

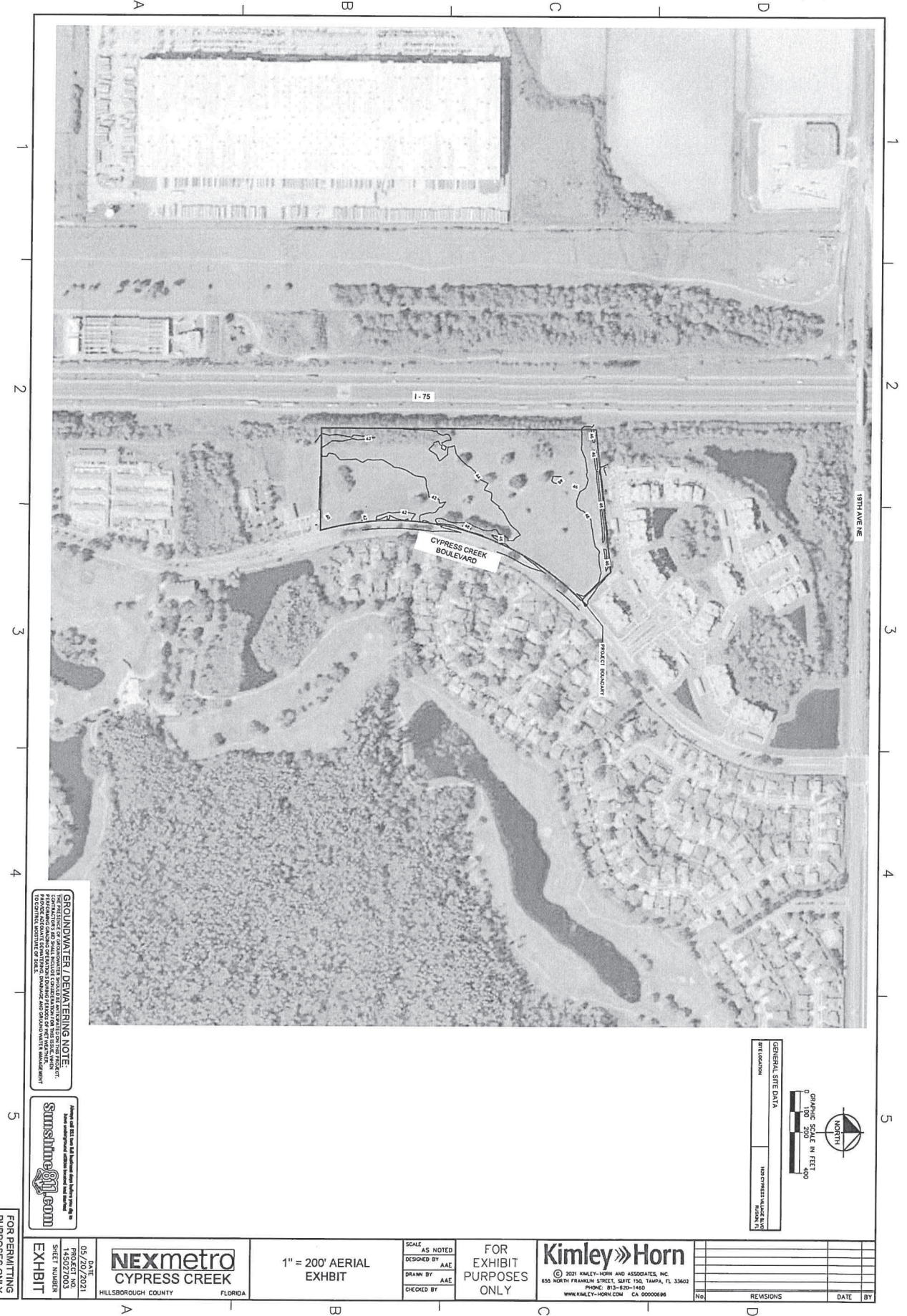
SUBJECT: NexMetro Cypress Creek Off-Site aka Avilla Cypress Creek **PI#5908**
DEPARTMENT: Development Review Division of Development Services Department
SECTION: Project Review & Processing
BOARD DATE: December 10, 2024
CONTACT: Lee Ann Kennedy

RECOMMENDATION:

Grant permission to the Development Services Department to administratively accept the Required Off-Site Improvement Facilities (roads and drainage) for Maintenance to serve NexMetro Cypress Creek Off-Site aka Avilla Cypress Creek, located in Section 2, Township 32, and Range 19, 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 \$13,451.00 and authorize the Chairman to execute the Subdivider's Agreement for Warranty of Required Improvements.

BACKGROUND:

On June 2, 2023, Permission to Construct Prior to Platting was issued for NexMetro Cypress Creek Off-Site aka Avilla Cypress Creek, after construction plan review was completed on March 6, 2023. The developer has submitted the required Bond, which the County Attorney's Office has reviewed and approved. The developer is NexMetro Cypress Creek, LP and the engineer is Kimley-Horn.



