

RESOLUTION NO. 2010 – 069

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING, INC., FOR THREE HUNDRED EIGHTY-NINE THOUSAND ONE HUNDRED THIRTY-NINE DOLLARS AND THIRTEEN CENTS (\$389,139.13) TO PROVIDE ROAD IMPROVEMENT AND RESURFACING SERVICES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town desires to improve and/or resurface several of the roads within the boundaries of Southwest Ranches; and

WHEREAS, the Town advertised a Request For Bids on May 18, 2010 for road improvement and resurfacing services; and

WHEREAS, bids were received by the Town on June 8, 2010 at 11:00 A.M.; and

WHEREAS, there were four (4) competitive bids received for the services requested; and

WHEREAS, Weekley Asphalt Paving, Inc., has provided the lowest-priced responsive and responsible bid; and

WHEREAS, the Town of Southwest Ranches desires to enter into an Agreement for the provision road improvement and resurfacing services, under the terms and conditions set forth hereinafter.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The above-referenced recitals are true and correct and are incorporated herein by reference.

Section 2. The Town Council hereby approves the Agreement between the Town of Southwest Ranches and Weekley Asphalt Paving, Inc., providing road improvement and resurfacing services in the amount of Three Hundred Eighty-Nine Thousand One Hundred Thirty-Nine Dollars and Thirteen Cents

(\$389,139.13) for road improvement and resurfacing services, in substantially the same form as that attached hereto as Exhibit "A".

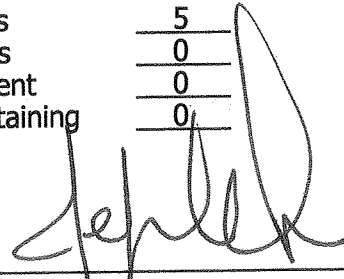
Section 3. The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into the Agreement in substantially the same form as that attached hereto as Exhibit "A," and to make such modifications, additions, and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

Section 4. That this Resolution shall become effective immediately upon its adoption.


PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 17th day of June, 2010 on a motion by Council Member McKay and seconded by Council Member Fisikelli.


Nelson	<u>AYE</u>
Knight	<u>AYE</u>
Breitkreuz	<u>AYE</u>
Fisikelli	<u>AYE</u>
McKay	<u>AYE</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>
Abstaining	<u>0</u>



Jeff Nelson, Mayor

Attest:

Debra Doré-Thomas, CMC, Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff, Town Attorney
ACTIVE: 3009831_1

**AGREEMENT
BETWEEN THE
TOWN OF SOUTHWEST RANCHES
AND
WEEKLEY ASPHALT PAVING, INC.
FOR
ROADWAY IMPROVEMENTS - RESURFACING**

AGREEMENT FOR

THIS IS AN AGREEMENT ("Agreement") made and entered into on this 16th day of JULY 2010 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as "TOWN") and Weekley Asphalt Paving, Inc. (hereinafter referred to as "Contractor").

WHEREAS, the TOWN desires to improve and/or resurface several of the roads within the boundaries of Southwest Ranches; and

WHEREAS, the TOWN advertised on May 18, 2010 for road improvement and resurfacing services; and

WHEREAS, bids were received by the TOWN on June 8, 2010 at 11:00 A.M.; and

WHEREAS, there were four (4) competitive bids received for the services requested; and

WHEREAS, the TOWN has adopted Resolution No. 2010- 069 at a public Town Council meeting approving the award and has selected Weekley Asphalt Paving, Inc., as CONTRACTOR for the Project.

NOW THEREFORE, in consideration of the foregoing premises and the mutual terms and conditions herein, the Town and Contractor hereby agree as follows:

Section 1: Scope of Services

- 1.1 Upon execution of this Agreement, the Contractor agrees to perform the duties and responsibilities as defined and described in **Exhibit "A"** attached hereto to this Agreement, which includes the Contractor's Bid. (hereinafter referred to as "Work").
- 1.2 The Contract Documents consist of this Agreement and the following Exhibits:

Exhibit "A" – Invitation for Bid No. 10-011, and Contractor's Bid Proposal Form, Including Attachments "A" & "B" - Maps and Data on Various Roads
- 1.3 ~~To the extent of any conflict among the Contract Documents, this Agreement shall govern.~~
- 1.4 Contractor's Work shall be provided to Town based solely upon written requests provided by the Town Administrator or designee in advance of Contractor providing any of the Work.

- 1.5 All Work rendered pursuant to this Agreement by Contractor shall be performed in accordance with the applicable standard of care for persons or entities performing similar work for local governments in Broward County, Florida. Contractor shall perform the Work in accordance with the requirements of this Agreement and all applicable codes, ordinances, rules, laws and regulations governing the Work.

Section 2: Term of this Agreement and Agreement Time

- 2.1 Town and Contractor agree that Contractor shall commence and continuously prosecute the Work within ten (10) days of the Town's issuance of a Notice to Proceed, and as to each phase of the Work. Time is of the essence in the performance of the Work. Prior to the issuance of a Notice to Proceed the Contractor and the Town shall confer to review the site conditions for each phase of the Work.
- 2.2 Town shall have the ability to terminate this Agreement as provided in "Section 18: Termination."
- 2.3 Contractor shall not be entitled to any claim for damages against Town on account of hindrance or delays from any cause whatsoever. If, however, Contractor is delayed in the prosecution of the Work occasioned by an act of God, or by act or omission on the part of the Town, or due to changes ordered in the Work by Town which expand the scope and costs of the Work, such act, hindrance, or delay shall only entitle Contractor to receive an extension of time as its sole and exclusive remedy.

Section 3: Compensation & Method of Payment

- 3.1 Contractor shall render all Work to the Town under the Agreement at the quoted prices stipulated in the portion of Exhibit "A" consisting of the Contractor's Bid and Town shall pay Contractor for completion of the Work in accordance with the Contract Documents at said prices stipulated in Contractor's Bid.
- 3.2 Town shall not be liable for any cost increases or escalation associated with labor or materials that may arise during the performance of the Work. In the event the cost of the Work exceeds the amounts defined in Section 3.1 herein of the Agreement Sum, Contractor shall pay such excess from its own funds and Town shall not be required to pay any part of such excess. The only exception shall be any adjustments to the Agreement Sum pursuant to any written Change Order duly executed by Town and Contractor in accordance with the terms and conditions of this Agreement, and with the same formality and of equal dignity associated with the original execution of this Agreement.

- 3.3 Town and Contractor agree that payment under this Agreement will be subject to (a) the delivery of an appropriate invoice by Contractor to Town, and (b) verification by Town that the Work has been performed in accordance with this Agreement. Upon verification by Town that the invoiced Work has been performed in accordance with this Agreement, Town shall have thirty (30) days thereafter to pay said invoice.

Section 4: Assignment

No assignment of this Agreement or of the Work hereunder by Contractor shall be valid without the express written consent of Town, which may be given or withheld, in Town's sole discretion. All Work to be performed pursuant to this Agreement shall be performed by the Contractor, and no Work shall be subcontracted to other parties or firms without the written consent and approval of the Town Administrator.

Section 5: Contractor's Responsibility for Safety

- 5.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work provided pursuant to the Agreement in order to prevent, *inter alia*, damage, injury or loss to (a) all employees performing the Work and all other persons who may be affected thereby, (b) all the Work and all materials and equipment to be incorporated therein and (c) other property at the site or adjacent thereto. Contractor shall timely provide all notices and comply with all applicable laws, ordinances, rules, regulations and orders of any public authority or other authority with jurisdiction bearing on the safety of persons and property in order to provide protection from damage injury or loss.

Section 6: Insurance and Bonds

- 6.1 Throughout the term of this Agreement and for all applicable statutes of limitation periods, Contractor shall maintain in full force and effect all of the insurance coverage as set forth in this Section. Failure of Contractor to fully and satisfactorily comply with the Town's insurance and bonding requirements set forth herein will constitute a material breach of this Agreement.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business and issue insurance in the State of Florida, (b) have agents upon whom service of process may be made in Broward County, Florida, and (c) have a Best's rating of A-VII or better per A.M. Best's Key Rating Guide, latest edition.
- 6.3 All Insurance Policies shall name and endorse the following as additional insured: TOWN OF SOUTHWEST RANCHES, FLORIDA

The Town of Southwest Ranches.

- 6.4 All Insurance Policies shall be endorsed to provide that (a) Contractor's Insurance is primary to any other Insurance available to Town or any other additional insured with respect to claims covered under the policy and (b) Contractor's insurance applies separately to each insured against who claims are made or suit is brought, and (c) that the inclusion of more than one insured shall not operate to increase the Insurer's limit of liability. Self-insurance by Contractor shall not be acceptable as providing any of the required insurance coverage required in this Agreement.
- 6.5 If the Contractor fails to submit the required insurance certificate in the manner prescribed with the executed Agreement submitted to the Town at the time of execution of this Agreement, Contractor shall be deemed in default, and the Agreement shall be rescinded.
- 6.6 Contractor shall carry the following minimum types of Insurance:
- A. **WORKER'S COMPENSATION:** Worker's Compensation Insurance is to apply to all employees in compliance with the "Workers' Compensation Law" of the State of Florida, Florida Statutes, Chapter 440 and all applicable federal laws. Contractor shall carry Worker's Compensation Insurance with the statutory limits, which shall include employer's liability insurance with a limit of not less than **Two Hundred Thousand Dollars (\$200,000)** for each accident, and **Two Hundred Thousand Dollars (\$200,000)** for each disease. Policy(ies) must be endorsed with waiver of subrogation against Town.
 - B. **BUSINESS AUTOMOBILE LIABILITY INSURANCE:** Contractor shall carry business automobile liability insurance covering all owned, non-owned, rented, hired or borrowed vehicles used in connection with the Project with minimum limits of **One Million Dollars (\$1,000,000)** per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office.
 - C. **COMMERCIAL GENERAL LIABILITY:** Contractor shall carry Commercial General Liability Insurance with limits of not less than **One Million Dollars (\$1,000,000)** per occurrence combined single limit for bodily injury and property damage. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements as filed by the Insurance Service Office, and the policy must include coverage for premises and/or operations, independent contractors, products and/or

completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, independent contractor's coverage and personal injury. Personal injury coverage shall include coverage that has the employee and contractual exclusions removed.[note not Comprehensive, but Commercial] **General liability insurance (GCL) including broad form contractual liability coverage for bodily injury and property damage liability with limits of One Million Dollars (\$1,000,000) combined single limit occurrence, is required.**

D. **Such insurance shall not diminish Contractors indemnification obligations hereunder. The insurance policy shall be issued by such company, in such forms and with such limits of liability and deductibles as are acceptable to the Town and shall be endorsed to be primary over any insurance, which the Town may maintain.**

6.7 Contractor shall provide Town **on behalf of itself and any sub-contractor it employs,** with a copy of the Certificates of Insurance or endorsements evidencing the types of Insurance and coverage required by this Section **and appropriately endorsed for contractual liability with the Town named as an additional insured by endorsement and listed as Certificate Holder** prior to beginning the performance of any Work under this Agreement and, at any time thereafter, upon request by Town. **The Town reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by Contractor hereunder.**

6.8 Contractor's Insurance Policies shall be endorsed to provide Town with at least thirty-(30) calendar days prior written notice of cancellation, non-renewal, restrictions, or reduction in coverage or limits. Notice shall be sent to:

Town of Southwest Ranches
Risk Management Department
6589 SW 160 Avenue
Southwest Ranches, Florida 33331
and
Steven B. Lesser, Esq.
Becker & Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, Florida 33312

6.9 If Contractor's Insurance policy is a "claims-made" policy, then Contractor shall maintain such Insurance Coverage for a period of five (5) years after the expiration or termination of the agreement or any extensions or renewals of the agreement. Applicable coverage may be met by keeping the policies in force, or

by obtaining an extension of coverage commonly known as a reporting endorsement of tail coverage.

