

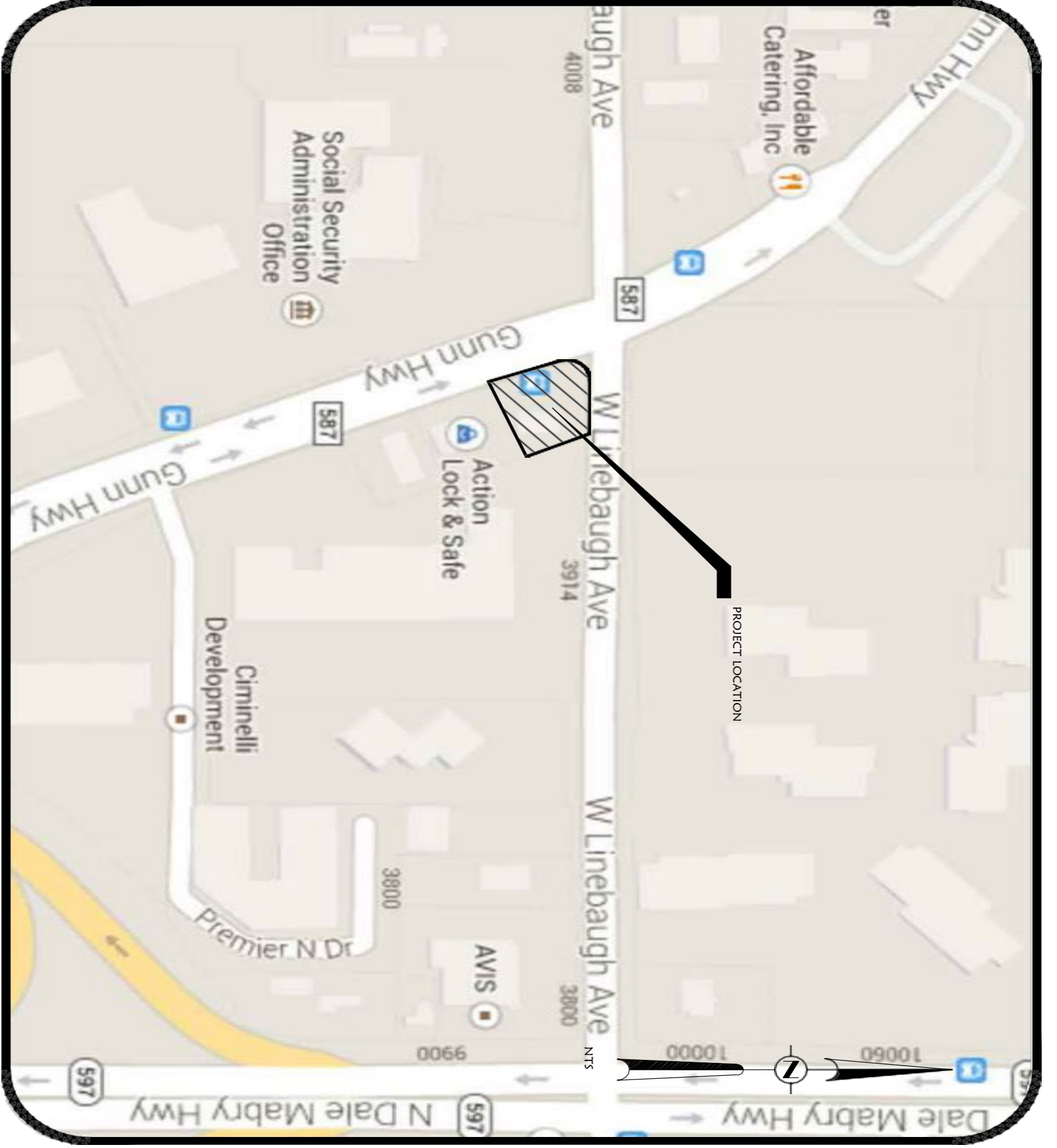
SUBJECT: Retail at Gunn Highway
DEPARTMENT: Development Review Division of Development Services Department
SECTION: Project Review & Processing
BOARD DATE: August 10, 2021
CONTACT: Lee Ann Kennedy

RECOMMENDATION:

Grant permission to the Development Review Division of Development Services Department to administratively accept the Required Off-Site Improvement Facilities (wastewater) for Maintenance upon proper completion, submittal and approval of all required documentation, and construction final acceptance by the Development Review Division of Development Services Department to serve Retail at Gunn Highway, located in Section 21, Township 28, and Range 18. 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 \$5,339.95 and authorize the Chairman to execute the Agreement for Warranty of Required Off-Site Improvements.

