

RESOLUTION NO. 2012 - 043

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH CONEX ENGINEERING, INC. FOR NINETY ONE THOUSAND ONE HUNDRED TWENTY THREE DOLLARS AND SEVENTY TWO CENTS (\$91,123.72) TO PROVIDE THE CONSTRUCTION OF DRAINAGE IMPROVEMENTS TO SW 210TH TERRACE AND SW 54TH PLACE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 9, 2012, the Town advertised an Invitation For Bid; and

WHEREAS, on April 6, 2012, the Town received eleven (11) bids in response to the advertisement; and

WHEREAS, Conex Engineering, 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 of drainage improvements to SW 210th Terrace on SW 210 Terrace and SW 54th Place, set forth in IFB Number 12-002 and this Agreement.

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 Conex Engineering, Inc., providing drainage improvements to SW 210th Terrace as outlined in the Invitation for Bid in the amount of Ninety One Thousand One Hundred Twenty Three Dollars and Seventy Two Cents (\$91,123.72), attached hereto as Exhibit "A".

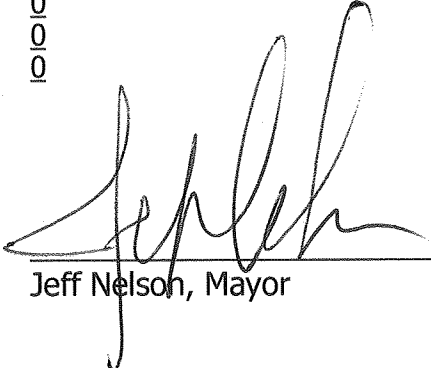
Section 3. The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into the Agreement in substantially the same form as that attached hereto as Exhibit "A," and to make such modifications, additions, and/or deletions which they deem necessary and proper to effectuate 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 26th day of April, 2012 on a motion by Council Member Breitkreuz and seconded by Vice Mayor McKay.

Nelson	<u>YES</u>
McKay	<u>YES</u>
Breitkreuz	<u>YES</u>
Fisikelli	<u>YES</u>
Jablonski	<u>YES</u>

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



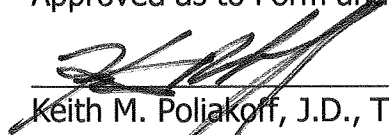
Jeff Nelson, Mayor

Attest:



Erika Gonzalez-Santamaria, CMC, Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, J.D., Town Attorney
ACTIVE: 3818346_1

**AGREEMENT BETWEEN THE
TOWN OF SOUTHWEST RANCHES**

AND

CONEX ENGINEERING, INC.

FOR

**DRAINAGE IMPROVEMENTS AT SW 210th TERRACE
AND SW 54th PLACE**

10th ~~April~~ ^{May} **THIS IS AN AGREEMENT** ("Agreement") made and entered into on this day of ~~April~~ ^{May} 2012 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as "Town") and Conex Engineering, Inc. (hereinafter referred to as "Contractor").

WHEREAS, on March 9, 2012, the Town advertised an Invitation For Bid; and

WHEREAS, on April 6, 2012, the Town received eleven (11) bids in response to the advertisement; and

WHEREAS, Conex Engineering, 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 of drainage improvements to SW 210th Terrace on SW 210 Terrace and SW 54th Place, set forth in IFB Number 12-002 and this Agreement.

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 "C"** attached hereto to this Agreement (hereinafter referred to as "Work"). The Work shall be performed in accordance with the terms of this Agreement, the Town's Invitation for Number Bid 12-002, which is attached hereto as **Exhibit "A"** and incorporated herein and Contractor's Bid, which is attached hereto as **Exhibit "B"** and incorporated herein by reference. To the extent of any conflict between the terms of this Agreement, the Invitation for Bids, and the Contractor's Bid, the more stringent requirement applicable to the Contractor's performance shall prevail and control.
- 1.2 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.
- 1.3 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, including, but not limited to, those of the City of Pembroke Pines.

Section 2: Term of this Agreement and Agreement Time

- 2.1 Town and Contractor agree that Contractor shall perform all Work under this Agreement for Improvements.
- 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.
- 2.4 Town and Contractor agree that Substantial Completion of the Work shall be thirty (30) days from the issuance of the Notice to Proceed. Town and Contractor agree that Contractor shall perform Final Completion of all Work under this Agreement within forty-five (45) calendar days from the date of issuance of Notice to Proceed.

Section 3: Compensation & Method of Payment

- 3.1 Contractor shall render all Work to the Town under the Agreement for the total lump sum price of Ninety One Thousand One Hundred and Twenty Three Dollars and Seventy Two Cents (\$91,123.72) ("Agreement Sum"). The Work shall be performed in accordance with the terms of this Agreement, the Town's Invitation for Bid, and Contractor's Bid, which are incorporated herein by reference. To the extent of any conflict between the terms of this Agreement, the Invitation for Bid, and the Contractor's Bid, the more stringent requirement applicable to the Contractor's performance shall prevail and control.
- 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

- 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 coverages as set forth in this Section.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business 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-VI or better.
- 6.3 All Insurance Policies shall name and endorse the following as additional insureds:

TOWN OF SOUTHWEST RANCHES
Attn: Town Administrator.
13400 Griffin Road
Southwest Ranches, FL 33330

- 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 coverages 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 and all applicable federal laws. Contractor shall carry Worker's Compensation Insurance with the statutory limits, as required by Florida Statute Chapter 44, as amended, 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 with minimum limits of **Five Hundred Thousand Dollars (\$500,000)** 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, and must include all owned vehicles and all hired or non-owned vehicles.
 - C. **COMMERCIAL GENERAL LIABILITY:** Contractor shall carry Commercial General Liability Insurance with limits of not less than **Five Hundred Thousand Dollars (\$500,000)** 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 coverages 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, and personal injury. Personal injury coverage shall include coverage that has the employee and contractual exclusions removed.

- 6.7 Contractor shall provide Town with a copy of the Certificates of Insurance or endorsements evidencing the types of Insurance and coverages required by this Section prior to beginning the performance of any Work under this Agreement and, at any time thereafter, upon request by Town.
- 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 coverages or limits. Notice shall be sent to:

Town of Southwest Ranches
Town Administrator
13400 Griffin Road
Southwest Ranches, Florida 33330

- 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 coverages 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.

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 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 arising out of or resulting from the performance of the Work, provided that any such liability, claim, damage, loss, cost or expense (1) 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, and (2) is caused by any negligent, reckless, intentional act, omission, or other wrongful act of the Contractor, or any subcontractor, material or equipment supplier, or anyone directly or indirectly employed by any of them. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity on the part of Contractor to Town or which may otherwise exist as to any other person described in this paragraph. In any and all claims against the Town, or any of their agents or employees by any employee of the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited, in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor and/or supplier under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. The foregoing indemnity from Contractor shall be applicable to all losses, damages, expenses or claims for damage or injury to any person or property, resulting from Contractor's negligence, recklessness or other intentional or otherwise wrongful misconduct of Contractor, and persons employed or utilized by Contractor relating to the performance of Work as described in the Agreement. This indemnification provision is incorporated by reference into **Exhibit "C"** of this Agreement. The Contractor shall promptly remedy all damage or loss to any property caused by the Contractor, or any subcontractor, material or equipment, supplier or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Contractor are in addition to its other obligations running in favor of Town under this Agreement. Notwithstanding any other provisions of this Agreement, the Contractor's duty to indemnify and defend Town as set forth in proposal shall survive the termination or expiration 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 **seven (7) 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. Material breaches shall include, but are not limited to, Contractor's violations of governing standards, violations of state or federal laws, violation of Town's policies and procedures, or violation of any of the terms and conditions of this Agreement. In the event that Town elects to terminate 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 insolvency, bankruptcy or receivership;
3. Contractor's violation or non-compliance with Section 11 of this Agreement;
4. Contractor's failure to maintain any Insurance required by Section 6 of this Agreement; or
5. Contractor's violation of Section 19 of this Agreement.

Section 19: Liquidated Damages ("LD's")

In the event Contractor does not achieve completion of the Work as defined in this Agreement in whole or in part due to its own fault, the parties hereto acknowledge that any delay beyond the scheduled Completion Date may cause grave injury and damage to the Town. Accordingly, the calculation of the actual damages to the Town would be uncertain and difficult if not impossible to determine. Consequently, if the Contractor has not achieved Final Completion of the Work within the specified calendar days for each location, from the effective date of the Notice to Proceed for the Work and has not obtained written authorization for such delay, time being of the essence, then the parties hereto agree that as liquidated delay damages and not as a penalty, the Contractor shall pay to the Town an amount equal to **\$500.00** for each day or portion thereof, that the date of completion is later than the scheduled Completion Date set forth above. Contractor shall be entitled to an extension of time and relief from liquidated damages to the extent that additional out of scope work is authorized by the Town in accordance with a properly executed Change Order. All such liquidated damage amounts, if any, shall be paid by Contractor to Town weekly, immediately upon each such failure of Contractor to comply with the scheduled Completion Date, as set forth above. In the event that the

Contractor fails to make any one or more of the payments to Town as required under this Paragraph, the Town shall have the right to deduct any and all such amounts from any amounts due to Contractor.