6.10 In any of Contractor's Insurance policies includes a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be no more than five (5) times the occurrence limits specified above in this article.

6.11 The Contractor shall not commence operations, and/or labor to complete any of the Work pursuant to this Agreement until certification or proof of insurance issued directly by the insurance company underwriting department, detailing terms and provisions of coverage, has been received and approved by the Town.

6.12 If any of Contractor's initial insurance expires prior to the completion of the Work, renewal copies of Policies shall be furnished to Town at least thirty (30) days prior to the date of their expiration, and Town shall be an additional named insured by endorsement on all of Contractor's renewal policies.

6.13 UPON EXECUTION OF THIS AGREEMENT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF SOUTHWEST RANCHES IS AN ADDITIONAL NAMED INSURED OR ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR'S WORK UNDER THE AGREEMENT.

6.14 The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance policies and documentation.

6.15 All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against Town with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

6.16 Contractor shall ensure that any company issuing insurance to satisfy the requirements contained in this Agreement agrees that they shall have no recourse against TOWN for payment or assessments in any form on any policy of insurance.

6.17 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which Town is named as an additional named insured shall not apply to Town in any respect. Town shall use its best efforts to provide written notice of occurrence within thirty (30) working days after Town's actual notice of such event.

- 6.18 Notwithstanding any other provisions of this Agreement, Contractor's obligation to maintain all required insurance as specified in this Section of the Agreement shall survive the expiration or termination of this Agreement.
- 6.19 **BOND.** The Contractor shall provide a Public Construction Bond for the Project (the "Bond") that in all respects complies with the requirements and form set forth in Florida Statute §255.05. The Bond shall be in the amount of one hundred percent (100%) of the Contractor's Bid Price guaranteeing to the Town the completion and performance of the Work as well as full payment of all suppliers, material men, laborers, or subcontractors employed for the Project. The Bond shall continue in effect for one (1) year(s) after substantial completion of the Work. Additionally, prior to commencement of the Work, Contractor shall ensure that the Bond is recorded in the public records of Broward County and provide the TOWN with evidence of such recording.

Section 7: Copyrights and Patent Rights

Contractor warrants that there has been no violation of copyrights or patent rights in manufacturing, producing, and/or selling the item(s) ordered or shipped as a result of this bid; and Contractor agrees to indemnify and hold harmless Town, its employees, agents, or servants, its employees, agents, or servants against any and all liability, loss, or expense resulting from any such violation.

Section 8: Laws and Regulations

Contractor agrees to abide by all applicable Federal, State, County, and local laws, rules, regulations, ordinances and codes in performing all Work under this Agreement.

Section 9: Taxes and Costs

All federal, state and local taxes relating to the Contractor's Work under this Agreement and, similarly, all costs for licenses, permits, or certifications to perform the Work under this Agreement shall be paid by the Contractor.

Section 10: Indemnification

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the Town, its agents, officers and employees from and against all liabilities, claims, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees and costs at all trial and appellate levels to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation on the part of Contractor to Town or which may otherwise exist as to any other person described in this paragraph.

This indemnification provision is incorporated by reference into **Exhibit "A"** of this Agreement.

Section 11: Non-discrimination

Contractor shall not discriminate against any client, employee or applicant for employment because of race, gender, age, color, religion, sex, national origin, physical or mental disability, marital status or medical status. Contractor shall take affirmative action to ensure that applicants, subcontractors, Independent Contractors, and employees are treated without discrimination in regard to their race, gender, color, religion, sex, national origin, disability, or medical status. Contractor shall comply with all applicable sections of the Americans with Disabilities Act. Contractor agrees that compliance with this Article constitutes a material condition to this Agreement, and that it is binding upon the Contractor, its successors, transferees, and assignees for the period during which any Work is provided. Contractor further assures that all subcontractors and independent contractors are not in violation of the terms of this Section of the Agreement.

Section 12: Sovereign Immunity

Nothing in this Agreement is intended nor shall it be construed or interpreted to waive or modify the Town's Sovereign Immunity defense or any other of the Town's immunities and limitations on liability as provided for in Florida Statutes, as now worded or as may hereafter be amended and all Florida case law interpreting same.

Section 13: Prevailing Party Attorneys' Fees

In the event either party to this Agreement incurs legal fees, legal expenses or costs to enforce the terms of this Agreement on trial or on appeal at all levels, the prevailing party shall be entitled to recover the reasonable costs of such action so incurred, including, without limitation, reasonable attorney's fees and costs and expert witness fees and costs incurred.

Section 14: No Third Party Beneficiaries

This Agreement is solely for the benefit of the parties hereto, and is not entered into for the benefit of any other person or entity. Nothing in this Agreement shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.

Section 15: Funding

The obligation of Town for payment to Contractor for the Work is limited to the availability of funds appropriated in a current fiscal period, and continuation of any contractual relationship into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

Section 16: Manner of Performance

Contractor agrees to perform its Work in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, ordinances, regulations and codes. Contractor agrees that the Work provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. Contractor agrees to furnish to Town any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. Contractor further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this Agreement. Failure of Contractor to comply with this paragraph shall constitute a material breach of this Agreement.

Section 17: Public Records

The Town is subject to Chapter 119, Florida Statutes, the "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Records Law exists and it is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to Town's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosures under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by Town.

Section 18: Termination

The Agreement may be terminated upon the following events:

A. Termination by Mutual Agreement. In the event the parties mutually agree in writing, this Agreement may be terminated on the terms and dates stipulated therein.

B. Termination For Convenience. This Agreement may be terminated for Convenience by Town upon Town providing Contractor with thirty **(30) calendar day's** written notice of Town's intent to terminate this Agreement for Convenience. In the event that this Agreement is terminated by Town for

Convenience, Contractor shall be paid ONLY for Work performed and approved by the Town as of the date of this Agreement is terminated and no other compensation or damages shall be paid to or recovered by Contractor in any legal proceeding against Town. Upon being notified of Town's election to terminate, Contractor shall immediately cease performing any further Work or incurring additional expenses. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by Town, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for Town's right to terminate this Agreement for Convenience.

C. Termination for Cause. In the event of a material breach by Contractor, Town shall provide Contractor written notice of its material breach. Contractor shall thereafter have thirty (30) days from the date of its receipt of such notification to cure such material breach. If Contractor does not cure the material breach within that time period, Town may terminate this Agreement immediately thereafter. In the event that Town terminates Contractor for cause as provided for in this Section, and Town's termination for cause is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would have received if terminated by Town for Convenience as described in subparagraph (B) of this Section.

D. Termination for Lack of Funds. In the event the funds to finance the Work under this Agreement become unavailable or other funding source applicable, Town may provide Contractor with thirty (30) days written notice of termination. Nothing in this Agreement shall be deemed or construed to prevent the parties from negotiating a new Agreement in this scenario. In the event that Town elects to terminate Contractor for lack of funds as provided for in this Section, and Town's termination for lack of funds is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would have received if terminated by Town for Convenience as described in subparagraph (B) of this Section.

E. Immediate Termination by Town. Town, in its sole discretion, may terminate this Agreement immediately upon the occurrence of any of the following events:

1. Contractor's violation of the Public Records Act;
2. Contractor's violation or non-compliance with Section 11 of this Agreement;
3. Contractor's failure to maintain any Insurance required by Section 6 of this Agreement; or
4. Contractor's violation of Section 19 of this Agreement.

Section 19: Public Entity Crimes

In accordance with the Public Entity Crimes Act (Section 287.133, Florida Statutes), a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida Department of General Services following a conviction for a public entity crime may not submit a proposal on a contract with Town, may not be awarded or perform work as a Contractor, supplier, or subcontractors, under a contract with Town, and may not conduct business with Town for a period of **thirty six (36) months** from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in Town's immediate termination of this Agreement.

Section 20: Use of Awarded Bid By Other Governmental Units

Contractor agrees that this Agreement may be utilized by other governmental entities or units to provide the specified services. Town does not become obligated in any way, to pay for or become, in any way, responsible or liable for Contractor's provision of Work or services to any other governmental unit.

Section 21: Change Orders and Modification of Agreement

Town and Contractor may request changes that would increase, decrease or otherwise modify the Scope of Work to be provided under this Agreement. Such changes only become part of this Agreement and increase, decrease or otherwise modify the Work or the Agreement Sum under this Agreement if evidenced by a written Change Order executed by Town and Contractor, with the same formality and of equal dignity associated with the original execution of the Agreement.

Section 22: No Waiver of Rights

Neither the Town's review, approval or payment for any of the Work required under this Agreement shall be construed to operate as a waiver of any of Town's rights under this Agreement or of any causes of action arising out Contractor's performance of the Work under this Agreement, and Contractor shall be and remain liable to the Town for all damages to the Town caused by the Contractor's negligent or improper performance of any of the Work furnished under this Agreement, irrespective of the Town's review, approval or payment for any of the Work under this Agreement. The rights and remedies of the Town provided for under this Agreement are in addition to all other rights and remedies provided to Town by law.

Section 23: Jurisdiction and Venue

The exclusive venue for any litigation arising from or relating to the Agreement shall be in a court of competent jurisdiction in the 17th Judicial Circuit in and for Broward County, Florida. This Agreement shall be governed by the substantive laws of the State of Florida.

Section 24: WAIVER OF RIGHT TO JURY TRIAL

BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND TOWN HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.

Section 25: Gender

Wherever the context shall so require, all words herein in the masculine gender shall be deemed to include the feminine, and all words herein in the feminine gender shall be deemed to include the masculine. All singular words shall include the plural, and all plural words shall include the singular.

Section 26: Time is of the Essence

Time is of the essence for all of Contractor's obligations under this Agreement.

Section 27: Days

The terms "days" as referenced in this Agreement shall mean consecutive calendar days.

Section 28: Written Mutual Agreement

This Agreement is binding upon the parties hereto, their successors and assigns and replaces, and supersedes any and all prior agreements or understanding between the parties hereto whether written or oral.

