



# Southwest Ranches Town Council

## REGULAR MEETING

Agenda of September 29, 2015

Southwest Ranches Council Chambers  
7:00 PM TUESDAY

13400 Griffin Road  
Southwest Ranches, FL 33330

Mayor

Jeff Nelson

Town Council

Steve Breitzkreuz

Gary Jablonski

Doug McKay

Town Administrator

Andrew D. Berns

Town Attorney

Keith M. Poliakoff, J.D.

Vice-Mayor

Freddy Fisikelli

Town Financial

Administrator

Martin Sherwood, CPA CGFO

Assistant Town  
Administrator/Town Clerk

Russell C. Muñiz, 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**

Quasi-Judicial Hearings

Please be advised that the following item on the Council agenda is quasi-judicial in nature. All witnesses who will testify on any item in this portion of the Agenda will be sworn. Participants who are members of the general public need not be sworn and will not be subject to cross-examination if they are not sworn. However, the Council shall not assign un-sworn testimony the same weight or credibility as sworn testimony in its deliberations.

The applicant has the burden of proof. After the applicant's concluding remarks, the hearing will be closed and no additional testimony, material or argument will be allowed unless the Council chooses to request additional testimony. The members of the Town Council will then deliberate.

All evidence relied upon by reasonably prudent persons in the conduct of their affairs may be considered in these proceedings, regardless of whether such evidence would be admissible in a court. Hearsay evidence may supplement or explain other evidence, but shall not alone support a conclusion unless it would be admissible over objection in court. The material in the Town Council agenda will be considered as evidence without authentication.

Anyone representing an organization must present written evidence of his or her authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears during a public hearing shall identify himself or herself and give their address, and if appearing on behalf of an organization state the name and mailing address of the organization. The Council may, on its own motion or at the request of any person, continue the hearing to a fixed date, time and place.

No notice shall be required if a hearing is continued to a fixed date, time and place. Any Applicant shall have the right to request and be granted one continuance; however, all subsequent continuance shall be granted at the discretion of the Council and only upon good cause shown.

3. **Delegation Request** - Consideration of Delegation Request Application No. DE-19-15 to amend or eliminate various conditions of approval of the Tara Plat, as recorded in Plat Book 162, Page 20 of the Broward County, Florida Public Records. The requested amendments include modification of the non-vehicular access lines, and deletion of requirements to pave a portion of SW 184th Avenue, construct turn lanes, construct sidewalks, provide financial surety for a traffic signal, and related requirements. Akai Estates, LLC, owner; Schwebke-Shiskin & Associates, Inc., petitioner. Property generally located at the southwest corner of Griffin Road and unimproved 184th Avenue. **{Tabled from August 27, 2015}**

#### 4. **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.

#### 5. **Board Reports**

#### 6. **Council Member Comments**

#### 7. **Legal Comments**

#### 8. **Administration Comments**

#### 9. **Ordinance – 2<sup>nd</sup> Reading** – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AMENDING ARTICLE 40, TELECOMMUNICATIONS TOWERS AND ANTENNAS, OF THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE. **{Approved on First Reading September 15, 2015}**

#### 10. **Ordinance – 1<sup>st</sup> Reading** - AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF SOUTHWEST RANCHES COMPREHENSIVE PLAN, ESTABLISHING AN EMPLOYMENT CENTER LAND USE DESIGNATION WITH SUPPORTING OBJECTIVES AND POLICIES, REVISING THE LISTS OF PERMITTED USES WITHIN NONRESIDENTIAL LAND USE DESIGNATIONS AND SUPPORTING OBJECTIVES AND POLICIES, AND MAKING REVISIONS OF A HOUSEKEEPING NATURE; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR RECERTIFICATION BY THE BROWARD COUNTY PLANNING COUNCIL; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE. **{Second Reading to be held at a later date}**

#### 11. **Resolution** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING FOR CONSTRUCTION OF PHASE ONE OF THE TRANSPORTATION SURFACE AND DRAINAGE ONGOING REHABILITATION (TSDOR) ROADWAY IMPROVEMENTS FOR SW 205TH AVENUE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

#### 12. **Resolution** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING FOR CONSTRUCTION OF PHASE ONE OF THE TRANSPORTATION SURFACE AND DRAINAGE ONGOING REHABILITATION (TSDOR) ROADWAY IMPROVEMENTS FOR SW 209TH AVENUE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

#### 13. **Resolution** – A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING, INC. TO COMPLETE THE STIRLING ROAD GUARDRAIL IMPROVEMENTS PROJECT AUTHORIZING THE

MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT;  
AND PROVIDING AN EFFECTIVE DATE.

**14. Approval of Minutes**

- a. **August 27, 2015, Regular Town Council Meeting**
- b. **September 3, 2015, Executive Session**
- c. **September 3, 2015, Special 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.

This page  
intentionally left blank



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

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

**Town Council**  
**Jeff Nelson, Mayor**  
**Freddy Fisikelli, Vice Mayor**  
**Steve Breikreuz, Council Member**  
**Gary Jablonski, Council Member**  
**Doug McKay, Council Member**

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

## COUNCIL MEMORANDUM

**TO:** Honorable Mayor Nelson and Town Council

**THRU:** Andrew D. Berns, Town Administrator

**FROM:** Jeff Katims, AICP, CNU-A  
Assistant Town Planner

**DATE:** August 27, 2015

**SUBJECT: Delegation request to amend Tara Plat access and conditions of approval**

---

### Recommendation

1. The Council could choose to deny this application finding that the applicant has failed to show by competent substantial evidence that they have met the requirements of the ULDC.
2. The Council could choose to approve this item finding that the applicant has shown by competent substantial evidence that they have met the requirements of the ULDC.
3. The Council could table this item to seek additional information.
4. The Council could choose to approve this item with conditions, such as the conditions recommended in the staff report.

### Strategic Priorities

This item supports the following strategic priority as identified in the Town's adopted strategic plan.

A. Sound Governance

### Background

The developer proposes to provide access to the Plat from Griffin Road instead of S.W. 184<sup>th</sup> Avenue, as currently configured. In order to accomplish this, the Town Council and Broward County Commission must approve an amendment to the Non-Vehicular Access line. The developer also seeks approval to eliminate several conditions of plat approval, most of which pertain to the bonding for, and construction S.W. 184<sup>th</sup> Avenue and associated improvements.

**Fiscal Impact/Analysis**

No fiscal impact.

**Staff Contact:**

Jeff Katims

**TOWN OF SOUTHWEST RANCHES  
TOWN COUNCIL AGENDA REPORT**

August 27, 2015 Council Meeting

- SUBJECT:** Delegation Request Application DE-019-15; Tara Plat
- LOCATION:** Generally located on at the southwest corner of Griffin Road and unimproved SW 184<sup>th</sup> Avenue
- OWNER:** Akai Estates LLC  
333 Las Olas Way, CU #1  
Fort Lauderdale, FL 33301
- PETITIONER:** Schwebke-Shisken & Associates, Inc.  
3240 Corporate Way  
Miramar, FL 33025
- LAND USE PLAN DESIGNATION:** RR—Rural Ranches, 1 DU/2 ac net or 2.5 ac gross.
- ZONING:** A-1—Agricultural
- PUBLIC NOTICE:** Ad in the *Sun Sentinel* newspaper
- EXHIBITS:** Aerial photograph, plat, sketch of non-vehicular access line to be dedicated, sketch of non-vehicular access line to be vacated, petitioner's request letter, and Lobbyist Registration and Ethics Form

**BACKGROUND**

The subject site contains approximately 36.13 acres located south of Griffin Road and immediately west of unimproved SW 184<sup>th</sup> Avenue. The Tara Plat was recorded on January 15, 1997. The plat is designated RR, Rural Ranch on the land use map and A-1 on the zoning map, both of which allow residential development at one unit per two net acres, or two and one-half gross acres. The Town approved the Downey Ranches Site Plan for this property in 2005, however the approval expired.

The plat was designed to be accessed from SW 184<sup>th</sup> Avenue. The current developer, Akai Estates, LLC, coordinated with the Town Engineer and Broward County Highway Construction and Engineering Department to work out the alignment of SW 184<sup>th</sup> Avenue south of Griffin Road with Bonaventure Boulevard north of Griffin Road. The proper alignment requires acquisition of property from R & R Garden nursery, located

opposite SW 184<sup>th</sup> Avenue from the subject plat. The nursery was unwilling to dedicate the needed land, thereby preventing construction of SW 184<sup>th</sup> Avenue into the plat, and preventing access to the plat via SW 184<sup>th</sup> Avenue.

The developer is now proposing to gain access to the plat from Griffin Road in lieu of SW 184<sup>th</sup> Avenue, and requests approval of several modifications to the plat and to the conditions of plat approval to facilitate access to Griffin Road, and to eliminate requirements that are associated with accessing SW 184<sup>th</sup> Avenue. The requested modifications are attached as Exhibit "C" to this report, and can be generally summarized as follows:

- 1) Amend the Non-Vehicular Access Line (NVAL) to allow access to and from Griffin Road (right turns in and out only) and to close the shared driveway openings for Lots 1 through 4 on SW 184<sup>th</sup> Avenue. It is noted that future access to SW 184<sup>th</sup> Avenue is preserved, but not required for public road access to all lots within the plat.
- 2) Eliminate the bonding and construction requirements for SW 184<sup>th</sup> Avenue, and turn lanes and possible traffic signalization associated with SW 184<sup>th</sup> Avenue.
- 3) Eliminate county conditions of plat approval that were based upon the plat's location in the unincorporated area, and which are no longer applicable. These conditions include, for example, construction of sidewalks.

Exhibit "A" is the aerial photograph of the plat

Exhibit "B" is a copy of the plat

Exhibit "C" is the petitioner's request letter, which catalogues the requested changes to the NVAL and conditions of plat approval in technical detail.

Exhibit "D" is a drawing showing the existing openings in the Non-Vehicular Access Line (NVAL) along SW 184<sup>th</sup> Avenue

Exhibit "E" is a drawing showing a new Non-Vehicular Access Line across the SW 184<sup>th</sup> Avenue openings, and an new opening along Griffin Road that would allow right turns in and out only

### **RECOMMENDATION**

1. The Council could choose to deny this application finding that the applicant has failed to show by competent substantial evidence that they have met the requirements of the ULDC.
2. The Council could choose to approve this item finding that the petitioner has shown by competent substantial evidence that they have met the requirements of the ULDC.
3. The Council could table this item to seek additional information.
4. The Council could choose to approve this item with conditions such as:

- a) Applicant shall pay to the Town of Southwest Ranches an amount equal to the total expenses incurred by the Town in the processing and finalizing of this site plan, including, but may not be limited to, expenses for engineering, planning, legal, advertising, five (5) percent administrative fee, and any related expenses that the Town has or will incur as a direct cost of this application.

This page  
intentionally left blank

**RESOLUTION NO. 2015-\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING DELEGATION REQUEST APPLICATION NUMBER DE-19-15 TO AMEND THE NON-VEHICULAR ACCESS LINE AND CONDITIONS OF APPROVAL OF THE TARA PLAT (A.K.A. "DOWNEY RANCHES"), GENERALLY LOCATED AT THE SOUTHWEST CORNER OF GRIFFIN ROAD AND UNIMPROVED S.W. 184<sup>TH</sup> AVENUE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO PROPERLY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Tara Plat ("Plat") was recorded in Plat Book 162, Page 20 of the Public Records of Broward County, Florida on January 15, 1997; and

**WHEREAS**, access to the recorded Plat is provided exclusively from S.W. 184<sup>th</sup> Avenue; and

**WHEREAS**, under the recorded plat, the developer is required to bond for and construct that portion of unimproved S.W. 184<sup>th</sup> Avenue south of Griffin Road that is needed for access to the Plat, along with attendant turn lanes and other improvements; and

**WHEREAS**, construction of S.W. 184<sup>th</sup> Avenue is not feasible at this time because of insufficient right-of-way on the east side of the roadway alignment; and

**WHEREAS**, since access from S.W. 184<sup>th</sup> Avenue is not a possibility, the current owner of the Plat property proposes to obtain access to the Plat from Griffin Road; and

**WHEREAS**, an amendment to the Non-Vehicular Access Line (N.V.A.L.) on the Plat is required in order to accommodate the Griffin Road access; and

**WHEREAS**, the owner of the Plat wishes to modify the N.V.A.L. and to eliminate several conditions of plat approval imposed by Broward County relating to S.W. 184<sup>th</sup> Avenue, associated turn lanes and other improvements, and other conditions of approval that no longer apply as a result of the Plat's incorporation into the Town of Southwest Ranches.

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

**Section 1.** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2.** That, at a duly noticed public hearing held on August 27, 2015 following the review of the staff report and all written and oral evidence received during the public hearing, the Town Council hereby approves Delegation Request Application No. DE-19-15 to modify the N.V.A.L. and to eliminate several conditions of plat approval enumerated in Exhibit "A", attached hereto and made a part hereof, subject to the condition that the applicant shall pay to the Town of Southwest Ranches an amount equal to the total expense incurred by the Town in processing this application prior to final recordation of the waiver of plat by the Town. This fee includes, but shall not be limited to, expenses for engineering, planning, legal, advertising, a five percent administrative fee, and any related expenses that the Town has or will incur as a direct cost of this waiver of plat.

**Section 3.** The Mayor, Town Administrator and Town Attorney are each authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

**Section 4.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches,

Florida, this 27<sup>th</sup> day of August, 2015, on a motion by \_\_\_\_\_ and

seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_  
Abstaining \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jeff Nelson, Mayor

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith Poliakoff, J.D., Town Attorney

112612293.1

# EXHIBIT "A" (1 of 2)



Principals  
Hernando J. Navas, P.E.  
Mark S. Johnson, P.S.M.

Of Council  
Alfonso C. Tello, P.E., P.S.M.

Civil Engineers - Land Planners - Surveyors  
3240 Corporate Way • Miramar, Florida 33025  
Phone: (954) 435-7010 • Fax: (954) 438-3288

Luis F. Leon, P.E.  
Alberto A. Mora, P.E.  
John C. Tello, P.E.  
Michael D. Gonzalez, P.E.  
Ronald A. Fritz, P.S.M.  
Jose G. Hernandez, P.S.M.  
Michael J. Alley, P.S.M.  
Emilio E. Lufrio, P.S.M.

**April 22, 2015**

**Jeff Katims, AICP, CNU-A**  
The Mellgren Planning Group  
3350 NW 53<sup>rd</sup> Street, Suite 101  
Fort Lauderdale, FL 33309

*Re: Delegation Request for TARA Plat, Plat Book 162, Page 60*

Dear Mr. Katims,

This application is requesting the Town of Southwest Ranches to approve the following changes to the TARA Plat Development Review Report.

- 1) Modification to the NVAL line along Griffin Road per the attached sketch and legal description to allow for a Right in, Right out condition at the westerly portion of the property.
- 2) Modification to the NVAL line along the Right-of-Way of N.W. 184<sup>th</sup> Avenue per the attached sketch and legal description to remove two accesses to N.W. 184<sup>th</sup> Avenue, Staff Comment Number 2, Sections A & B and Staff Comment number 10 in the Development Review Report.
- 3) Remove Staff Comment 15 in the Development Review Report, stating provide 28 feet of pavement on Southwest 184 Avenue from the nearest paved access to a point sufficiently south of the unnamed east/west roadway to encompass the transition for the northbound left turn lane at the roadway.
- 4) Remove Staff Comment 16 in the Development Review Report, stating the piping or possible relocation of the existing canal necessary for the construction of Southwest 184 Avenue.
- 5) Remove Staff Comment 17 in the Development Review Report, stating an eastbound right turn lane on Griffin Road at Southwest 184 Avenue with 300 feet of storage\* and 150 feet of transition.
- 6) Remove Staff Comment 18 in the Development Review Report, stating a northbound left turn lane on Southwest 184 Avenue at Griffin Road with 300 feet of storage# and 200 feet of transition.
- 7) Remove Staff Comment 19 in the Development Review Report, stating a southbound right turn lane on Southwest 184 Avenue at the unnamed roadway with 150 feet of storage\* and 100 feet of transition.
- 8) Remove Staff Comment 20 in the Development Review Report, stating a northbound left turn lane on Southwest 184 Avenue at the unnamed roadway with 200 feet of storage# and 100 feet of transition.

## EXHIBIT "A" (2 of 2)

- 9) Remove Staff Comment 24 in the Development Review Report, stating sidewalk requirement along Griffin Road adjacent to this plat.
- 10) Remove Staff Comment 25 in the Development Review Report, stating sidewalk requirement along Southwest 184 Avenue adjacent to this plat.
- 11) Remove Staff Comment 26 in the Development Review Report, stating Bond or letter of credit to extend up to two (2) years after completion of the total developmetn. During that itme the Traffic Engineering Division will perform the required sturdies to determine the need for signalization. If no need is determined, the developer may be released from the obligation.
  - A) 25 percent of the installation cost of a traffic signal at the intersection of Griffin Road and southwest 184<sup>th</sup> Avenue in the amount of \$12,500.00.
- 12) Remove Staff Comment 27 sub-section (a) in the Development Review Report, stating a Pavement Marking and Signing Plan, three copies, including cost estimate shall be provided to the Traffic Engineering Division. All pavement markings shall be thermoplastic. Pavement markings and signing materials shall be fully reflectorized with high intensity materials. No Bonds shall be released without field inspection and final approval by the Division of all materials, installations and locations.
- 13) Remove Staff Comment 28 in the Development Review Report, stating provide fire protection facilities pursuant to the Broward County Land Development Code as required by the Broward County Fire Marshal and as described in the attached comments from the Broward County Fire Marshal's Office. Plans for fire protection must be submitted to the Fire Marshal's Office and secured before plat recordation. Bond for 9 fire hydrants in the amount of \$28,800.00 (\$3,200.00 each). See Staff Comment No. 20.

Attached please find email correspondents from Mr. David Huizenga confirming the above request.

Should you have any questions during your review or if you required additional information, please do not hesitate to contact me.

Sincerely,

*Schwebke-Shiskin & Associates, Inc.*



John C. Tello, P.E.  
Assistant Vice President



This page  
intentionally left blank





# TARA

SHEET 3 OF 4

A REPLAT OF A PORTION OF TRACTS 42 & 64 OF SECTION 25, TOWNSHIP 50 SOUTH, RANGE 30 EAST, AND ALL OF TRACTS 1, 16, 17, TOGETHER WITH A PORTION OF TRACT 32 OF SECTION 36, TOWNSHIP 50 SOUTH, RANGE 30 EAST, IN THE EVERGLADES LAND COMPANY'S SUBDIVISION OF SAID SECTIONS, (P.B. 1, PG. 63 DADB) BROWARD COUNTY, FLORIDA

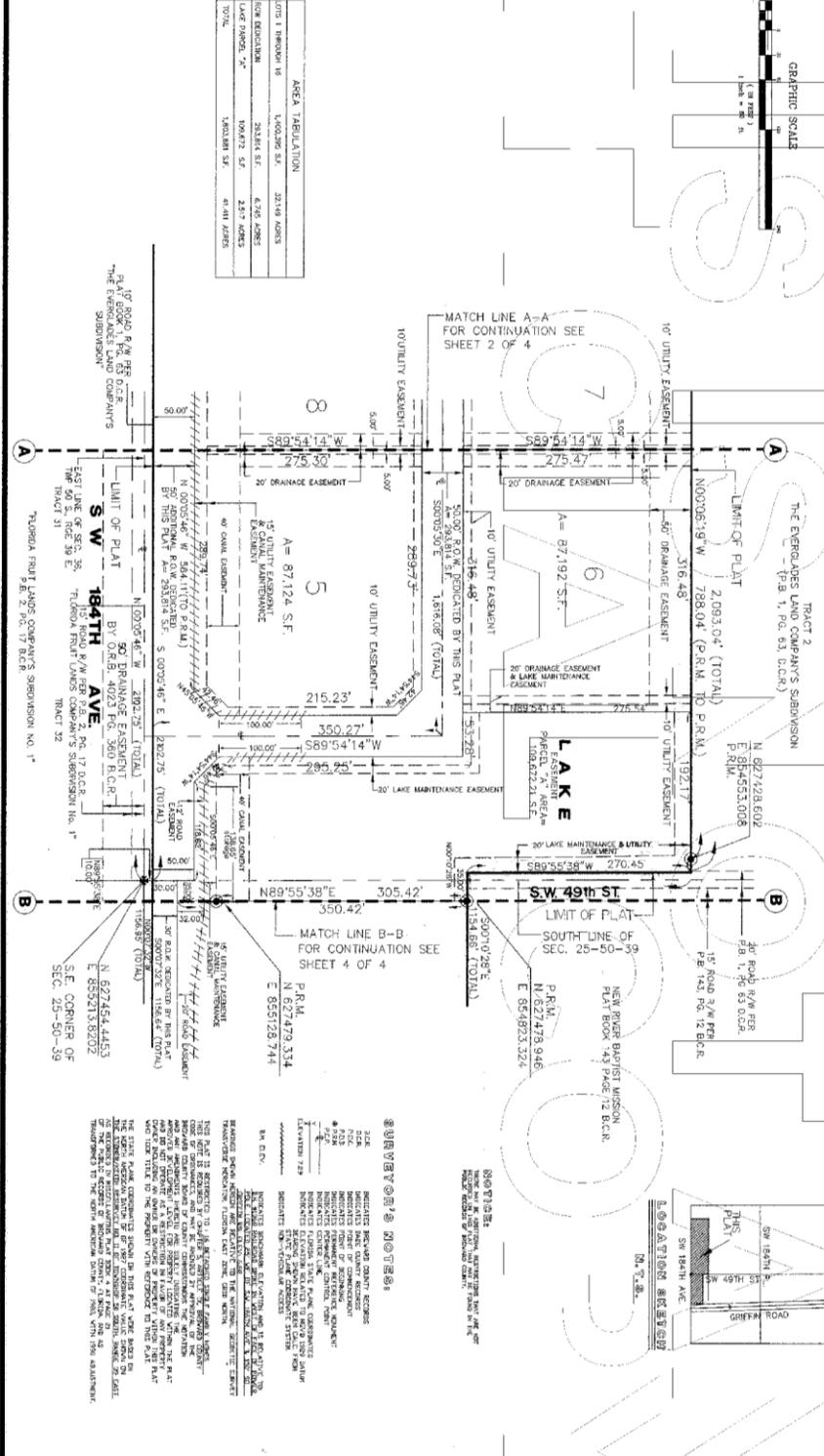
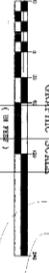
ASSOCIATED ENGINEERS AND SURVEYORS, INC.

5240 GUYTON RD. SUITE 100, FORT LAUDERDALE, FLORIDA 33309

PROJECT NO. 93-159

DATE: NOVEMBER 1993

TEL: (352) 394-0299 FAX: (352) 394-8862



AREA TABULATION	
LOT 1 THROUGH 10	1,400,296 S.F.
LOT 11 THROUGH 15	2,341,671 S.F.
LOT 16 THROUGH 20	2,341,671 S.F.
LOT 21 THROUGH 25	2,341,671 S.F.
LOT 26 THROUGH 30	2,341,671 S.F.
LOT 31 THROUGH 35	2,341,671 S.F.
LOT 36 THROUGH 40	2,341,671 S.F.
LOT 41 THROUGH 45	2,341,671 S.F.
LOT 46 THROUGH 50	2,341,671 S.F.
LOT 51 THROUGH 55	2,341,671 S.F.
LOT 56 THROUGH 60	2,341,671 S.F.
LOT 61 THROUGH 65	2,341,671 S.F.
LOT 66 THROUGH 70	2,341,671 S.F.
LOT 71 THROUGH 75	2,341,671 S.F.
LOT 76 THROUGH 80	2,341,671 S.F.
LOT 81 THROUGH 85	2,341,671 S.F.
LOT 86 THROUGH 90	2,341,671 S.F.
LOT 91 THROUGH 95	2,341,671 S.F.
LOT 96 THROUGH 100	2,341,671 S.F.
TOTAL	41,000,000 S.F.

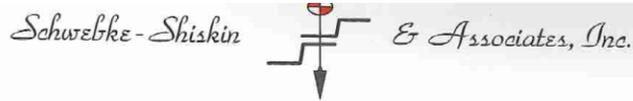
**NOTES:**

1. THIS PLAT IS SUBMITTED TO THE BROWARD COUNTY PLANNING AND ZONING BOARD FOR REVIEW AND APPROVAL.
2. THE STATE PLANNING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
3. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
4. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
5. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
6. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
7. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
8. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
9. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.
10. THE BROWARD COUNTY PLANNING AND ZONING BOARD HAS REVIEWED THIS PLAT AND HAS ISSUED A LETTER OF APPROVAL.

15-119-24



**EXHIBIT "C"**  
**Petitioner's Delegation Request**  
**Application No. DE-19-15**



Principals  
Hernando J. Navas, P.E.  
Mark S. Johnson, P.S.M.

Of Council  
Alfonso C. Tello, P.E., P.S.M.

Civil Engineers - Land Planners - Surveyors  
3240 Corporate Way • Miramar, Florida 33025  
Phone: (954) 435-7010 • Fax: (954) 438-3288

Luis F. Leon, P.E.  
Alberto A. Mora, P.E.  
John C. Tello, P.E.  
Michael D. Gonzalez, P.E.  
Ronald A. Fritz, P.S.M.  
Jose G. Hernandez, P.S.M.  
Michael J. Alley, P.S.M.  
Emilio E. Lufrio, P.S.M.

**April 22, 2015**  
**Jeff Katims, AICP, CNU-A**  
The Mellgren Planning Group  
3350 NW 53<sup>rd</sup> Street, Suite 101  
Fort Lauderdale, FL 33309

*Re: Delegation Request for TARA Plat, Plat Book 162, Page 60*

Dear Mr. Katims,

This application is requesting the Town of Southwest Ranches to approve the following changes to the TARA Plat Development Review Report.

- 1) Modification to the NVAL line along Griffin Road per the attached sketch and legal description to allow for a Right in, Right out condition at the westerly portion of the property.
- 2) Modification to the NVAL line along the Right-of-Way of N.W. 184<sup>th</sup> Avenue per the attached sketch and legal description to remove two accesses to N.W. 184<sup>th</sup> Avenue, Staff Comment Number 2, Sections A & B and Staff Comment number 10 in the Development Review Report.
- 3) Remove Staff Comment 15 in the Development Review Report, stating provide 28 feet of pavement on Southwest 184 Avenue from the nearest paved access to a point sufficiently south of the unnamed east/west roadway to encompass the transition for the northbound left turn lane at the roadway.
- 4) Remove Staff Comment 16 in the Development Review Report, stating the piping or possible relocation of the existing canal necessary for the construction of Southwest 184 Avenue.
- 5) Remove Staff Comment 17 in the Development Review Report, stating an eastbound right turn lane on Griffin Road at Southwest 184 Avenue with 300 feet of storage\* and 150 feet of transition.
- 6) Remove Staff Comment 18 in the Development Review Report, stating a northbound left turn lane on Southwest 184 Avenue at Griffin Road with 300 feet of storage# and 200 feet of transition.
- 7) Remove Staff Comment 19 in the Development Review Report, stating a southbound right turn lane on Southwest 184 Avenue at the unnamed roadway with 150 feet of storage\* and 100 feet of transition.
- 8) Remove Staff Comment 20 in the Development Review Report, stating a northbound left turn lane on Southwest 184 Avenue at the unnamed roadway with 200 feet of storage# and 100 feet of transition.

