

MEMORANDUM



To: Scott Hopes
County Administrator

From: Chad Butzow, Director
Public Works Department

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

Date: November 16, 2021

Subject: **CRESSWIND PHASE II SUBPHASE A
PLN2012-0046
RELEASE PERFORMANCE PORTION OF AGREEMENT
RELEASE SURETY BONDS
ACCEPT DEFECT SECURITY PORTION OF AGREEMENT
ACCEPT SURETY BOND
ACCEPT BILL OF SALE**

On March 23, 2021, the Board of County Commissioners accepted the Agreement for Public Improvements for Private Subdivision for Phase II Subphase A securing water, wastewater, and surveying improvements. The developer has provided all necessary documentation and completed and passed all inspections for those required public improvements in order to release the performance portion; and accept the defect security portion of the Agreement which will warrant these improvements for this project. A Bill of Sale is also required for this project which has publicly maintained utilities under private roadway. We, therefore, per Resolution R-14-86, respectively request the County Administrator to approve the following:

- **Authorization to release and return** the Surety Bonds, and any amendments associated with this letter, in conjunction with the *Agreement for Private Subdivision Improvements*. Documents will be returned to Sandi Fusinetti with Smith Manus, located at 2307 River Road Suite No. 200, Louisville, KY 40206;
 - **Surety Bond No.** LICX1202911 issued through Lexon Insurance Company;
 - **Amount** of Performance Bond \$274,536.12;
 - **Surety Bond No.** LICX1202915 issued through Lexon Insurance Company;
 - **Amount** of Performance Bond \$236,152.07;
- **Accept and Execute Surety Bonds** securing Section 1.5 "Maintenance, Defects" of the Agreement for Public Subdivision Improvements accepted by the Board of County

Public Works Department
Fiscal Division
1022 26th Avenue East, Bradenton, FL 34208
Phone number: (941) 708-7450

JAMES
SATCHER
District 1

REGGIE
BELLAMY
District 2

KEVIN
VAN OSTENBRIDGE
District 3

MISTY
SERVIA
District 4

VANESSA
BAUGH
District 5

CAROL
WHITMORE
At Large

GEORGE W.
KRUSE
At Large

Commissioners on March 23, 2021, securing water, wastewater, and surveying improvements;

- **Surety Bond No.** LICX1203099 issued through Lexon Insurance Company;
- **Amount** of Defect Security \$21,641.33.
- **Accept and Execute** Bill of Sale.

cc: Records Management
Ken LaBarr, Infrastructure Inspections Division Manager

Crosswind Phases IIA, IIB & IIC - Private Project w/Public Improvements
Wastewater, Water, Surveying
DEFECT Phase IIA – Water, Wastewater, Surveying

**EXHIBIT “B-1”
IMPROVEMENTS**

	Improvement	Estimated Cost
1	Phase IIA – Wastewater, Water, Surveying	\$274,563.12
2	Phase IIC – Wastewater, Water, Surveying	\$873,392.98
3	DEFECT Phase IIA – Water, Wastewater, Surveying	\$21,641.33
4		\$
5		\$



Public Works Department
Engineering Services
1022 26th Ave East
Bradenton, FL 34208
Phone: (941) 708-7462
www.mymanatee.org

March 9, 2021

Waldrop Engineering
Attention: Jeremy Arnold
28100 Bonita Grande Drive, Suite 305
Bonita Springs, FL 34135

(jeremy.arnold@waldropengineering.com)

**RE: Cresswind Phase II, Subphase A
Defect Security Cost Estimate
Required Public Improvements
Reason – (Wastewater, Water, Surveying)**

Dear Mr. Arnold:

Your cost estimate for the above referenced bond, dated **March 2, 2021**, for the completion of site improvements to serve the above referenced development, is approved for the appropriate surety.

A Defect Security in the amount of **\$21,641.33**, which is 10% of the submitted actual cost, would be sufficient to assure the County correction of any defects or failures.

If we can be of further assistance, please contact me at (941) 708-7450.

