



Southwest Ranches Town Council

REGULAR MEETING

Agenda of November 21, 2019

Southwest Ranches Council Chambers
7:00 PM Thursday

13400 Griffin Road
Southwest Ranches, FL 33330

<u>Mayor</u>	<u>Town Council</u>	<u>Town Administrator</u>	<u>Town Attorney</u>
Doug McKay	Delsa Amundson	Andrew D. Berns	Keith M. Poliakoff, J.D.
<u>Vice Mayor</u>	Bob Hartmann	<u>Town Financial</u>	<u>Assistant Town</u>
Denise Schroeder	Gary Jablonski	<u>Administrator</u>	<u>Administrator/Town Clerk</u>
	Denise Schroeder	Martin Sherwood, CPA CGFO	Russell C. Muniz, MMC

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (954) 434-0008 for assistance no later than four days prior to the meeting.

1. **Call to Order/Roll Call**
2. **Pledge of Allegiance**
3. **Selection of Vice Mayor**
4. **President's Volunteer Service Award - Nikolas Garcia**
5. **Arbor Day 2020**
2020 Arbor Day Proclamation
6. **Public Comment**
 - All Speakers are limited to 3 minutes.
 - Public Comment will last for 30 minutes.
 - All comments must be on non-agenda items.
 - All Speakers must fill out a request card prior to speaking.
 - All Speakers must state first name, last name, and mailing address.
 - Speakers will be called in the order the request cards were received.
 - Request cards will only be received until the first five minutes of public comment have concluded.
7. **Board Reports**
8. **Council Member Comments**
9. **Legal Comments**
10. **Administration Comments**

Resolutions

11. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ACCEPTING THE SELECTION AND NEGOTIATION COMMITTEE'S RECOMMENDATION AND AWARDING CONTINUING CONTRACTS TO CRAVEN THOMPSON**

AND ASSOCIATES, INC., CALVIN GIORDANO AND ASSOCIATES, INC., AND KIMLEY-HORN AND ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING SERVICES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

12. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, RELATING TO THE MEMORANDUM OF UNDERSTANDING REGARDING A COLLABORATIVE STUDY AND SUBSEQUENT DEVELOPMENT OF AN INTEGRATED SOLID WASTE AND RECYCLING SYSTEM; APPOINTING MEMBERS OF THE TOWN COUNCIL TO REPRESENT THE TOWN IN THE WORKING GROUP; [ELECTING TO NOT] APPOINT[ING] MEMBERS OF THE TOWN COUNCIL TO REPRESENT THE TOWN IN THE TECHNICAL GROUP; AND PROVIDING FOR AN EFFECTIVE DATE.

13. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A YEAR END BUDGET ADJUSTMENT FOR THE FISCAL YEAR 2018-2019 BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

14. Approval of Minutes

a. August 20, 2019 Special Meeting

b. August 8, 2019 Regular Meeting

15. Adjournment

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.



Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-2628

(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Doug McKay, Mayor
Gary Jablonski, Vice Mayor
Freddy Fisikelli, Council Member
Bob Hartmann, Council Member
Denise Schroeder, Council Member

Andrew D. Berns, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Russell Muniz, Assistant Town Administrator/Town Clerk
Martin D. Sherwood, CPA, CGMA, CGFO, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor McKay and Town Council
VIA: Andrew D. Berns, Town Administrator
FROM: December Lauretano-Haines, Parks Recreation and Open Space Manager
DATE: 9/25/2019
SUBJECT: Arbor Day 2020

Recommendation

This proclamation re-establishing the third Friday in January as Southwest Ranches' Arbor Day and encouraging residents to observe Southwest Ranches Arbor Day in January is offered for your consideration and approval.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

- B. Enhanced Resource Management
- E. Cultivate a Vibrant Community

Background

In December 2007, the Town Council issued a proclamation that every third Friday in January is recognized as Arbor Day in the Town of Southwest Ranches. This proclamation was part of the Town's original application to become a designated "Tree City, USA". Annual recertification requires that the Town renew its commitment to the goals of the Tree City USA program with public outreach events, and community education on the importance of trees, as well as an annual proclamation.

Fiscal Impact/Analysis

In our annual application for recertification of the Tree City USA designation, the Town is required to annually observe Arbor Day by way of a proclamation and community Arbor Day events.

The Town has just completed our 13th year as a designated Tree City USA. This status has proven helpful in favorable weighting of our applications for tree planting and maintenance grants.

The Town's observances of Southwest Ranches Arbor Day incur minimal expense annually – generally below \$400 each year. These expenses are coded from the General Fund, Executive Department, Town Events line item, which has a budget of thirty-six thousand, eight hundred dollars (\$36,800.00) dedicated for promotional activities and Town events.

Staff Contact:

December Lauretano-Haines, Parks Recreation and Open Space Manager

ATTACHMENTS:

Description	Upload Date	Type
Proclamation	9/25/2019	Presentation

WHEREAS, In 1872, Sterling Morton Proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, is now observed throughout the Nation and the world, and

WHEREAS in accordance with the Policies and Goals of the Town of Southwest Ranches' Comprehensive Plan, Adopted May 8, 2003, the Town set forth measurable objectives for the protection and enhancement of critical ecological systems integral to South Florida's and the Town's natural environment, including the maintenance and improvement of Air Quality by increasing tree coverage in the Town and by meeting the standards to become recognized by the National Arbor Day Foundation as a "Tree City USA," and

WHEREAS, On December 20, 2007, Southwest Ranches was recognized as a Tree City USA, and

WHEREAS, Continuing to meet the standards for designation as a Tree City USA provides direction for management of the Town's tree resources, encourages public education about tree care, and promotes a sense of pride in the community, and

WHEREAS, Southwest Ranches has continued to meet all standards and requirements for continuing designation as Tree City USA, and will be recognized in 2020 for its fourteenth consecutive year, and

WHEREAS, annual proclamation of Arbor Day in Southwest Ranches is a requirement for continuing recognition as Tree City USA, and

WHEREAS trees reduce the erosion of topsoil, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community

NOW, THEREFORE, BE IT PROCLAIMED BY the Town Council of the Town of Southwest Ranches that annually, the third Friday in January shall be recognized as Arbor Day in the Town of Southwest Ranches. Further the Council urges all citizens to celebrate Arbor Day, to support efforts to protect our tree resources, and to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this ____th day of _____, 2019

Mayor Doug McKay

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Southwest Ranches, FL 33330-2628

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Martin D. Sherwood, CPA, CGMA, CGFO, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor McKay and Town Council
VIA: Andrew D. Berns, Town Administrator
FROM: Emily Aceti, Community Services Manager
DATE: 11/21/2019
SUBJECT: Award of Continuing Contract to Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc. for professional engineering services

Recommendation

Council consideration for contract ratification and approval of the Selection / Negotiation Committee selection of Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc. for professional engineering services as outlined in the Request for Letters of Interest (RLI) # 19-005.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

- A. Sound Governance
- B. Enhanced Resource Management
- D. Improved Infrastructure

Background

On August 19, 2019, the Town advertised a Request for letters of Interest for Continuing Contracts for Professional Engineering Services. On September 19, 2019, the Town received eight (8) responses to the advertisement. On October 16, 2019, after hearing presentations from the five (5) shortlisted firms, the Town's Selection and Negotiation Committee, has recommended the Town should enter into contracts with three (3) selected

firms to have available options when seeking such services. The three (3) selected firms are Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc.

Fiscal Impact/Analysis

Services will be performed on an as-needed basis.

Staff Contact:

Rod Ley, Town Engineer

ATTACHMENTS:

Description	Upload Date	Type
Continuing COntract for Engineering Services - TA Approved	11/12/2019	Resolution
Agreement - Craven Thompson	10/25/2019	Agreement
Exhibit - Craven Thompson Rate Sheet	10/25/2019	Exhibit
Agreement - Kimley Horn	10/25/2019	Agreement
Exhibit - Kimley Horn Rate Sheet	10/25/2019	Exhibit
Agreement - Calvin Giordano	10/25/2019	Agreement
Exhibit - Calvin Giordano Rate Sheet	10/25/2019	Exhibit

RESOLUTION 2020 - XXX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ACCEPTING THE SELECTION AND NEGOTIATION COMMITTEE'S RECOMMENDATION AND AWARDING CONTINUING CONTRACTS TO CRAVEN THOMPSON AND ASSOCIATES, INC., CALVIN GIORDANO AND ASSOCIATES, INC., AND KIMLEY-HORN AND ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING SERVICES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 19, 2019, the Town advertised a Request for Letters of Interest (RLI) # 19-005 for Continuing Contracts for Professional Engineering Services; and

WHEREAS, on September 19, 2019, the Town received eight (8) responses to the advertisement; and

WHEREAS, on October 16, 2019, after hearing presentations from the five (5) shortlisted firms, the Town's selection and Negotiation Committee has recommended the Town enter into contracts with three (3) selected firms to have available options when seeking such services; and

WHEREAS, the three (3) selected firms are Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc. for Professional Engineering Services under the terms and conditions set forth therein.

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 Selection and Negotiation Committee's selection of Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc. for Professional Engineering Services as outlined in the Request for Letters of Interest attached hereto.

Section 3. The Town Council hereby approves awarding a Continuing Contract with Craven Thompson and Associates, Inc., Calvin Giordano and Associates, Inc., and Kimley-Horn and Associates, Inc. for Professional Engineering Services as set for in

Composite Exhibit "A" which has been attached hereto and has been incorporated herein by reference.

Section 4. The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into the Agreements 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 5. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest

Ranches, Florida, this 21st day of November, 2019, on a motion by _____,

seconded by _____.

McKay	_____	Ayes	_____
Jablonski	_____	Nays	_____
Hartmann	_____	Absent	_____
Schroeder	_____	Abstaining	_____

ATTEST:

Doug McKay, Mayor

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to legal Form and Correctness

Keith M. Poliakoff, Esq., Town Attorney
36189746.1



EXHIBIT "A"
AGREEMENT
BETWEEN THE
TOWN OF SOUTHWEST RANCHES
AND
CRAVEN THOMPSON & ASSOICATES, INC.
FOR
A CONTINUING CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
RLI No. 19-005

AGREEMENT FOR
CONTINUING CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES

This Continuing Contract for Professional Engineering Services ("CONTINUING CONTRACT") is made and entered into this 21st day of November 2019, by and between the Town of Southwest Ranches, Florida, hereinafter referred to as "TOWN", and Craven Thompson and Associates, Inc. a Florida Corporation licensed as an Authorized Professional Engineering Company with the State of Florida under License CA271, hereinafter referred to as "ENGINEER".

WITNESSETH:

RECITALS:

WHEREAS, the TOWN has provided notice of the desired professional services and pursuant to RLI No. 19-005, and adhered to the selection process pursuant to and in accordance with the Consultants' Competitive Negotiation Act, Florida Statute, 287.055 and the TOWN's Procurement Code; and,

WHEREAS, the TOWN desires to engage the ENGINEER to perform certain professional engineering services in accordance with this CONTINUING CONTRACT, as permitted by the Consultants' Competitive Negotiation Act; and,

WHEREAS, the ENGINEER desires to provide such professional engineering services in accordance with this CONTINUING CONTRACT; and,

WHEREAS, the TOWN represents that it has the authority to engage the ENGINEER for the services set forth in RLI 19-005, this CONTINUING CONTRACT, and as approved by the TOWN's Resolution No. _____.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this CONTINUING CONTRACT, it is mutually understood and agreed as follows:

The above Recitals are true and correct and are incorporated herein and made a part of this CONTINUING CONTRACT.

ARTICLE 1 - DESCRIPTION OF PROFESSIONAL SERVICES

Standard of Care. All services rendered by ENGINEER and its consultants pursuant to this Continuing Contract will be performed in accordance with the standard of professional skill and care required for engineers and other professionals retained to assist with, from commencement to finish of engineering services of the projects contemplated by this Continuing Contract; provided, however, that no work shall be performed unless and until a written work authorization is executed and the TOWN has issued a Notice to Proceed as to any of the projects. ENGINEER will perform all services consistent with the interests of the TOWN and in accordance with the requirements of the State of Florida. ENGINEER agrees to timely perform its services so as not to delay the projects under this CONTRACT, time being of the essence, and as set forth in the Notice to Proceed. The projects ("Project" or "Projects") which may be assigned to ENGINEER, and subject of a Notice to Proceed, are those listed in RLI No. 19-004, which RLI is incorporated herein by reference.

1.1.1 Points of Contact.

The TOWN's Designated Point of Contact (or "Representative") shall be:

Rod Ley, Town Engineer Tel:
954-434-0008

Email: rley@southwesttranches.org

The ENGINEER's Designated Point of Contact shall be:

Engineer's Name

Attn: _____

Tel: _____

Email: _____

1.1.2 Licensing and Other Obligations of Engineer. The ENGINEER will provide appropriate documentation to the TOWN to demonstrate that it and all its consultants are properly licensed to perform all services relative to this Continuing Contract.

1.1.2.1 A consultant is a person or entity who the ENGINEER has retained and who the ENGINEER will pay to perform any of the services described in this Continuing Contract. Reasonable funds for such payment have been included as part of ENGINEER's compensation under this Continuing Contract.

1.1.2.2 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees, or persons performing any of the services under this Continuing Contract.

1.1.2.3 The ENGINEER shall have the sole obligation and responsibility to select, control and supervise all its consultants. The ENGINEER may not contract with anyone with whom the TOWN has a reasonable objection. Contracts between the ENGINEER and the consultants shall require each consultant to be bound to the ENGINEER for all obligations and responsibilities which the ENGINEER, by this Continuing Contract assumes toward the TOWN. This provision also applies to substitute consultants hired during this Continuing Contract to replace existing consultants in accordance with this Continuing Contract. The ENGINEER shall retain responsibility for coordination of any consultants engaged by the ENGINEER to provide services under this Continuing Contract and will likewise coordinate its services with those consultants retained by the TOWN. The TOWN agrees that all communications of the TOWN with the ENGINEER's consultants will be made through the ENGINEER's Representative, unless such consultants have also been retained by the TOWN.

1.1.2.4 The ENGINEER and its consultants will perform, without expense to the TOWN, such services as may be required to correct or remedy any negligent act, error or omission of the ENGINEER or its consultants.

1.1.2.5 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees or persons performing any of the services under this Agreement.

1.1.2.6 The ENGINEER shall have the sole obligation and responsibility to select, control, payment and supervision of all its consultants.

1.1.3 Conflicts of Interest. The ENGINEER shall not engage in any activity, or accept any employment, receive any monetary compensation, interest or contribution that could create the appearance of impropriety or compromise the ENGINEER's professional judgment with respect to this Continuing Contract.

ARTICLE 2 - TOWN-PROVIDED ITEMS

2.1 The TOWN's list of project requirements shall be provided to the ENGINEER and shall be utilized by the ENGINEER to prepare the Project Program.

2.2 The TOWN shall provide ENGINEER with accurate and complete information. No information derived from the TOWN shall relieve the ENGINEER from any risk or from fulfilling all terms of the Contract. The ENGINEER shall be responsible for any additional investigations required to fulfill all the terms of the Contract.

2.3 Service Work Authorization and Notice to Proceed. For all services covered under this Continuing Contract, ENGINEER shall be required to obtain an approved written Work Authorization and a written "Notice to Proceed" by the Town Administrator or his

authorized representative, in advance of providing any such services to the Town. The written Work Authorization shall specify in detail the nature of the services requested, the lump sum or not to exceed cost to the TOWN for same (with actual cost to be fully substantiated by ENGINEER upon completion), and the time frame for completion. All services performed by ENGINEER without a written authorization from the TOWN shall be performed at ENGINEER's sole cost and expense.

ARTICLE 3- FEES

3.1 Subject to the TOWN's issuance of a "Notice to Proceed" and individual written work orders, the TOWN shall pay the ENGINEER the total compensation for the Project(s), in accordance with the total fee indicated in a Project fee schedule executed by both the TOWN and Engineer, and which will be developed based upon the approved Rate and Fee Schedule. ENGINEER's total compensation includes all fees, costs and expenses that may be incurred by the ENGINEER to complete the design and construction administration of the Project, including, but not limited to, all professional services provided by or through the ENGINEER, drawings, calculations and other documents, travel expenses and all other costs or expenses, for or related to the Project, as well as the time for performance. A Notice to Proceed shall not be issued by the TOWN until a Project fee schedule has been fully executed. Additionally, ENGINEER shall not perform any services without individual written work orders which may be required to be provided by the Town Administrator, and in accordance with this Continuing Contract. Hourly rates for ENGINEER's consultants shall also be in accordance with the Rate and Fee Schedule.

3.2 Payment on account of services rendered, shall be made monthly, based on the percentage of completion of the Project, upon presentation of the ENGINEER's invoice for same, along with a partial waiver and release from ENGINEER indicating a release of all claims, including, but not limited to, equitable liens, through the last elate of services rendered and included in the invoice. Should any portion of the invoice be in dispute, other portions, if any, that are not in dispute or not deemed, by the TOWN, to be funds likely necessary to be put towards the issue in dispute, shall be paid per the terms of this Continuing Contract. Any billing concerns shall be submitted in writing by the TOWN to the ENGINEER describing the disputed portion of the invoice in detail for discussion and resolution.

3.3 Payment on account of undisputed amounts of the Engineer's Total Compensation shall be made within thirty (30) days of invoice date or as otherwise provided by Section 218.73, Florida Statute.

3.4 Payments due to ENGINEER which remain unpaid for thirty (30) days after the due

date provided herein, shall bear interest at the statutory rate provided by Section 218.74, Florida Statute.

3.5 Payment for the ENGINEER' s services will be made in accordance with the local government Prompt Payment Act, Section 218.73, Florida Statute.