- 9) Remove Staff Comment 24 in the Development Review Report, stating sidewalk requirement along Griffin Road adjacent to this plat.
- 10) Remove Staff Comment 25 in the Development Review Report, stating sidewalk requirement along Southwest 184 Avenue adjacent to this plat.
- 11) Remove Staff Comment 26 in the Development Review Report, stating Bond or letter of credit to extend up to two (2) years after completion of the total developmetn. During that itme the Traffic Engineering Division will perform the required sturdies to determine the need for signalization. If no need is determined, the developer may be released from the obligation.
  - A) 25 percent of the installation cost of a traffic signal at the intersection of Griffin Road and southwest 184<sup>th</sup> Avenue in the amount of \$12,500.00.
- 12) Remove Staff Comment 27 sub-section (a) in the Development Review Report, stating a Pavement Marking and Signing Plan, three copies, including cost estimate shall be provided to the Traffic Engineering Division. All pavement markings shall be thermoplastic. Pavement markings and signing materials shall be fully reflectorized with high intensity materials. No Bonds shall be released without field inspection and final approval by the Division of all materials, installations and locations.
- 13) Remove Staff Comment 28 in the Development Review Report, stating provide fire protection facilities pursuant to the Broward County Land Development Code as required by the Broward County Fire Marshal and as described in the attached comments from the Broward County Fire Marshal's Office. Plans for fire protection must be submitted to the Fire Marshal's Office and secured before plat recordation. Bond for 9 fire hydrants in the amount of \$28,800.00 (\$3,200.00 each). See Staff Comment No. 20.

Attached please find email correspondents from Mr. David Huizenga confirming the above request.

Should you have any questions during your review or if you required additional information, please do not hesitate to contact me.

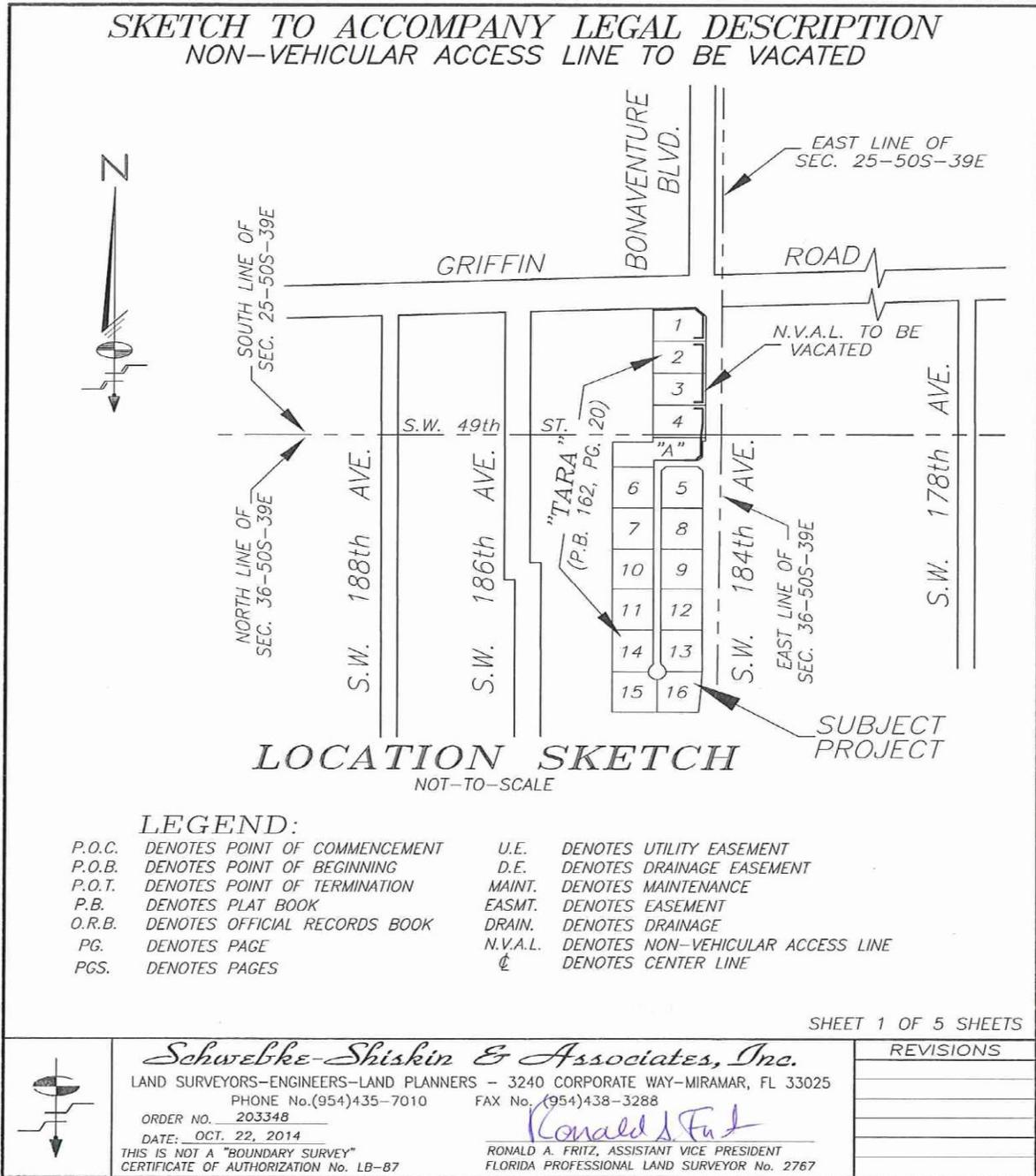
Sincerely,

*Schwabke-Shiskin & Associates, Inc.*



John C. Tello, P.E.  
Assistant Vice President

**EXHIBIT "D"**  
**Existing N.V.A.L.**  
**Application No. DE-19-15**









**LEGAL DESCRIPTION TO ACCOMPANY SKETCH  
NON-VEHICULAR ACCESS LINE TO BE VACATED**

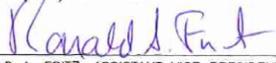
**LEGAL DESCRIPTION:**

BEING A PORTION OF THE EXISTING NON-VEHICULAR ACCESS LINE AS SHOWN ON PARCEL "A" AND LOTS 1 THROUGH 4, INCLUSIVE, ACCORDING TO THE PLAT OF "TARA", AS RECORDED IN PLAT BOOK 162 AT PAGE 20, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 10 MINUTES 28 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 1, FOR 12.00 FEET TO THE POINT OF BEGINNING "A" OF THE FOLLOWING DESCRIBED NON-VEHICULAR ACCESS LINE; THENCE NORTH 88 DEGREES 07 MINUTES 42 SECONDS EAST, ALONG A LINE THAT IS 12.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID LOT 1, FOR 279.70 FEET; THENCE SOUTH 46 DEGREES 01 MINUTES 14 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTHEASTERLY LINE OF SAID LOT 1, FOR 72.02 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 20.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOT 1, FOR 173.06 FEET; THENCE SOUTH 89 DEGREES 55 MINUTES 38 SECONDS WEST, ALONG A LINE THAT IS PARALLEL WITH AND 25.00 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID LOT 1, FOR 55.00 FEET TO THE POINT OF TERMINATION "A" OF SAID NON-VEHICULAR ACCESS LINE AND THE POINT OF BEGINNING "B" OF AN ALLOWED 50 FOOT WIDE ACCESS OPENING; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 75.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOTS 1 AND 2, FOR 50.00 FEET TO THE POINT OF TERMINATION "B" OF SAID ALLOWED 50 FOOT WIDE ACCESS OPENING AND THE POINT OF BEGINNING "C" OF THE FOLLOWING DESCRIBED NON-VEHICULAR ACCESS LINE; THENCE NORTH 89 DEGREES 55 MINUTES 38 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 25.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID LOT 2, FOR 55.00 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 20.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOTS 2 AND 3, FOR 446.80 FEET; THENCE SOUTH 89 DEGREES 55 MINUTES 38 SECONDS WEST, ALONG A LINE THAT IS PARALLEL WITH AND 25.00 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO, THE SOUTH LINE OF SAID LOT 3, FOR 55.00 FEET TO THE POINT OF TERMINATION "C" OF SAID NON-VEHICULAR ACCESS LINE AND THE POINT OF BEGINNING "D" OF THE FOLLOWING DESCRIBED 50.00 FOOT WIDE ALLOWED ACCESS OPENING; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS 75.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOT 3 AND 4, FOR 50.00 FEET TO THE POINT OF TERMINATION "D" OF SAID 50 FOOT WIDE ALLOWED ACCESS OPENING AND THE POINT OF BEGINNING "E" OF THE FOLLOWING DESCRIBED NON-VEHICULAR ACCESS LINE; THENCE NORTH 89 DEGREES 55 MINUTES 38 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 25.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID LOT 4, FOR 55.00 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 20.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOT 4, FOR 115.09 FEET; THENCE SOUTH 06 DEGREES 42 MINUTES 24 SECONDS WEST

(CONTINUED ON SHEET 5 OF 5 SHEETS)

SHEET 4 OF 5 SHEETS

	<p><i>Schwebke-Shiskin &amp; Associates, Inc.</i>                  LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025                  PHONE No. (954)435-7010 FAX No. (954)438-3288</p> <p>ORDER NO. <u>203348</u>                  DATE: <u>OCT. 22, 2014</u></p> <p>THIS IS NOT A "BOUNDARY SURVEY"                  CERTIFICATE OF AUTHORIZATION No. LB-87</p>	REVISIONS _____ _____ _____ _____ _____ _____
	 RONALD A. FRITZ, ASSISTANT VICE PRESIDENT FLORIDA PROFESSIONAL LAND SURVEYOR No. 2767	

K:\365040\Downey Ranches\LEGALS\DWG\NVAL VACATED - LOTS 1-4.dwg

**LEGAL DESCRIPTION TO ACCOMPANY SKETCH  
NON-VEHICULAR ACCESS LINE TO BE VACATED**

**LEGAL DESCRIPTION:**

(CONTINUED FROM SHEET 4 OF 5 SHEETS)

FOR 100.71 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 46 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 72.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 50 SOUTH, RANGE 39 EAST, AS SHOWN ON THE SAID PLAT OF "TARA", FOR 150.00 FEET; THENCE SOUTH 44 DEGREES 54 MINUTES 14 SECONDS WEST, ALONG A LINE THAT IS 12.00 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE SOUTHEASTERLY LINE OF SAID PARCEL "A", FOR 49.49 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 14 SECONDS WEST, ALONG THE SOUTHERLY LINE OF SAID PARCEL "A", FOR 83.03 FEET TO THE POINT OF TERMINATION "E" OF A NON-VEHICULAR ACCESS LINE; ALL LYING AND BEING IN THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 50 SOUTH, RANGE 39 EAST AND THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 50 SOUTH, RANGE 39 EAST, TOWN OF SOUTHWEST RANCHES, BROWARD COUNTY, FLORIDA.

**SURVEYOR'S NOTES:**

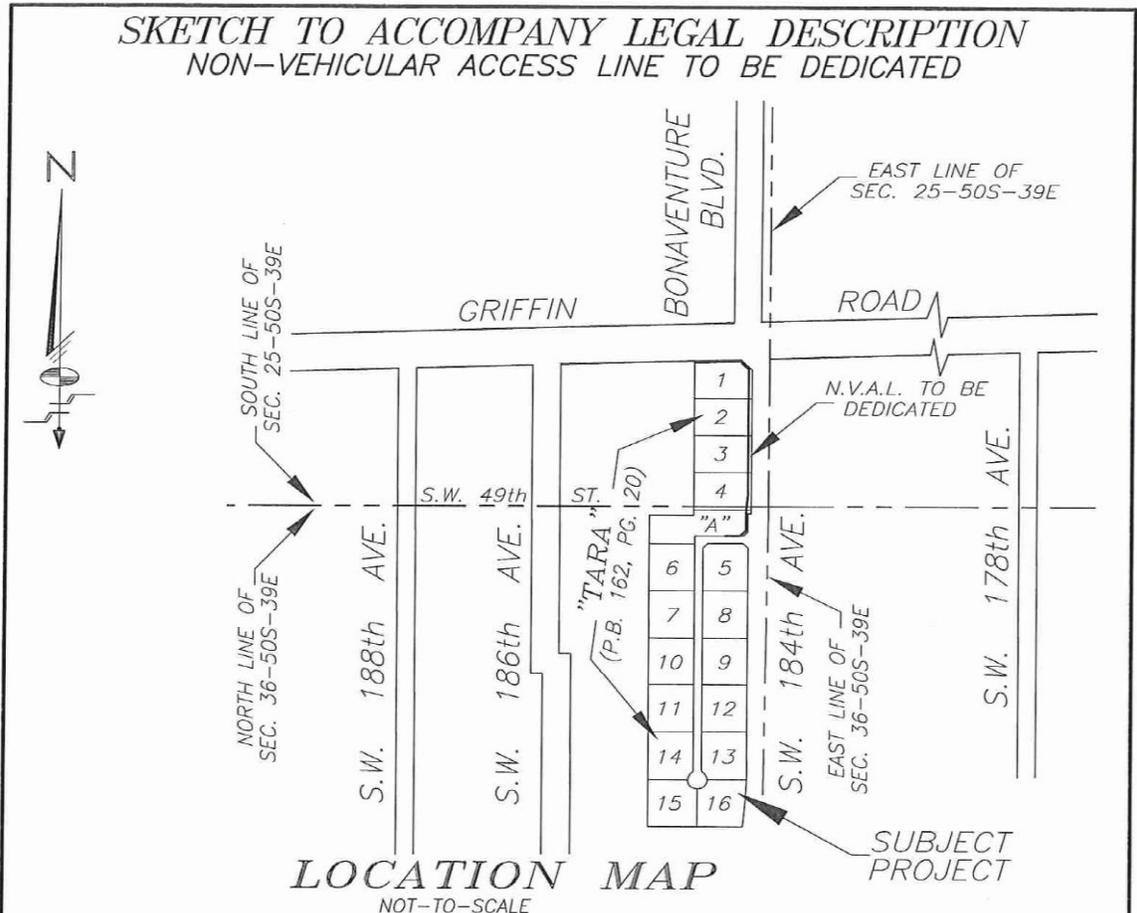
- 1) BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF SOUTH 88 DEGREES 07 MINUTES 42 SECONDS WEST ALONG THE CENTER LINE OF GRIFFIN ROAD AS SHOWN ON THE HEREIN REFERENCED PLAT OF "TATA".
- 2) ORDERED BY: JCR HOLDINGS
- 3) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE ATTESTING FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 5 OF 5 SHEETS

	<p><i>Schwebke-Shiskin &amp; Associates, Inc.</i>                  LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025                  PHONE No.(954)435-7010 FAX No. (954)438-3288</p>	<p>REVISIONS</p> <table border="1"> <tr><td> </td></tr> </table>							
<p>ORDER NO. <u>203348</u>                  DATE: <u>OCT. 22, 2014</u></p> <p>THIS IS NOT A "BOUNDARY SURVEY"                  CERTIFICATE OF AUTHORIZATION No. LB-87</p>	<p><i>Ronald A. Fritz</i>                  RONALD A. FRITZ, ASSISTANT VICE PRESIDENT                  FLORIDA PROFESSIONAL LAND SURVEYOR No. 2767</p>								

K:\365040\Downey Ranches\LEGALS\DWG\NVAL VACATED - LOTS 1-4.dwg

**EXHIBIT "E"**  
**Proposed N.V.A.L.**  
**Application No. DE-19-15**



**LEGEND:**

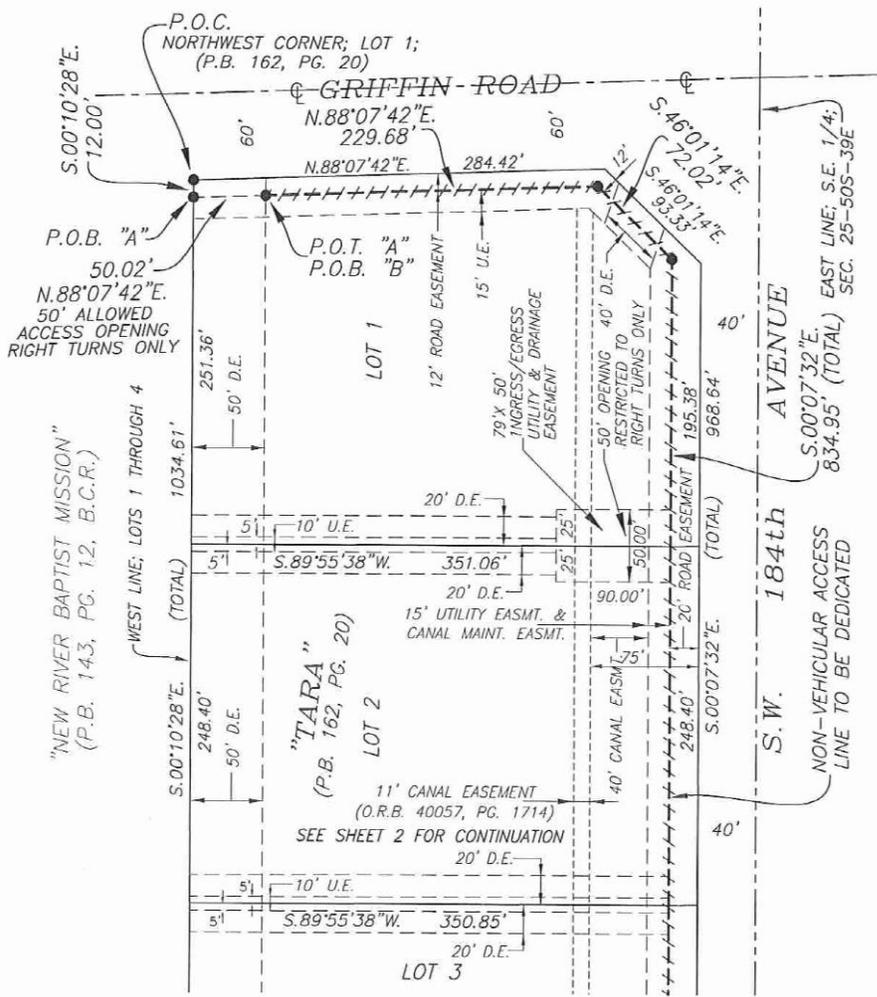
- |                                      |  |
|--------------------------------------|--|
| P.O.C. DENOTES POINT OF COMMENCEMENT | U.E. DENOTES UTILITY EASEMENT              |
| P.O.B. DENOTES POINT OF BEGINNING    | D.E. DENOTES DRAINAGE EASEMENT             |
| P.O.T. DENOTES POINT OF TERMINATION  | MAINT. DENOTES MAINTENANCE                 |
| P.B. DENOTES PLAT BOOK               | EASMT. DENOTES EASEMENT                    |
| O.R.B. DENOTES OFFICIAL RECORDS BOOK | DRAIN. DENOTES DRAINAGE                    |
| PG. DENOTES PAGE                     | N.V.A.L. DENOTES NON-VEHICULAR ACCESS LINE |
| PGS. DENOTES PAGES                   | ⊙ DENOTES CENTER LINE                      |

SHEET 1 OF 4 SHEETS

	<b>Schwabke-Shiskin &amp; Associates, Inc.</b> LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025 PHONE No. (954)435-7010 FAX No. (954)438-3288	REVISIONS _____ _____ _____ _____ _____
	ORDER NO. <u>203348</u> DATE: <u>OCT. 22, 2014</u> THIS IS NOT A "BOUNDARY SURVEY" CERTIFICATE OF AUTHORIZATION No. LB-87	 RONALD A. FRITZ, ASSISTANT VICE PRESIDENT FLORIDA PROFESSIONAL LAND SURVEYOR No. 2767

K:\365040\Downey Ranches\LEGALS\DWG\NVAL DEDICATED - LOTS 1-4.dwg

**SKETCH TO ACCOMPANY LEGAL DESCRIPTION  
NON-VEHICULAR ACCESS LINE TO BE DEDICATED**



SHEET 2 OF 4 SHEETS

	<b>Schwebke-Shiskin &amp; Associates, Inc.</b> LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025 PHONE No. (954) 435-7010 FAX No. (954) 438-3288	REVISIONS _____ _____ _____ _____ _____
	ORDER NO. <u>203348</u> DATE: <u>OCT. 22, 2014</u>	 RONALD A. FRITZ, ASSISTANT VICE PRESIDENT FLORIDA PROFESSIONAL LAND SURVEYOR No. 2767
THIS IS NOT A "BOUNDARY SURVEY" CERTIFICATE OF AUTHORIZATION No. LB-87		

K:\365040\Downey Ranches\LEGALS\DWG\NVAL DEDICATED - LOTS 1-4.dwg



**LEGAL DESCRIPTION TO ACCOMPANY SKETCH  
NON-VEHICULAR ACCESS LINE TO BE DEDICATED**

**LEGAL DESCRIPTION:**

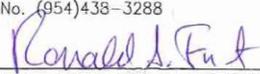
BEING A PORTION OF THE EXISTING NON-VEHICULAR ACCESS LINE AS SHOWN ON PARCEL "A" AND LOTS 1 THROUGH 4, INCLUSIVE, ACCORDING TO THE PLAT OF "TARA", AS RECORDED IN PLAT BOOK 162 AT PAGE 20, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 10 MINUTES 28 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 1, FOR 12.00 FEET TO THE POINT OF BEGINNING "A" OF A 50.00 FOOT WIDE ALLOWED ACCESS OPENING; THENCE NORTH 88 DEGREES 07 MINUTES 42 SECONDS EAST, ALONG A LINE THAT IS 12.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID LOT 1, FOR 50.02 FEET TO THE POINT OF TERMINATION "A" OF A 50.00 FOOT WIDE ALLOWED ACCESS OPENING AND THE POINT OF BEGINNING "B" OF A NON-VEHICULAR ACCESS LINE; THENCE CONTINUE NORTH 88 DEGREES 07 MINUTES 42 SECONDS EAST, ALONG THE LAST DESCRIBED COURSE, FOR 229.68 FEET; THENCE SOUTH 46 DEGREES 01 MINUTES 14 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTHEASTERLY LINE OF SAID LOT 1, FOR 72.02 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 32 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH 20.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF SAID LOTS 1 THROUGH 4, INCLUSIVE, FOR 834.95 FEET; THENCE SOUTH 06 DEGREES 42 MINUTES 24 SECONDS WEST FOR 100.71 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 46 SECONDS EAST, ALONG A LINE THAT IS PARALLEL WITH AND 72.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 50 SOUTH, RANGE 39 EAST, AS SHOWN ON THE SAID PLAT OF "TARA", FOR 150.00 FEET; THENCE SOUTH 44 DEGREES 54 MINUTES 14 SECONDS WEST, ALONG A LINE THAT IS PARALLEL WITH AND 12.00 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE SOUTHEASTERLY LINE OF SAID PARCEL "A", FOR 49.49 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 14 SECONDS WEST, ALONG THE SOUTH LINE OF SAID PARCEL "A", FOR 83.03 FEET TO THE POINT OF TERMINATION "B" OF A NON-VEHICULAR ACCESS LINE; ALL LYING AND BEING IN THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 50 SOUTH, RANGE 39 EAST AND THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 50 SOUTH, RANGE 39 EAST, TOWN OF SOUTHWEST RANCHES, BROWARD COUNTY, FLORIDA.

**SURVEYOR'S NOTES:**

- 1) BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF SOUTH 88 DEGREES 07 MINUTES 42 SECONDS WEST ALONG THE CENTER LINE OF GRIFFIN ROAD AS SHOWN ON THE HEREIN REFERENCED PLAT OF "TARA".
- 2) ORDERED BY: JCR HOLDINGS
- 3) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE ATTESTING FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 4 OF 4 SHEETS

	<p><i>Schwebke-Shiskin &amp; Associates, Inc.</i>                  LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025                  PHONE No.(954)435-7010 FAX No. (954)438-3288</p>	REVISIONS <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
	ORDER NO. <u>203348</u> DATE: <u>OCT. 22, 2014</u> THIS IS NOT A "BOUNDARY SURVEY" CERTIFICATE OF AUTHORIZATION No. LB-87	 RONALD A. FRITZ, ASSISTANT VICE PRESIDENT FLORIDA PROFESSIONAL LAND SURVEYOR No. 2767

K:\365040\Downey Ranches\LEGALS\DWG\NVAL DEDICATED - LOTS 1-4.dwg

**ORDINANCE NO. 2015-\_\_\_\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AMENDING ARTICLE 40, TELECOMMUNICATIONS TOWERS AND ANTENNAS, OF THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the Town of Southwest Ranches, Florida to exercise its authority to amend its previously enacted rules and regulations under Article 40 of the Land Development Code with respect to the siting of telecommunications towers and antennas within the town and ensure compliance with all applicable federal and State statutory requirements;

**WHEREAS**, after notice duly published, a public hearing was held before the Planning and Zoning Board on \_\_\_\_\_, 2015, at which hearing all interested parties were afforded the opportunity to be heard; and

**WHEREAS**, the Board was presented with a text amendment to the Land Development Code and after due consideration, recommended \_\_\_\_\_ (\_\_\_\_-\_\_\_\_ vote) of the amendment; and

**WHEREAS**, after notice duly published, a public hearing for First Reading was held before the Town Council on September 15, 2015 at which hearing all interested parties were afforded the opportunity to be heard; and

**WHEREAS**, the Town Council was presented with a text amendment to the Land Development Code, and after due consideration and discussion, \_\_\_\_\_ (\_\_\_\_-\_\_\_\_ vote) the amendment on First Reading; and

**WHEREAS**, it is the intent of the Town that this Ordinance shall amend the existing regulations codified under Article 40, entitled "Telecommunications Towers and Antennas" Section 040-010 *et seq.* of the Land Development Code.

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

**SECTION 1.** The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this section.

**SECTION 2.** Article 40, Section 040-010 *et seq.* of the Land Development Code of the Town of Southwest Ranches, Florida, entitled "Telecommunications Towers and Antennas," is hereby amended as follows<sup>1</sup>:

**Sec. 040-020. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory use* means a use incidental to, subordinate to, and subservient to the main use of the property. As defined in this section, an accessory use is a secondary use.

*Antenna* means a transmitting and/or receiving device and/or relays used for wireless services that radiates or captures electromagnetic waves, including directional antennas, such as, but not limited to, panel and microwave dish antennas, Digital Antenna System ("DAS"), and omni-directional antennas, such as whips, excluding radar antennas, amateur radio antennas and satellite earth stations.

*Antenna support structure* means any building or structure, other than a tower, that can be used for the location of telecommunications facilities.

*Antenna support structures for personal radio services* means any poles, masts, towers and/or support structures for supporting antenna used in the operation of personal radio services.

*Base Station* means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

- a. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).
- c. Any structure other than a tower that, at the time the relevant application is filed under this section, supports or houses equipment described in paragraphs (a) or (b) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

---

<sup>1</sup> Language added is indicated by underline, and language deleted is indicated by ~~strikethrough~~.