Sincerely,



Scott May, P.E., County Engineer
Deputy Director – Engineering Services

SM/ns/jmg

cc: Record Management
Brandy Wilkins, Fiscal Analyst, Public Works Department
Carmen Mosley, Fiscal Operations Division Manager, Public Works Dept.
Kenneth LaBarr, Infrastructure Inspection Division Manager, Public Works Dept.
Susan Angersoll, Senior Planning & Zoning Tech., Building & Development Services
Kevin Oatman, Planner I, Building & Development Services

Cresswind Phase II - Subphase A

PDR: PDR-17-19/19-S-57(P)/FSP-19-117

Plat: PLN2012-0046

FSP: PLN1911-0047

CNST: PLN1911-0043

Subdivision Improvements - Public Infrastructure Actual Cost

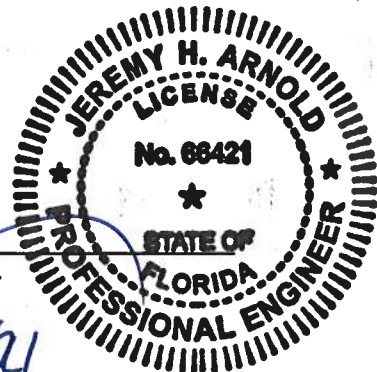
Date: 3/2/2021

	Subphase A
Wastewater	\$111,059.25
Water	\$91,854.00
Surveying	\$13,500.00
Construction Cost:	\$216,413.25
10% of Construction Cost:	\$21,641.33
Defect Surety Amount:	\$21,641.33

Notes:

- 1) This OPC is based on the engineer's understanding of the current rules, regulations, ordinances, and construction costs in effect on the date of this document. Interpretations of these construction costs may affect this OPC, and may require adjustments to delete, decrease, or increase portions of this OPC.
- 2) All costs provided in this OPC are based on recent contract prices, or the engineer's latest known unit costs. These costs cannot be guaranteed at this time due to unpredictable and uncontrollable increases in the cost of concrete, petroleum, or the availability of materials and labor.


Jeremy H. Arnold, P.E.



3/2/21
Date

Florida License # 66421

WASTEWATER

Item #	Description	Estimated Quantity	Unit	Unit Price	Amount
Cresswind Phase II, Subphase A					
WW-1	8" PVC SANITARY SEWER SDR-26 (0-6')	312	LF	\$32.10	\$10,015.20
WW-2	8" PVC SANITARY SEWER SDR-26 (6-8')	541	LF	\$39.50	\$21,369.50
WW-3	8" PVC SANITARY SEWER SDR-26 (8-10')	150	LF	\$45.00	\$6,750.00
WW-4	8" PVC SANITARY SEWER SDR-26 (10-12')	100	LF	\$53.40	\$5,340.00
WW-5	4" MANHOLE (0-6')	2	EA	\$3,750.00	\$7,500.00
WW-6	4" MANHOLE (6-8')	3	EA	\$4,000.00	\$12,000.00
WW-7	6" DOUBLE PVC SEWER SERVICE	23	EA	\$1,550.00	\$35,650.00
WW-8	6" SINGLE PVC SEWER SERVICE	1	EA	\$835.00	\$835.00
WW-9	TELEVISION INSPECTION	1,103	LF	\$4.85	\$5,349.55
WW-10	TIE INTO RX MANHOLES	1	EA	\$6,250.00	\$6,250.00
SUBTOTAL =					\$111,059.25

POTABLE WATER

Item #	Description	Estimated Quantity	Unit	Unit Price	Amount
Cresswind Phase II, Subphase A					
W-1	6" PVC WATER MAIN (C900, DR-18)	1,160	LF	\$19.50	\$22,620.00
W-2	6" GATE VALVE	1	EA	\$1,670.00	\$1,670.00
W-3	1" SINGLE WATER SERVICE, COMPLETE	14	EA	\$1,010.00	\$14,140.00
W-4	1.5" DOUBLE WATER SERVICE, COMPLETE	17	EA	\$1,700.00	\$28,900.00
W-5	FIRE HYDRANT, COMPLETE	1	EA	\$5,950.00	\$5,950.00
W-6	CONNECT TO EXISTING WATER MAIN	2	EA	\$7,750.00	\$15,500.00
W-7	CHLORINATION & TESTING	1,160	LF	\$2.65	\$3,074.00
				SUBTOTAL =	\$91,854.00

