Florida Statutes. The County property being exchanged is described as follows:

LEGAL DESCRIPTION: PARCEL 118B, (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED AS PARCEL NUMBER 118 IN OFFICIAL RECORDS BOOK 8167 PAGE 2472 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING A PORTION OF THE NORTH ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BEVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 87° 52' 24" WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 49.52 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE L-7 CANAL OF THE CRANE CREEK CANAL DISTRICT; THENCE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 67.43 FEET TO THE PONT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00° 19' 11" EAST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 258.63 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL NUMBER 118; THENCE SOUTH 87° 54' 36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 281.06 FEET; THENCE NORTH 15° 43' 55" EAST FOR A DISTANCE OF 37.76 FEET; THENCE NORTH 00° 27' 11" WEST FOR A DISTANCE OF 190.50 FEET; THENCE NORTH 44° 49' 10" EAST FOR A DISTANCE OF 47.38 FEET; THENCE NORTH 87° 52' 25" EAST FOR A DISTANCE OF 210.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 949.57 FEET, AN INCLUDED ANGLE OF 01° 39' 21", AND WHOSE LONG CHORD BEARS NORHT 88° 40' 28" EAST; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 27.44 FEET TO THE PONT OF BEGINNING, CONTAINING 69,733 SQUARE FEET (1.60 ACRES), MORE OR LESS.

The description of the property the County will receive is as follows:

LEGAL DESCRIPTION: PARCEL A (BY SURVEYOR)

A PARCEL OF LAND IN THE NORTHWEST ONE QUARTER OF SECTION 31, TOWNSHIP 27 SOUTH, RANGE 37 EAST, BREVARD COUNTY FLORIDA, BOUNDED ON THE WEST BY CRANE CREEK DRAINAGE DISTRICT CANAL L-7, ON THE SOUTH BY OLD NASA BOULEBARD AS (SHOWN ON CITY OF MELBOURNE NASA BOULEVARD RIGHT OF WAY MAP ROAD PLAT BOOK 1, PAGE 61), AND ON THE NORTH BY REALIGNED NASA BOULEVARD AS DESCRIBED IN OFFICIAL RECORDS BOOK 5862 AT PAGE 6973 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF SAID CANAL L-7 (A 99 FOOT WIDE RIGHT OF WAY) AND THE NORTH RIGHT OF WAY LINE OF OLD NASA BOULEVARD (A 100 FOOT WIDE RIGHT OF WAY); THENCE GO N89°38'40"E ALONG SAID NORTH

Exhibit E

RIGHT OF WAY LINE OF OLD NASA BOULEVARD A DISTANCE OF 215.35 FEET; THENCE GO N00°19'11"W A DISTANCE OF 475.34 FEET TO THE SOUTH RIGHT OF WAY LINE OF THE REALIGNED NASA BOULEVARD (A 100 FOOT WIDE RIGHT OF WAY) AND TO A POINT ALONG AN ARC OF A CURVE; THENCE GO NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 221.90 FEET ALONG NON-TANGENT CURVE CONCAVED TO THE SOUTH HAVING A RADIUS OF 889.57 FEET, A CENTRAL ANGLE OF 14°17'33" AND A CHORD WHICH BEARS N76°58'33"W A DISTANCE OF 221.33 FEET TO THE EAST RIGHT OF WAY LINE OF SAID CANAL L-7; THENCE GO S00°19'11"E, ALONG THE EAST RIGHT OF WAY LINE OF SAID CANAL L-7, A DISTANCE OF 526.55 FEET TO THE POINT OF BEGINNING; CONTAINING 2.500 ACRES +/-.

The principal terms and conditions of the proposed exchange agreement are the following:

1. Prior to closing on Exchange, NASA Investment Partners must build a stormwater retention pond on the parcel being transferred and make improvements to an abutting county drainage canal.
2. NASA Investment Partners has agreed to provide for the maintenance of the stormwater pond in perpetuity.
3. The parties have reserved various drainage, maintenance and road easements over the properties being exchanged.