Section 29: No Amendment Or Waiver

This Agreement may not be changed, altered or modified except by an instrument in writing signed by all parties hereto, with the same formality and of equal dignity as the execution of this Agreement prior to the initiation of any Work reflecting such change.

Section 30: Severability

In the event any term or provision of this Agreement shall be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed to be in full force and effect. In case any one or more of the provisions of this Agreement shall be determined by appropriate judicial authority to be invalid, illegal or unenforceable, in any respect, the validity of the remaining provisions of this Agreement shall be in no way affected, prejudiced, or disturbed thereby.

Section 31: Resolution Of Disputes

To prevent litigation, it is agreed by the parties hereto that Town Administrator shall solely decide all questions, claims, difficulties and disputes of, whatever nature, which may arise relative to this Agreement, including but not limited to, Contractor's fulfillment of its obligations under this Agreement as to the character, quality, amount and value of any Work done and materials furnished, or proposed, to be done or furnished, under or by reason of, the Agreement. The Town Administrator's decision shall be reduced to writing, and a copy furnished to the Contractor within a reasonable time following submission to the Town of the question, claim, difficulty or dispute as referenced above. The Town Administrator's decision shall be final and conclusive.

Section 32: Notice

Whenever either party desires to give notice unto the other, such notice must be in writing by certified or registered mail, postage prepaid, return receipt requested, hand delivery, or facsimile transmission prior to 5:00 p.m. on the date of transmission (e.d.t. or e.f.t. as applicable), or via overnight express courier service. For the present, the parties designate the following individuals as the respective parties and places for giving of notice:

If to Town:

Town Administrator
6589 SW 160 Avenue
Southwest Ranches, Florida 33331

With a copy to:

Steven B. Lesser, Esq.
3111 Stirling Road
Fort Lauderdale, Florida 33312

Section 33: Miscellaneous

- A. Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement by Contractor and all persons or entities employed or otherwise retained by Contractor are and shall remain the property of Town. In the event of termination of this Agreement for any reason, any reports, photographs, surveys and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of Town and shall be delivered by Contractor to the Town Administrator within seven (7) days of termination of this Agreement for any reason. Any compensation due to

Contractor shall be withheld until all documents are received by Town as provided herein.

B. Audit and Inspection Rights and Retention of Records. Town shall have the right to audit the books, records and accounts of Contractor that are related to this Agreement. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Contractor shall preserve and make available, at reasonable times for examination and audit by Town, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination or expiration of this Agreement, unless Contractor is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's sole expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by Town to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Town's disallowance and recovery of any payment upon such entry.

In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance.

In addition, Contractor shall provide a complete copy of all working papers to the Town, prior to final payment by the Town under this Agreement.

C. Independent Contractor. Contractor is an independent contractor of Town under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of the Town. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the Work and services rendered under this Agreement shall be exclusively and solely those of Contractor. This Agreement shall not constitute or make Town and Contractor a partnership or joint venture.

D. Conflicts. Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against Town in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of Town in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event Contractor is permitted to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this Section.

E. Contingency Fee. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Town shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

F. Materiality and Waiver of Breach. Town and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Town's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

G. Joint Preparation. Town and Contractor both acknowledge that they have sought and received whatever competent advice and legal counsel as was

necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

- H. Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- I. Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- J. Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- K. Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

THIS SECTION INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: DANIEL D. WEEKLEY, President, WEEKLEY ASPHALT PAVING, INC., and THE TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the 17TH day of June 2010.

WITNESSES:

Gene J. Stone
Courtney B...

WITNESSES:

Debra Doré-Thomas

CONTRACTOR:

By: DANIEL D. WEEKLEY, President
16TH day of JULY, 2010

TOWN:

TOWN OF SOUTHWEST RANCHES

By: JEFF NELSON, Mayor
25TH day of JUNE, 2010

By: Charles H. Lynn, AICP, Town Administrator
25TH day of JUNE, 2010

ATTEST:

Debra Doré-Thomas
Debra Doré-Thomas, CMC, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Keith M. Poliakoff, Town Attorney

**RESOLUTION NO. 2010 - 069
AGREEMENT EXHIBIT "A"**

**TOWN OF SOUTHWEST RANCHES
BROWARD COUNTY, FLORIDA**

**INVITATION FOR BID (IFB) FOR
ROADWAY IMPROVEMENT—RESURFACING
10-011**



**Opening Date/Time:
Submit To:**

**Tuesday, June 8, 2010 / 11:00 A.M.
Juanita Romance, Deputy Town Clerk
6589 SW 160 Avenue
Southwest Ranches, FL 33331**

Date: May 18, 2010

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TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section I – Instructions to Bidders

INSTRUCTIONS TO BIDDERS

COPIES OF SUBMISSION

One unbound original, three (3) bound copies, and one compact disk of the entire IFB should be submitted to the Town of Southwest Ranches at the office of Juanita Romance, Deputy Town Clerk, Town Hall, 6589 SW 160th Avenue; Southwest Ranches, Florida 33331.

Sealed bids clearly marked "IFB # 10-011: Roadway Improvement – Resurfacing" must be received by the Deputy Town Clerk either by mail or hand delivery, no later than 11:00 a.m. local time on Tuesday, June 8, 2010. A public opening will take place at 11:00 a.m. in the TOWN's main conference room located at Town Hall on the same date. Facsimile submittals will not be accepted. Any IFB's received after 11:00 a.m. local time on said date will not be accepted under any circumstances. Any uncertainty regarding the time an IFB is received will be resolved against the Proposer.

Addenda or Additional Information

All responses to questions or requests for clarification will be sent to prospective proposers, which have notified the Town of an interest in the project, by email, facsimile, or other means, and in the form of an addendum if deemed necessary by the Town. It is the responsibility of the interested firms to verify whether there are any addendums to this IFB prior to submission of responses in accordance herewith. The Proposer's Certification form shall be signed by an authorized company representative, dated and returned with the IFB.

Respondents are hereby notified that they shall not rely upon oral representations or discussions with the Town, including its staff or consultants. Only those communications issued by the Town, and which are in writing, may be considered as duly authorized expression. Also, only communications from responders that are signed, in writing, and timely submitted, will be recognized by the TOWN as duly authorized expressions on behalf of the respondent. Requests for clarification or additional information should be submitted to the Deputy Town Clerk in writing.

SECURITY AND BONDING REQUIREMENTS:

1. BID SECURITY

Simultaneous with the delivery of an executed Bid to the TOWN, Bidder shall furnish to the TOWN a Bid Security in an amount equal to five percent (5%) of the total bid price. The Bid Security shall be issued in the form of a bond issued by a Surety authorized to transact business in the State of Florida, having a resident agent in the State of Florida, or in the form of cash, cashier's check payable to the Town of Southwest Ranches, Florida and drawn on a Florida Bank, or in the form of an irrevocable letter of credit or other alternative form of security acceptable to the TOWN. Bonds shall be submitted

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section I – Instructions to Bidders

6. PURPOSE OF BID

The TOWN intends to award the contract to the lowest responsive and responsible bidder whose bid meets the requirements of this IFB, and in accordance with the TOWN's Procurement Code. The TOWN reserves the right to reject any and all bids, to re-advertise and to otherwise make a decision in the best interest of the TOWN.

7. BIDDER WARRANTY

Bidder warrants that the prices, terms and conditions quoted in the bid will be firm for a period of 365 days from the date of the bid opening unless otherwise stated by the bidder. Incomplete, unresponsive, irresponsible, vague, and ambiguous responses to the Invitations for Bid will be cause for rejection, as determined by the TOWN.

8. GUARANTEES

No guarantee or warranty is given or implied by the Town as to the total amount of services that may or may not be purchased from any resulting contract or award. The quantities and frequencies provided herein are for proposal purposes only and will be used for tabulation and presentation of the Proposal. The Town reserves the right to increase or decrease service quantities and frequencies, as deemed necessary to serve the best interests of the Town.

9. WITHDRAWAL

After Proposals are opened, they shall be irrevocable for a period of ninety (90) days. Proposers who unilaterally withdraw a proposal without permission of the Town before 90 days have elapsed from the date of the opening may be debarred and are subject to forfeiture of the Proposal Security.

10. CONE OF SILENCE:

A cone of silence is hereby imposed and made applicable to this IFB (IFB). The cone of silence shall become effective from the time this IFB is advertised, and shall terminate at the time that the Town Council makes a final decision regarding a contract award, rejects all responses, or takes other action which ends the IFB process. During the effective time period of the cone of silence, any person or entity which submits a response, or that will be subject to evaluation under the terms of this IFB, shall not have any communication with the members of the Town Council relative to this IFB, except as may be permitted or required during public meetings of the Town Council. NOTE: Proposers that violate the cone of silence shall be subject to automatic disqualification from further consideration.

11. NOTICE TO PROCEED

CONTRACTOR shall be instructed to commence the Work by written instructions by TOWN Administrator through a Notice to Proceed. The Notice(s) to Proceed may be subdivided into a single road or a group of roadways as determined by the Town.

Each Notice to Proceed will not be issued until CONTRACTOR'S submission to TOWN Administrator of all required documents and after execution of the Contract by both parties. The receipt of all necessary permits by CONTRACTOR, if any, is a condition precedent to

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section I – Instructions to Bidders

15. QUESTIONS PERTAINING TO BID

Any questions or clarifications concerning this IFB shall be submitted in writing by mail, facsimile or E-mail and directed to Juanita Romance, Deputy Town Clerk, Town of Southwest Ranches, 6589 SW 160th Avenue, Southwest Ranches, FL, 33331. Fax number is (954) 434-1490. E-mail address is jromance@southwestranches.org. The Bid Title/number shall be referenced on all correspondence and in the subject section of the email. All questions must be received no later than noon, seven (7) calendar days prior to the scheduled bid opening date (Tuesday, June 1, 2010). All responses to questions/clarifications, if deemed necessary by the TOWN, will be sent to all prospective bidders either electronically, in writing, by mail, by facsimile or in the form of an addendum, if applicable. **NO QUESTIONS WILL BE RECEIVED VERBALLY, AND/OR, AFTER THE DEADLINE.** Bidders are hereby notified that they shall not rely upon oral representations or discussions with the TOWN, including its staff or consultants.

16. TAXES

Bidder should not include taxes in prices bid. The TOWN is exempt from Florida sales tax on direct purchases of tangible property or services.

17. SUBMISSION OF BIDS

It is the responsibility of the Bidder to ensure that the Bid reaches the Office of the Deputy Town Clerk on or before the closing hour and date shown on the public notice to Bidders.

18. BID FORMS

Bidders must use the Bid form(s) furnished by the TOWN. Failure to do so may cause the Bid to be rejected. Removal or replacement of any of the Bid proposal documents may invalidate the Bid. Also, Bids having an erasure or corrections must be initialed by the bidder in ink. Bids shall be signed in ink; all quotations shall be typewritten or filled in with ink. No submissions in pencil will be accepted.

19. MISTAKE

If there is a discrepancy in the unit and extended prices, the calculated total shall prevail. Bidders are responsible for checking their calculations. Failure to do so will be at the bidder's risk, and errors will not release the bidder from his responsibility as noted herein.

