

SUBJECT: Mabry Marketplace Off-Site **PI# 4506**
DEPARTMENT: Development Review Division of Development Services Department
SECTION: Project Review & Processing
BOARD DATE: October 11, 2022
CONTACT: Lee Ann Kennedy

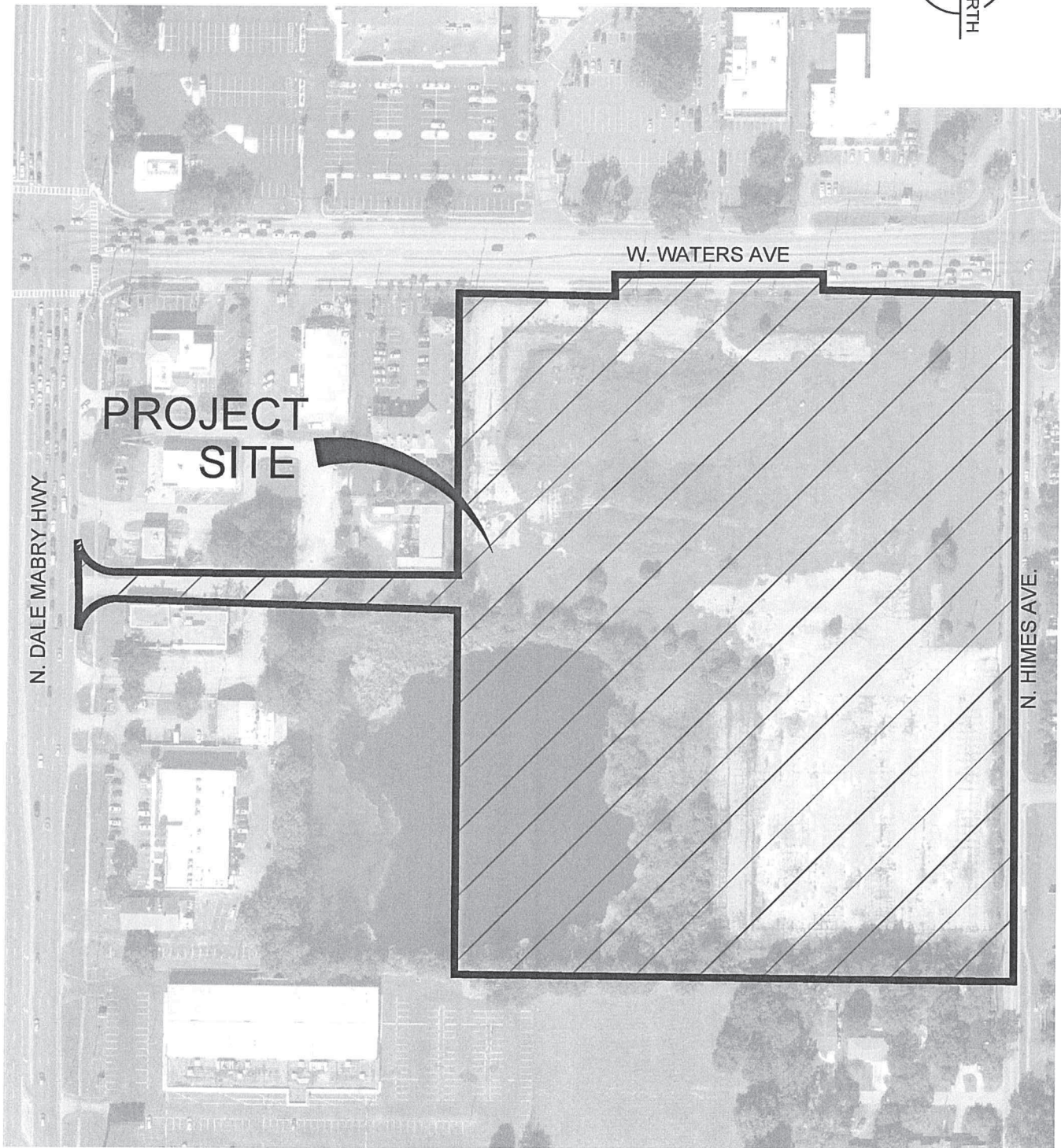
RECOMMENDATION:

Grant permission to the Development Services Department to administratively accept the Required Off-Site Improvement Facilities to serve Mabry Marketplace Off-Site located in Section 28, Township 28, and Range 18 (roads & drainage) for Maintenance upon proper completion, submittal and approval of all required documentation. Also provide the administrative rights to release the warranty security upon expiration of the warranty period, warranty inspection and correction of any failure, deterioration or damage to the Improvement Facilities. Accept a Warranty Bond in the amount of \$37,378.00 and authorize the Chair to execute the Agreement for Warranty of Required Off-Site Improvements.

