



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

3/8/2022

Subject:

Adopt Resolution and Release Performance Bond: Savannah Landing Subdivision - District 2
Developer: Surrey Homes, LLC

Fiscal Impact:

None

Dept/Office:

Public Works/Engineering

Requested Action:

In accordance with Section 62-2844(b), it is requested that the Board of County Commissioners adopt the attached Resolution and authorize the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated February 23, 2021 for the above referenced project.

Summary Explanation and Background:

The Savannah Landing subdivision is located on the east side of North Courtenay Parkway, approximately 0.5 miles north of Smith Road. The proposed subdivision contains 56 units on 41.94 acres.

The Savannah Landing subdivision received final plat and contract approval on May 18, 2017. The developer posted a Surety Performance Bond for guarantee of the completion of the infrastructure improvements according to the approved plans.

Per Section 62-2809(b)(2), "Construction after final plat recordation: ...the applicant shall provide security required in Section 62-2844 for the performance of such construction..." Section 62-2844(a) states: "An applicant shall be required to secure its performance security of the construction required under this article by a surety bond, letter of credit, savings account, certificate of deposit or execution of a tri-party escrow agreement. Such security shall not be required if a certificate of completion has been issued for all the subdivision improvements prior to final plat recordation." Because the applicant chose to plat the subdivision prior to completion of construction, the applicant entered into Contract with the Board and posted a Surety Performance Bond to guarantee the completion of the infrastructure improvements according to the approved plans.

As of July 8, 2021, the Savannah Landing subdivision plat infrastructure improvements have been completed.

Reference: 20FM00002, 16SD00011

Contact: Christine Verrett, Special Projects Coordinator III, Extension 58328

Clerk to the Board Instructions:

Please forward the Board action to the Public Works Department and provide 2 originals of the Resolution.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

March 9, 2022

MEMORANDUM

TO: Marc Bernath, Public Works Director Attn: Christine Verrett

RE: Item F.3., Resolution Releasing Performance Bond for Savannah Landing Subdivision –
Developer: Surrey Homes, LLC

The Board of County Commissioners, in regular session on March 8, 2022, adopted Resolution No. 22-019, releasing the Contract and Surety Performance Bond dated February 23, 2021, for Savannah Landing Subdivision. Enclosed are two fully-executed Resolutions.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/tr

Encls. (2)

RESOLUTION 22- 019

WHEREAS, the Board of County Commissioners of Brevard County, Florida and Surrey Homes, LLC entered into a contract to guarantee the construction of improvements on property commonly known as Savannah Landing Subdivision.

WHEREAS, by execution of the Contract, the Board of County Commissioners of Brevard County, Florida agreed to accept said improvements for public use at such time as said improvements were satisfactorily completed; and

WHEREAS, Surrey Homes, LLC completed all of the infrastructure improvements and has requested that the executed contract approved on February 23, 2021 be released and release of all undisbursed funds referenced in the Contract hereinabove described.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Brevard County, Florida that:

1. The Board of County Commissioners of Brevard County, Florida hereby acknowledges that there is satisfactory completion of all improvements to that certain real property commonly known as Savannah Landing Subdivision.
2. The Board of County Commissioners of Brevard County, Florida hereby releases the contract and performance bond executed on February 23, 2021.
3. This Resolution shall take effect immediately upon adoption.

DONE, ORDERED, AND ADOPTED in Regular Session the 8th day of March, 2022.

ATTEST:


Rachel Sadoff, Clerk of the Court

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: 

Kristine Zonka, Chair

As approved by the Board on March 8, 2022

Subdivision No. 16SD00011 / 20FM00002

Project Name Savannah Landing

**Subdivision Infrastructure
Contract**

THIS CONTRACT entered into this 23rd day of February 2021, by and between the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as "COUNTY," and Surrey Homes, LLC, hereinafter referred to as "PRINCIPAL."

WITNESSETH:

IN CONSIDERATION of the mutual covenants and promises herein contained, the parties hereto agree as follows:

1. The PRINCIPAL agrees to construct the improvements described below:

and all other improvements depicted in subdivision number 20FM00002. A copy of said plat to be recorded in the Plat Books of the Public Records of Brevard County.

2. Principal agrees to construct the improvements strictly in accordance with the plans and specifications on file in the Land Development Division (which construction is hereinafter referred to as the "Work"). Such plans and specifications (hereinafter referred to as the "Plans") are hereby incorporated into this Agreement by reference and made a part hereof. Principal warrants to County that the Work will conform to the requirements of the Plans and other requirements specified in the County's approval of the Work. Principal also warrants to County that the Work will be free from faults and defects. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered to be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this paragraph 2.