3.6 Purchasing Card (PCARD) Acceptance: The method of payment (check/credit card) is at the Town's sole option. The Town may choose to compensate vendors for goods and/or services via a Town Purchasing Card (PCARD). No other costs or services shall be billed to the Town, and without limiting the generality of the foregoing, vendor shall not impose any service charge or fee, penalty, or other exaction of any kind against payments rendered by the PCARD. Payments made by PCARD shall be accepted on a "same as cash" basis.

ARTICLE 4 - CHANGE ORDERS

4.1 Definition of Change. Change in the services to be performed by the ENGINEER, or the ENGINEER's consultants, may only be accomplished after execution of this Continuing Contract, without invalidating the Continuing Contract, by mutual agreement and execution of a written Change Order. ENGINEER assumes all risks and responsibilities for performing all services on behalf of the TOWN for the amount determined in accordance with Article 3. The TOWN shall not be liable for any cost increases that may arise during the performance of services. Any adjustments to the services must be by written Change Order issued in accordance with the terms and conditions of this Continuing Contract. To the extent that ENGINEER proceeds to perform additional services in excess of those services described in an executed Notice to Proceed that has been signed by the Town Administrator without an executed written Change Order issued in accordance with this Continuing Contract, such services shall be at ENGINEER's own risk at no charge to TOWN.

ARTICLE 5 - OWNERSHIP OF DOCUMENTS

5.1 Drawings, specifications and other documents, including those in electronic form, prepared by the ENGINEER and the ENGINEER's consultants are Instruments of Service. The ENGINEER and the ENGINEER's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. The TOWN shall have the right to use the Instruments of Service. The TOWN's right of use in accordance with this Paragraph specifically authorizes the TOWN to utilize the Instruments of Service to complete the Project as well as to perform alterations, repair and additions to the Project. This right of use applies even if this Agreement is terminated. In that event, the TOWN will be entitled to continue to utilize the Instruments of Service and shall have the unrestricted right to use, reproduce and to make derivative works of the Instruments of Service to complete the Project as long as the TOWN has paid ENGINEER for all fees

associated only with the preparation of the Instruments of Service in accordance with this Continuing Contract. Should this Continuing Contract be terminated, ENGINEER and its consultants will continue to own the copyright to these Instruments of Service in accordance with this Continuing Contract. However, the TOWN will, through an irrevocable, perpetual, royalty-free license, have the exclusive right to use the Instruments of Service, without restriction or limitation, to construct the buildings and improvements relative to this Project as well as repair, maintain or construct future additions to the Project. Upon the TOWN's request, the ENGINEER and its consultants will furnish to the TOWN, copies, including reproducible copies, electronic data and computer files of the Drawings and Specifications and other Instruments of Service.

5.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the TOWN's or ENGINEER's rights.

5.3 ENGINEER represents and warrants to TOWN that it is the owner of all Instruments of Service prepared by itself and has the sole authority to grant TOWN use provisions of these Instruments of Service in accordance with this Agreement. With respect to Instruments of Service for the Project owned by ENGINEER's consultants, ENGINEER, in its agreement with such consultants to provide services for this Project, shall cause such consultants to grant to the TOWN the same use provisions as are included herein.

ARTICLE 6 - TERM OF CONTRACT

6. The continuing contract for professional engineering services shall have an initial three (3) years term, with three (3), two (2) year extensions. An extension shall be by mutual agreement by both parties. A contract extension may be approved by the Town Administrator.

ARTICLE 7 - TERMINATION

7.1 Termination by Town for Convenience. This Continuing Contract may be terminated by the Town for convenience upon at least thirty days' written notice to the ENGINEER. Under such conditions, ENGINEER will only be entitled to receive compensation for services rendered that are specifically within the services for which the Town Administrator has, in writing, authorized ENGINEER to proceed and only up through the date that is no later than thirty days after the date written notice for such termination for convenience is issued by the TOWN to ENGINEER. ENGINEER will be able to recover for its work performed; actual cost and expenses; and fair and reasonable sums for overhead and profit for work performed. Upon receipt of a notice of termination for convenience by the TOWN, the ENGINEER will initiate all reasonable steps to mitigate further expenses from accruing. No other compensation and/or damages will be due ENGINEER from the TOWN pursuant to this Paragraph

7.2 Default by ENGINEER. In addition to defaults resulting from the ENGINEER's failure to strictly comply with any term, condition, or agreement set forth herein, the ENGINEER shall be in default under this Continuing Contract if:

- A. The ENGINEER ceases to carry the insurance required hereunder or the insurance is cancelled.
- B. A default should occur in the performance of any consultant or contractor employed by the ENGINEER and not corrected by ENGINEER or another replacement consultant or contractor employed by ENGINEER within ten (10) days after notice from the TOWN.
- C. The ENGINEER fails to maintain all permit-related documents and make such documents available to the TOWN upon reasonable request.
- D. The ENGINEER fails to timely (30 days) pay any consultant or contractor employed by the ENGINEER.
Notwithstanding the foregoing, ENGINEER shall have the right to contest disputed invoices in good faith, without being in default of this Continuing Contract, but will bond off or cause to be satisfied of record any liens that may be recorded erroneously in connection therewith within ten (10) days of the date of recording of such lien.
- E. The ENGINEER fails to correct any error or material inconsistency in its or its consultants Drawings and Specifications or other Instruments of Service within ten (10) days after such error or material inconsistency is reported to the ENGINEER.
- F. The ENGINEER fails to perform its obligations under this Continuing Contract in a timely and expeditious manner within ten (10) days after notice from the TOWN.

7.3 TOWN'S Compensation for Default by ENGINEER. In the event of termination due to the fault of the ENGINEER under this Continuing Contract, the TOWN shall be compensated for all reasonable costs and expenses including reasonable attorneys' fees and costs incurred in connection with replacing the ENGINEER hereunder, in reviewing, analyzing, or enforcing the TOWN's rights hereunder or in connection with a replacement engineer and the completion of the ENGINEER's services hereunder. This is not intended to limit the TOWN's rights or ability to recover damages in the event of a breach by the ENGINEER under this Continuing Contract. Additionally, the TOWN shall have the right to use the ENGINEER's Drawings, Specifications and other Instruments of Service in the event of a default by the ENGINEER, regardless of the payment status for such Instruments of Service.

ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.1 Governing Law, Jurisdiction, Venue and Attorney's Fees. In the event of any action, litigation, or proceedings of any type regarding or relating to performance of this Continuing Contract, the prevailing party shall be entitled to recover its reasonable costs, expert's fees and attorney's fees at all hearing, trial, bankruptcy, and appellate levels. All disputes pursuant to this Continuing Contract shall be first subject to mediation in Broward County with a mutually agreeable Florida Supreme Court Certified Mediator who is knowledgeable in the rendering of professional engineering services for construction projects similar to the projects under this Continuing Contract. Failing resolution by mediation, any litigation shall be filed in a court of competent jurisdiction and the sole and exclusive venue shall be in Broward County, Florida. This Continuing Contract shall be governed by the laws of the State of Florida. Mediation shall be conducted within sixty (60) days of either Party's written request. The parties shall share, 50/50, the cost of the mediator.

8.2 Waiver of Right to Jury Trial

BY ENTERING INTO THIS CONTINUING CONTRACT, ENGINEER 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 CONTINUING CONTRACT.

8.3 Insurance Coverages and Minimum Amounts. ENGINEER shall secure and maintain, at its own expense, and keep in effect during the full period of the Continuing Contract and at least one (1) year beyond its completion a policy or policies of insurance, which must include the following coverages and minimum limits of liability:

8.3.1 Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence.

8.3.2 Worker's Compensation and Employer's Liability Insurance for all employees of the ENGINEER engaged in services under the Contract in accordance with the laws of the State of Florida. ENGINEER hereby agrees to be responsible for the employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

8.3.3 (Comprehensive) Commercial General Liability Insurance with the following minimum limits of liability:

\$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence. Coverage shall specifically include the following minimum limits not less than those required for Bodily Injury Liability and

Property Damage at \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability annual aggregate:

1. Premises and Operations;
2. Independent Contractors;
3. Products and Completed Operations;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to the Contract and specifically confirming the indemnification and hold harmless agreement in the Contract;
6. Personal Injury Coverage with employment and contractual exclusions removed and deleted, and;
7. Explosion, collapse, underground coverage (X-C-U)

8.3.4 Comprehensive Automobile Liability Insurance. for all owned, non-owned and hired automobiles and other vehicles used by ENGINEER in the performance of services pursuant to this Contract with the following minimum limits of liability: \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence.

8.3.5 Aggregate Limits. Commercial General Liability shall be \$2,000,000.

***All insurance policies shall name and endorse the following as “Additional Named Insureds”:**

TOWN OF SOUTHWEST RANCHES

Attn: Andrew D. Berns, Town Administrator.

13400 Griffin Road.

Southwest Ranches, FL 33330

***The additional named insured endorsement shall be reflected on the Certificate of Insurance.**

All insurance shall be issued by companies rated “A-” or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the vendor and insurer to notify the Town Administrator of cancellation, lapse, or material modification of any insurance policies insuring the vendor, which relate to the activities of such vendor and the Town.

All notifications 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.

Bidders are required to submit a list of claims presently outstanding and claims within the past ten (10) years against their liability coverage. This information must be listed on the form provided and signed by the agent of the insurance carrier. If no outstanding claims exist, a statement of this fact must be signed by the agent of the insurance carrier.

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 or cancellation 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 file a Bid protest or sue the Town by virtue of such cancellation or rescission.

84 Indemnification. To the fullest extent permitted by Florida Statute, Section 725.08, ENGINEER shall indemnify, hold harmless the TOWN, its officers, agents and employees, harmless from any and all claims, damages, losses, liabilities and expenses, direct, indirect or consequential arising out of or alleged to have arisen out of or in consequence of the negligence, recklessness or intentional wrongful conduct of the ENGINEER or its subcontractors, agents, officers, employees or independent contractors pursuant to the Continuing Contract, specifically including but not limited to those caused by or arising out of negligent act, omission, or default of the ENGINEER and/or its subcontractors, agents, or employees in the performance of the operations or services under the Continuing Contract.

8.4.1 Errors and Omissions:

The ENGINEER to the extent of its failure to perform in accordance with the standard of care set forth in this Agreement, is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all Work required under this Agreement (including the Work performed by sub-consultants and Subcontractors), within the specified time period and specified cost. The ENGINEER shall perform the Work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient ENGINEER with respect to the disciplines required for the performance of the Work in the State of Florida. The ENGINEER is responsible for and represents that the Work conforms to TOWN'S requirements as set forth in this Agreement. The ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER'S negligent acts, recklessness, intentionally wrongful conduct or errors or omissions in the performance of the Work. In addition to all other rights and remedies, which the TOWN may have, the ENGINEER shall, at its expense, re-perform the services to correct any deficiencies, which result from the ENGINEER'S failure to perform in accordance with the above standards. The TOWN shall notify the ENGINEER in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the TOWN'S inspection, review, approval or acceptance of, nor payment for, any of the Work required under this Agreement shall be construed to relieve the ENGINEER or any sub-consultant or subcontractor of its obligations and responsibilities under this Agreement, nor constitute a waiver of any of the TOWN 'S rights under this Agreement or of any cause of action arising out of the performance of this Agreement. The ENGINEER and its sub-consultants and Subcontractors shall be and remain liable to the TOWN in accordance with applicable law for all damages to TOWN caused by any failure of the ENGINEER or its sub-

consultants and Subcontractors to comply with the terms and conditions of this Agreement or by the ENGINEER'S or Sub-consultants' or Subcontractors' misconduct, recklessness, unlawful acts, negligent acts, errors or omissions in the performance of this Agreement. With respect to the performance of Work by sub- consultants and Subcontractors, the ENGINEER shall, in approving and accepting such Work, ensure the professional quality, completeness, and coordination of sub-consultant's and subcontractor's Work.

85 Patent and Copyright Indemnification. ENGINEER agrees to indemnify, defend, save and hold harmless the TOWN, its officers, agents and employees, from all claims, damages, losses, liabilities and expenses arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other such work in connection with the performance of the Continuing Contract.

86 Successors and Assigns. This Continuing Contract is binding upon the parties hereto, their successors and assigns and replaces, provided, however, neither party shall assign or transfer any interest in this Continuing Contract without the written consent of the other party.

87 No Damage for Delays by TOWN. ENGINEER's sole remedy for any (i) delay in the commencement, prosecution, or completion of its services, (ii) hindrance or obstruction in performance of its services, (iii) loss of productivity, or (iv) other similar claims (collectively referred to in this subparagraph as "delays"), whether or not such delays are foreseeable, shall be non-compensable. The TOWN shall act reasonably in granting extensions of time to the ENGINEER. All extensions to the time for performance shall be authorized only by written Change Order executed by the TOWN and ENGINEER. In no event shall the ENGINEER be entitled to any other compensation or recovery of any damages under or pursuant to this subparagraph in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration.

88 Audit and Inspection Rights and Retention of Records by ENGINEER. The TOWN shall have the right to audit the books, records and accounts of ENGINEER that are related to this Continuing Contract. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Continuing Contract. ENGINEER 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 Continuing Contract for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statute), 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 Continuing Contract, unless

ENGINEER is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at ENGINEER'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 ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by ENGINEER. 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, ENGINEER shall respond to the reasonable inquiries of success or engineers, if any, and allow successor engineers to receive working papers relating to matters of continuing significance. In addition, ENGINEER shall provide a complete copy of *all* working papers including electronic files to the TOWN, prior to final payment by the TOWN under this Continuing Contract.

89 Performance During Disputes. Notwithstanding anything contained in this Continuing Contract to the contrary, in the event of any dispute noticed in writing between the TOWN and the ENGINEER, the ENGINEER and, if applicable, its consultants will continue to provide services on the Projects under this Continuing Contract pursuant to the terms of this Continuing Contract so long as the ENGINEER receives payment for the matter(s) not in dispute.

8.10 TOWN's Review of Documents. Review and approval of documents or submittals by the TOWN shall be for general design compliance and approval of such submittals shall not relieve the ENGINEER of any responsibility or liability hereunder.

8.11 Entire Agreement. This Continuing Contract is deemed effective only upon execution by both parties. Additionally, this written Continuing Contract represents the entire and integrated agreement between the TOWN and the ENGINEER and supersedes all prior negotiations or agreements, either written or oral. This Continuing Contract may be amended only if agreed to by both parties, in writing. Pursuant to Florida Statute, Section 287.055, this Continuing Contract shall have no time limitation, however, it may be terminated in accordance with Sections 6 and 7 hereof.

8.12 Invalid Provisions. Any term or provision of this Continuing Contract found to be invalid under any applicable Statute or rule of Law shall be deemed omitted, and the remainder of this Continuing Contract shall remain in full force and effect.

8.13 Non-Discrimination. ENGINEER 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. ENGINEER shall take affirmative action to ensure that applicants, subcontractors,

independent contractors, and employees are treated without discrimination regarding their race, gender, color, religion, sex, national origin, disability, or medical status. ENGINEER shall comply with all applicable sections of the Americans with Disabilities Act. ENGINEER agrees that compliance with this Article constitutes a material condition to this Continuing Contract, and that it is binding upon the ENGINEER, its successors, transferees, and assignees for the period during which any services are provided. ENGINEER further assures that all consultants and subcontractors and independent contractors are not in violation of the terms of this Section of the Continuing Contract.

8.14 Sovereign Immunity. Nothing in this Continuing Contract 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 law and statutes, as now worded or as may hereafter be amended and all Florida case law interpreting same.

8.15 NO Third-Party Beneficiaries. This Continuing Contract 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 Continuing Contract shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.

8.16 Funding. The obligation of TOWN for payment to ENGINEER for services is limited by Florida law 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.

8.17 Manner of Performance. ENGINEER agrees to perform its services in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, ordinances, regulations and codes. ENGINEER agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. ENGINEER agrees to furnish to TOWN any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. ENGINEER 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 Continuing Contract. Failure of ENGINEER to comply with this paragraph shall constitute a material breach of this Continuing Contract.

8.18 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 Law exists and is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Firm acknowledges 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.

ENGINEER agrees to maintain public records in ENGINEER's possession or control in connections with ENGINEER's performance under this agreement and to provide the public with access to public records in accordance with the record maintenance, production and codes requirement set forth in Chapter 119, Florida Statutes, or as otherwise required by law. ENGINEER shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law. ENGINEER's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this agreement by TOWN.

819 Public Entity Crimes. In accordance with the Public Entity Crimes Act, Section 287.133, Florida Statute, 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 services as an engineer, contractor, supplier, or subcontractor, 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 ENGINEER shall result in TOWN's immediate termination of this Continuing Contract.

820 Changes and Modification of Continuing Contract. TOWN and ENGINEER may request changes that would increase, decrease or otherwise modify the scope of services to be provided under this Continuing Contract. Such changes only become part of this Continuing Contract and increase, decrease or otherwise modify the services under this Continuing Contract if evidenced by a written Change Order executed by TOWN and ENGINEER, with the same formality and of equal dignity associated with the original execution of the Continuing Contract.

821 No Waiver of Rights. Neither the TOWN's review, approval or payment for any of the services required under this Continuing Contract shall be construed to operate as a waiver of any of TOWN's rights under this Continuing Contract or of any causes of action arising out ENGINEER's performance of the services under this Continuing Contract, and ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER's negligent or improper performance of any of the services furnished under this Continuing Contract, irrespective of the TOWN's review, approval or payment for any of the services under this Continuing Contract. The rights and remedies of the TOWN provided for under this Continuing Contract are in addition to all other rights and remedies provided to TOWN by law.