BACKGROUND:

On January 14, 2022, Permission to construct was issued for Mabry Marketplace Off-Site. Construction has been completed in accordance with the approved plans and has been inspected and approved by the appropriate agencies. The developer has provided the required Bond, which the County Attorney's Office has reviewed and approved. The developer is Mabry Marketplace, LLC and the engineer is Kimley Horn.

Drawing name: K:\TAM_Civil\145189 - WMG Development\002 - EOS\CADD\Exhibit\2021.09.21 - Aerial Exhibits\Map Exhibits-Vicinity.dwg location Sep 19, 2022 4:21pm by: Michael.Cherry
 This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and approval by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



HILLSBOROUGH COUNTY, FLORIDA
 SECTION 28, TOWNSHIP 28 SOUTH, RANGE 18 EAST

SCALE	1"=200'
DESIGNED BY	
DRAWN BY	
CHECKED BY	

Kimley»Horn
 © 2022 KIMLEY-HORN AND ASSOCIATES, INC.
 201 NORTH FRANKLIN STREET, SUITE 1400
 TAMPA, FL 33602
 PHONE (813) 620-1460
 WWW.KIMLEY-HORN.COM

DATE	09/19/22
PROJECT NO.	145189002

MABRY MARKETPLACE
 VICINITY MAP

DESIGN ENGINEER:	
FLORIDA P.E. LICENSE NUMBER:	

SHEET NUMBER	EX-1
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OWNER/DEVELOPER'S AGREEMENT FOR WARRANTY OF REQUIRED OFF-SITE IMPROVEMENTS

This Agreement made and entered into this _____ day of _____, 20_____, by and between Mabry Marketplace, LLC., hereinafter referred to as the "Owner/Developer" and Hillsborough County, a political subdivision of the State of Florida, hereinafter referred to as the "County."

Witnesseth

WHEREAS, the Board of County Commissioners of Hillsborough County has adopted site development regulations which are set forth in the Land Development Code (hereafter the "Site Development Regulations"); and

WHEREAS, the Site Development Regulations authorize the County to accept ownership and/or maintenance responsibility of off-site improvement facilities constructed by the Owner/Developer in conjunction with site development projects in Hillsborough County, provided that the improvement facilities meet County standards and are warranted against defects in workmanship and materials for a period of two (2) years; and

WHEREAS, the Owner/Developer has completed certain off-site improvement facilities in conjunction with the site development project known as Mabry Marketplace (hereafter referred to as the "Project"); and

WHEREAS, pursuant to the Site Development Regulations, the Owner/Developer has requested the County to accept the aforementioned off-site improvement facilities for ownership and/or maintenance; and

WHEREAS, the Owner/Developer has represented to the County that the completed improvement facilities have been constructed in accordance with the approved plans and all applicable County regulations and technical specifications; and

WHEREAS, the Owner/Developer has offered to warranty the off-site improvement facilities against any defects in workmanship and materials and to correct any such defects which arise during the warranty period.

NOW, THEREFORE, in consideration of the intent and desire of the Owner/Developer as set forth herein, and to gain acceptance for ownership and/or maintenance by the County of the aforementioned off-site improvement facilities, the Owner/Developer and the County agree as follows:

1. The terms, conditions and regulations contained in the Site Development Regulations are hereby incorporated by reference and made a part of this Agreement.
2. For a period of two (2) years following the date of acceptance of the off-site improvement facilities for ownership and/or maintenance by the County, the Owner/Developer agrees to warrant the off-site improvement facilities described below against failure, deterioration or damage resulting from defects in workmanship or materials. The Owner/Developer agrees to correct within the warranty period any such

failure, deterioration or damage existing in the improvement facilities so that said improvement facilities thereafter comply with the technical specifications contained in the approved plans and Site Development Regulations. The off-site improvement facilities to be warranted constructed in conjunction with the Project are as follows:

Please reference the attached opinion of probable cost for the Mabry Marketplace Development