20. GUARANTEES

No guarantee or warranty is given or implied by the TOWN as to the total amount that may or may not be purchased from any resulting contract or award. These quantities are for bidding purposes only and will be used for tabulation and presentation of the Bid. The TOWN reserves the right to reasonably increase or decrease quantities as required.

21. DELIVERY

All delivery costs and charges for materials shall be included in the Bid price.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section I – Instructions to Bidders

Management Department. The TOWN reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by CONTRACTOR hereunder.

**ADDITIONAL INSURED
TOWN OF SOUTHWEST RANCHES
6589 SW 160th Avenue
Southwest Ranches, FL 33331**

- B. Comprehensive automobile liability insurance covering all owned, non-owned, rented, hired or borrowed vehicles used in connection with the award, in an amount not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage. The Town of Southwest Ranches shall be named as additional insured and listed as Certificate Holder and any with respect to this coverage. CONTRACTOR shall furnish to the TOWN for on behalf of itself or any sub-contractor it employs, certificates of insurance evidencing the minimum required coverage and appropriately endorsed for contractual liability with the TOWN named as an additional insured and listed as Certificate Holder.
- C. Proposer must carry Workers compensation insurance for all employees of the vendor as required by Florida Statute 440 as amended.
- D. All insurance shall be issued by companies rated A: 7 or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the vendor and insurer to notify the Town Manager of the Town of Southwest Ranches of cancellation, lapse, or material modification of any insurance policies insuring the vendor, which relate to the activities of such vendor and the Town of Southwest Ranches. Such notification shall be in writing, and shall be submitted to the Town Administrator within thirty (30) days prior to cancellation of such policies. This requirement shall be reflected on the Certificate of Insurance.
- E. Proposers are required to submit a list of claims presently outstanding against their professional liability coverage. This information must be provided by and signed by the agent of the insurance carrier. If no outstanding claims exist, a statement of this fact must be provided by and signed by the agent of the insurance carrier.
- F. Failure to fully and satisfactorily comply with the TOWN's insurance and bonding requirements set forth herein will authorize the Town Administrator to implement a rescission of the Bid award within thirty (30) days of awarding. The bidder hereby holds the TOWN harmless and agrees to indemnify TOWN and covenants not to sue the TOWN by virtue of such rescission.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section I – Instructions to Bidders

28. RELATION TO PARTIES

It is understood and agreed that nothing contained in this Agreement shall be deemed to create a partnership, or joint venture. CONTRACTOR shall be in the relation of an independent CONTRACTOR and is to have entire charge, control and supervision of the work to be performed hereunder.

29. COMPLIANCE WITH LAW

CONTRACTOR shall comply with all laws, regulations and ordinances of any Federal, State, or Local Governmental authority having jurisdiction with respect to this Agreement (Applicable Laws) and shall obtain and maintain any and all material permits, licenses, approvals and consents necessary for the lawful conduct of the activities contemplated under this agreement.

30. WAIVER OF LIABILITY/INDEMNITY

The TOWN shall not in any way be answerable or accountable for any violations of applicable laws or for any injury, loss or damage arising from the negligence or omission of CONTRACTOR or any one of its employees, CONTRACTORS or agents.

31. INDEMNIFICATION

The CONTRACTOR shall indemnify and hold harmless the TOWN, 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 the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of the Contract.

32. SECONDARY/OTHER VENDORS

The TOWN reserves the right in the event the primary vendor cannot provide an item(s) or service(s) in a timely manner as requested, to seek other sources without violating the intent of the contract.

33. DEFAULT PROVISION

In case of default by the bidder or CONTRACTOR, the Town of Southwest Ranches may procure the articles or services from other sources and hold the bidder or CONTRACTOR responsible for any excess costs occasioned or incurred thereby.

34. GOVERNING LAW

The validity of the Agreement and the interpretation and performance of all of its terms shall be construed and enforced in accordance with the laws of the State of Florida, without regard to principles of conflict of laws thereof. The location of any action or proceeding commenced under or pursuant to this Agreement shall be in Broward County, in the State of Florida.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 2 – General Conditions

GENERAL CONDITIONS

A. DEFINITIONS

Agreement: The written agreement between TOWN and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

Addenda: Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the bidding documents or the Contract Documents.

Bid: The offer or proposal of the bidder submitted on the prescribed form setting forth the process for the Work to be performed.

Bonds: Bid, performance and payment bonds and other instruments of security.

Change Order: A document which is signed by CONTRACTOR and TOWN and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

Contract Documents: The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid), the Bonds, these General Conditions, and the Drawings, Exhibits and Attachments together with all amendments, modifications and supplements issued on or after the Effective Date of the Agreement.

Contract Price: The monies payable by TOWN to CONTRACTOR under the Contract Documents as stated in the Agreement.

CONTRACTOR: The person, firm or corporation with whom TOWN has entered into the Agreement.

Defective: An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to TOWN's final payment.

Effective Date of the Agreement: The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

Project: The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 2 – General Conditions

If during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to the TOWN in writing at once and before proceeding with the Work affected thereby and shall obtain a written interpretation or clarification from the TOWN.

Amending and Supplementing Contract Documents

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof as outlined in this section, Item G – “Changes in the Work”.

D. PHYSICAL CONDITONS

The TOWN shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, including all applicable rights-of-way and easements. CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to existing surface and subsurface structures.

CONTRACTOR shall, promptly after becoming aware and before performing any Work, notify the TOWN of any differing site conditions or conflicts at the site. The TOWN will review the pertinent conditions with respect to any deletions or revisions in the Work and any potential modifications to the terms and conditions as outlined in Section 2, Item G – “Changes in the Work”.

CONTRACTOR shall have full responsibility for reviewing and checking all information and data, for locating all Underground Facilities, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in Florida Statutes 556 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

E. INSURANCE AND BONDS

Throughout the term of this Agreement and for all applicable statutes of limitation periods, CONTRACTOR shall maintain in full force and affect all of the insurance coverages as set forth in the terms of this advertisement. Also, the CONTRACTOR shall provide a Public Construction Bond for the Project (the “Bond”) that in all respects complies with (a) the requirements and form set forth in Florida Statute §255.05 and (b) the terms of this advertisement regarding the amount, duration and recording requirements.

F. CONTRACTOR'S RESPONSIBILITIES

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures for

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 2 – General Conditions

All Work shall be done according to local laws and ordinances and shall be performed during regular working hours. During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for use by the TOWN. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and other items not designated for removal, relocation, replacement or improvement in the course of construction.

As set forth in the terms of this Agreement, CONTRACTOR shall pay all sales, consumer, use and other similar taxes and should not include taxes in bid prices. The TOWN is exempt from Florida sales tax on direct purchases of tangible property or services. Also, it is the responsibility of the CONTRACTOR to procure all necessary permits and licenses.

To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the TOWN and their consultants, agents and employees from and against all claims, damages, losses, and expenses, direct, indirect or inconsequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom.

G. CHANGES IN THE WORK

Without invalidating the contract and without notice to any surety, the TOWN may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by a written Change Order. Upon receipt of a Change Order, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

Change Orders

The TOWN and CONTRACTOR shall execute appropriate Change Orders covering changes in the Work which are ordered by the TOWN because of: 1) additions, deletions or revisions to the scope of services; 2) acceptance of defective Work under Section 2, Item I – “Warranty and Guarantee, Correction, Removal or Acceptance of Defective Work”, or; 3) correcting defective Work under Section 2, Item I – “Warranty and Guarantee, Correction, Removal or Acceptance of Defective Work”.

Section 2 – General Conditions

I. WARRANTY AND GUARANTEE; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

CONTRACTOR warrants and guarantees to the TOWN that all work will be in accordance with the Contract Documents and will not be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided below.

Owner May Stop the Work

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, TOWN may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of TOWN to stop the Work shall not give rise to any duty on the part of TOWN to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work

If required by TOWN, CONTRACTOR shall promptly, as directed and at its sole expense, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by TOWN, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

One Year Correction Period

If within one year after the date of completion, any Work is found to be defective, CONTRACTOR shall promptly, without cost to TOWN and in accordance with TOWN's written instructions, either correct such deficient Work, or, if it has been rejected by TOWN, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, TOWN may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by CONTRACTOR.

Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, the TOWN prefers to accept it, the TOWN may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to TOWN's evaluation of and determination to accept such defective Work (such costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and TOWN shall be entitled to an appropriate decrease in Contract Price, and, if the parties are unable to agree as to the

Section 2 – General Conditions

such excess. The only exception shall be any adjustments to the Contract Price pursuant to any written Change Order duly executed by TOWN and CONTRACTOR in accordance with the terms and conditions of this Agreement, and with the same formality and of equal dignity associated with the original execution of this Agreement.

TOWN and CONTRACTOR agree that payment under this contract will be subject to (a) the delivery of an appropriate invoice by CONTRACTOR to TOWN, and (b) verification by TOWN that the Work is acceptable and has been performed in accordance with this Agreement. Upon verification by TOWN that the invoiced Work has been performed in accordance with this Agreement, TOWN shall have thirty (30) days thereafter to pay said invoice.

Progress payments may be submitted by CONTRACTOR to the TOWN at the completion of each roadway or combination of roadways outlined in Attachment "A". Each payment request must be accompanied by written notice from CONTRACTOR that the entire Work for the agreed roadway(s) is complete. The TOWN will make a final inspection and notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. The TOWN may refuse payment if (a) the Work is defective or completed Work has been damaged requiring correction or replacement, (b) the TOWN has been required to correct defective Work or complete Work in accordance with Section I, or (c) because claims have been made against the TOWN on account of CONTRACTOR's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling the TOWN to set-off against the amount due. No payment will be made for Work performed by the CONTRACTOR to replace defective work and for work which is not shown or ordered, and which is outside the limits shown or ordered, or additional work performed by CONTRACTOR without prior written approval of TOWN.

K. SUSPENSION OF WORK AND TERMINATION

The TOWN may, at any time and without cause, suspend Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR. CONTRACTOR shall resume work on a date so determined by the TOWN. CONTRACTOR shall not be allowed an increase in the Contract Price for any such suspension lasting not more than ninety days. If, through no fault of CONTRACTOR, the Work is suspended for a period of more than ninety days, and then CONTRACTOR may, upon seven days' written notice to the TOWN, terminate the contract and recover from the TOWN payment for all Work executed up to the date of the notice to the TOWN.

The TOWN may terminate all Work if CONTRACTOR violates in any substantial way any provisions of the Contract Documents. In such case, the TOWN may, after giving CONTRACTOR (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of the CONTRACTOR,

Section 3 – Proposal

BID PROPOSAL FORM

The item descriptions below are provided for the limited purposes set forth in this IFB (IFB) and may not include all items and materials needed to complete the Work. The furnishing of all labor, materials, equipment, and other related services such as mobilization/demobilization, maintenance of traffic, and job site safety shall be included in the applicable items of the Bid Proposal Form and in the Grand Total Bid Price.