Base Station does not include any structure that, at the time the relevant application is filed under this section, does not support or house equipment described in (a) or (b) of this section.

*Combined antenna* means an antenna or an array of antennas designed and utilized to provide services for more than one (1) carrier.

*Distributed Antenna System, or DAS, is a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. DAS antenna elevations are generally at or below the clutter level and node installations are compact. A distributed antenna system may be deployed indoors (an iDAS) or outdoors (an oDAS).*

*Eligible Facilities Request* means any request for modification of an existing tower or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §1455(a), that does not substantially change the physical dimensions of such tower or base station, involving:

- a. Collocation of new transmission equipment;
- b. Removal of transmission equipment; or
- c. Replacement of transmission equipment,

as such terms are defined by FCC regulations.

*Equipment facilities* means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply and related structure or enclosure that houses such equipment. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*Extraordinary conditions* occur subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

*Guyed tower* means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

*Master microcell facility* means a telecommunications facility consisting of an antenna (as defined in this section) and related equipment which is located either on a telecommunications tower or affixed to a structure in some fashion for the provision of wireless services.

*Microwave dish antenna* means a dish-like antenna used to link wireless service sites together by wireless transmission of voice or data.

*Monopole tower* means a telecommunications tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors.

*Panel antenna* means an array of antennas designed to concentrate a radio signal in a particular area.

*Personal radio services* include the following services as defined by the Federal Communications Commission (FCC) as amended: the General Mobile Radio Service, the Family Radio Service, the Radio Control Radio Service, the Citizens Band Radio Service, the Low Power Radio Service, the Wireless Medical Telemetry Service, the Medical Device Radio Communications Service, the Multi-Use Radio Service, and the Dedicated Short-Range Communications Service On-Board Units. Personal Radio Services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other wireless services. The range of applications is wide, spanning from varied one- and two way voice communications systems to non-voice data transmission devices used for monitoring patients or operating equipment by radio control. Licensing and eligibility rules vary. Some personal radio services require a license grant from the FCC, while others require only the use of equipment that is properly authorized under the FCC's rules. The personal radio services are: Citizens Band (CB) Radio Service - 1-5 mile range two-way voice communication for use in personal and business activities. Family Radio Service (FRS) - 1 mile range Citizen Band service for family use in their neighborhood or during group outings. General Mobile Radio Service (GMRS) - 5-25 mile range Citizen Band service for family use in their neighborhood or during group outings. Low Power Radio Service (LPRS) - private, one-way communications providing auditory assistance for persons with disability, language translation, and in educational settings, health care, law, and AMTS coast stations. Medical Implant Communications Service (MICS) - for transmitting data in support of diagnostic or therapeutic functions associated with implanted medical devices. Multi-Use Radio Service (MURS) - private, two-way, short-distance voice or data communications service for personal or business activities of the general public. Personal Locator Beacons (PLB) - used by hikers, and people in remote locations to alert search and rescue personnel of a distress situation. Radio Control Radio Service (R/C) - one-way non-voice radio service for on/off operation of devices at places distant from the operator. Wireless Medical Telemetry Service (WMTS) - for remote monitoring of patients' health through radio technology and transporting the data via a radio link to a remote location, such as a nurses' station.

*Roofline* means the overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed the maximum height of the structure.

*Self-support lattice tower* means a tapered structure, broad at the base and more narrow at the top, consisting of cross-members and diagonal bracing and without guyed support.

*Stealth/camouflaged monopole* means a telecommunication tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors and designed to blend into the surrounding environment. Examples of stealth/camouflaged monopole towers telecommunication and/or wireless services towers designed to look like light poles, flag poles, power poles or trees.

*Stealth facility* means any telecommunications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof mounted antennas, antennas integrated into architectural elements, and telecommunication and/or wireless services towers designed to look like light poles, flag poles, power poles, trees or other similar structures.

*Telecommunication facility* means a combination of equipment which is located either upon a telecommunication tower or a structure which includes some form of antenna for the purpose of transmitting and receiving wireless services.

*Telecommunications tower or Tower* means a stealth/camouflaged monopole, monopole, self-support/lattice, or guyed tower, constructed as a free-standing structure, containing one (1) or more antennas, used in the provision of wireless services, excluding radar towers, amateur radio support structures licensed by the FCC, private home use of satellite dishes and television antennas and satellite earth stations installed in accordance with applicable needs.

*Whip antenna* means a cylindrical antenna that transmits and/or receives signals in three hundred sixty (360) degrees.

#### **Sec. 040-030. - Telecommunication tower siting in certain zoning districts.**

- (a) Free-standing telecommunication towers shall be located in the following order of hierarchy:
  - (A) Town-owned property;
  - (B) M, manufacturing and industrial district;
  - (C) CB, community business district.
- (b) Town-owned property shall take preference over privately owned property. If the proposed site is other than town-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need.
  - (A) ~~Free-standing~~ Telecommunications towers shall be deemed a permitted use on any town-owned property in accordance with an executed lease agreement acceptable to the town. The town shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The town reserves the right to require a tenant to reimburse the town for reasonable costs incurred in connection with the lease of town property, including consultant and attorneys' fees.

- (1) The town may, as appropriate, to protect its property and the public interest, establish additional requirements beyond the minimum requirements of a permit for town-owned property. Setback and distance requirements in the town Code may be modified to the extent necessary to provide for the public interest as determined by the town council. This provision further does not preclude the town from issuing a letter of interest for the purposes of leasing sites on designated town property for the construction and installation of telecommunications facilities. For designated town-owned property, the town will encourage the installation of telecommunications facilities which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.
- (B) Telecommunications towers shall be deemed a permitted use in the M district subject to the applicant showing that he has met the requirements of the minimum standards for the development of towers as specified in this article and subject to site plan review by the town administrator or a designee with final approval by the town council.
- (C) Telecommunications towers shall be deemed a conditional use within the CB District.
  - (1) Each conditional use pursuant to subsection (C) of this section shall be reviewed by the town administrator to determine if said conditional use is appropriate in the area where same is to be placed, based upon the criteria set forth herein, and approval is subject to review by the town administrator or a designee with final approval by the town council.
- (D) Telecommunications facilities may be permitted on existing utility poles as a conditional use pursuant to paragraph (c) in the Florida Power & Light Easement, Use for Major Electric Transmission. Nothing herein shall be deemed to authorize equipment facilities in such Florida Power & Light Easement. No free-standing towers constructed exclusively for wireless service shall be permitted other than as provided in subsections (A), (B) and (C) of this section. No additional rights other than provided herein shall be deemed created by this designation.
- (E) The location of a new telecommunications tower on a property other than those specified in subsection (A), (B), (C) or (D) of this section shall be prohibited.
- (F) Once a telecommunications tower is approved by the town, a building permit application shall be submitted within six (6) months.

**Sec. 040-040. - Minimum standards for development of towers.**

All telecommunications towers must meet the following minimum standards:

- (A) *Tower types.* To minimize adverse visual impacts, tower types shall be selected based upon the following hierarchy:
  - (1) Stealth/camouflaged monopole.

- (2) Monopole.
- (3) Self-support/lattice tower.

The applicant shall be required to demonstrate, in a technical manner acceptable to the town council why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of a tower type lower in the hierarchy.

(B) *Guyed towers.* Guyed towers shall not be permitted.

(C) *Site development plan required for permit.* Prior to the issuance of a building, electrical, engineering or construction permit, a site development plan shall be presented to the town council. If, however, the proposed tower is located on town property, since the lease agreement will be reviewed by the town council prior to the submittal of a site development plan application, prior to the issuance of a building, electrical, engineering or construction permit, a site development plan shall be presented to the town administrator. Each application for a proposed telecommunications tower shall include all requirements for site development plan approval as required in other sections of the town ULDC. To help ensure compatibility with surrounding land uses, each application for a proposed communication tower shall include the following information:

- (1) The exact location of the proposed tower location on a town official zoning map;
- (2) The maximum height of the tower;
- (3) The location of the proposed tower, placed upon an aerial photograph possessing a scale of not more than one (1) inch equals three hundred (300) feet, indicating all adjacent land uses within a radius of three thousand (3,000) feet from a property line of the proposed tower location site;
- (4) The names, addresses and telephone numbers of all owners of other towers or antenna support structures within the search area of the proposed new tower site, including town-owned property;
- (5) Written documentation that the applicant made diligent but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on all town-owned towers or antenna support structures located within the search area of the proposed tower site;
- (6) Written documentation that the applicant made diligent but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on all towers or antenna support structures owned by other persons located within the search area of the proposed tower site;
- (7) A delineation of the search area needed for the coverage or capacity;
- (8) A line of sight analysis which shall include the following information:

- a. An identification of significant existing natural and manmade features adjacent to the proposed tower location, to indicate those features that will provide buffering for adjacent properties and public rights-of-way;
  - b. A statement as to the potential visual and aesthetic impacts of the proposed tower on all adjacent residential zoning districts;
  - c. An identification of specific points, measured two thousand (2,000) feet north of the proposed tower, two thousand (2,000) feet south of the proposed tower, and two thousand (2,000) feet east and west of the proposed tower from which the line of sight analysis is presented or the closest accessible public property from each of the above delineated points;
  - d. A graphic illustration of the visual impact of the proposed tower, at a scale that does not exceed five (5) degrees of horizontal distance, presented from specific points identified within the line of sight analysis.
- (9) A report shall be submitted, prepared by a licensed professional engineer, which describes the tower height and design, including a cross section of the structure; through rational engineering analysis demonstrates the tower's compliance with applicable standards as set forth in the building code, latest Broward County edition; and describes the tower's capacity, including number and type of antennas and dishes it can accommodate;
- (10) Proof of adequate insurance coverage acceptable by the town for any potential damage caused by the tower. Thirty (30) days' notice of cancellation of insurance to the town is required.
- (11) Such other additional information as may be reasonably required by town staff to fully review and evaluate the potential impact of the proposed tower, including:
- (i) The existing cell sites (latitude, longitude, power levels) to which this proposed site will be a handoff candidate;
  - (ii) An RF plot indicating the coverage of existing sites, and that of the proposed site;
  - (iii) Antenna heights and power levels of the proposed site;
  - (iv) A written affidavit stating that there are no existing alternative sites within the provided search area, and there are no alternative technologies available which could provide the proposed service enhancement without the tower.

Town staff may utilize the services of a registered professional engineer or a radio frequency engineer who has at least a four (4) year engineering degree to confirm the statements made as a requirement of subsection (11) of this section and may

use the services of an outside consultant to assist the town in processing the application. The cost of same shall be borne by the applicant.

- (D) *Standards for new towers.* No new tower shall be built, constructed or erected in the town unless such tower is capable of accommodating, at a future date, additional telecommunications facilities owned by other persons and the tower owners agree to comply with section 040-140, "Existing towers." All new towers shall be designed and built to accommodate multiple users; at a minimum, stealth/camouflaged monopole and monopole towers shall be able to accommodate three (3) users and at a minimum, self-support/lattice towers shall be able to accommodate four (4) users. As wireless technology advances, applicants may be required to construct facilities utilizing advancing technologies including, but not limited to, combined antennas when determined necessary for health, safety, welfare aesthetics, and compatible with providers technical, capacity and coverage requirements. The applicant shall state in any application for a permit that it will, as a condition of issuance of the permit, accommodate antenna facilities of other providers, on a nondiscriminatory basis on terms which are reasonable in the industry, unless the applicant can affirmatively demonstrate, based on verifiable objective data, why it cannot do so. Refusal to continually comply with this obligation shall be a violation of this article and shall be grounds for revoking the applicant's permit.
- (E) *Noninterference.* Each applicant to allow construction of a telecommunications tower shall include a certified statement, prepared by a radio frequency (RF) engineer who has at least a four (4) year engineering degree or a licensed professional engineer, that the construction and placement of the tower will not unnecessarily interfere with public safety communications and the usual customary transmission or reception of radio and television service enjoyed by adjacent residential and nonresidential properties. A statement shall be prepared by a radio frequency (RF) licensed professional engineer or a radio frequency engineer who has at least a four (4) year engineering degree, identifying any interference that may result from the proposed construction and placement.
- (F) *Access.* A parcel of land upon which a tower is located must provide access during normal business hours to at least one (1) paved vehicular parking space adjacent to each tower location.
- (G) *Towers to comply with FCC standards.* Each application for a telecommunications tower may be required to include a statement that there is no objection from other federal or state agencies that may regulate telecommunications tower siting, design and construction. All proposed telecommunication towers shall comply with current radio frequency emissions standards of the Federal Communications Commission, or other legally regulating body.
- (H) *Waiving requirements.* Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town and in the best

interest of telecommunication service to the community. Such waiver shall require four (4) affirmative votes of the town council.

- (I) *Notice of public notification.* Notice of an application for a telecommunications tower shall be set via certified mail to all property owners within a fifteen hundred (1,500) foot radius of the affected property. The applicant shall provide the notification mailing labels and shall pay the town's costs for the preparation of the notification letters and the mailing as well as the cost of the certified mailing.

(J) Timeframes for application.

- (1) The town may establish separate applications for the various administrative approvals needed by an applicant including, but not limited to, site plan, zoning compliance, public safety, and building permit reviews.
- (2) Notification of completeness. The town shall notify the applicant within twenty (20) business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed, containing sufficiently reliable information, and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed. If the application has been properly submitted, the application shall be scheduled for the next regularly scheduled public hearing of the Planning and Zoning Board, if such a hearing is required by applicable law.
- (3) Timeframe for decision. Each application for a new tower or antenna shall be approved or denied by the town within ninety (90) business days after the date that the properly completed application is submitted to the town, provided that such application complies with all applicable federal regulations, and applicable local zoning and/or land development regulations, including but not limited to any aesthetic requirements. If applicable law provides for a different time frame, the town shall comply with such law.
- (4) Each application for collocation of a second or subsequent antenna on a tower, building, or structure within the Town's jurisdiction shall be approved or denied by the town within forty-five (45) business days after the date the properly completed application is submitted to the Town, provided that such application complies with all applicable federal regulations, and applicable local zoning and/or land development regulations, including but not limited to any aesthetic requirements. If applicable law provides for a different time frame, the town shall comply with such law.
- (5) For an Eligible Facilities Request, within 60 days of the date on which an applicant submits an application seeking approval of an eligible facilities request, the town shall approve the application unless it determines that the application is not covered by such provision. The 60-day review period begins

to run when the application is filed, and may be tolled only by mutual agreement by the town and the applicant, or in cases where town determines that the application is incomplete.

(6) Extension and waiver. Unless prohibited by applicable law, where action by a town Board, Committee, or the Town Council is required on an application, the town may, by letter to the applicant, extend the timeframe for a decision until the next available regularly scheduled meeting of the town Board, Committee, or Town Council. Notwithstanding the foregoing, the applicant may voluntarily agree to waive the timeframes set forth above.

(7) Emergency extension. In addition to the extensions referenced in subsection C(6), the town shall also have the discretion to declare a one (1) time waiver of the time frames set forth herein in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities in the town.

#### **Sec. 040-050. - Height/setbacks and related location requirements.**

- (A) The height of a telecommunication tower shall not exceed one hundred fifty (150) feet, not including nonstructural lightning rods and required safety lightning rods. Tower height shall be measured from the crown of the road of the nearest public street.
- (B) Telecommunication towers shall, at a minimum, conform with the setback established for the underlying zoning district.
- (C) Stealth/camouflaged monopole, monopole, or self-support/lattice telecommunication towers shall not be permitted in proximity to any residential zoned parcel that is within four (4) times the height of the tower. By way of illustration, if the tower is one hundred fifty (150) feet, it must be at least six hundred (600) feet from any residential plot.
- (D) All buildings and other structures to be located on the same property as a telecommunications tower shall conform with the setbacks established for the underlying zoning district.
- (E) The provision in subsection (D) of this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town or compliance with other regulations, and in the best interest of telecommunication service to the community. Any waiver shall require four affirmative votes of the town council.

#### **Sec. 040-060. - Buffering.**

- (A) An eight (8) foot high fence or wall, as measured from the finished grade of the site, shall be required around the tower and any accessory buildings or structures. In no

case will barbed wire or razor wire fencing be permitted. Access to the tower shall be through a locked gate.

- (B) Landscaping, consistent with the requirements of section 075-070, "Nonresidential perimeter and vehicular use area landscape requirements" shall be installed around the entire outside perimeter of any fence or wall. Additional landscaping may be required around the perimeter of a fence or wall and around any or all anchors or supports if deemed necessary to buffer in order to enhance compatibility with adjacent residential and nonresidential land uses.
- (C) Landscaping consistent with section 075-070 shall be installed around any accessory buildings or structures.

**Sec. 040-070. - High voltage, "No Trespassing" and other warning signs.**

- (A) If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "High Voltage-Danger" warning signs shall be permanently attached to the fence or wall and shall be placed no more than forty (40) feet apart.
- (B) "No Trespassing" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.
- (C) The letter for the "High Voltage-Danger" and "No Trespassing" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.
- (D) The warning signs may be attached to free-standing poles if the content of the signs may be obstructed by landscaping.
- (E) Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation.
- (F) The use of any portion of a tower for signs or advertising purposes, including, but not limited to, a company name, banners, streamers, religious icons, etc., shall be strictly prohibited.

**Sec. 040-080. Equipment storage facilities.**

~~Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility, unless repairs to the facility are being made. Portable emergency generators may be temporarily located at a telecommunications facility in the event of a power outage but must be removed upon resumption of power. Portable "crank-up" or otherwise mobile telecommunications facilities may not be located at a telecommunications facility. Nothing in this section shall preclude the placement of a permanent generator onsite; provided that the generator meets the criteria set forth in the town Code and is in compliance with the building code, latest Broward County edition.~~

(A) Equipment facilities for a telecommunications tower or antennas mounted on a tower shall not occupy more square feet or be of greater height than reasonably necessary and in no event shall exceed one thousand (1,000) square feet of gross floor area not including the surrounding concrete pad, or be more than ten (10) feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

(B) Equipment facilities used in association with antennas mounted on structures or rooftops shall comply with the following:

1. All equipment facilities for an array on a structure or rooftop shall not exceed six hundred (600) square feet of gross floor area or be more than ten (10) feet in height or as otherwise allowed by the town. This ten (10) foot height limitation shall be measured from the top of the structure or roofline to the highest point of the equipment facility. The base pad shall be considered part of the facility for purposes of measuring the height. In addition, for structures which are less than four (4) stories in height, the related unmanned equipment facility, if over one hundred (100) square feet of gross floor area or six (6) feet in height, including base pad, shall be located on the ground or inside the structure and shall not be located on the top of the structure or rooftop unless the structure is completely screened from site.

2. Providers shall place equipment facilities inside the building or structure where technically feasible. If the equipment facility is located on the roof of a building, the area of the equipment facility and all other equipment and structures shall not occupy more than fifty (50%) percent of the roof area. Once fifty (50%) percent of the roof area has been occupied by telecommunications equipment and all other equipment and structures, no additional antennas or equipment may be placed on that rooftop. The town may grant an exception to this provision allowing for additional equipment on a particular rooftop, if the applicant first, at its own cost, conducts an examination of the structural integrity of the roof to determine whether the roof can accept the placement of additional equipment. The town shall balance this report with the aesthetic issues related thereto in considering whether to allow for additional equipment.

3. The town may require that equipment facilities installed on a building shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting building and shall be screened as required by the town so as to make the equipment facility as visually unobtrusive as possible. The town shall have the discretion to require that any aesthetic screening exceed the height of the equipment associated with the antenna by a minimum of one (1) foot.

(C) Equipment facilities shall comply with all applicable zoning and building codes, including minimum setback requirements as provided herein.

(D) Mobile or immobile equipment not used in direct support of a telecommunications tower shall not be stored or parked on the site of the telecommunication tower, except while repairs or inspections of the telecommunications tower are being made.

- (E) All buildings and equipment cabinets shall be unoccupied at all times except for routine maintenance.
- (F) Equipment facilities associated with towers or antennas shall not be located in public rights-of-ways unless located underground, on existing utility poles or an existing tower, or in existing buildings adjacent to the public rights-of-ways. All lines and cabling to and from such equipment facilities shall be located underground. Design and size of such equipment facilities shall be subject to regulation of the town.
- (G) Portable emergency generators may be temporarily located at a telecommunications facility in the event of a power outage but must be removed upon resumption of power. Nothing in this section shall preclude the placement of a permanent generator onsite; provided that the generator meets the criteria set forth in the town Code and is in compliance with the building code, latest Broward County. Portable emergency generators and permanent generators are required to obtain a permit from the town prior to installation.
- (H) All accessory buildings or structures shall meet all building design standards as listed in the town Code and in accordance with the provisions of the building code, latest Broward County edition. All accessory buildings or structures shall require a building permit.
- (I) Accessory structures shall be designed to resemble the basic design of the principal use or be designed to resemble the neighborhood's basic building design. In no case will metal exteriors be allowed for accessory buildings or structures.

**Sec. 040-090. - Removal of abandoned or unused facilities.**

All abandoned or unused telecommunications tower facilities shall be removed by the tower owner/operator within ninety (90) days of the cessation of use. A tower shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days. Telecommunications towers being utilized for other purposes, including, but not limited to, light standards and power poles, may be exempt from this provision where superseded by the requirements of other county, state or federal regulatory agencies. The town may require a bond when issuing a permit to ensure the removal of towers pursuant to this Section.

**Sec. 040-100. ~~Signs and advertising~~Public safety and Town communications.**

~~The use of any portion of a tower for signs or advertising purposes, including, but not limited to, a company name, banners, streamers, religious icons, etc., shall be strictly prohibited.~~ (A) Town telecommunications facilities and wireless services. The town may reasonably require appropriate space on towers and structures for location of town communications facilities as necessary for the town internal communications, public safety, or public purposes as determined by the town for the health, safety and welfare of the town's residents.

1. The town reserves the right to negotiate with an applicant for a telecommunications tower for space on the proposed telecommunications tower as may be determined by the town and the applicant. If such negotiations do not

result in an agreement, the parties shall submit such dispute to mediation under terms to which the parties shall agree.

2. The town may reasonably require a developer or property owner seeking approvals from the town to permit the town without charge to the town to locate town communications facilities on or in their building, on another structure, or on their property to allow for the provision of town public safety or internal communications.

3. All developers or property owners allowing wireless facilities on their buildings, on other structures, or on their property that requires the town's approval shall reserve on their structure or property sufficient space as reasonably specified and required by the town to accommodate town telecommunications facilities.

4. The town may reasonably require a developer or property owner seeking approvals from the town to permit service providers to locate telecommunications facilities on their buildings, on another structure, or on their property with reasonable compensation to allow for the provision of personal wireless services within the town limits.

(B) Interference with town telecommunications facilities. To the extent not inconsistent with applicable law, all service providers of and owners of telecommunications facilities, buildings, or property within the town shall comply with the following:

1. No telecommunications facility, building, or structure shall interfere with any public frequency or town telecommunications facilities. Any service provider that causes interference with any public frequency or the operations of town telecommunications facilities, shall, after receiving notice, rectify the interference immediately.

2. The town shall not issue a building permit for any proposed building that will interfere with town telecommunications facility or public frequency unless such building complies with this Division.

**Sec. 040-110. ~~Accessory buildings or structures.~~ Personal radio antenna support structures.**

~~(A) All accessory buildings or structures shall meet all building design standards as listed in the town Code and in accordance with the provisions of the building code, latest Broward County edition. All accessory buildings or structures shall require a building permit.~~

~~(B) Accessory structures shall be designed to resemble the basic design of the principal use or be designed to resemble the neighborhood's basic building design. In no case will metal exteriors be allowed for accessory buildings or structures~~

Antenna Support Structures used in the operation of Personal Radio Services shall be exempted from the provisions contained within this Article except as noted within this Section. Personal radio services' Antenna Support Structures shall be governed by the following:

(A) Application requirements and fees. An application shall comply with the requirements of Sections 040-040 (C)(1), (3), (4) and (8). The town may establish a filing fee for such application. The timeframes for review contained within Section 040-040 (J) shall not apply to such application. Other application requirements may be requested as determined by the Department completing the review.

(B) Required reviews and permits.

1. By right review. Applications for Antenna Support Structures less than fifty (50) feet in height shall be submitted to the Building and Zoning Department for review and permit issuance.
2. Conditional use review. Antennas Support Structures greater than fifty (50) feet in height require conditional use review pursuant to the Conditional Use provisions of the Zoning Code. Conditional use review applications shall be submitted to the Planning Department for review. The Department shall provide a recommendation which shall be forwarded for public hearing review by the town Council at which all interested persons shall be afforded an opportunity to be heard.
3. Permits shall be required for installation of all Antenna Support Structures.
4. If approval is recommended and/or granted, town staff and town council may proscribe conditions and safeguards to such approval.

(C) Requirements.

1. Such Antenna Support Structures as a minimum shall be subject to the following standards.
  - a. Measurement of height. In computing the height of the installation, the top section of the pole, mast or tower, including antennae array, when fully extended, shall be considered the top for the purpose of these provisions.
  - b. Permitted locations and number permitted. A maximum of one (1) Antenna Support Structure shall be permitted on each building site with a A-1, A-2, RE and RU zoning districts.
  - c. Building site location. Antenna Support Structures shall be located behind the required primary/principle building within the rear and interior side yard of the property. Antenna Support Structures are prohibited within the front and side street yard areas.

- d. Setbacks. Antenna Support Structures shall maintain the same rear and side setbacks as required for the principal building of the building site. All of the above shall also be a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such Antenna Support Structure is located on a building site which is fronting upon two or more streets and/or alleys, the Antenna Support Structure shall maintain the same primary/principle building setback as required for each such street or alley.
- e. Dismantling/tilting provisions for Antenna Support Structures exceeding fifty (50) feet in height. An Antenna Support Structure exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted Antenna Support Structures shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the Antenna Support Structure shall be cranked down to its nested position or tilted over and antenna shall be removed. Antennae engaged in emergency communications shall be exempted from the dismantling provisions.
- f. Installation. The installation or modification of an Antenna Support Structure and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable town, State and Federal requirements, as amended including but not limited to following: Florida Building Code, town Code, Zoning Code, National Electric Code and F.C.C. regulations.

(D) Violations. Violations of any conditions and safeguards, when made part of the terms under which the application is approved, shall be deemed grounds for revocation of the permit and punishable as a violation of the Zoning Code.

**Sec. 040-120. - Colors.**

Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over telecommunications towers, telecommunications towers shall be painted or constructed in neutral colors, designed to blend into the surrounding environment such as noncontrasting gray.

**Sec. 040-130. - Inspection report required.**

(A) Telecommunication tower owners shall submit a report to the town administrator certifying structural and electrical integrity on the following schedule:

- (1) Stealth/camouflaged monopole towers: once every two (2) years;
- (2) Monopole towers: once every two (2) years;
- (3) Self-support/lattice towers: once every two (2) years.

- (B) Inspections shall be conducted by an engineer licensed to practice in the state. The results of such inspections shall be provided to the town administrator. Based upon the results of an inspection, the town administrator may require repair or removal of a telecommunication tower.
- (C) The town may conduct periodic inspections with the cost of such inspection paid by the tower owner of the telecommunications tower to ensure structural and electrical integrity. The owner of the telecommunication tower may be required by the town to have more frequent inspections if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.