3. The Owner/Developer agrees to, and in accordance with the requirements of the Site Development Regulations, does hereby deliver to the County an instrument ensuring the performance of the obligations described in paragraph 2 above, specifically identified as:
- a. Letter of Credit, number _____, dated _____, with _____ by order of _____, or
 - b. A Warranty Bond, dated 8-15-2022 with Mabry Marketplace, LLC as Principal, and Merchants National Bonding, Inc. as Surety, and
 - c. Cashier/Certified Check, number _____, dated _____ be deposited by the County into a non-interest bearing escrow account upon receipt. No interest shall be paid to the Owner/Developer on funds received by the County pursuant to this Agreement.

A copy of said letter of credit, warranty bond, or cashier/certified check is attached hereto and by reference made a part hereof.

4. In the event the Owner/Developer shall fail or neglect to fulfill its obligations under this Agreement and as required by the Site Development Regulations, the Owner/Developer shall be liable to pay for the cost of reconstruction of defective off-site improvement facilities to the final total cost, including but not limited to engineering, legal and contingent costs, together with any damages, either direct or consequential, which the County may sustain as a result of the Owner/Developer's failure or neglect to perform.
5. The County agrees, pursuant to the terms contained in the Site Development Regulations, to accept the off-site improvement facilities for maintenance, at such time as:
- a) The Engineer-of-Record for the Owner/Developer certifies in writing that said off-site improvement facilities have been constructed in accordance with:
 - (1) The plans, drawings, and specifications submitted to and approved by the County's Development Review Division of Development Services Department; and
 - (2) All applicable County regulations relating to the construction of the off-site improvement facilities; and
 - b) Authorized representatives of the County's Development Review Division of Development Services Department have reviewed the Engineer-of-Record's

certification and have not found any discrepancies existing between the constructed improvement facilities and said certification.

- 6. If any part of this Agreement is found invalid and unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and the intentions of the parties can be effectuated.
- 7. This document, including all exhibits and other documents incorporated herein by reference, contains the entire agreement of the parties. It shall not be modified or altered except in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the date set forth above.

ATTEST:

Owner/Developer:

Jamie M. Easton
 Witness Signature

By: [Signature]
 Authorized Corporate Officer or Individual
 (Sign before Notary Public and 2 Witnesses)

Jamie M. Easton
 Printed Name of Witness

Jonathan Brumleve
 Printed Name of Signer

[Signature]
 Witness Signature

Manager
 Title of Signer

Jake Bohnhoff
 Printed Name of Witness

1200 Network Centre Dr Effingham, IL 62401
 Address of Signer

217-540-2191
 Phone Number of Signer

CORPORATE SEAL
(When Appropriate)

CINDY STUART
Clerk of the Circuit Court

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____

APPROVED BY THE COUNTY ATTORNEY
 BY: [Signature]
 Approved As To Form And Legal Sufficiency.

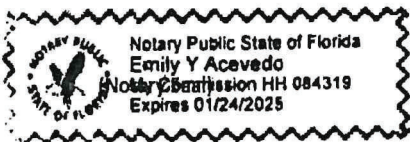
Representative Acknowledgement

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this
19th day of September, 2022, by Jonathan Brumleve as
(day) (month) (year) (name of person acknowledging)
Manager for Moby Marketplace, LLC
(type of authority, i.e.g. officer, trustee, attorney in fact) (name of party on behalf of whom instrument was executed)

Personally Known OR Produced Identification

Type of Identification Produced



Emily Y. Acevedo
(Signature of Notary Public - State of Florida)

Emily Y. Acevedo
(Print, Type, or Stamp Commissioned Name of Notary Public)

HH 084319
(Commission Number) (Expiration Date)

Individual Acknowledgement

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this
____ day of _____, _____, by _____
(day) (month) (year) (name of person acknowledging)

Personally Known OR Produced Identification

Type of Identification Produced

(Notary Seal)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Commission Number) (Expiration Date)

THEN THIS OBLIGATION SHALL BE NULL AND VOID; OTHERWISE, TO REMAIN IN FULL FORCE AND EFFECT UNTIL November 11, 2024

SIGNED, SEALED AND DATED this 15th day of August, 2022

ATTEST:


Principal Signature

(Seal)




Surety Signature Debra Hutts

(Seal)




ATTEST:


Attorney-in-fact Signature Debra Hutts

(Seal)

APPROVED BY THE COUNTY ATTORNEY

BY 
Approved As To Form And Legal Sufficiency.

