MEMORANDUM

To: Cheri Coryea  
County Administrator

Thru: Chad Butzow, Director  
Public Works Department

From: Carmen Mosley, Sr. Fiscal Services Mgr.  
Brandy Wilkins, Bond Coordinator  
Public Works Department

Date: November 19, 2019

Subject: VILLAS OF HOLLY BROOK  
PDR-17-23/FSP-18-82/PLN1811-0014  
ACCEPT AGREEMENT FOR PERFORMANCE SECURITY  
ACCEPT SURETY BOND

The Developer, Phillips Investments, LLC, is requesting that Manatee County accept private Tree Replacement improvements associated with this project. The developer has provided the Required Improvements Agreement and Temporary Construction Easement for Private Improvements which warranties these improvements for one (1) year from County Administrator acceptance. The developer has provided all necessary documentation required for private improvements in order for acceptance by Manatee County. A Bill of Sale is not required for this acceptance. We therefore, per Resolution R-14-86, respectively request the County Administrator to approve the following:

- **Accept & Execute** Required Improvements Agreement and Temporary Construction Easement for Private Improvements warranting the performance portion of this agreement securing Tree Replacement;

- **Surety Bond No.** 41416686 issued through Platte River Insurance Company;

- **Amount** of Performance Security $148,492.50.

MANATEE COUNTY, a political subdivision of the State of Florida
By: Board of County Commissioners

By: [Signature]
County Administrator, per R-14-86

cc: Ken LaBarr, Infrastructure Inspections Division Manager  
Randy Porter, Unique Homes & Lumber, Inc.
For: Villas of Holly Brook  
(Name of Project)  
**Tree Replacement**

REQUIRED IMPROVEMENTS AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT FOR PRIVATE IMPROVEMENTS

(Required with a Surety Bond (Attachment “B”) as security guaranteeing completion of Required Improvements, Form No. 8417)

**WHEREAS,** Phillips Investments, LLC (Developer) has made application to Manatee County, Florida (County), for approval of a proposed subdivision or final site plan identified as Villas of Holly Brook (Project), the legal description for which is more particularly described in Exhibit “A”, attached hereto and incorporated herein; and

**WHEREAS,** the Manatee County Land Development Code, Ordinance 90-01, requires that a final subdivision plat not be approved for recording, and that a Certificate of Occupancy not be issued in accordance with final site plan approval, until certain improvements required by the Land Development Code or required as a condition of approval of the plat or site plan (Required Improvements) have been duly constructed, completed, and approved, unless the Developer has provided performance security guaranteeing to the satisfaction of the County that such improvements will be duly constructed, completed, and approved; and

**WHEREAS,** in connection with the Project the Developer has submitted construction drawings for the Required Improvements which are on file with and have been approved by the County; and

**WHEREAS,** the Developer desires to obtain approval of the Project prior to installation of the Required Improvements.

**WHEREAS,** the developer has submitted a cost estimate certificate by the Engineer of Record to be an accurate reflection of the cost to complete the remaining Required Improvements, and the Surety Bond referred to below is in an amount which represents at least 130% of that estimated cost; and

**WHEREAS,** the Required Improvements shall be privately owned necessitating additional covenants and protections for the County and the public in the event that the Developer fails to complete the Required Improvements; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

1. That the Developer, in consideration of the County’s approval of the proposed Project, and for other valuable consideration, hereby agrees to duly construct and complete the Required Improvements and to otherwise comply fully with the Land Development Code, any conditions of the Project’s approval, and all other applicable regulations, requirements and agreements.
2. Developer and __Platte River Insurance Company______, a Surety Company duly authorized to transact business in the State of Florida (Surety) are held and firmly bound unto the County as obligee/owner in the amount of __One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100___ Dollars (words) $148,492.50 (numbers), and the Developer herewith tenders to the County a Surety Bond, No. 41416686, dated September 26, 2019 with __Platte River Insurance Company__ expiring September 26, 2020. Said Bond shall not expire until the Required Improvements guaranteed by this Bond has been accepted by the County.