Specific terms and conditions of the agreement can be viewed at the County Attorney's office 2175 Judge Fran Jamieson Way, Bldg. C between the hours of 9:00 AM and 5:00PM, Monday through Friday prior to the County Commission meeting on July 23, 2019 when the County Commission will consider authorizing the Commission Chair to execute the agreement.

In accordance with the Americans with Disabilities Act and Section 286.26 of the Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify Lucy Hamelers at 321-690-6847 in the Public Works Department, Land Acquisition Section, no later than 48 hours prior to the meeting.

# EXHIBIT F

## USE AGREEMENT

This agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2019 by and between the Board of County Commissioners of Brevard, County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "County", and NASA Investment Partners LLC, a Florida limited liability company having a principal address of 304 S HARBOR CITY BLVD STE 201, MELBOURNE, FL 32901, hereinafter referred to as the "LLC".

### Recitals

Whereas the County owns the public right of way within Crane Creek Drainage District Canal L-7, shown on Exhibit C to the exchange agreement between the parties;

Whereas, the LLC desires north/south ingress and egress over said right of way; and,

Whereas, the County pursuant to the authority set forth in Section 125.01, Florida Statutes, may allow the use of public right of way for purposes which do not conflict with the interests of the public; and

Now therefore, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

The forgoing recitals are true and are incorporated herein by reference.

### Section 1. Term

The initial term of this Agreement shall be thirty (30) years commencing with the date of the execution of this Agreement and shall thereafter be automatically renewed for additional thirty (30) year terms unless terminated by either party, in accordance with paragraph 13 Termination herein.

### Section 2. Premises

The County hereby agrees to permit the LLC to utilize certain portions of the public right of way, hereinafter referred to as "Premises" for the purposes and under the conditions expressed herein and pursuant to Permit \_\_\_\_\_ . The right of way Premises are described as follows: a north to south ingress and egress access as shown on Exhibit C to the exchange agreement between the parties abutting the westernmost boundary of the Crane Creek Drainage District Canal L-7 for its entire length from the W. NASA on the north to Old NASA Rd. on the south.

### Section 3. Purposes

The LLC shall use the Premises for ingress-egress and access from W. NASA Blvd. to Old NASA Rd. and those purposes only, and under the conditions

expressed herein. It is hereby mutually agreed and understood that the use of any improvements now or hereafter located on the Premises shall be for ingress-egress purposes only and not for human occupancy, nor shall such improvements create traffic hazards. LLC shall not install any improvements on, under, or over the access in a manner which causes damage to any other County owned improvements. It is specifically agreed and understood that the use herein set forth shall be the only use consented to by the County, and that failure to comply with this provision shall be considered a material breach of this Agreement, whereupon the County shall be entitled to immediately terminate this Agreement.

It is expressly stipulated that this Agreement and the accompanying permit is a license for permissive use only and that the placing of improvements and/or facilities upon public property pursuant to this Agreement and permit shall not operate to create or vest any property right in said holder.

#### **Section 4. Improvements**

The plans and specifications for all improvements on the Premises, if any, shall be in accordance with all County specifications and shall be submitted as an attachment to the County "Roadway and Easement Improvement Application Form" with appropriate fees, for approval by the County or its designated representative. It is hereby agreed and understood that any improvements placed on or constructed on the Premises and permanently attached thereto, shall remain the property of the LLC and that the LLC retains the right to remove such improvements within forty-five days of the date of termination of this Agreement, whether by breach or by expiration of its natural term. In the event such improvements are not removed within forty-five days of termination, the improvements shall become the property of the County.

#### **Section 5. UTILITIES**

The LLC shall pay all charges for electrical service and other utility services supplied to the LLC at the Premises.

#### **Section 6. Construction, Repairs and Maintenance**

During the term of this Agreement, LLC hereby agrees to construct and maintain improvements within the Premises, if any, in the manner described in this Agreement and as permitted by the County. Improvements shall be constructed and installed in such a manner so as to not cause damage to or interfere with any County improvements or facilities. Any such damage to County improvements or facilities shall be remedied immediately at no cost to the County.