SURVEYING

Item #	Description	Estimated Quantity	Unit	Unit Price	Amount
<u>Cresswind Phase II, Subphase A</u>					
S-1	Construction Stake Out	1	LS	\$9,000.00	\$9,000.00
S-2	Utility Record Drawings	1	LS	\$4,500.00	\$4,500.00
				SUBTOTAL =	\$13,500.00

Cresswind Phases IIA, IIB & IIC - Private Project w/Public Improvements
Wastewater, Water, Surveying
DEFECT Phase IIA – Water, Wastewater, Surveying

**EXHIBIT “B-2”
IMPROVEMENTS**

PROVIDE A MAP SHOWING LAYOUT OF THE PUBLIC POTABLE WATER RECLAIMED
WATER AND SANITARY SEWER INFRASTRUCTURE FACILITIES (Master Utility Plan)
FOR THE ENTIRE DEVELOPMENT

REQUIRED AT TIME OF DEFECT

Cresswind Phases IIA, IIB & IIC - Private Project w/Public Improvements
Wastewater, Water, Surveying
DEFECT Phase IIA – Water, Wastewater, Surveying

EXHIBIT “C”
PERFORMANCE SECURITIES

	Bond / LoC	Amount
1	Phase IIA – Surety Bond No. LICX1202911 issued through Lexon Insurance Company	\$274,563.12
2	Phase IIC – Surety Bond No. LICX1202910 issued through Lexon Insurance Company	\$873,392.98
3	DEFECT Phase IIA – Surety Bond No. LICX1203099 issued through Lexon Insurance Company	\$21,641.33
4		\$
5		\$

**SURETY BOND
FOR DEFECTS OF REQUIRED IMPROVEMENTS**

(Attachment "A")

BOND NO. LICX1203099

PROJECT NAME: Cresswind Phase II, Subphase A

KNOW ALL MEN BY THESE PRESENT:

That the Developer, KH Lakewood Ranch LLC as Principal, and Lexon Insurance Company, a Surety Company, duly authorized to transact business in the State of Florida, are held and firmly bound unto the County of Manatee, State of Florida, as Oblige, in the sum of \$ 21,641.33 (Numbers) Twenty-One Thousand Six Hundred Forty-One and 33/100 (Words) for which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents for the specific benefit of the County in accordance with the conditions set forth herein and in "Agreement in Conjunction with the Surety Bond as Defect Security Warranting Required Improvements".

THE CONDITION of the above obligation is such that, Whereas the Principal has entered into a contract, dated _____ (LEAVE BLANK – Manatee County Approval Date) with the obligation to warrant those Required Improvements which the Principal is presently requesting the Oblige to accept for maintenance to be free from defects or failures involving construction, design, or materials.

NOW THEREFORE, if the Oblige's inspection of the Required Improvements finds no defects within thirty six (36) months from the date of the Oblige's approval and acceptance of those Required Improvements, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect. In the event the Defects are not remedied in accordance with the terms of the attached "**Agreement**", which is hereby incorporated herein by reference, the Surety will forthwith pay to the Oblige the costs of correcting the Defects in an amount not exceeding the said sum specified above. The amount of money required to repair the defects shall be at the sole discretion of the County. Means of notification of intent to collect shall be by certified mail to the Surety at the address on page _____ (*insert page number for surety address*). Payment will be made to the County within thirty (30) days by certified check drawn on behalf of the Board of County Commissioners at P.O. Box 1000, Bradenton, FL 34206.

This Surety Bond shall be construed in accordance to the Laws of Florida, and any action of whatever nature, in connection with this Bond and the Agreement Warranting Required Improvements shall be filed in the Twelfth Judicial Circuit in and for Manatee County, Florida.