GROUNDWATER DOWNSINKING NOTE:
 THE INFORMATION ON THIS PLAN IS BASED ON THE DATA PROVIDED TO THE ENGINEER BY THE CLIENT. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE DATA AND HAS FOUND IT TO BE REASONABLY ACCURATE. THE ENGINEER HAS NOT CONDUCTED ANY GROUNDWATER MONITORING OR TESTING. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, FEDERAL, AND OTHER AGENCIES. THE ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE DOWNSINKING SYSTEM.



GENERAL SITE DATA

GRAPHIC SCALE IN FEET
 0 100 200 400

1" = 200'

DATE: 05/20/2021

PROJECT NO.: 145027/003

SHEET NUMBER: 03

EXHIBIT

FOR PERMITTING PURPOSES ONLY

NEXmetro
 CYPRESS CREEK

HILLSBOROUGH COUNTY FLORIDA

1" = 200' AERIAL EXHIBIT

SCALE AS NOTED
 DESIGNED BY: AAE
 DRAWN BY: AAE
 CHECKED BY:

FOR EXHIBIT PURPOSES ONLY

Kimley-Horn

© 2021 KIMLEY-HORN AND ASSOCIATES, INC.
 652 NORTH FRANKLIN STREET, SUITE 100, TAMPA, FL 33602
 PHONE: 813-820-1400
 WWW.KIMLEY-HORN.COM CA 00000696

No.	REVISIONS	DATE	BY

OWNER/DEVELOPER'S AGREEMENT FOR WARRANTY OF REQUIRED OFF-SITE IMPROVEMENTS

This Agreement made and entered into this _____ day of _____, 20_____, by and between NexMetro Cypress Creek, LP, 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 Avilla Cypress Creek Pl# 5908 (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:

Install Left Turn Lane with all associated improvements, Drive way apron, Mill & resurface

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 10/24/2024 with Nexmetro Cypress Creek LP as Principal, and Atlantic Specialty Insurance Company 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:



 Witness Signature

Arnoldo Pacheco

 Printed Name of Witness

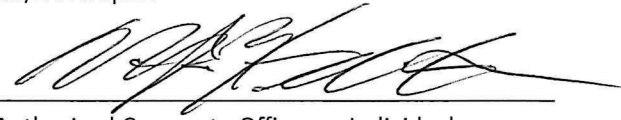


 Witness Signature

Meagan Taranto

 Printed Name of Witness

Owner/Developer:

By 

 Authorized Corporate Officer or Individual
 (Sign before Notary Public and 2 Witnesses)

William Hulton

 Printed Name of Signer

Managing Director / FL

 Title of Signer

500 North Westshore Blvd Suite 600 Tampa FL 33609

 Address of Signer

813 361 9339

 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: _____
Chair

APPROVED BY THE COUNTY ATTORNEY

 BY _____
 Approved As To Form And Legal Sufficiency.

Representative Acknowledgement

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

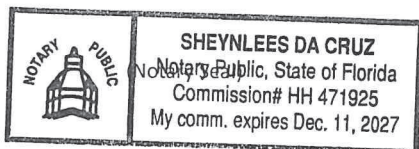
The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this
1st day of October, 2024, by William P. Hulton as
(day) (month) (year) (name of person acknowledging)
Managing Director for NEXMETRO Cypress Creek LP
(type of authority, e.g. officer, trustee, attorney in fact) (name of party on behalf of whom instrument was executed)

Personally Known OR Produced Identification

Driver License
Type of Identification Produced

[Signature]
(Signature of Notary Public - State of Florida)

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



HH 471925 12/11/2027
(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

(Signature of Notary Public - State of Florida)

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

(Notary Seal)

(Commission Number) (Expiration Date)

SITE DEVELOPMENT WARRANTY BOND - OFF-SITE IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS, that we NexMetro Cypress Creek, LP

called the Principal, and Atlantic Specialty

Insurance Company

called the Surety, are held and firmly bound unto the

BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, in the sum of
Thirteen Thousand Four Hundred Fifty One Dollars and 00/100 (\$ 13,451.00) Dollars for the payment of which

we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

WHEREAS, the Board of County Commissioners of Hillsborough County has adopted land development regulations in its Land Development Code pursuant to the authority granted to it in Chapters 125, 163 and 177, Florida Statutes, which regulations are by reference hereby incorporated into and made a part of this warranty bond; and

WHEREAS, these site development regulations affect the development of land within the unincorporated areas of Hillsborough County; and

WHEREAS, in connection with the development of the project known as Avilla Cypress Creek, hereafter referred to as the "Project", the Principal has made the request that the Board of County Commissioners of Hillsborough County accept the following off-site improvements for maintenance: Mill Overlay Asphalt, Install Left Turn Lane, Curb/Gutter, Pavement Markings (hereafter, the "Off-Site Project Improvements"); and

WHEREAS, the aforementioned site development regulations require as a condition of acceptance of the Off-Site Project Improvements that the Principal provide to the Board of County Commissioners of Hillsborough County a bond warranting the the Off-Site Project Improvements for a definite period of time in an amount prescribed by the aforementioned site development regulations; and

WHEREAS, the Principal, pursuant to the terms of the aforementioned site development regulations has entered into a site development agreement, hereafter the "Owner/Developer Agreement", the terms of which agreement require the Principal to submit an instrument warranting the above- described improvements; and

WHEREAS, the terms of said Owner/Developer Agreement are by reference, hereby, incorporated into and made a part of this Warranty Bond.