Trueing and Leveling

This item includes preparation of the roadway surface to receive a 1 inch overlay. Preparation of the roadway shall include, but not be limited to, removing existing pavement markers, raising the rim of existing utilities, repairing irregularities in the pavement surface, and filling low spots or potholes with compacted rock base or additional asphalt (compacted rock base may not be placed in lifts less than 6 inches loose thickness).

Prior to placement of the overlay, the roadway shall be proofrolled to identify any soft or yielding areas that require further repair. In addition, some excavation and/or milling will be required at the transition to existing asphalt near intersections and other adjacent thoroughfares.

Asphaltic Surface Course

This item includes all furnishing and installing of the prime coat, sand seal, tack coat and wearing surface. The wearing surface shall consist of Type S-3 asphaltic concrete that conforms to Florida Department of Transportation (FDOT) 331.

Roadway Striping and Markers

This item includes furnishing all materials, equipment and labor required to apply Paint Traffic Stripes and raised Retro-Reflective Pavement Markers (RPMs) to produce a positive guidance system. The CONTRACTOR may only use paint materials, RPM materials and bituminous adhesives that are listed on the Florida Department of Transportation (FDOT) Qualified Products List. Also, the CONTRACTOR must not allow traffic onto newly applied traffic stripes and markers until they are sufficiently cured to permit vehicles to cross them without damage. All roadway striping and raised pavement markers shall be installed in accordance with Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2009 edition.

Reconstruction of Swales (optional service)

This item includes creating or reconditioning a grass swale along the edge of the roadway (where applicable). Due to varying conditions along the existing roadways, the presence of adjacent canals and various other impediments, construction of the swales should be priced as an optional service. For pricing purposes, CONTRACTOR shall consider the typical cross section as shown on Attachment "B" – "Swale Exhibit". The pricing should include a unit cost per linear foot to excavate and hydro-seed the swale (no driveway modifications, tree removal, mailbox replacements, etc. are implied or required). Before

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

Lake Lane (approx. 980 ft.) from Hancock to start of cul-de-sac	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling		Ton		
1 inch Type S-3 Asphalt		SY		
Striping <ul style="list-style-type: none"> • White at right-hand edges of roadway • White Stop Line at intersection • Double Yellow centerline at intersection 		LF		
RPM's <ul style="list-style-type: none"> • Yellow RPM's at centerline of intersection • Blue RPM's at fire wells/hydrants 		Each		
Swale (Optional Service) <ul style="list-style-type: none"> • Excavate and Hydro-seed 	1,900	LF		
Total for Lake Lane				

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

SW 52 Lane (approx. 350 ft) from SW 182 Terrace to end	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling		Ton		
1 inch Type S-3 Asphalt		SY		
Striping <ul style="list-style-type: none"> • White at right-hand edges of roadway • White Stop Line at intersection • Double Yellow centerline at intersection 		LF		
RPM's <ul style="list-style-type: none"> • Yellow RPM's at centerline of intersection 		Each		
Swale (Optional Service) <ul style="list-style-type: none"> • Excavate and Hydro-seed 	500	LF		
Total for SW 52 Lane				

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

Mustang Trail (approx. 9,220 ft.) from Volunteer Road to Appaloosa Trail	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling		Ton		
1 inch Type S-3 Asphalt		SY		
Striping <ul style="list-style-type: none"> • White at right-hand edges of roadway • White Stop Line at intersections • Double Yellow centerline at intersections 		LF		
RPM's <ul style="list-style-type: none"> • Yellow RPM's at centerline of intersections • Blue RPM's at fire wells/hydrants 		Each		
Swale (Optional Service) <ul style="list-style-type: none"> • Excavate and Hydro-seed 	3,200	LF		
Total for Mustang Trail				

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

Holatee Trail (approx. 4,930 ft.) from East Palomino Drive to Stirling Road	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling		Ton		
1 inch Type S-3 Asphalt		SY		
Striping <ul style="list-style-type: none"> • White at right-hand edges of roadway • White Stop Line at intersection • Double Yellow centerline at intersection • Double Yellow Centerline in turn to Palomino 		LF		
RPM's <ul style="list-style-type: none"> • Yellow RPM's at centerline of intersection • Yellow RPM's at centerline in turn to Palomino • Blue RPM's at fire wells/hydrants 		Each		
Swale (Optional Service) <ul style="list-style-type: none"> • Excavate and Hydro-seed 	1,800	LF		
Total for Holatee Trail				

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

All applicable federal, state and local taxes and performance and payment bonds are included in the Bid Price. In the event of any discrepancy in the line item amounts, the calculated total shall control.

Both the Bidder and the licensee shall fill in the information below, pursuant to Chapter 489, Florida Statutes. Licensee is defined as the person who is the licensed Contractor who qualifies the Bidding Company, Corporation or Partnership. If the Bidder is an individual, he must be licensed. (Please print or type, excluding signatures).

NAME: _____

ADDRESS: _____

FEIN: _____

LICENSE NUMBER: _____ STATE OR COUNTY: _____

LICENSE TYPE:

(Attach copy of license)

LICENSE LIMITATIONS, IF ANY: _____
(Attach a separate sheet, if necessary)

LICENSEE SIGNATURE:

LICENSEE NAME: _____

BIDDER'S SIGNATURE: _____

BIDDER'S NAME: _____

BIDDER'S ADDRESS: _____

BIDDER'S PHONE NUMBER: Office: _____ Cell: _____

ADDENDUM ACKNOWLEDGMENT (if necessary):

The Bidder has received Addendum No _____ dated _____.

The Bidder has received Addendum No _____ dated _____.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 4 - Required Signatures and Submittals

DRUG FREE WORKPLACE– Bidders must certify that they will provide a drug-free workplace. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR'S SIGNATURE: _____

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prime facie case that one person controls another person. A person who knowingly enters into a joint venture with person who has been convicted of a public entity crime in Florida during the preceding thirty-six (36) months shall be considered an affiliate.

5. I understand that a "person" as defined in Para. 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "persons" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any of it's officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order.)

BIDDERS NAME: _____

COMPANY NAME: _____

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 4 - Required Signatures and Submittals

NON-COLLUSIVE AFFIDAVIT

State of _____)
County of _____) ss.

_____ being first duly sworn deposes
and says that:

- (1) He/She is the _____
(Owner, Partner, Officer, Representative or Agent) of
_____ the Bidder that has submitted the
attached Bid;
- (2) He/She is fully informed respecting the preparation and contents of the attached Bid
and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents,
representatives, employees or parties in interest, including this affiant, have in any
way colluded, conspired, connived or agreed, directly or indirectly, with any other
Bidder, firm, or person to submit a collusive or sham Bid in connection with the
Work for which the attached Bid has been submitted; or to refrain from bidding in
connection with such Work; or have in any manner, directly or indirectly, sought by
agreement or collusion, or communication, or conference with any Bidder, firm, or
person to fix any overhead, profit, or cost elements of the Bid or of any other Bidder,
or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of
any other Bidder, or to secure through any collusion, conspiracy, connivance, or
unlawful agreement any advantage against (Recipient), or any person interested in
the proposed Work;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not
tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part
of the Bidder or any other of its agents, representatives, owners, employees or
parties in interest, including this affiant.

By: _____

(Printed Name)

(Title)

Sworn to and subscribed before me this _____ day of _____, 20____

BIDDERS NAME: _____

COMPANY NAME: _____

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 4 - Required Signatures and Submittals

GOVERNMENTAL CONTACT INFORMATION

Please list **NAME OF AGENCY, ADDRESS, PHONE NUMBER, AND CONTACT PERSON** of any other Governmental Agencies or Quasi-governmental agencies for which you have done business within the past five years.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

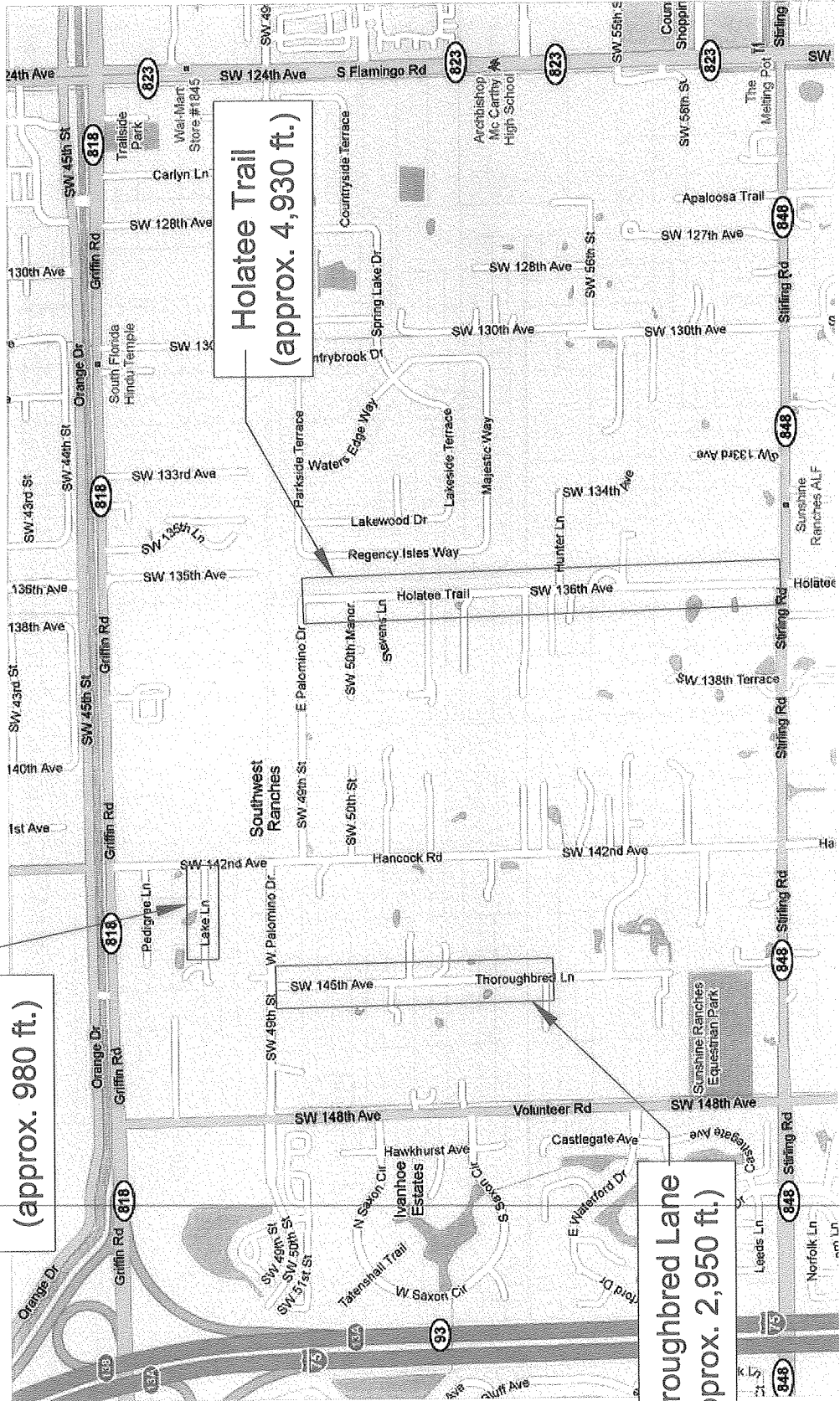
ATTACHMENT "A"

(Map 1 of 3)

Lake Lane
(approx. 980 ft.)

