

SUBJECT: Memorial Highway Industrial Off-Site **PI# 6323**
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 (water main, force main and road widening) for Maintenance to serve Memorial Highway Industrial Off-Site, located in Section 19, Township 28, and Range 17 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 \$37,936.11 and authorize the Chair to execute the Agreement for Warranty of Required Off-Site Improvements.

BACKGROUND:

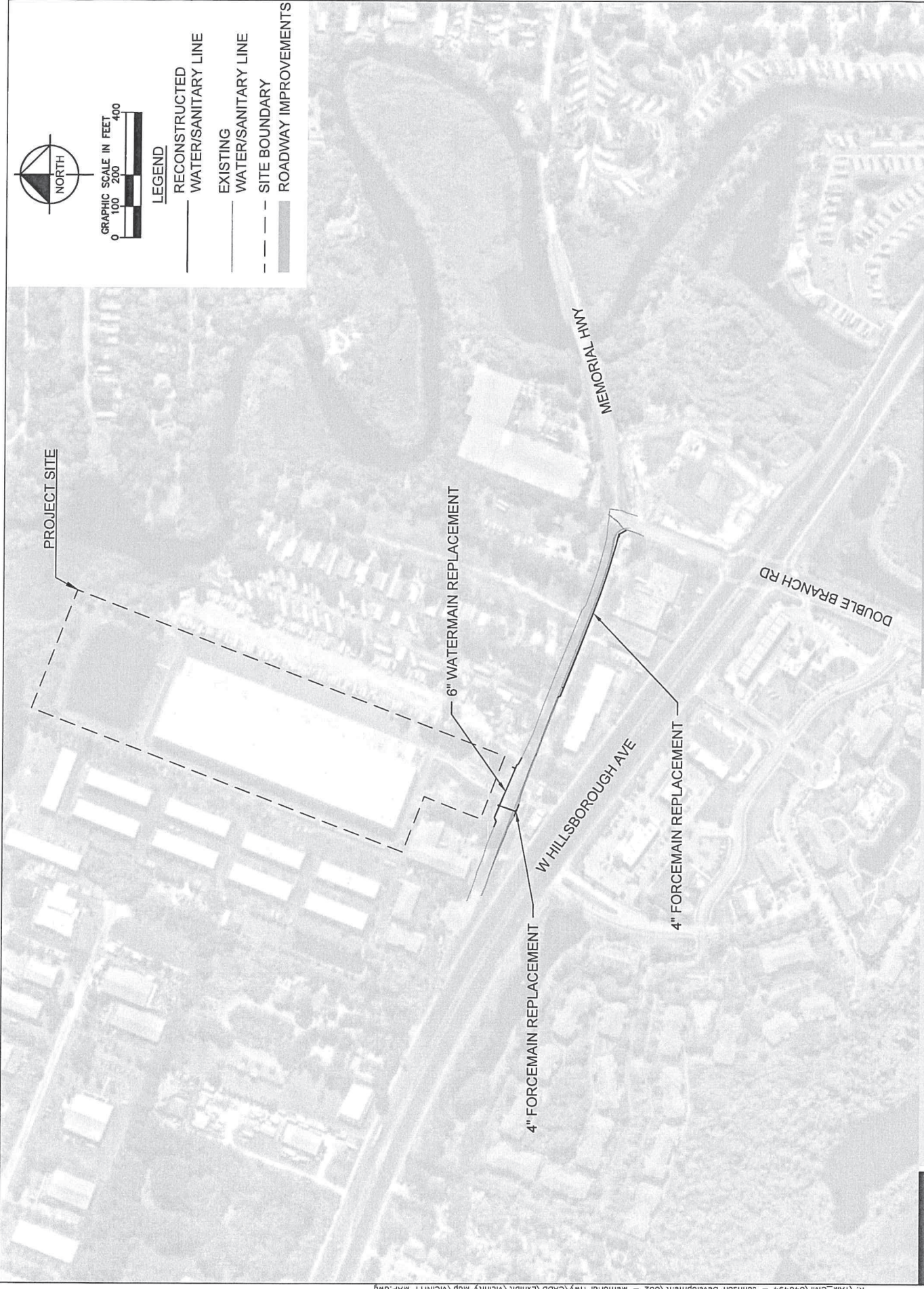
On May 12, 2023, Permission to Construct was issued for Memorial Highway Industrial Off-Site, after construction plan review was completed on April 21, 2023. Construction has been completed in accordance with the approved plans and has been inspected and approved by the appropriate agencies. The developer has provided the required Bond, which the County Attorney’s Office has reviewed and approved. The developer is Memorial Highway Industrial Properties, LLC and the engineer is Kimley-Horn.