INSURANCE COMPANY SIGNATURE FORM

FOR: Cresswind Phase II, Subphase A

(Name of Project)

BOND NO. LICX1203099

SIGNED AND SEALED this 6th day of April, 20 21

Lexon Insurance Company

Surety Company Name

By: [Signature]

Signature - As its Agent

Brook T. Smith, Attorney-in-Fact

Print Name & Title

10002 Shelbyville Road, Suite 100

Address

Louisville KY 40223

City State Zip

WITNESSES OR CORPORATE SEAL

Signature

Signature

Print Name

Print Name

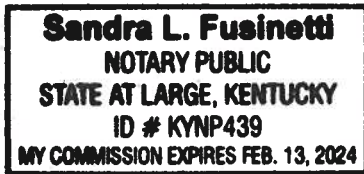
NOTARY ACKNOWLEDGMENT

STATE OF: Kentucky

COUNTY OF Jefferson

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization this 6th day of April, 2021, by Brook T. Smith as Attorney-in-Fact (Title), on behalf of the Surety identified herein, and who is personally known to me or who has produced personally known (Type of Identification) as identification.

NOTARY SEAL:



[Signature]
Notary Public

Sandra L. Fusinetti
Print Name of Notary

Commission No. KYNP439 My Commission Expires: February 13, 2024

DEVELOPER SIGNATURE FORM

FOR: Cresswind Phase II, Subphase A

BOND NO. LICX1203099

SIGNED AND SEALED this 8th day of April, 2021

WITNESSES OR CORPORATE SEAL:

[Signature]
Witness

Jarren Jones
Type or Print Name

[Signature]
Witness

Braden Rakovitch
Type or Print Name

KH Lakewood Ranch LLC

Developer

BY: [Signature]
Signature

Howard Erbstein
Type or Print Name

t
Its Authorized Signatory

Title (If attorney-in-fact Attach Power of Attorney)

105 NE 1st Street

Postal Address

Delray Beach FL 33444

City State Zip

NOTARY ACKNOWLEDGMENT

STATE OF: Florida

COUNTY OF: Calumbeach

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 8 day of April, 2021, by Howard Erbstein, as Authorized Signatory, (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:



[Signature]
Notary Public
Denise Yang
Print Name of Notary

Approved and accepted for and on behalf of Manatee County, Florida, this 29th day of October, 2021

MANATEE COUNTY

A political subdivision of the State of Florida

By: [Signature]
~~Board of County Commissioners~~

By: _____
County Administrator

NOTARY ACKNOWLEDGMENT

STATE OF: Florida

COUNTY OF: Manatee

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 29th day of October, 2021, by Scott Hopes, as County Administrator, (Title), for and on behalf of 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:



[Signature]
Notary Public
NATASHA E HARPEL
Print Name of Notary



POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation, **Endurance American Insurance Company**, a Delaware corporation, **Lexon Insurance Company**, a Texas corporation, and/or **Bond Safeguard Insurance Company**, a South Dakota corporation, each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint **Brook T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Barbara Duncan, Sandra L. Fusinetti, Mark A. Guidry, Jill Kemp, Lynnette Long, Amy Bowers, Deborah Neichter, Theresa Pickerrell, Sheryon Quinn, Beth Frymire, Leigh McCarthy, Michael Dix, Susan Ritter, Ryan Britt** as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars (\$100,000,000.00)**.

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15th day of June, 2019.

Endurance Assurance Corporation
By: *Richard Appel*
Richard Appel; SVP & Senior Counsel



Endurance American Insurance Company
By: *Richard Appel*
Richard Appel; SVP & Senior Counsel



Lexon Insurance Company
By: *Richard Appel*
Richard Appel; SVP & Senior Counsel



Bond Safeguard Insurance Company
By: *Richard Appel*
Richard Appel; SVP & Senior Counsel



ACKNOWLEDGEMENT

On this 15th day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/she is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: *Amy Taylor*
Amy Taylor, Notary Public - My Commission Expires 5/9/23



CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

"RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: **RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT** ; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 6th day of April, 2021.