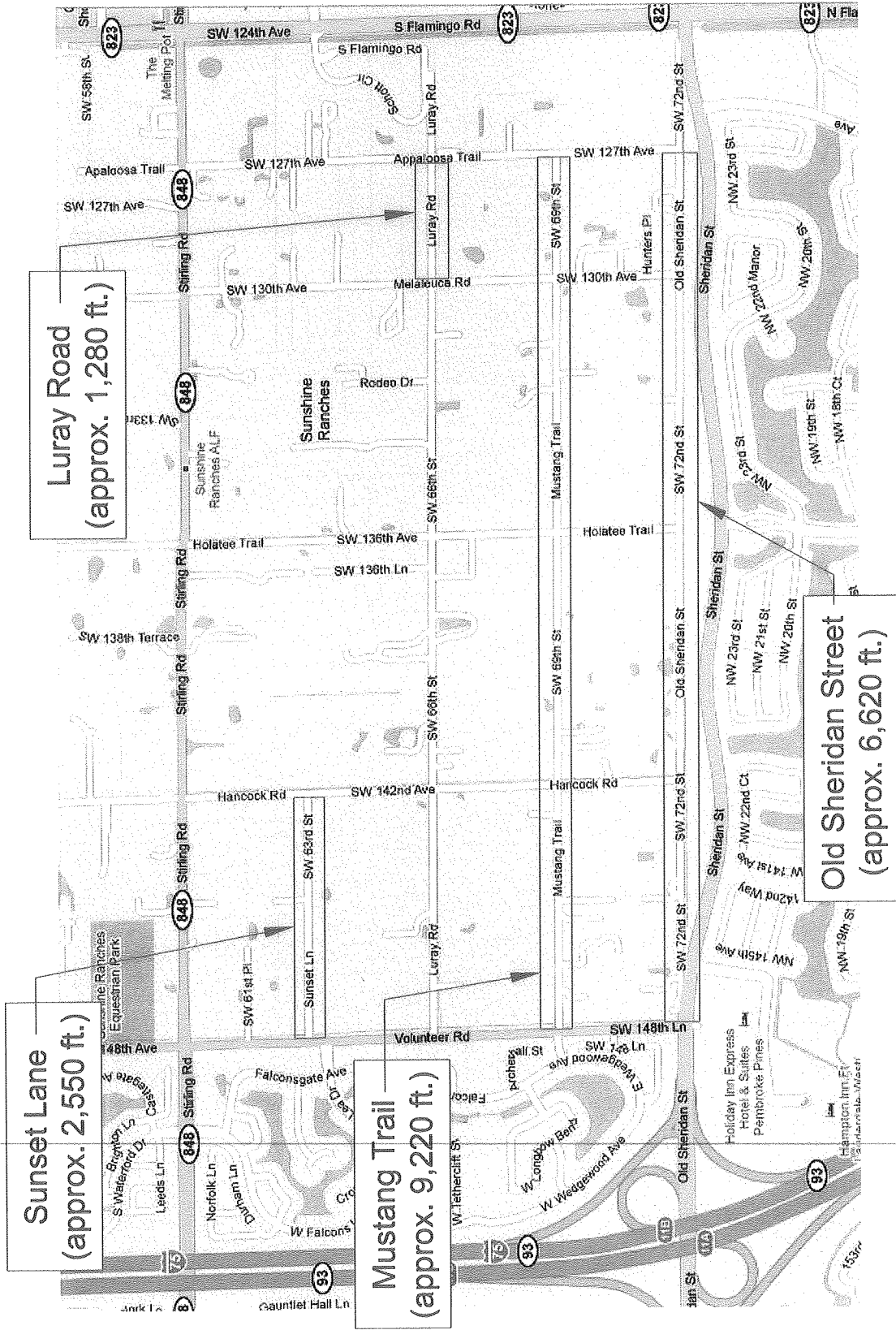
Holatee Trail
(approx. 4,930 ft.)

Thoroughbred Lane
(approx. 2,950 ft.)



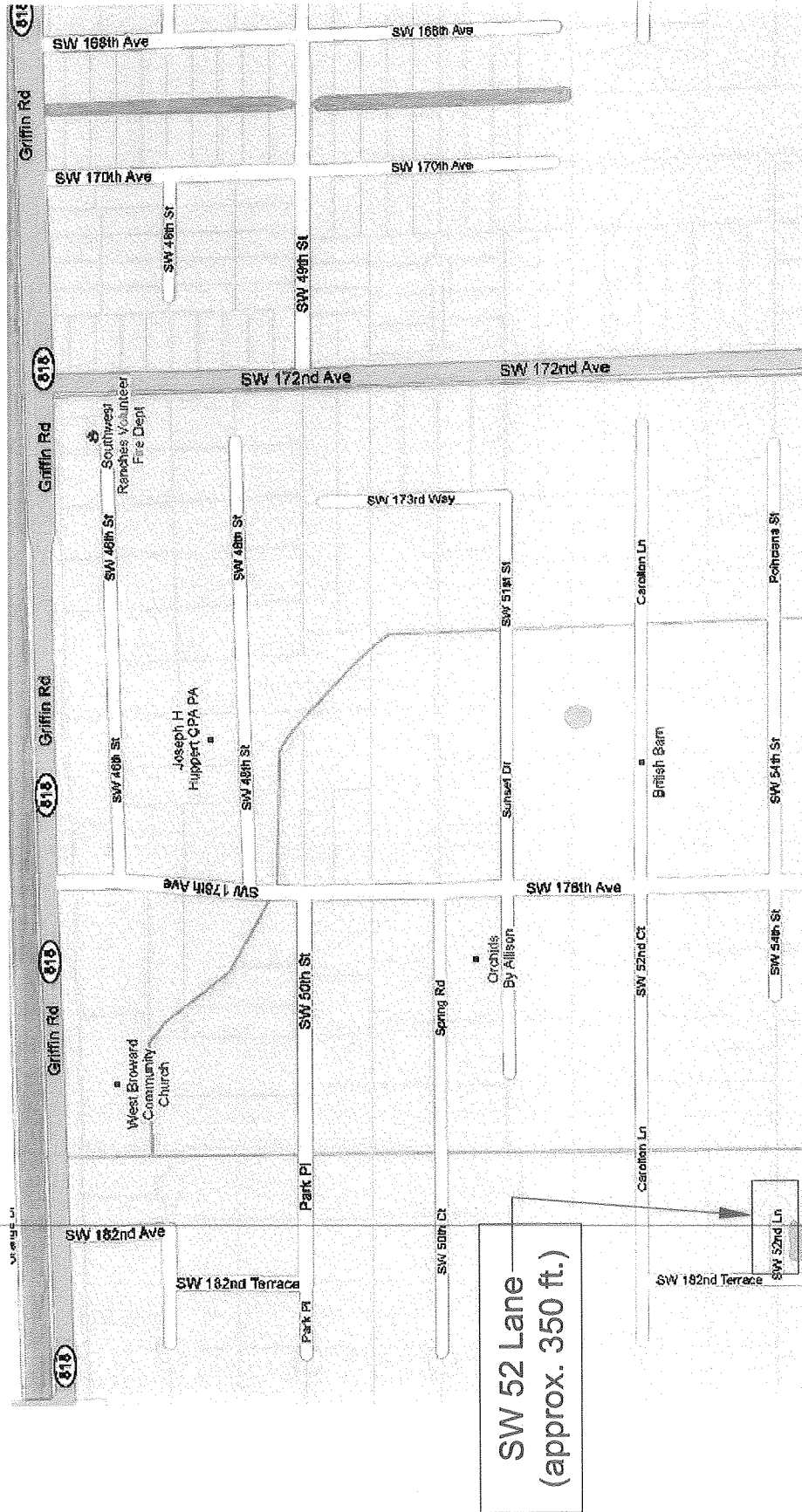
ATTACHMENT "A"

(Map 2 of 3)



ATTACHMENT "A"

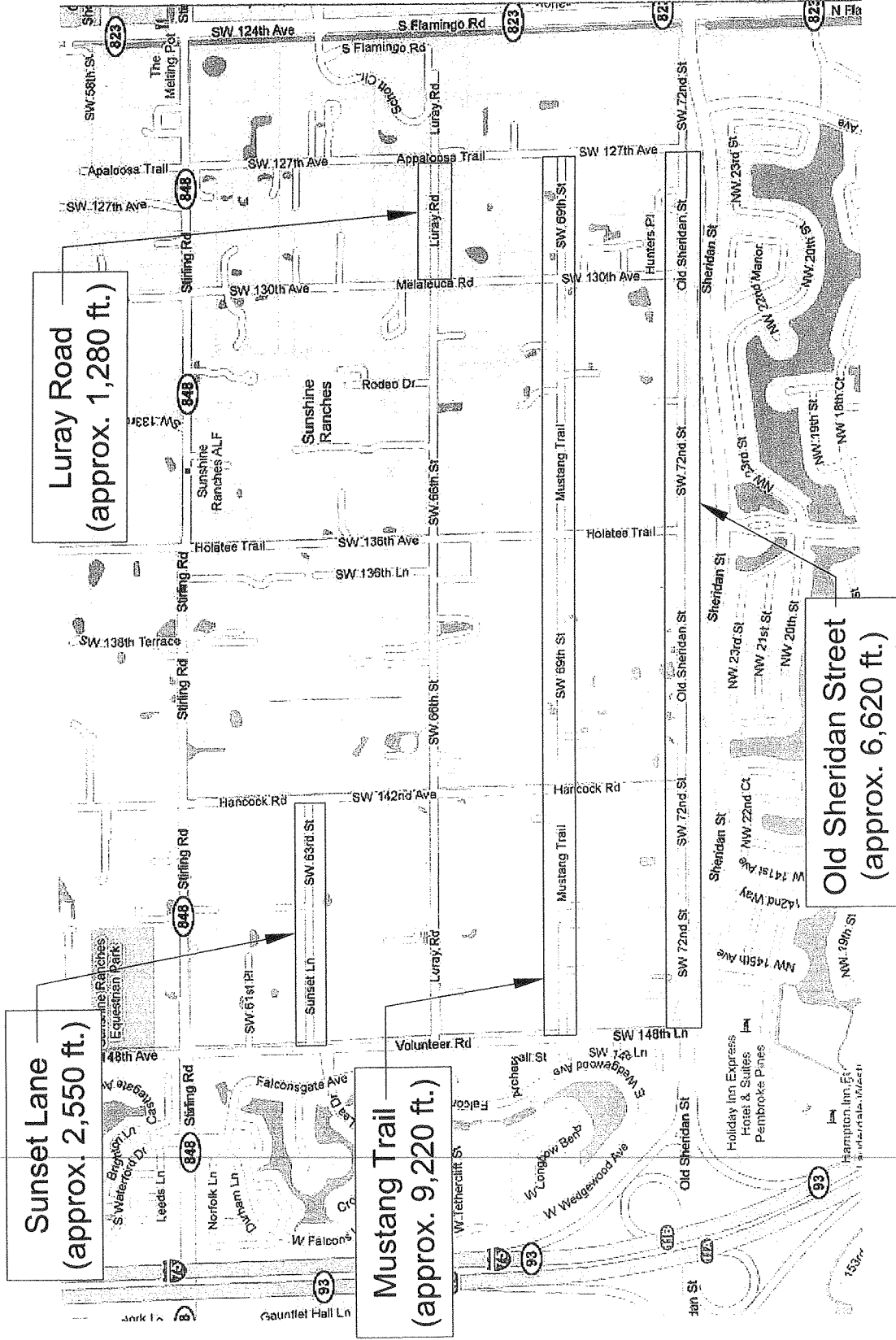
(Map 3 of 3)



SW 52 Lane
(approx. 350 ft.)