If within two (2) years after approval and acceptance of the improvements by County, any Work is found to be defective, Principal shall promptly, without cost to County, either correct such defective Work, or, if it has been rejected by County, remove it from the site and replace it with nondefective Work. If Principal does not promptly comply with the terms of such instructions, County may elect any of the remedies provided for in paragraph 6 herein below. Corrective Work shall be warranted to be free from defects for a period of six (6) months. Any defect in such Work shall be corrected again by Principal promptly upon notice of the defect from County. In the event the maintenance bond given by Principal in connection with County's acceptance of the improvements is extended, the two (2) year warranty period provided for herein shall be extended for a like period.

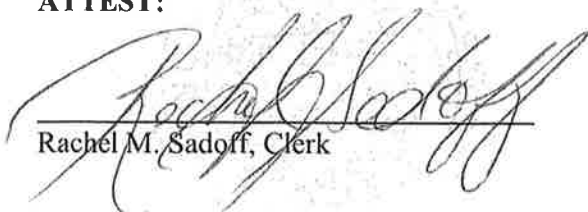
To the extent assignable, Principal assigns to County all of Principal's warranty rights under its construction contract with the contractor constructing the improvements (including all warranties provided by law of in equity with respect to such construction contract), which warranties may be asserted by County on behalf of Principal in the event Principal fails to perform its warranty obligations hereunder. Where warranties granted hereunder overlap, the more stringent requirement shall control."

3. The PRINCIPAL agrees to complete said construction on or before the 15th day of April, 2021.

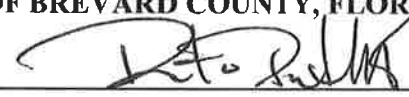
4. In order to guarantee performance of PRINCIPAL'S obligations herein contained, PRINCIPAL shall furnish cash, letter of credit, certificate of deposit or surety bond in a form approved by the COUNTY, in the amount of \$ 3,324,855.00. If such bond is a cash bond or a certificate of deposit, said amount shall be deposited with the Board of County Commissioners within five (5) business days of the County's acceptance of this contract. Said bond shall be 125% of the estimated cost of construction, as determined by the Land Development Division. PRINCIPAL shall maintain such records and accounts, including property, personnel, financial records, as are deemed necessary by the COUNTY to ensure proper accounting for all funds expended under the agreement. Said records shall be made available upon request for audit purposes to Brevard County and its auditors.
5. The COUNTY agrees to accept said plat above described for recording in the public records of Brevard County, Florida and to accept the areas depicted thereon as dedicated for public use, including but not limited to streets and parks, at such time as said improvements are satisfactorily completed. Satisfactory completion in accordance with the plans and specifications shall be determined by written approval of the County Development Engineer or designated assistant.
6. In the event, PRINCIPAL fails to complete said improvements within the time prescribed, the COUNTY may elect to take all or any of the following actions:
 - A. Vacate all or part of such recorded plat where improvements have not been completed in accordance with the plans and specifications,
 - B. Complete the improvements utilizing COUNTY employees and materials and request payment from the bond or the PRINCIPAL,
 - C. Request the surety on said performance bond to complete such improvements, or
 - D. Contract for completion of said improvements.
7. The PRINCIPAL and Surety on said performance bond shall be liable for all costs, expenses, and damages incurred by the COUNTY, including attorney's fees, in the event the PRINCIPAL defaults on this contract.
8. In the performance of this Agreement, the PRINCIPAL shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the Office and shall be retained by the PRINCIPAL for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119 of the Florida Statutes.
9. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this agreement shall be subject to copyright by PRINCIPAL in the United States or any other country.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

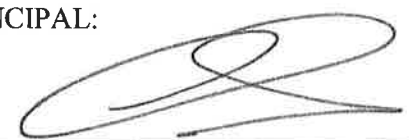

Rita Pritchett, Chair

As approved by the Board on: February 23, 2021.

WITNESSES:




PRINCIPAL:


Surrey Harnes, LLC, as President
2/1/21
DATE

State of: Florida


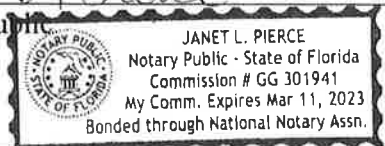
County of: Orange

The foregoing instrument was acknowledged before me this 1st day of February 20 21, by Christian Suann who is personally known to me or who has produced as identification and who did (did not) take an oath.

My commission expires:

S E A L

Commission Number:


Notary Public

JANET L. PIERCE
Notary Public - State of Florida
Commission # GG 301941
My Comm. Expires Mar 11, 2023
Bonded through National Notary Assn.