3. That in consideration of the foregoing, it is hereby mutually AGREED as follows:

(a) The Developer shall complete to the satisfaction of the County all Required Improvements on or before the 26 day of September, 2020 in accordance with the construction drawings or any amendments thereto approved by the County, and unless the County elects to proceed in accordance with Paragraph (b) below, the Surety, upon thirty (30) days written notice of the default from the County will cause to be completed the Required Improvements pay all costs, thereof, including without limitation all engineering, legal and contingent costs.

(b) In the event the Developer should fail or refuse to fulfill within the time specified its obligations under this Agreement, the County, at its option, shall have the right to enter upon that portion of the Project property, as determined necessary by the County and take all actions required to construct and complete, or cause to be constructed the Required Improvements. In the event the County should exercise such right, the County shall have the unqualified right to draw funds for the purpose of construction and completing the Required Improvements, or causing the same to be done, and for paying costs incidental to the exercise of its rights hereunder, in such amount as the County shall in its sole discretion determine, in accordance with the terms of the Surety Bond. The Developer shall indemnify and save harmless the County against or from all claims, costs, expenses, damages, injury, or loss, either direct or consequential, including without limitation all engineering, legal, and contingent costs which the county may sustain on account of the failure of the Developer to fulfill its obligations as described herein.

(c) The Developer, his successors and assigns, hereby grants a temporary easement over property in the Project as necessary to allow the County to complete the Required Improvements.

(d) Should it become necessary for the County to complete the Required Improvements, the Developer hereby appoints the County as its agent for the purposes of using the approvals granted for the required improvements.
4. The Developer agrees that it is liable to the County for all costs and damages, as described above, that the County may incur in connection with constructing and completing the Required Improvements for the life of the Project, without regard to the amount of the Surety Bond identified above. Should the Developer fail or refuse to complete the Required Improvements, as required, nothing herein shall be construed as affecting the County’s right to resort to any and all legal and equitable remedies against the Developer, including specific performance, to which the Developer hereby agrees.

5. The Developer understands and agrees that in the event that the Required Improvements are not constructed or installed in the manner or time consistent with this Agreement, the County shall withhold further permits or approvals for the Project until the Required Improvements have been completed or adequate progress, as determined by the Board of County Commissioners, toward completion of the Required Improvements has been demonstrated.

6. Upon the County’s completion of private improvements, the improvement shall be transferred to the Homeowner’s Association or that entity set up in the deed restrictions to be responsible for ongoing maintenance of the improvements. In no event shall public funds be used for the maintenance of private improvements, unless they are dedicated to and accepted by the County.
(Pvt Imp./Surety- Developer is Corp.)

SIGNED AND SEALED this _______ day of __________________________, 20___

WITNESSES:

Hodley Phillips
Witness
Type or Print Name

Reginald Phillips
Witness
Type or Print Name

Christopher Murbarger
Witness
Type or Print Name

For: Villas of Holly Brook

BY: Reginald Phillips
Developer
Signature
Type or Print Name
Manager
Title (If attorney-in-fact Attach Power of Attorney)
2402 18th St.
Postal Address
Charleston SC 61920
City State Zip

NOTARY ACKNOWLEDGMENT

STATE OF: Illinois
COUNTY OF: Cook
The foregoing instrument was acknowledged before me this 30 day of September, 2019, by Reginald Phillips, as manager, (Title), on behalf of the corporation identified herein as Developer and who is personally known to me or who has produced __________________ (Type of Identification) as identification.

NOTARY SEAL:

Approved and accepted for and on behalf of Manatee County, Florida, this _______ day of _______, 20____.

MANATEE COUNTY
A political subdivision of the State of Florida
By: Board of County Commissioners
By: ____________________________
County Administrator

NOTARY ACKNOWLEDGMENT

STATE OF: Florida
COUNTY OF: Manatee
The foregoing instrument was acknowledged before me this 8 day of November, 2019, by Cheri Coryea, as County Administrator, (Title), for and on behalf of the Manatee County Board of County Commissioners and who is personally known to me or who has produced N/A (Type of Identification) as identification.