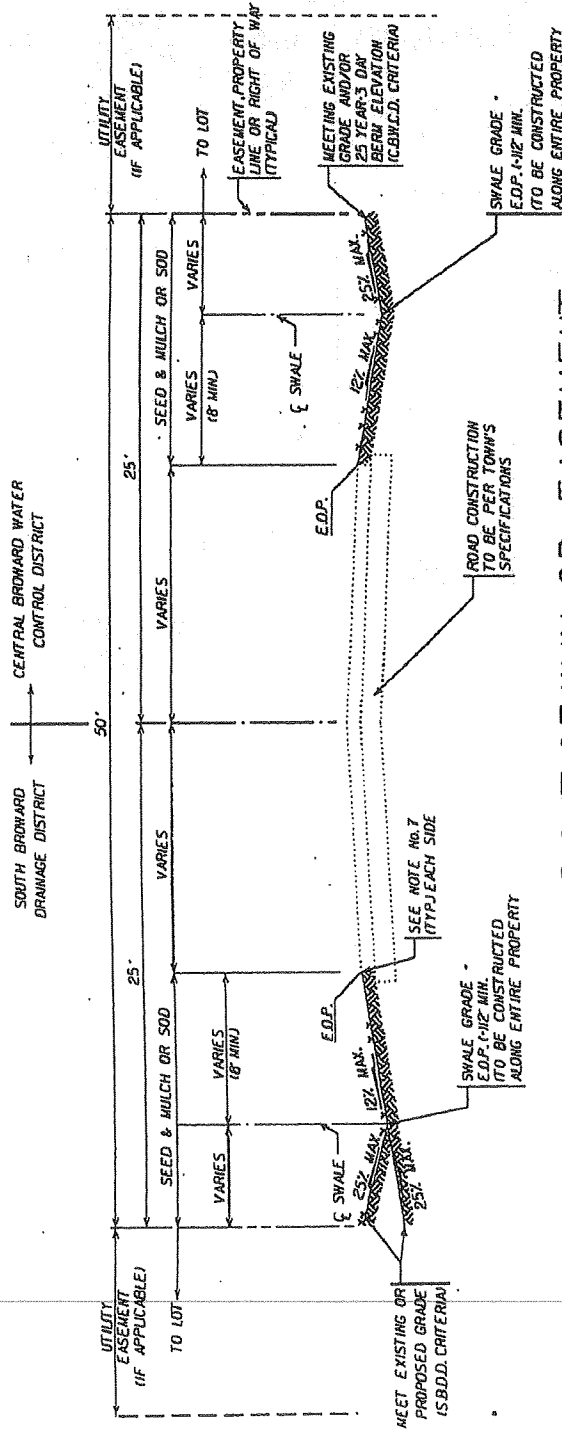
ATTACHMENT "A"

(Map 2 of 3)



ATTACHMENT "B"

(Swale Exhibit)



50' ROAD RIGHT-OF-WAY OR EASEMENT SWALE SECTION PROFILE

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – ‘continued’

Sunset Lane (approx. 2,550 ft.) from Volunteer Road to Hancock Road	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling	15	Ton	90.00	1,350.00
1 inch Type S-3 Asphalt	5,670	SY	4.25	24,097.50
Striping				
• White at right-hand edges of roadway	5,100	LF	0.38	1,938.00
• White Stop Line at intersections	24	LF	5.00	120.00
• Double Yellow centerline at intersections	200	LF	0.60	120.00
RPM's				
• Yellow RPM's at centerline of intersections	32	Each	6.00	192.00
Swale (Optional Service)				
• Excavate and Hydro-seed	1,000	LF	4.75	4,750.00
Total for Sunset Lane				32,567.50

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 3 – Proposal

BID PROPOSAL FORM – 'continued'

Luray Road (approx. 1,280 ft.) from Melaleuca Drive to Appaloosa Lane	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling	15	Ton	90.00	1,350.00
1 inch Type S-3 Asphalt	2,850	SY	4.25	12,112.50
Striping				
• White at right-hand edges of roadway	2,560	LF	0.38	972.80
• White Stop Line at intersections	24	LF	5.00	120.00
• Double Yellow centerline at intersections	200	LF	0.60	120.00
RPM's				
• Yellow RPM's at centerline of intersections	32	EACH	6.00	192.00
• Blue RPM's at fire wells/hydrants	2	Each	6.00	12.00
Swale (Optional Service)				
• Excavate and Hydro-seed	500	LF	4.75	2,375.00
Total for Luray Road				17,254.30

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 3 - Proposal

BID PROPOSAL FORM - 'continued'

Old Sheridan Street (approx. 6,620 ft.) from Appaloosa Trail to Merge with Sheridan near SW 148 Avenue (Volunteer)	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling	30	Ton	90.00	2,700.00
1 inch Type S-3 Asphalt	14,715	SY	4.25	62,538.75
Striping				
• White at right-hand edges of roadway	13,240	LF	0.38	5,031.20
• White Stop Line at intersection	84	LF	5.00	420.00
• Double Yellow centerline at intersection	200	LF	0.60	120.00
• Double Yellow Centerline in turn to Sheridan	100	LF	0.60	60.00
RPM's				
• Yellow RPM's at centerline of intersection	16	EACH	6.00	96.00
• Yellow RPM's at centerline in turn to Sheridan	8	Each	6.00	48.00
• Blue RPM's at fire wells/hydrants	6	EACH	6.00	36.00
Swale (Optional Service)				
• Excavate and Hydro-seed	2,000	LF	4.75	9,500.00
Raise Manhole				
• Elevate rim prior to overlay	1	Each	300.00	300.00
Total for Old Sheridan Street				80,849.95

**TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING**

Section 3 - Proposal

BID PROPOSAL FORM - 'continued'

Thoroughbred Lane (approx. 2,950 ft.) from West Palomino to 5501 Thoroughbred	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trueing & Leveling	25	Ton	90.00	2,250.00
1 inch Type S-3 Asphalt	6,560	SY	4.25	27,880.00
Striping				
• White at right-hand edges of roadway	5,900	LF	0.38	2,242.00
• White Stop Line at intersection	12	LF	5.00	60.00
• Double Yellow centerline at intersection	108	LF	0.60	64.80
RPM's				
• Yellow RPM's at centerline of intersection	16	EACH	6.00	96.00
• Blue RPM's at fire wells/hydrants	2	Each	6.00	12.00
Swale (Optional Service)				
• Excavate and Hydro-seed	2,000	LF	4.75	9,500.00
Total for Thoroughbred Lane				42,104.80

Grand Total Bid Price 389,139.13

Notes:

- Items above include cost of Mobilization, MOT, proofrolling, milling/excavation at transitions, power brooming, tack coat prior to overlay with SIII ACSC.
- The TOWN reserves the right to award multiple or partial contracts
- See Attachment "A" - Map of Roadways to be Improved
- See Attachment "B" - Swale Exhibit

Proposer's Signature: _____

Proposer's Name: DANIEL D. WEEKLEY, PRESIDENT

Date: 06/08/2010

Contractor: WEEKLEY ASPHALT PAVING, INC

Address: 20701 STIRLING RD
PEMBROKE PINES FL 33332

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 3 - Proposal

By: _____

WEEKLEY ASPHALT PAVING, INC

Name of Corporation

20701 STIRLING RD, PEMBROKE PINES, FL 33332

Address of Corporation

Signature of President

By: DANIEL D. WEEKLEY

President

(If the Bidder is a Corporation, affix corporate seal)

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY
PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to TOWN OF SOUTHWEST RANCHES
by DANIEL D. WEEKLEY, PRESIDENT
for WEEKLEY ASPHALT PAVING, INC
whose business address is 20701 STIRLING RD.
PEMBROKE PINES FL 33332

and (if applicable) its Federal Employer Identification Number (FEIN) is 59-0753039
(IF the entity had no FEIN, include the Social Security Number of the individual
signing this sworn statement: N/A)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Para. 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Para. 287.133(1)(a), Florida Statutes, means:
(i). A predecessor or successor of a person convicted of a public entity crime; or
(ii). Any entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another

BIDDERS NAME: DANIEL D. WEEKLEY, PRESIDENT

COMPANY NAME: WEEKLEY ASPHALT PAVING, INC

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY, CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

By: [Signature]

DANIEL D. WEEKLEY
(Printed Name)

PRESIDENT
(Title)

Sworn to and subscribed before me this 8TH day of JUNE, 2010

Personally known ✓

Or Produced Identification N/A
(Type of Identification)

Notary Public - State of FLORIDA

My Commission Expires 12/08/13

(Printed, typed, or stamped commissioned name of notary public)

June J. Stone



JUNE J. STONE
MY COMMISSION # DD 942755
EXPIRES: December 8, 2013
Bonded Thru Budget Notary Services

BIDDERS NAME: DANIEL D. WEEKLEY, PRESIDENT
COMPANY NAME: WEEKLEY ASPHALT PAVING, INC.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

CERTIFICATE OF AUTHORITY (If Corporation or Limited Liability Company)

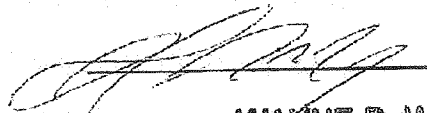
State of FLORIDA)
County of BROWARD) ss.

