

**RESOLUTION 2007 – 029**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A REGIONAL ROAD CONCURRENCY AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF SOUTHWEST RANCHES FOR CONSTRUCTION OF IMPROVEMENTS ASSOCIATED WITH THE SOUTHWEST MEADOWS SANCTUARY PLAT; SERVING AS SECURITY FOR THE REQUIRED IMPROVEMENTS; AUTHORIZING THE TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Southwest Ranches ("Town") has undertaken platting of the Town's future Town Hall site on Dykes Road, which site shall be known as the Southwest Meadows Sanctuary Plat (the "Plat"); and

**WHEREAS**, as a condition of approval of the Plat, it is necessary for the Town and Broward County to enter into a standard Regional Road Concurrency Agreement for Construction of Improvements, a copy of which is attached hereto, made a part hereof and marked Exhibit "A", (the "Agreement") for the completion of various required improvements, as set forth in Exhibit "B" of the Agreement, relating to the Plat (the "Improvements"); and

**WHEREAS**, the Agreement requires that the Town provide Broward County with a certified Resolution of the Town Council, as security for the Improvements prior to the recordation of the Agreement, in a form acceptable to Broward County, and which guarantees the Town's performance of the construction obligations, including providing funding set forth in the Agreement; and

**WHEREAS**, the estimated cost of the Improvements shall not exceed \$51,982.00; and

**WHEREAS**, the Town Council deems it to be in the best interest of the citizens and residents of the Town of Southwest Ranches to approve the Agreement and to ensure its funding as indicated herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA.**

**SECTION 1.** The foregoing "Whereas" clauses are confirmed and ratified as being true and correct, and are incorporated herein by reference.

**SECTION 2.** The Town Council of the Town of Southwest Ranches hereby approves the Agreement between Broward County and the Town of Southwest Ranches, which is attached hereto as **Exhibit "A"** and incorporated herein.

**SECTION 3.** The appropriate Town officials are hereby authorized to execute the Agreement, and the Town Administrator and Town Attorney are authorized to make any non material revisions to the Agreement as may be acceptable to the Town Administrator and approved as to form and legality by the Town Attorney, consistent with the intent of this Resolution.

**SECTION 4.** The Town of Southwest Ranches hereby agrees to be bound by the covenants and requirements of the aforementioned Agreement and comply with all provisions therein. The Town Council further intends that this Resolution shall serve as security to ensure compliance with the terms and conditions of the Agreement, instead of providing a surety bond or revocable letter of credit, with a total estimated construction cost not to exceed \$51,982.00.

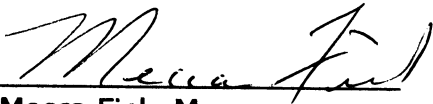
**SECTION 5.** The Agreement shall be recorded by the Town in the public Records of Broward County, Florida.

**SECTION 6.** This Resolution shall take effect immediately upon its passage and adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 4th day of January, 2007, on a motion by Vice Mayor Don Maines and seconded by Council Member Jeff Nelson.

Fink	<u>Y</u>	Ayes	<u>5</u>
Maines	<u>Y</u>	Nays	<u>0</u>
Breitkreuz	<u>Y</u>	Absent	<u>0</u>
Knight	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		

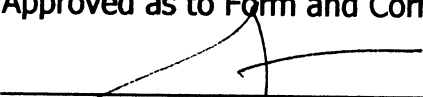
**[Signatures on Following Page]**

  
Mecca Fink, Mayor

Attest:

  
Susan A. Owens, Town Clerk

Approved as to Form and Correctness:

  
Gary A. Poliakoff, J.D., Town Attorney

FTL\_DB: 1025177\_1

Return recorded document to:

Development Management Division  
115 S. Andrews Avenue, A240  
Fort Lauderdale, FL 33301

Document prepared by:

**NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PAID AND/OR PERFORMED.**

**REGIONAL ROAD CONCURRENCY AGREEMENT  
CONSTRUCTION OF IMPROVEMENTS**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

AND

The Town of SOUTHWEST RANCHES, a municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "TOWN."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas; and

WHEREAS, TOWN, as Developer, has applied for approval of the **Southwest Meadows Sanctuary Plat (062-MP-05)**, hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on March 15, 2006, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of or

amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in the Broward County Land Development Code ("CODE"); and

WHEREAS, TOWN has conducted a study and has determined that certain remedial measures will mitigate the traffic impacts so that the PLAT or amendment to the PLAT will satisfy Broward County concurrency standards; and

WHEREAS, the Broward County Development Management Division has approved these remedial measures and finds that its concurrency requirements for the PLAT or the amendment to the PLAT will be met with the execution of, and compliance with, the terms of this Agreement by TOWN; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. Construction of Improvements.