Notary Name printed, typed or stamped

SURETY PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Surrey Homes, LLC, hereinafter referred to as "Owner" and, Atlantic Specialty Insurance Company, hereinafter referred to as "Surety", are held and firmly bound unto the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, hereinafter referred to as "County", in the sum of \$ 3,324,855.00, for the payment of which we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, Owner has entered into a contract with the County dated the 23rd day of February, 20 21, which contract is made a part hereof by reference.

NOW THEREFORE, the condition of this obligation is such that if Owner shall promptly and faithfully perform said contract and complete the work contemplated therein by April 15, 20 21, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

If the Owner shall be declared in default of said contract by the County, the Surety shall have sixty (60) days from the date of said default within which to take whatever action it deems necessary in order to insure performance. If, at the expiration of sixty (60) days from the date of said default, no arrangements have been made by the Owner or surety satisfactory to the County for the completion of said contract, then the County shall have the right to complete said contract and the Owner and Surety jointly and severally, shall pay all costs of completing said contract to the County, including but not limited to engineering, legal and other costs, together with any damages, either direct or consequential, which the County may sustain on account of the Owner's default of said contract. After the expiration of the aforesaid grace period, the County shall have the additional right to contract for the completion of said contract upon which the Owner has defaulted and upon the County's acceptance of the lowest responsible bid for the completion of said contract, the Owner and Surety shall become immediately liable for the amount of said bid and in the event the County is required to commence legal proceedings for the collection thereof, interest shall accrue at the rate of six percent (6%) per annum beginning with the commencement of such legal proceedings. The County, in its discretion, may permit the Surety to complete said contract, in the event of Owner's default.

In the event that the County commences suit for the collection of any sums due hereunder, the obligors and each of them agree to pay all costs incurred by the County, including attorney's fees.

EXECUTED this 23rd day of February, 20 21.

OWNER: Surrey Homes, LLC



SURETY: Atlantic Specialty Insurance Company



Brook T. Smith, Attorney-in-Fact

Pre-approved Form reviewed for
Legal form and content: 12/18/07



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: **Brook T. Smith, James T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Deborah S. Neichter, Michele D. Lacrosse**, 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.

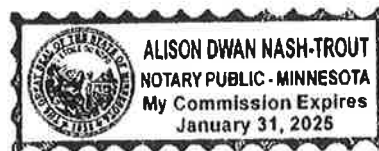
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-seventh day of April, 2020.



By 
Paul J. Brehm, Senior Vice President

STATE OF MINNESOTA
HENNEPIN COUNTY

On this twenty-seventh day of April, 2020, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he 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 23rd day of February, 2021