I HEREBY CERTIFY that a meeting of the Board of Directors of a corporation or authorized representatives of a Limited Liability Company existing under the laws of the State of FLORIDA, held on JUNE 8, 20 10, the following resolution was duly passed and adopted:

"RESOLVED, that DANIEL D. WEEKLEY, as President of the Corporation or authorized representative of a Limited Liability Company, be and is hereby authorized to execute the Proposal dated, JUNE 8 20 10, to the Town of Southwest Ranches and this corporation or Limited Liability Company and his execution thereof, attested by the Secretary of the Corporation or Limited Liability Company, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation or Limited Liability Company."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation or Limited Liability Company this 8TH day of JUNE, 20 10.



Secretary: **WAYNE D. WEEKLEY**

(SEAL)

BIDDERS NAME: DANIEL D. WEEKLEY PRESIDENT
COMPANY NAME: WEEKLEY ASPHALT PAVING, INC.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

CERTIFICATE OF AUTHORITY (If Joint Venture)

State of _____)
County of _____) ss.

I HEREBY CERTIFY that a meeting of the Principals of the _____

a corporation existing under the laws of the State of _____, held on _____, 20 _____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____ as _____ of the Joint Venture be and is hereby authorized to execute the Proposal dated, _____ 20 _____, to the Town of Southwest Ranches official act and deed of this Joint Venture."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20 _____.

Secretary:
(SEAL)

BIDDERS NAME: DANIEL O. WEEKLEY, PRESIDENT
COMPANY NAME: WEEKLEY ASPHALT PAVING, INC

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals this 8th day of June, 2010, the name and the corporate seal of each corporate party being hereto affixed and these presents being duly signed by its undersigned representative.

IN PRESENCE OF:

June J. Stone

WEEKLEY ASPHALT PAVING, INC (SEAL)
(Individual or Partnership Principal) CORPORATION

20701 STIRLING RD.
(Business Address)

DANIEL D. WEEKLEY, PRESIDENT

PEMBROKE PINES FL 33332
(City/State/Zip)

954-680-8005
(Business Phone)

ATTEST:

Francys Tolon
Secretary Witness
Francys Tolon

Western Surety Company
(Corporate Surety)*

By: [Signature]
Ligette Rodriguez
Attorney-in-Fact

*Impress Corporate Seal

IMPORTANT

Surety companies executing bonds must appear on the Treasury Department's most current list (circular 570 as amended) and be authorized to transact business in the State of Florida.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT – RESURFACING

Section 4 - Required Signatures and Submittals

Bond No. _____
BID BOND

State of _____)
County of _____) ss.

KNOW ALL MEN BY THESE PRESENTS, that we, _____
_____, as Principal, and _____
_____, as Surety, are held and firmly bound unto the Town of
Southwest Ranches, a municipal corporation of the State of Florida, in the penal sum of
_____ Dollars (\$ _____), lawful money of the United States, for the
payment of which sum well and truly to be made, we bind ourselves, our heirs, executors,
administrators and successors jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has
submitted the accompanying Bid, dated _____, 20____ for
Roadway Improvement - Resurfacing

NOW, THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate
- (b) If said Bid shall be accepted and the Principal shall properly execute and deliver to
said TOWN the appropriate Contract Documents, including any required insurance
and bonds, and shall in all respects fulfill all terms and conditions attributable to the
acceptance of said Bid,

then this obligation shall be void; otherwise, it shall remain in force and effect, it being
expressly understood and agreed that the liability of the Surety for any and all claims
hereunder shall in no event exceed the amount of this obligation as herein stated.

The Surety, for value received, hereby agrees that the obligations of the said Surety and its
bond shall be in no way impaired or affected by any extension of time within which said
TOWN may accept such Bid; and said Surety does hereby waive notice of any extension.

TOWN OF SOUTHWEST RANCHES, FLORIDA
ROADWAY IMPROVEMENT - RESURFACING

Section 4 - Required Signatures and Submittals

SUBCONTRACTORS

In the form below, the Bidder shall list all Subcontractors to be used on this project if the Bidder is awarded the Contract for this project.

**CLASSIFICATION
OF WORK**

**NAME AND ADDRESS
OF SUBCONTRACTORS**

<u>CLASSIFICATION OF WORK</u>	<u>NAME AND ADDRESS OF SUBCONTRACTORS</u>
PAVEMENT MARKINGS	GENE'S STRIPING 3001 INDUSTRIAL AVE #3 FORT PIERCE, FL 34946

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/16/2010

PRODUCER Wells Fargo Ins Services USA, Inc. (MIA) 2601 S Bayshore Drive Suite 1600 Coconut Grove FL 33133 (305) 443-4886 (786) 264-9232	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Weekley Asphalt Paving, Inc. 20701 Stirling Road Pembroke Pines FL 33332	INSURER A: Everest National Insurance Com	10120
	INSURER B: Travelers Property Casualty Co	25674
	INSURER C: Bridgefield Employers Ins Co	10701
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	VTC2JCO5800B413TIL10	3/1/2010	3/1/2011	EACH OCCURRENCE \$ 1,000,000
					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
					MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COM/OP AGG \$ 2,000,000
					GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	VTC2JCAP5800B425TIL1	3/1/2010	3/1/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
					GARAGE LIABILITY <input type="checkbox"/> ANY AUTO
					AUTO ONLY - EA ACCIDENT \$
					OTHER THAN EA ACC AGG \$
A	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE	71C4000406101	3/1/2010	3/1/2011	EACH OCCURRENCE \$ 5,000,000
					AGGREGATE \$ 5,000,000
					\$
					\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	083044264	3/1/2010	3/1/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER \$
					E.L. EACH ACCIDENT \$ 500,000
					E.L. DISEASE - EA EMPLOYEE \$ 500,000
					E.L. DISEASE - POLICY LIMIT \$ 500,000
B	OTHER Lease/Rent All Risk	QT6008193B000TIL10	3/1/2010	3/1/2011	L&R Equipment \$200,000 Deductible \$ 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

General Liability: (X) Commercial Liability (X) Premises-Operations (x) Explosion & Collapse Hazard (X) Underground Hazard (X) Products/Completed Operations Hazard (X) Contractual Insurance (X) Broad Form Property Damage (X) Independent Contractors (X) Personal Injury Town of Southwest Ranches Risk Management Department 6589 SW 160 Avenue Southwest Ranches, FL 33331 and

CERTIFICATE HOLDER

Town of Southwest Ranches
Risk Management Department
6589 SW 160 Avenue

Southwest Ranches FL 33331

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

DESCRIPTION OF OPERATIONS SECTION CONTINUED

DATE
7/16/2010

CERTIFICATE HOLDER:

Town of Southwest Ranches
Risk Management Department
6589 SW 160 Avenue

Southwest Ranches FL 33331

INSURED:

Weekley Asphalt Paving, Inc.

20701 Stirling Road
Pembroke Pines FL 33332

DESCRIPTION OF OPERATIONS CONTINUED:

Steven B. Lesser, Esq. Becker & Poliakoff, P.A. 3111 Stirling Road Fort Lauderdale, FL 33312

Resolution No. 2010-069; Roadway Improvement-Resurfacing #10-011
Job #10087

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Weekley Asphalt Paving, Inc.
20701 Stirling Road
Pembroke Pines, FL 33332

SURETY (Name and Principal Place of Business):

Western Surety Company
2405 Lucien Way
Maitland, FL 32751

OWNER (Name and Address):

Town of Southwest Ranches
6589 SW 160th Avenue
Southwest Ranches, FL 33331

CONSTRUCTION CONTRACT

Date:

Amount: \$389,139.13

Description (Name and Location):

Resolution No. 2010-069; Roadway Improvement-Resurfacing #10-011

BOND

Date (Not earlier than Construction Contract Date): July 16th, 2010

Amount: \$389,139.13

Modifications to this Bond:



None



See other side

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)
Weekley Asphalt Paving, Inc.

Signature: _____

DANIEL D. WEEKLEY, PRESIDENT

Name and Title:

SURETY

Company: _____ (Corporate Seal)
Western Surety Company

Signature: _____



Name and Title:

Lisette Rodriguez
FL Licensed Resident Agent & Attorney-in-Fact

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER:

Lisette Rodriguez
2601 S. Bayshore Drive, Suite #1600
Coconut Grove, FL 33133
305-443-4886

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

Printed in cooperation with the American Institute of Architects (AIA) by the CNA Insurance Companies.

The language in this document conforms exactly to the language used in AIA Document A312 - Performance Bond - December 1984 edition.

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Jeffrey Samas, Robert Mc Minn, Richard Arcadio Rodriguez, Lisette Rodriguez, Individually

of Coconut Grove, FL, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 25th day of February, 2009.



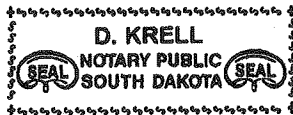
WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 25th day of February, 2009, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 16th day of July, 2010.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

- 1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
- 2 With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
- 3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
- 4 The surety shall have no obligation to Claimants under this bond until:
 - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 - .1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - .2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 - .3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
- 5 If a notice required by paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
- 6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
- 7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- 8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
- 9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
- 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- 11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
- 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- 14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
- 15 **DEFINITIONS**
 - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

Bond No. 929504712

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Weekley Asphalt Paving, Inc.
20701 Stirling Road
Pembroke Pines, FL 33332

SURETY (Name and Principal Place of Business):

Western Surety Company
2405 Lucien Way
Maitland, FL 32751

OWNER (Name and Address):

Town of Southwest Ranches
6589 SW 160th Avenue
Southwest Ranches, FL 33331

CONSTRUCTION CONTRACT

Date:

Amount: \$389,139.13

Description (Name and Location):

Resolution No. 2010-069; Roadway Improvement-Resurfacing #10-011

BOND

Date (Not earlier than Construction Contract Date): July 16th, 2010


Amount: \$389,139.13

Modifications to this Bond:

None

See other side

CONTRACTOR AS PRINCIPAL

Company:  Weekley Asphalt Paving, Inc.

Signature: 
DANIEL D. WEEKLEY, PRESIDENT

Name and Title:

SURETY

Company:  Western Surety Company

Signature: 

Name and Title:
Lisette Rodriguez
FL Licensed Resident Agent & Attorney-in-Fact

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER:

Lisette Rodriguez
2601 S. Bayshore Drive, Suite #1600
Coconut Grove, FL 33133
305-443-4886

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Jeffrey Samas, Robert Mc Minn, Richard Arcadio Rodriguez, Lisette Rodriguez, Individually

of Coconut Grove, FL, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 17th day of February, 2010.



WESTERN SURETY COMPANY

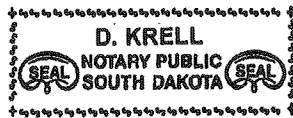
Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 17th day of February, 2010, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 16th day of July, 2010



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

- 1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
- 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
- 3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
- 4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract; arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 - .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
 - .2 Deny liability in whole or in part and notify the Owner citing reasons therefor.
- 5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
- 6 After the Owner has terminated the Contractor's right to complete the Construction Contract; and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages of the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- 7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.
- 8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- 9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
- 11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. DEFINITIONS

- 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction contract after all proper adjustments have been made, including allowance to the Contractor or any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
- 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)