**Sec. 040-140. - Existing towers.**

- (A) All telecommunications towers existing ~~on May 10, 2001, (as of the effective date of this ordinance,)~~ which do not meet the requirements of this article shall be considered legally nonconforming under this section and allowed to continue their legal usage as they presently exist, provided that they comply with applicable federal and state regulations of the with the exception of federal regulations relating to the health and safety of exposure levels as defined by the Occupational Safety and Health Act as amended and radio frequency (RF) exposure levels as defined by Federal Communications Commission regulations. Any modification of a legal nonconforming tower must be submitted for review as required herein for modifications, ~~however, approval shall may be granted by the town council.~~ New construction, other than routine maintenance on an existing telecommunications tower, shall comply with the requirements of this section.
- ~~(B) Notwithstanding the provisions of subsection (A) of this section, telecommunications antennas may be placed on existing towers with sufficient loading capacity after approval by the town administrator. The capacity shall be certified by an engineer licensed to practice in the state.~~
- ~~(C) Any owner of land upon whose parcel of land a tower is located, which contains additional capacity for installation or collocation of telecommunications facilities, shall allow other persons to install or collocate telecommunications facilities on such a tower subject to reasonable terms and conditions negotiated between the parties and subject to the terms of the original tower agreement.~~
- ~~(B)~~ An existing tower may be modified to accommodate collocation of additional telecommunications facilities as follows:
  - (1) Application for a development permit shall be made to the town administrator who shall have the authority to issue a development permit without further approval by the town council.
  - (2) The total height of the modified tower and telecommunications facilities attached thereto shall not exceed the pre-modification height approved for that location. If

no height restriction was specified for such tower, the collocation may increase the height pursuant to applicable federal law.

(3) A tower that is being rebuilt to accommodate the collocation of additional telecommunications facilities may be moved on site subject to the setback requirements of the zoning district where the tower is located.

(4) A request to collocate or an eligible facilities request for Additional antennas, communication dishes and similar receiving or transmission devices proposed for attachment to an existing telecommunications tower, shall require review of the town council administrator. The application for approval to install additional antennas shall include certification from an engineer registered in the state indicating that the additional device installed will not adversely affect the structural integrity of the tower, providing an explanation that it complies with the requirements of an eligible facilities request under federal law regulations, and complies with all requirements on the tower when approved. A visual impact analysis shall be included as part of the application for approval to install one (1) or more additional devices to an existing tower. However, a request to add equipment on an existing tower that does not satisfy the requirements for an eligible facilities request under federal law or collocation under state law shall require the review and approval addition of up to two (2) antennas per sector, of similar profile to those existing on an existing antenna sectorized "platform," shall not require review of the town council. Applicants must still demonstrate the structural integrity of the tower with the additional antennas to the town prior to construction.

#### **Sec. 040-150. - Permit fees, application and inspection fees required.**

(A) *Permit required.* Construction without a town permit is prohibited. No construction shall be started until a permit to construct has been granted by the town administrator. At the time of filing the construction drawings and documents referred to herein, the developer or owner or applicant as the case may be shall provide a detailed cost analysis of the cost of construction of the telecommunications facilities covered by this section. The applicant, developer, or owner, as the case may be, shall pay the town permit fees in accordance with the schedule of permit fees of the town Code.

(B) *Application fee required.* A filing fee in an amount necessary to cover the costs for the processing of the application shall be submitted for site development approval. In addition, a biennial inspection fee in the amount necessary to cover the costs of the inspection process is due to the town at the time of inspection. In addition to application fees, the town reserves the right to charge applicants reasonable costs and fees for experts and consultants used for a particular application.

#### **Sec. 040-160. - Maintenance.**

(A) Providers shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing

failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(B) Providers shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the National Electrical Safety Code and all FCC, state and local regulations, and in such a manner that will not interfere with the use of other property.

(C) All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(D) All maintenance or construction on a tower, telecommunications facilities or antenna support structure shall be performed as provided by law.

(E) All antennas and towers shall maintain compliance with current radio frequency emissions standards of the FCC.

(F) In the event any portion of the use of the tower is discontinued by any provider, that tower owner ~~provider~~ shall provide written notice to the town of its intent to discontinue use and the date when the use shall be discontinued. The tower owner shall obtain a permit from the town to remove the tower.

**Sec. 040-170. - Antennas not located on telecommunications towers.**

(A) *Districts where permitted.* Stealth and nonstealth rooftop or building-mounted antennas not exceeding twenty (20) feet above the roofline and not exceeding ten (10) feet above maximum height of the applicable zoning district shall be permitted as a conditional use in the following districts:

- (1) Town-owned property.
- (2) M, manufacturing and industrial district.
- (3) CB, community business district.

(B) *Approval subject to site plan review.* The approval of any antenna not located on telecommunications towers shall be subject to site plan review by the town administrator or a designee with a showing that the minimum standards as specified in this ULDC have been met with a final approval by the town council.

(C) *Preference for town-owned property.* Town-owned property shall take preference over privately owned property. If the proposed site is other than town-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need.

- (1) Stealth and nonstealth rooftop or building-mounted antennas shall be deemed a permitted use on any town-owned property in accordance with an executed lease agreement acceptable to the town. The town shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The town may, as appropriate, to protect its property and the public interest establish additional requirements beyond the minimum requirements of a permit for town-owned property. Setback and distance requirements in the town ULDC may be

modified to the extent necessary to provide for the public interest as determined by the town council. This provision further does not preclude the town from issuing a letter of interest for the purposes of leasing sites on designated town property for the construction and installation of telecommunications facilities. For designated town-owned property, the town will encourage the installation of telecommunications facilities which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.

(D) *Minimum standards.* Buildings or rooftop antennas shall be subject to the following standards:

- (1) No commercial advertising or religious icons shall be allowed on an antenna;
- (2) No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;
- (3) Any related unmanned equipment building shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height;
- (4) If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than twenty-five (25) percent of the roof area;
- (5) Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices. This shall be subject to administrative approval for consistency with the definition of stealth facility;
- (6) Antennas shall only be permitted on buildings which are at least two (2) stories in height;
- (7) Antennas may not exceed more than ten (10) feet above the highest point of a roof. Stealth antennas attached to, but not above rooftop structures shall be exempt from this provision;
- (8) Antennas and related equipment buildings shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of the material or color which matches the exterior of the building or structure upon which it is situated;
- (9) When located on a building facade, building mounted antennas shall be painted and texturized to match the existing building.

Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town and in the best interest of telecommunication service to the community.

(E) *Antenna types.* To minimize adverse visual impacts, antenna types shall be selected based upon the following hierarchy:

- (1) Panel.
- (2) Dish.

(3)Whip.

If a nonstealth antenna is proposed, the applicant shall be required to demonstrate, in a technical manner acceptable to the town, why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of an antenna type lower in the hierarchy. This does not preclude a combination of the various types of antennas.

(F) *Antenna dimensions.* A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state, or a radio frequency engineer who has at least a four (4) year engineering degree, who is competent to evaluate the suitability of antenna types, to certify the need for required dimensions.

(G) *Aircraft hazard.* Prior to the issuance of a building permit, the application shall provide evidence that the telecommunications towers or antennas are in compliance with Federal Aviation Administration (FAA) regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is mounted, such evidence shall not be required.

**Sec. 040-180. - Shared use of communication towers.**

(A) Notwithstanding any other provision of this article, to minimize adverse visual impacts associated with the proliferation and clustering of telecommunication towers, collocation of facilities on existing or new towers shall be encouraged by:

(1) Only issuing permits to approved shared facilities at locations where it appears there may be more demand for towers than the property can reasonably accommodate; or

(2) Giving preference to approved shared facilities over other facilities in authorizing use at particular locations.

~~(B) No development approval to develop, build, construct, or erect a tower pursuant to this section shall be granted to any person on the basis that it is economically unfeasible for such person to collocate or install its telecommunications facilities on a tower or antenna support structure owned by another person.~~

~~(B)~~ Collocation of communication antennas by more than one (1) provider on existing or new telecommunications tower shall take precedence over the construction of a new single-use telecommunications tower. Accordingly, each application for a telecommunications tower shall include the following:

(1) A written evaluation of the feasibility of sharing a telecommunication tower, if appropriate telecommunications towers are available. The evaluation shall analyze one (1) or more of the following factors:

- a. Structural capacity of the towers;
- b. Radio frequency interference;
- c. Geographical search area requirements;
- d. Mechanical or electrical incompatibility;

- e. Inability or ability to locate equipment on the tower;
- f. Availability of towers for collocation;
- g. Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower;
- h. Additional information requested by the town.

(2) The town may deny an application if an available collocation is feasible and the application is not for such collocation.

(3) For any telecommunications tower approved for shared use, the owner of the tower shall provide ~~notice, via certified mail, upon request, of the location of the telecommunications tower and sharing capabilities to all other wireless tower users in the county.~~

(4) The owner of any telecommunications tower approved for shared use shall cooperate and negotiate fairly with all other possible tower users regarding collocation ~~leases.~~

(5) Requirements in this section may be waived where it is determined that based upon site, location, or facility, such waiver is in the best interest of the health, safety, welfare, or aesthetics of the town and in the best interest of telecommunication service to the community. Any waiver shall require four affirmative votes of the town council.

(D) A filing fee in the amount necessary to process the collocation application shall be submitted upon the application for collocation approval.

**Sec. 040-190. - Satellite receiving antenna (SRA).**

(A) *Defined.* As used in this section, the term "satellite receiving antenna" means a round dish-like antenna larger than one (1) meter (39.37 inches) in diameter, intended to receive signals from orbiting or geo-stationary satellites and other sources, or to link wireless service sites together by wireless transmission of voice or data.

(B) *Single- and two-family residential standards.*

(1) Any SRA located on residential property shall be restricted to residential use.

(C) *Nonresidential and multifamily standards.*

(1) All SRAs shall be ground-mounted and located in the rear yard so as not to be visible from any public right-of-way.

(2) A SRA may not be located in the rear yard if the rear lot lines abut a public right-of-way or lands zoned residential.

(3) Landscaping, including shrubs a minimum of thirty-six (36) inches on all sides, an opaque screen (e.g., wood fence, translucent mesh, etc.), or both, shall be incorporated on any dish located in a rear yard.

(4) No SRA shall exceed twenty (20) feet in height measured from grade. No dish shall exceed fifteen (15) feet in diameter.

(5) Nonresidential SRAs may be considered for roof installation, provided that application is made to the development review committee as a conditional use and

the same shall be grated or denied by the town council. Roof-mounted SRAs must be screened by parapets that appear to be an integral part of the building so that not more than twenty-five (25) percent of the antenna height is visible from the grade level of adjacent property and adjacent public or private rights-of-way.

(6)All SRAs shall not be light reflective. Dish antennas shall not have any sign copy on them nor shall they be illuminated.

(7)Each person wishing to place SRAs in nonresidential and multifamily zoned property shall make application to development review committee as a conditional use and the same shall be granted or denied by the town council.

(8)There shall be no more than one (1) antenna as described in subsection (A) of this section on any plot. However, where business is licensed by the town as a dealer of electronic equipment, such business may have two (2) antennas as described in subsection (A) of this section for their plot.

**Sec. 040-200. - Payment to the town for telecommunication towers and antennas.**

All monies received for the leasing of town property for telecommunication towers and antennas shall be deposited in the town's general fund.

**Sec. 040-210. - Waiver.**

Any provision of this article may be waived by the town council where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town or compliance with other regulations, and in the best interest of telecommunication service to the community. Any waiver shall require four (4) affirmative votes of the town council.

**SECTION 3.** All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

**SECTION 5.** It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town's Land Development Code, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish such intention.

**SECTION 6.** This Ordinance shall become effective upon the date of its adoption herein.

**PASSED ON FIRST READING** this \_\_\_\_ day of \_\_\_\_\_, 2015 on a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PASSED AND ADOPTED ON SECOND READING** this \_\_\_\_ day of \_\_\_\_\_ 2015, on a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_

\_\_\_\_\_  
Jeff Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith M. Poliakoff, J.D., Town Attorney

112655062.1

This page  
intentionally left blank



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

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

**Town Council**  
**Jeff Nelson, Mayor**  
**Freddy Fisikelli, Vice Mayor**  
**Steve Breikreuz, Council Member**  
**Gary Jablonski, Council Member**  
**Doug McKay, Council Member**

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

## TOWN COUNCIL MEMORANDUM

**TO:** Honorable Mayor Nelson and Council

**THRU:** Andy Berns, Town Administrator

**FROM:** Jeff Katims, AICP, CNU-A, Assistant Town Planner

**DATE:** September 29, 2015

**SUBJECT: US 27 Employment Center Land Use Designation and Related Comprehensive Plan Provisions; Comprehensive Plan Advisory Board Recommendations**

---

### **Recommendation**

Approval of the Ordinance on first reading/transmittal to the State Land Planning Agency.

### **Strategic Priorities**

This item supports the following strategic priority identified in the Town's adopted strategic plan.

### **Background**

This proposed Ordinance creates a new land use category called, "Employment Center" in the comprehensive plan. The Ordinance establishes the new category to allow owners of land fronting US 27 to apply for a map change to Employment Center. The Ordinance also includes various housekeeping amendments.

The Town Council tabled a nearly identical ordinance on second reading in September, 2014 because a revised water and sewer policy potentially complicated the CCA litigation with Pembroke Pines. As Town administration worked to resolve the issue, the 180-day statutory time limitation on the adoption of comprehensive plan amendments ran, and the State Land Planning Agency informed the Town that it was officially withdrawing the amendment.

Town administration has made substantial progress in dealing with the water and sewer extension issue, and expects it to be resolved shortly. Therefore, the 2014 ordinance, with water and sewer policy revisions omitted, is presented to the Council for a new first reading transmittal to the State Land Planning Agency. The 2014 agenda memo is attached for additional background.

**Fiscal Impact/Analysis**

The proposed Ordinance is a first step toward light industrial development of the US 27 corridor, which will enhance the Town's tax base.

**Staff Contact**

Jeff Katims, AICP, CNU-A, Assistant Town Planner

**ORDINANCE NO. 2015 -**

**AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF SOUTHWEST RANCHES COMPREHENSIVE PLAN, ESTABLISHING AN EMPLOYMENT CENTER LAND USE DESIGNATION WITH SUPPORTING OBJECTIVES AND POLICIES, REVISING THE LISTS OF PERMITTED USES WITHIN NONRESIDENTIAL LAND USE DESIGNATIONS AND SUPPORTING OBJECTIVES AND POLICIES, AND MAKING REVISIONS OF A HOUSEKEEPING NATURE; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR RECERTIFICATION BY THE BROWARD COUNTY PLANNING COUNCIL; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the US 27 corridor has been identified as a potential light industrial area since the preparation of the Town's Comprehensive Plan in 2002; and

**WHEREAS**, US 27 is a trucking route with state-wide access that is also being studied as a freight rail corridor, and is buffered from the inhabitable portion of the Town by a cemetery that has an average width exceeding 500 feet; and

**WHEREAS**, the Town Council has determined that the US 27 Corridor is a potential location for light industrial development that, if properly regulated, will not detract from the Town's rural character and the rural lifestyle of the Town's residents; and

**WHEREAS**, the Town Council has determined that the a modified version of the Employment Center land use category of the Broward County Land Use Plan would be the most appropriate land use category for the US 27 Corridor; and

**WHEREAS**, the Town Council has carefully considered a comprehensive set of policies and use restrictions, developed by the Comprehensive Plan Advisory Board ("CPAB"), that would form the framework for evaluating land use plan amendment petitions seeking the Employment Center designation, evaluating companion petitions for rezoning and site plan, and regulating the resulting development and uses; and

**WHEREAS**, the CPAB recommended additional amendments to the nonresidential/nonagricultural permitted uses and implementing policies of the adopted

Comprehensive Plan in order to further protect the Town's rural character and the Town residents' rural lifestyle, and recommended several text amendments of a housekeeping nature; and

**WHEREAS**, the Town Council, sitting as the Local Planning Agency of the Town of Southwest Ranches, conducted a duly noticed public hearing on September 29, 2015 to consider the amendments; and

**WHEREAS**, the Town Council has carefully considered the recommendations of the CPAB, and has determined that establishing an Employment Center land use designation for potential applicability to the US 27 corridor would diversify the Town's tax base while protecting the Town's rural character and the rural lifestyle of the Town's residents; and

**WHEREAS**, the Town Council finds that the CPAB recommendations for revising the permitted uses and supporting policies in the comprehensive plan for other nonresidential/nonagricultural uses will further protect the Town's rural character and lifestyle.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:**

**Section 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That the Future Land Use Element of the adopted Town of Southwest Ranches Comprehensive Plan is hereby amended pursuant to Exhibit "A", attached hereto and made a part hereof.

**Section 3:** That the Town Planner is hereby directed to transmit the amendments set forth herein to the State Land Planning Agency immediately following first reading of this Ordinance, and is hereby directed to transmit the adopted amendments immediately following the second and final reading of this Ordinance.

**Section 4:** That the Town Planner is hereby directed to apply to the Broward County Planning Council for recertification of the Future Land Use Element subsequent to the effective date of this Ordinance, and that the Town Council hereby requests such recertification.

**Section 5: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 6: Severability.** If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**Section 7: Effective Date.** This Ordinance shall take effect 31 days after the Department of Economic Opportunity notifies the Town that the plan amendment package is complete, unless timely challenged pursuant to sec. 163.3184(5), F.S., in which case the Ordinance shall take effect on the date that the Department of Economic Opportunity or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

**PASSED ON FIRST READING** this \_\_\_\_\_ day of September, 2015 on a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PASSED AND ADOPTED ON SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2016, on a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_  
Abstaining \_\_\_\_\_

\_\_\_\_\_  
Jeff Nelson, Mayor

Attest:

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith M. Poliakoff, J.D., Town Attorney

**This page  
intentionally left blank**

EXHIBIT "A"

1 II. ADMINISTRATION

2

3 II.A. DEFINITIONS

4

5

\* \* \* \* \*

6

**Non-rural Land Use Plan Designation** –any land use plan designation other than a rural land use plan designation.

7

8

\* \* \* \* \*

9

10

**Rural Character** – An area that is characterized by natural, agricultural, equestrian, pastoral or rustic uses, including single-family dwellings on large lots, developed at low densities.

11

12

**Rural Land Use Plan Designation** – any of the following land use plan designations: Agricultural; Conservation; Recreation and Open Space; Rural Ranches; and, Rural Estates.

13

14

**Rural Purposes** – Land that is used as a resource for agricultural, equestrian, managed forest or mining uses, or maintained in a natural state as wetlands, fields or forest, including Town open space and park parcels.

15

16

**Rural Use** – land that is used for rural purposes.

17

18

\* \* \* \* \*

19

20 21 22 23 24 25 1. GOALS, OBJECTIVES AND POLICIES

26

27

28

-----  
**FLUE POLICY 1.1-b:** Land Use Plan amendments to more intensive categories shall be prohibited unless consistent with, and authorized by, FLUE objective 1.3 and particularly policies 1.3-c, 1.3-d, and 1.3-e pertaining to evaluation of land use plan amendment requests; 1.7 (Commercial Category); 1.8 (Employment Center Category); 1.12 (Community Facilities Category), or unless the Town Council determines that the more intensive use is consistent with and furthers the overall goal to protect the Town’s rural lifestyle.

29

30

31

32

33

34

35

36

37

38

-----  
**FLUE POLICY 1.3-c:** The compatibility of existing and future land uses shall be a primary consideration in the review and approval of amendments to the Broward County and the Southwest Ranches Land Use Plans.

39

40

41

42

**FLUE POLICY 1.3-d:** New non-rural land use plan designations may be established only on US-27, and must be designed in a manner that does not adversely impact existing and designated rural residential areas.

43

44

45

Underlined text is new and ~~stricken~~ text is deleted

1 **FLUE POLICY 1.3-e:** In order to prevent future incompatible land uses, the established  
2 rural character of the Town shall be a primary consideration when amendments to the  
3 Town's Land Use Plan are proposed.  
4

5 -----  
6

7  
8 **FLUE OBJECTIVE 1.7 COMMERCIAL LAND USE CATEGORY**  
9

10 **CONTINUE IMPLEMENTING A COMMERCIAL LAND USE CATEGORY ON THE**  
11 **TOWN'S FUTURE LAND USE PLAN MAP PERMITTING TYPES OF COMMERCIAL**  
12 **DEVELOPMENT WHICH ARE COMPATIBLE WITH ADJACENT RURAL AND**  
13 **RESIDENTIAL LAND USES AND WHICH WOULD SUPPORT THE COMMERCIAL-**  
14 **BASED ACTIVITIES THAT ARE COMPATIBLE WITH THE TOWN'S NEEDS.**  
15

16 *Measurement: maintenance of a commercial land use category.*  
17

18 **FLUE POLICY 1.7-a:** Floor Area Ratio (F.A.R.) shall not exceed 0.25.  
19

20 **FLUE POLICY 1.7-b:** The Town Council shall continue implementing commercial  
21 land development regulations that are necessary to protect adjacent rural residential  
22 areas from potential negative impacts of commercial developments.  
23

24 **FLUE POLICY 1.7-c:** The Town's zoning categories shall distinguish between  
25 neighborhood and community commercial developments within their respective service  
26 areas. Regional commercial uses shall not be permitted.  
27

28 **FLUE POLICY 1.7-d:** The Commercial category is restricted to properties that were  
29 designated Commercial prior to the Town's incorporation.  
30

31 **FLUE POLICY 1.7-e:** Development and redevelopment of existing commercial sites  
32 shall be designed and operated so as to minimize demand for public safety services  
33 both on and off-site. This may include using Crime Prevention Through Environmental  
34 Design principles, careful selection of businesses and land uses, avoiding late night  
35 operating hours, erecting barriers adjacent to residential uses, and providing on-site  
36 security.  
37

38 **FLUE POLICY 1.7-f:** All land within the Commercial category shall be connected to  
39 municipal water and sewer.  
40

41  
42  
43 **FLUE OBJECTIVE 1.8 EMPLOYMENT CENTER LAND USE CATEGORY**  
44

45 **ESTABLISH AND MAINTAIN AN EMPLOYMENT CENTER LAND USE CATEGORY,**  
46 **ONLY FOR THE US 27 CORRIDOR, ALLOWING ONLY CAREFULLY PLANNED**  
47 **DEVELOPMENT THAT IS DESIGNED TO BE COMPATIBLE WITH ADJACENT**  
48 **RURAL RESIDENTIAL LAND USES AS SUBSTANTIALLY BUFFERED BY THE**

1       **EXISTING CEMETERY AND OPEN SPACE, AND WHICH WOULD BE**  
2       **ENVIRONMENTALLY NEUTRAL.**

3  
4  
5       *Measurement: Designation of an Employment Center category.*  
6

7       **FLUE POLICY 1.8-a:** The Town has identified the US 27 Corridor as potentially  
8       appropriate for Employment Center on the land use plan map. Only parcels that front  
9       US 27 are eligible for the Employment Center designation, including corner parcels  
10      fronting streets along which non-rural uses are otherwise prohibited by this Element.  
11      Parcels designated Employment Center on the land use plan map must only be  
12      developed and used in strict compliance with the following policies. The Town Council  
13      shall consider the extent to which each application submitted for land use plan  
14      amendment, rezoning and development furthers the intent and spirit of the policies  
15      hereunder in determining whether to approve the application.  
16

17      **FLUE POLICY 1.8-b:** A petitioner for the Employment Center designation shall  
18      demonstrate to the satisfaction of the Town Council one of the following: that there is a  
19      Town need for such land use; that the resulting development will substantially benefit the  
20      Town; or that it is not reasonable to expect the parcel to be developed with a rural  
21      residential use.  
22

23      **FLUE POLICY 1.8-c:** No Employment Center designation may border any parcel with a  
24      rural land use plan designation. This shall not apply to any rural residential parcel under  
25      unified control with a property designated Employment Center.  
26

27      **FLUE POLICY 1.8-d:** There shall be no nonresidential, nonagricultural building,  
28      structure, parking, storage or use within two hundred (200) feet of an abutting local Town  
29      street, nor shall there be any such structure, parking, storage or use within two hundred  
30      (200) feet of any parcel with a rural land use plan designation, unless such parcel is  
31      under unified control with the parcel designated Employment Center. Open space use,  
32      including buffers and drainage retention for an Employment Center use is not subject to  
33      this restriction.  
34

35      **FLUE POLICY 1.8-e:** Access to Employment Center development shall be from US 27  
36      only.

- 37      (i) Since U.S. 27 is a Class 2 Controlled Access Facility, the Town will not approve an  
38      application to amend the Land Use Plan Map to Employment Center until a  
39      conceptual master access management plan ("access plan") shall have been  
40      accepted by the Florida Department of Transportation (FDOT) for the entire US 27  
41      corridor within the Town.  
42      (ii) It shall be the responsibility of an applicant for such map amendment to prepare  
43      the access plan and coordinate its acceptance by FDOT and Broward County  
44      Highway Construction and Engineering Department, and to coordinate the plan  
45      with owners of all other properties with frontage on U.S. 27.  
46      (iii) The access plan, as may be amended with the consent of FDOT, shall be binding  
47      upon all properties.

1 (iv) The Town will not approve a plat application for property fronting U.S.27 until the  
2 applicant has submitted the plat to FDOT for review and obtained approval.  
3

4 **FLUE POLICY 1.8-f:** Permit those land uses, not to exceed a Floor Area Ratio (F.A.R.)  
5 of 0.75, within designated Employment Center parcels per the Permitted Uses in Future  
6 Land Use Categories subsection of this Element.  
7

8 **FLUE POLICY 1.8.g:** Buildings shall not exceed thirty-five (35) feet in height, measured  
9 to the top of the highest roofline. Parapets and customary roof-mounted appurtenances  
10 (ex: elevator shaft, mechanical equipment) may exceed this height limit by not more than  
11 five (5) feet.  
12

13 **FLUE POLICY 1.8-h:** Every development shall provide at least twenty-five percent  
14 (25%) pervious area.  
15

16 **FLUE POLICY 1.8.i:** Employment Center development shall either: (1) utilize extensive  
17 and substantially opaque buffering in order to screen the development from view along  
18 any adjacent street so as to achieve a nearly opaque buffer; or (2) utilize pleasing  
19 architecture and building placement to emphasize and showcase the building(s) while  
20 screening parking and outdoor storage areas behind the building. Developers choosing  
21 the latter option shall provide Florida Vernacular architecture of Caribbean or Cracker  
22 style, or combination thereof. This architecture generally promotes generous roof  
23 overhangs, colonnades, porches and balconies, and sloped standing seam metal roofs.  
24 The land development regulations shall provide further architectural guidance. The  
25 Town Council may approve variations that are consistent with the Town's rural  
26 character. However, stucco walls in combination with flat, unarticulated rooflines or  
27 Mediterranean-style tile roofs that are typical of commercial development in South  
28 Florida are prohibited as a means of complying with architectural option number 2.  
29  
30

31 **FLUE POLICY 1.8-j:** Developments shall be designed and operated so as to minimize  
32 demand for public safety services both on and off-site. This may include using Crime  
33 Prevention Through Environmental Design principles, careful selection of businesses  
34 and land uses, avoiding late night operating hours, erecting barriers adjacent to rural  
35 residential uses, and providing on-site security.  
36

37 **FLUE POLICY 1.8-k:** Developments shall adhere to the Town's dark-sky outdoor  
38 lighting regulations and policies, and are strongly encouraged to take additional  
39 measures that mitigate the development's ambient lighting impact on the Town. By way  
40 of example, a development could reduce the height of parking lot lighting fixtures by  
41 spacing the lower fixtures closer together, using advanced cut-off designs, and limiting  
42 the hours during which the lighting is on.  
43

44 **FLUE POLICY 1.8-l:** Developments shall design primary identification signage, and  
45 specifications for individual tenant signage, that compliment and coordinate with the  
46 architecture and landscaping of the development, and that enhance the built  
47 environment.  
48

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

**FLUE POLICY 1.8-m:** The land development regulations shall establish a zoning classification in the form of a planned development district, whereby the specific permitted uses, development standards and a conceptual development plan for the property are made part of the rezoning and will govern use and development of the property supplemental to regulations contained within the land development regulations. The land development regulations for the planned development district shall require that conceptual development plans incorporate all of the applicable elements of the U.S. 27 conceptual master access management plan, which shall be adopted by reference.