BACKGROUND:

On September 15, 2018, Permission to construct was issued for Retail at Gunn Highway. Construction has been completed in accordance with the approved plans and has been inspected and approved by the Development Review Division of Development Services Department. The developer has provided the required Warranty Bond, which the County Attorney's Office has reviewed and approved. The developer is 4055 Gunn Hwy, LLC and the engineer is Avid Group.



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

This Agreement made and entered into this ___ day of _____ 2021, by and between 4055 Gunn Highway, 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 Retail @ 4055 Gunn Highway (PI#3111); 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, constructed in conjunction with the site development project known as Retail @ 4055 Gunn Highway (PI#3111) are as follows: Wastewater - 690 LF of 4" PVC Forcemain, fittings and associated valves, from new 4" Plug Valve at ROW line to Point of Connection, existing 4" Forcemain (4" Tee removed and New 4" Cross and New 4" Plug Valve installed), all located within the Hillsborough County Right-of-Way.

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:

1. Letter of Credit, number _____, dated _____, with _____,

_____ by order of _____, or _____,

2. A Warranty Bond, dated 21 April 2021, with 4055 Gunn Highway LLC

as Principal, and Harco National Insurance Company as Surety, or _____

c. Cashier/Certified _____, which shall 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 his 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 these presents, this 21 day of April, 2021.

ATTEST:

OWNER/DEVELOPER:

Michael Gajner
Witness

[Signature]
Authorized Corporate Officer or Individual

Witness

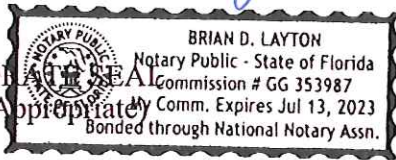
David McComas
Name (typed, printed or stamped)

NOTARY PUBLIC

Brian D. Layton

Address of Signer 18167 US Highway 19 N
Suite 450 Clearwater FL
33764

CORPORATE SEAL
(When Appropriate)



Phone Number of Signer 727-410-2800

ATTEST:

PAT FRANK, Clerk of
the Circuit Court

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA

By: _____
Deputy Clerk
Owners Developers Warranty Agreement 050107.doc

By: _____
Chairman

APPROVED BY THE COUNTY ATTORNEY

BY *[Signature]*
Approved As To Form And Legal
Sufficiency.

CORPORATE ACKNOWLEDGMENT:

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this _____ day of _____ 2021, by DAVID McCOMAS of 4055 Gunn Holdings, LLC, a corporation under the laws of the state of Florida on behalf of the corporation. He and/or she is personally known to me or has produced _____ as identification and did take an oath.

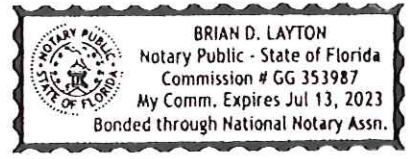
NOTARY PUBLIC:

Sign: Brian D. Layton (Seal)

Print: BRIAN D. LAYTON

Title or Rank: ACCTS MANAGER

Serial Number, if any: GG353987



My Commission Expires: 7-13-23

INDIVIDUAL ACKNOWLEDGMENT:

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath.