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

- A. If the Principal shall warrant for a period of two years following the date of acceptance of the Off-Site Project Improvements for maintenance by the Board of County Commissioners of Hillsborough County, against failure, deterioration, or damage resulting from defects in workmanship and/or materials, and;
- B. If the Principal shall correct within the above described warranty period any such failure, deterioration, or damage existing in the aforementioned improvements so that said improvements thereafter comply with the technical specifications contained in the Site Development Regulations established by the Board of County Commissioners of Hillsborough County, and;
- C. If the Principal shall faithfully perform the Owner/Developer Agreement at the times and in the manner prescribed in said Agreement;

THEN THIS OBLIGATION SHALL BE NULL AND VOID; OTHERWISE, TO REMAIN IN FULL FORCE AND EFFECT UNTIL April 30, 2027

SIGNED, SEALED AND DATED this 24th day of October, 2024

ATTEST:



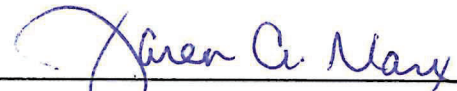
By 
Principal Seal

Atlantic Specialty Insurance Company

Surety Seal


ATTEST:



By 
Attorney-In-Fact Jaren A. Marx Seal



APPROVED BY THE COUNTY ATTORNEY


As To Form And Legal
Agency.



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **B. Aleman, Charles R. Teter, III, Chase Seyforth, D. Garcia, Edward C. Spector, Erin Brown, Ethan Spector, Jaren A Marx, Jennifer Ochs, KD Wapato, Marina Tapia, MB Neely, Rachel A Mullen, Sandra Corona, Sarah Campbell, Simone Gerhard**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.


Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

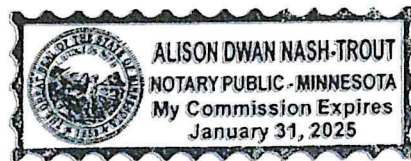
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this first day of January, 2023.



By 
Sarah A. Kolar, Vice President and General Counsel

STATE OF MINNESOTA
HENNEPIN COUNTY

On this first day of January, 2023, before me personally came Sarah A. Kolar, Vice President and General Counsel of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and she acknowledged the execution of the same, and being by me duly sworn, that she is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.





Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 24th day of October, 2024.




Kara L.B. Barrow, Secretary

This Power of Attorney expires
January 31, 2025

FOR INFORMATIONAL PURPOSES ONLY				
PID #6578 - AVILLA CYPRESS CREEK ESTIMATED RIGHT-OF-WAY CONSTRUCTION IMPACT COSTS				
DESCRIPTION	TOTAL QUANTITY	UNIT	WEIGHTED AVG. PRICE	TOTAL AMOUNT
ROADWAY/PAVEMENT				
Grade Median/Rough/Final Grade & Sod ROW	1	LS	\$ 7,538.68	\$ 7,539
1.5" Milling & Overlay (1.5" FC-9.5)	629	SY	\$ 54.00	\$ 33,966
1" FC-9.5 Asphalt	274	SY	\$ 40.50	\$ 11,097
3" Asphalt Type SP (Two Lifts)	274	SY	\$ 56.70	\$ 15,536
08" Aggregate Base	274	SY	\$ 48.76	\$ 13,360
12" Stabilized Subgrade (Full Depth)	368	SY	\$ 39.01	\$ 14,356
2' Concrete Valley Gutter	175	LF	\$ 33.75	\$ 5,906
FDOT Type F Curb	160	LF	\$ 33.75	\$ 5,400
ADA Concrete Rampa & Dome	4	EA	\$ 1,458.00	\$ 5,832
Sawcut & Match Asphalt	335	LF	\$ 10.13	\$ 3,394
Misc. Pavement Markings	1	LS	\$ 7,087.50	\$ 7,088
Additional Striping w/ PVC Separators (Includes Temp / Perm Striping)	1	LS	\$ 11,034.48	\$ 11,034
10% of Total Improvements Cost				\$ 134,507
Documents:				
The assumptions below were developed using the following documents for the roadway within Cypress Creek Blvd. ROW				
1.) This Estimated Opinion of Probable Cost (EOPC) was completed based on the proposed improvements within Hillsborough County ROW adjacent to the site. See attached exhibit.				
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.				
<p>WALLACE L. BRINKMAN, P.E. State of Florida, Professional Engineer, License No. 82306</p>				
<p>This item has been digitally signed and sealed by Wallace L. Brinkman on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.</p>				
<p><i>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.</i></p>				