Section 20: 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 21: 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 22: 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 23: 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 24: 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 25: 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 26: 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 27: Time is of the Essence

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

Section 28: Days

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

Section 29: 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 30: 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 31: 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 32: 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 33: 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
13400 Griffin Road
Southwest Ranches, Florida 33330

With a copy to Town Attorney:

Keith M. Poliakoff, Esq.
Becker & Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, Florida 33312

If to Contractor:

Victoria B. Perez De Corcho
President
Conex Engineering, Inc.
15491 NW 33rd Place
Miami Gardens, FL 33054

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: Conex Engineering Inc. and THE TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the 10th day of May 2012.

WITNESSES:

[Signature]
Keya Rodriguez

WITNESSES:

[Signature]
Susan King

CONTRACTOR:

By: [Signature]
Victoria B. Perez De Cordho, President
Conex Engineering, Inc.

3rd day of May, 2012

TOWN:

TOWN OF SOUTHWEST RANCHES

By: [Signature]
Jeff Nelson, Mayor

10th day of May 2012

By: [Signature]
Stan Morris
Interim Town Administrator

10th day of May 2012

ATTEST:

[Signature]
Erika Gonzalez-Santamaria, CMC, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
Keith Pollakoff, Town Attorney
ACTIVE: S20572/269682:3817844_1

ATTACHMENT "A"

IFB 12-002

TOWN OF SOUTHWEST RANCHES



BID DOCUMENT AND TECHNICAL SPECIFICATIONS

DRAINAGE IMPROVEMENTS AT SW 210th TERRACE & SW 54th PLACE

Technical Specifications Prepared By:
G.D. "Willie" Nabong, P.E.
FL Reg. No. 39585
Date: March 9, 2012

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

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ATTACHMENTS

ATTACHMENT “A” – PROJECT LOCATION MAP

ATTACHMENT “B” – CONTRACT FORM – TO BE EXECUTED AFTER AWARD OF CONTRACT

ATTACHMENT “C” - COPY OF CONSTRUCTION PLANS

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

Date: March 9, 2012

IFB No. 12-002

INVITATION FOR BID (IFB)

ALL INTERESTED PARTIES:

Request Bid Package at: jromance@southwestranches.org

Sealed bids will be received by the Town of Southwest Ranches, at the Office of the Deputy Town Clerk, 13400 Griffin Road, Southwest Ranches, Florida, 33330 - until **11:00 A.M., Friday, April 6, 2012**, at which time they will be publicly opened and read for:

“IFB No. 12-002: DRAINAGE IMPROVEMENTS AT SW 210th TERRACE & SW 54th PLACE”

The project site is located in the Town of Southwest Ranches, Broward County, Florida. The TOWN is approximately 13 square miles and is home to over 8,570 residents. The TOWN is a rural environment, filled with grazing animals, nurseries, farms and an abundance of wildlife. The TOWN's surface transportation system consists largely of two-lane local and collector roads with variable rights-of-way. The TOWN is currently responsible for the maintenance of 82 miles of these types of roads and associated drainage system.

The project involves furnishing and installing drainage outfall system. The drainage system consists of catch basins, pipes and head wall. The project includes site preparation, maintenance of traffic, dewatering, site restoration, testing and all else necessary to complete the project. All work shall conform to the latest edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction; FDOT Design Standards; and the Manual on Uniform Traffic Control Devices (MUTCD), South Broward Drainage District Regulations.

Bids must be accompanied by a cashier's check or bid bond made payable to the Town of Southwest Ranches, Florida, in an amount not less than five percent of the base bid as a guarantee that in the event the contract is awarded to the Bidder, he will promptly enter into a contract and furnish the required payment and performance bonds and insurance certificates within fourteen (14) days after receiving notice of award from the Town.

The Town of Southwest Ranches reserves the right to reject any or all bids, to waive any informality, non-material irregularity or technicality in any bid, to re-advertise for bids, or take any other such actions that may be deemed to be in the best interests of the TOWN.

Any questions concerning the IFB should be **emailed** to:

Juanita Romance, Deputy Town Clerk
13400 Griffin Road
Southwest Ranches, Florida 33330
Phone: 954-434-0008
Email: jromance@southwestranches.org

3. ADDENDA OR ADDITIONAL INFORMATION

Any questions or requests for clarifications concerning this IFB shall be submitted in writing by mail, facsimile or E-mail and directed to Ms. Juanita Romance, Deputy Town Clerk, Town of Southwest Ranches, 13400 Griffin Road, Southwest Ranches FL, 33330; By Fax number (954) 434-1490; or E-mail address: 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 seven (7) calendar days prior to the scheduled bid opening date but no later than noon, Friday, March 30, 2012.** 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.

4. SECURITY AND BONDING REQUIREMENTS:

i. 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 base 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 money order or 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 on the forms provided herein by the TOWN. Failure to supply Bid Security with the Bid at the time of Bid opening shall automatically disqualify the bidder as non-responsive.

ii. PERFORMANCE AND PAYMENT GUARANTEE

Simultaneous with the delivery of the executed contract form, the CONTRACTOR shall furnish to the TOWN an executed performance and payment bond in the amount equal to one hundred percent (100%) of the contract value, as security for the faithful performance of the contract and for the payment of all persons performing labor and/or furnishing materials in connection with the Work. The condition of this obligation is such that, if the CONTRACTOR shall promptly and faithfully perform said contract, make payments to all claimants for all labor and material used or reasonably required for use in the performance of the contract, and shall fully indemnify and save harmless the TOWN and its agents for all costs and damages he may suffer by reason of failure to do so, then this obligation shall be null and void; otherwise it shall remain in full force and effect. Bonds shall be in the form and as prescribed by Florida Statutes, Section 255.05.

7. BID WITHDRAWAL

Any Bidder may withdraw its bid prior to bid opening by providing a written notice to the Town. After bids are opened, they shall be irrevocable for a period of ninety (90) days. Bidders who unilaterally withdraw a bid without permission of the Town before 90 days have elapsed from the date of the bid opening may be debarred and are subject to forfeiture of the Bid Security.

8. CONE OF SILENCE

A cone of silence is hereby imposed and made applicable to this Invitation for Bids (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: A Bidder who violates the cone of silence shall be subject to automatic disqualification from further consideration.

A "Cone of Silence" means a prohibition on any communication regarding a particular request for proposal, request for qualification or bid, between:

- A potential vendor, service provided, proposer, bidder, lobbyist, or consultant; and
- The Town Council Members, Town's professional staff including, but not limited to, the Town Administrator and his or her staff, any member of the Town's selection or evaluation committee or staff.

9. NOTICE TO PROCEED

After execution of a contract the Town may issue a Notice to Proceed to the Contractor. CONTRACTOR shall be required to attend a pre-construction meeting. The date, time and place of the meeting will be set by the TOWN. A Notice to Proceed may be issued at the pre-construction meeting.

CONTRACTOR shall be instructed to commence work by written instructions by TOWN Administrator or his designee by issuance of a Notice to Proceed. The Notice(s) to Proceed will not be issued until CONTRACTOR submits to the TOWN 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 the issuance of a Notice to Proceed.

CONTRACTOR warrants to the TOWN that it shall expeditiously apply for all building permits and shall thereafter, diligently and continuously perform such Work to achieve Substantial and Final Completion.

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13. TAXES

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

14. 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 of Invitation for Bid. The TOWN is not responsible for the Bidder's costs associated with preparation of the bid or proposal.

15. 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. A bid submission in pencil will not be accepted.

16. MISTAKE

If there is a discrepancy in the unit and extended prices, the calculated total price based on unit prices 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.

17. DELIVERY

All delivery costs and charges for materials shall be included in the Bid price. Delivery shall be freight on board (F.O.B.) to the project site in the Town of Southwest Ranches, Florida.

18. LIABILITY, INSURANCE, LICENSING & PERMITS

Where a Contractor is required to enter onto Town of Southwest Ranches property to deliver materials or to perform work or services as a result of a Bid award, the Bidder/Contractor will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, inspections, and insurance required. The Contractor shall be liable for any damages or loss to the TOWN occasioned by negligence of the bidder (or his agent) or any person or subcontractor the bidder has designated in the completion of his contract as a result of the Bid. CONTRACTOR shall be required to furnish a certified copy of all licenses, certificates of competency or other licensure requirements necessary to practice his profession as required by Florida State Statute, Florida Building Code, Broward County, or Town of Southwest Ranches Code.

These documents shall be furnished to the TOWN along with the Bid response. Failure to furnish these documents or to have required licensure will be grounds for rejecting the Bid.

- F. 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.
- G. 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.
- H. 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.

19. AWARD OF CONTRACT

The Town of Southwest Ranches reserves the right to accept or reject any and/or all Bids or parts of bids, to waive any informality, irregularities or technicalities, to re-advertise for Bids, or take any other actions that may be deemed to be in the best interests of the TOWN. The TOWN also reserves the right to award the contract on a split order basis, group by group, or item by item, or such combination as will best serve the interests of the TOWN, unless otherwise stated. The TOWN also reserves the right to waive minor variations to the specifications. Final determination and award of contract shall be made by the Town Council of the Town of Southwest Ranches.

