

**INFRASTRUCTURE AGREEMENT
FOR
POWER LINE ROAD INTERSECTION IMPROVEMENTS**

This **INFRASTRUCTURE AGREEMENT FOR POWER LINE ROAD INTERSECTION IMPROVEMENTS** (hereinafter referred to as the “**Agreement**”) is made and entered into on the Effective Date (as defined in Section 7 below), by and between GLK Real Estate, LLC, a Florida limited liability company, whose address is 346 E. Central Avenue, Winter Haven, FL 33880 (hereinafter referred to as “**Developer**”), its successors in title and assigns, and the CITY OF HAINES CITY, a municipal corporation duly enacted under the laws of the State of Florida, whose address is 620 East Main Street, Haines City, FL 33844 (hereinafter referred to as “**Haines City**”), Developer and Haines City are hereinafter referred to individually as a “**Party**” and collectively as the “**Parties.**”

WITNESSETH

WHEREAS, Power Line Road (hereinafter referred to as “**Road**”) is a public roadway owned and maintained by Polk County, Florida for public use; and

WHEREAS, the Developer is the owner of certain real property commonly referred to as “Crosswinds East” located in Haines City, Florida, legally described on the attached Exhibit “A” (the “**Project**”), which is adjacent to and has access to the Road;

WHEREAS, the Project is currently situated within the boundaries of Haines City; and

WHEREAS, the Project is located adjacent to the Road which is a roadway under the jurisdiction of Polk County, Florida; and

WHEREAS, GLK Real Estate, LLC or any other identified entity that would be the developer through purchase of said project, propose to design, permit and construct the intersection improvements as warranted by the development and identified in the current Traffic Study Produced by Raysor Transportation Consulting (hereinafter referred to as the “Intersection Improvements”). Below are the three identified intersections:

1. Power Line Road at Snell Creek Road;
2. Power Line Road at Carl Boozer Avenue; and
3. Power Line Road at Baker Dairy Road

The Developer has advised the City that Polk County may be requesting state appropriated funds to construct Phase 2 of Power Line Road which would include the above identified Intersection Improvements. In the event that Polk County is unsuccessful in acquiring the funding from the

2025 State of Florida Legislative Session, then the Developer proposes to commence the construction of development related improvements at the intersections identified above. In addition, if Polk County receives the required funding from the State of Florida, but the funding is delayed for an extended period of time, then the Developer will proceed with construction of the identified Intersection Improvements listed above in accordance with the timeframes laid out in this Agreement; and

WHEREAS, the proposal by the Developer, if acceptable to the City, will allow all of the lots being developed in Crosswinds East Phases 1A, 1B, 1C and 2C (1,445 residential units, consisting of 1,007 single family residences and 438 townhomes) to be approved for building residential units with building permits and Certificate of Occupancy, providing the builder constructs the homes according to the current building codes and receives a final inspection from the local building department and complies with all other local land development regulations; and

WHEREAS, the City Commission of the City of Haines City has approved 1,223 residential units for the Crosswinds East project (located within Phases 1A, 1B, 1C) which require access to the Road by passage of Resolution No. 24-1834 as recorded in the public records of Polk County, Florida on October 23, 2024;

WHEREAS, the City Commission of the City of Haines City has not yet approved the Final Plat for Phase 2C of the Crosswinds East project which requires access to the Road; and

WHEREAS, the Developer proposes to construct certain Intersection Improvements to the Polk County road system as described on Exhibit “A” which will provide access to the Project from the Road; and

WHEREAS, Developer with other landowners and Polk County are parties to that Infrastructure and Impact Fee Credit Agreement for the Power Line Road – Northern Extension Phase 1, as recorded in O.R. Book 12609, Page 1457, of the public records of Polk County, Florida on March 9, 2023 (the “**Phase 1 Infrastructure Agreement**”); and

WHEREAS, due to the Phase 1 Infrastructure Agreement, 785 single family residential units and 438 multifamily residential units in Phase 1 of the Crosswinds East project have transportation concurrency and 603 single family residential units in Phase 2 of the Crosswinds East project have transportation concurrency; and

WHEREAS, Haines City laws and policies governing access to the City road system at the time of the execution of this Agreement are referenced in the City of Haines City Land Development Regulations (“**LDR**”); and

WHEREAS, the Parties desire to enter into this Agreement to (i) establish the respective rights and obligations of the Developer and Haines City in accordance with the terms and conditions of this Agreement, and (ii) to provide clarity concerning the Developer’s obligations to fund, design, and construct the Intersection Improvements necessary for the City to subsequently approve building permits and Certificates of Occupancy for the Crosswinds East project.