**IMPROVEMENTS CONSTRUCTED BY TOWN**

- (a) TOWN agrees to construct the improvements described in Exhibit "B" attached hereto, hereinafter referred to as the "Improvements." TOWN agrees to complete the Improvements prior to receipt of the first certificate of occupancy for property within the PLAT.
- (b) If the Improvements described in Exhibit "B" are on a state road, as that term is defined in Chapter 334, Florida Statutes, TOWN agrees that, prior to PLAT recordation, TOWN shall provide COUNTY with proof of having received a permit or letter of intent to permit from the State of Florida Department of Transportation for the Improvements.
- (c) COUNTY and TOWN agree that the Resolution attached as Exhibit "C" shall serve in lieu of security for the Improvements, which guarantees the TOWN'S performance of the construction obligations set forth in this Agreement in the total amount of **\$51,982.00**, which represents 125% of the costs of the Improvements.
- (d) The TOWN is a governmental agency and is not required to provide the COUNTY with security such as an irrevocable letter of credit, which guarantees the TOWN'S performance of the construction obligations set forth in this Agreement. However, in the event that TOWN conveys, assigns,

leases or otherwise grants any interest in the Improvements to another party prior to completion of the Improvements described in Exhibit "B," then TOWN shall require such party to enter into an agreement and deliver security, such as an irrevocable letter of credit, in a form acceptable to the COUNTY, which guarantees performance of the construction obligations, or any part thereof, as set forth in this Agreement.

- (e) The TOWN agrees not to obtain or issue any certificates of occupancy prior to completion of the applicable Improvements as set forth in Exhibit "B."
- (f) TOWN shall notify COUNTY if TOWN'S Resolution securing the Improvements is repealed or is disaffirmed. COUNTY shall then send notice to TOWN according to the notice provisions of this Agreement and TOWN shall have one (1) month from the date of such notice to provide substitute security in a form acceptable to COUNTY. If TOWN fails to provide acceptable substitute security, at the option of the COUNTY, COUNTY may declare a default under this Agreement.
- (g) The Improvements described in Exhibit "B" shall be installed in accordance with applicable COUNTY, State of Florida Department of Transportation standards and specifications and in accordance with the Development Review Report for the PLAT. The construction plans for the Improvements, including pavement marking and signing plans, shall be submitted to COUNTY for review and approval prior to commencement of construction. Construction shall be subject to inspection and approval by the COUNTY. Pavement marking and signing shall be provided for all of the Improvements and shall be subject to review, field inspections and final approval by the Broward County Traffic Engineering Division, which Improvements shall be consistent with the previously approved plans.
- (h) TOWN agrees that this agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property until fully performed.
- (i) TOWN, its successors and assigns agree that no certificates of occupancy within the Plat shall be obtained prior to completion of the Improvements according to the schedule set forth in Exhibit "B." Failure to comply with the above shall constitute a default of this Agreement.
- (j) TOWN shall ensure that the security remains valid and in full force and effect until TOWN'S obligations are fully satisfied. Expiration of the security prior to TOWN'S satisfaction of such obligations, or notice to Broward County that

the security will expire or be canceled prior to TOWN'S satisfaction of all obligations hereunder, shall constitute a default of this Agreement.

- (k) TOWN agrees that any contract(s) for the Improvements shall:
1. Indemnify and hold harmless COUNTY, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of TOWN and persons employed or utilized by or under contract with the TOWN in the performance of this Agreement. Except as specifically provided herein, this Agreement does not require TOWN to indemnify COUNTY, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding. In the event that any action or proceeding is brought against COUNTY by reason of any such claim or demand, TOWN shall, upon written notice from COUNTY, resist and defend such action or proceeding by counsel satisfactory to COUNTY. The provisions of this section shall survive the expiration or earlier termination of this Agreement.
  2. In order to insure the indemnification obligation contained above, the TOWN and/or its contractor shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverages set forth below, in accordance with the terms and conditions required by this section.
  3. Such policy or policies shall be without any deductible amount and shall be issued by United States Treasury approved companies authorized to do business in the state of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Such policies shall specifically protect COUNTY and the Broward County Board of County Commissioners by naming COUNTY and the Broward County Board of County Commissioners as additional insureds.
  4. Comprehensive General Liability Insurance. A Comprehensive General Liability Insurance Policy with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Premises and/or operations.  
Independent contractors.  
Products and/or completed operations for contracts.  
Broad Form Contractual Coverage applicable to this specific contract,  
including any hold harmless and/or indemnification agreement.  
Personal Injury Coverage with Employee and Contractual Exclusions  
removed, with minimum limits of coverage equal to those  
required for Bodily Injury Liability and Property Damage  
Liability.  
Underground coverages.