After opening of bids, the TOWN will look for any unbalanced bids to ensure that unit prices are within industry standards and that the Bidders are not charging excessive unit prices for those items the TOWN will utilize the most. The TOWN intends to award a contract to the lowest responsive and responsible bidder in accordance with the terms of this IFB and the TOWN's Procurement Code.

20. BID CONSIDERATIONS

The TOWN, at its discretion, reserves the right to inspect any/all bidder's facilities to determine their capability of meeting the requirements for the contract. Also, price, responsibility and responsiveness of the bidder, the financial position, experience, staffing, equipment, materials, references, and past history of service to the TOWN and/or with other units of State, and/or Local governments in Florida, or comparable private entities, may be taken into consideration in the award of a contract. The Town Administrator reserves the right to reduce the level of service at his sole discretion.

21. ASSIGNMENT

This Agreement shall be binding upon and shall inure to the benefit of the TOWN and to any and all of its successors and assigns, whether by merger, consolidation, and transfer of substantially all assets or any similar transaction. Notwithstanding the foregoing, this Agreement is personal to the CONTRACTOR and it may not, either directly or indirectly, assign its rights or delegate its obligations to TOWN hereunder without first obtaining the TOWN's consent in writing. Any such attempted assignment or delegation shall be deemed of no legal force and effect whatsoever.

29. 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.

30. 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.

31. REMEDIES FOR BREACH

Should the selected CONTRACTOR fail to perform after contract execution, the TOWN shall notify CONTRACTOR in writing of such failure to perform and CONTRACTOR shall have thirty (30) days to cure such failure. If CONTRACTOR fails to cure, then the TOWN shall have the right to immediately terminate the Contract. In that event, the TOWN shall also be free to sue CONTRACTOR for damages, in addition to any other right or remedy that it may have. Nothing herein shall be construed as precluding the TOWN's right to terminate the Contract for convenience by providing seven (7) days written notice.

32. WRITTEN CONTRACT

The successful bidder shall be required to enter into a written contract with the TOWN, the contract form of which shall be prepared by the TOWN, and shall incorporate the terms of this advertisement, the accepted Bid, and include a termination for convenience clause, liquidated damages clause and other terms which may be required by the TOWN's Procurement Code, and is acceptable to the Town Council. The contract shall be substantially in the form attached to this IFB.

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(s) and including all information and submission required by the IFB.

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

B. PRELIMINARY MATTERS

Before Starting Construction

The awarded Bidder will be required to execute a contract. The Contractor shall provide to the Town a Performance and Payment Bond, and insurance certificates prior to issuance of a Notice to Proceed. The Contractor will commence work upon receipt of a Notice to Proceed from the Town and complete the work within the completion date and in accordance with the Invitation for Bid.

Upon completion of Construction

The Contractor shall notify and request Town for a substantial or final completion inspection. Payment to Contractor will be dependent on satisfactory completion of the work and in accordance with Subsection J- Payment, of the General Conditions of this agreement.

C. CONTRACT DOCUMENT

The Contract Documents comprise the entire agreement between the TOWN and CONTRACTOR concerning the Work. Any Work, materials or equipment that may be reasonably inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, or to any permits and conditions thereof, whether such reference by specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations or permit in effect at the time of executing the contract, except as may otherwise be specifically stated. Clarifications and interpretations of the Contract Documents shall be issued by the TOWN.

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”.

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No fuel, oils, solvents, or similar materials are to be disposed of in any catch basins or on the ground. The CONTRACTOR must closely adhere to local, state, and Federal Environmental Protection Agency requirements, and is responsible for all non-compliance penalties, and any site cleanup. Also, all debris removed from the TOWN must be legally disposed of according to the TOWN's Code of Ordinances and in accordance with Local, State and Federal Regulations.

If the CONTRACTOR intends to use sub-contractors to perform any work on this contract, these sub-contractors are subject to approval by TOWN. CONTRACTOR shall be fully responsible to TOWN for all acts and omissions of any subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between TOWN and any such subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of the TOWN to pay or see to payment of any monies due any such subcontractor, supplier or other person or organization.

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.

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).

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Each unit price will be determined to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

I. WARRANT 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.

Order to 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

In the event any work found to be defective within one year after the date of completion, 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 amount thereof, TOWN may make a claim therefore as provided in Section 2, Item H – "Change in the Contract Price". If the acceptance occurs after final payment, an appropriate amount will be paid by CONTRACTOR to TOWN.

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The TOWN shall pay the contract price to the Contractor in accordance with the procedures set forth in Chapter 218.70, Florida Statutes, "Local Government Prompt Act." Progress payments may be submitted by CONTRACTOR to the TOWN for partial completion of the Work, but no more than once monthly, for the period ending at end of the month. Each payment request must be accompanied by supporting information. Each progress payment shall be reduced by ten (10) percent for retainage. The final retainage will be released after completion of project and receipt of acceptable reports and other documentation including certification of payment to subcontractors, but no earlier than 30 days of last progress payment request.

Final payment request must be accompanied by written notice from CONTRACTOR that the entire Work for the agreed roadway(s) was completed. 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 (7) days written notice and to the extent permitted by Laws and Regulations, terminate the services of the CONTRACTOR, exclude CONTRACTOR from the site, take possession of the Work and finish the Work as the TOWN may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to the TOWN. When exercising any rights or remedies under this paragraph the TOWN shall not be required to obtain the lowest price for the Work performed.

Where CONTRACTOR's services have been terminated by the TOWN, the termination will not affect any rights or remedies of the TOWN against CONTRACTOR then existing or which may thereafter accrue. Any payment of monies due CONTRACTOR by the TOWN will not release the CONTRACTOR from liability.

TENTATIVE SCHEDULE OF EVENTS

The **tentative schedule** of events relative to this procurement shall be as follows. TOWN reserves the right to modify the tentative dates.

<u>Event</u>	<u>Date</u>
1. Issuance of Invitation for Bid	March 9, 2012
2. Deadline for Request for Clarification	March 28, 2012
3. Bids due Date	April 6, 2012 at 11:00 a.m.
4. Completion of Evaluations	To be determined
5. Award of Contract (Council Action)	To be determined
6. Issue Notice to Proceed (NTP)	To be determined
7. Substantial Completion of Project	30 Cal. Days from NTP
8. Final Completion of Project	45 Cal. Days from NTP

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	A. TOTAL BASE BID				\$ _____
--	--------------------------	--	--	--	----------

B. ADDITIVE BID (Construction of drainage outfall from SW 210 Terrace to canal through a 20 feet wide drainage easement)

Bid Item	Description	Quantity	Unit	Unit Price	Price
1	Furnish & Install (F & I) Asphalt Surface Course, Type S-III, 1-½" thk., for Street Restoration	27	SY	\$ _____	\$ _____
2	Rework Limerock Base Course, 6" thk.	27	SY		
3	F & I Pipe Culvert, 24" RCP (under road)	45	LF	\$ _____	\$ _____
4	F & I Pipe Culvert, 24" ADS (off road)	336	LF	\$ _____	\$ _____
5	F & I Catch Basin w/ Conc. Apron, FDOT Index 232, Type D, Cast Iron Traffic Grate.	3	EA	\$ _____	\$ _____
6	F & I Endwall, Concrete, Class I, L=15'	1	EA	\$ _____	\$ _____
7	F & I Embankment for Endwall	1	LS	\$ _____	\$ _____
8	F & I BMP's, Silt Curtain	1000	LF	\$ _____	\$ _____
9	F & I Floating Turbidity Barrier, FDOT Index 103	80	LF	\$ _____	\$ _____
10	F & I Grass Sod, Bahia	365	SY	\$ _____	\$ _____
11	F & I Double Swing Gate, 12 ft wide x 6 ft high.	1	LS	\$ _____	\$ _____
12	Misc.: Density/Compaction Tests, Construction Staking; As-Built Survey; Completion Certification.	1	LS	\$ _____	\$ _____
	B. TOTAL ADDITIVE BID				\$ _____

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All applicable federal, state and local taxes, permit fees, insurance, 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).

[Signatures on next page]

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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: _____

PROPOSER _____

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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 "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an 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 its 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.

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)

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.

[Signatures on next page]

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ACKNOWLEDGEMENT of ADDENDA

Proposer shall indicate receipt of addendum by initialing below for each addendum received.

Addenda No.1 _____

Addenda No.2 _____

Addenda No.3 _____

Addenda No.4 _____

PROPOSER _____

TOWN OF SOUTHWEST RANCHES, FLORIDA
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By: _____

(Printed Name)

(Title)

Sworn to and subscribed before me this _____ day of _____, 2012,

Personally known _____

Or Produced Identification _____
(Type of Identification)

Notary Public - State of _____

(Notary Signature)

My Commission Expires: _____

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

PROPOSER _____

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CERTIFICATE OF AUTHORITY (If Corporation or Limited Liability Company)

State of _____)
) ss.
County of _____)

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 _____, held on _____, 2012, the following resolution was duly passed and adopted:

"RESOLVED, that _____, as President of the Corporation or authorized representative of a Limited Liability Company, be and is hereby authorized to execute the Proposal dated, 2012, 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 _____ day of _____, 2012.