**FLUE POLICY 1.8-n:** Applications for land use plan amendment to establish an Employment Center designation shall be filed concurrently with a complete application for rezoning to the applicable planned development zoning district.

**FLUE POLICY 1.8.o:** The Town shall implement Employment Center land development regulations that are necessary to protect adjacent rural areas from potential negative impacts of Employment Center developments.

**FLUE POLICY 1.8-p:** All land within the Employment Center category shall be connected to municipal water and sewer.

-----

**FLUE OBJECTIVE 1.14**

**FLUE OBJECTIVE 1.17      EFFICIENT USE AND COORDINATION OF URBAN SERVICES**

**DISCOURAGE URBAN SPRAWL, WHICH WOULD SUBSTANTIALLY INCREASE THE TOWN'S RURAL DENSITY, AND COORDINATE WITH ADJACENT MUNICIPALITIES TO CREATE VISUAL SEPARATION OF THEIR SUBURBAN COMMUNITIES FROM THE TOWN'S RURAL CHARACTER. ALLOW NEW NON-RURAL LAND USE PLAN DESIGNATIONS ONLY ON US-27 WHERE NECESSARY INFRASTRUCTURE EXISTS.**

Underlined text is new and ~~stricken~~ text is deleted

1 **2. PERMITTED USES IN FUTURE LAND USE CATEGORIES**

2  
3 -----  
4  
5 **1. AGRICULTURAL CATEGORY**

6  
7 -----  
8  
9 **2. COMMERCIAL CATEGORY**

10  
11 The areas designated Commercial on the Town’s Land Use Plan Map provide land area located  
12 adjacent to limited access highways for business, office, retail, service and other commercial  
13 enterprises which support the Town and surrounding area.

14  
15 Uses permitted in areas designated commercial are as follows:

- 16 A. Retail, office and business uses.
- 17 B. Self-storage facility.
- 18 C. Hotels, motels and similar lodging.
- 19 D. Recreation and open space and commercial recreation uses.
- 20 E. Non-residential agricultural uses.
- 21 F. Communication facilities.
- 22 G. Utilities, located on the site of a commercial development as an accessory use, to the  
23 extent such utilities are confined to serving only the specific commercial development.

24 **3. COMMUNITY FACILITIES CATEGORY**

25  
26 -----  
27 **4. CONSERVATION CATEGORY**

28  
29 -----  
30  
31 **5. EMPLOYMENT CENTER CATEGORY**

32  
33 The Employment Center category is intended to facilitate a limited range of “clean” light  
34 industrial and business uses along the US 27 corridor that are not a threat to the potable water  
35 quality of the Biscayne Aquifer. The Employment Center category may be applied only to  
36 properties fronting the east side of U.S. Highway 27 that are buffered from parcels designated  
37 Rural Ranches, Rural Estates and Agricultural by an intervening permanent open space or  
38 community facility land use.

39  
40 The Town shall carefully consider potential environmental, traffic and quality of life impacts  
41 before changing the land use plan map designation of any parcel to Employment Center. An  
42 application for land use plan amendment to designate a property as Employment Center must  
43 affirmatively demonstrate that the amendment is consistent with all of the Employment Center  
44 performance standards established herein. Every such application for plan amendment shall be  
45 submitted concurrently with a rezoning application to an implementing zoning district.

- 46  
47 A. Performance Standards.

Underlined text is new and ~~stricken~~ text is deleted

- 1 1. An Employment Center development shall not generate noise, vibration, odor, dust,  
2 fumes, smoke, glare, or night-time illumination that can be detected from any property  
3 with an Agricultural, Rural Ranch or Rural Estate land use plan map designation.
- 4 2. Municipal sanitary sewer and potable facilities must be in place, or be the subject of a  
5 binding agreement with a municipal utility to extend same to serve a parcel designated  
6 Employment Center, prior to issuance of a development permit for a principal building.
- 7 3. An Employment Center development shall not involve bulk or outdoor storage, nor use  
8 of any chemicals or substances or processes that create byproducts that are  
9 combustible, carcinogenic, biohazardous, or are otherwise toxic to humans or animals.  
10 This shall not apply to fuel storage tanks for emergency generators and fuels stored for  
11 the purpose of servicing vehicles used in the regular course of business.
- 12 4. Any use, the nature of which may be considered dangerous, or which may potentially  
13 compromise the comfort, peace, enjoyment, health or safety of the community or any  
14 property with a Rural Ranches, Rural Estate or Agricultural land use plan map  
15 designation shall be prohibited.
- 16 5. All Employment Center development shall provide for north-south cross-access to  
17 abutting parcels in accordance with the conceptual master access management plan for  
18 the US-27 corridor (see FLUE Policy 1.8-e.). Such access may include dedication and  
19 construction of a frontage drive and/or site design that anticipates driveway connections  
20 or drive aisle connections with abutting properties, and which provides cross-access  
21 easements for such connections.

22  
23 B. Uses permitted in areas designated Employment Center are as follows:

- 24 1. Fabrication and assembly.
- 25 2. Office uses, excluding call centers.
- 26 3. Hotels, motels or similar lodging.
- 27 4. Restaurants and personal services.
- 28 5. Communication facilities.
- 29 6. Non-residential agricultural uses.
- 30 7. Light manufacturing uses.
- 31 8. Research businesses, excluding medical and research laboratories.

32  
33 C. Permitted Accessory Uses (cumulatively limited to less than fifty percent (50%) of the site,  
34 and individually limited to twenty –five percent (25%) of the site):

- 35 1. Utilities, located on the site of an employment center development and confined to  
36 serving only the specific development.
- 37 2. Storage.
- 38 3. Retail within buildings devoted to principal uses.
- 39 4. Recreation and open space uses.

40  
41  
42  
43 *(The following are changes to headings only)*

- 44 **6. INDUSTRIAL CATEGORY**
- 45 **7. RECREATION AND OPEN SPACE CATEGORY**
- 46 **8. ESTATE RESIDENTIAL CATEGORY**
- 47 **9. RURAL ESTATES CATEGORY**
- 48 **10. RURAL RANCHES CATEGORY**

Underlined text is new and ~~stricken~~ text is deleted

1 **11. TRANSPORTATION USE CATEGORY**

2 **12. UTILITIES CATEGORY**

3 **13. WATER CATEGORY**

4

5 -----

6

7 **14. GENERAL LIST OF ADDITIONAL USES**

8

9 **A. COMMUNICATION FACILITIES**

10 Communication facilities such as , satellite earth stations and relay structures, and telephone  
11 switching facilities are not specifically designated on the Town’s Land Use Plan Map as a  
12 separate category. Such facilities may be permitted in areas designated under the following  
13 categories, provided that wireless telecommunication antennas and accessory equipment are  
14 permitted on Town-owned properties regardless of future land use category:

- 15 1. ~~2~~Commercial
- 16 3. Industrial
- 17 4. Employment Center

18

19 **B. SPECIAL RESIDENTIAL FACILITIES**

20 *(Former Sec. 14 provisions now under this heading. Subheadings A. through D. to be*  
21 *renumbered 1. through 4.)*

22

23

24 **15. MEDIUM DENSITY (16) RESIDENTIAL LAND USE CATEGORY**

25

26

27

Underlined text is new and ~~stricken~~ text is deleted



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

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

**Town Council**  
**Jeff Nelson, Mayor**  
**Freddy Fisikelli, Vice Mayor**  
**Steve Breikreuz, Council Member**  
**Gary Jablonski, Council Member**  
**Doug McKay, Council Member**

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

## COUNCIL MEMORANDUM

**TO:** Honorable Mayor Nelson and Town Council

**THRU:** Andrew D. Berns, Town Administrator

**FROM:** Clete J. Saunier, P.E.  
Public Works Director

**DATE:** August 28, 2015

**SUBJECT:** **Transportation Surface and Drainage Ongoing Rehabilitation  
(TSDOR) – SW 205<sup>th</sup> Avenue**

---

### **Recommendation**

Consideration of approval of a Resolution approving a contract with Weekley Asphalt Paving for the resurfacing of SW 205<sup>th</sup> Avenue and adjoining side streets.

### **Strategic Priorities**

- A. Sound Governance
- D. Improved Infrastructure

### **Background**

The Drainage and Infrastructure Advisory Board (DIAB) and Town Council approved the affected roads scheduled for construction in FY 2016. The road segments were reviewed by Town legal staff and determined to have no encumbered right of way issues. Surveying and civil design engineering design have been completed.

The roads scheduled for improvement are:

- SW 205<sup>th</sup> Avenue                      Griffin Road to Town Limit
- SW 48<sup>th</sup> Place                        SW 205<sup>th</sup> Avenue to E/W Dead Ends
- SW 49<sup>th</sup> Court                        SW 205<sup>th</sup> Avenue to E/W Dead Ends
- SW 50<sup>th</sup> Place                        SW 205<sup>th</sup> Avenue to E/W Dead Ends

On July 30, 2015 the Town advertised Invitation for Bid (IFB) No. 15-005 for “SW 205<sup>th</sup> Avenue - Transportation Surface Drainage Ongoing Rehabilitation Program (TSDOR).”

On August 26, 2015, the Town received three (3) responses. After reviewing the bids, it was determined that Weekley Asphalt Paving provided the lowest and most responsive bid.

<b>Bidder</b>	<b>Response</b>
Weekley Asphalt Paving	\$96,951.04
DP Development	\$117,668.00
Coramarca Corp.	\$128,512.88

**Fiscal Impact/Analysis**

Construction for this TSDOR project has been funded in the FY 2016 Budget (101-5100-541-63280).

**Staff Contact:**

Clete J. Saunier, P.E.

## RESOLUTION

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING FOR CONSTRUCTION OF PHASE ONE OF THE TRANSPORTATION SURFACE AND DRAINAGE ONGOING REHABILITATION (TSDOR) ROADWAY IMPROVEMENTS FOR SW 205<sup>TH</sup> AVENUE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Drainage and Infrastructure Advisory Board (DIAB) and Town Council have approved the first four years of the TSDOR 21-year plan subject to annual review and amendment those roads scheduled for construction five (5) fiscal years and beyond; and

**WHEREAS**, the first group of roads scheduled for construction FY 2016 have been reviewed by Town legal staff and determined to have no encumbered right of way issues; and

**WHEREAS**, surveying and engineering services have been completed; and

**WHEREAS**, on July 30, 2015 the Town advertised Invitation for Bid (IFB) No. 15-005 for "SW 205th Avenue - Transportation Surface Drainage Ongoing Rehabilitation Program (TSDOR)"; and

**WHEREAS**, on August 26, 2015, the Town received three (3) responses; and

**WHEREAS**, after reviewing the bids, it was determined that Weekley Asphalt Paving provided the lowest and most responsive bid; and

**WHEREAS**, the Town Council believes that the contract is in the best interest of the health, safety, and welfare of its residents.

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

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

**Section 2: Authorization.** The Town Council hereby approves entering into an agreement for the improvements in substantially the same form as that attached hereto as Exhibit "A".

**Section 3: Approval.** The Town Council hereby authorizes the Town Administrator to execute the agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary to effectuate the intent of this Resolution.

**Section 4: Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2015, on a motion by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_  
Abstaining \_\_\_\_\_

\_\_\_\_\_  
Jeff Nelson, Mayor

Attest:

\_\_\_\_\_  
Russell Muniz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith Poliakoff, Town Attorney



**EXHIBIT "A"**  
**AGREEMENT**  
**BETWEEN THE**  
**TOWN OF SOUTHWEST RANCHES**  
**AND**  
**WEEKLEY ASPHALT PAVING, INC.**  
**FOR**

**SW 205<sup>TH</sup> AVENUE TSDOR CONSTRUCTION PROGRAM**

**IFB No. 15-005**

AGREEMENT FOR  
SW 205<sup>TH</sup> AVENUE TSDOR CONSTRUCTION PROGRAM

**THIS IS AN AGREEMENT (“Agreement” or “Contract”) made and entered into on this \_\_\_\_ day of September 2015 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as “Town”) and Weekley Asphalt Paving, Inc. (hereinafter referred to as “Contractor”).**

**WHEREAS**, the Town desires to resurface SW 205<sup>th</sup> Avenue and adjoining side streets; and

**WHEREAS**, the Town advertised an Invitation for Bids, IFB No. 15-005 on July 30, 2015; and

**WHEREAS**, 3 bids were received by the Town on August 26, 2015; and

**WHEREAS**, the Town has adopted Resolution No. 2015- \_\_\_\_ at a public meeting of the Town Council approving the recommended award and has selected Weekley Asphalt Paving, Inc. for award of the Project.

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

**Section 1: Scope of Services**

- 1.1 Upon execution of this Agreement, the Contractor agrees to perform the duties and responsibilities as defined herein and in the IFB to which this Agreement is EXHIBIT “A” and which is made a part hereof by this reference (hereinafter referred to as “Work”). This Agreement, as well as all Exhibits, the IFB, the Contractor’s Bid, including all forms attached thereto, and all addenda, specifications, drawings and plans, shall be hereinafter collectively referred to as the “Contract Documents” and incorporated herein by reference. To the extent of any conflict among the Contract Documents, the more stringent criteria relative to the Contractor’s performance of the Work shall govern over the less stringent criteria.
- 1.2 All Work rendered pursuant to this Agreement by Contractor shall be performed in accordance with the applicable standard of care for persons or entities performing similar work in Broward County, Florida. Contractor shall perform the Work in strict accordance with the requirements of this Agreement, all of the other Contract Documents, good construction practices for this type of Work performed in Broward County, Florida and all applicable codes, ordinances, rules, laws and regulations governing the Work, including, but not limited to, the Florida Building Code, along with Broward County Amendments to it.

- 1.3 By submitting its Bid and entering into this Agreement, Contractor represents that it has visited the location of the Work and informed itself of the conditions that exist at the site, including conditions of the facilities and difficulties attending the execution of the Work and such existing site conditions have been accounted for within the Agreement Sum (as defined below). Furthermore, all costs for the proper disposal of excess material generated on site in the performance of the Work have likewise been included and accounted for within the Contract Price (as defined below).
- 1.4 Contractor, in addition to any manufacturer's warranty for materials or equipment, hereby warrants that its work will be free of defects and deficiencies for a period of one year(s) from the Final Completion Date (as defined below). If any defects or deficiencies arise within the warranty period, the Contractor shall correct the defect or deficiency at no cost to the Town. Nothing herein shall be construed as a waiver, limitation or release of any right or remedy that the Town may have for breach of this Agreement, which rights are cumulative and in no way limited by the warranty.

**Section 2: Term of this Agreement and Agreement Time**

- 2.1 Town and Contractor agree that Contractor shall perform all Work under this Agreement for **SW 205<sup>TH</sup> AVENUE TSDOR CONSTRUCTION PROGRAM**
- 2.2 Town shall have the ability to terminate this Agreement as provided in “Section 18: Termination.”
- 2.3 Contractor shall not be entitled to any claim for damages against Town on account of hindrance or delays from any cause whatsoever. If, however, Contractor is delayed in the prosecution of the Work occasioned by an act of God, or by act or omission on the part of the Town, or due to changes ordered in the Work by Town which expand the scope and costs of the Work, such act, hindrance, or delay shall only entitle Contractor to receive an extension of time as its sole and exclusive remedy for such hindrance or delays and Contractor waives any and all other claims against Town.
- 2.4 Time being of the essence, Town and Contractor agree that Contractor shall perform all Work under this Agreement and achieve substantial completion of the Work within **thirty (30) calendar days of the date of the Notice to Proceed**, subject to appropriate extensions of time as provided in this Agreement (“Substantial Completion Date”).
- 2.4.1 Substantial Completion of the Work at the Project shall be defined as the date upon which the last of all of the following events have occurred:
- (i) All necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
  - (ii) Restoration of all utilities to operation that have been affected during performance of the Work;
  - (iii) All Work has been completed; and
  - (iv) The Town’s engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Substantial Completion.

2.4.2 Given that the parties agree that time is of the essence with respect to this Agreement and any breach of same shall go to the essence hereof, and Contractor, in agreeing to substantially complete the Work within the time herein mentioned, has taken into consideration and made allowances for all hindrances and delays incident to its Work.

**Liquidated Damages (“LD’s”)** – In the event Contractor does not achieve Substantial Completion of the Work as defined in Paragraph 2.4.1 above, in whole or in part due to its own fault, the parties hereto acknowledge that any delay beyond the scheduled Substantial Completion Date may cause grave injury and damage to the Town by virtue of locating, moving to and paying rent for temporary quarters, loss of use, extension of overhead costs, additional costs of design professionals and otherwise. Accordingly, the calculation of the actual damages to the Town would be uncertain and difficult if not impossible to determine. Consequently, if the Contractor has not achieved Substantial Completion of the Work within **thirty (30) days after the issuance of the Notice to Proceed** and has not obtained written authorization for such delay, time being of the essence, then the parties hereto agree that as liquidated delay damages and not as a penalty, the Contractor shall pay to the Town an amount equal to **\$200.00** for each day or portion thereof, that the date of completion is later than the scheduled Substantial Completion Date set forth above. Contractor shall be entitled to an extension of time and relief from liquidated damages to the extent that additional out of scope work is authorized by the Town in accordance with a properly executed Change Order and such work causes a critical path delay in meeting the Substantial Completion Date set forth above. All such liquidated damage amounts, if any, shall be paid by Contractor to Town weekly, immediately upon each such failure of Contractor to comply with the scheduled Substantial Completion Date, as set forth above. In the event that the Contractor fails to make any one or more of the payments to Town as required under this Paragraph, the Town shall have the right to deduct any and all such amounts from any amounts due or to become due to Contractor.

Contractor shall achieve final completion of the Work within **fifteen (15) days after the date of Substantial Completion or no later than forty-five (45) days from the issuance of the Notice to Proceed** (“Final Completion Date”). Final Completion Date is defined as the date when all punch list items have been completed as evidenced by the issuance of a written Certification of Final Completion by the Town’s design professional for this Project, and all other conditions precedent to Final Completion as outlined below have been satisfied:

Contractor shall:

- (i) Deliver to the Town all warranties, final certifications and similar documentation to confirm that all necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
- (ii) Complete all Punch List items of Work;
- (iii) Remove temporary facilities from the site, along with construction tools and similar elements;
- (iv) Complete final clean-up including repair, replace and restore any items damaged by Contractor as a consequence of performing Work;

- (v) Deliver to the Town confirmation that all permits have been closed; and confirm that the Town's engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Final Completion.

**Section 3: Compensation & Method of Payment**

- 3.1 Contractor shall render all Work to the Town under the Agreement for the total not to exceed lump sum price of Ninety-Six Thousand Nine Hundred Fifty-one Dollars and Four Cents (\$96,951.04) ("Contract Price").
- 3.2 Town shall not be liable for any cost increases or escalation associated with labor, services, materials, equipment or any other costs that may arise during the performance of the Work. In the event the cost of the Work exceeds the amounts defined in Section 3.1 herein of the Contract Price, Contractor shall pay such excess from its own funds and Town shall not be required to pay any part of such excess. The only exception shall be any adjustments to the Contract Price pursuant to any written Change Order duly executed by Town and Contractor in accordance with the terms and conditions of this Agreement, and with the same formality and of equal dignity associated with the original execution of this Agreement.
- 3.3 Town and Contractor agree that payment under this Agreement will be subject to (a) the delivery of an appropriate invoice or payment application by Contractor to Town with such invoices being delivered by Contractor no more often than once every 30 days, and (b) verification by Town and its designated professional that the Work being invoiced has been performed in accordance with this Agreement. Upon verification by Town and the design professional that the invoiced Work has been performed in accordance with this Agreement, Town shall have thirty (30) days thereafter to pay said invoice.
- 3.4 Each invoice or payment application must be accompanied by all supporting documentation and other information reasonably requested by Town, including, but not limited to a Partial Release of Lien or Final Release of Lien as appropriate in the forms set forth in Chapter 713.20, Florida Statutes. Reference herein to Chapter 713, Florida Statutes is for convenience, and shall not be construed as a waiver of sovereign immunity or authority for imposition of liens against public property. Each progress payment shall be reduced by 10% retainage. Retainage shall be released after final completion of the Work and Town's receipt of acceptable reports and other documentation including certification of payment to subcontractors, if any, and a Final Release of Lien in the form set forth in Section 713.20, Florida Statutes, as well as satisfaction of the conditions set forth at Section 3.5 of this Agreement.

A final payment invoice or application must be accompanied by written notice from Contractor that the entire Work is completed. The Town's engineer/architect of record will make a final inspection and notify Contractor in writing with a punch list of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete the punch list and remedy deficiencies. Contractor's obligation to perform and complete the Work in strict accordance with the Contract Documents shall be absolute. The Town may refuse payment if (a) the Work is defective or completed Work has been damaged requiring correction or replacement, (b) the Town has been required to correct defective Work or complete Work in accordance with the Contract Documents, or (c) because claims have been made

against the Town on account of Contractor's performance or furnishing of the Work or liens or claims have been filed or asserted in connection with the Work or there are other items entitling the Town to a set-off against the amount due. No payment will be made for Work performed by the Contractor to replace defective work; for work which is not shown or ordered in the Contract Documents; or additional work performed by Contractor without prior written approval of Town.

**Section 4: Assignment**

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

**Section 5: Contractor's Responsibility for Safety**

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

**Section 6: Insurance**

- 6.1 Throughout the term of this Agreement and for all applicable statutes of limitation periods, Contractor shall maintain in full force and affect all of the insurance coverages as set forth in this Section.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business in the State of Florida, (b) have agents upon whom service of process may be made in Broward County, Florida, and (c) have a rating of A or better in accordance with A.M. Best's Key Rating Guide.
- 6.3 All Insurance Policies shall name and endorse the following as **an additional named insured**:
- Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, FL 33330-2628
- 6.4 All Insurance Policies shall be endorsed to provide that (a) Contractor's Insurance is primary to any other Insurance available to Town or any other additional insured with respect to claims covered under the policy and (b) Contractor's insurance applies separately to each insured against who claims are made or suit is brought, and (c) that the inclusion of more than one insured shall not operate to increase the Insurer's limit of liability. Self-insurance by Contractor shall not be acceptable as providing any of the required insurance coverages required in this Agreement.
- 6.5 If the Contractor fails to submit the required insurance certificate in the manner prescribed with the executed Agreement submitted to the Town at the time of execution of this Agreement, Contractor shall be deemed in default, and the Agreement shall be cancelled or rescinded without liability by the Town to the Contractor.

6.6 Contractor shall carry the following minimum types of Insurance:

- A. **WORKER'S COMPENSATION:** Worker's Compensation Insurance is to apply to all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. Contractor shall carry Worker's Compensation Insurance with the statutory limits, which shall include employer's liability insurance with a limit of not less than **Five Hundred Thousand Dollars (\$500,000)** for each accident, and **Five Hundred Thousand Dollars (\$500,000)** for each disease. Policy(ies) must be endorsed with waiver of subrogation against Town.
- B. **BUSINESS AUTOMOBILE LIABILITY INSURANCE:** Contractor shall carry business automobile liability insurance with minimum limits of **One Million Dollars (\$1,000,000)** per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include all owned vehicles and all hired or non-owned vehicles.
- C. **COMMERCIAL GENERAL LIABILITY:** Contractor shall carry Commercial General Liability Insurance with limits of not less than **One Million Dollars (\$1,000,000)** per occurrence combined single limit for bodily injury and property damage, and not less than **Two Million Dollars (\$2,000,000)** in the aggregate. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements as filed by the Insurance Service Office (ISO), and the policy must include coverages for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, personal injury and explosion, collapse and underground (X-C-U). Personal injury coverage shall include coverage that has the employee and contractual exclusions removed. The ISO form of the policy must be acceptable to the Town.
- D. **ENVIRONMENTAL POLLUTION INSURANCE:**  
The Contractor shall carry an Environmental Pollution Insurance for pollution-related incidents, including the cost of cleaning up a site after a pollution incident, with limits not less than \$500,000.00 Dollars per occurrence with deductible not greater than \$100,000.00. An additional Form or endorsement to the Commercial General Liability Insurance to include an Environmental Pollution Insurance coverage providing the specified coverage, is acceptable.

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

- 6.8 Contractor's Insurance Policies shall be endorsed to provide **Town with at least thirty (30) calendar days prior written notice of cancellation, non-renewal, restrictions, or reduction in coverages or limits.** Notice shall be sent to:
- Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, Florida 33330
- And
- Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301
- 6.9 Contractor's Commercial General Liability Insurance policy shall be on an "occurrence" basis only and shall not be a "claims-made" policy.
- 6.10 If any of Contractor's Insurance policies include a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be at least five (5) times the occurrence limits specified above in this article.
- 6.11 The Contractor shall not commence operations, and/or labor to complete any of the Work pursuant to this Agreement until certification or proof of insurance issued directly by the insurance company underwriting department or insurance agent, detailing terms and provisions of coverage, has been received and approved by the Town.
- 6.12 If any of Contractor's initial insurance expires prior to the completion of the Work, renewal copies of Policies shall be furnished to Town at least thirty (30) days prior to the date of their expiration, and Town shall be an additional named insured by endorsement on all of Contractor's renewal policies.
- 6.13 **UPON EXECUTION OF THIS AGREEMENT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF SOUTHWEST RANCHES IS AN ADDITIONAL NAMED INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR'S WORK UNDER THE AGREEMENT.**
- 6.14 The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance policies and documentation.
- 6.15 All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against Town with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.
- 6.16 Contractor shall ensure that any company issuing insurance to satisfy the requirements contained in this Agreement agrees that they shall have no recourse against Town for payment or assessments in any form on any policy of insurance.

- 6.17 The clauses “Other Insurance Provisions” and “Insured Duties in the Event of an Occurrence, Claim or Suit” as it appears in any policy of insurance in which Town is named as an additional named insured shall not apply to Town in any respect. Town shall use its best efforts to provide written notice of occurrence within thirty (30) working days after Town’s actual notice of such event.
- 6.18 Notwithstanding any other provisions of this Agreement, Contractor’s obligation to maintain all required insurance as specified in this Section of the Agreement shall survive the expiration or earlier termination of this Agreement.