GRAPHIC SCALE IN FEET
0 100 200 400

LEGEND

- RECONSTRUCTED WATER/SANITARY LINE
- EXISTING WATER/SANITARY LINE
- - - SITE BOUNDARY
- █ ROADWAY IMPROVEMENTS



MEMORIAL HIGHWAY INDUSTRIAL

HILLSBOROUGH COUNTY, FLORIDA

VICINITY MAP



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

This Agreement made and entered into this ____ day of _____, 20____, by and between Memorial Highway Industrial Properties, 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 Memorial Highway Industrial (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:

water main & force main replacements and roadway widening

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 08/14/2024 with Memorial Highway Industrial Properties, LLC as Principal, and Fidelity and Deposit Company of Maryland 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:

Warren K. Dukes
Witness Signature

Warren K. Dukes
Printed Name of Witness

[Signature]
Witness Signature

Brooks Cochran
Printed Name of Witness

CORPORATE SEAL
(When Appropriate)

CINDY STUART
Clerk of the Circuit Court

By: _____
Deputy Clerk

Owner/Developer:

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

Blake W. Spencer
Printed Name of Signer

CFO of Owner's Manager
Title of Signer

100 Dunbar St, Spartanburg, SC 29306
Address of Signer

864.585.2000
Phone Number of Signer

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA

By: _____
Chair

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

Representative Acknowledgement

STATE OF FLORIDA South Carolina
COUNTY OF HILLSBOROUGH Spartanburg

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this

14 day of August, 2024, by Blake W. Spencer as
(day) (month) (year) (name of person acknowledging)

CFO of Its Manager for Memorial Highway Industrial Properties, LLC
(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

Sarah Gilmer
(Signature of Notary Public - State of Florida) South Carolina

Type of Identification Produced

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

(Notary Seal)



(Commission Number)

3/20/33
(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

(Signature of Notary Public - State of Florida)

Type of Identification Produced

(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 Memorial Highway Industrial Properties, LLC

called the Principal, and Fidelity and Deposit Company of Maryland called the Surety, are held and firmly bound unto the

BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, in the sum of Thirty-Seven Thousand Nine Hundred Thirty-Six and 11/100 (\$ 37,936.11) 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 Memorial Highway Roadway Improvements ROW-23-0000164, 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: water main & force main replacements and roadway widening (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:

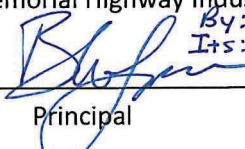
- A. If the Principal shall warrant for a period of two years following the date of acceptance of the Off-Site Project Improvements for maintenance by the Board of County Commissioners of Hillsborough County, against failure, deterioration, or damage resulting from defects in workmanship and/or materials, 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 November 7, 2026.

SIGNED, SEALED AND DATED this 14th day of August, 2024.

ATTEST:




Memorial Highway Industrial Properties, LLC
By: *Johnson Dev. Assoc., Inc.*
Its Manager
By  Blake W. Spencer, CFO
Principal Seal


Fidelity and Deposit Company of Maryland

Surety Seal

ATTEST:

See attached Notary Acknowledgment

By  Stephanie Agapoff
Attorney-In-Fact Seal

APPROVED BY THE COUNTY ATTORNEY

BY _____
Approved As To Form And Legal Sufficiency.

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

BEFORE ME, the undersigned authority, a Notary Public in and for the State of South Carolina, on this day personally appeared Blake W. Spencer as Chief Financial Officer of Johnson Development Associates, Inc., the Manager of Memorial Highway Industrial Properties, LLC, is personally known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal this 14th day of August, 2024.

Sarah Glimer

Sarah Glimer
Notary for South Carolina

3/20/33
Commission Expires

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento)

On 02/14/24 before me, Tina S. Salas, Notary Public
(insert name and title of the officer)

personally appeared Stephanie Agapoff,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Tina S. Salas* (Seal)



**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint David WEISE, Jose LEMUS, Rosalie A. MISZKIEL, Nicki MOON, Tina SALAS, Stephanie AGAPOFF, **all of Rancho Cordova, California**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 13th day of January, A.D. 2023.