NOW, THEREFORE, in consideration of the premises hereof, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

RECITALS AND AGREEMENT CONDITIONS

1. **Recitals**

The Recitals stated above are an integral part of this Agreement and are incorporated herein by reference as if fully set forth herein.

2. **Design and Construction**

The Parties agree that the Developer shall design, permit and construct the Intersection Improvements to the Polk County road system which will provide access to the Project (the “**Improvements**”), all in accordance with Polk County standards, Polk County Land Development Regulations, including applicable underground utilities; electric, telephone and similar services set forth in the Administration and Procedures Manual of the Land Development Regulations. The Developer shall pay all design, permit and construction costs whatsoever in relation to the construction of the Intersection Improvements

The Parties agree that the proposed construction of the Intersection Improvements meets the objectives of Polk County Improvements Program or Comprehensive Plan for identified roadway capacity needs. The parties acknowledge that Polk County will review and approve construction plans for the Intersection Improvements, which are set forth in this Agreement and which do not include any offsite utilities. The Intersection Improvements shall include the following:

- A. Construct the Intersection Improvements, including, without limitation, all associated infrastructure, roadways, drainage, sidewalks, utility relocations and landscaping.
- B. The Developer, at the Developer’s expense subject to waiver of permit fees or reimbursement, if and as applicable, shall apply for and obtain all regulatory permits for the Intersection Improvements as required by Polk County and the Southwest Florida Water Management District. Copies of these permits shall be provided to the City.
- C. All construction activities will be inspected by Polk County prior to acceptance and ownership of the Segment Improvements by Polk County.

3. **Funding.**

The parties acknowledge that in FY 2024/2025, Polk County may be requesting state appropriated funds to construct Phase 2 of Power Line Road which would include the Intersection Improvements. In the event that (i) Polk County is successful in acquiring the funding from the 2025 State of Florida Legislative Session for the construction of Phase 2 of Power Line Road, or (ii) Polk County is unsuccessful in acquiring the funding from the 2025 State of Florida Legislative Session for the construction of Phase 2 of Power Line Road, then

the Developer shall proceed with construction of the identified Intersection Improvements listed above (which construction shall commence no later than December 31, 2025) and such Intersection Improvements shall be completed no later than December 31, 2026.

4. **Changes to Scope of Intersection Improvements.** The Parties expressly acknowledge and agree that any proposed material modification, revision or addition to the scope of the Intersection Improvements (as set forth herein) shall be at the sole cost and obligation of the Developer. The Parties expressly acknowledge and agree that the City shall not have any cost or obligation whatsoever in relation to the Intersection Improvements or any change order cost related to the Intersection Improvements.
5. **Additional Conditions.** The parties acknowledge and agree that the Developer shall be obligated to seek further approvals from the City Commission of the City of Haines City concerning Phase 2C of the Crosswinds East project which requires access to the Road (i.e., a Final Plat for Phase 2C) before the Developer can request building permits and Certificates of Occupancy from the City for lots within Phase 2C of the Crosswinds East project.

6. **Notices**

Whenever either Party desires to give notice to the other, it must be given by written notice delivered: (i) in person, (ii) via registered or certified United State mail, postage prepaid with return receipt requested, (iii) via nationally recognized overnight delivery service, or (iv) by email, and addressed to the Party whom it is intended pursuant to the notice information set forth herein or the place last specified by each Party in accordance with this Notices provision. Any notice, request, demand, tender or other communication under this Agreement shall be in writing and addressed for each party to the address set forth below, and shall be deemed to have been duly given (i) at the time and on the date when personally delivered, (ii) upon delivery if deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, (iii) upon being deposited with a nationally recognized commercial courier for next day delivery, or (iv) at the time and date when the transmission was sent if delivered by electronic mail if transmitted before 4:30 p.m. ET on a business day, or the following business day if transmitted after 4:30 p.m. ET on a business day or not on a business day.