822 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.

823 Time is of the Essence. Time is of the essence for all of ENGINEER's obligations under this Continuing Contract.

824 Days. The terms "days" as referenced in this Continuing Contract shall mean consecutive calendar days, unless specifically stated to be "work days."

825 Equal Opportunity Employment.

A. ENGINEER will take affirmative action to ensure that employees are treated equally during employment, without regard to their race, religion, gender, color or, national origin. Such action must include, but not be limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ENGINEER shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause included in section 8.18 of this Continuing Contract.

B. ENGINEER shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor Regulations (41 CFR Part 60).

C. ENGINEER shall comply with Copeland Anti-Kickback Act (18 USC 874), as supplemented in Department of Labor Regulations (29 CFR Part 3).

D. ENGINEER shall comply with the Contract Work Hours and Safety Standards Act (40 US 327-330), as supplemented by Department of Labor Regulations (29 CFR Part 5).

826 Notice. Notices shall be given by Certified Mail (RRR), recognized overnight delivery service with tracking receipt, or hand delivery or courier with signed receipt. Notices shall be given to the following addresses:

AS TO TOWN:

Andrew D. Berns

Town Administrator

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

With a copy to the Town Attorney:

Keith M. Poliakoff
Saul Ewing Arnstein & Lehr, LLP
200 East Las Olas Blvd.
Suite 1000
Fort Lauderdale, FL 33301
Philadelphia, PA 19102

AS TO ENGINEER:

827 Independent Contractor. ENGINEER is an independent contractor of TOWN under this Continuing Contract. In providing services, neither ENGINEER 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 services rendered under this Continuing Contract shall be exclusively and solely those of ENGINEER. This Continuing Contract shall not constitute or make the TOWN and ENGINEER a partnership or joint venture.

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

A. ENGINEER agrees that none of its officers or employees shall, during the term of this Continuing Contract, 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, ENGINEER 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 ENGINEER or any other persons from representing themselves in any action or in any administrative or legal proceeding.

B. In the event ENGINEER is permitted to utilize consultants or subcontractors to

perform any services required by this Continuing Contract, ENGINEER agrees to prohibit such consultants or subcontractors, by written contract, from having any conflicts within the meaning of this Section.

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

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

831 Joint Preparation. The TOWN and ENGINEER 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 Continuing Contract has been their joint effort. The language agreed to herein express 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.

832 Drug-Free Workplace. ENGINEER shall maintain a drug-free workplace.

833 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Continuing Contract.

834 Binding Authority. Each person 'Signing this Continuing Contract on behalf of either party individually warrants that he or she has full legal power to execute this Continuing Contract 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 Continuing Contract.

835 Truth-in-Negotiation Certificate. Signature of this Continuing Contract by ENGINEER 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 Continuing Contract are accurate, complete, and current at the time of contracting.

[SIGNATURE ON NEXT PAGE]

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 21st day of November 2019.

WITNESSES:

CONTRACTOR:

By: _____
_____, _____ (title)
____ day of _____ 201_

TOWN OF SOUTHWEST RANCHES

By: _____
Doug McKay, Mayor
____ day of _____ 201_

By: _____
Andrew D. Berns, Town Administrator
____ day of _____ 201_

ATTEST:

Russell Muñiz, Assistant Town Administrator/Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Keith M. Poliakoff, Town Attorney

**CRAVEN THOMPSON & ASSOCIATES, INC.
HOURLY FEE SCHEDULE**

Civil Engineering Services

Principal Engineer	\$210/Hour
Senior Supervising Engineer	\$190/Hour
Senior Engineer	\$140/Hour
Project Engineer.....	\$120/Hour
Engineering Senior CADD Technician	\$95/Hour

Land Surveying & Mapping Services

Principal Surveyor	\$170/Hour
Professional Land Surveyor.....	\$130/Hour
Project Surveyor.....	\$120/Hour
Survey CADD / GIS Tech.....	\$90/Hour
Survey Field Crew (1-Man Crew)	\$95/Hour
Survey Field Crew (2-Man Crew)	\$135/Hour
Survey Field Crew (3-Man Crew)	\$165/Hour
Survey Crew with Laser Scan (3-Man Crew)	\$260/Hour

Landscape Architecture and Planning Services

Principal Landscape Architect / Principal Planner	\$170/Hour
Senior Supervising Landscape Architect	\$155/Hour
Senior Landscape Architect	\$135/Hour
Landscape Architect.....	\$125/Hour
Project Landscape Designer	\$115/Hour
Project Planner.....	\$115/Hour

Construction Administration Services

Director of Construction Management	\$150/Hour
Construction Manager	\$140/Hour
Senior Field Representative	\$100/Hour
Field Representative	\$90/Hour

Miscellaneous

Clerical.....	\$75/Hour
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EXHIBIT “A”

AGREEMENT

BETWEEN THE

TOWN OF SOUTHWEST RANCHES

AND

KIMELY HORN & ASSOICATES, INC.

FOR

A CONTINUING CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES

RLI No. 19-005

AGREEMENT FOR
CONTINUING CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES

This Continuing Contract for Professional Engineering Services ("CONTINUING CONTRACT") is made and entered into this 21st day of November 2019, by and between the Town of Southwest Ranches, Florida, hereinafter referred to as "TOWN", and Kimely Horn and Associates, Inc. a Florida Corporation licensed as an Authorized Professional Engineering Company with the State of Florida under License CA696, hereinafter referred to as "ENGINEER".

WITNESSETH:

RECITALS:

WHEREAS, the TOWN has provided notice of the desired professional services and pursuant to RLI No. 19-005, and adhered to the selection process pursuant to and in accordance with the Consultants' Competitive Negotiation Act, Florida Statute, 287.055 and the TOWN's Procurement Code; and,

WHEREAS, the TOWN desires to engage the ENGINEER to perform certain professional engineering services in accordance with this CONTINUING CONTRACT, as permitted by the Consultants' Competitive Negotiation Act; and,

WHEREAS, the ENGINEER desires to provide such professional engineering services in accordance with this CONTINUING CONTRACT; and,

WHEREAS, the TOWN represents that it has the authority to engage the ENGINEER for the services set forth in RLI 19-005, this CONTINUING CONTRACT, and as approved by the TOWN's Resolution No. _____.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this CONTINUING CONTRACT, it is mutually understood and agreed as follows:

The above Recitals are true and correct and are incorporated herein and made a part of this CONTINUING CONTRACT.

ARTICLE 1 - DESCRIPTION OF PROFESSIONAL SERVICES

Standard of Care. All services rendered by ENGINEER and its consultants pursuant to this Continuing Contract will be performed in accordance with the standard of professional skill and care required for engineers and other professionals retained to assist with, from commencement to finish of engineering services of the projects contemplated by this Continuing Contract; provided, however, that no work shall be performed unless and until a written work authorization is executed and the TOWN has issued a Notice to Proceed as to any of the projects. ENGINEER will perform all services consistent with the interests of the TOWN and in accordance with the requirements of the State of Florida. ENGINEER agrees to timely perform its services so as not to delay the projects under this CONTRACT, time being of the essence, and as set forth in the Notice to Proceed. The projects ("Project" or "Projects") which may be assigned to ENGINEER, and subject of a Notice to Proceed, are those listed in RLI No. 19-004, which RLI is incorporated herein by reference.

1.1.1 Points of Contact.

The TOWN's Designated Point of Contact (or "Representative") shall be:

Rod Ley, Town Engineer Tel:

954-434-0008

Email: rley@southwesttranches.org

The ENGINEER's Designated Point of Contact shall be:

Engineer's Name

Attn: _____

Tel: _____

Email: _____

1.1.2 Licensing and Other Obligations of Engineer. The ENGINEER will provide appropriate documentation to the TOWN to demonstrate that it and all its consultants are properly licensed to perform all services relative to this Continuing Contract.

1.1.2.1 A consultant is a person or entity who the ENGINEER has retained and who the ENGINEER will pay to perform any of the services described in this Continuing Contract. Reasonable funds for such payment have been included as part of ENGINEER's compensation under this Continuing Contract.

1.1.2.2 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees, or persons performing any of the services under this Continuing Contract.

1.1.2.3 The ENGINEER shall have the sole obligation and responsibility to select, control and supervise all its consultants. The ENGINEER may not contract with anyone with whom the TOWN has a reasonable objection. Contracts between the ENGINEER and the consultants shall require each consultant to be bound to the ENGINEER for all obligations and responsibilities which the ENGINEER, by this Continuing Contract assumes toward the TOWN. This provision also applies to substitute consultants hired during this Continuing Contract to replace existing consultants in accordance with this Continuing Contract. The ENGINEER shall retain responsibility for coordination of any consultants engaged by the ENGINEER to provide services under this Continuing Contract and will likewise coordinate its services with those consultants retained by the TOWN. The TOWN agrees that all communications of the TOWN with the ENGINEER's consultants will be made through the ENGINEER's Representative, unless such consultants have also been retained by the TOWN.

1.1.2.4 The ENGINEER and its consultants will perform, without expense to the TOWN, such services as may be required to correct or remedy any negligent act, error or omission of the ENGINEER or its consultants.

1.1.2.5 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees or persons performing any of the services under this Agreement.

1.1.2.6 The ENGINEER shall have the sole obligation and responsibility to select, control, payment and supervision of all its consultants.

1.1.3 Conflicts of Interest. The ENGINEER shall not engage in any activity, or accept any employment, receive any monetary compensation, interest or contribution that could create the appearance of impropriety or compromise the ENGINEER's professional judgment with respect to this Continuing Contract.

ARTICLE 2 - TOWN-PROVIDED ITEMS

2.1 The TOWN's list of project requirements shall be provided to the ENGINEER and shall be utilized by the ENGINEER to prepare the Project Program.

2.2 The TOWN shall provide ENGINEER with accurate and complete information. No information derived from the TOWN shall relieve the ENGINEER from any risk or from fulfilling all terms of the Contract. The ENGINEER shall be responsible for any additional investigations required to fulfill all the terms of the Contract.

2.3 Service Work Authorization and Notice to Proceed. For all services covered under this Continuing Contract, ENGINEER shall be required to obtain an approved written Work Authorization and a written "Notice to Proceed" by the Town Administrator or his

authorized representative, in advance of providing any such services to the Town. The written Work Authorization shall specify in detail the nature of the services requested, the lump sum or not to exceed cost to the TOWN for same (with actual cost to be fully substantiated by ENGINEER upon completion), and the time frame for completion. All services performed by ENGINEER without a written authorization from the TOWN shall be performed at ENGINEER's sole cost and expense.

ARTICLE 3- FEES

3.1 Subject to the TOWN's issuance of a "Notice to Proceed" and individual written work orders, the TOWN shall pay the ENGINEER the total compensation for the Project(s), in accordance with the total fee indicated in a Project fee schedule executed by both the TOWN and Engineer, and which will be developed based upon the approved Rate and Fee Schedule. ENGINEER's total compensation includes all fees, costs and expenses that may be incurred by the ENGINEER to complete the design and construction administration of the Project, including, but not limited to, all professional services provided by or through the ENGINEER, drawings, calculations and other documents, travel expenses and all other costs or expenses, for or related to the Project, as well as the time for performance. A Notice to Proceed shall not be issued by the TOWN until a Project fee schedule has been fully executed. Additionally, ENGINEER shall not perform any services without individual written work orders which may be required to be provided by the Town Administrator, and in accordance with this Continuing Contract. Hourly rates for ENGINEER's consultants shall also be in accordance with the Rate and Fee Schedule.

3.2 Payment on account of services rendered, shall be made monthly, based on the percentage of completion of the Project, upon presentation of the ENGINEER's invoice for same, along with a partial waiver and release from ENGINEER indicating a release of all claims, including, but not limited to, equitable liens, through the last elate of services rendered and included in the invoice. Should any portion of the invoice be in dispute, other portions, if any, that are not in dispute or not deemed, by the TOWN, to be funds likely necessary to be put towards the issue in dispute, shall be paid per the terms of this Continuing Contract. Any billing concerns shall be submitted in writing by the TOWN to the ENGINEER describing the disputed portion of the invoice in detail for discussion and resolution.

3.3 Payment on account of undisputed amounts of the Engineer's Total Compensation shall be made within thirty (30) days of invoice date or as otherwise provided by Section 218.73, Florida Statute.

3.4 Payments due to ENGINEER which remain unpaid for thirty (30) days after the due

date provided herein, shall bear interest at the statutory rate provided by Section 218.74, Florida Statute.

3.5 Payment for the ENGINEER' s services will be made in accordance with the local government Prompt Payment Act, Section 218.73, Florida Statute.

3.6 Purchasing Card (PCARD) Acceptance: The method of payment (check/credit card) is at the Town's sole option. The Town may choose to compensate vendors for goods and/or services via a Town Purchasing Card (PCARD). No other costs or services shall be billed to the Town, and without limiting the generality of the foregoing, vendor shall not impose any service charge or fee, penalty, or other exaction of any kind against payments rendered by the PCARD. Payments made by PCARD shall be accepted on a "same as cash" basis.

ARTICLE 4 - CHANGE ORDERS

4.1 Definition of Change. Change in the services to be performed by the ENGINEER, or the ENGINEER's consultants, may only be accomplished after execution of this Continuing Contract, without invalidating the Continuing Contract, by mutual agreement and execution of a written Change Order. ENGINEER assumes all risks and responsibilities for performing all services on behalf of the TOWN for the amount determined in accordance with Article 3. The TOWN shall not be liable for any cost increases that may arise during the performance of services. Any adjustments to the services must be by written Change Order issued in accordance with the terms and conditions of this Continuing Contract. To the extent that ENGINEER proceeds to perform additional services in excess of those services described in an executed Notice to Proceed that has been signed by the Town Administrator without an executed written Change Order issued in accordance with this Continuing Contract, such services shall be at ENGINEER's own risk at no charge to TOWN.

ARTICLE 5 - OWNERSHIP OF DOCUMENTS

5.1 Drawings, specifications and other documents, including those in electronic form, prepared by the ENGINEER and the ENGINEER's consultants are Instruments of Service. The ENGINEER and the ENGINEER's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. The TOWN shall have the right to use the Instruments of Service. The TOWN's right of use in accordance with this Paragraph specifically authorizes the TOWN to utilize the Instruments of Service to complete the Project as well as to perform alterations, repair and additions to the Project. This right of use applies even if this Agreement is terminated. In that event, the TOWN will be entitled to continue to utilize the Instruments of Service and shall have the unrestricted right to use, reproduce and to make derivative works of the Instruments of Service to complete the Project as long as the TOWN has paid ENGINEER for all fees

associated only with the preparation of the Instruments of Service in accordance with this Continuing Contract. Should this Continuing Contract be terminated, ENGINEER and its consultants will continue to own the copyright to these Instruments of Service in accordance with this Continuing Contract. However, the TOWN will, through an irrevocable, perpetual, royalty-free license, have the exclusive right to use the Instruments of Service, without restriction or limitation, to construct the buildings and improvements relative to this Project as well as repair, maintain or construct future additions to the Project. Upon the TOWN's request, the ENGINEER and its consultants will furnish to the TOWN, copies, including reproducible copies, electronic data and computer files of the Drawings and Specifications and other Instruments of Service.

5.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the TOWN's or ENGINEER's rights.

5.3 ENGINEER represents and warrants to TOWN that it is the owner of all Instruments of Service prepared by itself and has the sole authority to grant TOWN use provisions of these Instruments of Service in accordance with this Agreement. With respect to Instruments of Service for the Project owned by ENGINEER's consultants, ENGINEER, in its agreement with such consultants to provide services for this Project, shall cause such consultants to grant to the TOWN the same use provisions as are included herein.

ARTICLE 6 - TERM OF CONTRACT

6. The continuing contract for professional engineering services shall have an initial three (3) years term, with three (3), two (2) year extensions. An extension shall be by mutual agreement by both parties. A contract extension may be approved by the Town Administrator.

ARTICLE 7 - TERMINATION

7.1 Termination by Town for Convenience. This Continuing Contract may be terminated by the Town for convenience upon at least thirty days' written notice to the ENGINEER. Under such conditions, ENGINEER will only be entitled to receive compensation for services rendered that are specifically within the services for which the Town Administrator has, in writing, authorized ENGINEER to proceed and only up through the date that is no later than thirty days after the date written notice for such termination for convenience is issued by the TOWN to ENGINEER. ENGINEER will be able to recover for its work performed; actual cost and expenses; and fair and reasonable sums for overhead and profit for work performed. Upon receipt of a notice of termination for convenience by the TOWN, the ENGINEER will initiate all reasonable steps to mitigate further expenses from accruing. No other compensation and/or damages will be due ENGINEER from the TOWN pursuant to this Paragraph

7.2 Default by ENGINEER. In addition to defaults resulting from the ENGINEER's failure to strictly comply with any term, condition, or agreement set forth herein, the ENGINEER shall be in default under this Continuing Contract if:

- A. The ENGINEER ceases to carry the insurance required hereunder or the insurance is cancelled.
- B. A default should occur in the performance of any consultant or contractor employed by the ENGINEER and not corrected by ENGINEER or another replacement consultant or contractor employed by ENGINEER within ten (10) days after notice from the TOWN.
- C. The ENGINEER fails to maintain all permit-related documents and make such documents available to the TOWN upon reasonable request.
- D. The ENGINEER fails to timely (30 days) pay any consultant or contractor employed by the ENGINEER.
Notwithstanding the foregoing, ENGINEER shall have the right to contest disputed invoices in good faith, without being in default of this Continuing Contract, but will bond off or cause to be satisfied of record any liens that may be recorded erroneously in connection therewith within ten (10) days of the date of recording of such lien.
- E. The ENGINEER fails to correct any error or material inconsistency in its or its consultants Drawings and Specifications or other Instruments of Service within ten (10) days after such error or material inconsistency is reported to the ENGINEER.
- F. The ENGINEER fails to perform its obligations under this Continuing Contract in a timely and expeditious manner within ten (10) days after notice from the TOWN.