NOTARY SEAL:
September 18, 2019

George Eissler, RLA
ZNS Engineering
201 5th Avenue Drive East
Bradenton, FL 34208

Via email only

RE: Villas of Holly Brook
PDR-17-23/FSP-18-82/PLN1811-0014
Performance Cost Estimate
Required Private Improvements
Reason – Required Tree Replacement

Dear Mr. Eissler:

The cost estimate for the above referenced bond, dated September 17, 2019, for the completion of tree replacement to serve the above referenced development, is approved for the appropriate surety.

A Private Improvement Performance Security in the amount of $148,492.50 which is 130% of your estimated costs, would be sufficient to assure the County completion of the required tree replacement for this or an alternative site.

If we can be of further assistance, please contact me at (941) 748-4501, ext. 6936.

Sincerely,

[Signature]
Gary Race
Planner II
Environmental Review Section

Cc: Brandy Wilkins, Public Works Dept. – Fiscal Services
Karla Ripley, Public Works Dept. – Infrastructure Engineering
Stephanie Moreland, Case Manager
Randy Porter, Unique Homes & Lumber, Inc.
September 17, 2019

Mr. Gary Race  
Manatee County Building & Development Services Dept.  
Environmental Planning Division  
1112 Manatee Avenue West  
Bradenton, FL  34205

RE: Villas of Holly Brook  
ZNS Project No:  44514

Dear Mr. Race,

The purpose of this letter is to request the approval of a private improvement bond estimate for Manatee County Land Development Code required tree replacement for the above referenced development.

The tree replacement bonding amounts, per the attached schedule contained in the approved Hollybrook at Bradenton Landscape Plans, sheet PL-01, are as follows:

| Tree Replacement – 3” Caliper | $10,680.00 |
| Tree Replacement – 4” Caliper | $103,545.00 |
| Total | $114,225.00 |

I hereby certify that the tree replacement costs outlined herein (attachment) represents our estimate of the cost of the tree replacement required for the above project. Manatee County requires performance bonds to be calculated at 130% of cost. This bond cost estimate has been prepared utilizing the approved bond estimate calculations to obtain a private improvement surety guaranteeing completion of these improvements.

Upon completion of your review and approval of this bond estimate of $148,492.50 (130% of cost), please notify our office so that the appropriate surety may be obtained.

Please advise if you would have any questions or require additional information.

Signed  
J. Eissler  
ZNS ENGINEERING  
PLANNING  
ENGINNEERING  
SURVEYING  
LANDSCAPE ARCHITECTURE  
FLORIDA  
Georger Eissler, RLA  
Registered Landscape Architect No. LA 0001265  
c: Brandy Wilkins, Manatee County

attachments

201 5th Avenue Drive East • Bradenton, FL • 34208 • 941.748.8080 • www.znseng.com • info@znseng.com  
Engineering-CA0027476  Surveying-LB0006982  Landscape Architecture-LC0000365
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Total: $114,225.00

Performance Bond Required Multiplier (130%): $148,492.50

* Manatee County to allow under story trees to count as replacement trees at a ratio of 2.5 proposed under story trees per 1 required replacement canopy tree.

** Shortages in required tree replacements shall be addressed in accordance with Section 760 of the Land Development Code. Payments into the tree fund shall be calculated by County staff.
PLATTE RIVER INSURANCE COMPANY

SITE IMPROVEMENT BOND

BOND#41416686

KNOW ALL MEN BY THESE PRESENTS, that we, Phillips Investments, LLC, 2402 18th St, Charleston, IL 61920 as Principal, and Platte River Insurance Company, a corporation organized under the laws of the State of Nebraska, and duly authorized to transact business in the State of Florida, as Surety, are held and firmly bound unto Manatee County, 1022 26th Ave E, Bradenton, FL 34208 in the penal sum of One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars ($148,492.50), lawful money of the United States, to the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted to the Manatee County for its approval, a plan entitled Villas of Holly Brook/PLN1811-0014 whose terms and conditions are hereby incorporated by reference in this bond and is hereinafter referred to as the Villas of Holly Brook - Private Improvements, Tree Replacement Project, Bradenton, FL.