By: *Daniel S. Lurie*
Daniel S. Lurie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <https://www.treasury.gov/resource-center/sanctions/SDN-List>.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com

Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that KH LAKEWOOD RANCH LLC, a FLORIDA LIMITED LIABILITY COMPANY, whose address is 105 NE 1ST Street, Delray Beach, FL 33444 (hereinafter referred to as SELLER), for and in consideration of the sum of Ten and No Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, from Manatee County, Florida, a political subdivision of the State of Florida, whose address is Post Office Box 1000, Bradenton, Florida 34206 (hereinafter referred to as COUNTY) has granted, bargained, sold, transferred, conveyed and delivered to the COUNTY, its executors, administrators, successors and assigns forever, the following CRESSWIND PHASE II – SUBPHASE 2A:

1. All wastewater lines, pipes, valves, pumps, laterals, force mains, tees, bends, joints, lift stations, facilities, equipment, and appurtenances thereto, located within or upon that certain real property owned by the SELLER and described below; [and]

2. All potable water lines, pipes, valves, pumps, laterals, force mains, tees, bends, joints, pump stations, facilities, equipment and appurtenances thereto, located within or upon that certain real property owned by the SELLER and described below; [and]

All on the property described in Exhibit "A", attached hereto and made a part hereof, situate, lying and being in the County of Manatee, State of Florida.

TO HAVE AND TO HOLD the same unto the COUNTY, its executors, administrators, successors and assigns forever. The COUNTY shall have all rights and title to the above described personal property.

AND the SELLER hereby covenants to and with the COUNTY and assigns that SELLER is the lawful owner of the said personal property; that said personal property is free from all liens and encumbrances; that SELLER has good right and lawful authority to sell said personal property; and that SELLER fully warrants title to said personal property and shall defend the same against the lawful claims and demands of all persons whomever.

IN WITNESS WHEREOF, the SELLER has hereunto set its hand and seal, by and through its duly authorized representatives, this 6 day of July, 2021.

Signed, sealed and delivered in the presence of Witnesses:

KH LAKEWOOD RANCH LLC
a Florida Limited Liability Company

Dana Cl Olsen
Print name: Dana Christine Olsen

By: [Signature]
Print Name: Mark Bines
as its: Authorized Signatory

D. Donovan
Print name: Deborah Donovan

105 NE 1ST ST
Postal Address
Delray Beach FL 33444
City State Zip

(Signature of two witnesses or secretary required by law)

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 6 day of July, 2021, by Mark Bines as Authorized Signatory of KH LAKEWOOD RANCH LLC, a FLORIDA LIMITED LIABILITY COMPANY, on behalf of the company. He/she is personally known to me or has produced _____ as identification.



[Signature]

NOTARY PUBLIC Signature

Jennifer Wallace

Printed Name

WHEREFORE, the County and Developer and/or CDD have executed this Bill of Sale as of this 29th day of October, 2021.

**MANATEE COUNTY, a political
subdivision of the State of Florida**

By: Board of County Commissioners

By: _____



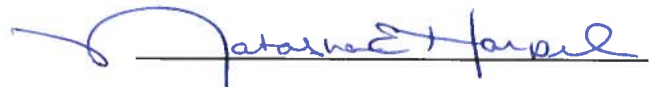
County Administrator

STATE OF: Florida

COUNTY OF: Manatee

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 29th day of October, 2021, by Scott Hopes County Administrator) for and on behalf of the Manatee County Board of County Commissioners who is personally known to me or has produced N/A as identification

NOTARY SEAL:



NOTARY PUBLIC Signature

NATASHA E. HARPEL

Printed Name

Exhibit "A"

Legal Description

Tract A-1, public utility easements, and Manatee County utility easements of Cresswind Phase II, Subphases A, B & C, according to the plat thereof as recorded in Plat Book 70, Pages 125 through 138, of the Public Records of Manatee County, Florida.