ATTEST:
**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

By: *Robert D. Murray*
Vice President

By: *Dawn E. Brown*
Secretary

**State of Maryland
County of Baltimore**

On this 13th day of January, A.D. 2023, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Iva Betha
Notary Public
My Commission Expires September 30, 2023



Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 14th day of August, 2024.



MJ Pethick
By: Mary Jean Pethick
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
reportsfclaims@zurichna.com
800-626-4577

Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790

Engineer's Opinion of Probable Cost				
Project: Memorial Highway Roadway Improvements				
ROW-23-0000164		Date: 8/5/2024		
Description: Engineers cost estimate is based on the improvements lying within Hillsborough County Right of Way.				
Materials	Unit	Unit Cost	Quantity	Total Cost
Roadway				
Bankcut / Excavation	CY	\$9.50	1,860	\$17,670.00
Final Grade Green Areas	SF	\$0.35	25,200	\$8,820.00
Sod Disturbed Areas	SF	\$0.40	50,500	\$20,200.00
Stabilization	SY	\$13.10	1140	\$14,934.00
Stabilization shoulder	SY	\$17.40	410	\$7,134.00
8" Crushed Conc. Base	SY	\$28.10	1140	\$32,034.00
Base Course - 2.5" Type SP-TLC 19.0 (R) Asphalt (PG 58-22)	SY	\$28.40	1140	\$32,376.00
Surface Course - 1.5" Type SP-TLC 12.5 (R) Asphalt (PG 58-22)	SY	\$16.70	1140	\$19,038.00
Striping & Signage	LS	\$24,300.00	1	\$24,300.00
Type F Curb (Hand Formed)	LF	\$27.50	60	\$1,650.00
18" RCP	LF	\$85.70	500	\$42,850.00
24" RCP	LF	\$101.30	80	\$8,104.00
Concrete Collar for 24" RCP	LS	\$1,500.00	1	\$1,500.00
18" M.E.S. (FDOT INDEX 430-022)	EA	\$3,800.00	16	\$60,800.00
24" M.E.S. (FDOT INDEX 430-022)	EA	\$4,200.00	3	\$12,600.00
Forcemain				
4" Plug Valve	EA	\$1,087.50	4	\$4,350.00
4" Wet Tap Assembly	EA	\$1,650.00	2	\$3,300.00
4"x2" Saddle	EA	\$197.36	1	\$197.36
2" Plug Valve	EA	\$987.69	1	\$987.69
2" Air Release Valve	EA	\$1,500.00	1	\$1,500.00
4"x4" Tee	EA	\$241.89	2	\$483.78
4" Gate Valve	EA	\$1,137.26	1	\$1,137.26
Joint Restraints	EA	\$67.36	13	\$875.68
4" 45 Degree Bend	EA	\$223.81	3	\$671.43
4" C900 DR-18 Pipe	LF	\$24.60	575	\$14,145.00
Watermain				
6" Gate Valve	EA	\$1,840.00	3	\$5,520.00
6"x6" Tee	EA	\$419.89	1	\$419.89
6" 45 Degree Bend	EA	\$313.54	4	\$1,254.16
6" Wet Tap Assembly	EA	\$5,800.00	1	\$5,800.00
Joint Restraints	EA	\$140.36	8	\$1,122.88
6" D.I.P	LF	\$66.10	260	\$17,186.00
16" Steel Casing	LF	\$205.00	80	\$16,400.00
Total				\$379,361.13
Maintenance Bond 10%				\$37,936.11
<p>The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to the consultant at this time and represent only the Consultant's judgement as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its cost estimate.</p>				

Matthew R Femal

Matthew R. Femal
 FL P.E. 68397
 Project Manager

Digitally signed by Matthew R Femal
 DN: cn=Matthew R Femal, c=US, o=Florida, email=matt.femal@kimley-horn.com
 Date: 2024.09.10 17:12:50 -0400

Matthew R. Femal, State of Florida, Professional Engineer, License No. 68397; This item has been digitally signed and sealed by Matthew R. Femal on the date indicated here. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.