**Section 7: Copyrights and Patent Rights**

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

**Section 8: Laws and Regulations**

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

**Section 9: Taxes and Costs**

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

**Section 10: Indemnification**

To the fullest extent permitted by Florida law, including Florida Statutes, Section 725.06, the Contractor shall indemnify, defend and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees (at both the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract or anyone else for whose actions Contractor may be responsible. Notwithstanding any other provisions of this Agreement, the Contractor’s duty to indemnify, defend and hold the Town harmless shall survive the termination or earlier expiration of this Agreement.

**Section 11: Non-discrimination**

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

**Section 12: Sovereign Immunity**

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

**Section 13: Prevailing Party Attorneys' Fees**

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

**Section 14: No Third Party Beneficiaries**

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

**Section 15: Funding**

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

**Section 16: Manner of Performance**

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

**Section 17: Public Records**

The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Records Law exists and it is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to Town's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosures under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by Town without liability by the Town to Contractor. To the extent that Contractor has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement and Agreement as part of the IFB process, Contractor shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.

**Section 18: Termination**

The Agreement may be terminated upon the following events:

- A. **Termination by Mutual Agreement.** In the event the parties mutually agree in writing, this Agreement may be terminated on the terms and dates stipulated therein.
- B. **Termination for Convenience.** This Agreement may be terminated for Convenience by Town upon Town providing Contractor with **thirty (30) calendar day's** written notice of Town's intent to terminate this Agreement for Convenience. In the event that this Agreement is terminated by Town for Convenience, Contractor shall be paid **ONLY** for Work performed and approved by the Town as of the date of this Agreement is terminated, plus any direct and reasonable expense sustained up to the date of receipt of the written notice. In no event shall Town be liable for consequential damages, including but not limited to, lost profits on Work not yet performed, and no other compensation or damages other than as set forth in this Section shall be paid to or recovered by Contractor in any legal proceeding against Town. Upon being notified of Town's election to terminate, Contractor shall immediately cease performing any further Work or incurring additional expenses. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by Town, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for Town's right to terminate this Agreement for Convenience.
- C. **Termination for Cause.** In the event of a material breach by Contractor, Town shall provide Contractor written notice of its material breach. Contractor shall thereafter have fourteen (14) days from the date of its receipt of such notification to cure such material breach. If Contractor does not cure the material breach within that time period, Town may terminate this Agreement immediately. Material breaches shall include, but are not limited to, Contractor's violations of governing standards, failure to carry out the work in strict accordance with the Contract Documents, failure to supply sufficient work forces, violations of state or federal laws, violation of Town's policies and procedures, or violation of any of the terms and conditions of this Agreement. In the event that Town elects to terminate Contractor for cause as provided for in this Section, and Town's termination for cause is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.
- D. **Termination for Lack of Funds.** In the event the funds to finance the Work under this Agreement become unavailable or other funding source applicable, Town may provide Contractor with thirty (30) days written notice of termination. Nothing in this Agreement shall be deemed or construed to prevent the parties from negotiating a new Agreement in this scenario. In the event that Town elects to terminate Contractor for lack of funds as provided for in this Section, and Town's termination for lack of funds is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.

- E. **Immediate Termination by Town.** In addition to any other grounds stated herein, Town, in its sole discretion, may terminate this Agreement immediately upon the occurrence of any of the following events:
1. Contractor's violation of the Public Records Act;
  2. Contractor's insolvency, bankruptcy or receivership;
  3. Contractor's violation or non-compliance with Section 11 of this Agreement;
  4. Contractor's failure to maintain any Insurance required by Section 6 of this Agreement; or
  5. Contractor's violation of Section 19 of this Agreement.

**Section 19: Public Entity Crimes Information Statement**

Pursuant to Florida Statutes, Section 287.133: "A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list." Violation of this section by Contractor shall result in Town's immediate termination of this Agreement.

**Section 20: Use of Awarded Bid by Other Governmental Units**

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

**Section 21: Change Orders and Modification of Agreement**

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

**Section 22: No Waiver of Rights**

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

**Section 23: Jurisdiction and Venue**

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

**Section 24: WAIVER OF RIGHT TO JURY TRIAL**

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

**Section 25: Gender**

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

**Section 26: Time is of the Essence; Liquidated Damages**

Time is of the essence for all of Contractor's obligations under this Agreement. The Town will be entitled to Liquidated Damages as set forth at Section 2.4.2.

**Section 27: Days**

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

**Section 28: Written Mutual Agreement**

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

**Section 29: No Amendment or Waiver**

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

**Section 30: Severability**

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

**Section 31: Resolution of Disputes; Florida Statutes, Chapter 558 Not Applicable**

To prevent litigation, it is agreed by the parties hereto that Town Administrator shall solely decide all questions, claims, difficulties and disputes of, whatever nature, which may arise relative to this Agreement, including but not limited to, Contractor's fulfillment of its obligations under this Agreement as to the character, quality, amount and value of any Work done and materials furnished, or proposed, to be done or furnished, under or by reason of, the Agreement. Further, to the extent required or permitted by the agreement between the Town and its design professional for this Project, the design professional shall have access to the Work, the right to conduct testing or inspections, to reject non-conforming work, and to review pay applications. The Town Administrator's decision shall be reduced to writing, and a copy furnished to the Contractor within a reasonable time following submission to the Town of the question, claim, difficulty or dispute as referenced above. The Town Administrator's decision shall be final and conclusive. Additionally, the parties understand and agree that Florida Statutes, Chapter 558 does not apply to this Agreement or the Work, and that the parties hereby "opt out" of the procedures set forth at Chapter 558.

**Section 32: Notice**

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

If to Town:

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

With a copy to:

Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301

If to Contractor:

Weekley Asphalt Paving, Inc.  
Daniel D. Weekley, President  
20701 Stirling Road  
Pembroke Pines, Florida 33332

**Section 33: Miscellaneous**

- A. Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement by Contractor and all persons or entities employed or otherwise retained by Contractor are and shall remain the property of Town. In the event of termination of this Agreement for any reason, any reports, photographs, surveys and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of Town and shall be delivered by Contractor to the Town Administrator within seven (7) days of termination of this Agreement for any reason. Any compensation due to Contractor shall be withheld until all documents are received by Town as provided herein.
- B. Audit and Inspection Rights and Retention of Records.** Town shall have the right to audit the books, records and accounts of Contractor that are related to this Agreement. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Contractor shall preserve and make available, at reasonable times for examination and audit by Town, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act

(Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Agreement, unless Contractor is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's sole expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by Town to be applicable to Contractor's records, Contractor shall comply with all requirements thereof.

However, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Town's disallowance and recovery of any payment upon such entry. In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance. In addition, Contractor shall provide a complete copy of all working papers to the Town, prior to final payment by the Town under this Agreement.

- C. Independent Contractor.** Contractor is an independent contractor of Town under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of the Town. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the Work and services rendered under this Agreement shall be exclusively and solely those of Contractor. This Agreement shall not constitute or make Town and Contractor a partnership or joint venture.
- D. Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against Town in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of Town in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other persons from representing themselves in any action or in any administrative or legal proceeding.

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

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

liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

- F. Materiality and Waiver of Breach.** Town and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Town's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- G. Joint Preparation.** Town and Contractor both acknowledge that they have sought and received whatever competent advice and legal counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein 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.
- H. Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- I. Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- J. Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- K. Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

[Signatures 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 \_\_\_\_ day of \_\_\_\_\_ 2015.

**WITNESSES:**

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

**CONTRACTOR:**

By: \_\_\_\_\_  
Daniel D. Weekley, President  
\_\_\_\_ day of September, 2015

**TOWN OF SOUTHWEST RANCHES**

By: \_\_\_\_\_  
Jeff Nelson, Mayor  
\_\_\_\_ day of September, 2015

By: \_\_\_\_\_  
Andrew D. Berns, Town Administrator  
\_\_\_\_ day of September, 2015

**ATTEST:**

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Keith M. Poliakoff, Town Attorney

This page  
intentionally left blank



**EXHIBIT “B”**

DRAWINGS AND CONSTRUCTION PLANS  
PREPARED BY ERDMAN ANTHONY OF FLORIDA, INC.



**EXHIBIT “C”**

**PROJECT SPECIFICATIONS**

**SW 205<sup>th</sup> Avenue TSDOR Construction Program**

**STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION**

It is the intent of these Project Specifications that the *Florida Department of Transportation "Standard Specifications for Road & Bridge Construction"* (July 2015 edition) (hereafter, “FDOT Specifications”) be used as the basis for the Work. For the purposes of this Project, any references in the FDOT Specifications to the “State of Florida”, its “Department of Transportation” or its personnel shall, as appropriate, be replaced by and read as if the FDOT Specifications referred to "Town of Southwest Ranches" and its personnel.

The specifications are available at:

[http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook\\_Revision.pdf](http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook_Revision.pdf)



# Town of Southwest Ranches

Juanita Romance  
 Procurements and Special Projects  
 13400 Griffin Road  
 Southwest Ranches, FL 33330  
 Phone: (954) 434-0008  
 Fax: (954) 434-1490

## IFB/ OPENING FOR

[IFB 15-005](#)

Project: **SW 205<sup>th</sup> Avenue TSDOR Construction Program**

Date: [Wednesday, August 26, 2015](#)

Time: [10:00 AM](#)

Town Representatives Present:

1. Emily McCord Aceti
2. Juanita Romance
3. \_\_\_\_\_

Others Present:

1. Jim Noth – Erdman Anthony
2. \_\_\_\_\_
3. \_\_\_\_\_

	Proposer	Bid Amount
1	Coramarca Corporation	\$ 128,512.88
2	Weekley Asphalt	\$ 96,951.04
3	DP Development of the Treasure Coast	\$ 117,668.00
4		

Juanita Romance

This page  
intentionally left blank



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

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

**Town Council**  
**Jeff Nelson, Mayor**  
**Freddy Fisikelli, Vice Mayor**  
**Steve Breitreuz, Council Member**  
**Gary Jablonski, Council Member**  
**Doug McKay, Council Member**

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

## COUNCIL MEMORANDUM

**TO:** Honorable Mayor Nelson and Town Council

**THRU:** Andrew D. Berns, Town Administrator

**FROM:** Clete J. Saunier, P.E.  
Public Works Director

**DATE:** September 29, 2015

**SUBJECT:** **Transportation Surface and Drainage Ongoing Rehabilitation  
(TSDOR) – SW 209<sup>th</sup> Avenue contract award**

---

### **Recommendation**

It is recommended that the attached Resolution be approved ratifying a contract with Weekley Asphalt Paving for TSDOR resurfacing of SW 209<sup>th</sup> Avenue.

### **Strategic Priorities**

- A. Sound Governance
- D. Improved Infrastructure

### **Background**

The Drainage and Infrastructure Advisory Board (DIAB) and Town Council have approved the affected roads scheduled for construction during FY 2016. The road segments were reviewed by Town legal staff and determined to have no encumbered right of way issues. Additionally, surveying and civil engineering design have been completed.

The roads scheduled for improvement are:

- SW 209<sup>th</sup> Avenue Griffin Road to SW 50<sup>th</sup> Street
- SW 50<sup>th</sup> Street SW 208<sup>th</sup> Lane to SW 210<sup>th</sup> Terrace
- SW 210<sup>th</sup> Terrace SW 50<sup>th</sup> Street to SW 54<sup>th</sup> Place
- SW 54<sup>th</sup> Place SW 208<sup>th</sup> Lane to East Dead End
- SW 54<sup>th</sup> Place SW 210<sup>th</sup> Terrace to East Dead End
- SW 208<sup>th</sup> Lane SW 50<sup>th</sup> Street to SW 54<sup>th</sup> Place

On July 31, 2015 the Town advertised Invitation for Bid (IFB) No. 15-006 for “SW 209th Avenue - Transportation Surface Drainage Ongoing Rehabilitation Program (TSDOR).” On August 26, 2015, the Town received four (4) responses. After reviewing the bids, it was determined that Weekley Asphalt Paving provided the lowest, most responsive bid.

<b>Bidder</b>	<b>Response</b>
Weekley Asphalt Paving	\$351,091.20
Coramarca Corp.	\$384,773.76
DP Development	\$409,853.15
Southeastern Engineering	\$418,750.20

The original conceptual scope of the TSDOR Program only addressed resurfacing existing pavement surfaces. The topographic survey for this project revealed the existing pavement surfaces were essentially flat and without a crowned pavement section to allow stormwater to drain toward the roadside swales. The Bid Add Alternative was included in the bid tabulation to pay for additional “overbuild” asphalt to create a crowned pavement section. The Bid Add Alternative will cost an additional \$76,400. Staff recommends awarding the Base Bid and the Bid Add Alternative to Weekley Asphalt Paving.

### **Fiscal Impact/Analysis**

Construction for this TSDOR project has been funded in the FY 2016 Budget (101-5100-541-63280) except for a \$62,142 excess of expenditures over revenue/budget sources (see below analysis). Accordingly, Staff is recommending to fund the estimated excess of expenditures via partial utilization of the existing \$200,000 Transportation Fund, restricted TSDOR Construction Fund Balance (reserves). Additionally, Staff is recommending that replenishment of this restricted reserve as well as a FY 2016 budget amendment be deferred until the TSDOR CIP carryover from FY 2015 as well as all the below FY 2016 project estimates become more precise.

<b>Item (Transportation Fund)</b>	<b>Amount</b>
<b>REVENUE/Budget Sources:</b>	
Total FY 2016 TSDOR CIP per approved budget	\$466,700
Add: TSDOR CIP carryover from FY 2015 (estimated)	93,600
Less: FY 2016 Surveying & design necessary for FY 2017 construction project(s) (commitment-estimated)	(98,000)
Less: FY 2016 SW 205 Avenue construction project (commitment-estimated)	<u>(96,951)</u>
<b>Total Revenue/Budget Sources</b>	<b><u>\$365,349</u></b>
<b>EXPENDITURES:</b>	
SW 209 Base Bid Amount (Weekly Asphalt Paving)	\$351,091
SW 209 Alternative (Weekly Asphalt Paving)	<u>76,400</u>
<b>Total Expenditures</b>	<b><u>\$427,491</u></b>

<b>Excess of Expenditures over Revenue/Budget Sources (estimated)</b>	\$ <u>(62,142)</u>
Add: Transportation Fund, restricted TSDOR Construction Fund Balance (reserves - estimated as of September 30, 2015)	\$ <u>200,000</u>
Transportation Fund, restricted TSDOR Construction Fund Balance (reserves - estimated as of September 30, 2016)	\$ <u>137,858</u>

**Staff Contact:**

Clete J. Saunier, P.E.

This page  
intentionally left blank

## RESOLUTION

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING FOR CONSTRUCTION OF PHASE ONE OF THE TRANSPORTATION SURFACE AND DRAINAGE ONGOING REHABILITATION (TSDOR) ROADWAY IMPROVEMENTS FOR SW 209<sup>TH</sup> AVENUE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Drainage and Infrastructure Advisory Board (DIAB) and Town Council have approved the first four years of the TSDOR 21-year plan subject to annual review and amendment those roads scheduled for construction five (5) fiscal years and beyond; and

**WHEREAS**, the first group of roads scheduled for construction FY 2016 have been reviewed by Town legal staff and determined to have no encumbered right of way issues; and

**WHEREAS**, surveying and engineering services have been completed; and

**WHEREAS**, on July 31, 2015 the Town advertised Invitation for Bid (IFB) No. 15-006 for "SW 209th Avenue - Transportation Surface Drainage Ongoing Rehabilitation Program (TSDOR)"; and

**WHEREAS**, on August 26, 2015, the Town received four (4) responses; and

**WHEREAS**, after reviewing the bids, it was determined that Weekley Asphalt Paving provided the lowest and most responsive bid; and

**WHEREAS**, the Town Council believes that the contract is in the best interest of the health, safety, and welfare of its residents.

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

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

**Section 2: Authorization.** The Town Council hereby approves entering into an agreement for the improvements in substantially the same form as that attached hereto as Exhibit "A".

**Section 3: Approval.** The Town Council hereby authorizes the Town Administrator to execute the agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary to effectuate the intent of this Resolution.

**Section 4: Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2015, on a motion by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_  
Abstaining \_\_\_\_\_

\_\_\_\_\_  
Jeff Nelson, Mayor

Attest:

\_\_\_\_\_  
Russell Muniz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith Poliakoff, Town Attorney



# Town of Southwest Ranches

Juanita Romance  
 Procurements and Special Projects  
 13400 Griffin Road  
 Southwest Ranches, FL 33330  
 Phone: (954) 434-0008  
 Fax: (954) 434-1490

## IFB/ OPENING FOR

[IFB 15-006](#)

Project: **SW 209<sup>th</sup> Avenue TSDOR Construction Program**

Time: [11:00 AM](#)

Date: [Wednesday, August 26, 2015](#)

Town Representatives Present:

1. Emily McCord Aceti
2. Juanita Romance
3. \_\_\_\_\_

Others Present:

1. Jim Noth – Erdman Anthony
2. \_\_\_\_\_
3. \_\_\_\_\_

	Proposer	Bid Amount	Alternate Bid Amount
1	Coramarca Corporation	\$ 384,773.76	\$ 105,432.00
2	Weekley Asphalt	\$ 351,091.00	\$ 76,400.00
3	DP Development of the Treasure Coast	\$ 409,853.15	\$ 115,364.00
4	Southeastern Engineering	\$ 418,750.20	\$ 144,243.20

*Juanita Romance*

**This page  
intentionally left blank**



**EXHIBIT "A"**  
**AGREEMENT**  
**BETWEEN THE**  
**TOWN OF SOUTHWEST RANCHES**  
**AND**  
**WEEKLEY ASPHALT PAVING, INC.**  
**FOR**

**SW 209<sup>th</sup> AVENUE TSDOR CONSTRUCTION PROGRAM**

**IFB No. 15-006**

**AGREEMENT FOR  
SW 209<sup>th</sup> AVENUE TSDOR CONSTRUCTION PROGRAM**

**THIS IS AN AGREEMENT (“Agreement” or “Contract”) made and entered into on this \_\_\_\_ day of September 2015 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as “Town”) and Weekley Asphalt Paving, Inc..**

**WHEREAS**, the Town desires to resurface SE 209<sup>th</sup> Avenue Transportation Surface and Drainage Ongoing Rehabilitation (TSDOR); and

**WHEREAS**, the Town advertised an Invitation for Bids, IFB No. 15-009 on July 31, 2015; and

**WHEREAS**, 4 bids were received by the Town on August 26, 2015; and

**WHEREAS**, the Town has adopted Resolution No. 2015- \_\_\_\_ at a public meeting of the Town Council approving the recommended award and has selected Weekley Asphalt Paving, Inc. for award of the Project.

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

**Section 1: Scope of Services**

- 1.1 Upon execution of this Agreement, the Contractor agrees to perform the duties and responsibilities as defined herein and in the IFB to which this Agreement is EXHIBIT “A” and which is made a part hereof by this reference (hereinafter referred to as “Work”). This Agreement, as well as all Exhibits, the IFB, the Contractor’s Bid, including all forms attached thereto, and all addenda, specifications, drawings and plans, shall be hereinafter collectively referred to as the “Contract Documents” and incorporated herein by reference. To the extent of any conflict among the Contract Documents, the more stringent criteria relative to the Contractor’s performance of the Work shall govern over the less stringent criteria.
- 1.2 All Work rendered pursuant to this Agreement by Contractor shall be performed in accordance with the applicable standard of care for persons or entities performing similar work in Broward County, Florida. Contractor shall perform the Work in strict accordance with the requirements of this Agreement, all of the other Contract Documents, good construction practices for this type of Work performed in Broward County, Florida and all applicable codes, ordinances, rules, laws and regulations governing the Work, including, but not limited to, the Florida Building Code, along with Broward County Amendments to it.

- 1.3 By submitting its Bid and entering into this Agreement, Contractor represents that it has visited the location of the Work and informed itself of the conditions that exist at the site, including conditions of the facilities and difficulties attending the execution of the Work and such existing site conditions have been accounted for within the Agreement Sum (as defined below). Furthermore, all costs for the proper disposal of excess material generated on site in the performance of the Work have likewise been included and accounted for within the Contract Price (as defined below).
- 1.4 Contractor, in addition to any manufacturer's warranty for materials or equipment, hereby warrants that its work will be free of defects and deficiencies for a period of one year(s) from the Final Completion Date (as defined below). If any defects or deficiencies arise within the warranty period, the Contractor shall correct the defect or deficiency at no cost to the Town. Nothing herein shall be construed as a waiver, limitation or release of any right or remedy that the Town may have for breach of this Agreement, which rights are cumulative and in no way limited by the warranty.

**Section 2: Term of this Agreement and Agreement Time**

**2.1 Town and Contractor agree that Contractor shall perform all Work under this Agreement for**

**SW 209<sup>th</sup> AVENUE TSDOR CONSTRUCTION PROGRAM**

- 2.2 Town shall have the ability to terminate this Agreement as provided in “Section 18: Termination.”
- 2.3 Contractor shall not be entitled to any claim for damages against Town on account of hindrance or delays from any cause whatsoever. If, however, Contractor is delayed in the prosecution of the Work occasioned by an act of God, or by act or omission on the part of the Town, or due to changes ordered in the Work by Town which expand the scope and costs of the Work, such act, hindrance, or delay shall only entitle Contractor to receive an extension of time as its sole and exclusive remedy for such hindrance or delays and Contractor waives any and all other claims against Town.
- 2.4 Time being of the essence, Town and Contractor agree that Contractor shall perform all Work under this Agreement and achieve substantial completion of the Work within **Ninety (90) calendar days of the date of the Notice to Proceed**, subject to appropriate extensions of time as provided in this Agreement (“Substantial Completion Date”).
- 2.4.1 Substantial Completion of the Work at the Project shall be defined as the date upon which the last of all of the following events have occurred:
- (i) All necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
  - (ii) Restoration of all utilities to operation that have been affected during performance of the Work;
  - (iii) All Work has been completed; and
  - (iv) The Town’s engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Substantial Completion.
- 2.4.2 Given that the parties agree that time is of the essence with respect to this Agreement and any breach of same shall go to the essence hereof, and Contractor, in agreeing to substantially complete the

Work within the time herein mentioned, has taken into consideration and made allowances for all hindrances and delays incident to its Work.

**Liquidated Damages (“LD’s”)** – In the event Contractor does not achieve Substantial Completion of the Work as defined in Paragraph 2.4.1 above, in whole or in part due to its own fault, the parties hereto acknowledge that any delay beyond the scheduled Substantial Completion Date may cause grave injury and damage to the Town by virtue of locating, moving to and paying rent for temporary quarters, loss of use, extension of overhead costs, additional costs of design professionals and otherwise. Accordingly, the calculation of the actual damages to the Town would be uncertain and difficult if not impossible to determine. Consequently, if the Contractor has not achieved Substantial Completion of the Work within ninety (**90**) days after the issuance of the Notice to Proceed and has not obtained written authorization for such delay, time being of the essence, then the parties hereto agree that as liquidated delay damages and not as a penalty, the Contractor shall pay to the Town an amount equal to **\$200.00** for each day or portion thereof, that the date of completion is later than the scheduled Substantial Completion Date set forth above. Contractor shall be entitled to an extension of time and relief from liquidated damages to the extent that additional out of scope work is authorized by the Town in accordance with a properly executed Change Order and such work causes a critical path delay in meeting the Substantial Completion Date set forth above. All such liquidated damage amounts, if any, shall be paid by Contractor to Town weekly, immediately upon each such failure of Contractor to comply with the scheduled Substantial Completion Date, as set forth above. In the event that the Contractor fails to make any one or more of the payments to Town as required under this Paragraph, the Town shall have the right to deduct any and all such amounts from any amounts due or to become due to Contractor.

Contractor shall achieve final completion of the Work within **thirty (30) days after the date of Substantial Completion or no later than one hundred twenty (120) days from the issuance of the Notice to Proceed** (“Final Completion Date”). Final Completion Date is defined as the date when all punch list items have been completed as evidenced by the issuance of a written Certification of Final Completion by the Town’s design professional for this Project, and all other conditions precedent to Final Completion as outlined below have been satisfied:

Contractor shall:

- (i) Deliver to the Town all warranties, final certifications and similar documentation to confirm that all necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
- (ii) Complete all Punch List items of Work;
- (iii) Remove temporary facilities from the site, along with construction tools and similar elements;
- (iv) Complete final clean-up including repair, replace and restore any items damaged by Contractor as a consequence of performing Work;

- (v) Deliver to the Town confirmation that all permits have been closed; and confirm that the Town's engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Final Completion.

**Section 3: Compensation & Method of Payment**

- 3.1 Contractor shall render all Work to the Town under the Agreement for the total not to exceed lump sum price of Four Hundred Twenty Seven Thousand, Four Hundred Ninety One Dollars and 20 Cents (\$ 427,491.20)("Contract Price").
- 3.2 Town shall not be liable for any cost increases or escalation associated with labor, services, materials, equipment or any other costs that may arise during the performance of the Work. In the event the cost of the Work exceeds the amounts defined in Section 3.1 herein of the Contract Price, Contractor shall pay such excess from its own funds and Town shall not be required to pay any part of such excess. The only exception shall be any adjustments to the Contract Price pursuant to any written Change Order duly executed by Town and Contractor in accordance with the terms and conditions of this Agreement, and with the same formality and of equal dignity associated with the original execution of this Agreement.
- 3.3 Town and Contractor agree that payment under this Agreement will be subject to (a) the delivery of an appropriate invoice or payment application by Contractor to Town with such invoices being delivered by Contractor no more often than once every 30 days, and (b) verification by Town and its designated professional that the Work being invoiced has been performed in accordance with this Agreement. Upon verification by Town and the design professional that the invoiced Work has been performed in accordance with this Agreement, Town shall have thirty (30) days thereafter to pay said invoice.
- 3.4 Each invoice or payment application must be accompanied by all supporting documentation and other information reasonably requested by Town, including, but not limited to a Partial Release of Lien or Final Release of Lien as appropriate in the forms set forth in Chapter 713.20, Florida Statutes. Reference herein to Chapter 713, Florida Statutes is for convenience, and shall not be construed as a waiver of sovereign immunity or authority for imposition of liens against public property. Each progress payment shall be reduced by 10% retainage. Retainage shall be released after final completion of the Work and Town's receipt of acceptable reports and other documentation including certification of payment to subcontractors, if any, and a Final Release of Lien in the form set forth in Section 713.20, Florida Statutes, as well as satisfaction of the conditions set forth at Section 3.5 of this Agreement.

A final payment invoice or application must be accompanied by written notice from Contractor that the entire Work is completed. The Town's engineer/architect of record will make a final inspection and notify Contractor in writing with a punch list of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete the punch list and remedy deficiencies. Contractor's obligation to perform and complete the Work in strict accordance with the Contract Documents shall be absolute. The Town may refuse payment if (a) the Work is defective or completed Work has been damaged requiring correction or replacement, (b) the Town has been required to correct defective Work or complete Work in accordance with the Contract Documents, or (c) because claims have been made against the Town on account of Contractor's performance or furnishing of

the Work or liens or claims have been filed or asserted in connection with the Work or there are other items entitling the Town to a set-off against the amount due. No payment will be made for Work performed by the Contractor to replace defective work; for work which is not shown or ordered in the Contract Documents; or additional work performed by Contractor without prior written approval of Town.

