



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

5/9/2023

Subject:

Final Plat and Contract Approval, Re: North Island Villas

Developer: North Island Villas (FL) Owner IV, LLC

District 2

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

In accordance with Section 62-2841(i) and Section 62-2844, it is requested that the Board of County Commissioners grant final plat approval and authorize the Chair to sign the final plat and contract for North Island Villas.

Summary Explanation and Background:

There are three stages of review for subdivision plan approval: the pre-application conference, the preliminary plat/final engineering plan review, and the final plat review. The pre-application conference for the above project was held on August 27, 2018. The preliminary plat and final engineering plans, which is the second stage of approval, were approved on March 10, 2022. The third stage of review is the final plat approval for recordation. The applicant is posting a performance bond and contract for guarantee of the completion of the infrastructure improvements.

Staff has reviewed the final plat and contract for the North Island Villas, and has determined that it complies with the applicable ordinances.

The parcel is zoned RA-2-4 with a recorded Binding Development Plan recorded in ORB 8003, Page 355 limiting the density to 48 units. The proposal is for 48 town home sites on 12.85 acres.

This approval is subject to minor engineering changes as applicable. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 22FM00020, 18SD00016

Contact: Tim Craven, Planner II, Ext. 58266

Clerk to the Board Instructions:

Please have the contract signed, and return the original and a certified copy to Planning and Development.



May 10, 2023

MEMORANDUM

TO: Tad Calkins, Planning and Development Director ✓

RE: Item F.4., Final Plat and Contract Approval for North Island Villas -
Developer: North Island Villas (FL) Owner IV, LLC

The Board of County Commissioners, in regular session on May 9, 2023, granted final plat approval; authorized the Chair to sign to sign the Plat and Contract for North Island Villas - Developer: North Island Villas (FL) Owner IV, LLC, subject to minor engineering changes, if necessary, receipt of all documents required for recording; and developer responsible for obtaining all other necessary jurisdictional permits. Enclosed is the fully-executed Contract and a certified copy. ✓

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/sm

Encls. (2)

Subdivision No. 18SD00016/22FM00020 Project Name North Island Villas

**Subdivision Infrastructure
Contract**

THIS CONTRACT entered into this 9 day of MAY, 2023 by and between the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as "COUNTY," and North Island Villas (FL) Owner IV 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 18SD00016//22FM00020. 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 14th day of April, 2025.

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 \$ 3,572,577.69. 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: MAY 9, 2023.

WITNESSES:

Alexa
ALEXANDRA MUSCA

Scott Jackson
SCOTT JACKSON

PRINCIPAL:

Jay Byce, as Authorized Representative,
North Island Villas (FL) Owner IV, LLC

DATE

State of: GEORGIA

County of: FORSYTH

The foregoing instrument was acknowledged before me this 14th day of April, 2023, by Jay Byce who is personally known to me or who has produced as identification and who did (did not) take an oath.

My commission expires: Dec. 8th 2026

S E A L

Commission Number:



Notary Public

CRENGUTA TAMASU
Notary Name printed, typed or stamped

SURETY PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, North Island Villas (FL) Owner IV LLC, hereinafter referred to as "Owner" and, Great Midwest 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 \$ 3,572,577.69, 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 9 day of MAY, 20 23, 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 14th, 20 25, 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 14th day of April, 20 23.

OWNER:

Jay Byce, North Island Villas (FL) Owner IV LLC

SURETY: Great Midwest Insurance Company

Stephen T. Kazmer, Attorney-in-Fact

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



POWER OF ATTORNEY

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Kelly A. Gardner, Stephen T. Kazmer, Jennifer J. McComb, James I. Moore, Tariese M. Pisciotto, Melissa Schmidt, Martin Moss

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.



GREAT MIDWEST INSURANCE COMPANY

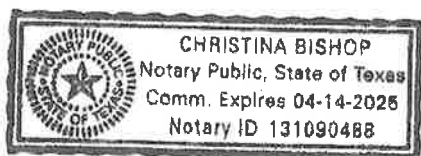
BY

Mark W. Haushill

Mark W. Haushill
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY

Christina Bishop

Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 14th Day of April, 2023.



BY

Leslie K. Shaunty

Leslie K. Shaunty
Secretary

"WARNING" Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

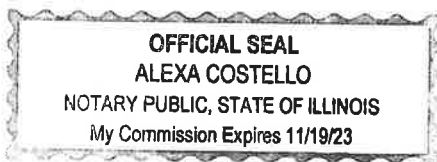
STATE OF ILLINOIS }
COUNTY OF DU PAGE}

On April 14, 2023, before me, Alexa Costello, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared, Stephen T. Kazmer, known to me to be Attorney-in-Fact of Great Midwest Insurance Company, the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument on behalf of the said corporation, and he duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires November 19, 2023

Alexa Costello
Alexa Costello, Notary Public
Commission No. 904586



A PARCEL OF LAND LYING IN SECTION 34, TOWNSHIP 23 SOUTH, RANGE 36 EAST,
BREVARD COUNTY, FLORIDA

SHEET 3 OF 4



CUMUL. TAIL		CUMUL. TAIL	
CUMUL.	RADIUS	CHORD BEARING	CHORD
C9	25.00'	N40°53'38"W	34.78'
C10	25.00'	N17°50'59"W	9.48'
C11	25.00'	N5°55'21"W	27.39'
C12	25.00'	N4°55'22"E	35.92'
C13	25.00'	S59°39'20"W	66.2519'
C14	25.00'	S59°39'20"W	27.39'

LINE	BEARING	LENGTH
L1	S89°52'00"W	30.98'
L2	N00°05'00"W	30.26'
L3	N89°52'00"E	30.00'
L4	N01°59'16"W	30.28'

[illegible]

INDEX MAP (NOT TO SCALE)



SHEET INDEX
SHEET 1 OF 4 - LEGAL DESCRIPTION, NOTES,
LEGEND & DEDICATION
SHEET 2 OF 4 - BOUNDARY INFORMATION
SHEET 3 OF 4 - TRACT & LOT GEOMETRY

SEE SHEET 4

1

SECTION 34, TOWNSHIP 23 SOUTH, RANGE 36 EAST

LEZGNO	
UE	utility easement
P.A.E.	public drainage easement
U.D.S.E.	private utility/electric/private sewerage easement
D.U.E.	drainage utility easement
U.L.	utility lot
set wall & disk stamped LB #6723	
■ permanent corner (pop)	
□ curtilage	
W	water right
WR	water right
COR	Corner Record Number
■ set "L"X" concrete monument LB #6723	
■ permanent reference monument (PRM)	
PC	point of tangency
PT	point of departure
P	power of attorney
R	right-of-way
L.R.	licensed business
■ set 1/2" iron rod & cap LB #6723	
MRI	Medical Records Institute, Inc.
N.H.A.	National Highway Builders' Unit
HNA	Homeowners Association
NACB	North American National Council



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SHEET 3 & 4 OF 4 - TRACT & LOT GEOMETRY

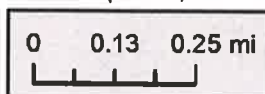
Location Map



Subject Property in Orange

Disclaimer: 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.

Scale: 1:18,000
1 inch equals 1,500 feet



Print Time: 4/19/2023 12:54 PM

5-9-23
F.4.

Subject:

Final Plat and Contract Approval, Re: North Island Villas
Developer: North Island Villas (FL) Owner IV, LLC

District 2

Fiscal Impact:

None

Dept/Office:

Planning and Development

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