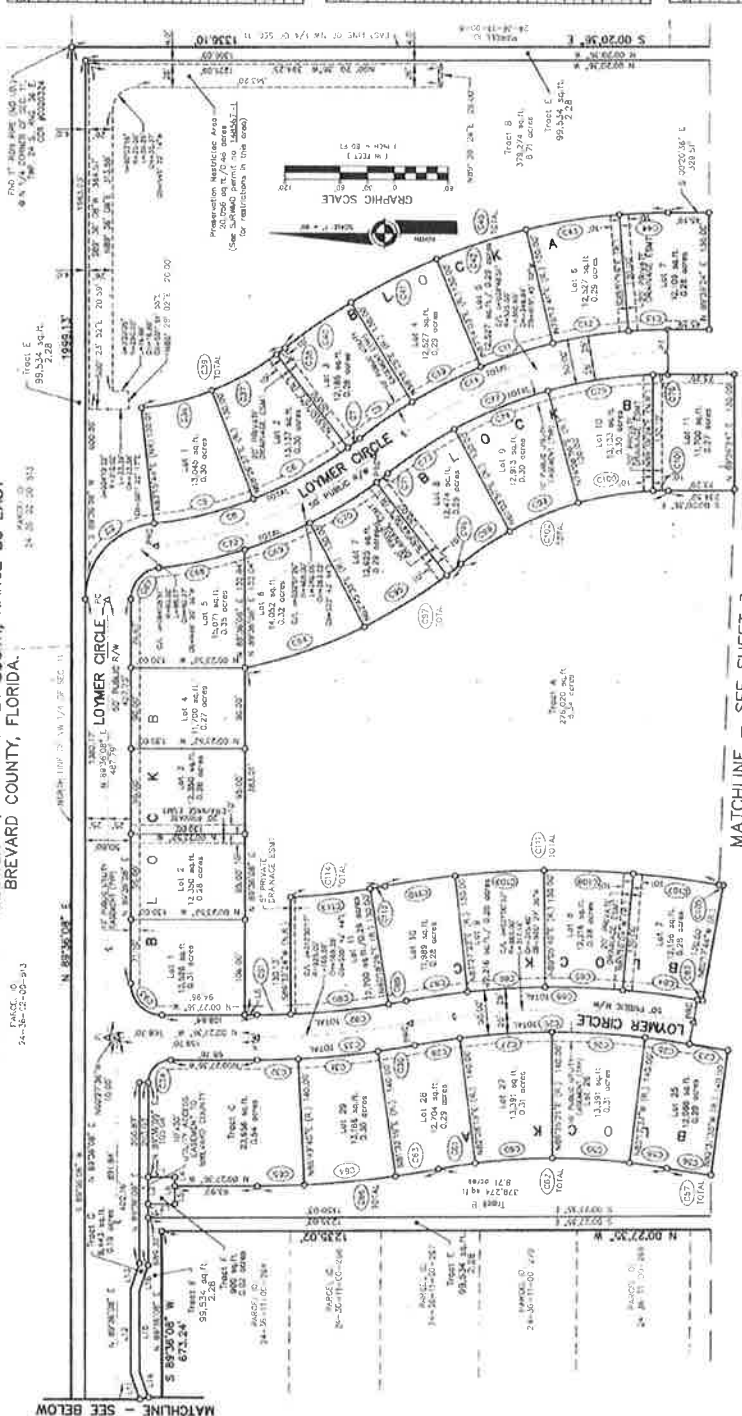
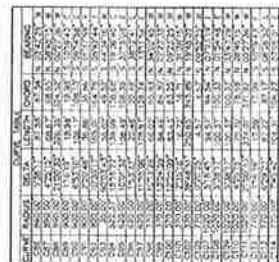
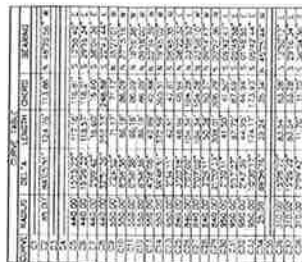


This Power of Attorney expires
January 31, 2025

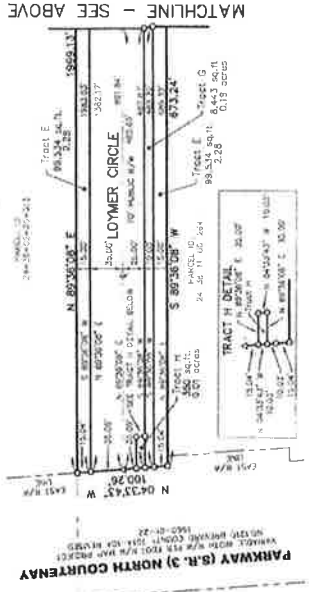

Kara Barrow, Secretary

PLAT BOOK _____ PAGE _____
SHEET 2 OF 3
SECTION 11 TWP. 24 S. RANGE 36 E.

A SUBDIVISION IN SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST
BREVARD COUNTY, FLORIDA.



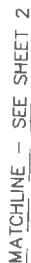
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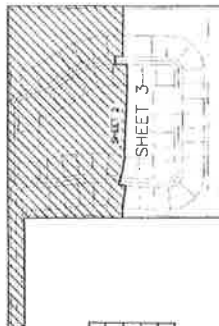
Bussen-Mayer Engineering Group
SURVEYOR AND ENGINEER
J. BARRY CANNON, P.E., 4544
CERTIFICATE OF AUTHORIZATION No. 12038
100 PARREL STREET • ROBERTT ISLAND, FLORIDA 32653

A SUBDIVISION IN SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST
BREVARD COUNTY, FLORIDA.

SHEET 3 OF 3
SECTION 11 TWP. 24 S., RANGE 36 E.

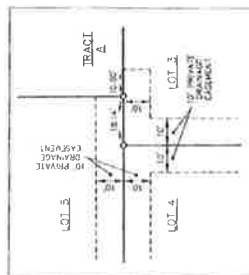


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Line #	Length	Direction
L1	20.042	N00° 27' 35.81" W
L2	20.000	S89° 39' 28.41" W
L3	18.771	S00° 00' 34.13" E



KEY MAP

DETAIL A
SCALE: 1"=20'



COORDINATES NOTE:
THE COORDINATES GIVEN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM OF FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 AS ADJUSTED IN 2009 (NAD 83/09) AND ARE PROVIDED TO COMPLY WITH SHEVARD COUNTY

[illegible]