Secretary:

(SEAL)

PROPOSER _____

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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 _____, 2012, the following resolution was duly passed and adopted:

"RESOLVED, that, _____ as of the Joint Venture be and is hereby authorized to execute the Bid/Proposal dated, 2012, 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 here unto set my hand this _____, 2012.

Secretary:

(SEAL)

PROPOSER _____

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IN PRESENCE OF:

(Individual or Partnership Principal) (SEAL)

(Business Address)

(City/State/ ip)

(Business Phone)

ATTEST:

(Corporate Surety) Secretary

By: _____

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.

PROPOSER

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**ACKNOWLEDGMENT OF CONFORMANCE
WITH O.S.H.A. STANDARDS**

TO THE TOWN OF SOUTHWEST RANCHES:

_____, hereby acknowledges and agrees that as Contractor for the Town of Southwest Ranches within the limits of the Town of Southwest Ranches, Florida, we have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health regulations, and agree to indemnify and hold harmless the Town of Southwest Ranches, against any and all legal liability or loss the Town may incur due to _____'s failure to comply with such act.

ATTEST

CONTRACTOR

BY:

Print Name

DATE:

PROPOSER

State of Florida
County of

Name of Notary Public: (Print, Stamp, or type as Commissioned)

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ATTACHMENT "A"

LOCATION MAP

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ATTACHMENT "B"

CONTRACT FORM

**AGREEMENT FOR GUARDRAILS INSTALLATION AT
STIRLING ROAD, SOUTHWEST RANCHES**

THIS IS AN AGREEMENT ("Agreement") made and entered into on this day of 2012 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as "Town") and (hereinafter referred to as "Contractor").

WHEREAS, ; and

WHEREAS,; and

WHEREAS,; and

WHEREAS,; and

WHEREAS,.

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 (hereinafter referred to as "Work"). The Work shall be performed in accordance with the terms of this Agreement, the Town's Invitation for Bids, and Contractor's Bid, which are incorporated herein by reference. To the extent of any conflict between the terms of this Agreement, the Invitation for Bids, and the Contractor's Bid, the more stringent requirement applicable to the Contractor's performance shall prevail and control.
- 1.2 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.
- 1.3 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.

- 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

- 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 coverages as set forth in this Section.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business 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-VI or better.
- 6.3 All Insurance Policies shall name and endorse the following as additional insureds:

TOWN OF SOUTHWEST RANCHES
Attn: Kenneth Fields, Town Administrator.
13400 Griffin Road
Southwest Ranches, FL 33330

operations, and personal injury. Personal injury coverage shall include coverage that has the employee and contractual exclusions removed.

- 6.7 Contractor shall provide Town with a copy of the Certificates of Insurance or endorsements evidencing the types of Insurance and coverages required by this Section prior to beginning the performance of any Work under this Agreement and, at any time thereafter, upon request by Town.
- 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 coverages or limits. Notice shall be sent to:

Town of Southwest Ranches
Town Administrator
13400 Griffin Road
Southwest Ranches, Florida 33330

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 coverages 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.

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 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 arising out of or resulting from the performance of the Work, provided that any such liability, claim, damage, loss, cost or expense (1) 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, and (2) is caused by any negligent, reckless, intentional act, omission, or other wrongful act of the Contractor, or any subcontractor, material or equipment supplier, or anyone directly or indirectly employed by any of them. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity on the part of Contractor to Town or which may otherwise exist as to any other person described in this paragraph. In any and all claims against the Town, or any of their agents or employees by any employee of the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited, in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor and/or supplier under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. The foregoing indemnity from Contractor shall be applicable to all losses, damages, expenses or claims for damage or injury to any person or property, resulting from Contractor's negligence, recklessness or other intentional or otherwise wrongful misconduct of Contractor, and persons employed or utilized by Contractor relating to the performance of Work as described in the Agreement. This indemnification provision is incorporated by reference into **Exhibit "A"** of this Agreement. The Contractor shall promptly remedy all damage or loss to any property caused by the Contractor, or any subcontractor, material or equipment, supplier or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Contractor are in addition to its other obligations running in favor of Town under this Agreement. Notwithstanding any other provisions of this Agreement, the Contractor's duty to indemnify and defend Town as set forth in proposal shall survive the termination or expiration 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

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 **seven (7) 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. Material breaches shall include, but are not limited to, Contractor's violations of governing standards, violations of state or federal laws, violation of Town's policies and procedures, or

that additional out of scope work is authorized by the Town in accordance with a properly executed Change Order. All such liquidated damage amounts, if any, shall be paid by Contractor to Town weekly, immediately upon each such failure of Contractor to comply with the scheduled Completion Date, as set forth above. In the event that the Contractor fails to make any one or more of the payments to Town as required under this Paragraph, the Town shall have the right to deduct any and all such amounts from any amounts due to Contractor.

Section 20: 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 21: 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 22: 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 23: 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.

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 32: 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 33: 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
13400 Griffin Road
Southwest Ranches, Florida 33330

With a copy to:

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

If to Contractor:

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

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: , and THE TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the day of 2012.

WITNESSES:

CONTRACTOR:

By:

, President

day of 2012

WITNESSES:

TOWN:

TOWN OF SOUTHWEST RANCHES

By:

Jeff Nelson, Mayor

day of 2012

By:

Kenneth Fields
Town Administrator

day of 2012

ATTEST:

Erika Gonzalez-Santamaria, CMC, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Keith Poliakoff, Town Attorney



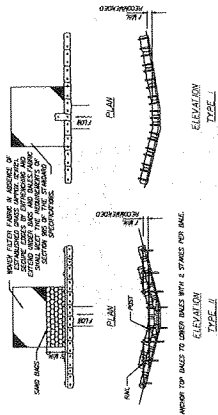
**Know what's below.
Call before you dig.**

TEMPORARY POLLUTION PREVENTION
PLAN

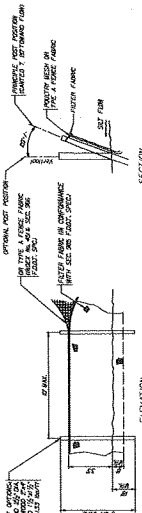
S.W. 210th TERRACE & 54th PLACE
TOWN OF SOUTHWEST RANCHES

WINNINGHAM & FRADLEY, INC.
ENGINEERS - PLANNERS - SURVEYORS
 111 N.E. 44th STREET, OAKLAND PARK, FL 33066 954-771-7640 FAX 954-771-5389 www.wfinc.com
 RECEIVED DATE 02/13 APPROVED 03-0325260

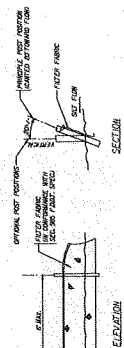
SALESORDER	AMF	DATG	02/12	QTY	1	UNIT	EA
DESCRIPTION	CSB	DATG	03/12	QTY	1	UNIT	EA
PRODUCT NUMBER S12.0001 TYP OF 3 SHEET							



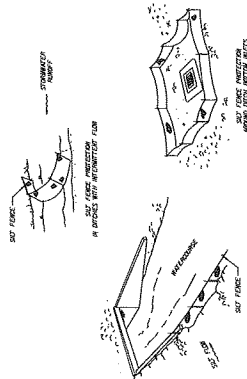
BARRIER FOR PAVED DITCH



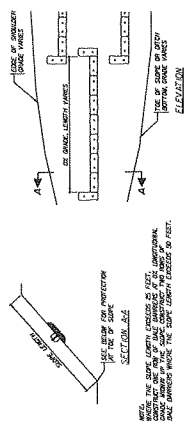
TYPE IV SILT FENCE



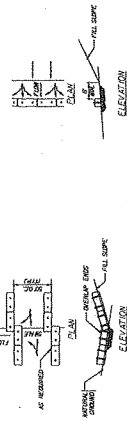
TYPE III SILT FENCE



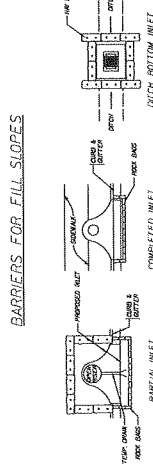
SILT FENCE APPLICATIONS



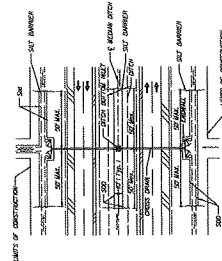
ALONG FILL SLOPE



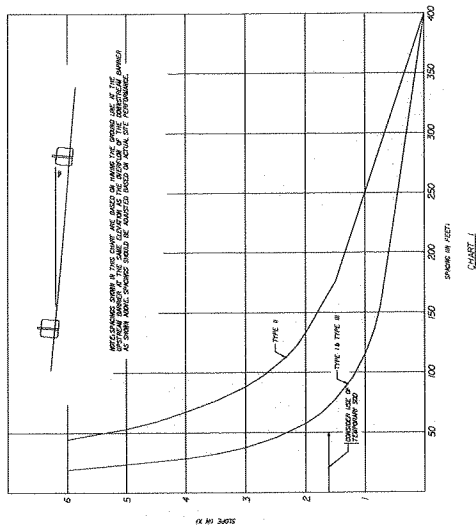
AT TOE OF SLOPE



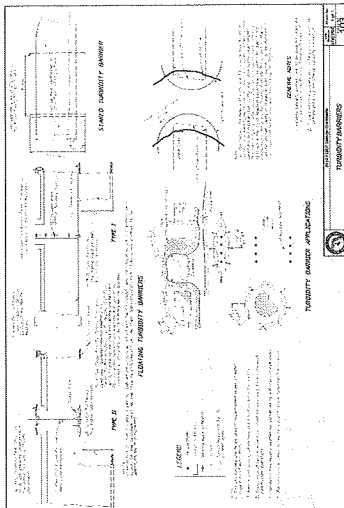
PROTECTION AROUND INLETS OR SIMILAR STRUCTURES