5. Business Automobile Liability Insurance. Business Automobile Liability Insurance with minimum limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned vehicles.  
Hired and non-owned vehicles.  
Employers' non-ownership.

6. Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident.

7. TOWN shall furnish to the Broward County Highway Construction and Engineering Division Certificates of Insurance or endorsements evidencing the insurance coverages specified by this Article prior to beginning performance of work under this Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.
8. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of TOWN is completed. All policies must be endorsed to provide COUNTY with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the



work, copies of renewal policies shall be furnished at least thirty (30) days' prior to the date of their expiration.

3. CONCURRENCY COMPLIANCE. COUNTY finds that the execution of and adherence to this Agreement on the part of TOWN satisfies the requirement of Chapter 5, Article IX, Broward County Code of Ordinances, that plats of land shall be designed to provide for the adequacy of the regional road network, at the adopted levels of service, concurrent with the impact of the development. Nothing in this Agreement shall be construed as constituting a waiver or an exemption from road impact fees authorized to be assessed by COUNTY to TOWN under the provisions of Chapter 5, Article IX, Broward County Code of Ordinances.
4. TOWN, its successors and assigns agree that in the event of a default of this Agreement, no building permits, certificates of occupancy, or any other development permits shall be obtained within the boundaries of the PLAT, until such time that the COUNTY notifies TOWN that the default has been resolved.
5. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director of the Broward County Development Management Division  
115 South Andrews Avenue, Room A240  
Fort Lauderdale, FL 33301

Director of the Broward County Engineering Division  
115 South Andrews Avenue, Room 321  
Fort Lauderdale, FL 33301

FOR the TOWN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County Florida, at the TOWN'S expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
7. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
8. CHANGES TO FORM AGREEMENT. TOWN represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
9. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
10. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
11. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
12. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
13. ASSIGNMENT AND ASSUMPTION. TOWN may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." TOWN agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.

14. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and TOWN OF SOUTHWEST RANCHES, signing by and through its \_\_\_\_\_, duly authorized to execute same.

**COUNTY**

ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
County Administrator and  
Ex-Officio Clerk of the  
Board of County Commissioners  
of Broward County, Florida

By \_\_\_\_\_  
Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Approved as to form by  
Office of County Attorney  
Broward County, Florida  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

TOWN

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN of SOUTHWEST RANCHES

By \_\_\_\_\_  
Mayor-Commissioner  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By \_\_\_\_\_  
Town Manager  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_,

APPROVED AS TO FORM:

By \_\_\_\_\_  
Town Attorney

EXHIBIT "A"  
LEGAL DESCRIPTION

CAF#361  
01/01/02

**EXHIBIT "B"**

**IMPROVEMENTS & COST OF IMPROVEMENTS**

Prior to the issuance of a certificate of occupancy within the plat:

- 1) Construct a westbound combination right turn lane/bus pullout bay on Sheridan Street between the entrance road to the Coquina Shopping Plaza and Dykes Road, with 60 feet of entrance taper and 60 feet of storage, with the storage extending through the opening, including the construction of an 8-foot x 40-foot bus landing pad (sidewalk) and a 14-foot x 8-foot x 6-inch bus shelter pad and sidewalk connections, and any necessary pedestrian signal modifications. The design and permitting must be approved by FDOT, the Traffic Engineering Division and the Highway Construction and Engineering Division.

Estimated Cost: \$27,449.00

- 2) Construct an eastbound bus pullout bay on Sheridan Street, east of Dykes Road, with 60 feet of entrance taper, 60 feet of storage, and 36 feet of exit taper, and including the construction of an 8-foot x 40-foot bus landing pad (sidewalk) and a 14-foot x 8-foot x 6-inch bus shelter pad and sidewalk connections, and any necessary pedestrian signal modifications. The design and permitting must be approved by FDOT, the Traffic Engineering Division and the Highway Construction and Engineering Division.

Estimated Cost: \$24,533.00

EXHIBIT "C"

SECURITY

CAF#361  
01/01/02