6.1 **Notice to HAINES CITY shall be:**

City of Haines City
300 North 5th Street
Haines City. FL 33844
Attn: Public Works
James.Keene@hainescity.com

City of Haines City
620 E. Main Street
Haines City, FL 33844
Attn: Development Services
Richard.Greenwood@hainescity.com

With a copy to:
Reilly International Law Firm, P.A.
PO Box 2039
Haines City, FL 33845
Attn: Fred Reilly
fredreilly@attorney-solicitor.com

Notice to the Developer

GLK Real Estate, LLC
Rennie Heath
346 E. Central Avenue
Winter Haven, FL 33880
rheath@heathfl.com

With a copy to:
Richard Straughn, Esquire
Straughn & Turner, P.A.
255 Magnolia Ave SW
Winter Haven, FL 33880-2902
rstraughn@straughnturner.com

7. **Effective Date**

The Effective Date of this Agreement shall be the date in which Haines City executes this Agreement.

8. **Default and Remedy**

If either Party materially defaults in its obligations under this Agreement and fails to cure the same within thirty (30) days after the date the Party receives written notice of the default from the other non-defaulting Party, then the non-defaulting Party shall have the right to (i) immediately terminate this Agreement by delivering written notice to the materially defaulting Party, and (ii) pursue any and all remedies available in law, equity, and under this Agreement, without limitation, any amounts due to such Party under this Agreement.

9. **Limitation of Liability**

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NON-PERFORMANCE OR BREACH OF THIS CONTRACT BY CITY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE. NOTHING CONTAINED IN THIS PARAGRAPH OR ELSEWHERE IN THIS AGREEMENT IS IN ANY WAY INTENDED EITHER TO BE A WAIVER OF THE LIMITATION PLACED UPON THE CITY'S LIABILITY AS SET FORTH IN SECTION 768.28, FLORIDA STATUTES, OR TO EXTEND THE CITY'S LIABILITY BEYOND THE LIMITS ESTABLISHED IN SAID SECTION 768.28; AND NO CLAIM OR AWARD AGAINST THE CITY SHALL INCLUDE ATTORNEY'S FEES, INVESTIGATIVE COSTS, EXPERT FEES, SUIT COST OR PRE-JUDGEMENT INTEREST.

10. **Indemnification**

The Developer shall indemnify, defend (by counsel reasonably acceptable to Haines City), protect and hold harmless Haines City and its officers, employees and agents from and against any and all claims, demands, actions, causes of action, suits, liabilities, penalties, forfeitures, damages, losses, and expenses whatsoever (without limitation, attorneys' fees, costs, and expenses incurred during negotiation, through litigation and all appeals therefrom) arising out of or resulting from the design, permitting and installation of the Segment Improvements that are caused in whole or in part by an act or omission of the Developer, its engineers, designers, contractors, subcontractors, material suppliers, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

The provisions of this Section 9 shall survive the expiration or earlier termination of this Agreement.

11. **Recordation**

Within fourteen (14) days after the Parties execute this Agreement, Haines City shall record this Agreement in the Public Records of Polk County, Florida. If this Agreement is amended, canceled, modified, or extended, Haines City shall also record a fully executed amendment or modification to this Agreement in the public records of Polk County, Florida.

12. **Modification**

This Agreement may only be modified by a written amendment or modification fully and properly executed by the Parties. No oral modifications will be effective or binding.

13. **Integration**

This Agreement sets forth the entire agreement between the Parties with respect to its subject matter and that there are no promises or understandings other than those stated herein.

14. **Counterparts**

This Agreement may be executed in multiple counterparts each of which shall be an original, but which collectively shall form a single agreement.

15. **Attachments**

All attachments or exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.

16. **Pre-Suit Mediation.** Disputes arising under this Agreement must first be mediated by Florida Supreme Court-certified Civil Mediator in accordance with Chapter 44, Florida Statutes. The Parties agree that the mediation shall occur within thirty (30) days of the date mediation is requested by either Party in writing. The mediator shall be agreed upon between the Parties. But, if the Parties are unwilling or unable to agree to a mediator, each Party shall recommend a mediator and the two recommended mediators shall designate a mediator for the mediation. The Parties agree to mediate in good faith, be bound by any mediation settlement agreement (if a settlement is reached), pay mediator fees promptly and share them on an

equal basis unless otherwise agreed upon by the Parties. Litigation may not be commenced until after mediation has been declared an impasse by the mediator without a mediation settlement agreement. The confidentiality provisions of the Mediation Confidentiality and Privilege Act (Section 44.403, Florida Statutes) shall apply to any such pre-suit mediation.