7.3 TOWN'S Compensation for Default by ENGINEER. In the event of termination due to the fault of the ENGINEER under this Continuing Contract, the TOWN shall be compensated for all reasonable costs and expenses including reasonable attorneys' fees and costs incurred in connection with replacing the ENGINEER hereunder, in reviewing, analyzing, or enforcing the TOWN's rights hereunder or in connection with a replacement engineer and the completion of the ENGINEER's services hereunder. This is not intended to limit the TOWN's rights or ability to recover damages in the event of a breach by the ENGINEER under this Continuing Contract. Additionally, the TOWN shall have the right to use the ENGINEER's Drawings, Specifications and other Instruments of Service in the event of a default by the ENGINEER, regardless of the payment status for such Instruments of Service.

ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.1 Governing Law, Jurisdiction, Venue and Attorney's Fees. In the event of any action, litigation, or proceedings of any type regarding or relating to performance of this Continuing Contract, the prevailing party shall be entitled to recover its reasonable costs, expert's fees and attorney's fees at all hearing, trial, bankruptcy, and appellate levels. All disputes pursuant to this Continuing Contract shall be first subject to mediation in Broward County with a mutually agreeable Florida Supreme Court Certified Mediator who is knowledgeable in the rendering of professional engineering services for construction projects similar to the projects under this Continuing Contract. Failing resolution by mediation, any litigation shall be filed in a court of competent jurisdiction and the sole and exclusive venue shall be in Broward County, Florida. This Continuing Contract shall be governed by the laws of the State of Florida. Mediation shall be conducted within sixty (60) days of either Party's written request. The parties shall share, 50/50, the cost of the mediator.

8.2 Waiver of Right to Jury Trial

BY ENTERING INTO THIS CONTINUING CONTRACT, ENGINEER 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 CONTINUING CONTRACT.

8.3 Insurance Coverages and Minimum Amounts. ENGINEER shall secure and maintain, at its own expense, and keep in effect during the full period of the Continuing Contract and at least one (1) year beyond its completion a policy or policies of insurance, which must include the following coverages and minimum limits of liability:

8.3.1 Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence.

8.3.2 Worker's Compensation and Employer's Liability Insurance for all employees of the ENGINEER engaged in services under the Contract in accordance with the laws of the State of Florida. ENGINEER hereby agrees to be responsible for the employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

8.3.3 (Comprehensive) Commercial General Liability Insurance with the following minimum limits of liability:

\$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence. Coverage shall specifically include the following minimum limits not less than those required for Bodily Injury Liability and

Property Damage at \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability annual aggregate:

1. Premises and Operations;
2. Independent Contractors;
3. Products and Completed Operations;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to the Contract and specifically confirming the indemnification and hold harmless agreement in the Contract;
6. Personal Injury Coverage with employment and contractual exclusions removed and deleted, and;
7. Explosion, collapse, underground coverage (X-C-U)

8.3.4 Comprehensive Automobile Liability Insurance. for all owned, non-owned and hired automobiles and other vehicles used by ENGINEER in the performance of services pursuant to this Contract with the following minimum limits of liability: \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence.

8.3.5 Aggregate Limits. Commercial General Liability shall be \$2,000,000.

***All insurance policies shall name and endorse the following as “Additional Named Insureds”:**

TOWN OF SOUTHWEST RANCHES

Attn: Andrew D. Berns, Town Administrator.

13400 Griffin Road.

Southwest Ranches, FL 33330

***The additional named insured endorsement shall be reflected on the Certificate of Insurance.**

All insurance shall be issued by companies rated “A-” or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the vendor and insurer to notify the Town Administrator of cancellation, lapse, or material modification of any insurance policies insuring the vendor, which relate to the activities of such vendor and the Town.

All notifications 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.

Bidders are required to submit a list of claims presently outstanding and claims within the past ten (10) years against their liability coverage. This information must be listed on the form provided and signed by the agent of the insurance carrier. If no outstanding claims exist, a statement of this fact must be signed by the agent of the insurance carrier.

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 or cancellation 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 file a Bid protest or sue the Town by virtue of such cancellation or rescission.

84 Indemnification. To the fullest extent permitted by Florida Statute, Section 725.08, ENGINEER shall indemnify, hold harmless the TOWN, its officers, agents and employees, harmless from any and all claims, damages, losses, liabilities and expenses, direct, indirect or consequential arising out of or alleged to have arisen out of or in consequence of the negligence, recklessness or intentional wrongful conduct of the ENGINEER or its subcontractors, agents, officers, employees or independent contractors pursuant to the Continuing Contract, specifically including but not limited to those caused by or arising out of negligent act, omission, or default of the ENGINEER and/or its subcontractors, agents, or employees in the performance of the operations or services under the Continuing Contract.

8.4.1 Errors and Omissions:

The ENGINEER to the extent of its failure to perform in accordance with the standard of care set forth in this Agreement, is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all Work required under this Agreement (including the Work performed by sub-consultants and Subcontractors), within the specified time period and specified cost. The ENGINEER shall perform the Work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient ENGINEER with respect to the disciplines required for the performance of the Work in the State of Florida. The ENGINEER is responsible for and represents that the Work conforms to TOWN'S requirements as set forth in this Agreement. The ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER'S negligent acts, recklessness, intentionally wrongful conduct or errors or omissions in the performance of the Work. In addition to all other rights and remedies, which the TOWN may have, the ENGINEER shall, at its expense, re-perform the services to correct any deficiencies, which result from the ENGINEER'S failure to perform in accordance with the above standards. The TOWN shall notify the ENGINEER in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the TOWN'S inspection, review, approval or acceptance of, nor payment for, any of the Work required under this Agreement shall be construed to relieve the ENGINEER or any sub-consultant or subcontractor of its obligations and responsibilities under this Agreement, nor constitute a waiver of any of the TOWN 'S rights under this Agreement or of any cause of action arising out of the performance of this Agreement. The ENGINEER and its sub-consultants and Subcontractors shall be and remain liable to the TOWN in accordance with applicable law for all damages to TOWN caused by any failure of the ENGINEER or its sub-

consultants and Subcontractors to comply with the terms and conditions of this Agreement or by the ENGINEER'S or Sub-consultants' or Subcontractors' misconduct, recklessness, unlawful acts, negligent acts, errors or omissions in the performance of this Agreement. With respect to the performance of Work by sub- consultants and Subcontractors, the ENGINEER shall, in approving and accepting such Work, ensure the professional quality, completeness, and coordination of sub-consultant's and subcontractor's Work.

85 Patent and Copyright Indemnification. ENGINEER agrees to indemnify, defend, save and hold harmless the TOWN, its officers, agents and employees, from all claims, damages, losses, liabilities and expenses arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other such work in connection with the performance of the Continuing Contract.

86 Successors and Assigns. This Continuing Contract is binding upon the parties hereto, their successors and assigns and replaces, provided, however, neither party shall assign or transfer any interest in this Continuing Contract without the written consent of the other party.

87 No Damage for Delays by TOWN. ENGINEER's sole remedy for any (i) delay in the commencement, prosecution, or completion of its services, (ii) hindrance or obstruction in performance of its services, (iii) loss of productivity, or (iv) other similar claims (collectively referred to in this subparagraph as "delays"), whether or not such delays are foreseeable, shall be non-compensable. The TOWN shall act reasonably in granting extensions of time to the ENGINEER. All extensions to the time for performance shall be authorized only by written Change Order executed by the TOWN and ENGINEER. In no event shall the ENGINEER be entitled to any other compensation or recovery of any damages under or pursuant to this subparagraph in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration.

88 Audit and Inspection Rights and Retention of Records by ENGINEER. The TOWN shall have the right to audit the books, records and accounts of ENGINEER that are related to this Continuing Contract. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Continuing Contract. ENGINEER 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 Continuing Contract for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statute), 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 Continuing Contract, unless

ENGINEER is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at ENGINEER'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 ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by ENGINEER. 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, ENGINEER shall respond to the reasonable inquiries of success or engineers, if any, and allow successor engineers to receive working papers relating to matters of continuing significance. In addition, ENGINEER shall provide a complete copy of *all* working papers including electronic files to the TOWN, prior to final payment by the TOWN under this Continuing Contract.

89 Performance During Disputes. Notwithstanding anything contained in this Continuing Contract to the contrary, in the event of any dispute noticed in writing between the TOWN and the ENGINEER, the ENGINEER and, if applicable, its consultants will continue to provide services on the Projects under this Continuing Contract pursuant to the terms of this Continuing Contract so long as the ENGINEER receives payment for the matter(s) not in dispute.

8.10 TOWN's Review of Documents. Review and approval of documents or submittals by the TOWN shall be for general design compliance and approval of such submittals shall not relieve the ENGINEER of any responsibility or liability hereunder.

8.11 Entire Agreement. This Continuing Contract is deemed effective only upon execution by both parties. Additionally, this written Continuing Contract represents the entire and integrated agreement between the TOWN and the ENGINEER and supersedes all prior negotiations or agreements, either written or oral. This Continuing Contract may be amended only if agreed to by both parties, in writing. Pursuant to Florida Statute, Section 287.055, this Continuing Contract shall have no time limitation, however, it may be terminated in accordance with Sections 6 and 7 hereof.

8.12 Invalid Provisions. Any term or provision of this Continuing Contract found to be invalid under any applicable Statute or rule of Law shall be deemed omitted, and the remainder of this Continuing Contract shall remain in full force and effect.

8.13 Non-Discrimination. ENGINEER 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. ENGINEER shall take affirmative action to ensure that applicants, subcontractors,

independent contractors, and employees are treated without discrimination regarding their race, gender, color, religion, sex, national origin, disability, or medical status. ENGINEER shall comply with all applicable sections of the Americans with Disabilities Act. ENGINEER agrees that compliance with this Article constitutes a material condition to this Continuing Contract, and that it is binding upon the ENGINEER, its successors, transferees, and assignees for the period during which any services are provided. ENGINEER further assures that all consultants and subcontractors and independent contractors are not in violation of the terms of this Section of the Continuing Contract.

8.14 Sovereign Immunity. Nothing in this Continuing Contract 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 law and statutes, as now worded or as may hereafter be amended and all Florida case law interpreting same.

8.15 NO Third-Party Beneficiaries. This Continuing Contract 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 Continuing Contract shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.

8.16 Funding. The obligation of TOWN for payment to ENGINEER for services is limited by Florida law 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.

8.17 Manner of Performance. ENGINEER agrees to perform its services in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, ordinances, regulations and codes. ENGINEER agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. ENGINEER agrees to furnish to TOWN any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. ENGINEER 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 Continuing Contract. Failure of ENGINEER to comply with this paragraph shall constitute a material breach of this Continuing Contract.

8.18 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 Law exists and is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Firm acknowledges 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.

ENGINEER agrees to maintain public records in ENGINEER's possession or control in connections with ENGINEER's performance under this agreement and to provide the public with access to public records in accordance with the record maintenance, production and codes requirement set forth in Chapter 119, Florida Statutes, or as otherwise required by law. ENGINEER shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law. ENGINEER's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this agreement by TOWN.

819 Public Entity Crimes. In accordance with the Public Entity Crimes Act, Section 287.133, Florida Statute, 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 services as an engineer, contractor, supplier, or subcontractor, 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 ENGINEER shall result in TOWN's immediate termination of this Continuing Contract.

820 Changes and Modification of Continuing Contract. TOWN and ENGINEER may request changes that would increase, decrease or otherwise modify the scope of services to be provided under this Continuing Contract. Such changes only become part of this Continuing Contract and increase, decrease or otherwise modify the services under this Continuing Contract if evidenced by a written Change Order executed by TOWN and ENGINEER, with the same formality and of equal dignity associated with the original execution of the Continuing Contract.

821 No Waiver of Rights. Neither the TOWN's review, approval or payment for any of the services required under this Continuing Contract shall be construed to operate as a waiver of any of TOWN's rights under this Continuing Contract or of any causes of action arising out ENGINEER's performance of the services under this Continuing Contract, and ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER's negligent or improper performance of any of the services furnished under this Continuing Contract, irrespective of the TOWN's review, approval or payment for any of the services under this Continuing Contract. The rights and remedies of the TOWN provided for under this Continuing Contract are in addition to all other rights and remedies provided to TOWN by law.

822 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.

823 Time is of the Essence. Time is of the essence for all of ENGINEER's obligations under this Continuing Contract.

824 Days. The terms "days" as referenced in this Continuing Contract shall mean consecutive calendar days, unless specifically stated to be "work days."

825 Equal Opportunity Employment.

A. ENGINEER will take affirmative action to ensure that employees are treated equally during employment, without regard to their race, religion, gender, color or, national origin. Such action must include, but not be limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ENGINEER shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause included in section 8.18 of this Continuing Contract.

B. ENGINEER shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor Regulations (41 CFR Part 60).

C. ENGINEER shall comply with Copeland Anti-Kickback Act (18 USC 874), as supplemented in Department of Labor Regulations (29 CFR Part 3).

D. ENGINEER shall comply with the Contract Work Hours and Safety Standards Act (40 US 327-330), as supplemented by Department of Labor Regulations (29 CFR Part 5).

826 Notice. Notices shall be given by Certified Mail (RRR), recognized overnight delivery service with tracking receipt, or hand delivery or courier with signed receipt. Notices shall be given to the following addresses:

AS TO TOWN:

Andrew D. Berns

Town Administrator

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

With a copy to the Town Attorney:

Keith M. Poliakoff
Saul Ewing Arnstein & Lehr, LLP
200 East Las Olas Blvd.
Suite 1000
Fort Lauderdale, FL 33301
Philadelphia, PA 19102

AS TO ENGINEER:

827 Independent Contractor. ENGINEER is an independent contractor of TOWN under this Continuing Contract. In providing services, neither ENGINEER 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 services rendered under this Continuing Contract shall be exclusively and solely those of ENGINEER. This Continuing Contract shall not constitute or make the TOWN and ENGINEER a partnership or joint venture.

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

A. ENGINEER agrees that none of its officers or employees shall, during the term of this Continuing Contract, 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, ENGINEER 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 ENGINEER or any other persons from representing themselves in any action or in any administrative or legal proceeding.

B. In the event ENGINEER is permitted to utilize consultants or subcontractors to

perform any services required by this Continuing Contract, ENGINEER agrees to prohibit such consultants or subcontractors, by written contract, from having any conflicts within the meaning of this Section.

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

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

831 Joint Preparation. The TOWN and ENGINEER 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 Continuing Contract has been their joint effort. The language agreed to herein express 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.

832 Drug-Free Workplace. ENGINEER shall maintain a drug-free workplace.

833 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Continuing Contract.

834 Binding Authority. Each person 'Signing this Continuing Contract on behalf of either party individually warrants that he or she has full legal power to execute this Continuing Contract 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 Continuing Contract.

835 Truth-in-Negotiation Certificate. Signature of this Continuing Contract by ENGINEER 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 Continuing Contract are accurate, complete, and current at the time of contracting.

[SIGNATURE ON NEXT PAGE]

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 21st day of November 2019.

WITNESSES:

CONTRACTOR:

By: _____
_____, _____ (title)
____ day of _____ 201_

TOWN OF SOUTHWEST RANCHES

By: _____
Doug McKay, Mayor
____ day of _____ 201_

By: _____
Andrew D. Berns, Town Administrator
____ day of _____ 201_

ATTEST:

Russell Muñiz, Assistant Town Administrator/Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Keith M. Poliakoff, Town Attorney

HOURLY BILLING RATES FOR TASK ORDERS

Town of Southwest Ranches

Continuing Contract for Professional Engineering Services (RLI No. 19-005)

PRIME CONSULTANT

<u>CATEGORY</u>	<u>HOURLY RATE</u>
PRINCIPAL	\$250.00
SENIOR PROFESSIONAL ENGINEER	\$230.00
PROJECT MANAGER	\$195.00
PROJECT ENGINEER	\$175.00
ENGINEER	\$150.00
ENGINEERING INTERN	\$125.00
SENIOR LANDSCAPE ARCHITECT	\$175.00
PROJECT LANDSCAPE ARCHITECT	\$140.00
LANDSCAPE ARCHITECT	\$130.00
SENIOR ENVIRONMENTAL	\$180.00
ENVIRONMENTAL	\$150.00
SENIOR DESIGNER	\$150.00
CAD TECHNICIAN	\$110.00
INSPECTOR	\$95.00
ADMINISTRATIVE/CLERICAL	\$75.00

SUBCONSULTANT

CATEGORY

HOURLY RATE

WALTERS ZACKRIA ASSOCIATES - ARCHITECTURAL SERVICES

PRINCIPAL	\$265.00
SENIOR ARCHITECT	\$210.00
PROJECT MANAGER	\$180.00
JUNIOR PROJECT MANAGER	\$ 145.00
JUNIOR ARCHITECT	\$ 145.00
INSPECTOR	\$125.00
CADD TECHNICIAN	\$ 100.00
CLERICAL	\$ 100.00

SUBCONSULTANT

CATEGORY

HOURLY RATE

STONER & ASSOCIATES - SURVEY AND MAPPING SERVICES

PRINCIPAL	\$150.00
SENIOR PROFESSIONAL LAND SURVEYOR	\$125.00
PROFESSIONAL LAND SURVEYOR/PM	\$110.00
SURVEY FIELD CREW (2 PERSON)	\$150.00
SURVEY FIELD CREW (3 PERSON)	\$175.00
FIELD CREW SUPERVISOR	\$75.00
SURVEY/CAD TECHNICIAN	\$75.00
ADMINISTRATIVE/CLERICAL	\$80.00

SUBCONSULTANT

<u>CATEGORY</u>	<u>HOURLY RATE</u>
GEOTECHNICAL ENGINEERING / INSPECTIONS	
PRINCIPAL ENGINEER	\$175.00
SENIOR ENGINEER	\$150.00
ENGINEER	\$ 135.00
STAFF ENGINEER	\$105.00
SENIOR ENGINEERING TECHNICIAN	\$75.00
ENGINEERING TECHNICIAN	\$65.00
DRAFTER/CADD	\$75.00

FIELD INVESTIGATION (MOBILIZATION OF MEN AND EQUIPMENT)

I. SOIL TESTING

1. Field Density Test (five [5] minimum)	\$30.00/test
2. Proctors (Modified/Standard)	\$100.00/test
3. Florida Bearing Value Test	\$45.00/test
4. Limerock Bearing Ratio Test	\$300.00/test
5. Atterberg Limit Test	\$80.00/test
6. Carbonate Content Test	\$100.00/test
7. Organic Content Test	\$50.00/test
8. Corrosion Series	\$190.00/test
9. Soil Observation (On Site)	\$60.00/hr.
10. Natural Sample Moisture Content	\$20.00/test
11. Unit Weight and Moisture Content (Undisturbed Sample)	\$50.00/test

II. CONCRETE & MASONRY MATERIALS

1. Concrete Compression test (Min. four [4] cylinders per trip) Prepare cylinders & slump test on site, and deliver to lab	\$150.00/set
2. Additional Concrete cylinders	\$18.00/cyl.