DITCH INSTALLATIONS AT DRAINAGE STRUCTURES



RECOMMENDED SPACING FOR BALED HAY BARRIERS AND TYPE III SILT FENCE



FLOATING TURBIDITY BARRIER DETAIL

- [illegible]

Now what's below.
Call before you dig.

COLLUSION PREVENTION DETAILS

S.W. 210th TERRACE & 54th PLACE
TOWN OF SOUTHWEST RANCHES

W. FRADLEY WINNINGHAM & FRADLEY, INC.

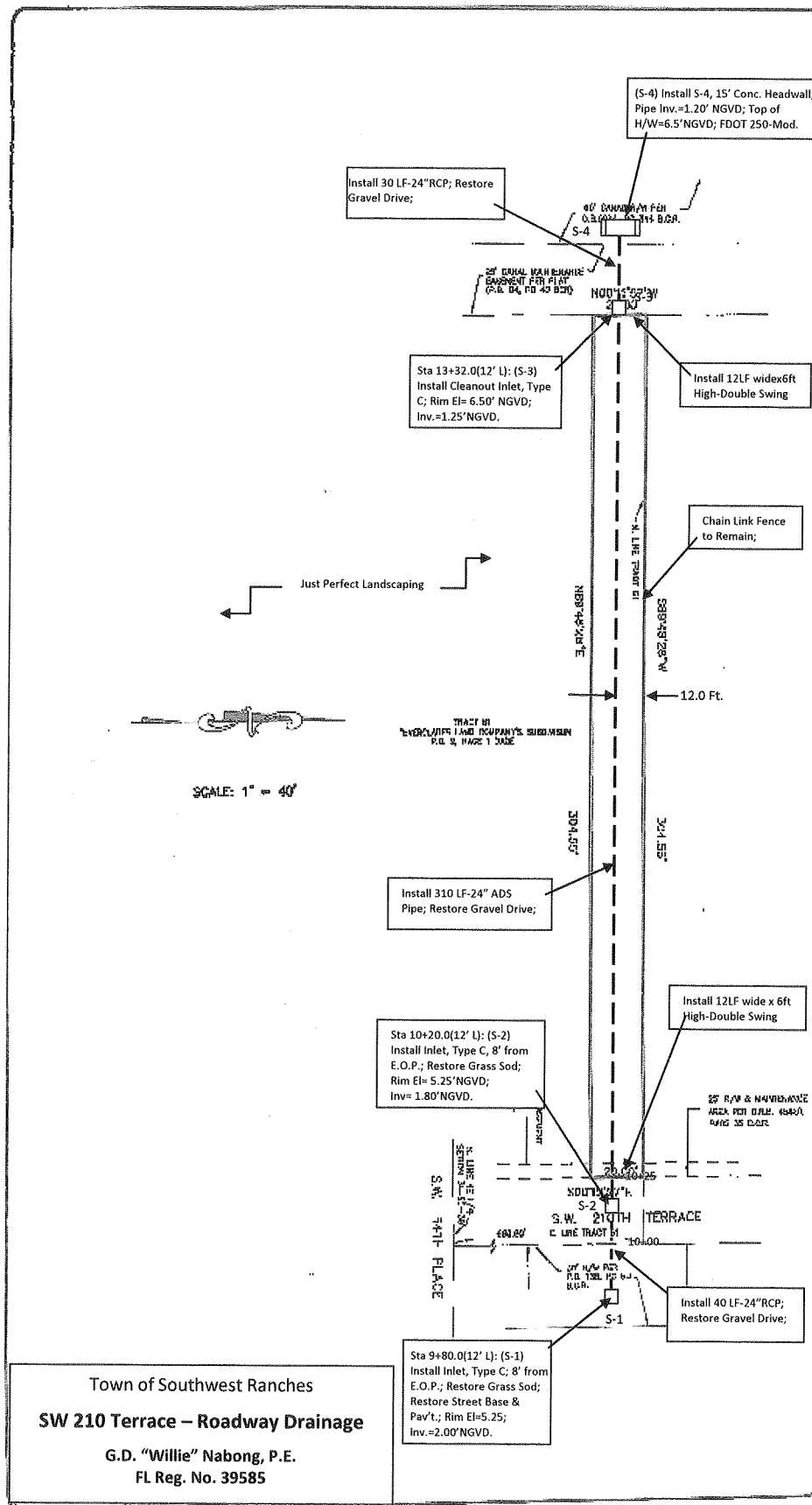
BOB ENGINEERS - PLANNERS - SURVEYORS
 711 N.E. 44th STREET, OAKLAND PARK, FL 33304 954-777-7443 FAX 954-777-0380 www.bobplanning.com

01/60	DATE	09/10
01/60	QSO	W1WVW

CHECKED GSB	DATE 03/12	SHEET	PROJECT	ESTIMATE	NO OF

FILED	APR 28 1964	U.S. DEPT. OF JUSTICE
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PRECAST CATCH BASIN AND MANHOLE



ADDENDUM #1

**Drainage Improvements at SW 210th Terrace & SW 54th Place
RFP # 12-002**

Question 1: *What is the engineering estimate for this project?*

Answer: The estimate for this project is \$75,000.00.

**Juanita Romance
Deputy Town Clerk
3/22/12**

ADDENDUM #2

Drainage Improvements at SW 210th Terrace & SW 54th Place RFP # 12-002

Question 1: *For Item "C - Deductive Bid", if used, will the city provide ADS pipes for the contractor to install? If so, should the deductive bid item description state "F & I Pipe Culvert, 24" ADS (off road)"? Or should the item be considered for deducting the pipe material cost only?*

Answer: The Deductive Item is for deducting the cost of the plastic pipe material. The contractor will install the pipe according to plans.

Question 1: *If available, please provide any pertinent geotechnical reports.*

Answer: Geotechnical report is not provided. Soil boring was not performed. Please refer to any applicable notes on the construction plans.

**Juanita Romance
Deputy Town Clerk
3/28/12**

ADDENDUM #3

Drainage Improvements at SW 210th Terrace & SW 54th Place IFB # 12-002

Question 1: *Installation of guardrails is not specified in the construction plans nor the scheduled bid items (page 26 - 28), but per page 48 in the bid package states "List guardrails installation and maintenance contracts and client reference". Please advise*

Answer: Page 48: The 5th line is revised from "List guardrails installation and maintenance contracts and client reference" to "List storm pipe installation and maintenance contracts and client reference."

Question 2: *Base bid (A), bid item #5 states "F & I Pipe Culvert, 24" ADS (off road) - 336 LF", but in the construction plans, sheet D1 of 1 shows 336 LF of 24" RCP. Please clarify.*

Answer: Plan Sheet D1 of 1 showing 336 LF – 24" RCP was replaced with 336 LF – ADS as indicated in Page 26, Bid and Proposal Form, Item 5, "F & I Pipe Culvert, 24" ADS (off road)." All other pipes remain the same. Note that "Deductive Bid Item 1, F & I Pipe Culvert, 24" ADS (off road)" refers to this same section of pipe located from SW 210 Terrace to the canal.

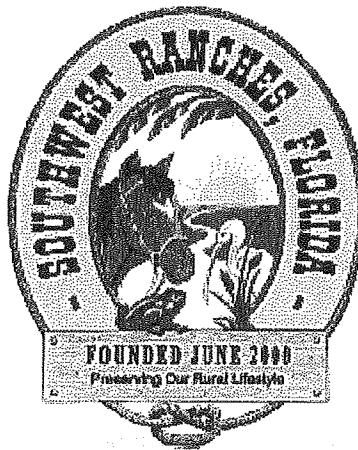
**Juanita Romance
Deputy Town Clerk
4/04/12**

ATTACHMENT "B"

CONEX ENGINEERING, INC. RESPONSE TO IFB 12-002



TOWN OF SOUTHWEST RANCHES



BID PROPOSAL PACKAGE FOR:

**Drainage Improvements at SW 210 Terrace & SW 54th Place
IFB No. 12-002**

April 6, 2012

TOWN OF SOUTHWEST RANCHES, FLORIDA
 BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
 IFB No. 12-002

BID AND PROPOSAL FORM

Quantities shown on the bid and proposal form are estimates only. Actual quantities will vary based on field conditions or as directed by the Town Engineer.