MERCHANTS
BONDING COMPANY™
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually, Catherine M Krueger; Debra Hutts; Thomas G Woodason

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 9th day of April, 2021.

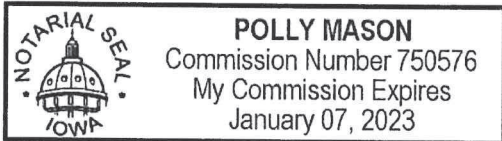


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 9th day of April, 2021, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



Polly Mason
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 15th day of August, 2022.



William Warner Jr.
Secretary

Waters Avenue
ESTIMATED OPINION OF PROBABLE COST

DESCRIPTION	ESTIMATED TOTAL QUANTITY	UNIT	UNIT PRICE	ESTIMATED TOTAL AMOUNT
Demolition	1	LS	\$ 7,500.00	7,500.00
Earthwork	1	LS	\$ 9,000.00	9,000.00
Type B Stabilization (12")	2125	SY	\$ 8.00	17,000.00
Optional Base, Base Group 9	2125	SY	\$ 8.00	17,000.00
Friction Course FC 5 (1.5")	2125	SY	\$ 8.00	17,000.00
Type SP Structural Course (0.75")	2125	SY	\$ 8.00	17,000.00
Inlets, Type II	1	EA	\$ 4,000.00	4,000.00
Manhole	1	EA	\$ 4,000.00	4,000.00
18" RCP	40	LF	\$ 175.00	7,000.00
Concrete Curb & Gutter, Type F	225	LF	\$ 40.00	9,000.00
Concrete Sidewalk	1440	SF	\$ 7.00	10,080.00
Striping & Signage	1	LS	\$ 6,000.00	6,000.00
ESTIMATED TOTAL COST				\$ 124,580.00
WARRANTY BOND TOTAL (10% OF TOTAL COST)				\$ 12,458.00

NOTES:

The Estimated Costs have been based on the

The estimated costs have been developed using the following assumptions:

This opinion of probable cost was prepared using some interpretation and approximation to further define the proposed improvements. Therefore, there may be instances where the proposed estimates will deviate from the planning documents in order to efficiently define the intended scope of work.

Project Engineer: _____

Nathan Q. Lee, PE #69843
 Kimley-Horn and Associates, Inc.
 201 North Franklin Street, Suite 1400
 Tampa, FL 33602

Date: 8/22/2022



Kimley-Horn does not control the cost of labor, materials, equipment of services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgement as an experienced and qualified professional, familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator.

Himes Avenue
 ESTIMATED OPINION OF PROBABLE COST

DESCRIPTION	ESTIMATED TOTAL QUANTITY	UNIT	UNIT PRICE	ESTIMATED TOTAL AMOUNT
Demolition	1.00	LS	\$ 11,700.00	11,700.00
Type B Stabilization (12")	2125	SY	\$ 8.00	17,000.00
Optional Base, Base Group 9	2125	SY	\$ 8.00	17,000.00
Friction Course FC 9.5 (1.5")	4250	SY	\$ 8.00	34,000.00
Type SP Structural Course (0.75")	4250	SY	\$ 8.00	34,000.00
Inlets, Type III	2	EA	\$ 4,000.00	8,000.00
Manhole	2	EA	\$ 4,000.00	8,000.00
14" x 23" ERCP	390	LF	\$ 105.00	40,950.00
Concrete Curb & Gutter, Type F	845	LF	\$ 40.00	33,800.00
Concrete Sidewalk	4250	SF	\$ 7.00	29,750.00
Striping & Signage	1	LS	\$ 15,000.00	15,000.00
ESTIMATED TOTAL COST				\$ 249,200.00
WARRANTY BOND TOTAL (10% OF TOTAL COST)				\$ 24,920.00

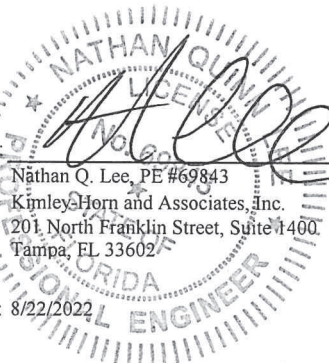
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