3. Concrete Compression test only [delivered to lab]	\$18.00/cyl.
4. Slump test	\$18.00/ea.
5. Air Content Test	\$25.00/ea.
6. Stand-by	\$65.00/hr.
7. Grout Prism (Six [6] per set)	
- Includes preparation of Prism on site	\$80.00/set
8. 2" x 2" Mortar Cubes (Six [6] per set)	
- Includes preparation of Cubes on site	\$80.00/set
9. Additional Mortar cubes	\$18.00/ea.
10. Masonry Units	
A. Compressive Strength	\$80.00/unit
B. Absorption	\$50.00/unit
11. Concrete Cores (Min. 3);	
Secure, trim & test	\$80.00/core
Testing of core [delivered to lab (Incl. Trim)]	\$50.00/core
12. Swiss Hammer Testing	\$65.00/hr.
13. Windsor Probe Test (Min. 3 shots)	\$150.00/test
14. Additional Windsor Probe Tests	\$100.00/test
III. AGGREGATE TESTING	
1. Grain size determination:	
A. Full grain size (8 sieves)	\$75.00/test
B. Wash through (#200)	\$45.00/test
2. Sieve Analysis – Course Aggregate	\$45.00/test
3. Specific Gravity & Absorption of Fine or Coarse Aggregate	\$70.00/test
IV. ASPHALT TESTING	
1. Asphalt Cores (obtaining core samples)	\$130.00/ea*.
2. Asphalt Extraction & Gradation	\$150.00/ea.
3. Asphalt Density and Thickness	\$25.00/ea.

4. Marshall Stability (Incl. density, flow and stability of 3 specimens) (50 blows)	\$150.00/ea.
5. Coring Machine plus Generator Rental	\$400.00/trip
6. Superpave Resolution Testing	
A. Gyrotory Compaction, bulk specific gravity	\$175.00/ea.
B. Rice Testing	\$120.00/ea.
V. INSPECTION SERVICES	
1. Concrete Inspection (field or plant)	\$75.00/hr.
2. Pile Driving Inspection	\$75.00/hr.
3. Pre-Stress Yard Inspection, plus travel time	\$75.00/hr.
4. Steel Inspection	\$75.00/hr.
5. Threshold Inspection	\$75.00/hr.
6. Asphalt Inspection (Plant or Roadway)	\$85.00/hr.
7. PDA (Pile Dynamic Testing Services)	\$2000.00/test
8. Helical Pile Inspection	\$75.00/hr.
9. Drilled Shaft Logging / Inspection Services	\$75.00/hr.
VI. FIELD EXPLORATIONS / INVESTIGATIONS	
1. Auger Borings	\$10.00/ft.
2. Hand Augers-2 men crew	\$125.00/hr.
3. Standard Penetration Test Borings (Land)	
i. 0' – 50'	\$13.00/ft.
ii. 51' – 100'	\$15.00/ft.
4. Grout-Seal Boreholes (Land)	
i. 0' – 50'	\$6.00/ft.
ii. 51' – 100'	\$7.00/ft.
5. Casing Allowance (Land)	
i. 0' – 50'	\$7.00/ft.
ii. 51' – 100'	\$9.00/ft.
6. Static Cone Penetration Test (0' – 100')	\$N/A
7. Muck Probing (4 hr. min.) (2-man crew)	\$130.00/hr.

8. Mobilization of drilling equipment to project (Min. Charge)

- i. Truck mounted equipment (50-mile travel) \$350.00/ea.
- ii. Truck mounted equipment (100-mile travel) \$450.00/ea.

VII. MISCELLANEOUS SERVICE

- 1. Foundation Analysis and Recommendation \$Staff
- 2. Percolation Test \$350.00/test
- 3. Install Monitoring Well, 25' Depth (per SFWMD Standards) \$50/LF
- 4. Plug & Abandon Monitoring Well, 25' depth \$150/hour

SUBCONSULTANT

CATEGORY

HOURLY RATE

SMITH ENGINEERING CONSULTANTS – ELECTRICAL ENGINEERING

PRINCIPAL	\$175.00
ENGINEER	\$150.00
ASSISTANT ENGINEER	\$125.00
CADD DESIGNER	\$ 85.00
CLERICAL	\$ 60.00
EXPERT WITNESS	\$ 350.00



EXHIBIT “A”

AGREEMENT

BETWEEN THE

TOWN OF SOUTHWEST RANCHES

AND

CALVIN GIORDANO & ASSOICATES, INC.

FOR

A CONTINUING CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES

RLI No. 19-005

AGREEMENT FOR
CONTINUING CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES

This Continuing Contract for Professional Engineering Services ("CONTINUING CONTRACT") is made and entered into this 21st day of November 2019, by and between the Town of Southwest Ranches, Florida, hereinafter referred to as "TOWN", and Calvin Giordano and Associates, Inc. a Florida Corporation licensed as an Authorized Professional Engineering Company with the State of Florida under License CA514, hereinafter referred to as "ENGINEER".

WITNESSETH:

RECITALS:

WHEREAS, the TOWN has provided notice of the desired professional services and pursuant to RLI No. 19-005, and adhered to the selection process pursuant to and in accordance with the Consultants' Competitive Negotiation Act, Florida Statute, 287.055 and the TOWN's Procurement Code; and,

WHEREAS, the TOWN desires to engage the ENGINEER to perform certain professional engineering services in accordance with this CONTINUING CONTRACT, as permitted by the Consultants' Competitive Negotiation Act; and,

WHEREAS, the ENGINEER desires to provide such professional engineering services in accordance with this CONTINUING CONTRACT; and,

WHEREAS, the TOWN represents that it has the authority to engage the ENGINEER for the services set forth in RLI 19-005, this CONTINUING CONTRACT, and as approved by the TOWN's Resolution No. _____.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this CONTINUING CONTRACT, it is mutually understood and agreed as follows:

The above Recitals are true and correct and are incorporated herein and made a part of this CONTINUING CONTRACT.

ARTICLE 1 - DESCRIPTION OF PROFESSIONAL SERVICES

Standard of Care. All services rendered by ENGINEER and its consultants pursuant to this Continuing Contract will be performed in accordance with the standard of professional skill and care required for engineers and other professionals retained to assist with, from commencement to finish of engineering services of the projects contemplated by this Continuing Contract; provided, however, that no work shall be performed unless and until a written work authorization is executed and the TOWN has issued a Notice to Proceed as to any of the projects. ENGINEER will perform all services consistent with the interests of the TOWN and in accordance with the requirements of the State of Florida. ENGINEER agrees to timely perform its services so as not to delay the projects under this CONTRACT, time being of the essence, and as set forth in the Notice to Proceed. The projects ("Project" or "Projects") which may be assigned to ENGINEER, and subject of a Notice to Proceed, are those listed in RLI No. 19-004, which RLI is incorporated herein by reference.

1.1.1 Points of Contact.

The TOWN's Designated Point of Contact (or "Representative") shall be:

Rod Ley, Town Engineer Tel:
954-434-0008

Email: rley@southwestranches.org

The ENGINEER's Designated Point of Contact shall be:

Engineer's Name

Attn: _____

Tel: _____

Email: _____

1.1.2 Licensing and Other Obligations of Engineer. The ENGINEER will provide appropriate documentation to the TOWN to demonstrate that it and all its consultants are properly licensed to perform all services relative to this Continuing Contract.

1.1.2.1 A consultant is a person or entity who the ENGINEER has retained and who the ENGINEER will pay to perform any of the services described in this Continuing Contract. Reasonable funds for such payment have been included as part of ENGINEER's compensation under this Continuing Contract.

1.1.2.2 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees, or persons performing any of the services under this Continuing Contract.

1.1.2.3 The ENGINEER shall have the sole obligation and responsibility to select, control and supervise all its consultants. The ENGINEER may not contract with anyone with whom the TOWN has a reasonable objection. Contracts between the ENGINEER and the consultants shall require each consultant to be bound to the ENGINEER for all obligations and responsibilities which the ENGINEER, by this Continuing Contract assumes toward the TOWN. This provision also applies to substitute consultants hired during this Continuing Contract to replace existing consultants in accordance with this Continuing Contract. The ENGINEER shall retain responsibility for coordination of any consultants engaged by the ENGINEER to provide services under this Continuing Contract and will likewise coordinate its services with those consultants retained by the TOWN. The TOWN agrees that all communications of the TOWN with the ENGINEER's consultants will be made through the ENGINEER's Representative, unless such consultants have also been retained by the TOWN.

1.1.2.4 The ENGINEER and its consultants will perform, without expense to the TOWN, such services as may be required to correct or remedy any negligent act, error or omission of the ENGINEER or its consultants.

1.1.2.5 The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees or persons performing any of the services under this Agreement.

1.1.2.6 The ENGINEER shall have the sole obligation and responsibility to select, control, payment and supervision of all its consultants.

1.1.3 Conflicts of Interest. The ENGINEER shall not engage in any activity, or accept any employment, receive any monetary compensation, interest or contribution that could create the appearance of impropriety or compromise the ENGINEER's professional judgment with respect to this Continuing Contract.

ARTICLE 2 - TOWN-PROVIDED ITEMS

2.1 The TOWN's list of project requirements shall be provided to the ENGINEER and shall be utilized by the ENGINEER to prepare the Project Program.

2.2 The TOWN shall provide ENGINEER with accurate and complete information. No information derived from the TOWN shall relieve the ENGINEER from any risk or from fulfilling all terms of the Contract. The ENGINEER shall be responsible for any additional investigations required to fulfill all the terms of the Contract.

2.3 Service Work Authorization and Notice to Proceed. For all services covered under this Continuing Contract, ENGINEER shall be required to obtain an approved written Work Authorization and a written "Notice to Proceed" by the Town Administrator or his

authorized representative, in advance of providing any such services to the Town. The written Work Authorization shall specify in detail the nature of the services requested, the lump sum or not to exceed cost to the TOWN for same (with actual cost to be fully substantiated by ENGINEER upon completion), and the time frame for completion. All services performed by ENGINEER without a written authorization from the TOWN shall be performed at ENGINEER's sole cost and expense.

ARTICLE 3- FEES

3.1 Subject to the TOWN's issuance of a "Notice to Proceed" and individual written work orders, the TOWN shall pay the ENGINEER the total compensation for the Project(s), in accordance with the total fee indicated in a Project fee schedule executed by both the TOWN and Engineer, and which will be developed based upon the approved Rate and Fee Schedule. ENGINEER's total compensation includes all fees, costs and expenses that may be incurred by the ENGINEER to complete the design and construction administration of the Project, including, but not limited to, all professional services provided by or through the ENGINEER, drawings, calculations and other documents, travel expenses and all other costs or expenses, for or related to the Project, as well as the time for performance. A Notice to Proceed shall not be issued by the TOWN until a Project fee schedule has been fully executed. Additionally, ENGINEER shall not perform any services without individual written work orders which may be required to be provided by the Town Administrator, and in accordance with this Continuing Contract. Hourly rates for ENGINEER's consultants shall also be in accordance with the Rate and Fee Schedule.

3.2 Payment on account of services rendered, shall be made monthly, based on the percentage of completion of the Project, upon presentation of the ENGINEER's invoice for same, along with a partial waiver and release from ENGINEER indicating a release of all claims, including, but not limited to, equitable liens, through the last elate of services rendered and included in the invoice. Should any portion of the invoice be in dispute, other portions, if any, that are not in dispute or not deemed, by the TOWN, to be funds likely necessary to be put towards the issue in dispute, shall be paid per the terms of this Continuing Contract. Any billing concerns shall be submitted in writing by the TOWN to the ENGINEER describing the disputed portion of the invoice in detail for discussion and resolution.

3.3 Payment on account of undisputed amounts of the Engineer's Total Compensation shall be made within thirty (30) days of invoice date or as otherwise provided by Section 218.73, Florida Statute.

3.4 Payments due to ENGINEER which remain unpaid for thirty (30) days after the due

date provided herein, shall bear interest at the statutory rate provided by Section 218.74, Florida Statute.

3.5 Payment for the ENGINEER' s services will be made in accordance with the local government Prompt Payment Act, Section 218.73, Florida Statute.

3.6 Purchasing Card (PCARD) Acceptance: The method of payment (check/credit card) is at the Town's sole option. The Town may choose to compensate vendors for goods and/or services via a Town Purchasing Card (PCARD). No other costs or services shall be billed to the Town, and without limiting the generality of the foregoing, vendor shall not impose any service charge or fee, penalty, or other exaction of any kind against payments rendered by the PCARD. Payments made by PCARD shall be accepted on a "same as cash" basis.

ARTICLE 4 - CHANGE ORDERS

4.1 Definition of Change. Change in the services to be performed by the ENGINEER, or the ENGINEER's consultants, may only be accomplished after execution of this Continuing Contract, without invalidating the Continuing Contract, by mutual agreement and execution of a written Change Order. ENGINEER assumes all risks and responsibilities for performing all services on behalf of the TOWN for the amount determined in accordance with Article 3. The TOWN shall not be liable for any cost increases that may arise during the performance of services. Any adjustments to the services must be by written Change Order issued in accordance with the terms and conditions of this Continuing Contract. To the extent that ENGINEER proceeds to perform additional services in excess of those services described in an executed Notice to Proceed that has been signed by the Town Administrator without an executed written Change Order issued in accordance with this Continuing Contract, such services shall be at ENGINEER's own risk at no charge to TOWN.

ARTICLE 5 - OWNERSHIP OF DOCUMENTS

5.1 Drawings, specifications and other documents, including those in electronic form, prepared by the ENGINEER and the ENGINEER's consultants are Instruments of Service. The ENGINEER and the ENGINEER's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. The TOWN shall have the right to use the Instruments of Service. The TOWN's right of use in accordance with this Paragraph specifically authorizes the TOWN to utilize the Instruments of Service to complete the Project as well as to perform alterations, repair and additions to the Project. This right of use applies even if this Agreement is terminated. In that event, the TOWN will be entitled to continue to utilize the Instruments of Service and shall have the unrestricted right to use, reproduce and to make derivative works of the Instruments of Service to complete the Project as long as the TOWN has paid ENGINEER for all fees

associated only with the preparation of the Instruments of Service in accordance with this Continuing Contract. Should this Continuing Contract be terminated, ENGINEER and its consultants will continue to own the copyright to these Instruments of Service in accordance with this Continuing Contract. However, the TOWN will, through an irrevocable, perpetual, royalty-free license, have the exclusive right to use the Instruments of Service, without restriction or limitation, to construct the buildings and improvements relative to this Project as well as repair, maintain or construct future additions to the Project. Upon the TOWN's request, the ENGINEER and its consultants will furnish to the TOWN, copies, including reproducible copies, electronic data and computer files of the Drawings and Specifications and other Instruments of Service.

5.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the TOWN's or ENGINEER's rights.

5.3 ENGINEER represents and warrants to TOWN that it is the owner of all Instruments of Service prepared by itself and has the sole authority to grant TOWN use provisions of these Instruments of Service in accordance with this Agreement. With respect to Instruments of Service for the Project owned by ENGINEER's consultants, ENGINEER, in its agreement with such consultants to provide services for this Project, shall cause such consultants to grant to the TOWN the same use provisions as are included herein.

ARTICLE 6 - TERM OF CONTRACT

6. The continuing contract for professional engineering services shall have an initial three (3) years term, with three (3), two (2) year extensions. An extension shall be by mutual agreement by both parties. A contract extension may be approved by the Town Administrator.