A. BASE BID (Construction of drainage outfall from SW 210 Terrace to Canal through SW 54th Street R/W).

Bid Item	Description	Quantity	Unit	Unit Price	Price
1	Furnish & Install (F & I) Asphalt Surface Course, Type S-III, 1-½" thk., for Street & Driveway Restoration.	196	SY	\$ 20.38	\$ 3,994.48
2	F & I Asphalt Surface Course, Type S-III, 1" thk., for Other	66	SY	\$ 13.84	\$ 913.44
3	Rework Limerock Base Course, 6" thk.	196	SY	\$ 16.41	\$ 3,216.36
4	F & I Pipe Culvert, 24" RCP (under roadway and driveway)	100	LF	\$ 60.46	\$ 6,046.00
5	F & I Pipe Culvert, 24" ADS (off road)	336	LF	\$ 42.66	\$ 14,333.76
6	F & I Pipe Culvert, 15" RCP (under roadway and driveway)	71	LF	\$ 35.26	\$ 2,503.46
7	F & I Catch Basin w/ Conc. Apron, FDOT Index 232, Type D, Cast Iron Traffic Grate.	4	EA	\$ 1,665.12	\$ 6,660.48
8	F & I Junction Manhole, Concrete	1	EA	\$ 1,670.87	\$ 1,670.87
9	F & I Endwall, Concrete, Class I, L=15'	1	EA	\$ 1,379.20	\$ 1,379.20
10	F & I Embankment for Endwall	1	LS	\$ 634.11	\$ 634.11
11	F & I BMP's, Silt Curtain	1000	LF	\$ 0.54	\$ 540.00
12	F & I Floating Turbidity Barrier, FDOT Index 103	80	LF	\$ 10.36	\$ 828.80
13	F & I Grass Sod, Bahia	365	SY	\$ 4.82	\$ 1,759.30
14	F & I Grass Sod, Floratam	75	SY	\$ 3.57	\$ 267.75
15	Misc.: Density/Compaction Tests, Construction Staking; As-Built Survey; Completion Certification.	1	LS	\$ 7,900.63	\$ 7,900.63

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

- C. DEDUCTIVE BID (The Town may elect to provide certain drainage pipes for placement by the Contractor within the R/W or easement between SW 210 Terrace and canal. The Deductive Bid may be applied to either Base Bid or Additive Bid).

Bid Item	Description	Quantity	Unit	Unit Price	Price
1	F & I Pipe Culvert, 24" ADS (off road)	336	LF	\$ 24.24	\$ 8,144.64
	C. TOTAL DEDUCTIVE BID				\$ 8,144.64

The substantial completion of the project shall be 30 calendar days from date of issuance of the Notice to Proceed, and final completion shall be 45 calendar days from date of issuance of the Notice to Proceed.

The undersigned, as Bidder, hereby declares that the only person or persons interested in the bid as Principal or Principals is/are named herein and that no other person than herein mentioned has any interest in this Bid or in the Agreement to be entered into; that this Bid is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder shall furnish prices for all bid items. Failure to do so may render the Bid invalid and cause its rejection. Also, evidence that the Bidder holds appropriate licenses to perform the work subject of this Bid, and as required by Florida Statutes and Local law, must be submitted along with Bid. Bidders must also have insurance and bonding capacity sufficient to satisfy the requirements of this solicitation, as set forth herein.

Proposer's Signature: 

Proposer's Name: Fernando Garcia

Date: 04-06-2012

Contractor: Conex Engineering, Inc

Address: 15491 NW 33rd Place

Miami Gardens, Florida 33054

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

NAME: Conex Engineering, Inc.


ADDRESS: 15491 NW 33rd Place, Miami Gardens, FL 33054

FEIN: 56-2349454

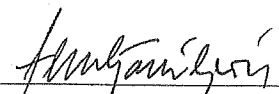
LICENSE NUMBER: CC# 13-3B-17562-X CC# 11-1A-17560-X STATE OR COUNTY: Broward, FL

LICENSE TYPE: Minor Roads (Asphalt & Concrete Paving), Primary Pipelines (Water, Sewer & Drainage)
(Attach copy of license)

LICENSE LIMITATIONS, IF ANY: none
(Attach a separate sheet, if necessary)

LICENSEE SIGNATURE: 

LICENSEE NAME: Fernando A. Garcia - VP/Conex Engineering, Inc.

BIDDER'S SIGNATURE: 

BIDDER'S NAME: CONEX ENGINEERING, INC.

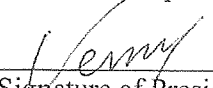
BIDDER'S ADDRESS: 15491 NW 33rd Place, Miami Gardens, FL 33054

BIDDER'S PHONE NUMBER: Office: 305.769.2230 Cell: 954.647.4272

By: Kelly Rodriguez

Conex Engineering, Inc.
Name of Corporation

15491 NW 33rd Place, Miami Gardens, FL 33054
Address of Corporation


Signature of President

By: Victoria B. Perez De Corcho
President

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

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

SWORN STATEMENT PURSUANT TO SECTION 287.133(3) (a)

FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

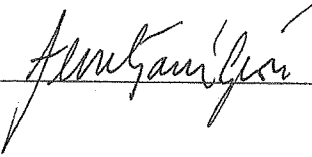
THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to THE TOWN OF SOUTHWEST RANCHES
by Conex Engineering, Inc.
for the bid of Drainage Improvements at SW 210 Terrace & SW 54th Place (IFB No. 12-002)
whose business address is 15491 NW 33rd Place, Miami Gardens, FL 33054
-

and (if applicable) its Federal Employer Identification Number (FEIN) is 56-2349454

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, proposal, reply or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, 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). An 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 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 prima 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 36 months shall be considered an affiliate.

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

By: 

Fernando A. Garcia

(Printed Name)

Vice President/CONEX ENGINEERING, INC.

(Title)

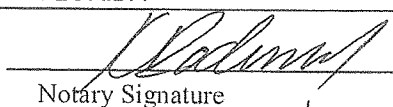
Sworn to and subscribed before me this 05 day of April, 2012

Personally known X

Or Produced Identification _____

(Type of Identification)

Notary Public - State of FLORIDA


Notary Signature

My Commission Expires July 15, 2013

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



KELYA RODRIGUEZ
MY COMMISSION # DD 987698
EXPIRES: July 15, 2013
Bonded Thru Budget Notary Services

PROPOSER 

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

NON-COLLUSION AFFIDAVIT

State of FLORIDA)

) ss.

County of Miami-Dade)

Fernando A. Garcia

being first duly sworn deposes and says that:

- (1) He/She is the Vice President (Owner, Partner, Officer, Representative or Agent) of Conex Engineering, Inc. 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.

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

CERTIFICATE OF AUTHORITY (If Corporation or Limited Liability Company)

State of FLORIDA)
) ss.
County of Miami-Dade)

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 April 2, 2012, the following resolution was duly passed and adopted:

"RESOLVED, that Victoria B. Perez De Corcho, as President of the Corporation or authorized representative of a Limited Liability Company, be and is hereby authorized to execute the Proposal dated, 2012, 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.

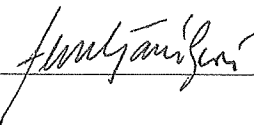
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation or Limited Liability Company this 2nd day of April, 2012.



Secretary:


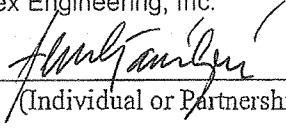
(SEAL)

PROPOSER

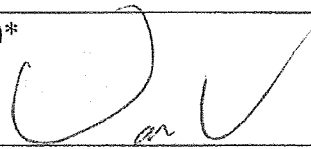


TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

IN PRESENCE OF:

 Conex Engineering, Inc.
 (SEAL)
(Individual or Partnership Principal)
15491 N.W. 33 Place (Business Address)
Miami, FL 33054
(City/State/Zip)
(305) 769-2230
(Business Phone)


ATTEST:

As per attached power of attorney Capitol Indemnity Corporation Secretary
(Corporate Surety)*

By: Warren Alter, 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.

PROPOSER Conex Engineering, Inc. 

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

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 conducted business on similar project within the past five years.

1. None. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PROPOSER _____



TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

BIDDER CONFIRMATION OF QUALIFICATIONS

The Contract will be awarded only to a responsible and eligible bidder, qualified by experience and capable of providing required insurance, and bonds and in a financial position to do the work specified within the Invitation for Bids, and which can complete the work within the time schedule specified.

At the time of the bid, the Bidder shall hold all Contractor and other qualification certificates and licenses required to be held by the Contractor by Florida Statutes or ordinances of the Town of Southwest Ranches and Broward County in order to perform the work subject of this Invitation for Bids.