**Section 4: Assignment**

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

**Section 5: Contractor's Responsibility for Safety**

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

**Section 6: Insurance**

- 6.1 Throughout the term of this Agreement and for all applicable statutes of limitation periods, Contractor shall maintain in full force and affect all of the insurance coverages as set forth in this Section.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business in the State of Florida, (b) have agents upon whom service of process may be made in Broward County, Florida, and (c) have a rating of A or better in accordance with A.M. Best's Key Rating Guide.
- 6.3 All Insurance Policies shall name and endorse the following as **an additional named insured**:
- Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, FL 33330-2628
- 6.4 All Insurance Policies shall be endorsed to provide that (a) Contractor's Insurance is primary to any other Insurance available to Town or any other additional insured with respect to claims covered under the policy and (b) Contractor's insurance applies separately to each insured against who claims are made or suit is brought, and (c) that the inclusion of more than one insured shall not operate to increase the Insurer's limit of liability. Self-insurance by Contractor shall not be acceptable as providing any of the required insurance coverages required in this Agreement.
- 6.5 If the Contractor fails to submit the required insurance certificate in the manner prescribed with the executed Agreement submitted to the Town at the time of execution of this Agreement, Contractor

shall be deemed in default, and the Agreement shall be cancelled or rescinded without liability by the Town to the Contractor.6.6 Contractor shall carry the following minimum types of Insurance:

- A. **WORKER'S COMPENSATION:** Worker's Compensation Insurance is to apply to all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. Contractor shall carry Worker's Compensation Insurance with the statutory limits, which shall include employer's liability insurance with a limit of not less than **Five Hundred Thousand Dollars (\$500,000)** for each accident, and **Five Hundred Thousand Dollars (\$500,000)** for each disease. Policy(ies) must be endorsed with waiver of subrogation against Town.
- B. **BUSINESS AUTOMOBILE LIABILITY INSURANCE:** Contractor shall carry business automobile liability insurance with minimum limits of **One Million Dollars (\$1,000,000)** per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include all owned vehicles and all hired or non-owned vehicles.
- C. **COMMERCIAL GENERAL LIABILITY:** Contractor shall carry Commercial General Liability Insurance with limits of not less than **One Million Dollars (\$1,000,000)** per occurrence combined single limit for bodily injury and property damage, and not less than **Two Million Dollars (\$2,000,000)** in the aggregate. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements as filed by the Insurance Service Office (ISO), and the policy must include coverages for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, personal injury and explosion, collapse and underground (X-C-U). Personal injury coverage shall include coverage that has the employee and contractual exclusions removed. The ISO form of the policy must be acceptable to the Town.
- D. **ENVIRONMENTAL POLLUTION INSURANCE:**  
The Contractor shall carry an Environmental Pollution Insurance for pollution-related incidents, including the cost of cleaning up a site after a pollution incident, with limits not less than \$500,000.00 Dollars per occurrence with deductible not greater than \$100,000.00. An additional Form or endorsement to the Commercial General Liability Insurance to include an Environmental Pollution Insurance coverage providing the specified coverage, is acceptable.

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

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

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

And

Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301

- 6.9 Contractor's Commercial General Liability Insurance policy shall be on an "occurrence" basis only and shall not be a "claims-made" policy.
- 6.10 If any of Contractor's Insurance policies include a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be at least five (5) times the occurrence limits specified above in this article.
- 6.11 The Contractor shall not commence operations, and/or labor to complete any of the Work pursuant to this Agreement until certification or proof of insurance issued directly by the insurance company underwriting department or insurance agent, detailing terms and provisions of coverage, has been received and approved by the Town.
- 6.12 If any of Contractor's initial insurance expires prior to the completion of the Work, renewal copies of Policies shall be furnished to Town at least thirty (30) days prior to the date of their expiration, and Town shall be an additional named insured by endorsement on all of Contractor's renewal policies.
- 6.13 **UPON EXECUTION OF THIS AGREEMENT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF SOUTHWEST RANCHES IS AN ADDITIONAL NAMED INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR'S WORK UNDER THE AGREEMENT.**
- 6.14 The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance policies and documentation.
- 6.15 All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against Town with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.
- 6.16 Contractor shall ensure that any company issuing insurance to satisfy the requirements contained in this Agreement agrees that they shall have no recourse against Town for payment or assessments in any form on any policy of insurance.
- 6.17 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which Town is named as an additional named

insured shall not apply to Town in any respect. Town shall use its best efforts to provide written notice of occurrence within thirty (30) working days after Town's actual notice of such event.

- 6.18 Notwithstanding any other provisions of this Agreement, Contractor's obligation to maintain all required insurance as specified in this Section of the Agreement shall survive the expiration or earlier termination of this Agreement.

**Section 7: Copyrights and Patent Rights**

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

**Section 8: Laws and Regulations**

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

**Section 9: Taxes and Costs**

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

**Section 10: Indemnification**

To the fullest extent permitted by Florida law, including Florida Statutes, Section 725.06, the Contractor shall indemnify, defend and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees (at both the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract or anyone else for whose actions Contractor may be responsible. Notwithstanding any other provisions of this Agreement, the Contractor's duty to indemnify, defend and hold the Town harmless shall survive the termination or earlier expiration of this Agreement.

**Section 11: Non-discrimination**

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

**Section 12: Sovereign Immunity**

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

same.

**Section 13: Prevailing Party Attorneys' Fees**

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

**Section 14: No Third Party Beneficiaries**

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

**Section 15: Funding**

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

**Section 16: Manner of Performance**

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

**Section 17: Public Records**

The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Records Law exists and it is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to Town's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosures under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by Town without liability by the Town to Contractor. To the extent that Contractor has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement and Agreement as part of the IFB process, Contractor shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.

**Section 18: Termination**

The Agreement may be terminated upon the following events:

- A. **Termination by Mutual Agreement.** In the event the parties mutually agree in writing, this Agreement may be terminated on the terms and dates stipulated therein.
- B. **Termination for Convenience.** This Agreement may be terminated for Convenience by Town upon Town providing Contractor with **thirty (30) calendar day's** written notice of Town's intent to terminate this Agreement for Convenience. In the event that this Agreement is terminated by Town for Convenience, Contractor shall be paid **ONLY** for Work performed and approved by the Town as of the date of this Agreement is terminated, plus any direct and reasonable expense sustained up to the date of receipt of the written notice. In no event shall Town be liable for consequential damages, including but not limited to, lost profits on Work not yet performed, and no other compensation or damages other than as set forth in this Section shall be paid to or recovered by Contractor in any legal proceeding against Town. Upon being notified of Town's election to terminate, Contractor shall immediately cease performing any further Work or incurring additional expenses. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by Town, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for Town's right to terminate this Agreement for Convenience.
- C. **Termination for Cause.** In the event of a material breach by Contractor, Town shall provide Contractor written notice of its material breach. Contractor shall thereafter have fourteen (14) days from the date of its receipt of such notification to cure such material breach. If Contractor does not cure the material breach within that time period, Town may terminate this Agreement immediately. Material breaches shall include, but are not limited to, Contractor's violations of governing standards, failure to carry out the work in strict accordance with the Contract Documents, failure to supply sufficient work forces, violations of state or federal laws, violation of Town's policies and procedures, or violation of any of the terms and conditions of this Agreement. In the event that Town elects to terminate Contractor for cause as provided for in this Section, and Town's termination for cause is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.
- D. **Termination for Lack of Funds.** In the event the funds to finance the Work under this Agreement become unavailable or other funding source applicable, Town may provide Contractor with thirty (30) days written notice of termination. Nothing in this Agreement shall be deemed or construed to prevent the parties from negotiating a new Agreement in this scenario. In the event that Town elects to terminate Contractor for lack of funds as provided for in this Section, and Town's termination for lack of funds is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.

**E. Immediate Termination by Town.** In addition to any other grounds stated herein, Town, in its sole discretion, may terminate this Agreement immediately upon the occurrence of any of the following events:

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

**Section 19: Public Entity Crimes Information Statement**

Pursuant to Florida Statutes, Section 287.133: "A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list." Violation of this section by Contractor shall result in Town's immediate termination of this Agreement.

**Section 20: Use of Awarded Bid by Other Governmental Units**

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

**Section 21: Change Orders and Modification of Agreement**

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

**Section 22: No Waiver of Rights**

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

**Section 23: Jurisdiction and Venue**

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

**Section 24: WAIVER OF RIGHT TO JURY TRIAL**

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

**Section 25: Gender**

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

**Section 26: Time is of the Essence; Liquidated Damages**

Time is of the essence for all of Contractor's obligations under this Agreement. The Town will be entitled to Liquidated Damages as set forth at Section 2.4.2.

**Section 27: Days**

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

**Section 28: Written Mutual Agreement**

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

**Section 29: No Amendment or Waiver**

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

**Section 30: Severability**

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

**Section 31: Resolution of Disputes; Florida Statutes, Chapter 558 Not Applicable**

To prevent litigation, it is agreed by the parties hereto that Town Administrator shall solely decide all questions, claims, difficulties and disputes of, whatever nature, which may arise relative to this Agreement, including but not limited to, Contractor's fulfillment of its obligations under this Agreement as to the character, quality, amount and value of any Work done and materials furnished, or proposed, to be done or furnished, under or by reason of, the Agreement. Further, to the extent required or permitted by the agreement between the Town and its design professional for this Project, the design professional

shall have access to the Work, the right to conduct testing or inspections, to reject non-conforming work,

and to review pay applications. The Town Administrator's decision shall be reduced to writing, and a copy furnished to the Contractor within a reasonable time following submission to the Town of the question, claim, difficulty or dispute as referenced above. The Town Administrator's decision shall be final and conclusive. Additionally, the parties understand and agree that Florida Statutes, Chapter 558 does not apply to this Agreement or the Work, and that the parties hereby "opt out" of the procedures set forth at Chapter 558.

**Section 32: Notice**

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

If to Town:

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

With a copy to:

Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301

If to Contractor:

Daniel D. Weekley, President  
20701 Stirling Road  
Pembroke Pines, Florida 33332

**Section 33: Miscellaneous**

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

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

Contractor shall preserve and make available, at reasonable times for examination and audit by Town, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Agreement, unless Contractor is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's sole expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by Town to be applicable to Contractor's records, Contractor shall comply with all requirements thereof.

However, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Town's disallowance and recovery of any payment upon such entry. In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance. In addition, Contractor shall provide a complete copy of all working papers to the Town, prior to final payment by the Town under this Agreement.

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

- D. Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against Town in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of Town in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other persons from representing themselves in any action or in any administrative or legal proceeding.

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

- E. Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Town shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- F. Materiality and Waiver of Breach.** Town and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Town's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- G. Joint Preparation.** Town and Contractor both acknowledge that they have sought and received whatever competent advice and legal counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein 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.
- H. Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- I. Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- J. Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- K. Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

[Signatures on next page]

**IN WITNESS WHEREOF**, the parties have made and executed this Agreement on the respective dates under each signature: WEEKLEY ASPHALT PAVING, INC., and the TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the \_\_\_\_ day of September 2015.

**WITNESSES:**

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

**CONTRACTOR:**

By: \_\_\_\_\_  
Daniel D. Weekley, President  
\_\_\_\_ day of September 2015

**TOWN OF SOUTHWEST RANCHES**

By: \_\_\_\_\_  
Jeff Nelson, Mayor  
\_\_\_\_ day of September 2015

By: \_\_\_\_\_  
Andrew D. Berns, Town Administrator  
\_\_\_\_ day of September 2015

**ATTEST:**

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Keith M. Poliakoff, Town Attorney

This page  
intentionally left blank



**EXHIBIT “B”**

DRAWINGS AND CONSTRUCTION PLANS  
PREPARED BY ERDMAN ANTHONY OF FLORIDA, INC. DATED: JULY 29, 2015



## EXHIBIT “C”

### PROJECT SPECIFICATIONS

#### STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION

It is the intent of these Project Specifications that the Florida Department of Transportation "Standard Specifications for Road & Bridge Construction" (July 2015 edition) (hereafter, “FDOT Specifications”) be used as the basis for the Work. For the purposes of this Project, any references in the FDOT Specifications to the “State of Florida”, its “Department of Transportation” or its personnel shall, as appropriate, be replaced by and read as if the FDOT Specifications referred to "Town of Southwest Ranches” and its personnel.

The specifications are available at:

[http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook\\_Revision.pdf](http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook_Revision.pdf)



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

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

**Town Council**  
**Jeff Nelson, Mayor**  
**Freddy Fisikelli, Vice Mayor**  
**Steve Breitzkreuz, Council Member**  
**Gary Jablonski, Council Member**  
**Doug McKay, Council Member**

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

## COUNCIL MEMORANDUM

**TO:** Honorable Mayor Nelson and Town Council

**VIA:** Andrew D. Berns, Town Administrator

**FROM:** Clete Saunier, P.E., Public Works Director

**DATE:** September 21, 2015

**SUBJECT: Agreement with Weekley Asphalt Paving, Inc. for the Stirling Road Guardrail Installation**

---

### Recommendation

To place this item on the agenda for Council consideration and approval to enter into an agreement with Weekley Asphalt Paving, Inc. for the Stirling Road Guardrail Installation from SW 142<sup>nd</sup> Avenue to SW 130<sup>th</sup> Avenue.

### Strategic Priorities

- B. Enhanced Resource Management
- C. Reliable Public Safety
- D. Improved Infrastructure

### Background

The Town was awarded \$478,000 from the Florida Legislature via the Florida Department of Transportation for the installation of guardrails along Stirling Road from SW 142<sup>nd</sup> Avenue to SW 130<sup>th</sup> Avenue.

On July 29, 2015, the Town advertised Invitation for Bid (IFB) 15-004 for the Stirling Road Guardrail Installation Project. On September 3, 2015, the Town received three (3) responses:

Proposer	Amount
Lynne Services, Inc.	\$153,700.00
Solo Construction & Engineering, Co.	\$321,075.00
Weekley Asphalt Paving, Inc.	\$272,305.00

After reviewing the bids, the bid of Lynn Services was deemed non-responsive for, among other reasons, failure to provide proof of licensure and insurance as required by Section 17 and elsewhere in the IFB. Lynn Services may also be non-responsible for failure to include government contact information showing similar work done within the last five (5) years, and because the projects listed under the bidder questionnaire were performed by an entirely different entity. It was determined that Weekly Asphalt Paving, Inc. is both responsive and responsible, and because its bid amount was the next lowest after Lynn Services, staff recommends award of the contract to Weekly Asphalt Paving, Inc. as the lowest, responsive, responsible bidder.

**Fiscal Impact/Analysis**

Funds are available in the Fiscal Year 2015 Municipal Transportation Fund account #101-5100-541-63320 (Infrastructure - Guardrails). The Town received funding in the amount of \$478,000 from the Department of Transportation for this project.

**Staff Contact:**

Clete Saunier, P.E., Public Works Director

**RESOLUTION NO.**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING, INC. TO COMPLETE THE STIRLING ROAD GUARDRAIL IMPROVEMENTS PROJECT AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town desires to complete a guardrail improvement project along Stirling Road; and

**WHEREAS**, the Town's Drainage and Infrastructure Advisory Board has ranked and prioritized this project; and

**WHEREAS**, this project is specifically named in the FY 2014-2015 Town Budget; and

**WHEREAS**, the State Legislature appropriated \$478,000 for this project through the Florida Department of Transportation; and

**WHEREAS**, with Resolution 2015-019 the Town entered into an agreement with the Florida Department of Transportation; and

**WHEREAS**, on July 29, 2015, the Town advertised Invitation for Bid (IFB) 15-004 for the Stirling Road Guardrail Installation from SW 142<sup>nd</sup> Avenue to SW 130<sup>th</sup> Avenue; and

**WHEREAS**, on September 3, 2015, the Town received three (3) responses; and

**WHEREAS**, after reviewing the bids, it was determined that Weekley Asphalt Paving, Inc. was the lowest responsive and responsible bidder that met the requirements of the IFB; and

**WHEREAS**, the project includes, but is not limited to the furnishing of all labor, materials, tools, equipment, machinery, expertise, services, and all else necessary for proper construction and completion of the project; and

**WHEREAS**, the Town of Southwest Ranches desires to enter into an Agreement under the terms and conditions set forth hereinafter.

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

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

**Section 2.** The Town Council hereby approves the Agreement between the Town of Southwest Ranches and Weekley Asphalt Paving, Inc. providing the installation of guardrails along Stirling Road as outlined in the Agreement attached hereto as Exhibit "A".

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

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

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

Ranches, Florida, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ on a motion by \_\_\_\_\_

and seconded by \_\_\_\_\_.

Nelson \_\_\_\_\_  
Fisikelli \_\_\_\_\_  
Breitkreuz \_\_\_\_\_  
Jablonski \_\_\_\_\_  
McKay \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_  
Abstaining \_\_\_\_\_

\_\_\_\_\_  
Jeff Nelson, Mayor

Attest:

\_\_\_\_\_  
Russell Muniz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

\_\_\_\_\_  
Keith Poliakoff, Town Attorney

112694287.1



**EXHIBIT "A"**  
**AGREEMENT**  
**BETWEEN THE**  
**TOWN OF SOUTHWEST RANCHES**  
**AND**  
**WEEKLEY ASPHALT PAVING**  
**FOR**

**STIRLING ROAD GUARDRAIL INSTALLATION**  
**SW 142<sup>nd</sup> AVENUE TO SW 130<sup>th</sup> AVENUE**

**IFB No. 15-004**

AGREEMENT FOR  
**STIRLING ROAD GUARDRAIL INSTALLATION –  
SW 142<sup>ND</sup> AVENUE TO SW 130<sup>TH</sup> AVENUE**

**THIS IS AN AGREEMENT (“Agreement” or “Contract”) made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 2015 by and between the Town of Southwest Ranches, a Municipal Corporation of the State of Florida, (hereinafter referred to as “Town”) and Weekley Asphalt, Inc. , Inc.(hereinafter referred to as “Contractor”).**

**WHEREAS**, the Town desires to Install guardrails along Stirling Road from SW 142<sup>nd</sup> Avenue to SW 130<sup>th</sup> Avenue; and

**WHEREAS**, the Town advertised an Invitation for Bids, IFB No. 15-004 on July 29, 2015; and

**WHEREAS**, three (3) bids were received by the Town on September 3, 2015; and

**WHEREAS**, the Town has adopted Resolution No. 2015- \_\_\_\_\_ at a public meeting of the Town Council approving the recommended award and has selected Weekley Asphalt Paving for award of the Project.

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

**Section 1: Scope of Services**

- 1.1 Upon execution of this Agreement, the Contractor agrees to perform the duties and responsibilities as defined herein and in the IFB to which this Agreement is EXHIBIT “A” and which is made a part hereof by this reference (hereinafter referred to as “Work”). This Agreement, as well as all Exhibits, the IFB, the Contractor’s Bid, including all forms attached thereto, and all addenda, specifications, drawings and plans, shall be hereinafter collectively referred to as the “Contract Documents” and incorporated herein by reference. To the extent of any conflict among the Contract Documents, the more stringent criteria relative to the Contractor’s performance of the Work shall govern over the less stringent criteria.
- 1.2 All Work rendered pursuant to this Agreement by Contractor shall be performed in accordance with the applicable standard of care for persons or entities performing similar work in Broward County, Florida. Contractor shall perform the Work in strict accordance with the requirements of this Agreement, all of the other Contract Documents, good construction practices for this type of Work performed in Broward County, Florida and all applicable codes, ordinances, rules, laws and regulations governing the Work, including, but not limited to, the Florida Building Code, along with Broward County Amendments to it. Contractor acknowledges that this Project has been funded in part by the State of Florida, Department of Transportation and further understands and agrees that it must comply with the terms and conditions of the following: State of Florida, Department of Transportation, Economic Development Transportation Project Fund Agreement.

- 1.3 By submitting its Bid and entering into this Agreement, Contractor represents that it has visited the location of the Work and informed itself of the conditions that exist at the site, including conditions of the facilities and difficulties attending the execution of the Work and such existing site conditions have been accounted for within the Agreement Sum (as defined below). Furthermore, all costs for the proper disposal of excess material generated on site in the performance of the Work have likewise been included and accounted for within the Contract Price (as defined below).
- 1.4 Contractor, in addition to any manufacturer's warranty for materials or equipment, hereby warrants that its work will be free of defects and deficiencies for a period of one year(s) from the Final Completion Date (as defined below). If any defects or deficiencies arise within the warranty period, the Contractor shall correct the defect or deficiency at no cost to the Town. Nothing herein shall be construed as a waiver, limitation or release of any right or remedy that the Town may have for breach of this Agreement, which rights are cumulative and in no way limited by the warranty.

**Section 2: Term of this Agreement and Agreement Time**

- 2.1 Town and Contractor agree that Contractor shall perform all Work under this Agreement for **STIRLING ROAD GUARDRAIL INSTALLATION SW 142<sup>nd</sup> AVENUE TO SW 130<sup>th</sup> AVENUE**
- 2.2 Town shall have the ability to terminate this Agreement as provided in “Section 18: Termination.”
- 2.3 Contractor shall not be entitled to any claim for damages against Town on account of hindrance or delays from any cause whatsoever. If, however, Contractor is delayed in the prosecution of the Work occasioned by an act of God, or by act or omission on the part of the Town, or due to changes ordered in the Work by Town which expand the scope and costs of the Work, such act, hindrance, or delay shall only entitle Contractor to receive an extension of time as its sole and exclusive remedy for such hindrance or delays and Contractor waives any and all other claims against Town.
- 2.4 Time being of the essence, Town and Contractor agree that Contractor shall perform all Work under this Agreement and achieve substantial completion of the Work within **twenty-one (21) calendar days of the date of the Notice to Proceed**, subject to appropriate extensions of time as provided in this Agreement (“Substantial Completion Date”).
- 2.4.1 Substantial Completion of the Work at the Project shall be defined as the date upon which the last of all of the following events have occurred:
- (i) All necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
  - (ii) Restoration of all utilities to operation that have been affected during performance of the Work;
  - (iii) All Work has been completed; and
  - (iv) The Town’s engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Substantial Completion.

2.4.2 Given that the parties agree that time is of the essence with respect to this Agreement and any breach of same shall go to the essence hereof, and Contractor, in agreeing to substantially complete the Work within the time herein mentioned, has taken into consideration and made allowances for all hindrances and delays incident to its Work.

**Liquidated Damages (“LD’s”)** – In the event Contractor does not achieve Substantial Completion of the Work as defined in Paragraph 2.4.1 above, in whole or in part due to its own fault, the parties hereto acknowledge that any delay beyond the scheduled Substantial Completion Date may cause grave injury and damage to the Town by virtue of locating, moving to and paying rent for temporary quarters, loss of use, extension of overhead costs, additional costs of design professionals and otherwise. Accordingly, the calculation of the actual damages to the Town would be uncertain and difficult if not impossible to determine. Consequently, if the Contractor has not achieved Substantial Completion of the Work within **twenty-one (21) days after the issuance of the Notice to Proceed** and has not obtained written authorization for such delay, time being of the essence, then the parties hereto agree that as liquidated delay damages and not as a penalty, the Contractor shall pay to the Town an amount equal to **\$200.00** for each day or portion thereof, that the date of completion is later than the scheduled Substantial Completion Date set forth above. Contractor shall be entitled to an extension of time and relief from liquidated damages to the extent that additional out of scope work is authorized by the Town in accordance with a properly executed Change Order and such work causes a critical path delay in meeting the Substantial Completion Date set forth above. All such liquidated damage amounts, if any, shall be paid by Contractor to Town weekly, immediately upon each such failure of Contractor to comply with the scheduled Substantial Completion Date, as set forth above. In the event that the Contractor fails to make any one or more of the payments to Town as required under this Paragraph, the Town shall have the right to deduct any and all such amounts from any amounts due or to become due to Contractor.

Contractor shall achieve final completion of the Work within **fourteen (14) days after the date of Substantial Completion or no later than thirty-five (35) days from the issuance of the Notice to Proceed** (“Final Completion Date”). Final Completion Date is defined as the date when all punch list items have been completed as evidenced by the issuance of a written Certification of Final Completion by the Town’s design professional for this Project, and all other conditions precedent to Final Completion as outlined below have been satisfied:

Contractor shall:

- (i) Deliver to the Town all warranties, final certifications and similar documentation to confirm that all necessary approvals have been issued with respect to the Work by the appropriate governmental authorities;
- (ii) Complete all Punch List items of Work;
- (iii) Remove temporary facilities from the site, along with construction tools and similar elements;
- (iv) Complete final clean-up including repair, replace and restore any items damaged by Contractor as a consequence of performing Work;

- (v) Deliver to the Town confirmation that all permits have been closed; and confirm that the Town’s engineer/architect of record for the Project, Town of Southwest Ranches Drainage Improvements, has issued its written acceptance of the Work performed by Contractor and executed and delivered to the Town a Certificate of Final Completion.

**Section 3: Compensation & Method of Payment**

- 3.1 Contractor shall render all Work to the Town under the Agreement for the total not to exceed lump sum price of **Two hundred seventy-two thousand, three-hundred five (\$272,305.00) Dollars** (“Contract Price”).
- 3.2 Town shall not be liable for any cost increases or escalation associated with labor, services, materials, equipment or any other costs that may arise during the performance of the Work. In the event the cost of the Work exceeds the amounts defined in Section 3.1 herein of the Contract Price, Contractor shall pay such excess from its own funds and Town shall not be required to pay any part of such excess. The only exception shall be any adjustments to the Contract Price pursuant to any written Change Order duly executed by Town and Contractor in accordance with the terms and conditions of this Agreement, and with the same formality and of equal dignity associated with the original execution of this Agreement.
- 3.3 Town and Contractor agree that payment under this Agreement will be subject to (a) the delivery of an appropriate invoice or payment application by Contractor to Town with such invoices being delivered by Contractor no more often than once every 30 days, and (b) verification by Town and its designated professional that the Work being invoiced has been performed in accordance with this Agreement. Upon verification by Town and the design professional that the invoiced Work has been performed in accordance with this Agreement, Town shall have thirty (30) days thereafter to pay said invoice.
- 3.4 Each invoice or payment application must be accompanied by all supporting documentation and other information reasonably requested by Town, including, but not limited to a Partial Release of Lien or Final Release of Lien as appropriate in the forms set forth in Chapter 713.20, Florida Statutes. Reference herein to Chapter 713, Florida Statutes is for convenience, and shall not be construed as a waiver of sovereign immunity or authority for imposition of liens against public property. Each progress payment shall be reduced by 10% retainage. Retainage shall be released after final completion of the Work and Town’s receipt of acceptable reports and other documentation including certification of payment to subcontractors, if any, and a Final Release of Lien in the form set forth in Section 713.20, Florida Statutes, as well as satisfaction of the conditions set forth at Section 3.5 of this Agreement.