ARTICLE 7 - TERMINATION

7.1 Termination by Town for Convenience. This Continuing Contract may be terminated by the Town for convenience upon at least thirty days' written notice to the ENGINEER. Under such conditions, ENGINEER will only be entitled to receive compensation for services rendered that are specifically within the services for which the Town Administrator has, in writing, authorized ENGINEER to proceed and only up through the date that is no later than thirty days after the date written notice for such termination for convenience is issued by the TOWN to ENGINEER. ENGINEER will be able to recover for its work performed; actual cost and expenses; and fair and reasonable sums for overhead and profit for work performed. Upon receipt of a notice of termination for convenience by the TOWN, the ENGINEER will initiate all reasonable steps to mitigate further expenses from accruing. No other compensation and/or damages will be due ENGINEER from the TOWN pursuant to this Paragraph

7.2 Default by ENGINEER. In addition to defaults resulting from the ENGINEER's failure to strictly comply with any term, condition, or agreement set forth herein, the ENGINEER shall be in default under this Continuing Contract if:

- A. The ENGINEER ceases to carry the insurance required hereunder or the insurance is cancelled.
- B. A default should occur in the performance of any consultant or contractor employed by the ENGINEER and not corrected by ENGINEER or another replacement consultant or contractor employed by ENGINEER within ten (10) days after notice from the TOWN.
- C. The ENGINEER fails to maintain all permit-related documents and make such documents available to the TOWN upon reasonable request.
- D. The ENGINEER fails to timely (30 days) pay any consultant or contractor employed by the ENGINEER.
Notwithstanding the foregoing, ENGINEER shall have the right to contest disputed invoices in good faith, without being in default of this Continuing Contract, but will bond off or cause to be satisfied of record any liens that may be recorded erroneously in connection therewith within ten (10) days of the date of recording of such lien.
- E. The ENGINEER fails to correct any error or material inconsistency in its or its consultants Drawings and Specifications or other Instruments of Service within ten (10) days after such error or material inconsistency is reported to the ENGINEER.
- F. The ENGINEER fails to perform its obligations under this Continuing Contract in a timely and expeditious manner within ten (10) days after notice from the TOWN.

7.3 TOWN'S Compensation for Default by ENGINEER. In the event of termination due to the fault of the ENGINEER under this Continuing Contract, the TOWN shall be compensated for all reasonable costs and expenses including reasonable attorneys' fees and costs incurred in connection with replacing the ENGINEER hereunder, in reviewing, analyzing, or enforcing the TOWN's rights hereunder or in connection with a replacement engineer and the completion of the ENGINEER's services hereunder. This is not intended to limit the TOWN's rights or ability to recover damages in the event of a breach by the ENGINEER under this Continuing Contract. Additionally, the TOWN shall have the right to use the ENGINEER's Drawings, Specifications and other Instruments of Service in the event of a default by the ENGINEER, regardless of the payment status for such Instruments of Service.

ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.1 Governing Law, Jurisdiction, Venue and Attorney's Fees. In the event of any action, litigation, or proceedings of any type regarding or relating to performance of this Continuing Contract, the prevailing party shall be entitled to recover its reasonable costs, expert's fees and attorney's fees at all hearing, trial, bankruptcy, and appellate levels. All disputes pursuant to this Continuing Contract shall be first subject to mediation in Broward County with a mutually agreeable Florida Supreme Court Certified Mediator who is knowledgeable in the rendering of professional engineering services for construction projects similar to the projects under this Continuing Contract. Failing resolution by mediation, any litigation shall be filed in a court of competent jurisdiction and the sole and exclusive venue shall be in Broward County, Florida. This Continuing Contract shall be governed by the laws of the State of Florida. Mediation shall be conducted within sixty (60) days of either Party's written request. The parties shall share, 50/50, the cost of the mediator.

8.2 Waiver of Right to Jury Trial

BY ENTERING INTO THIS CONTINUING CONTRACT, ENGINEER 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 CONTINUING CONTRACT.

8.3 Insurance Coverages and Minimum Amounts. ENGINEER shall secure and maintain, at its own expense, and keep in effect during the full period of the Continuing Contract and at least one (1) year beyond its completion a policy or policies of insurance, which must include the following coverages and minimum limits of liability:

8.3.1 Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence.

8.3.2 Worker's Compensation and Employer's Liability Insurance for all employees of the ENGINEER engaged in services under the Contract in accordance with the laws of the State of Florida. ENGINEER hereby agrees to be responsible for the employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

8.3.3 (Comprehensive) Commercial General Liability Insurance with the following minimum limits of liability:

\$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence. Coverage shall specifically include the following minimum limits not less than those required for Bodily Injury Liability and

Property Damage at \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability annual aggregate:

1. Premises and Operations;
2. Independent Contractors;
3. Products and Completed Operations;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to the Contract and specifically confirming the indemnification and hold harmless agreement in the Contract;
6. Personal Injury Coverage with employment and contractual exclusions removed and deleted, and;
7. Explosion, collapse, underground coverage (X-C-U)

8.3.4 Comprehensive Automobile Liability Insurance. for all owned, non-owned and hired automobiles and other vehicles used by ENGINEER in the performance of services pursuant to this Contract with the following minimum limits of liability: \$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence.

8.3.5 Aggregate Limits. Commercial General Liability shall be \$2,000,000.

***All insurance policies shall name and endorse the following as “Additional Named Insureds”:**

TOWN OF SOUTHWEST RANCHES

Attn: Andrew D. Berns, Town Administrator.

13400 Griffin Road.

Southwest Ranches, FL 33330

***The additional named insured endorsement shall be reflected on the Certificate of Insurance.**

All insurance shall be issued by companies rated “A-” or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the vendor and insurer to notify the Town Administrator of cancellation, lapse, or material modification of any insurance policies insuring the vendor, which relate to the activities of such vendor and the Town.

All notifications 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.

Bidders are required to submit a list of claims presently outstanding and claims within the past ten (10) years against their liability coverage. This information must be listed on the form provided and signed by the agent of the insurance carrier. If no outstanding claims exist, a statement of this fact must be signed by the agent of the insurance carrier.

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 or cancellation 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 file a Bid protest or sue the Town by virtue of such cancellation or rescission.

84 Indemnification. To the fullest extent permitted by Florida Statute, Section 725.08, ENGINEER shall indemnify, hold harmless the TOWN, its officers, agents and employees, harmless from any and all claims, damages, losses, liabilities and expenses, direct, indirect or consequential arising out of or alleged to have arisen out of or in consequence of the negligence, recklessness or intentional wrongful conduct of the ENGINEER or its subcontractors, agents, officers, employees or independent contractors pursuant to the Continuing Contract, specifically including but not limited to those caused by or arising out of negligent act, omission, or default of the ENGINEER and/or its subcontractors, agents, or employees in the performance of the operations or services under the Continuing Contract.

8.4.1 Errors and Omissions:

The ENGINEER to the extent of its failure to perform in accordance with the standard of care set forth in this Agreement, is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all Work required under this Agreement (including the Work performed by sub-consultants and Subcontractors), within the specified time period and specified cost. The ENGINEER shall perform the Work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient ENGINEER with respect to the disciplines required for the performance of the Work in the State of Florida. The ENGINEER is responsible for and represents that the Work conforms to TOWN'S requirements as set forth in this Agreement. The ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER'S negligent acts, recklessness, intentionally wrongful conduct or errors or omissions in the performance of the Work. In addition to all other rights and remedies, which the TOWN may have, the ENGINEER shall, at its expense, re-perform the services to correct any deficiencies, which result from the ENGINEER'S failure to perform in accordance with the above standards. The TOWN shall notify the ENGINEER in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the TOWN'S inspection, review, approval or acceptance of, nor payment for, any of the Work required under this Agreement shall be construed to relieve the ENGINEER or any sub-consultant or subcontractor of its obligations and responsibilities under this Agreement, nor constitute a waiver of any of the TOWN 'S rights under this Agreement or of any cause of action arising out of the performance of this Agreement. The ENGINEER and its sub-consultants and Subcontractors shall be and remain liable to the TOWN in accordance with applicable law for all damages to TOWN caused by any failure of the ENGINEER or its sub-

consultants and Subcontractors to comply with the terms and conditions of this Agreement or by the ENGINEER'S or Sub-consultants' or Subcontractors' misconduct, recklessness, unlawful acts, negligent acts, errors or omissions in the performance of this Agreement. With respect to the performance of Work by sub- consultants and Subcontractors, the ENGINEER shall, in approving and accepting such Work, ensure the professional quality, completeness, and coordination of sub-consultant's and subcontractor's Work.

85 Patent and Copyright Indemnification. ENGINEER agrees to indemnify, defend, save and hold harmless the TOWN, its officers, agents and employees, from all claims, damages, losses, liabilities and expenses arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other such work in connection with the performance of the Continuing Contract.

86 Successors and Assigns. This Continuing Contract is binding upon the parties hereto, their successors and assigns and replaces, provided, however, neither party shall assign or transfer any interest in this Continuing Contract without the written consent of the other party.

87 No Damage for Delays by TOWN. ENGINEER's sole remedy for any (i) delay in the commencement, prosecution, or completion of its services, (ii) hindrance or obstruction in performance of its services, (iii) loss of productivity, or (iv) other similar claims (collectively referred to in this subparagraph as "delays"), whether or not such delays are foreseeable, shall be non-compensable. The TOWN shall act reasonably in granting extensions of time to the ENGINEER. All extensions to the time for performance shall be authorized only by written Change Order executed by the TOWN and ENGINEER. In no event shall the ENGINEER be entitled to any other compensation or recovery of any damages under or pursuant to this subparagraph in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration.

88 Audit and Inspection Rights and Retention of Records by ENGINEER. The TOWN shall have the right to audit the books, records and accounts of ENGINEER that are related to this Continuing Contract. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Continuing Contract. ENGINEER 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 Continuing Contract for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statute), 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 Continuing Contract, unless

ENGINEER is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at ENGINEER'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 ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by ENGINEER. 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, ENGINEER shall respond to the reasonable inquiries of success or engineers, if any, and allow successor engineers to receive working papers relating to matters of continuing significance. In addition, ENGINEER shall provide a complete copy of *all* working papers including electronic files to the TOWN, prior to final payment by the TOWN under this Continuing Contract.

89 Performance During Disputes. Notwithstanding anything contained in this Continuing Contract to the contrary, in the event of any dispute noticed in writing between the TOWN and the ENGINEER, the ENGINEER and, if applicable, its consultants will continue to provide services on the Projects under this Continuing Contract pursuant to the terms of this Continuing Contract so long as the ENGINEER receives payment for the matter(s) not in dispute.

8.10 TOWN's Review of Documents. Review and approval of documents or submittals by the TOWN shall be for general design compliance and approval of such submittals shall not relieve the ENGINEER of any responsibility or liability hereunder.

8.11 Entire Agreement. This Continuing Contract is deemed effective only upon execution by both parties. Additionally, this written Continuing Contract represents the entire and integrated agreement between the TOWN and the ENGINEER and supersedes all prior negotiations or agreements, either written or oral. This Continuing Contract may be amended only if agreed to by both parties, in writing. Pursuant to Florida Statute, Section 287.055, this Continuing Contract shall have no time limitation, however, it may be terminated in accordance with Sections 6 and 7 hereof.

8.12 Invalid Provisions. Any term or provision of this Continuing Contract found to be invalid under any applicable Statute or rule of Law shall be deemed omitted, and the remainder of this Continuing Contract shall remain in full force and effect.

8.13 Non-Discrimination. ENGINEER 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. ENGINEER shall take affirmative action to ensure that applicants, subcontractors,

independent contractors, and employees are treated without discrimination regarding their race, gender, color, religion, sex, national origin, disability, or medical status. ENGINEER shall comply with all applicable sections of the Americans with Disabilities Act. ENGINEER agrees that compliance with this Article constitutes a material condition to this Continuing Contract, and that it is binding upon the ENGINEER, its successors, transferees, and assignees for the period during which any services are provided. ENGINEER further assures that all consultants and subcontractors and independent contractors are not in violation of the terms of this Section of the Continuing Contract.

8.14 Sovereign Immunity. Nothing in this Continuing Contract 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 law and statutes, as now worded or as may hereafter be amended and all Florida case law interpreting same.

8.15 NO Third-Party Beneficiaries. This Continuing Contract 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 Continuing Contract shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.

8.16 Funding. The obligation of TOWN for payment to ENGINEER for services is limited by Florida law 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.

8.17 Manner of Performance. ENGINEER agrees to perform its services in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, ordinances, regulations and codes. ENGINEER agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. ENGINEER agrees to furnish to TOWN any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. ENGINEER 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 Continuing Contract. Failure of ENGINEER to comply with this paragraph shall constitute a material breach of this Continuing Contract.

8.18 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 Law exists and is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Firm acknowledges 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.

ENGINEER agrees to maintain public records in ENGINEER's possession or control in connections with ENGINEER's performance under this agreement and to provide the public with access to public records in accordance with the record maintenance, production and codes requirement set forth in Chapter 119, Florida Statutes, or as otherwise required by law. ENGINEER shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law. ENGINEER's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this agreement by TOWN.

819 Public Entity Crimes. In accordance with the Public Entity Crimes Act, Section 287.133, Florida Statute, 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 services as an engineer, contractor, supplier, or subcontractor, 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 ENGINEER shall result in TOWN's immediate termination of this Continuing Contract.

820 Changes and Modification of Continuing Contract. TOWN and ENGINEER may request changes that would increase, decrease or otherwise modify the scope of services to be provided under this Continuing Contract. Such changes only become part of this Continuing Contract and increase, decrease or otherwise modify the services under this Continuing Contract if evidenced by a written Change Order executed by TOWN and ENGINEER, with the same formality and of equal dignity associated with the original execution of the Continuing Contract.

821 No Waiver of Rights. Neither the TOWN's review, approval or payment for any of the services required under this Continuing Contract shall be construed to operate as a waiver of any of TOWN's rights under this Continuing Contract or of any causes of action arising out ENGINEER's performance of the services under this Continuing Contract, and ENGINEER shall be and remain liable to the TOWN for all damages to the TOWN caused by the ENGINEER's negligent or improper performance of any of the services furnished under this Continuing Contract, irrespective of the TOWN's review, approval or payment for any of the services under this Continuing Contract. The rights and remedies of the TOWN provided for under this Continuing Contract are in addition to all other rights and remedies provided to TOWN by law.

822 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.

823 Time is of the Essence. Time is of the essence for all of ENGINEER's obligations under this Continuing Contract.

824 Days. The terms "days" as referenced in this Continuing Contract shall mean consecutive calendar days, unless specifically stated to be "work days."

825 Equal Opportunity Employment.

A. ENGINEER will take affirmative action to ensure that employees are treated equally during employment, without regard to their race, religion, gender, color or, national origin. Such action must include, but not be limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ENGINEER shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause included in section 8.18 of this Continuing Contract.

B. ENGINEER shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor Regulations (41 CFR Part 60).

C. ENGINEER shall comply with Copeland Anti-Kickback Act (18 USC 874), as supplemented in Department of Labor Regulations (29 CFR Part 3).

D. ENGINEER shall comply with the Contract Work Hours and Safety Standards Act (40 US 327-330), as supplemented by Department of Labor Regulations (29 CFR Part 5).

826 Notice. Notices shall be given by Certified Mail (RRR), recognized overnight delivery service with tracking receipt, or hand delivery or courier with signed receipt. Notices shall be given to the following addresses:

AS TO TOWN:

Andrew D. Berns

Town Administrator

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

With a copy to the Town Attorney:

Keith M. Poliakoff
Saul Ewing Arnstein & Lehr, LLP
200 East Las Olas Blvd.
Suite 1000
Fort Lauderdale, FL 33301
Philadelphia, PA 19102

AS TO ENGINEER:

827 Independent Contractor. ENGINEER is an independent contractor of TOWN under this Continuing Contract. In providing services, neither ENGINEER 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 services rendered under this Continuing Contract shall be exclusively and solely those of ENGINEER. This Continuing Contract shall not constitute or make the TOWN and ENGINEER a partnership or joint venture.

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

A. ENGINEER agrees that none of its officers or employees shall, during the term of this Continuing Contract, 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, ENGINEER 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 ENGINEER or any other persons from representing themselves in any action or in any administrative or legal proceeding.

B. In the event ENGINEER is permitted to utilize consultants or subcontractors to

perform any services required by this Continuing Contract, ENGINEER agrees to prohibit such consultants or subcontractors, by written contract, from having any conflicts within the meaning of this Section.

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

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

831 Joint Preparation. The TOWN and ENGINEER 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 Continuing Contract has been their joint effort. The language agreed to herein express 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.

832 Drug-Free Workplace. ENGINEER shall maintain a drug-free workplace.

833 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Continuing Contract.

834 Binding Authority. Each person 'Signing this Continuing Contract on behalf of either party individually warrants that he or she has full legal power to execute this Continuing Contract 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 Continuing Contract.

835 Truth-in-Negotiation Certificate. Signature of this Continuing Contract by ENGINEER 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 Continuing Contract are accurate, complete, and current at the time of contracting.

[SIGNATURE ON NEXT PAGE]

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 21st day of November 2019.