All license, certificate and experience requirements must be met by the Bidder as opposed to the Subcontractor. Bids submitted by Bidders who do not directly hold required licenses and certificates or who rely on a Subcontractor to meet the experience criteria will be rejected. By executing this Form and submitting its Bid, Bidder represents that it meets the requirements set forth above, and as set forth in the Bid Documents, and acknowledges and understands that the Town shall be relying on this representation with respect to a contract award.

Bidder: CONEX ENGINEERING, INC.

Bidder's Name: Fernando A. Garcia

Bidder's Address: 15491 NW 33rd Place
Miami Gardens, FL 33054

Bidder's Phone Number: 305.769.2230

Contractor's License and License number(s) (attach copies of license(s) required for the work):

"Drainage Improvements at SW 210 Terrace and SW 54th Place"

PROPOSER _____



TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002


State of Florida

County of Miami-Dade

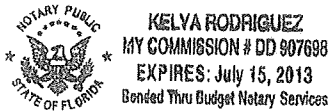
The foregoing instrument was acknowledged before me this 5TH day of April, 2012 by Fernando A. Garcia of Conex Engineering, Inc. (Bidder), who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

WITNESS my hand and official seal.

NOTARY Public Records of Dade County, Florida


Notary Signature

Name of Notary Public: (Print, Stamp, or type as Commissioned)



PROPOSER 

TOWN OF SOUTHWEST RANCHES, FLORIDA
BID DOCUMENT FOR DRAINAGE IMPROVEMENTS AT SW 210 TERRACE & SW 54TH PLACE
IFB No. 12-002

SUBCONTRACTORS LIST

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**

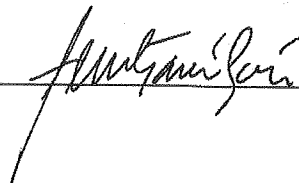
Asphalt Paving

C & A Development Services Corp.
309 S Royal Poinciana Blvd.
Miami Springs, FL 33136

MOT

All American Barricades
3355 NW 154th Terrace
Opa Locka, FL 33054

PROPOSER



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FLORIDA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PRODUCT WITHDRAWAL COVERAGE PART

A. Paragraph 2. of the **Cancellation Common Policy** Condition is replaced by the following:

2. Cancellation Of Policies In Effect

a. For 90 Days Or Less

If this policy has been in effect for 90 days or less, we may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation, accompanied by the reasons for cancellation, at least:

- (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
- (2) 20 days before the effective date of cancellation if we cancel for any other reason, except we may cancel immediately if there has been:
 - (a) A material misstatement or misrepresentation; or
 - (b) A failure to comply with the underwriting requirements established by the insurer.

b. For More Than 90 Days

If this policy has been in effect for more than 90 days, we may cancel this policy only for one or more of the following reasons:

- (1) Nonpayment of premium;
- (2) The policy was obtained by a material misstatement;
- (3) Failure to comply with underwriting requirements established by the insurer within 90 days of the effective date of coverage;

(4) A substantial change in the risk covered by the policy; or

(5) The cancellation is for all insureds under such policies for a given class of insureds.

If we cancel this policy for any of these reasons, we will mail or deliver to the first Named Insured written notice of cancellation, accompanied by the reasons for cancellation, at least:

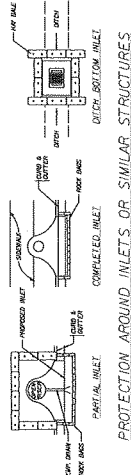
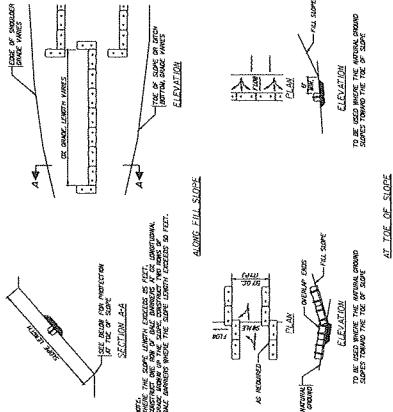
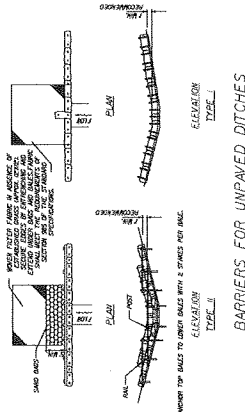
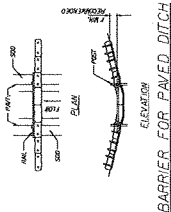
- (a) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
- (b) 45 days before the effective date of cancellation if we cancel for any of the other reasons stated in Paragraph 2.b.

B. Paragraph 5. of the **Cancellation Common Policy** Condition is replaced by the following:

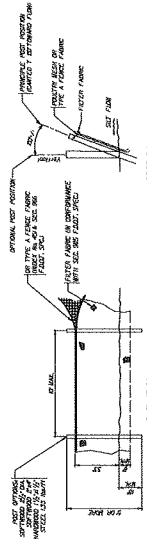
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will mail the refund within 15 working days after the date cancellation takes effect, unless this is an audit policy.

ATTACHMENT "C"

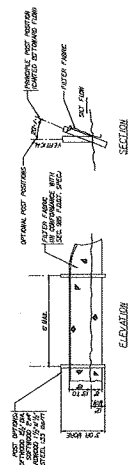
COPY OF CONSTRUCTION PLANS



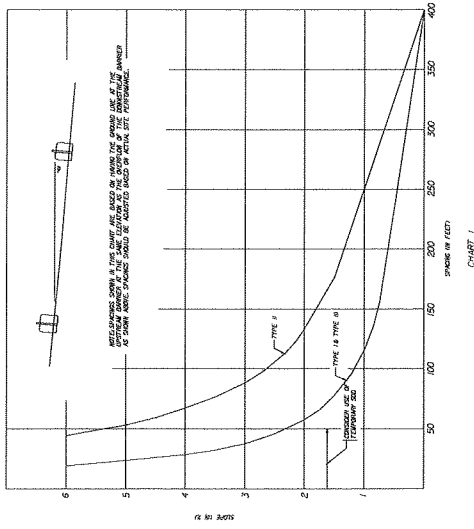
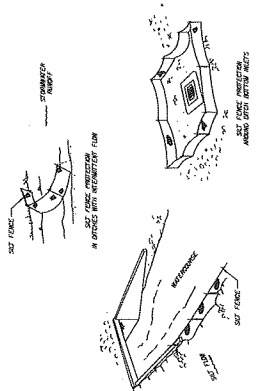
DITCH INSTALLATIONS AT DRAINAGE STRUCTURES



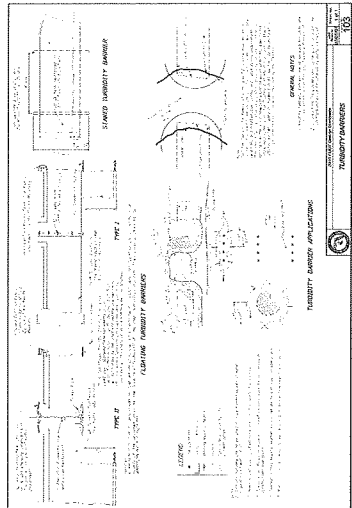
TYPE IV SILT FENCE



TYPE III SILT FENCE

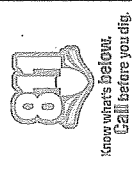


RECOMMENDED SPACING FOR BALED HAY BARRIERS AND TYPE III SILT FENCE



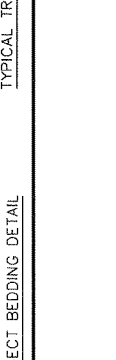
FLOATING TURBIDITY BARRIER DETAIL

1. TYPE III SILT FENCE TO BE USED IN MOST LOCATIONS WHERE SLOPES ARE UNSTABLE.
2. TYPE IV SILT FENCE TO BE USED WHERE SLOPES ARE UNSTABLE AND WHERE THERE IS A HIGH RISK OF EROSION.
3. TYPE V SILT FENCE TO BE USED WHERE SLOPES ARE UNSTABLE AND WHERE THERE IS A HIGH RISK OF EROSION.
4. TYPE VI SILT FENCE TO BE USED WHERE SLOPES ARE UNSTABLE AND WHERE THERE IS A HIGH RISK OF EROSION.
5. TYPE VII SILT FENCE TO BE USED WHERE SLOPES ARE UNSTABLE AND WHERE THERE IS A HIGH RISK OF EROSION.



TEMPORARY POLLUTION PREVENTION DETAILS			
S.W. 210th TERRACE & 54th PLACE			
TOWN OF SOUTHWEST RANCHES			
DESIGNED	SSS	DATE	03/12
DRAWN	SSS	DATE	03/12
APPROVED	SSS	DATE	03/12
PROJECT: 12.000.11 TPA-2 OF 3			

TOWN OF SOUTHWEST RANCHES			
DESIGNED	SSS	DATE	03/12
DRAWN	SSS	DATE	03/12
APPROVED	SSS	DATE	03/12
PROJECT: 12.000.11 TPA-2 OF 3			



DATE	DATE FILED	CLERK	FILED	DATE	PROJECT NUMBER	SHEET NO.
					PROJECT 512.0001	15800

[illegible]

DETAIL

MANHOLE _____ LANE/CANAL INTERCONNECT BEDDING _____

PRECAST CATCH BASIN AND



CERTIFICATE OF LIABILITY INSURANCE

OP ID ML

DATE (MM/DD/YYYY)

04/04/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. 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).