17. **Litigation and Attorney's Fees.** The Parties hereby consent to the sole and exclusive jurisdiction and venue for any action relating to the construction, interpretation, of enforcement of this Agreement to be in or for the Tenth Judicial Circuit, in Polk County, Florida. In the event either Party to this Agreement should bring suit to enforce or interpret any provision hereof, the prevailing party shall be entitled to recover reasonable attorney's fees, paralegal's fees, and costs incurred, whether the same be incurred in litigation at the trial level, or upon appeal.

18. **Governing Law**

This Agreement and the rights and obligations of the Parties hereunder shall be interpreted, governed by, construed under, and enforced in accordance with the applicable laws of the State of Florida, and the ordinances, rules and regulations of Haines City, but not limited to the Haines City Comprehensive Plan, Land Development Regulations and Utility Code, and any amendments thereto in effect as of the Effective Date of this Agreement.

19. **Binding Effect**

This Agreement shall be binding upon and inure to the benefit of all successors and/or assigns of the Parties hereto.

20. **Days**

The term days in this Agreement shall mean calendar days, unless otherwise so noted. If a date for performance falls on a Saturday, Sunday or legal State of Florida or federal holiday, the date for performance shall be extended until the next calendar day that is not a Saturday, Sunday or legal holiday.

21. **Severability**

If any section, phrase, sentence or portion of this Agreement is, for any reason, held to be invalid by any court of competent jurisdiction, such portion shall be deemed as separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

22. **Public Records**

In accordance with Section 119.0701, Florida Statutes, Developer (referred to as the "Contractor" for purposes of this paragraph) agrees to comply with the following public record laws:

- a) The Contractor acknowledges Haines City obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the materials created under this Agreement. The Contractor further acknowledges that

the constitutional and statutory provisions control over the terms of this Agreement. In association with its performance pursuant to this Agreement, the Contractor shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.

- b) Without in any manner limiting the generality of the foregoing, to the extent applicable, the Contractor acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:
- 1) Keep and maintain public records required by Haines City to perform the services required under this Agreement;
 - 2) Upon request from Haines City's Custodian of Public Records or his/her designee, provide Haines City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
 - 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to Haines City; and
 - 4) Upon completion of this Agreement, transfer, at no cost, to Haines City all public records in possession of the Contractor or keep and maintain public records required by Haines City to perform the service. If the Contractor transfers all public records to Haines City upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements, and shall thereafter be relieved of any further obligation with respect to such public records that have been transferred to Haines City. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Haines City, upon request from Haines City's Custodian of Public Records, in a format that is compatible with the information technology systems of Haines City.
- c) 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 HAINES CITY'S CUSTODIAN OF PUBLIC RECORDS AT:

RECORDS MANAGEMENT:

CITY OF HAINES CITY
620 EAST MAIN STREET
HAINES CITY, FL 33844
ATTN: ERICA ANDERSON

TELEPHONE: 863-421-9921

EMAIL: slauther@hainescity.com

[Signature Blocks on Following Pages]

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

ATTEST:

City of Haines City, Florida
a Florida municipal corporation

Sharon Lauther, MMC, City Clerk

Omar Arroyo, Mayor

Approved As To Form And Legality:

Fred Reilly, City Attorney
Date: _____, 2024

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by Omar Arroyo, Mayor-Commissioner and Sharon Lauther on behalf of the City of Haines City, a Florida municipal corporation, who are personally known to me or who produced _____ as identification.

(NOTARY SEAL)

Notary Public – State of Florida

Print Name: _____

My Commission Expires: _____

Signed, sealed and delivered in the

GLK Real Estate, LLC
A Florida limited liability company

Presence of:

By: _____

Print Name: _____

Print Name: _____

Title: _____

Print Name: _____

Date: _____, 2024

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by _____, as _____, of GLK Real Estate, LLC, a Florida limited liability company, who is personally known to me or who produced _____ as identification.

(NOTARY SEAL)

Notary Public – State of Florida

Print Name: _____

My Commission Expires: _____

Exhibit "A"

"Project Legal Description"