WITNESSES:

CONTRACTOR:

By: _____
_____, _____ (title)
____ day of _____ 201_

TOWN OF SOUTHWEST RANCHES

By: _____
Doug McKay, Mayor
____ day of _____ 201_

By: _____
Andrew D. Berns, Town Administrator
____ day of _____ 201_

ATTEST:

Russell Muñiz, Assistant Town Administrator/Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Keith M. Poliakoff, Town Attorney



PROFESSIONAL FEE SCHEDULE

Building Code Services
Civil Engineering / Roadway
& Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering &
Inspection (CEI)
Construction Services
Data Technologies &
Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Geographic Information
Systems (GIS)
Governmental Services
Landscape Architecture
Planning
Project Management
Redevelopment
& Urban Design
Surveying & Mapping
Traffic Engineering
Transportation Planning
Water / Utilities Engineering
Website Development

1800 Eller Drive
Suite 600
Fort Lauderdale, FL
33316
954.921.7781 phone
954.921.8807 fax

www.cgasolutions.com

Principal	215.00
Contract Administrator	190.00
Project Administrator	165.00
Executive Assistant / Clerical	75.00

ENGINEERING

Associate, Engineering (VI)	190.00
Director, Engineering (V)	175.00
Project Manager (IV)	150.00
Project Engineer (III)	130.00
Engineer (II)	110.00
Jr. Engineer (I)	100.00
Senior CADD Tech Manager	115.00
CADD Technician	95.00
Permit Administrator	90.00

DATA TECH DEVELOPMENT

Associate, Data Tech Dev.	165.00
GIS Coordinator	145.00
GIS Specialist	125.00
Multi-Media 3D Developer	115.00
GIS Technician	100.00
Sr. Applications Developer	165.00
Applications Developer	135.00
Network Administrator	155.00
System Support Specialist	115.00
IT Support Specialist	85.00

GOVERNMENTAL SERVICES

Associate, VP	190.00
Director of Code Enforcement	145.00
Director of Building Code	145.00
Project Manager	145.00
Grants Administrator	125.00
Code Enforcement Field Supervisor	110.00
Code Enforcement Field Inspector	90.00
Building Official	115.00
Building Plans Reviewer	90.00
Building Inspector	90.00
Permit Processor	75.00

SURVEYING

Associate, Surveying	165.00
Senior Registered Surveyor	145.00
Survey Crew	135.00
Registered Surveyor	130.00
Survey Coordinator	105.00
CADD Technician	95.00
3D Laser Scanner	355.00
Hydrographic Survey Crew	330.00
G.P.S. Survey Crew	155.00
Sub-meter G.P.S	75.00
Soft Dig (per hole)	480.00
Utility Locates (per hour)	205.00

LANDSCAPE ARCHITECT

Associate, Landscape Architect	165.00
Senior Landscape Architect	135.00
Environmental Administrator	125.00
Landscape Architect	120.00
Environmental Specialist	105.00
Landscape CADD Technician	95.00
Environmental Assistant	90.00
Landscape Inspector/Arborist	105.00
Landscape Designer	120.00
Landscape Site Plan Reviewer	135.00

INDOOR AIR QUALITY SERVICES

Sr. Environmental Scientist	125.00
Environmental Scientist	100.00

CONSTRUCTION

Associate, Construction	165.00
Construction Management Director	135.00
Construction Manager	125.00
Senior Inspector	100.00
Inspector	90.00
Construction Coordinator	90.00

EMERGENCY MANAGEMENT

Director	145.00
Planner	105.00
Assistant Planner	90.00

PLANNING

Associate, Planning	175.00
Director of Planning	150.00
Planning Administrator	150.00
Planning Manager	145.00
Senior Planner	125.00
Planner	105.00
Assistant Planner	90.00

EXPERT WITNESS

Principal/Associate	330.00
Registered Engineer/Surveyor	280.00
Project Engineer	230.00

In addition to the hourly rates listed above, charges will include direct out-of-pocket expenses such as reproduction, overnight mail, and other reimbursables billed at a multiplier of 1.25.

Effective October 1, 2014

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Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-2628

(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Doug McKay, Mayor
Gary Jablonski, Vice Mayor
Freddy Fisikelli, Council Member
Bob Hartmann, Council Member
Denise Schroeder, Council Member

Andrew D. Berns, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Russell Muniz, Assistant Town Administrator/Town Clerk
Martin D. Sherwood, CPA, CGMA, CGFO, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor McKay and Town Council
VIA: Andrew D. Berns, Town Administrator
FROM: Russell Muniz, Assistant Town Administrator/Town Clerk
DATE: 11/21/2019
SUBJECT: MOU - INTEGRATED SOLID WASTE AND RECYCLING SYSTEM

Recommendation

Town Council consideration for a motion to approve the resolution.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

- A. Sound Governance
- B. Enhanced Resource Management

Background

The Town entered into a Memorandum of Understanding (MOU) with Broward County on August 8, 2019 via Resolution 2019-051 to study the feasibility of a collaborative integrated solid waste and recycling system. The MOU provides for the establishment of a Working Group comprised of elected officials from Broward County, and the municipal signatories of the MOU must decide the number of municipal members of the Working Group, how to select them, and who they will be, as well as make other collective decisions on behalf of municipalities as the issues under the MOU are reviewed. The MOU also provides for a Technical Group, comprised of staff-level persons to review issues and make recommendations to the Working Group, and any municipality that elects to do so may have a representative on the Working Group. This resolution seeks to identify the Town's representative and an alternate representative from among the Town Council. In addition, the

Town Council may appoint a staff representative to the Technical Group.

Fiscal Impact/Analysis

None.

Staff Contact:

Russell Muñiz, Assistant Town Administrator/Town Clerk

ATTACHMENTS:

Description	Upload Date	Type
Integrated Solid Waste System MOU Reso - TA Approved	11/12/2019	Resolution

RESOLUTION NO. 2020 - XXX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, RELATING TO THE MEMORANDUM OF UNDERSTANDING REGARDING A COLLABORATIVE STUDY AND SUBSEQUENT DEVELOPMENT OF AN INTEGRATED SOLID WASTE AND RECYCLING SYSTEM; APPOINTING MEMBERS OF THE TOWN COUNCIL TO REPRESENT THE TOWN IN THE WORKING GROUP; [ELECTING TO NOT] APPOINT[ING] MEMBERS OF THE TOWN COUNCIL TO REPRESENT THE TOWN IN THE TECHNICAL GROUP; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches entered into the Memorandum of Understanding Regarding Collaborative Study and Subsequent Development of an Integrated Solid Waste Recycling System ("MOU") pursuant to Resolution 2019-051 on August 8, 2019; and

WHEREAS, the MOU provides for the establishment of a Working Group comprised of elected officials from Broward County, and the municipal signatories of the MOU must decide the number of municipal members of the Working Group, how to select them, and who they will be, as well as make other collective decisions on behalf of municipalities as the issues under the MOU are reviewed; and

WHEREAS, the MOU also provides for a Technical Group, comprised of staff-level persons to review issues and make recommendations to the Working Group, and any municipality that elects to do so may have a representative on the Working Group.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, THAT:

Section 1: The foregoing recitals contained in the preamble to this Resolution are incorporated by referenced herein.

Section 2: The Town Council of Southwest Ranches, hereby appoints _____ as the Town's representative and _____ as the Town's alternate representative, to vote on behalf of the Town on matters relating to the MOU, including, but not limited to, decisions relating to the Working Group. The alternate representative will participate and vote in the absence of the representative.

Section 3: The Town Council of Southwest Ranches hereby determines [TO/NOT TO] appoint a member to the Technical Group of the MOU. [_____ is hereby appointed by the Town Council of Southwest Ranches, to the Technical Group of the MOU.]

Section 4: This Resolution shall become effect immediately upon its passage and adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this ____ day of _____, _____ on a motion by _____ and seconded by _____.

McKay _____
Jablonski _____
Hartmann _____
Schroeder _____
District 3 (v) _____

Ayes _____
Nays _____
Absent _____
Abstaining _____

Doug McKay, Mayor

Attest:

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith Poliakoff, Town Attorney
36189898.1



Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-2628

(954) 434-0008 Town Hall
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Denise Schroeder, Council Member

Andrew D. Berns, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Russell Muniz, Assistant Town Administrator/Town Clerk
Martin D. Sherwood, CPA, CGMA, CGFO, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor McKay and Town Council
VIA: Andrew D. Berns, Town Administrator
FROM: Martin D Sherwood, Town Financial Administrator
DATE: 11/21/2019
SUBJECT: FY 2018-2019 Year-end Budget Adjustment

Recommendation

It is recommended that the Town Council adopt the attached resolution adjusting the FY 18/19 Town Budget as presented to prevent Fund or Departmental expenditures from exceeding budgeted approved Fund or Departmental appropriations.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

A. Sound Governance

Background

Each municipality within the State of Florida is required by State Statute to adopt a balanced budget through a formal public process and to not exceed the appropriations adopted through that process. For the Town of Southwest Ranches, the level for assessing expenditures and appropriations is at the Fund and Departmental levels. Four of the Town's five funds (General, Transportation, Capital Projects, or Solid Waste) did not have regular expenditures that exceeded their adopted current budget. The Debt Service Fund however, requires an adjustment due to the unanticipated recovery of Federal-FEMA and State-DERM Hurricane Irma reimbursements received that were directly utilized to reduce the allocable Town emergency line of credit attributable to its governmental funds. It shall be noted that for the seventh consecutive year, the Southwest Ranches Volunteer Fire Rescue, Inc. (a financial reporting component unit) also did not exceed its adopted total current budget. Additionally, a

few of the individual General Fund Departments did exceed their total approved budgets. For each of those Departments the Town, in accordance with its charter, needs to adjust the impacted departmental budgets. Adoption of the attached resolution including Exhibit A “cleans up” the FY 18/19 budget for overall Town charter compliance.

Fiscal Impact/Analysis

Three of the five Town funds (Transportation, Capital Projects, Solid Waste) need no revision as no allocation centers (Departments) exceeded budget. The only funds which needs to be addressed is the General Fund and the Debt Service Fund.

Within the General Fund, four departments require a budgeted line item adjustment to “true-up” between offsetting revenue and expenditure accounts while three departments exceeded their appropriations. The impacted departments are: 1) Legislative, 2) Building - Permitting Services, 4) Code Enforcement/Zoning Services, and 4) Planning Services, respectively.

Legislative expenditures were primarily higher due to the success of Scholarship Education Advisory Board (SEAB) fund raising revenues exceeding budget expectations resulting in an offsetting higher amount of scholarship awards granted (\$24,200) as well as mainly for unanticipated expenditures for contractual video services required for all Council meetings. The net expenditure impact to the legislative department is \$27,764. Building - Permitting Services Department expenditures were much higher due to regulatory and/or contractual costs associated with unanticipated and increased permitting and inspection activities (\$414,668). This expense was offset by increased revenues received. Code Enforcement/Zoning Services had lower expenditures (\$12,889) due to lower zoning services rendered resulting in lower zoning permit fees. Finally, Planning Services, which are fully cost recoverable, were higher (\$16,972) due to increased public hearings held throughout the fiscal year.

Fortunately, most revenue collected and accounts receivables pertaining to revenues also exceeded budgetary expectations. By adjusting for these unexpected increases or **decreases** in communication services taxes (16,485), impact fees (9,567), building – permitting fees (\$564,562), zoning permit fees (\$11,145), planning fees (\$30,864), Federal/State Grant-Hurricane Irma (\$75,370), local Ordinance Violations-False Alarms (\$6,250), contributions/donations for education/scholarships (\$24,200), and upon reversing the current budget appropriated fund balance of (\$224,169), the above mentioned departmental expenditures are balanced and the utilization of General Fund budgeted unassigned Fund Balance are reduced to zero. **Therefore, this resolution increases the total current budget of the General Fund for Fiscal Year 2018 / 2019 by \$446,515.**

Within the Debt Service Fund, our Emergency Line of Credit outstanding was reduced dollar for dollar with proceeds received from Federal-FEMA and the State-FDERM. However, since the debt service fund has sufficient fund balance of \$168,819 as of September 30, 2018, we are utilizing a portion (\$75,370) in FY 2019 and retaining the identical amount within the unassigned General Fund Fund Balance. **Therefore, this resolution also increases the total current budget of the Debt Service Fund for Fiscal Year 2018 / 2019 by \$75,370.**

It is a pleasure to report that the Town is anticipated to ultimately recover over 98% (or \$4,229,311 of \$4,309,009) of its costs from both Federal and State authorities. \$4,024,632 in

total has been legally recorded as revenues in both our governmental and solid waste funds at September 30, 2019 of which \$1,969,526 has been received and correspondently utilized to reduce our emergency line of credit. Accordingly, our outstanding emergency line of credit balance is approximately \$1.8 million at fiscal year-end.

Staff Contact:

Martin D. Sherwood, Town Financial Administrator
Richard Strum, Controller

ATTACHMENTS:

Description	Upload Date	Type
FY 19 Year-end Budget Adjustment Reso - TA Approved	11/15/2019	Resolution
FYE 19 Budget Amend worksheet-Exhibit A	11/14/2019	Resolution

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RESOLUTION NO. 2020 -XXX

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
SOUTHWEST RANCHES, FLORIDA, APPROVING A YEAR END
BUDGET ADJUSTMENT FOR THE FISCAL YEAR 2018-2019
BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, on September 27th, 2018, pursuant to Ordinance No. 2018-005, the Town Council approved and adopted the fiscal year 2018/2019 budget; and

WHEREAS, State law and the Town's Ordinance adopting the fiscal year 2018/2019 budget provides for the adjustment of the approved and adopted budget Ordinance via a Resolution; and

WHEREAS, the Town of Southwest Ranches operates as a municipality within the State of Florida and is subject to the laws of the State of Florida related to Municipal Finance; and

WHEREAS, one such provision of law prohibits the expenditure of funds in excess of adopted appropriations; and

WHEREAS, in accordance with the external auditor requirements, and sound budgetary process, year-end budget adjustments are necessary within 60 days of fiscal year end in order to balance the Fiscal Year (FY) 2018/2019 Budget to comply with Florida State Statutes; and

WHEREAS, The Town Council has determined that it is desirable to adjust the Fiscal Year 2018/2019 Adopted Budget to account for variances in actual expenditures and revenues in relation to the current Fiscal Year 2018/2019 Budget;

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

Section 1: Recitals. The above recitals are true and correct and are incorporated herein by reference.

Section 2: Authorization. The Town Council of the Town of Southwest Ranches does hereby approve the year-end budget adjustment for Fiscal Year 2018/2019 as attached hereto and incorporated herein by reference as Exhibit "A".

Section 3: Effective Date. This Resolution shall become effective immediately upon its adoption and retroactive for budget Year 2018/2019.

PASSED AND ADOPTED by the Town Council of the Town of Southwest

Ranches, Florida, this 21st day of November, 2019 on a motion by

_____ and seconded by _____.

McKay _____
Jablonski _____
Amundson _____
Hartmann _____
Schroeder _____

Ayes _____
Nays _____
Absent _____

Doug McKay, Mayor

ATTEST:

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff, J.D., Town Attorney
36216166.1

EXHIBIT A

**TOWN OF SOUTHWEST RANCHES
FYE 2018 / 2019 BUDGET ADJUSTMENTS**

GENERAL FUND

<i>General Fund Revenue</i>	FY 18/19 Current Budget	Budget Change- Increase/ (Decrease)	FY 18/19 Revised Current Budget	Explanation
Communication Svcs Taxes	313,021	(16,485)	296,536	Collections lower due to expiration of a 2012 state audit recovery
Impact Fees/Parks & Recreation	3,248	9,567	12,815	Greater new residential construction than anticipated
Building - Permitting Fees	574,394	564,562	1,138,956	Town permitting/inspection fees much higher than anticipated
Zoning Permit Fees	60,000	(11,145)	48,856	Zoning fees lower than originally anticipated
Planning Fees	45,000	30,864	75,864	Higher Public Hearings than anticipated-full cost recovery
Federal/State Grant-Hurricane IRMA	0	75,370	75,370	Hurricane Irma reimbursements not budgeted in FY 2019
Local Ordinance Violations-False Alarms	8,000	(6,250)	1,750	Lower false alarm revenue than anticipated
Contrib/Donations-Educ/Scholarships	10,000	24,200	34,200	Higher SEAB contributions received than budgeted (\$34,200-\$10,000)
Appropriated Fund Balance	224,169	(224,169)	0	Reduction in anticipated utilization of GF Fund Balance
		\$446,515		Total increase to budgeted revenues (net)

<i>General Fund Department</i>	FY 18/19 Current Budget	Budget Change- Increase/ (Decrease)	FY 18/19 Revised Current Budget	Explanation
Legislative	166,411	27,764	194,175	Primarily higher aid granted for Scholarships+Council Mtg Video Svcs required
Building - Permitting Services	425,000	414,668	839,668	Building permit processing costs offset by increased revs per above
Code Enforcement/Zoning Services	280,516	(12,889)	267,627	Zoning permit costs lower than originally budgeted
Planning Services	45,000	16,972	61,972	Increased public hearings (full cost recovery-offset by increased revs per above)
		\$446,515		Total increase to budgeted expenditures (net)

**TOWN OF SOUTHWEST RANCHES
FYE 2018 / 2019 BUDGET ADJUSTMENTS**

DEBT SERVICE FUND

<i>Debt Service Fund Revenue</i>	FY 18/19 Current Budget	Budget Change- Increase	FY 18/19 Revised Current Budget	Explanation
Appropriated Fund Balance	0	75,370	75,370	Increase in utilization of Debt Service Fund Balance
		\$75,370	Total increase to budgeted revenues (net)	
<i>Debt Service Fund Expenditures</i>	FY 18/19 Current Budget	Budget Change- Increase	FY 18/19 Revised Current Budget	Explanation
Emergency/Disaster:Hurr. Irma-Principal	0	75,370	75,370	Increase to accommodate unanticipated Hurricane Irma principal reduction
		\$75,370	Total increase to budgeted expenditures (net)	

SPECIAL MEETING MINUTES OF THE TOWN COUNCIL
Southwest Ranches, Florida

Thursday 7:00 PM

August 20, 2019

13400 Griffin Road

Present:

Mayor Doug McKay

Andrew Berns, Town Administrator

Vice Mayor Gary Jablonski

Russell Muñiz, Assistant Town Administrator/Town Clerk

Council Member Bob Hartmann

Martin D. Sherwood, Town Financial Administrator

Council Member Denise Schroeder

Keith Poliakoff, Town Attorney

Regular Meeting of the Town Council of Southwest Ranches was held at 13400 Griffin Road in the Southwest Ranches Council Chambers. The meeting, having been properly noticed, was called to order by Mayor McKay at 7:00 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

The following motion was made by Vice Mayor Jablonski, seconded by Council Member Hartmann, and passed by a 4-0 roll call vote. The vote was as follows: Council Members Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

MOTION: TO EXCUSE THE ABSENCE OF COUNCIL MEMBER FISIKELLI.