The LLC shall, at its own expense, maintain all permitted LLC-installed improvements, if any, on the Premises and make all necessary repairs and replacements to LLC improvements, if any, on the Premises. Such maintenance, repairs and replacements shall be made promptly as and when necessary.

## Section 7. Illegal, Unlawful or Improper Use

The LLC shall make no unlawful, improper, immoral or offensive use of the Premises, nor will the LLC use the Premises or allow use of the Premises for any purposes other than that hereinabove set forth. Failure of the LLC to comply with this provision shall be considered a material default under this Agreement. In the event any improvement is deemed traffic safety hazard by the County or Florida Department of Transportation, such use shall be deemed an improper use and the Agreement shall be subject to immediate termination.

## Section 8. Indemnification and Insurance

Except where limited by law, the LLC agrees that it will indemnify and save harmless the County from any and all liability, claims, damages, expenses, proceedings and causes of action of every kind and nature arising out of or connected with the LLC's use, occupation, management or control of the Premises, or any improvement placed thereon by the LLC, or any equipment or fixtures used by the LLC in connection with the Premises. The LLC agrees that it will, at its own expense, defend any and all actions, suits or proceedings which may be brought against the County in connection with any negligent, reckless, or intentional wrongful act or omission of the LLC and persons employed or utilized by the LLC as it relates to the Premises, and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in any such action or proceedings, except that the LLC will not be liable under this provision for damages arising out of the injury or damage to persons or property directly caused or resulting from the negligence, recklessness, or intentional wrongful misconduct of the County or any of its agents, servants, or employees. The parties acknowledge specific consideration has been exchanged for the provision. Nothing herein is intended to be or shall be construed as a waiver of the County's sovereign immunity beyond statutory provisions.

- a. The LLC further agrees to provide and maintain at all times during the term of this Agreement, without cost or expense to the County, the following types of insurance. The policy limits required are to be considered minimum amounts:

General Liability Insurance insuring the LLC against any and all claims, demands, demands or causes of action whatsoever for injuries received and damages to property in connection with the use, occupation, management and control of the Premises and the improvements thereon. Such policies of insurance shall insure the LLC in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit for each occurrence.

The LLC and/or its contractors are further required to provide the following insurance: \_\_\_\_\_

- b. A certificate of such insurance policies shall be provided to the Public Works Department, 2725 Judge Fran Jamieson Way, Bldg. A-201, Viera, Florida, 32940, demonstrating that the aforementioned insurance requirements have been met within ten days of the date of execution of this Agreement and annually upon insurance renewal. The certificates of insurance shall indicate

that the aforementioned policies have been endorsed to name the County as an additional insured and that these policies may not be canceled or modified without thirty days prior written notice to the County.

- c. The LLC shall include in any contract for work upon or involving the Premises that the contractor shall indemnify and hold harmless County from liabilities, damages, losses and costs, including but not limited to attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the contract.
- d. The LLC shall notify the County immediately in writing of any potentially hazardous condition existing on or about the Premises.
- e. All personal property, equipment, fixtures, structures or improvements constructed or placed on or about the Premises shall be at the risk of the LLC and the County shall not be liable for any damage or loss to personal property, equipment, fixtures, structures, or improvements located thereon for any cause whatsoever. The LLC agrees and understands that the County does not and shall not carry liability, theft, or fire insurance on any of said improvements or facilities to cover the LLC's interests therein.
- f. At the time of execution of this Agreement, any existing improvements installed by the LLC, if any, on the Premises will be the responsibility of the LLC. In the event this existing landscaping improvements causes damage to County property, to include but not limited to, sidewalk/roadway/curb and gutter/drainage inlets, the LLC will be responsible for immediate repair to County property. If the LLC fails to repair the damage, the LLC will pay the County all costs incurred by the County to repair the damage.
- g. Nothing contained in this Agreement shall be construed as a waiver of County's right to the protections of and/or caps on damages afforded by sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the County's potential liability under state or federal law.