PRODUCER BROWN & BROWN OF FLORIDA INC 14900 NW 79th Court Suite#200 Miami Lakes FL 33016-5869 Phone:305-364-7800 Fax:305-714-4401	CONTACT NAME:		
	PHONE (A/C, No, Ext):	FAX (A/C, No):	
	E-MAIL ADDRESS:		
	PRODUCER CUSTOMER ID #: CONEX-2		
INSURED Conex Engineering, Inc. 15491 NW 33 Place Miami Gardens FL 33054	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: FCCI Insurance Company*		10178
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**


THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> GENERAL LIABILITY	X	GL0012444	11/16/11	11/16/12	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ 5,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMP/OP AGG	\$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY	X	CA0019451	11/16/11	11/16/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS					BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS					PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS						\$
<input checked="" type="checkbox"/> NON-OWNED AUTOS		\$					
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE	\$
	<input type="checkbox"/> DEDUCTIBLE					AGGREGATE	\$
	<input type="checkbox"/> RETENTION \$						\$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N N/A	001WC11A67534	11/16/11	11/16/12	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
	E.L. EACH ACCIDENT					\$ 1000000	
	E.L. DISEASE - EA EMPLOYEE					\$ 1000000	
	E.L. DISEASE - POLICY LIMIT					\$ 1000000	

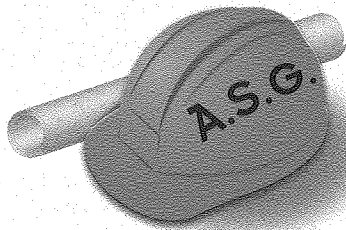
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Town of Southwest Ranches, Kenneth Fields, Town Administrator are listed as additional insured with respects to the General Liability and Automobile Liability when required by written contract on a primary non-contributory basis.

CERTIFICATE HOLDER**CANCELLATION**

Town of Southwest Ranches Kenneth Fields, Town Admin Steven B. Lesser, Esq 13400 Griffin Road Southwest Ranches FL 33330	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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ALTER SURETY GROUP, INC.

SURETY BOND PROFESSIONALS

May 31, 2012

Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330

RE: Conex Engineering, Inc.
Project: Drainage Improvements at SW 210th Terrace
Bond No. 60076372

To Whom It May Concern:

We have executed the enclosed bonds on behalf of the above captioned contractor in favor of the Town of Southwest Ranches. Please note that we have not dated the bonds or the Power of Attorney. The copy of the contract we received was not dated and as the bonds follow the contract they should not be dated prior to the contract.

Please accept this letter as authorization to date the enclosed Performance bond(s), Payment bond(s), and the attached Power of Attorney for the captioned project. Please date these items concurrently with the contract date and fax a copy to our office at 305-328-4838 or email dawnauspitz@aol.com **so that we can activate the bond coverage.**

Please do not hesitate to contact our office should you have any questions in this regard. Thank you.

Yours truly,
Capitol Indemnity Corporation

Warren Alter,
Attorney-in-Fact

ALTER SURETY GROUP, INC.

Bond Department

Public Works Bond in compliance with Florida Statute Chapter 255.05

Bond Number	60076372
Contractor Address & Phone No.	Conex Engineering, Inc. 15491 NW 33 Place Miami, FL 33054 (305) 769-2230
Surety Address & Phone No.	Capitol Indemnity Corporation P.O. Box 5900 Madison, WI 53705 608- 829-4200
Owner Name Address & Phone No.	Town of Southwest Ranches 13400 Griffin Road Southwest Ranches, FL 33330 (954)434-0008
Contract/Project Number	IFB 12-002
Project Name	Drainage Improvements at SW 210 th Terrace and SW 54 th Place
Project Location	Same as above
Legal Description And Street Address	Same as above
Description of Work	Drainage Improvements

This bond is given to comply with section 255.05 Florida Statutes and any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes. Any provision of this bond which conflict with or purports to grant broader or more expanded coverage in excess of the minimum requirements of the application statute shall be deemed deleted herefrom. This bond is a statutory bond, not a common law bond.

This is the *front page* of the bond.
All other page(s) are deemed subsequent to this page regardless of any page number(s) that may be pre-printed thereon.

AIA® Document A312™ – 2010

Bond Number 60076372

Performance Bond

CONTRACTOR:

(Name, legal status and address)

Conex Engineering, Inc.
15491 NW 33rd Place
Miami, Florida 33054

SURETY:

(Name, legal status and principal place of business)

Capitol Indemnity Corporation
P.O. Box 5900
Madison, WI 53705

OWNER:

(Name, legal status and address)

Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330

CONSTRUCTION CONTRACT

Date: May 10, 2012

Amount: \$91,123.72

Description: Drainage Improvements at SW 210th Terrace and SW 54th Place,
(Name and location) IFB Number 12-002

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$91,123.72

Modifications to this Bond: ☒ None

☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company:  Conex Engineering, Inc.

Signature: 

Name: Nam

and Title:

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company:  Capitol Indemnity Corporation

Signature: 

e

and Title:

Warren Alter, Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Alter Surety Group, Inc.
5979 NW 151st Street, #104
Miami Lakes, FL 33014
305-517-3803

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and 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 when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. 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;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 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 a 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 Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 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, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven 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 Section 5.4, and the Owner refuses the payment 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.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, 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. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .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 Section 5; and
- .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.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 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, successors and assigns.

§ 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 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 a declaration of 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.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 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. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **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 of 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.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 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.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract document, on which the text appears in RED. An original ensures that changes will not be obscured.

AIA[®] Document A312[™] – 2010

Bond Number 60076372

Payment Bond

CONTRACTOR:

(Name, legal status and address)

Conex Engineering, Inc.
15491 NW 33rd Place
Miami, Florida 33054

SURETY:

(Name, legal status and principal place of business)

Capitol Indemnity Corporation
P.O. Box 5900
Madison, WI 53705

OWNER:

(Name, legal status and address)

Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330

CONSTRUCTION CONTRACT

Date: May 10, 2012

Amount: \$91,123.72

Description:

(Name and location)

Drainage Improvements at SW 210th Terrace and SW 54th Place,
IFB Number 12-002

BOND

Date:

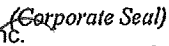
(Not earlier than Construction Contract Date)

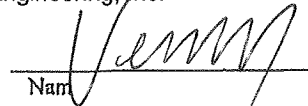
Amount: \$91,123.72

Modifications to this Bond: ☐ None

☒ See Section 18

CONTRACTOR AS PRINCIPAL

Company: 
Conex Engineering, Inc.

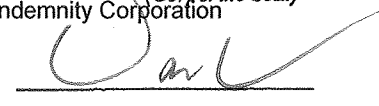
Signature: 

Name and Title:

(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company: 
Capitol Indemnity Corporation

Signature: 

Name and Title: Warren Alter, Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Alter Surety Group, Inc.
5979 NW 151st Street, #104
Miami Lakes, FL 33014
305-517-3803

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

§ 1 The Contractor and 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, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 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 Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 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 the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 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.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, 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.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 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. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 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 Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. 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.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 OR SECTIONS 713.23 FLORIDA STATUTES, WHICHEVER IS APPLICABLE, ARE INCORPORATED HEREIN BY REFERENCE.

THIS BOND IS GIVEN TO COMPLY WITH SECTION 255.05 FLORIDA STATUTES, AND ANY ACTION INSTITUTED BY A CLAIMANT UNDER THIS BOND FOR PAYMENT MUST BE IN ACCORDANCE WITH THE NOTICE AND TIME LIMITATION PROVISIONS IN SECTION 255.05(2), FLORIDA STATUTES.

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

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title: _____

Name and Title: _____

Address _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in BOLD. An original assures that changes will not be obscured.

CAPITOL INDEMNITY CORPORATION
POWER OF ATTORNEY

60076372

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

WARREN ALTER; DAVID SATINE

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"**RESOLVED**, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 2nd day of May, 2011.

Attest:

Richard W. Allen III
Richard W. Allen III
President
Surety & Fidelity Operations



CAPITOL INDEMNITY CORPORATION

David F. Pauly
David F. Pauly
CEO & President

STATE OF WISCONSIN } s.s.
COUNTY OF DANE }

On the 2nd day of May, 2011 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is President of **CAPITOL INDEMNITY CORPORATION**, the corporation described herein and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



CERTIFICATE

Daniel W. Krueger

Daniel W. Krueger
Notary Public, Dane Co., WI
My Commission Is Permanent

STATE OF WISCONSIN } s.s.
COUNTY OF DANE }

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 31st day of May, 2012



Alan S. Ogilvie
Alan S. Ogilvie
Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GRAY SHADED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.

CIC-POA (5-11)