Town Administrator Berns read a prepared statement that sought to first correct the record of the Town's relationship with the Broward County Property Appraiser's (BCPA) staff. He explained that Fire Assessments are solely determined by the Town. BCPA staff assistance was requested to help determine what was a "pole barn" and to inspect properties around the Town. The efficiency with which BCPA staff completed the review of these properties was much quicker than anticipated by the Town. As a result, the review was completed this year as the Town was formulating their fire assessment rates. He thanked BCPA staff and spoke of a meeting held on August 19th at the BCPA office which he felt was productive and Town staff as well as BCPA staff were in alignment going forward.

In relation to the resolution being considered at this meeting, Town Administrator Berns recognized the concerns raised by the Town Council and residents that commercial barns were different than retail commercial uses and should therefore be treated differently as it related to the Fire Assessment. He agreed with their request to treat them similar to other Agricultural uses. He indicated that the challenge in doing so was to bring this forward in a manner that didn't jeopardize the overall fire assessment collection. He advised that the total fire collection assessment impacted more than 3,000 properties Town-wide and would raise over \$2.2 million. He clarified that the overall total to be collected would not vary by the methodology employed so imposing this assessment on commercial barns was not an attempt to raise revenue. Accordingly, any methodology to be employed would have to be equitable and pass legal muster. He informed that the resolution under consideration would treat agricultural properties as Agricultural, traditional retail commercial uses would be raised from the initial proposal of \$0.39 per square foot to \$0.90 per square foot which remains less than what this use was assessed last fiscal year

at \$0.99 per square foot. The agricultural commercial uses would then be classified as Vacant/Agricultural and would be assessed at \$95.21 per acre. He thanked Town staff and BCPA staff for their hard work on this and for creating a path to resolving this issue.

Town Attorney Poliakoff provided some history on this issue indicating that the Town's fire study was approved in 2011. As a result of that study the Town Financial Administrator during that period assigned all commercial agricultural uses that the Town was aware of into the Commercial category for Fire Assessment purposes.

From 2011 until last year these properties were paying the Commercial rate for the Fire Assessment without issue. However, there was a change in state law that mandated the if a structure is not a "pole barn" and meets certain conditions it can become assessable for fire assessments. As a result, the BCPA assisted the Town in performing an analysis of which structures met the new criteria which yielded properties that had previously not been considered commercial agricultural uses and some which indicated additional square footage than previously known. This caused several properties to experience huge increases in their fire assessment rates.

Responding to the increase, one property owner, Diamond Eye Stables filed suit against the Town claiming that the fire study was flawed. In researching the issue Town staff held a meeting with BCPA staff in which a discussion was held to further analyze the agricultural structures around Town and review the valuations. The Town's goal was to determine which structures were valued in excess of \$10,000 so it could be determined which ones were assessable. The Town was under the impression it would take several years for that review but due to the efficiency of BCPA staff it was completed within the tax year.

Based on the completed review, many of the commercial agricultural structures were identified as having a valuation in excess of \$10,000 and were subsequently placed in the Commercial category for fire assessment purposes. Due to the influx of properties placed into the Commercial category the rate needed to be reduced to \$0.39 per square foot. However, many property owners who were never previously being assessed received a fire assessment. The Town then sent a letter to make property owners aware, and BCPA responded with an alternate letter explaining that the Town set the rates.

Since the realization of the impact these rates had on property owners Town staff began working on a solution and believes that Vacant/Agricultural is the most appropriate designation as outlined in the study. Using that designation would reassess all of the commercial barns at \$95.21 per agricultural acre and reduce the proposed fire assessment rates for these properties by 10% on average. This shift would also mean that the initial proposed rate of \$0.39 per square foot for Commercial properties could not stand as the number of these properties would see a significant reduction. However, the recalculation revealed that the rate could be set at \$0.90 for Commercial properties which was still an almost 10% reduction from the previous fiscal year. He believed that the matter of placing the commercial barns in the Vacant/Agricultural category would be a policy decision for the Town Council. He informed residents that if they believed that the

structures were worth less than \$10,000 they could seek an appeal through the BCPA and the Value Adjustment Board (VAB) process.

Mila Schwartzreich, Legal Counsel to Broward County Property Appraiser Mary Kiar agreed that the Fire Assessment is completely under the jurisdiction of the Town. Their role is to establish the valuation of the barns and properties on the site.

3. Repeal and Replace of Fire Assessment Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA REPEALING RESOLUTION NO. 2019-048 AND APPROVING A NEW PRELIMINARY FIRE SERVICES ASSESSMENT RELATING TO THE PROVISION OF FIRE PROTECTION SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF SOUTHWEST RANCHES, FLORIDA; PROVIDING PURPOSE AND DEFINITIONS; PROVIDING FOR THE IMPOSITION AND COMPUTATION OF FIRE PROTECTION ASSESSMENTS; INCORPORATING THE FIRE PROTECTION ASSESSMENT REPORT; PROVIDING FOR LEGISLATIVE DETERMINATION OF SPECIAL BENEFIT AND FAIR APPORTIONMENT; ESTABLISHING THE RATE OF ASSESSMENT; DIRECTING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; PROVIDING FOR AN EXEMPTION FOR VETERAN'S SERVICE-CONNECTED TOTAL AND PERMANENT DISABILITY; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

The following members of the public addressed the Town Council: Newell Hollingsworth, Neil Kalis, Fed Cox, Lori Parrish, Lil Sayre, Fred Segal, David Kuczenski, Robin Ditzian, Gay Chaples, Kathy Cox, Susan Winn, Giselle Kobel, Christine Sukelis, Keith Gemenot, and Debra Goff-Rose.

Council Member Hartmann asked Town Financial Administrator Sherwood to calculate the difference between the \$0.99 per square foot rate used in last fiscal year's calculation versus the \$0.90 per square foot rate assuming no change in square footage in the category. He felt that if that difference was approximately \$37,000 then there was no need to assess the commercial barns.

Mayor McKay felt that the ultimate fix to this problem was the commission of a new study. In lieu of that he felt that this new proposal drastically reduced the fire assessment for most commercial barn owners and indicated his support.

In response to Council Member Hartmann's earlier inquiry, Town Financial Administrator Sherwood indicated that the difference between \$0.99 and \$0.90 assuming the same square footage was approximately \$37,530.83. However, he cautioned that if the rate was raised back to \$0.99 and exempted the commercial barn structures it could be a violation of the Fire Assessment Study. Council Member Hartmann felt that the importance of having a new study has been underscored with this present issue. He felt that the resolution should be amended to remove the barns that the Town is in litigation with and should there be a need to raise the Commercial rate because of that then so be it. He reiterated his desire to pull the 5 commercial barns out of the Commercial category and place them in the Vacant/Agricultural and totally remove all of the remaining barns in excess of \$10,000 that would trigger a fire assessment.

The following motion was made by Council Member Schroeder, seconded by Vice Mayor Jablonski, but did not pass by a 2-2 roll call vote. The vote was as follows: Vice Mayor Jablonski, and Mayor McKay voting Yes and Council Members Hartmann and Schroeder voting No.

MOTION: TO APPROVE THE RESOLUTION.

Council Member Hartmann asked that the resolution be amended to revert back to the \$0.99 per square foot for the Commercial classification, and remove the five barns that he believed were miscategorized as Commercial, and not charge the Agricultural barns a fire assessment. Town Attorney Poliakoff suggested revising the language of the motion to subsidize the Agricultural classified barns from the general fund instead of funding it from the Fire Assessment.

The following motion was made by Council Member Hartmann, seconded by Vice Mayor Jablonski, and passed by 3-1 roll call vote. The vote was as follows: Vice Mayor Jablonski, Council Members Hartmann and Schroeder voting Yes and Mayor McKay voting No.

MOTION: TO APPROVE THE RESOLUTION AND EXEMPT OUT THE 138 PROPERTIES WITH BARNs THAT HAVE A VALUATION OF MORE THAN \$10,000 AND AN AGRICULTURAL CLASSIFICATION AND PAY THE ASSOCIATED \$37,530.83 FROM THE GENERAL FUND.

4. Fiscal Year 2019-2020 Budget Presentation - Martin Sherwood, Town Financial Administrator

Town Financial Administrator Sherwood displayed a PowerPoint presentation which indicated the total General Fund Revenues were \$12,795,993. It provided a breakdown of where all of those revenues come from, and also what expenditures make up the same amount. The presentation indicated a Fiscal Year 2020 proposed operating millage of 4.2125 mills, and a TSDOR millage of .4439 mills for a total proposed millage rate of 4.6564 which was a net decrease of .1747 mills to the Roll Back rate. It also outlined a proposed \$20.14 decrease per residential dwelling unit for the Fire Assessment and a decrease in all residential categories averaging 5.4% for the Solid Waste Assessment.

5. Adjournment

Meeting was adjourned at 9:40 p.m.

Respectfully submitted:

Russell Muniz, Assistant Town Administrator/Town Clerk

*Adopted by the Town Council on
this 21st day of November, 2019.*

Doug McKay, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

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REGULAR MEETING MINUTES OF THE TOWN COUNCIL
Southwest Ranches, Florida

Thursday 7:00 PM

August 8, 2019

13400 Griffin Road

Present:

Mayor Doug McKay

Vice Mayor Gary Jablonski

Council Member Bob Hartmann

Andrew Berns, Town Administrator

Russell Muñiz, Assistant Town Administrator/Town Clerk

Martin D. Sherwood, Town Financial Administrator

Richard De Witt, Deputy Town Attorney

Regular Meeting of the Town Council of Southwest Ranches was held at 13400 Griffin Road in the Southwest Ranches Council Chambers. The meeting, having been properly noticed, was called to order by Mayor McKay at 7:00 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

The following motion was made by Council Member Hartmann and seconded by Vice Mayor Jablonski and passed by a 3-0 roll call vote. The vote was as follows: Council Members Hartmann, Vice Mayor Jablonski, and Mayor McKay voting Yes.

MOTION: TO APPROVE COUNCIL MEMBERS SCHROEDER AND FISIKELLI'S ABSENCE

3. Southwest Ranches Historical Society Presentation to Southwest Ranches Pioneers

Assistant Town Administrator/Town Clerk Muñiz read out the names of the pioneers selected by Town Council: Ken Cimetta, Aster Knight, Don Maines, Michelle Gleissner, Juanita Romance. They were presented with a plaque, and each of the Council Members spoke a few words about the pioneer each one chose. All of the pioneers also spoke a few words. The Town Council took photos with the pioneers. Juanita Romance was not present.

Town Administrator Berns spoke about recent comments made by residents concerning Fire Assessment Fees and Barns. He outlined the issue before listening to residents' concerns in an effort to make sure everyone was working from the same information. He assured that the Fire Assessment Fees in question only applied to commercial agricultural operations, and those who had agricultural designation on their property. Residents who own a barn with no commercial business, are exempt from this assessment.

He explained that there was a Fire Study in 2011 which was completed, adopted, and included five categories; commercial, residential, industrial/warehouse, institutional, and vacant agricultural. Under the study criteria, commercial agricultural businesses were considered to be commercial property, and there was no category for commercial agricultural. This issue about fire assessment fees and barns arose because last year the Town was sued by the owner of one of the larger stables in Town who received a very substantial fire assessment fee, because they were classified as commercial.

As a result of that litigation, and to make certain that the Town assessed the Town properties properly, Town Administrator Berns requested a meeting with staff members from the Broward County Property Appraiser's office (BCPA). The meeting took place several months ago at Town Hall in which changes in the State Statute were discussed, and what was considered a pole barn which would be exempt under the Statute. In order to assess properties fairly and equitably, the BCPA's office was asked to help the Town define and inspect properties. Although BCPA wanted very much to assist, they wanted the Town to determine what was considered a pole barn, and what wasn't.

Town Staff deferred, as they did not have the expertise, authority to inspect, or assess the value of a structure. Although the Broward County Property Appraiser's office wanted to help the Town, no direction was ever established during that meeting. As a result, the path forward was not established or agreed upon. The Town was never made aware that changes came forward this year, and that inspections were underway. Mr. Berns opined that an update during the year would have given the Town the opportunity to address the issue. The Town did not receive an update and/or a report at the end of the inspections that took place this year.

As a result, re-classification of these properties were made while the Town was finalizing the Millage and Budget, Fire Assessment, and Solid Waste Assessment for the coming fiscal year. Town Staff rushed a letter to make sure that impacted property owners had at least some notice prior to the Trim Notices that arrived in the mail. Although Town Staff were not under any legal obligation to send these notices, they felt it was the responsible thing to do.

Town Administrator Berns opined that the Town has had a very good relationship with Marty Kiar and the BCPA Staff. He felt that this relationship will continue in the future, and thanked members of the BCPA Staff who were present. He believed that because of a lack in communication with BCPA and not having prior knowledge, this issue could have been addressed in a variety of ways.

In addition, Mr. Berns heard from residents and their families who have been impacted by this issue. He understood their concerns, and believed many valid points had been raised. Even though the BCPA made it clear that Fire Assessments were the Town's pervue, residents have an option to pursue with BCPA. He reminded that per Florida Statute, pole barns are exempt, and so are structures under \$10,000.00 in value. He advised that any resident who has a pole barn or have been incorrectly assessed, may contest the findings with the Value Adjustment Board (VAB). The deadline is September 18, 2019. The Town will respect the decisions from the VAB.

Finally, he announced that the Town's Public Hearing on the Fire Assessment meeting will be held on September 12, 2019 at 6:00 p.m. in Town Hall Chambers. He stated that the Town dealt with the unexpected consequences of the 2011 study, and stressed that a rushed reaction was not the answer, and that the Town in the future would like to avoid creating additional problems and liabilities. Staff is currently reviewing what options may be available to the Town Council, and will present them after a thorough review is complete.

4. Public Comment

The following members of the public addressed the Town Council: Mary Gay Chaples, Kathy Cox, Fred Cox, David Kuczenski, Jennifer Dachton, Brian Schick, Dawn (no last name given), Jim Laskey, and Marianne Allen.

5. Board Reports

Mary Gay Chaples, Chair of the Parks Board announced that there is meeting August 13th at 6:30 p.m. Country Estates invited everyone from that area to brainstorm for a creative entrance way for the park. Also, she advised for Town volunteers to become members of the Parks, Recreation & Open Space Manager (RPAB), or Drainage & Infrastructure Advisory Board because the Town needs more hard-working volunteers.

6. Council Member Comments

Council Member Hartmann responded that he wished that Council Member Fisikelli would have been present at the meeting because he had always been protective and supportive of the Town's agricultural interest. He commented that he has spent many days speaking to residents who are really concerned about the Fire Assessment Fees, and he assured them that he would do everything possible to help, and that this was the one of the reasons he became part of the Town Council.

Mayor McKay reminded everyone that he has been dealing with this issue for a couple of years, and that the Town Council will do what it can quickly, and he plans to have more answers by the next meeting when the full Town Council is present. Mayor McKay reassured that he will continue to stay on this issue to fix it, and work on it until there is a solution as soon as possible.

Vice Mayor Jablonski announced the Town's upcoming events such as the Rural Public Arts Board Contest Photos are due by August 15th. He also advised that the Broward County Property Appraiser's Office will be in Town on August 19th, the DMV Flow Mobile on August 22nd, the Hawkes Bluff Food Truck on August 23rd, and the Parks Foundation's Bingo at the Barn on August 24th. Also, he reminded that Town Hall will be closed on September 2nd in observance of Labor Day, and the Household Hazardous Waste & Prescription Drug Drop Off event is on September 14th.

7. Legal Comments

Deputy Town Attorney Richard De Witt offered no comments.

8. Administration Comments

Town Administrator Berns announced that the Town won the Emerald Award from Broward County for the Drainage Project on Calusa Corners. He pointed to the award displayed on the table.

9. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE TOWN OF SOUTHWEST RANCHES AND BROWARD COUNTY REGARDING A COLLABORATIVE STUDY AND

SUBSEQUENT DEVELOPMENT OF AN INTERGRATED SOLID WASTE AND RECYCLING SYSTEM; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

The following motion was made by Vice Mayor Jablonski and seconded by Council Member Hartmann, and passed by a 3-0 roll call vote. The vote was as follows: Council Members Hartmann, Vice Mayor Jablonski, and Mayor McKay voting Yes.

MOTION: TO APPROVE THE RESOLUTION

10. Proposed Council Meeting Decorum Policy

Town Administrator Berns explained the decorum policy has been a work in progress, and he hoped that it captured what the Council was looking for. He wanted to get some direction whether the Council wanted to make any changes before adopting a resolution. Assistant Town Administrator/Town Clerk Muniz added that he wanted to make sure that Council understood that the decorum policy needs to be adopted formally through a resolution so it will come back at a future meeting.

11. Approval of Minutes

- a. June 13, 2019 – Regular Minutes
- b. June 27, 2019 – Regular Minutes

The following motion was made by Vice Mayor Jablonski, and seconded by Council Member Hartmann, and passed by a 3-0 roll call vote. The vote was as follows: Council Members Hartmann, Vice Mayor Jablonski, and Mayor McKay voting Yes.

MOTION: TO APPROVE THE MINUTES

12. Adjournment-Meeting was adjourned at 8:25 PM.

Respectfully submitted:

Ivette Solera, Deputy Town Clerk

*Adopted by the Town Council on
this day of November 21, 2019.*

Doug McKay, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD

OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

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