### Section 9. Right of Entry

It is expressly stipulated that this Agreement is a license for permissive use only and that the construction within and/or upon public property pursuant to this Agreement shall not operate to create or vest any property right in said holder. This Agreement does not relieve LLC of local or other jurisdictional requirements. The County or its agents may enter in and on the Premises at any time for any purpose, including inspecting such property or performing other duties as are required by law or by the terms of this Agreement.

### Section 10. Compliance with Statutes

The LLC shall promptly execute and comply with all statutes, ordinances, rules, regulations, and requirements of all local, state and federal governmental; bodies applicable to the Premises, for the correction, prevention and abatement of

nuisances or other grievances in, upon, or connected with the Premises during the term of the Agreement.

### Section 11. Assignability

The LLC shall not assign its responsibilities under this Agreement without the prior written consent of the County. In the event the LLC does assign this Agreement, the LLC and any such assigns shall be jointly and severally responsible for the LLC's responsibilities under this Agreement.

### Section 12. Independent Contractor

The LLC shall perform the services under this Agreement as an Independent Contractor and nothing herein shall be construed to be inconsistent with this relationship or status. Nothing in the Agreement shall be interpreted or construed to constitute that the LLC or any of its agents or employees to be the agent, employee or representative of the County.

### Section 13. Termination

This Agreement may be terminated with or without cause by either party upon forty-five days' written notice thereof to the other party; provided, however, that upon termination, the LLC shall, at the request of the County, remove all improvements made by LLC to the Premises, if any, or, in the alternative, reimburse the County for the cost of such removal.

### Section 14. Right to Audit Records

In performance of this Agreement, the LLC shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the LLC in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County. The LLC shall retain all documents, books and records for a period of five years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the LLC by the County in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

### Section 15. Notice

Notice under this Agreement shall be given to the:

Brevard County Public Works Department  
Attn: Support Services Manager  
2725 Judge Fran Jamieson Way, Bldg. A-201  
Viera, Florida 32940

NASA INVESTMENT PARTNERS, LLC

304 S HARBOR CITY BLVD STE 201, MELBOURNE, FL 32901  
Attn: Dale Dettmer

### Section 16. Waiver

The waiver by the County of any of the LLC's obligations or duties under this Agreement shall not constitute a waiver of any other obligation or duty of the LLC under this Agreement.

### Section 17. Entirety

This Agreement represents the understanding between the parties in its entirety and no other agreements, either oral or written, exist between the County and the LLC. 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.

### Section 18. Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

### Section 19. Attorney's Fees and Venue

In the event of any legal action to enforce, interpret, or construe the terms of this Agreement, each party shall bear its own attorney's fees and costs. Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida, and any trial shall be non-jury.**

### Section 20. Construction of Agreement

The parties hereby agree that they have reviewed this Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement.

DONE, ORDERED and ADOPTED in Regular Session this 23 day of July 2019.

ATTEST:

  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
BRYAN A. LOBER, VICE CHAIR  
As approved by the Board July 23, 2019

Reviewed for legal form and content:

\_\_\_\_\_  
Assistant County Attorney

NASA INVESTMENT PARTNERS LLC

\_\_\_\_\_  
(Witness)

BY: \_\_\_\_\_  
(MANAGER)

STATE OF FLORIDA  
COUNTY OF BREVARD

BEFORE ME personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing Agreement, and they acknowledged before me that they executed the same for the purposes described therein.

WITNESS my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires \_\_\_\_\_

CERTIFICATE

I, the undersigned, \_\_\_\_\_, do HEREBY CERTIFY that he is the Manager of the LLC and fully vested with the authority to act in behalf of the NASA INVESTMENT PARTNERS, LLC in the execution of this agreement.

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name/Title)  
Manager, NASA Investment Partners, LLC

I HEREBY CERTIFY that on this day personally appeared before me \_\_\_\_\_, to me known to be the person who signed the foregoing Certificate as such officer, and acknowledged the execution thereof to be his free act and deed on behalf of LLC that he affixed thereto the official seal of LLC; and that as such officer, he is duly authorized to do so.

WITNESS my signature and official seal this \_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission Expires \_\_\_\_\_