A final payment invoice or application must be accompanied by written notice from Contractor that the entire Work is completed. The Town’s engineer/architect of record will make a final inspection and notify Contractor in writing with a punch list of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete the punch list and remedy deficiencies. Contractor’s obligation to perform and complete the Work in strict accordance with the Contract Documents shall be absolute. The Town may refuse payment if (a) the Work is defective or completed Work

has been damaged requiring correction or replacement, (b) the Town has been required to correct defective Work or complete Work in accordance with the Contract Documents, or (c) because claims have been made against the Town on account of Contractor's performance or furnishing of the Work or liens or claims have been filed or asserted in connection with the Work or there are other items entitling the Town to a set-off against the amount due. No payment will be made for Work performed by the Contractor to replace defective work; for work which is not shown or ordered in the Contract Documents; or additional work performed by Contractor without prior written approval of Town.

**Section 4: Assignment**

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

**Section 5: Contractor's Responsibility for Safety**

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

**Section 6: Insurance**

- 6.1 Throughout the term of this Agreement and for all applicable statutes of limitation periods, Contractor shall maintain in full force and affect all of the insurance coverages as set forth in this Section.
- 6.2 All Insurance Policies shall be issued by companies that (a) are authorized to transact business in the State of Florida, (b) have agents upon whom service of process may be made in Broward County, Florida, and (c) have a rating of A or better in accordance with A.M. Best's Key Rating Guide.
- 6.3 All Insurance Policies shall name and endorse the following as an additional named insured:

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

AND

**State of Florida, Department of Transportation**  
L. Wetherell, PE  
District 4 Economic Development Transportation Project Fund Coordinator  
3400 W. Commercial Boulevard  
Fort Lauderdale, Florida 33309

- 6.4 All Insurance Policies shall be endorsed to provide that (a) Contractor's Insurance is primary to any other Insurance available to Town or any other additional insured with respect to claims covered under the policy and (b) Contractor's insurance applies separately to each insured against who claims are made or suit is brought, and (c) that the inclusion of more than one insured shall not operate to increase the Insurer's limit of liability. Self-insurance by Contractor shall not be acceptable as providing any of the required insurance coverages required in this Agreement.
- 6.5 If the Contractor fails to submit the required insurance certificate in the manner prescribed with the executed Agreement submitted to the Town at the time of execution of this Agreement, Contractor shall be deemed in default, and the Agreement shall be cancelled or rescinded without liability by the Town to the Contractor.
- 6.6 Contractor shall carry the following minimum types of Insurance:
- A. **WORKER'S COMPENSATION:** Worker's Compensation Insurance is to apply to all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. Contractor shall carry Worker's Compensation Insurance with the statutory limits, which shall include employer's liability insurance with a limit of not less than **Five Hundred Thousand Dollars (\$500,000)** for each accident, and **Five Hundred Thousand Dollars (\$500,000)** for each disease. Policy(ies) must be endorsed with waiver of subrogation against Town.
  - B. **BUSINESS AUTOMOBILE LIABILITY INSURANCE:** Contractor shall carry business automobile liability insurance with minimum limits of **One Million Dollars (\$1,000,000)** per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include all owned vehicles and all hired or non-owned vehicles.
  - C. **COMMERCIAL GENERAL LIABILITY:** Contractor shall carry Commercial General Liability Insurance with limits of not less than **One Million Dollars (\$1,000,000)** per occurrence combined single limit for bodily injury and property damage, and not less than **Two Million Dollars (\$2,000,000)** in the aggregate. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements as filed by the Insurance Service Office (ISO), and the policy must include coverages for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, personal injury and explosion, collapse and underground (X-C-U). Personal injury coverage shall include coverage that has the employee and contractual exclusions removed. The ISO form of the policy must be acceptable to the Town.
  - D. **ENVIRONMENTAL POLLUTION INSURANCE:**  
The Contractor shall carry an Environmental Pollution Insurance for pollution-related incidents, including the cost of cleaning up a site after a pollution incident, with limits not less than \$500,000.00 Dollars per occurrence with deductible not greater than \$100,000.00. An additional Form or endorsement to the Commercial General Liability Insurance to include an Environmental Pollution Insurance coverage providing the specified coverage, is acceptable.

- 6.7 Contractor shall provide Town with a copy of the Certificates of Insurance or endorsements evidencing the types of Insurance and coverages required by this Section prior to beginning the performance of any Work under this Agreement and, at any time thereafter, upon request by Town.
- 6.8 Contractor’s Insurance Policies shall be endorsed to provide Town with at least thirty (30) calendar days prior written notice of cancellation, non-renewal, restrictions, or reduction in coverages or limits. Notice shall be sent to:
- Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, Florida 33330
- And
- Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301
- 6.9 Contractor's Commercial General Liability Insurance policy shall be on an “occurrence” basis only and shall not be a “claims-made” policy.
- 6.10 If any of Contractor's Insurance policies include a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be at least five (5) times the occurrence limits specified above in this article.
- 6.11 The Contractor shall not commence operations, and/or labor to complete any of the Work pursuant to this Agreement until certification or proof of insurance issued directly by the insurance company underwriting department or insurance agent, detailing terms and provisions of coverage, has been received and approved by the Town.
- 6.12 If any of Contractor’s initial insurance expires prior to the completion of the Work, renewal copies of Policies shall be furnished to Town at least thirty (30) days prior to the date of their expiration, and Town shall be an additional named insured by endorsement on all of Contractor’s renewal policies.
- 6.13 **UPON EXECUTION OF THIS AGREEMENT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF SOUTHWEST RANCHES AND STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AS ADDITIONAL NAMED INSURED(S) WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR’S WORK UNDER THE AGREEMENT.**
- 6.14 The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance policies and documentation.

- 6.15 All required insurance policies shall preclude any insurer’s or underwriter’s rights of recovery or subrogation against Town with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.
- 6.16 Contractor shall ensure that any company issuing insurance to satisfy the requirements contained in this Agreement agrees that they shall have no recourse against Town for payment or assessments in any form on any policy of insurance.
- 6.17 The clauses “Other Insurance Provisions” and “Insured Duties in the Event of an Occurrence, Claim or Suit” as it appears in any policy of insurance in which Town is named as an additional named insured shall not apply to Town in any respect. Town shall use its best efforts to provide written notice of occurrence within thirty (30) working days after Town’s actual notice of such event.
- 6.18 Notwithstanding any other provisions of this Agreement, Contractor’s obligation to maintain all required insurance as specified in this Section of the Agreement shall survive the expiration or earlier termination of this Agreement.

**Section 7: Copyrights and Patent Rights**

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

**Section 8: Laws and Regulations**

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

**Section 9: Taxes and Costs**

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

**Section 10: Indemnification**

To the fullest extent permitted by Florida law, including Florida Statutes, Section 725.06, the Contractor shall indemnify, defend and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees (at both the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract or anyone else for whose actions Contractor may be responsible. Notwithstanding any other provisions of this Agreement, the Contractor’s duty to indemnify, defend and hold the Town harmless shall survive the termination or earlier expiration of this Agreement.

**Section 11: Non-discrimination**

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

**Section 12: Sovereign Immunity**

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

**Section 13: Prevailing Party Attorneys' Fees**

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

**Section 14: No Third Party Beneficiaries**

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

**Section 15: Funding**

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

**Section 16: Manner of Performance**

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

**Section 17: Public Records**

The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Records Law exists and it is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to Town's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosures under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by Town without liability by the Town to Contractor. To the extent that Contractor has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement and Agreement as part of the IFB process, Contractor shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.

**Section 18: Termination**

The Agreement may be terminated upon the following events:

- A. **Termination by Mutual Agreement.** In the event the parties mutually agree in writing, this Agreement may be terminated on the terms and dates stipulated therein.
- B. **Termination for Convenience.** This Agreement may be terminated for Convenience by Town upon Town providing Contractor with **thirty (30) calendar day's** written notice of Town's intent to terminate this Agreement for Convenience. In the event that this Agreement is terminated by Town for Convenience, Contractor shall be paid **ONLY** for Work performed and approved by the Town as of the date of this Agreement is terminated, plus any direct and reasonable expense sustained up to the date of receipt of the written notice. In no event shall Town be liable for consequential damages, including but not limited to, lost profits on Work not yet performed, and no other compensation or damages other than as set forth in this Section shall be paid to or recovered by Contractor in any legal proceeding against Town. Upon being notified of Town's election to terminate, Contractor shall immediately cease performing any further Work or incurring additional expenses. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by Town, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for Town's right to terminate this Agreement for Convenience.
- C. **Termination for Cause.** In the event of a material breach by Contractor, Town shall provide Contractor written notice of its material breach. Contractor shall thereafter have fourteen (14) days from the date of its receipt of such notification to cure such material breach. If Contractor does not cure the material breach within that time period, Town may terminate this Agreement immediately. Material breaches shall include, but are not limited to, Contractor's violations of governing standards, failure to carry out the work in strict accordance with the Contract Documents, failure to supply sufficient work forces, violations of state or federal laws, violation of Town's policies and procedures, or violation of any of the terms and conditions of this Agreement. In the event that Town elects to terminate Contractor for cause as provided for in this Section, and Town's termination for cause is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be

automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.

- D. Termination for Lack of Funds.** In the event the funds to finance the Work under this Agreement become unavailable or other funding source applicable, Town may provide Contractor with thirty (30) days written notice of termination. Nothing in this Agreement shall be deemed or construed to prevent the parties from negotiating a new Agreement in this scenario. In the event that Town elects to terminate Contractor for lack of funds as provided for in this Section, and Town's termination for lack of funds is later determined by a court of competent jurisdiction to be improper, or in any other way wrongful or in breach of this Agreement, the termination will be automatically deemed converted to one for Convenience, and Contractor shall solely be paid and Contractor's damages are solely limited to the compensation Contractor would be entitled to pursuant to subparagraph (B) of this Section.
- E. Immediate Termination by Town.** In addition to any other grounds stated herein, Town, in its sole discretion, may terminate this Agreement immediately upon the occurrence of any of the following events:
1. Contractor's violation of the Public Records Act;
  2. Contractor's insolvency, bankruptcy or receivership;
  3. Contractor's violation or non-compliance with Section 11 of this Agreement;
  4. Contractor's failure to maintain any Insurance required by Section 6 of this Agreement; or
  5. Contractor's violation of Section 19 of this Agreement.

**Section 19: Public Entity Crimes Information Statement**

Pursuant to Florida Statutes, Section 287.133: "A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list." Violation of this section by Contractor shall result in Town's immediate termination of this Agreement.

**Section 20: Use of Awarded Bid by Other Governmental Units**

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

**Section 21: Change Orders and Modification of Agreement**

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

**Section 22: No Waiver of Rights**

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

**Section 23: Jurisdiction and Venue**

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

**Section 24: WAIVER OF RIGHT TO JURY TRIAL**

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

**Section 25: Gender**

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

**Section 26: Time is of the Essence; Liquidated Damages**

Time is of the essence for all of Contractor’s obligations under this Agreement. The Town will be entitled to Liquidated Damages as set forth at Section 2.4.2.

**Section 27: Days**

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

**Section 28: Written Mutual Agreement**

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

**Section 29: No Amendment or Waiver**

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

**Section 30: Severability**

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

**Section 31: Resolution of Disputes; Florida Statutes, Chapter 558 Not Applicable**

To prevent litigation, it is agreed by the parties hereto that Town Administrator shall solely decide all questions, claims, difficulties and disputes of, whatever nature, which may arise relative to this Agreement, including but not limited to, Contractor’s fulfillment of its obligations under this Agreement as to the character, quality, amount and value of any Work done and materials furnished, or proposed, to be done or furnished, under or by reason of, the Agreement. Further, to the extent required or permitted by the agreement between the Town and its design professional for this Project, the design professional shall have access to the Work, the right to conduct testing or inspections, to reject non-conforming work, and to review pay applications. The Town Administrator’s decision shall be reduced to writing, and a copy furnished to the Contractor within a reasonable time following submission to the Town of the question, claim, difficulty or dispute as referenced above. The Town Administrator’s decision shall be final and conclusive. Additionally, the parties understand and agree that Florida Statutes, Chapter 558 does not apply to this Agreement or the Work, and that the parties hereby “opt out” of the procedures set forth at Chapter 558.

**Section 32: Notice**

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

If to Town:

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

With a copy to:

Keith M. Poliakoff, Esq.  
Arnstein & Lehr  
200 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, Florida 33301

If to Contractor:

Daniel D. Weekley, President  
Weekley Asphalt Paving, Inc.  
20701 Stirling Road  
Pembroke Pines, Florida 33332

**Section 33: Miscellaneous**

**A. Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement by Contractor and all persons or entities employed or otherwise retained by Contractor are and shall remain the property of Town. In the event of termination of this Agreement for any reason, any reports,

photographs, surveys and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of Town and shall be delivered by Contractor to the Town Administrator within seven (7) days of termination of this Agreement for any reason. Any compensation due to Contractor shall be withheld until all documents are received by Town as provided herein.

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

Contractor shall preserve and make available, at reasonable times for examination and audit by Town, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Agreement, unless Contractor is notified in writing by Town of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's sole expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by Town to be applicable to Contractor's records, Contractor shall comply with all requirements thereof.

However, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Town's disallowance and recovery of any payment upon such entry. In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance. In addition, Contractor shall provide a complete copy of all working papers to the Town, prior to final payment by the Town under this Agreement.

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

**D. Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against Town in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of

his or her expert opinion, which is adverse or prejudicial to the interests of Town in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other persons from representing themselves in any action or in any administrative or legal proceeding.

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

- E. Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Town shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- F. Materiality and Waiver of Breach.** Town and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Town's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- G. Joint Preparation.** Town and Contractor both acknowledge that they have sought and received whatever competent advice and legal counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein 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.
- H. Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- I. Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- J. Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- K. Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

**[Signatures on next page]**

TOWN OF SOUTHWEST RANCHES, FLORIDA  
Stirling Road Guardrail Installation – SW 142<sup>nd</sup> Avenue to SW 130<sup>th</sup> Avenue  
IFB No. 15-004

---

**IN WITNESS WHEREOF**, the parties have made and executed this Agreement on the respective dates under each signature: \_\_\_\_\_, and the TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the \_\_\_\_ day of \_\_\_\_\_ 2015.

**WITNESSES:**

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

**CONTRACTOR:**

By: \_\_\_\_\_  
Daniel D. Weekley, President  
\_\_\_\_ day of \_\_\_\_\_ 2015

**TOWN OF SOUTHWEST RANCHES**

By: \_\_\_\_\_  
Jeff Nelson, Mayor  
\_\_\_\_ day of \_\_\_\_\_ 2015

By: \_\_\_\_\_  
Andrew D. Berns, Town Administrator  
\_\_\_\_ day of \_\_\_\_\_ 2015

**ATTEST:**

\_\_\_\_\_  
Russell Muñiz, Assistant Town Administrator/Town Clerk

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Keith M. Poliakoff, Town Attorney

This page  
intentionally left blank

**REGULAR MEETING MINUTES OF THE TOWN COUNCIL**  
**Southwest Ranches, Florida**

Thursday 7:00 PM

August 27, 2015

13400 Griffin Road

---

Present:

Mayor Jeff Nelson

Vice Mayor Freddy Fisikelli

Council Member Steve Breitkreuz

Council Member Doug McKay

Richard DeWitt, Assistant Town Attorney

Martin Sherwood, Town Financial Administrator

Russell Muñiz, Assistant Town Administrator

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 Nelson at 7:08 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

**3. Presentation – Mission United, Carlos Molinet**

**4. Delegation Request –** Consideration of Delegation Request Application No. DE-19-15 to amend or eliminate various conditions of approval of the Tara Plat, as recorded in Plat Book 162, Page 20 of the Broward County, Florida Public Records. The requested amendments include modification of the non-vehicular access lines, and deletion of requirements to pave a portion of SW 184th Avenue, construct turn lanes, construct sidewalks, provide financial surety for a traffic signal, and related requirements. Akai Estates, LLC, owner; Schwebke-Shiskin & Associates, Inc., petitioner. Property generally located at the southwest corner of Griffin Road and unimproved 184th Avenue.

The following motion was made by Council Member Breitkreuz, seconded by Council Member McKay and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO TABLE THE ITEM TO SEPTEMBER 29, 2015 AT 7 P.M. TO DETERMINE WHETHER OR NOT A DIFFERENT ACCESS POINT CAN BE DETERMINED.

**5. Public Comment –** The following members of the public addressed the Town Council: Dee Schroeder, Vince Falletta, and Frank Espinosa.

**6. Board Reports**

Newell Hollingsworth, Chair of the Comprehensive Planning Advisory Board, provided an update on items that the board had been working on such as the Telecommunications Ordinance, the maximum permit fee for agricultural fencing, and the text amendment to the Future Land Use Element of the Comprehensive Plan related to the Employment Center.

Gay Chaples, Chair of the Parks, Recreation, and Open Space Advisory Board, spoke about the final improvements that were made by George Morris of PHI to the Rolling Oaks Barn. She

wished to thank him for his efforts. She also spoke of the efforts of the Historical Society and its new Chair, Mrs. Poliakoff.

## **7. Council Member Comments**

Council Member Breitkreuz spoke about the Employment Center and felt it was imperative to do a zoning in progress after a first reading. Attorney Poliakoff spoke of removing the language that was problematic for the Town Council concerning water and then bring the item forward at an imminent meeting. Town Council expressed agreement in that approach. Council Member Breitkreuz spoke about the approaching Tropical Storm Erika and asked everyone to remain vigilant.

Council Member McKay also asked that everyone prepare themselves for the approaching storm and expect the power to go out.

Vice Mayor Fisikelli spoke about the oil drilling permit applied for by Kanter Real Estate, and felt that this issue needed to be watched as it was not going to go away.

Council Member Jablonski read an excerpt from the book River of Grass by Marjory Stoneman Douglas which expressed how unique the Everglades is.

Mayor Nelson spoke of the meeting hosted by the Mayor Messam of the City of Miramar on August 18<sup>th</sup> regarding opposition to the oil drilling permit that had been applied for by Kanter Real Estate, LLC. He felt that there was not enough support for the permit to be granted. He warned residents that the Charter School approved by Pembroke Pines was going to be built. Council Member McKay asked if it would be prudent to send a letter to every resident west of Bonaventure Boulevard to U.S. 27 about the imminent school opening.

## **8. Legal Comments**

Town Attorney Keith Poliakoff advised that Town Administrator Berns received a letter from Pembroke Pines advising that they would be initiating Conflict Resolution procedures concerning legal proceedings regarding the Town's opposition to the Franklin Academy Charter Schools. He advised that Town Administrator Berns would meet with them first, and then the Town Council would meet with the Pembroke Pines City Commission thereafter. He requested to have an executive session to discuss legal strategy concerning this matter and other legal matters with Pembroke Pines. He further advised that he along with Town Administrator Berns met with the Health Department regarding the testing of wells. The Health Department confirmed that the requirement to test was not their requirement but rather a County Code requirement. After discussions with members of the County Commission he was confident that the requirement would be removed from the County Code. Lastly he spoke of the barricade placed by Pembroke Pines on SW 54<sup>th</sup> Place, and how it created difficulty for emergency personnel responding to a medical issue at one of the residences there recently.

## 9. Administration Comments

Town Administrator Berns advised that the South Broward Drainage District passed a resolution opposing the oil drilling permit that had recently been applied for. He also advised that Town staff was monitoring the developments of Tropical Storm Erika.

- 10. Ordinance – 2<sup>nd</sup> Reading** AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN OF SOUTHWEST RANCHES CODE OF ORDINANCES, BY CREATING CHAPTER 24, ARTICLE IV, ENTITLED "PARKING, STOPPING, AND STANDING ENFORCEMENT" TO COMPLY WITH CURRENT STATE LAWS, INCLUDING THOSE APPLICABLE TO PARKING SPACES FOR DISABLED PERSONS AND TO CREATE PROCEDURES SO AS TO DELEGATE AUTHORITY FOR ENFORCEMENT AND COLLECTION OF PARKING VIOLATION FINES TO THE OFFICE OF THE BROWARD COUNTY, FLORIDA, CLERK OF THE COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT; AUTHORIZING THE USE OF HEARING OFFICERS IN THE SYSTEM ESTABLISHED BY BROWARD COUNTY FOR SUCH PURPOSE; PROVIDING FOR INCLUSION IN THE TOWN CODE, PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. **{ Approved on 1<sup>st</sup> Reading August 13, 2015 }**

The following motion was made by Council Member McKay, seconded by Council Member Breitkreuz and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO APPROVE THE ORDINANCE.

- 11. Ordinance 1<sup>st</sup> Reading –** AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN'S UNIFIED LAND DEVELOPMENT CODE TO REFLECT CHANGES IN THE FLORIDA STATUTES GOVERNING MUNICIPAL REGULATION OF FARMS; AMENDING ARTICLE 155 ENTITLED, "NONCOMMERCIAL FARM SPECIAL EXCEPTIONS", TO MODIFY CONDITIONS APPLICABLE TO SUCH SPECIAL EXCEPTIONS AND TO THE CONTINUED USE OF EXISTING NONRESIDENTIAL, AGRICULTURAL STRUCTURES ON NONCOMMERCIAL FARMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. **{2<sup>nd</sup> Reading scheduled for September 15, 2015}**

The following motion was made by Council Member Breitkreuz, seconded by Council Member Jablonski and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO APPROVE THE ORDINANCE SUBJECT TO ELIMINATION OF SECTION 22 AND TO AMEND THE ORDINANCE TO CLARIFY THAT APPLICATIONS CAN BE SUBMITTED UP UNTIL THE DATE OF EXPIRATION.

- 12. Resolution** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF SOUTHWEST RANCHES AND THE OFFICE OF THE BROWARD COUNTY, FLORIDA, CLERK OF THE COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT FOR THE PROCESSING AND COLLECTION OF PARKING CITATIONS AND AUTHORIZING THE USE OF HEARING OFFICERS IN THE SYSTEM ESTABLISHED BY BROWARD COUNTY FOR SUCH PURPOSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The following motion was made by Council Member McKay, seconded by Council Member Breitkreuz and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO APPROVE THE RESOLUTION.

- 13. Resolution** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA OPPOSING THE OIL DRILLING PERMIT APPLICATION SUBMITTED BY KANTER REAL ESTATE LLC, A FLORIDA FOR PROFIT LIMITED LIABILITY CORPORATION, TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SEEKING OIL DRILLING RIGHTS ON PROPERTY LOCATED IN THE FLORIDA EVERGLADES, APPROXIMATELY SIX MILES WEST OF THE CITY OF MIRAMAR'S WESTERNMOST BOUNDARIES, AND SUPPORTING EFFORTS OPPOSING EXTREME WELL STIMULATION, HYDRAULIC FRACTURING, ACID FRACTURING, AND ANY FORM OF EXTREME WELL STIMULATION FOR PURPOSES OF RESOURCE EXTRACTION IN THE FLORIDA EVERGLADES; AND PROVIDING FOR AN EFFECTIVE DATE.

The following motion was made by Vice Mayor Fisikelli, seconded by Council Member McKay and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO APPROVE THE RESOLUTION.

- 14. Approval of Minutes**  
a. **July 9, 2015, Regular Town Council Meeting**

The following motion was made by Council Member Breitkreuz, seconded by Council Member McKay and passed by 5-0 roll call vote. The vote was as follows: Council Members Breitkreuz, Jablonski, McKay, Vice Mayor Fisikelli, and Mayor Nelson voting Yes.

**MOTION:** TO APPROVE THE MINUTES.

**15. Adjournment** – Meeting was adjourned at 10:06 p.m.

*Respectfully submitted:*

---

*Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk*

*Adopted by the Town Council on  
this 29<sup>th</sup> day of September, 2015.*

---

*Jeff Nelson, 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.

This page  
intentionally left blank

**EXECUTIVE SESSION MEETING MINUTES OF THE TOWN COUNCIL  
Southwest Ranches, Florida**

Thursday 6:00 PM

September 3, 2015

13400 Griffin Road

---

Present:

Mayor Jeff Nelson

Vice Mayor Freddy Fisikelli

Council Member Steve Breitreuz

Council Member Jablonski

Council Member Doug McKay

Keith Poliakoff, Town Attorney

Jim Brady, Assistant Town Attorney

Alfredo Marquez Sterling, Assistant Town Attorney

Martin Sherwood, Town Financial Administrator

Russell Muñiz, Assistant Town Administrator

Executive Session of the Town Council of Southwest Ranches was held at 13400 Griffin Road in the Grand Oaks Conference Room. The meeting, having been properly noticed, was called to order by Mayor Nelson at 6:04 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

Executive Session regarding the following matters as recorded by court reporter began thereafter.

1. **Town of Southwest Ranches v. City of Pembroke Pines**  
**Case No. 2012-28819 (CCA Case)**
2. **Town of Southwest Ranches, et al. v. City of Pembroke Pines**  
**Case No. 2015-008766 (Concrete Barrier on 54<sup>th</sup> Place)**
3. **Town of Southwest Ranches v. City of Pembroke Pines**  
**Case No. 2015-008749 (Electronic Gate on 207<sup>th</sup>)**
4. **Town of Southwest Ranches v. Immigration & Customs Enforcement**  
**Case No. 1:15-cv-21924-DPG (Seeking ICE Testimony)**
5. **Corrections Corporation of America v. City of Pembroke Pines**  
**Case No. 4D14-4815 (CCA's Case Against Pines)**

**Adjournment** – Meeting was adjourned at 7:10 p.m.

*Respectfully submitted:*

---

*Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk*

*Adopted by the Town Council on  
this 29<sup>th</sup> day of September, 2015.*

---

*Jeff Nelson, 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.

**SPECIAL MEETING MINUTES OF THE TOWN COUNCIL**  
**Southwest Ranches, Florida**

Thursday 6:00 PM

September 3, 2015

13400 Griffin Road

---

Present:

Mayor Jeff Nelson

Vice Mayor Freddy Fisikelli

Council Member Steve Breitreuz

Council Member Jablonski

Council Member Doug McKay

Keith Poliakoff, Town Attorney

Jim Brady, Assistant Town Attorney

Alfredo Marquez Sterling, Assistant Town Attorney

Martin Sherwood, Town Financial Administrator

Russell Muñiz, Assistant Town Administrator

Special Meeting of the Town Council of Southwest Ranches was held at 13400 Griffin Road in the Grand Oaks Conference Room. The meeting, having been properly noticed, was called to order by Mayor Nelson at 7:12 PM after the conclusion of the Executive Session which began at 6 p.m. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

Town Attorney Poliakoff explained the nature of the request to have this meeting. He explained the nuances of the Conflict Resolution procedure as outlined in Chapter 164 Florida Statutes as it related to the Town's conflict with Pembroke Pines in the Franklin Academy matter.

Town Attorney Poliakoff advised that a staff level joint meeting between the Town Administrator and City Manager would be held with Pembroke Pines on September 24, 2015 at 10 a.m. in their Commission Chambers.

**Adjournment** – Meeting was adjourned at 7:54 p.m.

*Respectfully submitted:*

---

*Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk*

*Adopted by the Town Council on  
this 29<sup>th</sup> day of September, 2015.*

---

*Jeff Nelson, 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.