WHEREAS, Manatee County, has approved said plan on condition that said Principals file with the Manatee County a surety bond in the amount of One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars ($148,492.50) and in form approved by the Manatee County, securing actual completion of the work required by the Manatee County.

NOW, THEREFORE, the condition of this obligation is such that, if the above named Principal shall promptly and faithfully complete such tree replacement project, then this obligation shall be void, otherwise to remain in full force and effect. In no event shall the liability of the Surety exceed One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars ($148,492.50).

The term of this bond shall commence on September 26, 2019 and expire September 26, 2020. This bond may be extended by the Surety, at its sole discretion, by its Continuation Certificate. However, neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of non-renewal, shall constitute a loss to the Obligee recoverable under this bond or any renewal or continuation thereof. The liability of the Surety under this bond and all Continuations Certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by Surety as supplements therein.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals this 26th day of September, 2019, 2013.

Phillips Investments, LLC
(principal)

By ________________________________

Witness

Print Name & Title

Page 1 of 2
Witness Brad Koosmann
Account Specialist

PLATTE RIVER INSURANCE COMPANY
By Ronald Kaihoi, Attorney-in-Fact

Agent:
ACORA Surety & Insurance Services, LLC
PO Box 506
Montevideo, MN 56265
Ph: 320-269-8546
ACKNOWLEDGMENT OF PRINCIPAL (Individual)

State of ________________
County of ________________

On this ________________ day of ________________, in the year __________, before me personally comes ____________________________________________, to me known and known to me to be the person who is described in and executed the foregoing instrument, and acknowledges to me that he/she executed the same.

__________________________________________
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Partnership)

State of ________________
County of ________________

On this ________________ day of ________________, in the year __________, before me personally come(s) ____________________________________________, a member of the co-partnership of ____________________________________________, to me known and known to me to be the person who is described in and executed the foregoing instrument, and acknowledges to me that he/she executed the same as the act and deed of the said co-partnership.

__________________________________________
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Corporation/LLC)

State of ________________
County of ________________

On this _____ day of ________________, in the year __________, before me personally come(s) ____________________________________________, to me known, who being duly sworn, deposes and says that he/she resides in the City of ________________ that he/she is the ________________ of the ____________________________________________, the corporation described in and which executed the foregoing instrument, and that he/she signed his/her name thereto by like order.

__________________________________________
Notary Public
PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That the PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

JACK ANDERSON; RONALD KAIHOI; RITA JORGENSEN

its true and lawful Attorney(s)-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, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED $20,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

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 PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 3rd day of May, 2017.

Attest:

John E. Rzepinski
Vice President, Treasurer & CFO
Suzanne M. Broadbent
Assistant Secretary

STATE OF WISCONSIN
COUNTY OF DANE

On the 3rd day of May, 2017 before me personally came Stephen J. Sills, to me known, who being by me duly sworn, did depose and say: that he resides in the County of New York, State of New York; that he is President of PLATTE RIVER INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

David J. Regele
Notary Public, Dane Co., WI
My Commission Is Permanent

STATE OF WISCONSIN
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 26th day of September, 20 19

Antonio Celi
General Counsel, Vice President & Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GREEN SHADDED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.
PR-POA (Rev. 10-2017)
ACKNOWLEDGEMENT OF SURETY

STATE OF MINNESOTA
COUNTY OF CHIPPEWA

On this 26th day of September, 2019, before me, a Notary Public within and for said County, personally appeared Ronald Kaihoi to me personally known, who being by me duly sworn he/she did say that he/she is the attorney-in-fact of Platte River Insurance Company, the corporation named in the foregoing instrument, and the seal affixed to said instrument is the corporation seal of said corporation, and sealed on behalf of said corporation by authority of its Board of Directors and said Ronald Kaihoi acknowledged said instrument to be the free act and deed of said corporation.

[Signature]
NOTARY PUBLIC
My Commission Expires 1/31/2020

[Notary Seal]