____ NOTARY PUBLIC:

____ Sign: _____ (seal)

____ Print: _____

____ Title or Rank: _____

____ Serial Number, if any: _____

My Commission Expires: _____

Bond# 0793452

WARRANTY BOND

KNOW ALL MEN BY THESE PRESENTS, That we 4055 Gunn Highway LLC called the Principal and Harco National Insurance Company called the Surety, are held and firmly bound unto the **BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA**, in the sum of \$5,339.95 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 established site development regulations pursuant to authority in Chapter 163 and Chapter 177, Florida Statutes, and Hillsborough County Land Development Code, as amended, which regulations are by reference, hereby, incorporated into and made a part of this Warranty Bond; and

WHEREAS, these site development regulations affect the site of land within the unincorporated areas of Hillsborough County; and **WHEREAS**, the Principal has made the request that the Board of County Commissioners of Hillsborough County accept the improvement facilities (Waste Water 4055 Gunn Highway) for maintenance constructed in conjunction with the site known as 4055 Gunn Highway; and **WHEREAS**, the aforementioned site development regulations require as a condition of acceptance of the improvement facilities (waste water 4055 Gunn Highway) that the Principal provide to the Board of County Commissioners of Hillsborough County a bond warranting the off-site and all other necessary facilities for a definite period of time in an amount prescribed by the aforementioned site development regulations.

WHEREAS, the Principal, pursuant to the terms of the aforementioned site development regulations has entered into an "Owner/Developer Agreement for Warranty of Required Off-Site Improvements- Waste Water", the terms of which agreement require the Principal to submit an instrument warranting the above-described improvements.

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 waste water improvement facilities for maintenance by the Board of County Commissioners of Hillsborough County, for the approved site known as 4055 Gunn Highway 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 09/10/2023.

SIGNED, SEALED AND DATED this 21st day of April, 2021.

ATTEST:

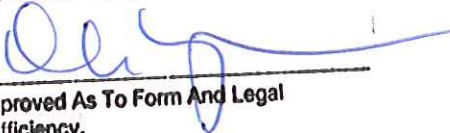
 David McComas
PRINCIPAL (SEAL)

Harco National Insurance Company
SURETY (SEAL)

ATTEST:

 
ATTORNEY-IN-FACT (SEAL)

APPROVED BY THE COUNTY ATTORNEY

BY 
Approved As To Form And Legal Sufficiency.



POWER OF ATTORNEY
HARCO NATIONAL INSURANCE COMPANY
INTERNATIONAL FIDELITY INSURANCE COMPANY

Bond # 0793452

Member companies of IAT Insurance Group, Headquartered: 702 Oberlin Road, Raleigh, North Carolina 27605

KNOW ALL MEN BY THESE PRESENTS: That **HARCO NATIONAL INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of Illinois, and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

ELSPETH J. MURRAY, SARA C. HOLT, SHERALYN GIBSON, DAVID GONSALVES

Charlotte, NC

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of **HARCO NATIONAL INSURANCE COMPANY** at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** have each executed and attested these presents on this 31st day of December, 2018



STATE OF NEW JERSEY
County of Essex

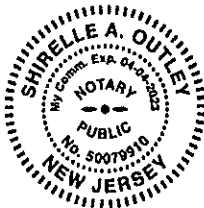
Kenneth Chapman

Executive Vice President, Harco National Insurance Company
and International Fidelity Insurance Company

STATE OF ILLINOIS
County of Cook



On this 31st day of December, 2018, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey
My Commission Expires April 4, 2023

CERTIFICATION

I, the undersigned officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, 04/21/2021

A00006

Irene Martins, Assistant Secretary



AVID Group

2300 Curlew Road, Suite 201

Palm Harbor, FL 34683

<http://www.avidgroup.com>

Ph (727) 789-9500 / Fax (727) 784-6662

Retail @ 4055 Gunn Highway

Hillsborough County, Florida

PI # 3111

Engineer's Opinion of Probable Construction Costs

December 2, 2020

DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
WASTEWATER				
4" Plug Valve and Box	2	EA	\$ 874.26	\$ 1,748.52
4" PVC-C900	690	LF	\$ 73.68	\$ 50,839.20
4" x 2" Reducer	1	EA	\$ 124.31	\$ 124.31
4" Cross	1	EA	\$ 214.67	\$ 214.67
4" Bend	4	EA	\$ 118.20	\$ 472.80
				\$ -
TOTAL:				\$ 53,399.50

NOTE:

Please be advised that the figure expressed above merely represents the engineer's opinion as to the probable construction cost. This is not a bid and no warranty as to the accuracy of this figure is either expressed or implied.

Charles E. Potter, P.E.
License No. 84516