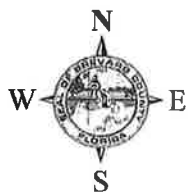
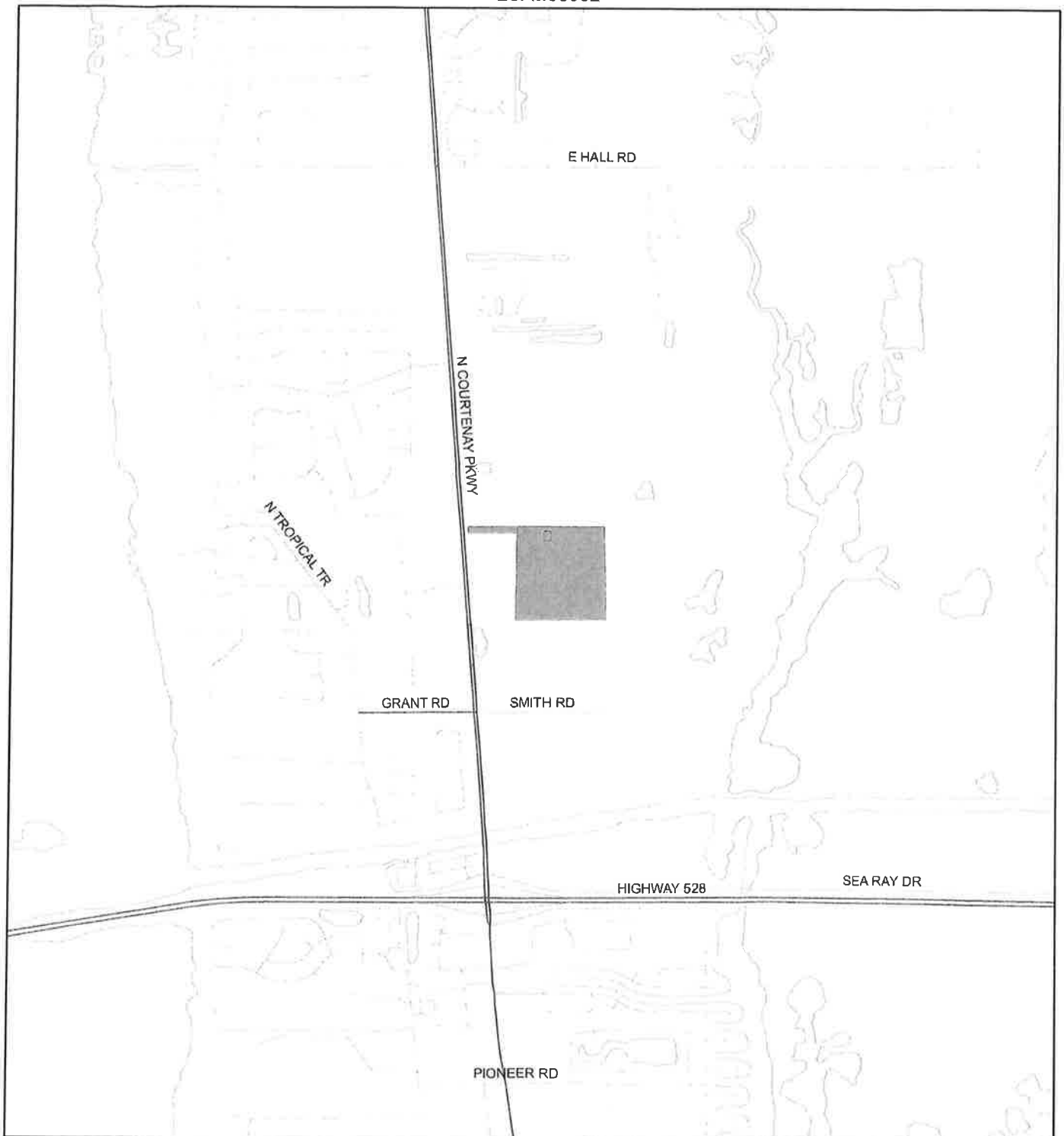
DETAIL A
SCALE: 1"=20'

Bussen-Mayer Engineering Group
SURVEYOR AND ENGINEER
1 BARRY CAMPBELL F.L.E.# 4544
CORPORATE ADMINISTRATION, INC. 180555
100 HAINES STREET • MOBILETOWN, FLORIDA 36680

Bussen-Mayer Engineering Group
SURVEYOR AND ENGINEER
2 BARRY CARRANON, P.L.S. #524
CORPORATE OF ALTHAMPTON, N.J. 08054
100 FARNELL STREET • MORRISTOWN, N.J. 07960

LOCATION MAP

Savannah Landing
20FM00002



1:24,000 or 1 inch = 2,000 feet

 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/1/2021